

REFERENCE TITLE: interstate insurance product regulation compact

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2482

Introduced by
Representatives Lovas: Allen

AN ACT

AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 23; RELATING
TO THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, Arizona Revised Statutes, is amended by adding
3 chapter 23, to read:

4 CHAPTER 23

5 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

6 ARTICLE 1. GENERAL PROVISIONS

7 20-3251. Interstate insurance product regulation compact

8 THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT IS ENACTED INTO LAW
9 AS FOLLOWS:

10 ARTICLE I

11 PURPOSE

12 UNDER THE TERMS AND CONDITIONS OF THIS COMPACT, THIS STATE SEEKS TO
13 JOIN WITH OTHER STATES AND ESTABLISH THE INTERSTATE INSURANCE PRODUCT
14 REGULATION COMPACT AND THUS BECOME A MEMBER OF THE INTERSTATE INSURANCE
15 PRODUCT REGULATION COMMISSION. THE DIRECTOR IS HEREBY DESIGNATED TO SERVE AS
16 THE REPRESENTATIVE OF THIS STATE TO THE COMMISSION. THE PURPOSES OF THE
17 COMPACT ARE, THROUGH MEANS OF JOINT AND COOPERATIVE ACTION AMONG THE
18 COMPACTING STATES:

19 1. TO PROMOTE AND PROTECT THE INTEREST OF CONSUMERS OF INDIVIDUAL AND
20 GROUP ANNUITY, LIFE INSURANCE, DISABILITY INCOME AND LONG-TERM CARE INSURANCE
21 PRODUCTS.

22 2. TO DEVELOP UNIFORM STANDARDS FOR INSURANCE PRODUCTS COVERED UNDER
23 THE COMPACT.

24 3. TO ESTABLISH A CENTRAL CLEARINGHOUSE TO RECEIVE AND PROVIDE PROMPT
25 REVIEW OF INSURANCE PRODUCTS COVERED UNDER THE COMPACT AND, IN CERTAIN CASES,
26 RELATED ADVERTISEMENTS, SUBMITTED BY INSURERS AUTHORIZED TO DO BUSINESS IN
27 ONE OR MORE COMPACTING STATES.

28 4. TO GIVE APPROPRIATE REGULATORY APPROVAL TO THOSE PRODUCT FILINGS
29 AND ADVERTISEMENTS SATISFYING THE APPLICABLE UNIFORM STANDARD.

30 5. TO IMPROVE COORDINATION OF REGULATORY RESOURCES AND EXPERTISE
31 BETWEEN STATE INSURANCE DEPARTMENTS REGARDING THE SETTING OF UNIFORM
32 STANDARDS AND REVIEW OF INSURANCE PRODUCTS COVERED UNDER THE COMPACT.

33 6. TO CREATE THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION.

34 7. TO PERFORM THESE AND OTHER RELATED FUNCTIONS AS MAY BE CONSISTENT
35 WITH THE STATE REGULATION OF THE BUSINESS OF INSURANCE.

36 ARTICLE II

37 DEFINITIONS

38 IN THIS COMPACT, UNLESS THE CONTEXT OTHERWISE REQUIRES:

39 1. "ADVERTISEMENT" MEANS ANY MATERIAL DESIGNED TO CREATE PUBLIC
40 INTEREST IN A PRODUCT OR INDUCE THE PUBLIC TO PURCHASE, INCREASE, MODIFY,
41 REINSTATE, BORROW ON, SURRENDER, REPLACE OR RETAIN A POLICY, AS MORE
42 SPECIFICALLY DEFINED IN THE RULES AND OPERATING PROCEDURES OF THE COMMISSION.

43 2. "BYLAWS" MEANS THOSE BYLAWS ESTABLISHED BY THE COMMISSION FOR ITS
44 GOVERNANCE OR FOR DIRECTING OR CONTROLLING THE COMMISSION'S ACTIONS OR
45 CONDUCT.

- 1 3. "COMMISSION" MEANS THE INTERSTATE INSURANCE PRODUCT REGULATION
2 COMMISSION ESTABLISHED BY THIS COMPACT.
- 3 4. "COMMISSIONER" MEANS THE DIRECTOR OF INSURANCE OR THE CHIEF
4 INSURANCE REGULATORY OFFICIAL OF A STATE INCLUDING COMMISSIONER,
5 SUPERINTENDENT, DIRECTOR OR ADMINISTRATOR.
- 6 5. "COMPACT" MEANS THE INTERSTATE INSURANCE PRODUCT REGULATION
7 COMPACT.
- 8 6. "COMPACTING STATE" MEANS ANY STATE THAT HAS ENACTED THE COMPACT AND
9 THAT HAS NOT WITHDRAWN OR BEEN TERMINATED UNDER ARTICLE XIV OF THIS COMPACT.
- 10 7. "DOMICILIARY STATE" MEANS THE STATE IN WHICH AN INSURER IS
11 INCORPORATED OR ORGANIZED OR, IN THE CASE OF AN ALIEN INSURER, ITS STATE OF
12 ENTRY.
- 13 8. "INSURER" MEANS ANY ENTITY LICENSED BY A STATE TO ISSUE CONTRACTS
14 OF INSURANCE FOR ANY OF THE LINES OF INSURANCE COVERED BY THE COMPACT.
- 15 9. "MEMBER" MEANS THE PERSON CHOSEN BY A COMPACTING STATE AS ITS
16 REPRESENTATIVE TO THE COMMISSION OR THE PERSON'S DESIGNEE.
- 17 10. "NONCOMPACTING STATE" MEANS ANY STATE THAT IS NOT AT THE TIME A
18 COMPACTING STATE.
- 19 11. "OPERATING PROCEDURES" MEANS PROCEDURES ADOPTED BY THE COMMISSION
20 IMPLEMENTING A RULE, UNIFORM STANDARD OR COMPACT PROVISION.
- 21 12. "PRODUCT" MEANS THE FORM OF A POLICY OR CONTRACT, INCLUDING ANY
22 APPLICATION, ENDORSEMENT OR RELATED FORM THAT IS ATTACHED TO AND MADE A PART
23 OF THE POLICY OR CONTRACT, AND ANY EVIDENCE OF COVERAGE OR CERTIFICATE, FOR
24 AN INDIVIDUAL OR GROUP ANNUITY, LIFE INSURANCE, DISABILITY INCOME OR
25 LONG-TERM CARE INSURANCE PRODUCT THAT AN INSURER IS AUTHORIZED TO ISSUE.
- 26 13. "RULE" MEANS A STATEMENT OF GENERAL OR PARTICULAR APPLICABILITY AND
27 FUTURE EFFECT THAT IS ADOPTED BY THE COMMISSION, INCLUDING A UNIFORM STANDARD
28 DEVELOPED PURSUANT TO ARTICLE VII OF THIS COMPACT, AND THAT IS DESIGNED TO
29 IMPLEMENT, INTERPRET OR PRESCRIBE LAW OR POLICY OR DESCRIBES THE
30 ORGANIZATION, PROCEDURE OR PRACTICE REQUIREMENTS OF THE COMMISSION, WHICH
31 SHALL HAVE THE FORCE AND EFFECT OF LAW IN THE COMPACTING STATES.
- 32 14. "STATE" MEANS ANY STATE, DISTRICT OR TERRITORY OF THE UNITED
33 STATES.
- 34 15. "THIRD-PARTY FILER" MEANS AN ENTITY THAT SUBMITS A PRODUCT FILING
35 TO THE COMMISSION ON BEHALF OF AN INSURER.
- 36 16. "UNIFORM STANDARD" MEANS A STANDARD ADOPTED BY THE COMMISSION FOR A
37 PRODUCT LINE PURSUANT TO ARTICLE VII OF THIS COMPACT AND INCLUDES ALL OF THE
38 PRODUCT REQUIREMENTS IN AGGREGATE. EACH UNIFORM STANDARD SHALL BE CONSTRUED,
39 WHETHER EXPRESS OR IMPLIED, TO PROHIBIT THE USE OF ANY INCONSISTENT,
40 MISLEADING OR AMBIGUOUS PROVISIONS IN A PRODUCT AND THE FORM OF THE PRODUCT
41 MADE AVAILABLE TO THE PUBLIC SHALL NOT BE UNFAIR, INEQUITABLE OR AGAINST
42 PUBLIC POLICY AS DETERMINED BY THE COMMISSION.

