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3 By Representatives Wren, Canfield and Faust

4 RFD: Insurance

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2 ENROLLED, An Act,

3 Relating to insurance, to provide and adopt the
4 Interstate Insurance Product Regulation Compact to permit
5 uniform approval of individual and group annuity, life,
6 disability income, and long-term care insurance policies, and
7 thus permit this state to become a member of the Interstate
8 Insurance Product Regulation Commission, with the Commissioner
9 of Insurance designated to serve as the representative of this
10 state to the commission.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Pursuant to the terms and conditions of
13 this act, the State of Alabama seeks to join with other states
14 and establish the Interstate Insurance Product Regulation
15 Compact, and thus become a member of the Interstate Insurance
16 Product Regulation Commission. The Alabama Commissioner of
17 Insurance is hereby designated to serve as the representative
18 of this state to the commission.

19 Section 2. The State of Alabama hereby agrees to the
20 following interstate compact known as the Interstate Insurance
21 Product Regulation Compact:

22 ARTICLE I. PURPOSES.

23 The purposes of this compact are, through means of
24 joint and cooperative action among the compacting states:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;

2. To develop uniform standards for insurance products covered under the compact;

3. To 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. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

5. To 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. To create the Interstate Insurance Product Regulation Commission; and

7. To 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.

2. "Bylaws" mean those bylaws established by the commission for its governance, or for directing or controlling the actions or conduct of the commission.

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 "Compacting state" means any state which has enacted this compact legislation and which has not withdrawn pursuant to Section 1 of Article XIV, or been terminated pursuant to Section 2 of Article XIV.

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, commissioner, superintendent, director, or administrator.

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.

1 8. "Member" means the person chosen by a compacting
2 state as its representative to the commission, or his or her
3 designee.
4 9. "Non-compacting state" means any state which is
5 not at the time a compacting state.
6 10. "Operating procedures" mean procedures
7 promulgated by the commission implementing a rule, uniform
8 standard, or a provision of this compact.
9 11. "Product" means the form of a policy or
10 contract, including any application, endorsement, or related
11 form which is attached to and made a part of the policy or
12 contract, and any evidence of coverage or certificate, for an
13 individual or group annuity, life insurance, disability
14 income, or long-term care insurance product that an insurer is
15 authorized to issue.
16 12. "Rule" means a statement of general or
17 particular applicability and future effect promulgated by the
18 commission, including a uniform standard developed pursuant to
19 Article VII, designed to implement, interpret, or prescribe
20 law or policy or describing the organization, procedure, or
21 practice requirements of the commission, which shall have the
22 force and effect of law in the compacting states.
23 13. "State" means any state, district, or territory
24 of the United States of America.

1 14. "Third party filer" means an entity that submits
2 a product filing to the commission on behalf of an insurer.
3 15. "Uniform standard" means a standard adopted by
4 the commission for a product line, pursuant to Article VII,
5 and shall include all of the product requirements in
6 aggregate. Each uniform standard shall be construed, whether
7 express or implied, to prohibit the use of any inconsistent,
8 misleading, or ambiguous provisions in a product and the form
9 of the product made available to the public shall not be
10 unfair, inequitable, or against public policy as determined by
11 the commission.
12 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND
13 VENUE.
14 1. The compacting states hereby create and establish
15 a joint public entity known as the Interstate Insurance
16 Product Regulation Commission. Pursuant to Article IV, the
17 commission shall have the power to develop uniform standards
18 for product lines, receive and provide prompt review of
19 products filed therewith, and give approval to those product
20 filings satisfying applicable uniform standards. It is not
21 intended for the commission to be the exclusive entity for
22 receipt and review of insurance product filings. Nothing
23 herein shall prohibit any insurer from filing its product in
24 any state wherein the insurer is licensed to conduct the

1 business of insurance, and any such filing shall be subject to
2 the laws of the state where filed.
3 2. The commission is a body corporate and politic,
4 and an instrumentality of the compacting states.
5 3. The commission is solely responsible for its
6 liabilities except as otherwise specifically provided in this
7 compact.
8 4. Venue is proper and judicial proceedings by or
9 against the commission shall be brought solely and exclusively
10 in a court of competent jurisdiction where the principal
11 office of the commission is located.
12 ARTICLE IV. POWERS OF THE COMMISSION.
13 The commission shall have all of the following
14 powers:
15 1. To promulgate rules, pursuant to Article VII,
16 which shall have the force and effect of law and shall be
17 binding in the compacting states to the extent and in the
18 manner provided in this compact.
19 2. To exercise its rule making authority and
20 establish reasonable uniform standards for products covered
21 under the compact, and advertisements related thereto, which
22 shall have the force and effect of law and shall be binding in
23 the compacting states, but only for those products filed with
24 the commission. A compacting state shall have the right to opt
25 out of such uniform standard pursuant to Article VII, to the

