

4432--C

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. TITUS, ROBINSON, WEISENBERG -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to establishing the interstate insurance product regulation compact to regulate certain insurance products and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. An interstate compact is
2 an agreement between states that permits states to cooperate on multi-
3 state or national issues while retaining state control. There are over
4 two hundred interstate compacts currently in existence and every state
5 belongs to at least fourteen such compacts. The interstate insurance
6 product regulation compact is designed to streamline state product regu-
7 lation systems to allow insurers to more quickly market certain types of
8 insurance products nationally and to reduce the number of variations of
9 the same product that a company must produce to meet specific product
10 standards. The compact would cover individual and group products for
11 life insurance, annuities, disability income and long-term care insur-
12 ance. The state of New York seeks to join with other states and estab-
13 lish the interstate insurance product regulation compact and become a
14 member of the interstate insurance product regulation commission.
15 S 2. The insurance law is amended by adding a new article 88 to read
16 as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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ARTICLE 88
INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

SECTION 8801. SHORT TITLE.

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8815. WITHDRAWAL, DEFAULT AND TERMINATION.

8816. SEVERABILITY AND CONSTRUCTION.

8817. BINDING EFFECT OF COMPACT AND OTHER LAWS.

S 8801. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
THE "INTERSTATE INSURANCE PRODUCT REGULATION COMPACT".

S 8802. PURPOSE. THE PURPOSES OF THIS COMPACT ARE, THROUGH MEANS OF
JOINT AND COOPERATIVE ACTION AMONG THE COMPACTING STATES:

(A) TO PROMOTE AND PROTECT THE INTEREST OF CONSUMERS OF INDIVIDUAL AND
GROUP ANNUITY, LIFE INSURANCE, DISABILITY INCOME AND LONG-TERM CARE
INSURANCE PRODUCTS;

(B) TO DEVELOP UNIFORM STANDARDS FOR INSURANCE PRODUCTS COVERED UNDER
THE COMPACT;

(C) 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;

(D) TO GIVE APPROPRIATE REGULATORY APPROVAL TO THOSE PRODUCT FILINGS
AND ADVERTISEMENTS SATISFYING THE APPLICABLE UNIFORM STANDARD;

(E) 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;

(F) TO CREATE THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION;
AND

(G) TO PERFORM SUCH OTHER RELATED FUNCTIONS AS MAY BE CONSISTENT WITH
THE STATE REGULATION OF THE BUSINESS OF INSURANCE.

S 8803. DEFINITIONS. AS USED IN THIS ARTICLE:

(A) "ADVERTISEMENT" MEANS ANY MATERIAL DESIGNED TO CREATE PUBLIC
INTEREST IN A PRODUCT, OR INDUCE THE PUBLIC TO PURCHASE, INCREASE, MODI-
FY, REINSTATE, BORROW ON, SURRENDER, REPLACE OR RETAIN A POLICY, AS MORE
SPECIFICALLY DEFINED IN THE RULES AND OPERATING PROCEDURES OF THE
COMMISSION.

(B) "BY-LAWS" MEAN THOSE BY-LAWS ESTABLISHED BY THE COMMISSION FOR ITS
GOVERNANCE OR FOR DIRECTING OR CONTROLLING THE COMMISSION'S ACTIONS OR
CONDUCT.

(C) "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THIS COMPACT
LEGISLATION AND WHICH HAS NOT WITHDRAWN OR BEEN TERMINATED PURSUANT TO
SECTION EIGHT THOUSAND EIGHT HUNDRED FIFTEEN OF THIS ARTICLE.

(D) "COMMISSION" MEANS THE "INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION" ESTABLISHED BY THE COMPACT.

(E) "COMMISSIONER" MEANS THE CHIEF INSURANCE REGULATORY OFFICIAL OF A STATE INCLUDING, BUT NOT LIMITED TO COMMISSIONER, SUPERINTENDENT, DIRECTOR OR ADMINISTRATOR.

(F) "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.

(G) "INSURER" MEANS ANY ENTITY LICENSED BY A STATE TO ISSUE CONTRACTS OF INSURANCE FOR ANY OF THE LINES OF INSURANCE COVERED BY THIS ARTICLE.