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ARTICLE III

COMMISSION ESTABLISHMENT AND VENUE

A. THE COMPACTING STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION. UNDER ARTICLE IV OF THIS COMPACT, THE COMMISSION HAS THE POWER TO DEVELOP UNIFORM STANDARDS FOR PRODUCT LINES, RECEIVE AND PROVIDE PROMPT REVIEW OF PRODUCTS FILED WITH THE COMMISSION AND GIVE APPROVAL TO THOSE PRODUCT FILINGS SATISFYING APPLICABLE UNIFORM STANDARDS. IT IS NOT INTENDED FOR THE COMMISSION TO BE THE EXCLUSIVE ENTITY FOR RECEIPT AND REVIEW OF INSURANCE PRODUCT FILINGS. THIS SECTION DOES NOT PROHIBIT ANY INSURER FROM FILING ITS PRODUCT IN ANY STATE WHEREIN THE INSURER IS LICENSED TO CONDUCT THE BUSINESS OF INSURANCE. ANY FILING IS SUBJECT TO THE LAWS OF THE STATE WHERE FILED.

B. THE COMMISSION IS A BODY CORPORATE AND POLITIC, AND AN INSTRUMENTALITY OF THE COMPACTING STATES.

C. THE COMMISSION IS SOLELY RESPONSIBLE FOR ITS LIABILITIES EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS COMPACT.

D. VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED.

ARTICLE IV

COMMISSION POWERS

THE COMMISSION HAS THE FOLLOWING POWERS:

1. TO ADOPT RULES PURSUANT TO ARTICLE VII OF THIS COMPACT THAT SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THE COMPACT.

2. TO EXERCISE ITS RULEMAKING AUTHORITY AND ESTABLISH REASONABLE UNIFORM STANDARDS FOR PRODUCTS COVERED UNDER THE COMPACT, AND ADVERTISEMENT RELATED THERETO, WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING STATES, BUT ONLY FOR THOSE PRODUCTS FILED WITH THE COMMISSION. A COMPACTING STATE SHALL HAVE THE RIGHT TO OPT OUT OF THE UNIFORM STANDARD PURSUANT TO ARTICLE VII OF THIS COMPACT, TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT. ANY UNIFORM STANDARD ESTABLISHED BY THE COMMISSION FOR LONG-TERM CARE INSURANCE PRODUCTS MAY PROVIDE THE SAME OR GREATER PROTECTIONS FOR CONSUMERS AS, BUT SHALL NOT PROVIDE LESS THAN, THOSE PROTECTIONS SET FORTH IN THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' LONG-TERM CARE INSURANCE MODEL ACT AND LONG-TERM CARE INSURANCE MODEL REGULATION, RESPECTIVELY, ADOPTED AS OF 2001. THE COMMISSION SHALL CONSIDER WHETHER ANY SUBSEQUENT AMENDMENTS TO THE LONG-TERM CARE INSURANCE MODEL ACT OR LONG-TERM CARE INSURANCE MODEL REGULATION ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIRE AMENDING OF THE UNIFORM STANDARDS ESTABLISHED BY THE COMMISSION FOR LONG-TERM CARE INSURANCE PRODUCTS.

3. TO RECEIVE AND REVIEW IN AN EXPEDITIOUS MANNER PRODUCTS FILED WITH THE COMMISSION, AND RATE FILINGS FOR DISABILITY INCOME AND LONG-TERM CARE INSURANCE PRODUCTS, AND GIVE APPROVAL OF THOSE PRODUCTS AND RATE FILINGS THAT

1 SATISFY THE APPLICABLE UNIFORM STANDARD, WHERE SUCH APPROVAL SHALL HAVE THE
2 FORCE AND EFFECT OF LAW AND BE BINDING ON THE COMPACTING STATES TO THE EXTENT
3 AND IN THE MANNER PROVIDED IN THE COMPACT.

4 4. TO RECEIVE AND REVIEW IN AN EXPEDITIOUS MANNER ADVERTISEMENT
5 RELATING TO LONG-TERM CARE INSURANCE PRODUCTS FOR WHICH UNIFORM STANDARDS
6 HAVE BEEN ADOPTED BY THE COMMISSION, AND GIVE APPROVAL TO ALL ADVERTISEMENT
7 THAT SATISFIES THE APPLICABLE UNIFORM STANDARD. FOR ANY PRODUCT COVERED UNDER
8 THIS COMPACT, OTHER THAN LONG-TERM CARE INSURANCE PRODUCTS, THE COMMISSION
9 SHALL HAVE THE AUTHORITY TO REQUIRE AN INSURER TO SUBMIT ALL OR ANY PART OF
10 ITS ADVERTISEMENT WITH RESPECT TO THAT PRODUCT FOR REVIEW OR APPROVAL BEFORE
11 USE IF THE COMMISSION DETERMINES THAT THE NATURE OF THE PRODUCT IS SUCH THAT
12 AN ADVERTISEMENT OF THE PRODUCT COULD HAVE THE CAPACITY OR TENDENCY TO
13 MISLEAD THE PUBLIC. THE ACTIONS OF THE COMMISSION AS PROVIDED IN THIS
14 SECTION SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE
15 COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THE COMPACT.

16 5. TO EXERCISE ITS RULEMAKING AUTHORITY AND DESIGNATE PRODUCTS AND
17 ADVERTISEMENT THAT MAY BE SUBJECT TO A SELF-CERTIFICATION PROCESS WITHOUT THE
18 NEED FOR PRIOR APPROVAL BY THE COMMISSION.

19 6. TO ADOPT OPERATING PROCEDURES PURSUANT TO ARTICLE VII OF THIS
20 COMPACT THAT SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN
21 THE MANNER PROVIDED IN THE COMPACT.

22 7. TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN ITS NAME AS
23 THE COMMISSION. THE STANDING OF ANY STATE INSURANCE DEPARTMENT TO SUE OR BE
24 SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED.

25 8. TO ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND TESTIMONY OF
26 WITNESSES AND THE PRODUCTION OF EVIDENCE.

27 9. TO ESTABLISH AND MAINTAIN OFFICES.

28 10. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS.

