An act relating to the Interstate Insurance Product Regulation Compact; providing legislative findings and intent; providing purposes; providing definitions; providing for the establishment of an Interstate Insurance Product Regulation Commission; providing responsibilities of the commission; specifying the commission as an instrumentality of the compacting states; providing for venue; specifying the commission as a separate, not-for-profit entity; providing powers of the commission; providing for organization of the commission; providing for membership, voting, and bylaws; designating the Commissioner of Insurance Regulation as the representative of the state on the commission; authorizing the Commissioner of Insurance to designate a person to represent the state on the commission; providing for a management committee, officers, and personnel of the commission; providing authority of the management committee; providing for legislative and advisory committees; providing for qualified immunity, defense, and indemnification of members, officers, employees, and representatives of the commission; providing for meetings and acts of the commission; providing rules and operating procedures; providing rulemaking functions of the commission; providing for opting out of uniform standards; providing procedures and requirements; providing for commission records and enforcement; authorizing the

commission to adopt rules; providing for disclosure of certain information; specifying that certain records, data, or information of the commission, wherever received, by and in possession of the Office of Insurance Regulation, the commissioner, or the commissioner's designee are subject to ch. 119, F.S.; requiring the commission to monitor for compliance; providing for dispute resolution; providing for product filing and approval; requiring the commission to establish filing and review processes and procedures; providing for review of commission decisions regarding filings; providing for finance of commission activities; providing for payment of expenses; authorizing the commission to collect filing fees for certain purposes; providing for approval of a commission budget; exempting the commission from all taxation, except as otherwise provided by the act; prohibiting the commission from pledging the credit of any compacting states without authority; requiring the commission to keep complete accurate accounts, provide for audits, and make annual reports to the Governors and Legislatures of compacting states; providing for amendment of the compact; providing for withdrawal from the compact, default by compacting states, and dissolution of the compact; providing severability and construction; providing for binding effect of this compact and other laws; prospectively opting out of all uniform standards adopted by the commission

involving long-term care insurance products; adopting all other existing uniform standards that have been adopted by the commission; providing a procedure for opting out of and adopting new uniform standards or amendments to existing standards; providing for the preemption of certain state laws; requiring the office to notify the Legislature of any new uniform standards or amendments to existing standards; providing that the commission is subject to certain state tax requirements; providing for public access to records; authorizing the Financial Services Commission to adopt rules to implement this act; providing that if specified sections of this act are invalidated the entire act is invalid; requiring the Office of Insurance Regulation to prepare and submit a report by a certain date to the Legislature on the effect of the compact on consumer protections; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative findings; intent.—

(1) The Legislature finds that the financial services marketplace has changed significantly in recent years and that asset-based insurance products, which include life insurance, annuities, disability income insurance, and long-term care insurance, now compete directly with other retirement and estate planning instruments that are sold by banks and securities

firms.

(2) The Legislature further finds that the increased mobility of the population and the risks borne by these asset-based products are not local in nature.

(3) The Legislature further finds that the Interstate Insurance Product Regulation Compact Model adopted by the National Association of Insurance Commissioners and endorsed by the National Conference of Insurance Legislators and the National Conference of State Legislatures is designed to address these market changes by providing a uniform set of product standards and a single source for filing of new products.

(4) The Legislature further finds that the product standards that have been developed provide a high level of consumer protection. Further, it is noted that the Interstate Insurance Product Regulation Compact Model includes a mechanism for opting out of any product standard that the state determines would not reasonably protect its citizens. With respect to long-term care insurance, the Legislature understands that the compact does not intend to develop a uniform standard for rate increase filings, thereby leaving the authority over long-term care rate increases with the state. The state relies on that understanding in adopting this legislation. The state, pursuant to the terms and conditions of this act, seeks to join with other states and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The Commissioner of Insurance Regulation is hereby designated to serve as the representative of this state on the commission. The commissioner

may designate a person to represent this state on the commission, as necessary, to fulfill the duties of being a member of the commission.

Section 2. Interstate Insurance Product Regulation Compact.—The Interstate Insurance Product Regulation Compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

Interstate Insurance Product Regulation Compact

Preamble

This compact is intended to help states join together to establish an interstate compact to regulate designated insurance products. Pursuant to the terms and conditions of this compact, this state seeks to join with other states and establish the Interstate Insurance Product Regulation Compact and thus become a member of the Interstate Insurance Product Regulation Commission.

Article I

PURPOSES.—The purposes of this compact are, through means of joint and cooperative action among the compacting states, to:

(1) Promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products.

(2) Develop uniform standards for insurance products covered under the compact.

(3) Establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states.

(4) Give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard.