1 extent and in the manner provided in this compact, and any
2 uniform standard established by the commission for long-term
3 care insurance products may provide the same or greater
4 protections for consumers as, but shall not provide less than,
5 those protections set forth in the National Association of
6 Insurance Commissioners' Long-Term Care Insurance Model Act
7 and Long-Term Care Insurance Model Regulation, respectively,
8 adopted as of 2001. The commission shall consider whether any
9 subsequent amendments to the NAIC Long-Term Care Insurance
10 Model Act or Long-Term Care Insurance Model Regulation adopted
11 by the NAIC require amending of the uniform standards
12 established by the commission for long-term care insurance
13 products.
14 3. To receive and review in an expeditious manner
15 products filed with the commission, and rate filings for
16 disability income and long-term care insurance products, and
17 give approval of those products and rate filings that satisfy
18 the applicable uniform standard, where such approval shall
19 have the force and effect of law and be binding on the
20 compacting states to the extent and in the manner provided in
21 this compact.
22 4. To receive and review in an expeditious manner
23 advertisements relating to long-term care insurance products
24 for which uniform standards have been adopted by the
25 commission, and give approval to any advertisement that

1 satisfies the applicable uniform standard. For any product
2 covered under this compact, other than long-term care
3 insurance products, the commission shall have the authority to
4 require an insurer to submit all or any part of its
5 advertisements with respect to that product for review or
6 approval prior to use, if the commission determines that the
7 nature of the product is such that an advertisement of the
8 product could have the capacity or tendency to mislead the
9 public. The actions of the commission as provided in this
10 section shall have the force and effect of law and shall be
11 binding in the compacting states to the extent and in the
12 manner provided in this compact.
13 5. To exercise its rule making authority and
14 designate products and advertisements that may be subject to a
15 self-certification process without the need for prior approval
16 by the commission.
17 6. To promulgate operating procedures, pursuant to
18 Article VII, which shall be binding in the compacting states
19 to the extent and in the manner provided in this compact.
20 7. To bring and prosecute legal proceedings or
21 actions in its name as the commission. The standing of any
22 state insurance department to sue or be sued under applicable
23 law shall not be affected.
24 8. To issue subpoenas requiring the attendance and
25 testimony of witnesses and the production of evidence.

9. To establish and maintain offices.

10. To purchase and maintain insurance and bonds.

11. To borrow, accept, or contract for services of personnel including, but not limited to, employees of a compacting state.

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

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same. At all times the commission shall strive to avoid any appearance of impropriety.

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed. At all times the commission shall strive to avoid any appearance of impropriety.

1 15. To sell, convey, mortgage, pledge, lease,
2 exchange, abandon, or otherwise dispose of any property, real,
3 personal or mixed.
4 16. To remit filing fees to compacting states as may
5 be set forth in the bylaws, rules, or operating procedures.
6 17. To enforce compliance by compacting states with
7 rules, uniform standards, operating procedures, and bylaws.
8 18. To provide for dispute resolution among
9 compacting states.
10 19. To advise compacting states on issues relating
11 to insurers domiciled or doing business in non-compacting
12 jurisdictions, consistent with the purposes of this compact.
13 20. To provide advice and training to those
14 personnel in state insurance departments responsible for
15 product review, and to be a resource for state insurance
16 departments.
17 21. To establish a budget and make expenditures.
18 22. To borrow money.
19 23. To appoint committees, including advisory
20 committees comprising members, state insurance regulators,
21 state legislators or their representatives, insurance industry
22 and consumer representatives, and such other interested
23 persons as may be designated in the bylaws.
24 24. To provide and receive information from, and to
25 cooperate with, law enforcement agencies.