29 11. TO BORROW, ACCEPT OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING
30 EMPLOYEES OF A COMPACTING STATE.

31 12. TO HIRE EMPLOYEES, PROFESSIONALS OR SPECIALISTS, AND ELECT OR
32 APPOINT OFFICERS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND GIVE
33 THEM APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND
34 DETERMINE THEIR QUALIFICATIONS AND TO ESTABLISH THE COMMISSION'S PERSONNEL
35 POLICIES AND PROGRAMS RELATING TO, AMONG OTHER THINGS, CONFLICTS OF INTEREST,
36 RATES OF COMPENSATION AND QUALIFICATIONS OF PERSONNEL.

37 13. TO ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY,
38 EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND TO RECEIVE, USE AND DISPOSE
39 OF THE SAME. THE COMMISSION SHALL STRIVE TO AVOID ANY APPEARANCE OF
40 IMPROPRIETY.

41 14. TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR
42 OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL, PERSONAL OR
43 MIXED. THE COMMISSION SHALL STRIVE TO AVOID ANY APPEARANCE OF IMPROPRIETY.

44 15. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON OR
45 OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED.

- 1 2. PROVIDING REASONABLE PROCEDURES FOR APPOINTING AND ELECTING
2 MEMBERS, AS WELL AS HOLDING MEETINGS, OF THE MANAGEMENT COMMITTEE.
- 3 3. PROVIDING REASONABLE STANDARDS AND PROCEDURES FOR:
4 (a) THE ESTABLISHMENT AND MEETINGS OF OTHER COMMITTEES.
5 (b) GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR
6 FUNCTION OF THE COMMISSION.
- 7 4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS
8 OF THE COMMISSION THAT CONSIST OF A MAJORITY OF COMMISSION MEMBERS, ENSURING
9 REASONABLE ADVANCE NOTICE OF EACH SUCH MEETING AND PROVIDING FOR THE RIGHT OF
10 CITIZENS TO ATTEND EACH SUCH MEETING WITH ENUMERATED EXCEPTIONS DESIGNED TO
11 PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS AND INSURERS'
12 PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN
13 CAMERA ONLY AFTER A MAJORITY OF THE ENTIRE MEMBERSHIP VOTES TO CLOSE A
14 MEETING. AS SOON AS PRACTICABLE, THE COMMISSION MUST MAKE PUBLIC A COPY OF
15 THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE OF EACH MEMBER WITH NO PROXY
16 VOTES ALLOWED AND THE VOTES TAKEN DURING THE MEETING.
- 17 5. ESTABLISHING THE TITLES, DUTIES, AUTHORITY AND REASONABLE
18 PROCEDURES FOR THE ELECTION OF THE OFFICERS OF THE COMMISSION.
- 19 6. PROVIDING REASONABLE STANDARDS AND PROCEDURES FOR THE ESTABLISHMENT
20 OF THE PERSONNEL POLICIES AND PROGRAMS OF THE COMMISSION. NOTWITHSTANDING
21 ANY CIVIL SERVICE OR OTHER SIMILAR LAWS OF ANY COMPACTING STATE, THE BYLAWS
22 SHALL EXCLUSIVELY GOVERN THE PERSONNEL POLICIES AND PROGRAMS OF THE
23 COMMISSION.
- 24 7. ADOPTING A CODE OF ETHICS TO ADDRESS PERMISSIBLE AND PROHIBITED
25 ACTIVITIES OF COMMISSION MEMBERS AND EMPLOYEES.
- 26 8. PROVIDING A MECHANISM FOR WINDING UP THE OPERATIONS OF THE
27 COMMISSION AND THE EQUITABLE DISPOSITION OF ANY SURPLUS FUNDS THAT MAY EXIST
28 AFTER THE TERMINATION OF THE COMPACT AND AFTER THE PAYMENT OR RESERVING OF
29 ALL OF ITS DEBTS AND OBLIGATIONS.
- 30 D. THE COMMISSION SHALL PUBLISH ITS BYLAWS IN A CONVENIENT FORM AND
31 FILE A COPY OF THE BYLAWS AND ANY AMENDMENT TO THE BYLAWS WITH THE
32 APPROPRIATE AGENCY OR OFFICER IN EACH OF THE COMPACTING STATES.
- 33 E. A MANAGEMENT COMMITTEE COMPRISING NO MORE THAN FOURTEEN MEMBERS
34 SHALL BE ESTABLISHED AS FOLLOWS:
35 1. ONE MEMBER FROM EACH OF THE SIX COMPACTING STATES WITH THE LARGEST
36 PREMIUM VOLUME FOR INDIVIDUAL AND GROUP ANNUITIES, LIFE, DISABILITY INCOME,
37 AND LONG-TERM CARE INSURANCE PRODUCTS, DETERMINED FROM THE RECORDS OF THE
38 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FOR THE PRIOR YEAR.
39 2. FOUR MEMBERS FROM THOSE COMPACTING STATES WITH AT LEAST TWO PER
40 CENT OF THE MARKET BASED ON THE PREMIUM VOLUME DESCRIBED IN PARAGRAPH 1 OF
41 THIS SUBSECTION, OTHER THAN THE SIX COMPACTING STATES WITH THE LARGEST
42 PREMIUM VOLUME, SELECTED ON A ROTATING BASIS AS PROVIDED IN THE BYLAWS.
43 3. FOUR MEMBERS FROM THOSE COMPACTING STATES WITH LESS THAN TWO PER
44 CENT OF THE MARKET, BASED ON THE PREMIUM VOLUME DESCRIBED IN PARAGRAPH 1 OF

1 THIS SUBSECTION, WITH ONE SELECTED FROM EACH OF THE FOUR ZONE REGIONS OF THE
2 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS PROVIDED IN THE BYLAWS.

3 F. THE MANAGEMENT COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS
4 MAY BE SET FORTH IN THE BYLAWS, INCLUDING:

5 1. MANAGING THE AFFAIRS OF THE COMMISSION IN A MANNER CONSISTENT WITH
6 THE BYLAWS AND PURPOSES OF THE COMMISSION.

7 2. ESTABLISHING AND OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND
8 APPROPRIATE PROCEDURES FOR, THE COMMISSION TO PROVIDE FOR THE CREATION OF
9 UNIFORM STANDARDS AND OTHER RULES, RECEIPT AND REVIEW OF PRODUCT FILINGS,
10 ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS, REVIEW OF DECISIONS REGARDING
11 THE DISAPPROVAL OF A PRODUCT FILING AND THE REVIEW OF ELECTIONS MADE BY A
12 COMPACTING STATE TO OPT OUT OF A UNIFORM STANDARD. HOWEVER, A UNIFORM
13 STANDARD SHALL NOT BE SUBMITTED TO THE COMPACTING STATES FOR ADOPTION UNLESS
14 APPROVED BY TWO-THIRDS OF THE MEMBERS OF THE MANAGEMENT COMMITTEE.

15 3. OVERSEEING THE OFFICES OF THE COMMISSION.

16 4. PLANNING, IMPLEMENTING AND COORDINATING COMMUNICATIONS AND
17 ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL GOVERNMENT ORGANIZATIONS IN
18 ORDER TO ADVANCE THE GOALS OF THE COMMISSION.