(H) "MEMBER" MEANS THE PERSON, OR HIS OR HER DESIGNEE, CHOSEN BY A COMPACTING STATE FOR SERVICE ON THE COMMISSION.

(I) "NON-COMPACTING STATE" MEANS ANY STATE WHICH IS NOT AT THE TIME A COMPACTING STATE.

(J) "OPERATING PROCEDURES" MEAN PROCEDURES PROMULGATED BY THE COMMISSION IMPLEMENTING A RULE, UNIFORM STANDARD OR A PROVISION OF THIS COMPACT.

(K) "PRODUCT" MEANS THE FORM OF THE CONTRACT, POLICY APPLICATION, ENDORSEMENTS, CERTIFICATE FORMS, EVIDENCE OF COVERAGE FORMS AND RELATED FORMS FOR AN INDIVIDUAL OR GROUP ANNUITY, LIFE INSURANCE, DISABILITY INCOME OR LONG-TERM CARE INSURANCE PRODUCT, WHICH AN INSURER IS AUTHORIZED TO ISSUE.

(L) "RULE" MEANS A STATEMENT OF GENERAL OR PARTICULAR APPLICABILITY AND FUTURE EFFECT PROMULGATED BY THE COMMISSION, INCLUDING A UNIFORM STANDARD DEVELOPED PURSUANT TO SECTION EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE, DESIGNED TO IMPLEMENT, INTERPRET, OR PRESCRIBE LAW OR POLICY OR DESCRIBING THE ORGANIZATION, PROCEDURE, OR PRACTICE REQUIREMENTS OF THE COMMISSION, WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW IN THE COMPACTING STATES.

(M) "STATE" MEANS ANY STATE, DISTRICT OR TERRITORY OF THE UNITED STATES OF AMERICA.

(N) "THIRD-PARTY FILER" MEANS AN ENTITY THAT SUBMITS A PRODUCT FILING TO THE COMMISSION ON BEHALF OF AN INSURER.

(O) "UNIFORM STANDARD" MEANS A STANDARD ADOPTED BY THE COMMISSION FOR A PRODUCT LINE, PURSUANT TO SECTION EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE AND SHALL INCLUDE ALL OF THE PRODUCT REQUIREMENTS IN AGGREGATE; PROVIDED, THAT 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 SUCH PRODUCT MADE AVAILABLE TO THE PUBLIC SHALL NOT BE UNFAIR, INEQUITABLE OR AGAINST PUBLIC POLICY AS DETERMINED BY THE COMMISSION.

S 8804. ESTABLISHMENT OF THE COMMISSION AND VENUE. (A) THE COMPACTING STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE "INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION". PURSUANT TO SECTION EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE, THE COMMISSION SHALL HAVE THE POWER TO DEVELOP UNIFORM STANDARDS FOR PRODUCT LINES, RECEIVE AND PROVIDE PROMPT REVIEW OF PRODUCTS FILED THEREWITH, AND GIVE APPROVAL TO THOSE PRODUCT FILINGS SATISFYING APPLICABLE UNIFORM STANDARDS; PROVIDED, HOWEVER, THAT IT IS NOT INTENDED FOR THE COMMISSION TO BE THE EXCLUSIVE ENTITY FOR RECEIPT AND REVIEW OF INSURANCE PRODUCT FILINGS. NOTHING IN THIS SECTION SHALL PROHIBIT ANY INSURER FROM FILING ITS PRODUCT IN ANY STATE WHEREIN SUCH INSURER IS LICENSED TO CONDUCT THE BUSINESS OF INSURANCE AND SUCH FILING SHALL BE SUBJECT TO THE LAWS OF THE STATE WHERE FILED.

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

1 (C) THE COMMISSION IS A NOT-FOR-PROFIT ENTITY, SEPARATE AND DISTINCT
2 FROM THE INDIVIDUAL COMPACTING STATES.