1 25. To adopt and use a corporate seal.
2 26. To perform such other functions as may be
3 necessary or appropriate to achieve the purposes of this
4 compact consistent with the state regulation of the business
5 of insurance.
6 ARTICLE V. ORGANIZATION OF THE COMMISSION.
7 1. Membership, voting, and bylaws.
8 a. Each compacting state shall have and be limited
9 to one member. Each member shall be qualified to serve in that
10 capacity pursuant to applicable law of the compacting state.
11 Any member may be removed or suspended from office as provided
12 by the law of the state from which he or she shall be
13 appointed. Any vacancy occurring in the commission shall be
14 filled in accordance with the laws of the compacting state
15 wherein the vacancy exists. Nothing herein shall be construed
16 to affect the manner in which a compacting state determines
17 the election or appointment and qualification of its own
18 commissioner.
19 b. Each member shall be entitled to one vote and
20 shall have an opportunity to participate in the governance of
21 the commission in accordance with the bylaws. Notwithstanding
22 any provision herein to the contrary, no action of the
23 commission with respect to the promulgation of a uniform
24 standard shall be effective unless two-thirds of the members
25 vote in favor thereof.

1 c. The commission, by a majority of the members,
2 shall prescribe bylaws to govern its conduct as may be
3 necessary or appropriate to carry out the purposes, and
4 exercise the powers, of the compact including, but not limited
5 to, all of the following:
6 (i) Establishing the fiscal year of the commission.
7 (ii) Providing reasonable procedures for appointing
8 and electing members, as well as holding meetings, of the
9 management committee.
10 (iii) Providing reasonable standards and procedures
11 for the establishment and meetings of other committees, and
12 governing any general or specific delegation of any authority
13 or function of the commission.
14 (iv) Providing reasonable procedures for calling and
15 conducting meetings of the commission that consist of a
16 majority of commission members, ensuring reasonable advance
17 notice of each such meeting, and providing for the right of
18 citizens to attend each such meeting with enumerated
19 exceptions designed to protect the interest of the public, the
20 privacy of individuals, and proprietary information of
21 insurers, including trade secrets. The commission may meet in
22 camera only after a majority of the entire membership votes to
23 close a meeting en toto or in part. As soon as practicable,
24 the commission shall make public a copy of the vote to close

1 the meeting revealing the vote of each member with no proxy
2 votes allowed and votes taken during such meeting.
3 (v) Establishing the titles, duties and authority,
4 and reasonable procedures for the election of the officers of
5 the commission.
6 (vi) Providing reasonable standards and procedures
7 for the establishment of the personnel policies and programs
8 of the commission. Notwithstanding any civil service or other
9 similar laws of any compacting state, the bylaws shall
10 exclusively govern the personnel policies and programs of the
11 commission.
12 (vii) Promulgating a code of ethics to address
13 permissible and prohibited activities of commission members
14 and employees.
15 (viii) Providing a mechanism for winding up the
16 operations of the commission and the equitable disposition of
17 any surplus funds that may exist after the termination of the
18 compact after the payment or reserving, or both, of all of its
19 debts and obligations.
20 d. The commission shall publish its bylaws in a
21 convenient form and file a copy thereof, and a copy of any
22 amendment thereto, with the appropriate agency or officer in
23 each of the compacting states.
24 2. Management committee, officers, and personnel.

1 a. A management committee comprising no more than 14
2 members shall be established as follows:
3 (i) One member from each of the six compacting
4 states with the largest premium volume for individual and
5 group annuities, life, disability income, and long-term care
6 insurance products, determined from the records of the NAIC
7 for the prior year.
8 (ii) Four members from those compacting states with
9 at least two percent of the market based on the premium volume
10 described above, other than the six compacting states with the
11 largest premium volume, selected on a rotating basis as
12 provided in the bylaws.
13 (iii) Four members from those compacting states with
14 less than two percent of the market, based on the premium
15 volume described above, with one selected from each of the
16 four zone regions of the NAIC as provided in the bylaws.
17 b. The management committee shall have such
18 authority and duties as may be set forth in the bylaws
19 including, but not limited to, all of the following:
20 (i) Managing the affairs of the commission in a
21 manner consistent with the bylaws and purposes of the
22 commission.
23 (ii) Establishing and overseeing an organizational
24 structure within, and appropriate procedures for, the
25 commission to provide for the creation of uniform standards

1 and other rules, receipt and review of product filings,
2 administrative and technical support functions, review of
3 decisions regarding the disapproval of a product filing, and
4 the review of elections made by a compacting state to opt out
5 of a uniform standard. A uniform standard shall not be
6 submitted to the compacting states for adoption unless
7 approved by two-thirds of the members of the management
8 committee.
9 (iii) Overseeing the offices of the commission.
10 (iv) Planning, implementing, and coordinating
11 communications and activities with other state, federal, and
12 local government organizations in order to advance the goals
13 of the commission.
14 c. The commission shall elect annually officers from
15 the management committee, with each having such authority and
16 duties, as may be specified in the bylaws.
17 d. The management committee, subject to the approval
18 of the commission, may appoint or retain an executive director
19 for such period, upon such terms and conditions, and for such
20 compensation as the commission may deem appropriate. The
21 executive director shall serve as secretary to the commission,
22 but shall not be a member of the commission. The executive
23 director shall hire and supervise such other staff as may be
24 authorized by the commission.
25 3. Legislative and advisory committees.