(5) Improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact.

(6) Create the Interstate Insurance Product Regulation Commission.

(7) Perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Article II

DEFINITIONS.—For purposes of this compact:

(1) "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the rules and operating procedures of the commission adopted as of March 1,

2013, and subsequent amendments thereto if the methodology remains substantially consistent.

(2) "Bylaws" means those bylaws adopted by the commission as of March 1, 2013, for its governance or for directing or controlling the commission's actions or conduct.

(3) "Compacting state" means any state which has enacted this compact legislation and has not withdrawn pursuant to subsection (1) of Article XIV of this compact or been terminated pursuant to subsection (2) of Article XIV of this compact.

(4) "Commission" means the "Interstate Insurance Product Regulation Commission" established by this compact.

(5) "Commissioner" means the chief insurance regulatory official of a state, including, but not limited to, the commissioner, superintendent, director, or administrator. For purposes of this compact, the Commissioner of Insurance Regulation is the chief insurance regulatory official of this state.

(6) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an alien insurer, its state of entry.

(7) "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.

(8) "Member" means the person chosen by a compacting state as its representative to the commission, or his or her designee.

(9) "Noncompacting state" means any state which is not at the time a compacting state.

(10) "Office" means the Office of Insurance Regulation of

the Financial Services Commission.

(11) "Operating procedures" means procedures adopted by the commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, implementing a rule, uniform standard, or provision of this compact.

(12) "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

(13) "Rule" means a statement of general or particular applicability and future effect adopted by the commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, including a uniform standard developed pursuant to Article VII of this compact, designed to implement, interpret, or prescribe law or policy or describe the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

(14) "State" means any state, district, or territory of the United States.

(15) "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

(16) "Uniform standard" means a standard adopted by the commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, for

a product line pursuant to Article VII of this compact and shall include all of the product requirements in aggregate; provided, each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

Article III

COMMISSION; ESTABLISHMENT; VENUE.—

(1) The compacting states hereby create and establish a joint public agency known as the Interstate Insurance Product Regulation Commission. Pursuant to 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; provided, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing in this article shall prohibit any insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance and any such filing shall be subject to the laws of the state where filed.

(2) The commission is a body corporate and politic and an instrumentality of the compacting states.

(3) The commission is solely responsible for its liabilities, except as otherwise specifically provided in this

compact.

(4) 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.

(5) The commission is a not-for-profit entity, separate and distinct from the individual compacting states.

Article IV

POWERS.—The commission shall have the following powers to:

(1) Adopt rules, pursuant to Article VII, which 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 this compact.

(2) 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; provided a compacting state shall have the right to opt out of such uniform standard pursuant to Article VII to the extent and in the manner provided in this compact and 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 provide at least, 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 National Association of Insurance Commissioners' 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) 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 satisfy the applicable uniform standard, and such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the compact.

(4) Receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this subsection 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.

(5) Exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission.

(6) Adopt operating procedures, pursuant to Article VII, which shall be binding in the compacting states to the extent and in the manner provided in this compact.

(7) Bring and prosecute legal proceedings or actions in its name as the commission; provided the standing of any state insurance department to sue or be sued under applicable law shall not be affected.

(8) Issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

(9) Establish and maintain offices.

(10) Purchase and maintain insurance and bonds.

(11) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state. Any action under this subsection concerning employees of this state may only be taken upon the express written consent of the state.

(12) Hire employees, professionals, or specialists; elect or appoint officers and fix their compensation, define their duties, give them appropriate authority to carry out the purposes of the compact, and determine their qualifications; and establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of

compensation, and qualifications of personnel.

(13) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of the same; provided at all times the commission shall avoid any appearance of impropriety.

(14) Lease, purchase, and accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided at all times the commission shall avoid any appearance of impropriety.

(15) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(16) Remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures.

(17) Enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws.

(18) Provide for dispute resolution among compacting states.

(19) Advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact.

(20) Provide advice and training to those personnel in state insurance departments responsible for product review and to be a resource for state insurance departments.

(21) Establish a budget and make expenditures.

(22) Borrow money, provided that this power does not, in any manner, obligate the financial resources of the State of Florida.

(23) Appoint committees, including advisory committees, comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws.

(24) Provide and receive information from and to cooperate with law enforcement agencies.

(25) Adopt and use a corporate seal.

(26) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

Article V

ORGANIZATION.—

(1) Membership; voting; bylaws.—

(a)1. Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he or she is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state in which the vacancy exists. Nothing in this article shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner. However, the commissioner may designate a person to represent this state on the commission, as necessary, to

fulfill the duties of being a member of the commission.