19 G. THE COMMISSION SHALL ELECT ANNUALLY OFFICERS FROM THE MANAGEMENT
20 COMMITTEE, WITH EACH HAVING SUCH AUTHORITY AND DUTIES, AS MAY BE SPECIFIED IN
21 THE BYLAWS.

22 H. THE MANAGEMENT COMMITTEE, SUBJECT TO THE APPROVAL OF THE
23 COMMISSION, MAY APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, ON
24 SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION AS THE COMMISSION MAY
25 DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE
26 COMMISSION, BUT SHALL NOT BE A MEMBER OF THE COMMISSION. THE EXECUTIVE
27 DIRECTOR SHALL HIRE AND SUPERVISE OTHER STAFF AS MAY BE AUTHORIZED BY THE
28 COMMISSION.

29 I. A LEGISLATIVE COMMITTEE COMPRISING STATE LEGISLATORS OR THEIR
30 DESIGNEES SHALL BE ESTABLISHED TO MONITOR THE OPERATIONS OF, AND MAKE
31 RECOMMENDATIONS TO, THE COMMISSION, INCLUDING THE MANAGEMENT COMMITTEE.
32 HOWEVER, THE MANNER OF SELECTION AND TERM OF ANY LEGISLATIVE COMMITTEE MEMBER
33 SHALL BE AS SET FORTH IN THE BYLAWS. BEFORE THE ADOPTION BY THE COMMISSION
34 OF ANY UNIFORM STANDARD, REVISION TO THE BYLAWS, ANNUAL BUDGET OR OTHER
35 SIGNIFICANT MATTER AS MAY BE PROVIDED IN THE BYLAWS, THE MANAGEMENT COMMITTEE
36 SHALL CONSULT WITH AND REPORT TO THE LEGISLATIVE COMMITTEE.

37 J. THE COMMISSION SHALL ESTABLISH TWO ADVISORY COMMITTEES, ONE OF
38 WHICH SHALL COMPRISE CONSUMER REPRESENTATIVES INDEPENDENT OF THE INSURANCE
39 INDUSTRY, AND THE OTHER COMPRISING INSURANCE INDUSTRY REPRESENTATIVES.

40 K. THE COMMISSION MAY ESTABLISH ADDITIONAL ADVISORY COMMITTEES AS ITS
41 BYLAWS MAY PROVIDE FOR THE CARRYING OUT OF ITS FUNCTIONS.

42 L. THE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN
43 ACCORDANCE WITH THE BYLAWS.

44 M. THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES AND
45 REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY,

1 EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO
2 OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR
3 ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED, OR
4 THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR
5 BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR
6 RESPONSIBILITIES. THIS SUBSECTION DOES NOT PROTECT ANY SUCH PERSON FROM SUIT
7 OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY OR LIABILITY CAUSED BY THE
8 INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF THAT PERSON.

9 N. THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE
10 DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION
11 SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR
12 OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES
13 OR RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A
14 REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION
15 EMPLOYMENT, DUTIES OR RESPONSIBILITIES. THIS SUBSECTION DOES NOT PROHIBIT
16 THAT PERSON FROM RETAINING THE PERSON'S OWN COUNSEL. ALSO, THE ACTUAL OR
17 ALLEGED ACT, ERROR OR OMISSION MAY NOT HAVE RESULTED FROM THAT PERSON'S
18 INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT.

19 O. THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER,
20 OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION FOR
21 THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING
22 OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE
23 SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES, OR THAT SUCH
24 PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF
25 COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES. HOWEVER, THE ACTUAL OR
26 ALLEGED ACT, ERROR OR OMISSION MAY NOT HAVE RESULTED FROM THE INTENTIONAL OR
27 WILLFUL AND WANTON MISCONDUCT OF THAT PERSON.

28 ARTICLE VI

29 COMMISSION MEETING AND ACTS

30 A. THE COMMISSION SHALL MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT
31 WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS.

32 B. EACH MEMBER OF THE COMMISSION SHALL HAVE THE RIGHT AND POWER TO
33 CAST A VOTE TO WHICH THAT COMPACTING STATE IS ENTITLED AND TO PARTICIPATE IN
34 THE BUSINESS AND AFFAIRS OF THE COMMISSION. A MEMBER SHALL VOTE IN PERSON OR
35 BY SUCH OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR
36 MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF
37 COMMUNICATION.

38 C. THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR.
39 ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

40 ARTICLE VII

41 RULES AND OPERATING PROCEDURES, RULEMAKING FUNCTIONS
42 AND OPTING OUT OF UNIFORM STANDARDS

43 A. THE COMMISSION SHALL ADOPT REASONABLE RULES, INCLUDING UNIFORM
44 STANDARDS, AND OPERATING PROCEDURES IN ORDER TO EFFECTIVELY AND EFFICIENTLY
45 ACHIEVE THE PURPOSES OF THIS COMPACT. IF THE COMMISSION EXERCISES ITS

1 RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF
2 THIS COMPACT, THE ACTION BY THE COMMISSION SHALL BE INVALID AND HAVE NO FORCE
3 AND EFFECT.

4 B. RULES AND OPERATING PROCEDURES SHALL BE MADE PURSUANT TO A
5 RULEMAKING PROCESS THAT CONFORMS TO THE MODEL STATE ADMINISTRATIVE PROCEDURE
6 ACT OF 1981 AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE
7 COMMISSION. BEFORE THE COMMISSION ADOPTS A UNIFORM STANDARD, THE COMMISSION
8 SHALL GIVE WRITTEN NOTICE TO THE RELEVANT STATE LEGISLATIVE COMMITTEES IN
9 EACH COMPACTING STATE RESPONSIBLE FOR INSURANCE ISSUES OF ITS INTENTION TO
10 ADOPT THE UNIFORM STANDARD. THE COMMISSION IN ADOPTING A UNIFORM STANDARD
11 SHALL CONSIDER FULLY ALL SUBMITTED MATERIALS AND ISSUE A CONCISE EXPLANATION
12 OF ITS DECISION.

13 C. A UNIFORM STANDARD SHALL BECOME EFFECTIVE NINETY DAYS AFTER ITS
14 ADOPTION BY THE COMMISSION OR SUCH LATER DATE AS THE COMMISSION MAY
15 DETERMINE. A COMPACTING STATE MAY OPT OUT OF A UNIFORM STANDARD AS PROVIDED
16 IN THIS ARTICLE. "OPT OUT" MEANS ANY ACTION BY A COMPACTING STATE TO DECLINE
17 TO ADOPT OR PARTICIPATE IN AN ADOPTED UNIFORM STANDARD. ALL OTHER RULES AND
18 OPERATING PROCEDURES, AND AMENDMENTS THERETO, SHALL BECOME EFFECTIVE AS OF
19 THE DATE SPECIFIED IN EACH RULE, OPERATING PROCEDURE OR AMENDMENT.

20 D. A COMPACTING STATE MAY OPT OUT OF A UNIFORM STANDARD, EITHER BY
21 LEGISLATION OR RULE ADOPTED BY THE INSURANCE DEPARTMENT UNDER THE COMPACTING
22 STATE'S ADMINISTRATIVE PROCEDURE ACT. IF A COMPACTING STATE ELECTS TO OPT
23 OUT OF A UNIFORM STANDARD BY RULE, IT MUST:

24 1. GIVE WRITTEN NOTICE TO THE COMMISSION NO LATER THAN TEN BUSINESS
25 DAYS AFTER THE UNIFORM STANDARD IS ADOPTED, OR AT THE TIME THE STATE BECOMES
26 A COMPACTING STATE.