1 a. A legislative committee, comprising state
2 legislators or their designees, shall be established to
3 monitor the operations of, and make recommendations to, the
4 commission, including the management committee. The manner of
5 selection and term of any legislative committee member shall
6 be as set forth in the bylaws. Prior to the adoption by the
7 commission of any uniform standard, revision to the bylaws,
8 annual budget, or other significant matter as may be provided
9 in the bylaws, the management committee shall consult with and
10 report to the legislative committee.
11 b. The commission shall establish two advisory
12 committees, one of which shall comprise consumer
13 representatives independent of the insurance industry, and the
14 other comprising insurance industry representatives.
15 c. The commission may establish additional advisory
16 committees as its bylaws may provide for the carrying out of
17 its functions.
18 4. Corporate records of the commission.
19 The commission shall maintain its corporate books
20 and records in accordance with the bylaws.
21 5. Qualified immunity, defense, and indemnification.
22 a. The members, officers, executive director,
23 employees, and representatives of the commission shall be
24 immune from suit and liability, either personally or in their
25 official capacity, for any claim for damage to or loss of

1 property or personal injury or other civil liability caused by
2 or arising out of any actual or alleged act, error, or
3 omission that occurred, or that the person against whom the
4 claim is made had a reasonable basis for believing occurred
5 within the scope of commission employment, duties, or
6 responsibilities. Nothing in this paragraph shall be construed
7 to protect any such person from suit or liability, or both,
8 for any damage, loss, injury, or liability caused by the
9 intentional or willful and wanton misconduct of that person.
10 b. The commission shall defend any member, officer,
11 executive director, employee, or representative of the
12 commission in any civil action seeking to impose liability
13 arising out of any actual or alleged act, error, or omission
14 that occurred within the scope of commission employment,
15 duties, or responsibilities, or that the person against whom
16 the claim is made had a reasonable basis for believing
17 occurred within the scope of commission employment, duties, or
18 responsibilities provided that the actual or alleged act,
19 error, or omission did not result from the intentional or
20 willful and wanton misconduct of that person. Nothing herein
21 shall be construed to prohibit that person from retaining his
22 or her own counsel.
23 c. The commission shall indemnify and hold harmless
24 any member, officer, executive director, employee, or
25 representative of the commission for the amount of any

1 settlement or judgment obtained against that person arising
2 out of any actual or alleged act, error, or omission that
3 occurred within the scope of commission employment, duties, or
4 responsibilities, or that such person had a reasonable basis
5 for believing occurred within the scope of commission
6 employment, duties, or responsibilities, provided, that the
7 actual or alleged act, error, or omission did not result from
8 the intentional or willful and wanton misconduct of that
9 person.
10 ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION.
11 1. The commission shall meet and take such actions
12 as are consistent with this compact and the bylaws.
13 2. Each member of the commission shall have the
14 right and power to cast a vote to which that compacting state
15 is entitled and to participate in the business and affairs of
16 the commission. A member shall vote in person or by such other
17 means as provided in the bylaws. The bylaws may provide for
18 participation by members in meetings by telephone or other
19 means of communication.
20 3. The commission shall meet at least once during
21 each calendar year. Additional meetings shall be held as set
22 forth in the bylaws.
23 ARTICLE VII. RULES AND OPERATING PROCEDURES:
24 RULE MAKING FUNCTIONS OF THE COMMISSION AND OPTING
25 OUT OF UNIFORM STANDARDS.