2. The Commissioner of Insurance Regulation is hereby designated to serve as the representative of this state on the commission. However, the commissioner may designate a person to represent this state on the commission, as necessary, to fulfill the duties of being a member of the commission.

(b) Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any other provision of this article, no action of the commission with respect to the adoption of a uniform standard shall be effective unless two-thirds of the members vote in favor of such action.

(c) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

1. Establishing the fiscal year of the commission.

2. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee.

3. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees.

b. Governing any general or specific delegation of any authority or function of the commission.

4. Providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of

each such meeting, and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including, but not limited to, trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in total or in part. The commissioner of this state, or the commissioner's designee, may attend, or otherwise participate in, a meeting or executive session that is closed in total or part to the extent such attendance or participation is consistent with Florida law. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed, and votes taken during such meeting. All notices of commission meetings, including instructions for public participation, provided to the office, the commissioner, or the commissioner's designee shall be published in the Florida Administrative Register.

5. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission.

6. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

7. Adopting a code of ethics to address permissible and prohibited activities of commission members and employees. This

code does not supersede or otherwise limit the obligations and duties of this state's commissioner or the commissioner's designee under ethics laws or rules of the State of Florida. To the extent there is any inconsistency between the standards imposed by this code and the standards imposed under this state's ethics laws or rules, the commissioner or the commissioner's designee must adhere to the stricter standard of conduct.

8. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all debts and obligations of the commission.

(d) The commission shall publish its bylaws in a convenient form and file a copy of such bylaws and a copy of any amendment to such bylaws, with the appropriate agency or officer in each of the compacting states.

(2) Management committee, officers, and personnel.—

(a) A management committee comprising no more than 14 members shall be established as follows:

1. One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the National Association of Insurance Commissioners for the prior year.

2. Four members from those compacting states with at least 2 percent of the market based on the premium volume described above, other than the six compacting states with the largest

premium volume, selected on a rotating basis as provided in the bylaws.

3. Four members from those compacting states with less than 2 percent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the National Association of Insurance Commissioners as provided in the bylaws.

(b) The management committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

1. Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission.

2. Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; provided a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee.

3. Overseeing the offices of the commission.

4. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

(c) The commission shall elect annually officers from the management committee, with each having such authority and duties

as may be specified in the bylaws.

(d) The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

(3) Legislative and advisory committees.—

(a) A legislative committee comprised of state legislators or their designees shall be established to monitor the operations of and make recommendations to the commission, including the management committee; provided the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

(b) The commission shall establish two advisory committees, one comprising consumer representatives independent of the insurance industry and the other comprising insurance industry representatives.

(c) The commission may establish additional advisory committees as the bylaws may provide for the carrying out of commission functions.

(4) Corporate records of the commission.—The commission

shall maintain its corporate books and records in accordance with the bylaws.

(5) Qualified immunity, defense and indemnification.—

(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(b) The liability of the members, officers, executive director, employees, and representatives of the commission, acting within the scope of their employment or duties for acts, errors, or omissions occurring within this state, may not exceed the limits of liability set forth under the constitution and laws of this state for state officials, employees, and agents. The commission is an instrumentality of the state for the purposes of any such action. This subsection does not protect such persons from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(c) The commission shall defend any member, officer,

executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or where the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct. This article does not prohibit a person from retaining his or her own counsel.

(d) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

Article VI

MEETINGS; ACTS.—

(1) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(2) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

Article VII

RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

(1) Rulemaking authority.—The commission shall adopt reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding such requirement, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under this compact, such action by the commission shall be invalid and have no force and effect.

(2) Rulemaking procedure.—Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981, as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the

commission shall give written notice to the relevant state legislative committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.

(3) Effective date and opt out of a uniform standard.—A uniform standard shall become effective 90 days after its adoption by the commission or such later date as the commission may determine; provided a compacting state may opt out of a uniform standard as provided in this act. The term "opt out" means any action by a compacting state to decline to adopt or participate in an adopted uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

(4) Opt out procedure.—

(a) A compacting state may opt out of a uniform standard by legislation or regulation adopted by the compacting state under such state's Administrative Procedure Act. If a compacting state elects to opt out of a uniform standard by regulation, such state must:

1. Give written notice to the commission no later than 10 business days after the uniform standard is adopted, or at the time the state becomes a compacting state.

2. Find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state.

(b) The commissioner of a compacting state other than this state shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh:

1. The intent of the Legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact.

2. The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

Notwithstanding this subsection, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently adopted.