27 2. FIND THAT THE UNIFORM STANDARD DOES NOT PROVIDE REASONABLE
28 PROTECTIONS TO THE CITIZENS OF THE STATE, GIVEN THE CONDITIONS IN THE STATE.

29 E. THE COMMISSIONER SHALL MAKE SPECIFIC FINDINGS OF FACT AND
30 CONCLUSIONS OF LAW, BASED ON A PREPONDERANCE OF THE EVIDENCE, DETAILING THE
31 CONDITIONS IN THE STATE THAT WARRANT A DEPARTURE FROM THE UNIFORM STANDARD
32 AND DETERMINING THAT THE UNIFORM STANDARD WOULD NOT REASONABLY PROTECT THE
33 CITIZENS OF THE STATE. THE COMMISSIONER MUST CONSIDER AND BALANCE THE
34 FOLLOWING FACTORS AND FIND THAT THE CONDITIONS IN THE STATE AND NEEDS OF THE
35 CITIZENS OF THE STATE OUTWEIGH BOTH:

36 1. THE INTENT OF THE LEGISLATURE TO PARTICIPATE IN, AND THE BENEFITS
37 OF, AN INTERSTATE AGREEMENT TO ESTABLISH NATIONAL UNIFORM CONSUMER
38 PROTECTIONS FOR THE PRODUCTS SUBJECT TO THIS COMPACT.

39 2. THE PRESUMPTION THAT A UNIFORM STANDARD ADOPTED BY THE COMMISSION
40 PROVIDES REASONABLE PROTECTIONS TO CONSUMERS OF THE RELEVANT PRODUCT.

41 F. A COMPACTING STATE, AT THE TIME OF ITS ENACTMENT OF THE COMPACT,
42 MAY PROSPECTIVELY OPT OUT OF ALL UNIFORM STANDARDS INVOLVING LONG-TERM CARE
43 INSURANCE PRODUCTS BY EXPRESSLY PROVIDING FOR SUCH OPT OUT IN THE ENACTED
44 COMPACT, AND SUCH AN OPT OUT SHALL NOT BE TREATED AS A MATERIAL VARIANCE IN
45 THE OFFER OR ACCEPTANCE OF ANY STATE TO PARTICIPATE IN THE COMPACT. SUCH AN

1 OPT OUT SHALL BE EFFECTIVE AT THE TIME OF ENACTMENT OF THE COMPACT BY THE
2 COMPACTING STATE AND SHALL APPLY TO ALL EXISTING UNIFORM STANDARDS INVOLVING
3 LONG-TERM CARE INSURANCE PRODUCTS AND THOSE SUBSEQUENTLY ADOPTED.

4 G. IF A COMPACTING STATE ELECTS TO OPT OUT OF A UNIFORM STANDARD, THE
5 UNIFORM STANDARD SHALL REMAIN APPLICABLE IN THE COMPACTING STATE ELECTING TO
6 OPT OUT UNTIL THE OPT OUT LEGISLATION IS ENACTED INTO LAW OR THE REGULATION
7 OPTING OUT BECOMES EFFECTIVE. ONCE THE OPT OUT OF A UNIFORM STANDARD BY A
8 COMPACTING STATE BECOMES EFFECTIVE AS PROVIDED UNDER THE LAWS OF THAT STATE,
9 THE UNIFORM STANDARD SHALL HAVE NO FURTHER FORCE AND EFFECT IN THAT STATE
10 UNLESS AND UNTIL THE LEGISLATION OR REGULATION IMPLEMENTING THE OPT OUT IS
11 REPEALED OR OTHERWISE BECOMES INEFFECTIVE UNDER THE LAWS OF THAT STATE. IF A
12 COMPACTING STATE OPTS OUT OF A UNIFORM STANDARD AFTER THE UNIFORM STANDARD
13 HAS BEEN MADE EFFECTIVE IN THAT STATE, THE OPT OUT SHALL HAVE THE SAME
14 PROSPECTIVE EFFECT AS PROVIDED UNDER ARTICLE XIV OF THIS COMPACT FOR
15 WITHDRAWALS.

16 H. IF A COMPACTING STATE HAS FORMALLY INITIATED THE PROCESS OF OPTING
17 OUT OF A UNIFORM STANDARD BY REGULATION, AND WHILE THE REGULATORY OPT OUT IS
18 PENDING, THE COMPACTING STATE MAY PETITION THE COMMISSION, AT LEAST FIFTEEN
19 DAYS BEFORE THE EFFECTIVE DATE OF THE UNIFORM STANDARD, TO STAY THE
20 EFFECTIVENESS OF THE UNIFORM STANDARD IN THAT STATE. THE COMMISSION MAY
21 GRANT A STAY IF IT DETERMINES THE REGULATORY OPT OUT IS BEING PURSUED IN A
22 REASONABLE MANNER AND THERE IS A LIKELIHOOD OF SUCCESS. IF A STAY IS GRANTED
23 OR EXTENDED BY THE COMMISSION, THE STAY OR EXTENSION THEREOF MAY POSTPONE THE
24 EFFECTIVE DATE BY UP TO NINETY DAYS, UNLESS AFFIRMATIVELY EXTENDED BY THE
25 COMMISSION. HOWEVER, A STAY MAY NOT BE PERMITTED TO REMAIN IN EFFECT FOR
26 MORE THAN ONE YEAR UNLESS THE COMPACTING STATE CAN SHOW EXTRAORDINARY
27 CIRCUMSTANCES THAT WARRANT A CONTINUANCE OF THE STAY, INCLUDING, THE
28 EXISTENCE OF A LEGAL CHALLENGE THAT PREVENTS THE COMPACTING STATE FROM OPTING
29 OUT. A STAY MAY BE TERMINATED BY THE COMMISSION ON NOTICE THAT THE
30 RULEMAKING PROCESS HAS BEEN TERMINATED.

31 I. NOT LATER THAN THIRTY DAYS AFTER A RULE OR OPERATING PROCEDURE IS
32 ADOPTED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE OR
33 OPERATING PROCEDURE. HOWEVER, THE FILING OF SUCH A PETITION SHALL NOT STAY
34 OR OTHERWISE PREVENT THE RULE OR OPERATING PROCEDURE FROM BECOMING EFFECTIVE
35 UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF
36 SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE COMMISSION
37 CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE OR OPERATING
38 PROCEDURE TO BE UNLAWFUL IF THE RULE OR OPERATING PROCEDURE REPRESENTS A
39 REASONABLE EXERCISE OF THE COMMISSION'S AUTHORITY.

