



HOUSE OF REPRESENTATIVES

HB 2482

interstate insurance product regulation compact

Sponsors: Representatives Lovas: Allen

DP Committee on Insurance and Retirement

DP Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2482 establishes the State of Arizona as a member of the Interstate Insurance Product Regulation Commission by enacting the Interstate Insurance Product Regulation Compact.

HISTORY

An interstate compact is a contract between states which allows states to cooperate on multi-state or national issues while retaining state control. Although historically used to address border disputes and water rights, the use of interstate compacts has expanded significantly in recent decades to cover tax issues, drivers' licensing and vehicle registration, environmental issues, emergency management, and other issues. The Interstate Insurance Product Regulation Compact (Compact) was established in 2004 upon enactment by Colorado and Utah, and became operational in 2006 when the minimum 26 states enacted Compact legislation. The Compact is intended to enhance the efficiency and effectiveness of the way insurance products are filed, reviewed, and approved in the United States, and to improve the speed-to-market conditions for life insurance, annuity, disability income, and long-term care insurance products by establishing a single point-of-filing for product review. The Compact creates the Interstate Insurance Product Regulation Commission (Commission), which is a multistate public entity that serves as an instrumentality of the member states. The Commission is the central point of electronic filing for asset-based insurance products. Currently, the Compact has been adopted by 43 states.

PROVISIONS

- Establishes the State of Arizona as a member of the Commission by adopting the Compact.
- Designates the director of the Department of Insurance as the Commission representative for this state.
- States that the purpose of the Compact is to:
 - Promote and protect the interests of various individual and group insurance consumers.
 - Develop uniform standards for insurance products covered under the Compact.
 - Establish a central clearinghouse to provide review of insurance products or related advertisements and provide appropriate regulatory approval of these products.
 - Improve the coordination of regulatory resources and expertise between states regarding uniform standards and insurance products.
 - Perform other functions related to the business of insurance.

Commission Powers

- Permits the Commission to establish rules, operating procedures, and uniform standards, which are binding between the compacting states and have the same effect as law.

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- States that standards adopted by the Commission relating to long-term care insurance products must provide equal or better consumer protection as the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act (Act) and Long-Term Care Insurance Model Regulation (Regulation), as of 2001; any amendments to the Act or Regulation that occur after this date must be considered by the Commission for adoption.
- Allows the Commission to review products and rate filings and provide approval for disability income and long-term care insurance products, and to provide approval for advertisements relating to long-term care insurance products.
- Authorizes the Commission to require an insurer to submit all or part of an advertisement for a product for review and approval before use, with the exception of advertisements for long-term care insurance products.
- Allows the Commission to designate products that do not require review and approval by the Commission.
- Authorizes the Commission to enter into legal action without affecting the right of the insurance department of any state to sue or be sued.
- Allows the Commission to establish offices; purchase insurance and bonds; and borrow, accept, or contract for personnel services.
- Provides to the Commission the ability to hire employees and appoint officers, and grants the Commission procurement powers in establishing personnel policies.
- Authorizes the Commission to receive donations and grants of money, equipment, supplies, materials, or services.
- Allows the Commission to lease, purchase, or accept gifts or donations of real or personal property; or to own, hold, improve, use, sell, convey, mortgage, pledge, lease, exchange, abandon, or dispose of any real or personal property.
- Grants the following authorities to the Commission regarding states participating in the Compact:
 - To remit filing fees to compacting states.
 - To enforce compacting state compliance.
 - To provide dispute resolution amongst compacting states.
 - To advise compacting states on issues relating to insurers doing business in non-compacting states.
 - To provide advice and training to state insurance departments responsible for product review, and to act as a resource for those insurance departments.
- Permits the Commission to establish a budget, make expenditures, and borrow money.
- Authorizes the Commission to appoint committees comprised of members that may include state insurance regulators, state legislators, insurance industry and consumer representatives, and other interested parties.
- Allows the Commission to cooperate with law enforcement authorities and exchange information.
- Permits the Commission to adopt a corporate seal.