(5) Effect of opting out.—If a compacting state elects to

opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time as the opt out legislation is enacted into law or the regulation opting out becomes effective. Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

(6) Stay of uniform standard.—If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least 15 days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if the commission determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the commission; provided a stay may not be permitted to remain in effect for more than 1 year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited

to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

(7) Judicial review.—Within 30 days after a rule or operating procedure is adopted, any person may file a petition for judicial review of the rule or operating procedure; provided the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

Article VIII

COMMISSION RECORDS AND ENFORCEMENT.—

(1) The commission shall adopt rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may adopt additional rules under which the commission may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure and may enter into agreements with such agencies to receive or exchange information

or records subject to nondisclosure and confidentiality provisions.

(2) Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission; provided disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner; however, all requests from the public to inspect or copy records, data, or information of the commission, wherever received, by and in the possession of the office, commissioner, or the commissioner's designee shall be subject to chapter 119, Florida Statutes.

(3) The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth

in Article XIV of this compact.

(4) The commissioner of any state in which an insurer is authorized to do business or is conducting the business of insurance shall continue to exercise his or her authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

(a) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

(b) Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

Article IX

DISPUTE RESOLUTION.—The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which 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.—

(1) 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. Nothing in this compact shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state in which the insurer is licensed to conduct the business of insurance and such filing shall be subject to the laws of the states where filed.

(2) The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision of this article, 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.

(3) 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.—

(1) Within 30 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 such 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 subsection (4) of Article III.

(2) The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon 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 (1).

Article XII

FINANCE.—

(1) The commission shall pay or provide for the payment of the reasonable expenses of the commission's establishment and organization. To fund the cost of the commission's initial operations, the commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of commission duties shall not be compromised.

(2) The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

(3) The commission's budget for a fiscal year shall not be approved until the budget has been subject to notice and comment as set forth in Article VII.

(4) The commission shall be exempt from all taxation in and by the compacting states.

(5) The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

(6) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and

donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every 3 years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the Governor and the presiding officers of the Legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request; provided any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

(7) No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

Article XIII

COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

(1) Any state is eligible to become a compacting state.

(2) The compact shall become effective and binding upon

legislative enactment of the compact into law by two compacting states; provided the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after 26 states are compacting states or, alternatively, by states representing greater than 40 percent of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the National Association of Insurance Commissioners for the prior year. Thereafter, the compact shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(3) Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

Article XIV

WITHDRAWAL; DEFAULT; DISSOLUTION.—

(1) Withdrawal.—

(a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided a compacting state may withdraw from the compact by enacting a law specifically repealing the law which enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repealing law. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing law becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in paragraph (e).

(c) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(d) The commission shall notify the other compacting states of the introduction of such legislation within 10 days after the commission's receipt of notice of such legislation.

(e) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

(f) Reinstatement following withdrawal of any compacting

state shall occur upon the effective date of the withdrawing state reenacting the compact.

(2) Default.—

(a) If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws, or duly adopted rules or operating procedures, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(b) Product approvals by the commission or product self-certifications, or any advertisement in connection with such product that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection (1).

(c) Reinstatement following termination of any compacting state requires a reenactment of the compact.

(3) Dissolution of compact.—

(a) The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to a single compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

Article XV

SEVERABILITY; CONSTRUCTION.—

(1) The provisions of this compact are severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Article XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS.—

(1) Binding effect of this compact.—

(a) All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are

binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) If any provision of this compact exceeds the constitutional limits imposed on the Legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency of such state to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

(2) Other laws.—

(a) Nothing in this compact prevents the enforcement of any other law of a compacting state, except as provided in paragraph (b).

(b) For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform

standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding this paragraph, no action taken by the commission shall abrogate or restrict:

1. The access of any person to state courts;

2. Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

3. State law relating to the construction of insurance contracts; or

4. The authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

(c) All insurance products filed with individual states shall be subject to the laws of those states.

Section 3. Opt out from long-term care products standards.—Pursuant to Article VII of the Interstate Insurance Product Regulation Compact, adopted by this act, this state prospectively opts out of all uniform standards adopted by the Interstate Insurance Product Regulation Commission involving long-term care insurance products, and such opt out may not be treated as a material variance in the offer or acceptance of this state to participate in the compact.

Section 4. Effective date of compact standards; opt out procedures; state law exemptions; legislative notice.—

(1) Except as provided in section 3 of this act and this section, all uniform standards adopted by the Interstate

Insurance Product Regulation Commission as of March 1, 2013, are adopted by this state.