40 ARTICLE VIII

41 COMMISSION RECORDS AND ENFORCEMENT

42 A. THE COMMISSION SHALL ADOPT RULES ESTABLISHING CONDITIONS AND
43 PROCEDURES FOR PUBLIC INSPECTION AND COPYING OF ITS INFORMATION AND OFFICIAL
44 RECORDS, EXCEPT INFORMATION AND RECORDS INVOLVING THE PRIVACY OF INDIVIDUALS
45 AND INSURERS' TRADE SECRETS. THE COMMISSION MAY ADOPT ADDITIONAL RULES UNDER

1 WHICH IT MAY MAKE AVAILABLE TO FEDERAL AND STATE AGENCIES, INCLUDING LAW
2 ENFORCEMENT AGENCIES, RECORDS AND INFORMATION OTHERWISE EXEMPT FROM
3 DISCLOSURE, AND MAY ENTER INTO AGREEMENTS WITH SUCH AGENCIES TO RECEIVE OR
4 EXCHANGE INFORMATION OR RECORDS SUBJECT TO NONDISCLOSURE AND CONFIDENTIALITY
5 PROVISIONS.

6 B. EXCEPT AS TO PRIVILEGED RECORDS, DATA AND INFORMATION, THE LAWS OF
7 ANY COMPACTING STATE PERTAINING TO CONFIDENTIALITY OR NONDISCLOSURE SHALL NOT
8 RELIEVE ANY COMPACTING STATE COMMISSIONER OF THE DUTY TO DISCLOSE ANY
9 RELEVANT RECORDS, DATA OR INFORMATION TO THE COMMISSION. DISCLOSURE TO THE
10 COMMISSION DOES NOT WAIVE OR OTHERWISE AFFECT ANY CONFIDENTIALITY
11 REQUIREMENT. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS COMPACT, THE
12 COMMISSION SHALL NOT BE SUBJECT TO THE COMPACTING STATE'S LAWS PERTAINING TO
13 CONFIDENTIALITY AND NONDISCLOSURE WITH RESPECT TO RECORDS, DATA AND
14 INFORMATION IN ITS POSSESSION. CONFIDENTIAL INFORMATION OF THE COMMISSION
15 SHALL REMAIN CONFIDENTIAL AFTER THE INFORMATION IS PROVIDED TO ANY
16 COMMISSIONER.

17 C. THE COMMISSION SHALL MONITOR COMPACTING STATES FOR COMPLIANCE WITH
18 DULY ADOPTED BYLAWS, RULES, INCLUDING UNIFORM STANDARDS, AND OPERATING
19 PROCEDURES. THE COMMISSION SHALL NOTIFY ANY NONCOMPLYING COMPACTING STATE IN
20 WRITING OF ITS NONCOMPLIANCE WITH COMMISSION BYLAWS, RULES OR OPERATING
21 PROCEDURES. IF A NONCOMPLYING COMPACTING STATE FAILS TO REMEDY ITS
22 NONCOMPLIANCE WITHIN THE TIME SPECIFIED IN THE NOTICE OF NONCOMPLIANCE, THE
23 COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS SET FORTH IN ARTICLE XIV
24 OF THIS COMPACT.

25 D. THE COMMISSIONER OF ANY STATE IN WHICH AN INSURER IS AUTHORIZED TO
26 DO BUSINESS, OR IS CONDUCTING THE BUSINESS OF INSURANCE, SHALL CONTINUE TO
27 EXERCISE THE COMMISSIONER'S AUTHORITY TO OVERSEE THE MARKET REGULATION OF THE
28 ACTIVITIES OF THE INSURER IN ACCORDANCE WITH THE PROVISIONS OF THE STATE'S
29 LAW. THE COMMISSIONER'S ENFORCEMENT OF COMPLIANCE WITH THE COMPACT IS
30 GOVERNED BY THE FOLLOWING PROVISIONS:

31 1. WITH RESPECT TO THE COMMISSIONER'S MARKET REGULATION OF A PRODUCT
32 OR ADVERTISEMENT THAT IS APPROVED OR CERTIFIED TO THE COMMISSION, THE CONTENT
33 OF THE PRODUCT OR ADVERTISEMENT SHALL NOT CONSTITUTE A VIOLATION OF THE
34 PROVISIONS, STANDARDS OR REQUIREMENTS OF THE COMPACT EXCEPT ON A FINAL ORDER
35 OF THE COMMISSION, ISSUED AT THE REQUEST OF A COMMISSIONER AFTER PRIOR NOTICE
36 TO THE INSURER AND AN OPPORTUNITY FOR HEARING BEFORE THE COMMISSION.

37 2. BEFORE A COMMISSIONER MAY BRING AN ACTION FOR VIOLATION OF ANY
38 PROVISION, STANDARD OR REQUIREMENT OF THE COMPACT RELATING TO THE CONTENT OF
39 AN ADVERTISEMENT NOT APPROVED OR CERTIFIED TO THE COMMISSION, THE COMMISSION,
40 OR AN AUTHORIZED COMMISSION OFFICER OR EMPLOYEE, MUST AUTHORIZE THE ACTION.
41 AUTHORIZATION UNDER THIS PARAGRAPH DOES NOT REQUIRE NOTICE TO THE INSURER,
42 OPPORTUNITY FOR HEARING OR DISCLOSURE OF REQUESTS FOR AUTHORIZATION OR
43 RECORDS OF THE COMMISSION'S ACTION ON SUCH REQUESTS.

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ARTICLE IX
DISPUTE RESOLUTION

ON THE REQUEST OF A MEMBER, THE COMMISSION SHALL ATTEMPT TO RESOLVE ANY DISPUTES OR OTHER ISSUES THAT ARE SUBJECT TO THIS COMPACT AND THAT MAY ARISE BETWEEN TWO OR MORE COMPACTING STATES, OR BETWEEN COMPACTING STATES AND NONCOMPACTING STATES, AND THE COMMISSION SHALL ADOPT AN OPERATING PROCEDURE PROVIDING FOR RESOLUTION OF SUCH DISPUTES.

ARTICLE X
PRODUCT FILING AND APPROVAL

A. INSURERS AND THIRD-PARTY FILERS SEEKING TO HAVE A PRODUCT APPROVED BY THE COMMISSION SHALL FILE THE PRODUCT WITH, AND PAY APPLICABLE FILING FEES TO, THE COMMISSION. THIS COMPACT DOES NOT RESTRICT OR OTHERWISE PREVENT AN INSURER FROM FILING ITS PRODUCT WITH THE INSURANCE DEPARTMENT IN ANY STATE WHEREIN THE INSURER IS LICENSED TO CONDUCT THE BUSINESS OF INSURANCE, AND SUCH FILING SHALL BE SUBJECT TO THE LAWS OF THE STATES WHERE FILED.

B. THE COMMISSION SHALL ESTABLISH APPROPRIATE FILING AND REVIEW PROCESSES AND PROCEDURES PURSUANT TO COMMISSION RULES AND OPERATING PROCEDURES. THE COMMISSION SHALL ADOPT RULES TO ESTABLISH CONDITIONS AND PROCEDURES UNDER WHICH THE COMMISSION WILL PROVIDE PUBLIC ACCESS TO PRODUCT FILING INFORMATION. IN ESTABLISHING SUCH RULES, THE COMMISSION SHALL CONSIDER THE INTERESTS OF THE PUBLIC IN HAVING ACCESS TO SUCH INFORMATION, AS WELL AS PROTECTION OF PERSONAL MEDICAL AND FINANCIAL INFORMATION AND TRADE SECRETS, THAT MAY BE CONTAINED IN A PRODUCT FILING OR SUPPORTING INFORMATION.