1. Rule making authority. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rule making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

2. Rule making procedure. Rules and operating procedures shall be made pursuant to a rule making 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 committee or 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 promulgation by the commission or such later date as the commission may determine. A compacting state may opt out of a uniform standard as provided in this article. The term opt out

1 shall be defined as any action by a compacting state to
2 decline to adopt or participate in a promulgated uniform
3 standard. All other rules and operating procedures, and
4 amendments thereto, shall become effective as of the date
5 specified in each rule, operating procedure, or amendment.
6 4. Opt out procedure. A compacting state may opt out
7 of a uniform standard, either by legislation or regulation
8 duly promulgated by the insurance department under the
9 administrative procedure act of the compacting state. If a
10 compacting state elects to opt out of a uniform standard by
11 regulation, it shall give written notice to the commission no
12 later than 10 business days after the uniform standard is
13 promulgated, or at the time the state becomes a compacting
14 state and find that the uniform standard does not provide
15 reasonable protections to the citizens of the state, given the
16 conditions in the state. The commissioner shall make specific
17 findings of fact and conclusions of law, based on a
18 preponderance of the evidence, detailing the conditions in the
19 state which warrant a departure from the uniform standard and
20 determining that the uniform standard would not reasonably
21 protect the citizens of the state. The commissioner shall
22 consider and balance the following factors and find that the
23 conditions in the state and needs of the citizens of the state
24 outweigh: (i) The intent of the legislature to participate in,
25 and the benefits of, an interstate agreement to establish

1 national uniform consumer protections for the products subject
2 to this compact; and (ii) the presumption that a uniform
3 standard adopted by the commission provides reasonable
4 protections to consumers of the relevant product.
5 Notwithstanding the foregoing, a compacting state,
6 at the time of its enactment of this compact, may
7 prospectively opt out of all uniform standards involving
8 long-term care insurance products by expressly providing for
9 such opt out in the enacted compact, and such an opt out shall
10 not be treated as a material variance in the offer or
11 acceptance of any state to participate in this compact. Such
12 an opt out shall be effective at the time of enactment of this
13 compact by the compacting state and shall apply to all
14 existing uniform standards involving long-term care insurance
15 products and those subsequently promulgated.
16 5. Effect of opt out. If a compacting state elects
17 to opt out of a uniform standard, the uniform standard shall
18 remain applicable in the compacting state electing to opt out
19 until such time as the opt out legislation is enacted into law
20 or the regulation opting out becomes effective.
21 Once the opt out of a uniform standard by a
22 compacting state becomes effective as provided under the laws
23 of that state, the uniform standard shall have no further
24 force and effect in that state unless and until the
25 legislation or regulation implementing the opt out is repealed

1 or otherwise becomes ineffective under the laws of the state.
2 If a compacting state opts out of a uniform standard after the
3 uniform standard has been made effective in that state, the
4 opt out shall have the same prospective effect as provided
5 under Article XIV for withdrawals.
6 6. Stay of uniform standard. If a compacting state
7 has formally initiated the process of opting out of a uniform
8 standard by regulation, and while the regulatory opt out is
9 pending, the compacting state may petition the commission, at
10 least 15 days before the effective date of the uniform
11 standard, to stay the effectiveness of the uniform standard in
12 that state. The commission may grant a stay if it determines
13 the regulatory opt out is being pursued in a reasonable manner
14 and there is a likelihood of success. If a stay is granted or
15 extended by the commission, the stay or extension thereof may
16 postpone the effective date by up to 90 days, unless
17 affirmatively extended by the commission. A stay may not be
18 permitted to remain in effect for more than one year unless
19 the compacting state can show extraordinary circumstances
20 which warrant a continuance of the stay including, but not
21 limited to, the existence of a legal challenge which prevents
22 the compacting state from opting out. A stay may be terminated
23 by the commission upon notice that the rule making process has
24 been terminated.

7. Not later than 30 days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure. 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 authority of the commission.

ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT.

1. The commission shall promulgate 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 trade secrets of insurers. The commission may promulgate additional rules under which it 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

1 confidentiality or nondisclosure shall not relieve any
2 compacting state commissioner of the duty to disclose any
3 relevant records, data, or information to the commission.
4 Disclosure to the commission shall not be deemed to waive or
5 otherwise affect any confidentiality requirement. Except as
6 otherwise expressly provided in this compact, the commission
7 shall not be subject to the laws of the compacting state
8 pertaining to confidentiality and nondisclosure with respect
9 to records, data, and information in its possession.
10 Confidential information of the commission shall remain
11 confidential after such information is provided to any
12 commissioner.
13 3. The commission shall monitor compacting states
14 for compliance with duly adopted bylaws, rules, including
15 uniform standards, and operating procedures. The commission
16 shall notify any noncomplying compacting state in writing of
17 its noncompliance with commission bylaws, rules, or operating
18 procedures. If a noncomplying compacting state fails to remedy
19 its noncompliance within the time specified in the notice of
20 noncompliance, the compacting state shall be deemed to be in
21 default as set forth in Article XIV.
22 4. The commissioner of any state in which an insurer
23 is authorized to do business, or is conducting the business of
24 insurance, shall continue to exercise his or her authority to
25 oversee the market regulation of the activities of the insurer