Commission Organization

- Limits each compacting state to one Commission representative (Commissioner) who must be qualified to conduct the business of insurance.
- Provides each Commissioner with one vote and declares that the adoption of a uniform standard is not effective unless two-thirds of all members vote in favor of the adoption.
- Authorizes the Commission, upon approval by the majority of its members, to create bylaws related to the following:
 - Establishing a fiscal year.
 - Electing members and establishing titles and duties for elected officers.
 - Conducting management committee meetings, other authorized committee meetings, and Commission meetings.
 - Governing authority and function.
 - Personnel policies.
 - A code of ethics and prohibited activities.
 - The disbursement of surplus funds upon termination of the Compact and after payment of all debts and obligations.
- Requires the Commission to publish its bylaws and file a copy of the bylaws with each compacting state.
- Establishes a management committee of no more than 14 members of various qualifications to manage the Commission's affairs, and prohibits the adoption of a uniform standard without a two-thirds vote by the management committee.
- Allows the management committee to appoint officers and, upon approval by the Commission, an executive director who serves as secretary to the Commission but is not a member of the Commission.
- Establishes a legislative committee to monitor the operations of and make recommendations to the Commission, and requires the management committee to consult with the legislative committee prior to the adoption or revision of any significant matter.
- Directs the Commission to create two advisory committees: one comprised of consumer representatives independent of the insurance industry, and the other comprised of insurance industry representatives, and to create other committees as necessary.
- Exempts members, officers, the executive director, employees, and representatives of the Commission from suit and liability for claims made related to the scope of Commission employment, duties, or responsibilities; requires the Commission to defend any such individual in the event of legal action; and holds the individual harmless in the event of any settlement or judgment, unless the alleged act resulted from intentional or willful misconduct of the individual.

Commission Rules and Operating Procedures

- Requires the Commission to adopt reasonable rules, uniform standards, and operating procedures, and stipulates that any action taken by the Commission beyond the scope of the Compact is invalid.
- States that Commission rules and operating procedures must conform to the Model State Administrative Procedure Act of 1981, and directs the Commission to inform the compacting states legislative committees prior to the adoption of any uniform standard.

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- Prescribes an effective date of at least 90 days after adoption for uniform standards adopted by the Commission.
- Authorizes a compacting state to opt out of a particular uniform standard either by state legislation or rule adopted by the state's insurance department, and declares that when the legislation or rule is effective, the uniform standards no longer apply.
- Directs a compacting state that opts out of a uniform standard by rule to provide written notice to the Commission within 10 business days after the uniform standard is adopted, or upon enactment of the Compact.
- Stipulates that a state that opts out of a uniform standard must find that the uniform standard does not provide reasonable protections to the citizens of the state, given the condition of the state, and prescribes further procedures for opting out of a uniform standard.
- Allows a compacting state to opt out of all uniform standards relating to long-term care insurance products upon enactment of the compact.
- Opts the State of Arizona out of all uniform standards involving long-term care insurance products.
- States that a compacting state who opts out of a uniform standard by rule may petition the Commission within 15 days of the effective date of the uniform standard to initiate the opt out while the regulatory process is still pending, with specifications.
- Permits any individual to file a petition for judicial review within 30 days after a rule or operating procedure is adopted, however the rule or operating procedure becomes effective unless a court determines that the petitioner has a substantial likelihood of success. A rule or operating procedure is not unlawful if it represents a reasonable exercise of the Commission's authority.

Commission Records and Enforcement

- Requires the Commission to adopt rules for public inspection and copying of information and official records, except those which contain propriety information or insurers' trade secrets, and allows the Commission to enter into agreements with federal and state agencies for the exchange of information.
- States that the Commission is not subject to any state's confidentiality laws unless otherwise provided for in the Compact.
- Directs the Commission to monitor compacting states for compliance with bylaws, rules, uniform standards, and operating procedures, and to notify a state of its failure to comply.
- Continues a Commission's authority to oversee market regulation of the activities of an insurer in accordance with state law. The Commissioner's enforcement of compliance with the Compact is governed by the following:
 - The content of a product or advertisement with respect to a Commissioner's market regulation does not constitute a violation unless a final order is given by the Commission, issued at the request of the Commissioner, after prior notice and a hearing.
 - An action for violation of the Compact must be approved by the Commission or an authorized officer, and does not require notice to the insurer or any opportunity for a hearing.