(2) Notwithstanding subsections (3), (4), (5), and (6) of Article VII of the Interstate Insurance Product Regulation Compact as adopted by this act, this state prospectively opts out of any new uniform standard, or amendments to existing uniform standards, adopted by the Interstate Insurance Product Regulation Commission after March 1, 2013, if such amendments substantially alter or add to existing uniform standards adopted by this state pursuant to subsection (1), until such time as this state enacts legislation to adopt new uniform standards or amendments to existing standards adopted by the commission after March 1, 2013.

(3) The authority under Article VII of the Interstate Insurance Product Regulation Compact to opt out of a uniform standard includes an order issued under chapter 120, Florida Statutes, the Administrative Procedure Act.

(4) In addition to the uniform standards and amendments to uniform standards that the state opts out of pursuant to subsection (2), pursuant to subsections (4) and (5) of Article VII of the Interstate Insurance Product Regulation Compact, this state opts out of the following uniform standards adopted by the Interstate Insurance Product Regulation Commission:

(a) The 10-day period for the unconditional refund of premiums, plus any fees or charges under s. 626.99, Florida Statutes.

(b) Underwriting criteria limiting the amount, extent, or kind of life insurance based on past or future travel in a

manner that is inconsistent with s. 626.9541(1)(dd), Florida Statutes, as implemented by the Office of Insurance Regulation.

(c) Any other uniform standard that conflicts with statutes or rules of this state providing consumer protections for products covered by the compact.

(5) The exclusivity provision of paragraph (2)(b) of Article XVI of the Interstate Insurance Product Regulation Compact applies only to those uniform standards adopted by the Interstate Insurance Product Regulation Commission in accordance with the terms of the compact and does not apply to those standards that this state has opted out of pursuant to this act or the compact. In addition, the exclusivity provision does not limit or render inapplicable standards adopted by this state in the absence of a standard adopted by the commission. Notwithstanding paragraph (2)(b) of Article XVI of the compact, standards adopted by this state continue to apply to the content, approval, and certification of products in this state, including, but not limited to:

(a) The prohibition against a surrender or deferred sales charge of more than 10 percent pursuant to s. 627.4554, Florida Statutes.

(b) Notification to an applicant of the right to designate a secondary addressee at the time of application under s. 627.4555, Florida Statutes.

(c) Notification of secondary addressees at least 21 days before the impending lapse of a policy under s. 627.4555, Florida Statutes.

(d) The inclusion of a clear statement pursuant to s.

627.803, Florida Statutes, that the benefits, values, or premiums under a variable annuity are indeterminate and may vary.

(e) Interest on surrender proceeds pursuant to s. 627.482, Florida Statutes.

(6) After enactment of this section, if the Interstate Insurance Product Regulation Commission adopts any new uniform standard or amendment to the existing uniform standard as specified in subsection (2), the Office of Insurance Regulation shall immediately notify the Legislature of such new standard or amendment.

Section 5. Notwithstanding subsection (4) of Article XII of the Interstate Insurance Product Regulation Compact, the Interstate Insurance Product Regulation Commission is subject to:

(1) State unemployment or reemployment taxes imposed pursuant to chapter 443, Florida Statutes, in compliance with the Federal Unemployment Tax Act, for any persons employed by the commission who perform services for it within this state.

(2) Taxation on any commission business or activity conducted or performed in this state.

Section 6. Access to records.—

(1) Notwithstanding subsections (1) and (2) of Article VIII, subsection (2) of Article X, and subsection (6) of Article XII of the Interstate Insurance Product Regulation Compact, a request by a resident of this state for public inspection and copying of information, data, or official records that includes:

(a) An insurer's trade secrets shall be referred to the

commissioner who shall respond to the request, with the cooperation and assistance of the commission, in accordance with s. 624.4213, Florida Statutes; or

(b) Matters of privacy of individuals shall be referred to the commissioner who shall respond to the request, with the cooperation and assistance of the commission, in accordance with s. 119.07(1), Florida Statutes.

(2) This act does not abrogate the right of a person to access information consistent with the State Constitution and laws of this state.

Section 7. The Financial Services Commission may adopt rules to administer this act.

Section 8. Effective upon this act becoming a law, notwithstanding Article XV of the Interstate Insurance Product Regulation Compact, if any part of section 3 or section 4 of this act is invalidated by the courts, such ruling renders the entire act invalid.

Section 9. Effective upon this act becoming a law, the Office of Insurance Regulation shall prepare a report that examines the extent to which the Interstate Insurance Product Regulation Compact and the uniform standards adopted thereunder, provide consumer protections equivalent to those under state law and the Administrative Procedure Act for annuity, life insurance, disability income, and long-term care insurance products. The office shall submit the report to the President of the Senate, the Speaker of the House of Representatives, and the Financial Services Commission by January 1, 2014.

Section 10. Except as otherwise expressly provided in this

act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2014.