1 in accordance with the law of that state. The enforcement of
2 compliance with the compact by the commissioner is governed by
3 the following provisions:
4 a. With respect to the commissioner's market
5 regulation of a product or advertisement that is approved or
6 certified to the commission, the content of the product or
7 advertisement shall not constitute a violation of the
8 provisions, standards, or requirements of the compact except
9 upon a final order of the commission, issued at the request of
10 a commissioner after prior notice to the insurer and an
11 opportunity for hearing before the commission.
12 b. Before a commissioner may bring an action for
13 violation of any provision, standard, or requirement of the
14 compact relating to the use of an advertisement not approved
15 or certified to the commission, the commission, or an
16 authorized commission officer or employee, shall authorize the
17 action. However, authorization pursuant to this paragraph does
18 not require notice to the insurer, opportunity for hearing, or
19 disclosure of requests for authorization or records of the
20 action of the commission on such requests.
21 ARTICLE IX. DISPUTE RESOLUTION.
22 The commission, upon the request of a member, shall
23 attempt to resolve any disputes or other issues that are
24 subject to this compact and which may arise between two or
25 more compacting states, or between compacting states and

1 non-compacting states, and the commission shall promulgate an
2 operating procedure providing for resolution of such disputes.
3 ARTICLE X. PRODUCT FILING AND APPROVAL.
4 1. Insurers and third party filers seeking to have a
5 product approved by the commission shall file the product
6 with, and pay applicable filing fees to, the commission.
7 Nothing in this compact shall be construed to restrict or
8 otherwise prevent an insurer from filing its product with the
9 insurance department in any state wherein the insurer is
10 licensed to conduct the business of insurance, and such filing
11 shall be subject to the laws of the states where filed.
12 2. The commission shall establish appropriate filing
13 and review processes and procedures pursuant to commission
14 rules and operating procedures. Notwithstanding any provision
15 herein to the contrary, the commission shall promulgate rules
16 to establish conditions and procedures under which the
17 commission will provide public access to product filing
18 information. In establishing such rules, the commission shall
19 consider the interests of the public in having access to such
20 information, as well as protection of personal medical and
21 financial information and trade secrets, that may be contained
22 in a product filing or supporting information.
23 3. Any product approved by the commission may be
24 sold or otherwise issued in those compacting states for which
25 the insurer is legally authorized to do business.

1 ARTICLE XI. REVIEW OF COMMISSION DECISIONS REGARDING
2 FILINGS.
3 1. Not later than 30 days after the commission has
4 given notice of a disapproved product or advertisement filed
5 with the commission, the insurer or third party filer whose
6 filing was disapproved may appeal the determination to a
7 review panel appointed by the commission. The commission shall
8 promulgate rules to establish procedures for appointing such
9 review panels and provide for notice and hearing. An
10 allegation that the commission, in disapproving a product or
11 advertisement filed with the commission, acted arbitrarily,
12 capriciously, or in a manner that is an abuse of discretion or
13 otherwise not in accordance with the law, is subject to
14 judicial review in accordance with Article III.
15 2. The commission shall have authority to monitor,
16 review, and reconsider products and advertisements subsequent
17 to their filing or approval upon a finding that the product or
18 advertisement does not meet the relevant uniform standard.
19 Where appropriate, the commission may withdraw or modify its
20 approval after proper notice and hearing, subject to the
21 appeal process in Section 1.
22 ARTICLE XII. FINANCE.
23 1. The commission shall pay or provide for the
24 payment of the reasonable expenses of its establishment and
25 organization. To fund the cost of its initial operations, the

1 commission may accept contributions and other forms of funding
2 from the National Association of Insurance Commissioners,
3 compacting states, and other sources. Contributions and other
4 forms of funding from other sources shall be of such a nature
5 that the independence of the commission concerning the
6 performance of its duties shall not be compromised.
7 2. The commission shall collect a filing fee from
8 each insurer and third party filer filing a product with the
9 commission to cover the cost of the operations and activities
10 of the commission and its staff in a total amount sufficient
11 to cover the annual budget of the commission.
12 3. The budget of the commission for a fiscal year
13 shall not be approved until it has been subject to notice and
14 comment as set forth in Article VII.
15 4. The commission shall be exempt from all taxation
16 in and by the compacting states.
17 5. The commission shall not pledge the credit of any
18 compacting state, except by and with the appropriate legal
19 authority of that compacting state.
20 6. The commission shall keep complete and accurate
21 accounts of all its internal receipts, including grants and
22 donations, and disbursements of all funds under its control.
23 The internal financial accounts of the commission shall be
24 subject to the accounting procedures established under its
25 bylaws. The financial accounts and reports including the