3 (D) THE COMMISSION IS SOLELY RESPONSIBLE FOR ITS LIABILITIES UNLESS
4 OTHERWISE SPECIFICALLY PROVIDED IN THIS COMPACT, EXCEPT THAT, IN NO
5 EVENT SHALL THE OBLIGATIONS OF THE COMMISSION BE THE DEBT OF THE STATE
6 OF NEW YORK NOR SHALL ANY REVENUES OR PROPERTY OF THE STATE OF NEW YORK
7 BE LIABLE THEREFOR.

8 (E) VENUE IN PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMIS-
9 SION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT
10 JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED.

11 S 8805. POWERS OF THE COMMISSION. (A) THE COMMISSION SHALL HAVE THE
12 FOLLOWING POWERS:

13 (1) TO PROMULGATE RULES, PURSUANT TO SECTION EIGHT THOUSAND EIGHT
14 HUNDRED EIGHT OF THIS ARTICLE, WHICH SHALL HAVE THE FORCE AND EFFECT OF
15 LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN
16 THE MANNER PROVIDED IN THIS ARTICLE;

17 (2) TO EXERCISE ITS RULE MAKING AUTHORITY AND ESTABLISH REASONABLE
18 UNIFORM STANDARDS FOR PRODUCTS COVERED UNDER THE COMPACT, AND ADVERTISE-
19 MENT RELATED THERETO, WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW AND
20 SHALL BE BINDING IN THE COMPACTING STATES, BUT ONLY FOR SUCH PRODUCTS
21 FILED WITH THE COMMISSION; PROVIDED, HOWEVER, THAT A COMPACTING STATE
22 SHALL HAVE THE RIGHT TO OPT OUT OF SUCH UNIFORM STANDARD PURSUANT TO
23 SECTION EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE TO THE EXTENT
24 AND IN THE MANNER PROVIDED IN THIS ARTICLE, AND PROVIDED FURTHER THAT
25 ANY UNIFORM STANDARD ESTABLISHED BY THE COMMISSIONER FOR LONG-TERM CARE
26 INSURANCE PRODUCTS MAY PROVIDE THE SAME OR GREATER PROTECTIONS FOR
27 CONSUMERS AS, BUT SHALL NOT PROVIDE LESS THAN, THOSE PROTECTIONS SET
28 FORTH IN THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' (HEREIN-
29 AFTER REFERRED TO AS THE "NAIC") LONG-TERM CARE INSURANCE MODEL ACT AND
30 LONG-TERM CARE INSURANCE MODEL REGULATION, RESPECTIVELY, ADOPTED AS OF
31 2001. THE COMMISSION SHALL CONSIDER WHETHER ANY SUBSEQUENT AMENDMENTS TO
32 THE NAIC LONG-TERM CARE INSURANCE MODEL ACT OR LONG-TERM CARE INSURANCE
33 MODEL REGULATION ADOPTED BY THE NAIC REQUIRE AMENDING OF THE UNIFORM
34 STANDARDS ESTABLISHED BY THE COMMISSION FOR LONG-TERM INSURANCE
35 PRODUCTS;

36 (3) TO RECEIVE AND REVIEW IN AN EXPEDITIOUS MANNER PRODUCTS FILED WITH
37 THE COMMISSION, INCLUDING RATE FILINGS FOR DISABILITY INCOME AND
38 LONG-TERM CARE INSURANCE PRODUCTS, AND GIVE APPROVAL OF THOSE PRODUCTS
39 AND RATE FILINGS THAT SATISFY THE APPLICABLE UNIFORM STANDARD, WHERE
40 SUCH APPROVAL SHALL HAVE THE FORCE AND EFFECT OF LAW AND BE BINDING ON
41 THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THE
42 COMPACT;