C. ANY PRODUCT APPROVED BY THE COMMISSION MAY BE SOLD OR OTHERWISE ISSUED IN THOSE COMPACTING STATES FOR WHICH THE INSURER IS LEGALLY AUTHORIZED TO DO BUSINESS.

ARTICLE XI
REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

A. NOT LATER THAN THIRTY DAYS AFTER THE COMMISSION HAS GIVEN NOTICE OF A DISAPPROVED PRODUCT OR ADVERTISEMENT FILED WITH THE COMMISSION, THE INSURER OR THIRD-PARTY FILER WHOSE FILING WAS DISAPPROVED MAY APPEAL THE DETERMINATION TO A REVIEW PANEL APPOINTED BY THE COMMISSION. THE COMMISSION SHALL ADOPT RULES TO ESTABLISH PROCEDURES FOR APPOINTING THE REVIEW PANELS AND PROVIDE FOR NOTICE AND HEARING. AN ALLEGATION THAT THE COMMISSION, IN DISAPPROVING A PRODUCT OR ADVERTISEMENT FILED WITH THE COMMISSION, ACTED ARBITRARILY, CAPRICIOUSLY OR IN A MANNER THAT IS AN ABUSE OF DISCRETION OR OTHERWISE NOT IN ACCORDANCE WITH THE LAW, IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH ARTICLE III, SUBSECTION D OF THIS COMPACT.

B. THE COMMISSION SHALL HAVE AUTHORITY TO MONITOR, REVIEW AND RECONSIDER PRODUCTS AND ADVERTISEMENT SUBSEQUENT TO THEIR FILING OR APPROVAL ON A FINDING THAT THE PRODUCT DOES NOT MEET THE RELEVANT UNIFORM STANDARD. WHERE APPROPRIATE, THE COMMISSION MAY WITHDRAW OR MODIFY ITS APPROVAL AFTER PROPER NOTICE AND HEARING, SUBJECT TO THE APPEAL PROCESS IN SUBSECTION A OF THIS ARTICLE.

ARTICLE XII

FINANCE

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3 A. THE COMMISSION SHALL PAY OR PROVIDE FOR THE PAYMENT OF THE
4 REASONABLE EXPENSES OF ITS ESTABLISHMENT AND ORGANIZATION. TO FUND THE COST
5 OF ITS INITIAL OPERATIONS, THE COMMISSION MAY ACCEPT CONTRIBUTIONS AND OTHER
6 FORMS OF FUNDING FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
7 COMPACTING STATES AND OTHER SOURCES. CONTRIBUTIONS AND OTHER FORMS OF
8 FUNDING FROM OTHER SOURCES SHALL BE OF SUCH A NATURE THAT THE INDEPENDENCE OF
9 THE COMMISSION CONCERNING THE PERFORMANCE OF ITS DUTIES SHALL NOT BE
10 COMPROMISED.

11 B. THE COMMISSION SHALL COLLECT A FILING FEE FROM EACH INSURER AND
12 THIRD-PARTY FILER FILING A PRODUCT WITH THE COMMISSION TO COVER THE COST OF
13 THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF IN A TOTAL
14 AMOUNT SUFFICIENT TO COVER THE COMMISSION'S ANNUAL BUDGET.

15 C. THE COMMISSION'S BUDGET FOR A FISCAL YEAR SHALL NOT BE APPROVED
16 UNTIL IT HAS BEEN SUBJECT TO NOTICE AND COMMENT AS SET FORTH IN ARTICLE VII
17 OF THIS COMPACT.

18 D. THE COMMISSION SHALL BE EXEMPT FROM ALL TAXATION IN AND BY THE
19 COMPACTING STATES.

20 E. THE COMMISSION SHALL NOT PLEDGE THE CREDIT OF ANY COMPACTING STATE,
21 EXCEPT BY AND WITH THE APPROPRIATE LEGAL AUTHORITY OF THAT COMPACTING STATE.

22 F. THE COMMISSION SHALL KEEP COMPLETE AND ACCURATE ACCOUNTS OF ALL ITS
23 INTERNAL RECEIPTS, INCLUDING GRANTS AND DONATIONS, AND DISBURSEMENTS OF ALL
24 FUNDS UNDER ITS CONTROL. THE INTERNAL FINANCIAL ACCOUNTS OF THE COMMISSION
25 SHALL BE SUBJECT TO THE ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS.
26 THE FINANCIAL ACCOUNTS AND REPORTS INCLUDING THE SYSTEM OF INTERNAL CONTROLS
27 AND PROCEDURES OF THE COMMISSION SHALL BE AUDITED ANNUALLY BY AN INDEPENDENT
28 CERTIFIED PUBLIC ACCOUNTANT. ON THE DETERMINATION OF THE COMMISSION, BUT NO
29 LESS FREQUENTLY THAN EVERY THREE YEARS, THE REVIEW OF THE INDEPENDENT AUDITOR
30 SHALL INCLUDE A MANAGEMENT AND PERFORMANCE AUDIT OF THE COMMISSION. THE
31 COMMISSION SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE OF THE
32 COMPACTING STATES, WHICH SHALL INCLUDE A REPORT OF THE INDEPENDENT AUDIT.
33 THE COMMISSION'S INTERNAL ACCOUNTS SHALL NOT BE CONFIDENTIAL AND SUCH
34 MATERIALS MAY BE SHARED WITH THE COMMISSIONER OF ANY COMPACTING STATE ON
35 REQUEST. ANY WORK PAPERS RELATED TO ANY INTERNAL OR INDEPENDENT AUDIT AND ANY
36 INFORMATION REGARDING THE PRIVACY OF INDIVIDUALS AND INSURERS' PROPRIETARY
37 INFORMATION, INCLUDING TRADE SECRETS, SHALL REMAIN CONFIDENTIAL.

38 G. A COMPACTING STATE DOES NOT HAVE ANY CLAIM TO OR OWNERSHIP OF ANY
39 PROPERTY HELD BY OR VESTED IN THE COMMISSION OR TO ANY COMMISSION FUNDS HELD
40 UNDER THIS COMPACT.

ARTICLE XIII

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

41
42 A. ANY STATE IS ELIGIBLE TO BECOME A COMPACTING STATE.

43 B. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING ON LEGISLATIVE
44 ENACTMENT OF THE COMPACT INTO LAW BY TWO COMPACTING STATES. THE COMMISSION
45

1 SHALL BECOME EFFECTIVE FOR PURPOSES OF ADOPTING UNIFORM STANDARDS FOR,
2 REVIEWING AND GIVING APPROVAL OR DISAPPROVAL OF PRODUCTS FILED WITH THE
3 COMMISSION THAT SATISFY APPLICABLE UNIFORM STANDARDS ONLY AFTER TWENTY-SIX
4 STATES ARE COMPACTING STATES OR, ALTERNATIVELY, BY STATES REPRESENTING
5 GREATER THAN FORTY PER CENT OF THE PREMIUM VOLUME FOR LIFE INSURANCE,
6 ANNUITY, DISABILITY INCOME AND LONG-TERM CARE INSURANCE PRODUCTS, BASED ON
7 RECORDS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FOR THE PRIOR
8 YEAR. THEREAFTER, IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER
9 COMPACTING STATE ON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE.