1 system of internal controls and procedures of the commission
2 shall be audited annually by an independent certified public
3 accountant. Upon the determination of the commission, but no
4 less frequently than every three years, the review of the
5 independent auditor shall include a management and performance
6 audit of the commission. The commission shall make an annual
7 report to the governor and legislature of the compacting
8 states, which shall include a report of the independent audit.
9 The internal accounts of the commission shall not be
10 confidential and such materials may be shared with the
11 commissioner of any compacting state upon request. Any work
12 papers related to any internal or independent audit and any
13 information regarding the privacy of individuals and
14 proprietary information of insurers, including trade secrets,
15 shall remain confidential.
16 7. No compacting state shall have any claim to or
17 ownership of any property held by or vested in the commission
18 or to any commission funds held pursuant to this compact.
19 ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE, AND
20 AMENDMENT.
21 1. Any state is eligible to become a compacting
22 state.
23 2. The compact shall become effective and binding
24 upon legislative enactment of the compact into law by two
25 compacting states. The commission shall become effective for

1 purposes of adopting uniform standards for, reviewing, and
2 giving approval or disapproval of, products filed with the
3 commission that satisfy applicable uniform standards only
4 after 26 states are compacting states or, alternatively, by
5 states representing greater than 40 percent of the premium
6 volume for life insurance, annuity, disability income, and
7 long-term care insurance products, based on records of the
8 NAIC for the prior year. Thereafter, it shall become effective
9 and binding as to any other compacting state upon enactment of
10 the compact into law by that state.
11 3. Amendments to the compact may be proposed by the
12 commission for enactment by the compacting states. No
13 amendment shall become effective and binding upon the
14 commission and the compacting states unless and until all
15 compacting states enact the amendment into law.
16 ARTICLE XIV. WITHDRAWAL, DEFAULT, AND TERMINATION.
17 1. Withdrawal.
18 a. Once effective, the compact shall continue in
19 force and remain binding upon each and every compacting state.
20 A compacting state may withdraw from the compact ("withdrawing
21 state") by enacting a statute specifically repealing the
22 statute which enacted the compact into law.
23 b. The effective date of withdrawal is the effective
24 date of the repealing statute. However, the withdrawal shall
25 not apply to any product filings approved or self-certified,

1 or any advertisement of such products, as of the date the
2 repealing statute becomes effective, except by mutual
3 agreement of the commission and the withdrawing state unless
4 the approval is rescinded by the withdrawing state as provided
5 in subsection e.
6 c. The commissioner of the withdrawing state shall
7 immediately notify the management committee in writing upon
8 the introduction of legislation repealing this compact in the
9 withdrawing state.
10 d. The commission shall notify the other compacting
11 states of the introduction of such legislation within 10 days
12 after its receipt of notice thereof.
13 e. The withdrawing state is responsible for all
14 obligations, duties, and liabilities incurred through the
15 effective date of withdrawal, including any obligations, the
16 performance of which extend beyond the effective date of
17 withdrawal, except to the extent those obligations may have
18 been released or relinquished by mutual agreement of the
19 commission and the withdrawing state. The approval of the
20 commission of products and advertisements prior to the
21 effective date of withdrawal shall continue to be effective
22 and be given full force and effect in the withdrawing state,
23 unless formally rescinded by the withdrawing state in the same
24 manner as provided by the laws of the withdrawing state for

1 the prospective disapproval of products or advertisements
2 previously approved under state law.
3 f. Reinstatement following withdrawal of any
4 compacting state shall occur upon the effective date of the
5 withdrawing state reenacting the compact.
6 2. Default.
7 a. If the commission determines that any compacting
8 state has at any time defaulted ("defaulting state") in the
9 performance of any of its obligations or responsibilities
10 under this compact, the bylaws, or duly promulgated rules or
11 operating procedures, then, after notice and hearing as set
12 forth in the bylaws, all rights, privileges, and benefits
13 conferred by this compact on the defaulting state shall be
14 suspended from the effective date of default as fixed by the
15 commission. The grounds for default include, but are not
16 limited to, failure of a compacting state to perform its
17 obligations or responsibilities, and any other grounds
18 designated in commission rules. The commission shall
19 immediately notify the defaulting state in writing of the
20 suspension of the defaulting state pending a cure of the
21 default. The commission shall stipulate the conditions and the
22 time period within which the defaulting state must cure its
23 default. If the defaulting state fails to cure the default
24 within the time period specified by the commission, the
25 defaulting state shall be terminated from the compact and all