Product Filing and Approval

- Directs parties seeking approval for a product by the Commission to file the product and pay the applicable fees to the Commission. An insurer may file its product with the insurance department in any state where the insurer is licensed to conduct business.
- Requires the Commission to establish filing and review operating procedures with consideration of public interest as well as proprietary information.
- States that any product that is approved by the Commission may be sold or issued in the compacting states in which an insurer is authorized to conduct business.
- Permits an insurer or third party filer to appeal a determination to a review panel established by the Commission within 30 days after the Commission has given notice of the disapproved product or advertisement, and states that an allegation of misconduct by the Commission in making the determination is subject to judicial review.
- Authorizes the Commission to monitor, review, and reconsider a product or advertisement on the finding that the product or advertisement does not meet uniform standards. The Commission may modify its approval after proper notice and hearing, and if necessary, an appeals process.

Commission Finance

- Requires the Commission to fund its own expenses and operational costs, and allows the Commission to accept contributions, provided that the contributions do not compromise the performance of its duties.
- Directs the Commission to collect a filing fee from each party filing a product with the Commission in a total amount sufficient to cover the Commission's annual budget, and states that an annual budget may not be approved prior to review as outlined by Commission rules.
- Exempts the Commission from all taxation in and by the compacting states, and prohibits the Commission from pledging the credit of any compacting state without the state's authority.
- Requires the Commission to maintain financial records, which are subject to an audit performed by an independent certified public account at least every three years, and directs the Commission to submit the results of the audit to the governor and the legislature of the compacting states.
- States that the Commission's internal financial accounts are not confidential, excluding certain proprietary information, and may be accessed by the Commissioner of any compacting state upon request.
- Declares that a compacting state does not have claim or ownership of any property held by the Commission.

Compacting States

- Declares any state as eligible to become a compacting state.
- Allows compacting states to propose an amendment to the Compact, and states that any amendment to the Compact does not become effective until all of the compacting states enact the amendment into law.
- Permits a compacting state to withdraw from the Compact upon repeal of the statute which enacted the Compact.

- Requires the Commissioner of the withdrawing state to immediately notify the management committee upon introduction of legislation to repeal the enacting statute, and requires the Commission to notify other compacting states within 10 days of notification.
- Stipulates that the withdrawing state is liable for all obligations and duties through and beyond the effective date of withdrawal, unless an agreement between the state and Commission states otherwise.
- States that approval of insurance products or advertisements made by the Commission prior to a state's withdrawal or termination from the Compact remains effective until the withdrawing state enacts legislation to rescind the Compact's decision.
- Declares that reinstatement of a withdrawing or terminated state occurs upon the effective date of state legislation to reenact the Compact.
- Rescinds the rights, privileges, and benefits conferred in the Compact to any state that has violated bylaws or operating procedures or defaulted on responsibilities outlined in the Compact, subject to notice and hearing. The Commission must immediately notify the defaulting state of its suspension from the Compact, pending a cure of the default.
- States that if membership is reduced to one state, then the Compact is dissolved.

Binding Effect of the Compact and Other Laws

- States that the Compact does not prevent the enforcement of law within any compact state, with the exception of those laws related to products or advertisements approved by the Commission.
- States that no action taken by the Commission will restrict the access of any person to state courts, state laws related to breach of contract, the construction of insurance contracts or other laws, or the authority of the state attorney general.
- Stipulates that all insurance products filed with a state are subject to the laws of that state.
- Declares all lawful actions of the Commission and agreements between the Commission and the compacting states as binding.
- Allows the Commission to issue advisory opinions regarding a dispute over the interpretation of Commission actions, subject to a majority vote of the compacting states.
- States that any provision of the Compact that exceeds or violates the Constitution of a compacting state is not effective.

Miscellaneous

- Defines various terms as they relate to the Commission and the Compact.
- Clarifies that it is not intended for the Commission to be the only unit for receipt and review of insurance product filings and that an insurer may continue to file a product with the insurance department of a state.
- Declares the Commission as solely responsible for its liabilities unless otherwise provided for in the Compact.
- Stipulates that any judicial proceedings brought by or against the Commission must be held in a court of jurisdiction where the main office of the Commission is located.
- Requires a Commissioner to vote in person, unless otherwise provided for in the Commission bylaws, and requires the Commission to meet at least annually.

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- Requires the Commission to attempt to resolve any disputes or other issues between compacting or non-compacting states, and to establish an operating procedure for dispute resolution.
- Clarifies that if any portion of the Compact is held invalid, the other portions of the Compact are not affected.
- States that the Compact must be liberally construed to effectuate its purposes.