10 C. AMENDMENTS TO THE COMPACT MAY BE PROPOSED BY THE COMMISSION FOR
11 ENACTMENT BY THE COMPACTING STATES. AN AMENDMENT DOES NOT BECOME EFFECTIVE
12 AND BINDING ON THE COMMISSION AND THE COMPACTING STATES UNLESS AND UNTIL ALL
13 COMPACTING STATES ENACT THE AMENDMENT INTO LAW.

14 ARTICLE XIV

15 WITHDRAWAL, DEFAULT AND TERMINATION

16 A. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN
17 BINDING ON EACH AND EVERY COMPACTING STATE. A COMPACTING STATE MAY WITHDRAW
18 FROM THE COMPACT BY ENACTING A STATUTE SPECIFICALLY REPEALING THE STATUTE
19 THAT ENACTED THE COMPACT INTO LAW.

20 B. THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE
21 REPEALING STATUTE. THE WITHDRAWAL SHALL NOT APPLY TO ANY PRODUCT FILINGS
22 APPROVED OR SELF-CERTIFIED, OR ANY ADVERTISEMENT OF SUCH PRODUCTS, ON THE
23 DATE THE REPEALING STATUTE BECOMES EFFECTIVE, EXCEPT BY MUTUAL AGREEMENT OF
24 THE COMMISSION AND THE WITHDRAWING STATE UNLESS THE APPROVAL IS RESCINDED BY
25 THE WITHDRAWING STATE AS PROVIDED IN SUBSECTION E OF THIS ARTICLE.

26 C. THE COMMISSIONER OF THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY
27 THE MANAGEMENT COMMITTEE IN WRITING ON THE INTRODUCTION OF LEGISLATION
28 REPEALING THE COMPACT IN THE WITHDRAWING STATE.

29 D. THE COMMISSION SHALL NOTIFY THE OTHER COMPACTING STATES OF THE
30 INTRODUCTION OF SUCH LEGISLATION WITHIN TEN DAYS AFTER ITS RECEIPT OF NOTICE
31 THEREOF.

32 E. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL OBLIGATIONS, DUTIES
33 AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING
34 ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF
35 WITHDRAWAL, EXCEPT TO THE EXTENT THOSE OBLIGATIONS MAY HAVE BEEN RELEASED OR
36 RELINQUISHED BY MUTUAL AGREEMENT OF THE COMMISSION AND THE WITHDRAWING STATE.
37 THE COMMISSION'S APPROVAL OF PRODUCTS AND ADVERTISEMENT BEFORE THE EFFECTIVE
38 DATE OF WITHDRAWAL SHALL CONTINUE TO BE EFFECTIVE AND BE GIVEN FULL FORCE AND
39 EFFECT IN THE WITHDRAWING STATE, UNLESS FORMALLY RESCINDED BY THE WITHDRAWING
40 STATE IN THE SAME MANNER AS PROVIDED BY THE LAWS OF THE WITHDRAWING STATE FOR
41 THE PROSPECTIVE DISAPPROVAL OF PRODUCTS OR ADVERTISEMENT PREVIOUSLY APPROVED
42 UNDER STATE LAW.

43 F. REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY COMPACTING STATE SHALL
44 OCCUR ON THE EFFECTIVE DATE OF THE WITHDRAWING STATE REENACTING THE COMPACT.

1 G. IF THE COMMISSION DETERMINES THAT ANY COMPACTING STATE HAS AT ANY
2 TIME DEFAULTED IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS OR
3 RESPONSIBILITIES UNDER THE COMPACT, THE BYLAWS OR ADOPTED RULES OR OPERATING
4 PROCEDURES, AFTER NOTICE AND HEARING AS SET FORTH IN THE BYLAWS, ALL RIGHTS,
5 PRIVILEGES AND BENEFITS CONFERRED BY THE COMPACT ON THE DEFAULTING STATE
6 SHALL BE SUSPENDED FROM THE EFFECTIVE DATE OF DEFAULT AS FIXED BY THE
7 COMMISSION. THE GROUNDS FOR DEFAULT INCLUDE FAILURE OF A COMPACTING STATE TO
8 PERFORM ITS OBLIGATIONS OR RESPONSIBILITIES AND ANY OTHER GROUNDS DESIGNATED
9 IN COMMISSION RULES. THE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING
10 STATE IN WRITING OF THE DEFAULTING STATE'S SUSPENSION PENDING A CURE OF THE
11 DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD
12 WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF THE DEFAULTING
13 STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECIFIED BY THE
14 COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT AND ALL
15 RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THE COMPACT SHALL BE TERMINATED
16 FROM THE EFFECTIVE DATE OF TERMINATION.

17 H. PRODUCT APPROVALS BY THE COMMISSION OR PRODUCT SELF-CERTIFICATIONS,
18 OR ANY ADVERTISEMENT IN CONNECTION WITH SUCH PRODUCT, THAT ARE IN FORCE ON
19 THE EFFECTIVE DATE OF TERMINATION SHALL REMAIN IN FORCE IN THE DEFAULTING
20 STATE IN THE SAME MANNER AS IF THE DEFAULTING STATE HAD WITHDRAWN VOLUNTARILY
21 UNDER THIS ARTICLE.

22 I. REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE
23 REQUIRES A REENACTMENT OF THE COMPACT.

24 J. THE COMPACT DISSOLVES EFFECTIVE ON THE DATE OF THE WITHDRAWAL OR
25 DEFAULT OF THE COMPACTING STATE THAT REDUCES MEMBERSHIP IN THE COMPACT TO ONE
26 COMPACTING STATE. ON THE DISSOLUTION OF THE COMPACT, THE COMPACT BECOMES
27 NULL AND VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS
28 AND AFFAIRS OF THE COMMISSION SHALL BE WOUND UP AND ANY SURPLUS FUNDS SHALL
29 BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

30 ARTICLE XV

31 BINDING EFFECT OF COMPACT AND OTHER LAWS

32 A. THE COMPACT DOES NOT PREVENT THE ENFORCEMENT OF ANY OTHER LAW OF A
33 COMPACTING STATE, EXCEPT AS PROVIDED IN SUBSECTION B OF THIS ARTICLE.

34 B. FOR ANY PRODUCT APPROVED OR CERTIFIED TO THE COMMISSION, THE RULES,
35 UNIFORM STANDARDS AND ANY OTHER REQUIREMENTS OF THE COMMISSION SHALL
36 CONSTITUTE THE EXCLUSIVE PROVISIONS APPLICABLE TO THE CONTENT, APPROVAL AND
37 CERTIFICATION OF SUCH PRODUCTS. FOR ADVERTISEMENT THAT IS SUBJECT TO THE
38 COMMISSION'S AUTHORITY, ANY RULE, UNIFORM STANDARD OR OTHER REQUIREMENT OF
39 THE COMMISSION THAT GOVERNS THE CONTENT OF THE ADVERTISEMENT SHALL CONSTITUTE
40 THE EXCLUSIVE PROVISION THAT A COMMISSIONER MAY APPLY TO THE CONTENT OF THE
41 ADVERTISEMENT. NO ACTION TAKEN BY THE COMMISSION SHALL ABROGATE OR RESTRICT
42 ANY OF THE FOLLOWING:

- 43 1. THE ACCESS OF ANY PERSON TO STATE COURTS.
- 44 2. REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT,
45 TORT OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO THE CONTENT OF THE PRODUCT.