43 (4) TO RECEIVE AND REVIEW IN AN EXPEDITIOUS MANNER ADVERTISEMENT
44 RELATING TO LONG-TERM CARE INSURANCE PRODUCTS FOR WHICH UNIFORM STAND-
45 ARDS HAVE BEEN ADOPTED BY THE COMMISSION, AND GIVE APPROVAL OF SUCH
46 ADVERTISEMENT THAT SATISFIES THE APPLICABLE UNIFORM STANDARD. FOR ANY
47 PRODUCT COVERED UNDER THIS ARTICLE, OTHER THAN LONG-TERM CARE INSURANCE
48 PRODUCTS, THE COMMISSION SHALL HAVE THE AUTHORITY TO REQUIRE AN INSURER
49 TO SUBMIT ALL OR ANY PART OF ITS ADVERTISEMENT WITH RESPECT TO THAT
50 PRODUCT FOR REVIEW OR APPROVAL PRIOR TO USE IF THE COMMISSION DETERMINES
51 THAT THE NATURE OF THE PRODUCT IS SUCH THAT AN ADVERTISEMENT OF THE
52 PRODUCT COULD HAVE THE CAPACITY OR TENDENCY TO MISLEAD THE PUBLIC. THE
53 ACTIONS OF THE COMMISSION AS PROVIDED IN THIS SECTION SHALL HAVE THE
54 FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO
55 THE EXTENT AND IN THE MANNER PROVIDED IN THE COMPACT;

(5) TO EXERCISE ITS RULE MAKING 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) TO PROMULGATE OPERATING PROCEDURES, PURSUANT TO SECTION EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE, WHICH SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THE COMPACT;

(7) TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN ITS NAME AS THE COMMISSION; PROVIDED, THAT THE STANDING OF ANY STATE INSURANCE DEPARTMENT TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

(8) TO ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND 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 AND GIVE THEM APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS 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; PROVIDED THAT 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; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL STRIVE TO AVOID ANY APPEARANCE OF IMPROPRIETY;

(15) TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED;

(16) TO REMIT FILING FEES TO COMPACTING STATES AS MAY BE SET FORTH IN THE BY-LAWS, RULES OR OPERATING PROCEDURES;

(17) TO ENFORCE COMPLIANCE BY COMPACTING STATES WITH RULES, UNIFORM STANDARDS, OPERATING PROCEDURES AND BY-LAWS;

(18) TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING STATES;

(19) TO ADVISE COMPACTING STATES ON ISSUES RELATING TO INSURERS DOMICILED OR DOING BUSINESS IN NON-COMPACTING JURISDICTIONS, CONSISTENT WITH THE PURPOSES OF THE COMPACT;

(20) TO 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) TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;

(22) TO BORROW MONEY;

(23) TO 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 BY-LAWS;

(24) TO PROVIDE AND RECEIVE INFORMATION FROM, AND TO COOPERATE WITH LAW ENFORCEMENT AGENCIES;

(25) TO ADOPT AND USE A CORPORATE SEAL; AND

(26) TO 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.

(B) ALL DONATIONS, GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS OR SERVICES, PURCHASES, GIFTS, DONATIONS, CONVEYANCES, MORTGAGES, PLEDGES, LEASES AND EXCHANGES, AS AUTHORIZED BY SUBSECTION (A) OF THIS SECTION, RECEIVED BY OR ON BEHALF OF THE COMMISSION SHALL BE LIMITED TO THE DIRECT FUNDING OF THE LAWFUL AND AUTHORIZED OPERATIONS OF THE COMMISSION.

S 8806. ORGANIZATION OF THE COMMISSION. (A) EACH COMPACTING STATE SHALL HAVE AND BE LIMITED TO ONE MEMBER. THE SUPERINTENDENT, OR HIS OR HER DESIGNATED REPRESENTATIVE, SHALL BE NEW YORK'S MEMBER OF SUCH COMMISSION. EACH MEMBER SHALL BE QUALIFIED TO SERVE IN SUCH 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 SHALL BE APPOINTED. ANY VACANCY OCCURRING IN THE COMMISSION SHALL BE FILLED IN ACCORDANCE WITH THE LAWS OF THE COMPACTING STATE WHEREIN SUCH VACANCY EXISTS. NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE MANNER IN WHICH A COMPACTING STATE DETERMINES THE ELECTION OR APPOINTMENT AND QUALIFICATION OF ITS OWN COMMISSIONER.

(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 BY-LAWS. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, NO ACTION OF THE COMMISSION WITH RESPECT TO THE PROMULGATION OF A UNIFORM STANDARD SHALL BE EFFECTIVE UNLESS TWO-THIRDS OF THE MEMBERS VOTE IN FAVOR THEREOF.