1 rights, privileges, and benefits conferred by this compact
2 shall be terminated from the effective date of termination.
3 b. Product approvals by the commission or product
4 self-certifications, or any advertisement in connection with
5 such product, that are in force on the effective date of
6 termination shall remain in force in the defaulting state in
7 the same manner as if the defaulting state had withdrawn
8 voluntarily pursuant to Section 1.
9 c. Reinstatement following termination of any
10 compacting state requires a reenactment of the compact.
11 3. Dissolution of compact.
12 a. The compact dissolves effective upon the date of
13 the withdrawal or default of the compacting state which
14 reduces membership in the compact to one compacting state.
15 b. Upon the dissolution of this compact, the compact
16 becomes null and void and shall be of no further force or
17 effect, and the business and affairs of the commission shall
18 be wound up and any surplus funds shall be distributed in
19 accordance with the bylaws.
20 ARTICLE XV. SEVERABILITY AND CONSTRUCTION.
21 1. The provisions of this compact shall be
22 severable; and if any phrase, clause, sentence, or provision
23 is deemed unenforceable, the remaining provisions of the
24 compact shall be enforceable.

1 2. The provisions of this compact shall be liberally
2 construed to effectuate its purposes.
3 ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER
4 LAWS.
5 1. Other laws.
6 a. Nothing herein prevents the enforcement of any
7 other law of a compacting state, except as provided in
8 paragraph b.
9 b. For any product approved by or certified to the
10 commission, the rules, uniform standards, and any other
11 requirements of the commission shall constitute the exclusive
12 provisions applicable to the content, approval, and
13 certification of such products. For an advertisement that is
14 subject to the authority of the commission, any rule, uniform
15 standard, or other requirement of the commission which governs
16 the content of the advertisement shall constitute the
17 exclusive provision that a commissioner may apply to the
18 content of the advertisement. Notwithstanding the foregoing,
19 no action taken by the commission shall abrogate or restrict
20 any of the following:
21 (i) The access of any person to state courts.
22 (ii) Remedies available under state law related to
23 breach of contract, tort, or other laws not specifically
24 directed to the content of the product.

1 (iii) State law relating to the construction of
2 insurance contract.
3 (iv) The authority of the attorney general of the
4 state including, but not limited to, maintaining any actions
5 or proceedings, as authorized by law.
6 c. All insurance products filed with individual
7 states shall be subject to the laws of those states.
8 2. Binding effect of this compact.
9 a. All lawful actions of the commission, including
10 all rules and operating procedures promulgated by the
11 commission, are binding upon the compacting states.
12 b. All agreements between the commission and the
13 compacting states are binding in accordance with their terms.
14 c. Upon the request of a party to a conflict over
15 the meaning or interpretation of commission actions, and upon
16 a majority vote of the compacting states, the commission may
17 issue advisory opinions regarding the meaning or
18 interpretation in dispute.
19 d. In the event any provision of this compact
20 exceeds the constitutional limits imposed on the legislature
21 of any compacting state, the obligations, duties, powers, or
22 jurisdiction sought to be conferred by that provision upon the
23 commission shall be ineffective as to that compacting state,
24 and those obligations, duties, powers, or jurisdiction shall
25 remain in the compacting state and shall be exercised by the

agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 3. Nothing contained herein, nor any decision or action by the Interstate Insurance Product Regulation Commission, shall preempt, alter, or modify any claims or remedies against insurance companies, agents, or other persons or entities regulated under the Alabama Insurance Code, Title 27, Code of Alabama 1975, that are or may become available under the common law, the Alabama Insurance Code, or other statutes of this state.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

1
2
3
4 Speaker of the House of Representatives

5 Kay Ivey

6 President and Presiding Officer of the Senate

7 House of Representatives

8 I hereby certify that the within Act originated in
9 and was passed by the House 21-APR-11.
10
11 Greg Pappas
12 Clerk
13

14		
15 Senate	02-JUN-11	Amended and Passed
16 House	02-JUN-11	Concurred in Senate Amendment
17		

APPROVED June 9, 2011
TIME 8:15 am
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-536
Bill Num...: H-75

Recv'd 06/09/11 01:14pmJJB