(C) THE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, PRESCRIBE BY-LAWS 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 HOLDING MEETINGS OF THE MANAGEMENT COMMITTEE;

(3) PROVIDING REASONABLE STANDARDS AND PROCEDURES FOR THE ESTABLISHMENT OF OTHER COMMITTEES, AND 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 TRADE SECRETS. THE COMMISSION MAY MEET IN CAMERA ONLY AFTER A MAJORITY OF THE ENTIRE MEMBERSHIP VOTES TO CLOSE A MEETING IN TOTO OR IN PART. 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;

(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 BY-LAWS SHALL EXCLUSIVELY GOVERN THE PERSONNEL POLICIES AND PROGRAMS OF THE COMMISSION;

(7) PROMULGATING A CODE OF ETHICS TO ADDRESS PERMISSIBLE AND PROHIBITED ACTIVITIES OF COMMISSION MEMBERS AND EMPLOYEES; AND

(8) PROVIDING A MECHANISM FOR WINDING UP THE OPERATIONS OF THE COMMISSION AND THE EQUITABLE DISPOSITION OF ANY SURPLUS FUNDS THAT MAY EXIST

1 AFTER THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND/OR RESERVING
2 OF ALL OF ITS DEBTS AND OBLIGATIONS.

3 (D) THE COMMISSION SHALL PUBLISH ITS BY-LAWS IN A CONVENIENT FORM AND
4 FILE A COPY THEREOF AND A COPY OF ANY AMENDMENT THERETO, WITH THE APPRO-
5 PRIATE AGENCY OR OFFICER IN EACH OF THE COMPACTING STATES.

6 (E) A MANAGEMENT COMMITTEE COMPRISING NO MORE THAN FOURTEEN MEMBERS
7 SHALL BE ESTABLISHED AS FOLLOWS:

8 (1) ONE MEMBER FROM EACH OF THE SIX COMPACTING STATES WITH THE LARGEST
9 PREMIUM VOLUME FOR INDIVIDUAL AND GROUP ANNUITIES, LIFE, DISABILITY
10 INCOME AND LONG-TERM CARE INSURANCE PRODUCTS, DETERMINED FROM THE
11 RECORDS OF THE NAIC AS OF DECEMBER THIRTY-FIRST OF THE PRIOR YEAR;

12 (2) FOUR MEMBERS FROM THOSE COMPACTING STATES WITH AT LEAST TWO
13 PERCENT OF THE MARKET BASED ON THE PREMIUM VOLUME DESCRIBED IN PARAGRAPH
14 ONE OF THIS SUBSECTION, OTHER THAN SIX COMPACTING STATES WITH THE LARG-
15 EST PREMIUM VOLUME, SELECTED ON A ROTATING BASIS AS PROVIDED IN THE
16 BY-LAWS; AND

17 (3) FOUR MEMBERS FROM THOSE COMPACTING STATES WITH LESS THAN TWO
18 PERCENT OF THE MARKET, BASED ON THE PREMIUM VOLUME DESCRIBED IN PARA-
19 GRAPH ONE OF THIS SUBSECTION, WITH ONE SELECTED FROM EACH OF THE FOUR
20 ZONE REGIONS OF THE NAIC AS PROVIDED IN THE BY-LAWS.

21 (F) THE MANAGEMENT COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS
22 MAY BE SET FORTH IN THE BY-LAWS, INCLUDING BUT NOT LIMITED TO:

23 (1) MANAGING THE AFFAIRS OF THE COMMISSION IN A MANNER CONSISTENT WITH
24 THE BY-LAWS AND PURPOSES OF THE COMMISSION;

25 (2) ESTABLISHING AND OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN,
26 AND APPROPRIATE PROCEDURES FOR, THE COMMISSION TO PROVIDE FOR THE
27 CREATION OF UNIFORM STANDARDS AND OTHER RULES, RECEIPT AND REVIEW OF
28 PRODUCT FILINGS, ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS, REVIEW
29 OF DECISIONS REGARDING THE DISAPPROVAL OF A PRODUCT FILING, AND THE
30 REVIEW OF ELECTIONS MADE BY A COMPACTING STATE TO OPT OUT OF A UNIFORM
31 STANDARD; PROVIDED THAT A UNIFORM STANDARD SHALL NOT BE SUBMITTED TO THE
32 COMPACTING STATES FOR ADOPTION UNLESS APPROVED BY TWO-THIRDS OF THE
33 MEMBERS OF THE MANAGEMENT COMMITTEE;

34 (3) OVERSEEING THE OFFICES OF THE COMMISSION; AND

35 (4) PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIV-
36 ITIES WITH OTHER STATE, FEDERAL AND LOCAL GOVERNMENT ORGANIZATIONS IN
37 ORDER TO ADVANCE THE GOALS OF THE COMMISSION.

38 (G) THE COMMISSION SHALL ELECT ANNUALLY OFFICERS FROM THE MANAGEMENT
39 COMMITTEE, WITH EACH HAVING SUCH AUTHORITY AND DUTIES, AS MAY BE SPECI-
40 FIED IN THE BY-LAWS.

41 (H) THE MANAGEMENT COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE
42 COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD,
43 UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION AS THE COMMIS-
44 SION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRE-
45 TARY TO THE COMMISSION, BUT SHALL NOT BE A MEMBER OF THE COMMISSION. THE
46 EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER STAFF AS MAY BE
47 AUTHORIZED BY THE COMMISSION.

48 (I) A LEGISLATIVE COMMITTEE COMPRISING STATE LEGISLATORS OR THEIR
49 DESIGNEES SHALL BE ESTABLISHED TO MONITOR THE OPERATIONS OF, AND MAKE
50 RECOMMENDATIONS TO, THE COMMISSION; PROVIDED THAT THE MANNER OF
51 SELECTION AND TERM OF ANY LEGISLATIVE COMMITTEE MEMBER SHALL BE AS SET
52 FORTH IN THE BY-LAWS. PRIOR TO THE ADOPTION BY THE COMMISSION OF ANY
53 UNIFORM STANDARD, REVISION TO THE BY-LAWS, ANNUAL BUDGET OR OTHER
54 SIGNIFICANT MATTER AS MAY BE PROVIDED IN THE BY-LAWS, THE MANAGEMENT
55 COMMITTEE SHALL CONSULT WITH AND REPORT TO THE LEGISLATIVE COMMITTEE.

1 (J) THE COMMISSION SHALL ESTABLISH TWO ADVISORY COMMITTEES, ONE OF
2 WHICH SHALL COMPRISE CONSUMER REPRESENTATIVES INDEPENDENT OF THE INSUR-
3 ANCE INDUSTRY AND THE OTHER COMPRISING INSURANCE INDUSTRY REPRESENT-
4 ATIVES.

5 (K) THE COMMISSION MAY ESTABLISH ADDITIONAL ADVISORY COMMITTEES AS ITS
6 BY-LAWS MAY PROVIDE FOR THE CARRYING OUT OF ITS FUNCTIONS.

7 (L) THE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN
8 ACCORDANCE WITH THE BY-LAWS.

9 (M) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES AND REPRESENT-
10 ATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY,
11 EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY ACTION TAKEN
12 REASONABLY AND IN GOOD FAITH WHICH RESULTS IN A CLAIM FOR DAMAGE TO OR
13 LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY
14 OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT
15 OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING
16 OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSI-
17 BILITIES; PROVIDED, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
18 PROTECT ANY SUCH PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS,
19 INJURY OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON
20 MISCONDUCT OF THAT PERSON.

21 (N) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIREC-
22 TOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION
23 SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT,
24 ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOY-
25 MENT, DUTIES OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE
26 BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT,
27 DUTIES OR RESPONSIBILITIES; PROVIDED, THAT NOTHING IN THIS SECTION SHALL
28 BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUN-
29 SEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR OR
30 OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILLFUL AND
31 WANTON MISCONDUCT.

32 (O) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFI-
33 CER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION
34 FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST SUCH
35 PERSONS ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT
36 OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSI-
37 BILITIES, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING
38 OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSI-
39 BILITIES, PROVIDED, THAT THE ACTUAL OR ALLEGED ACT, ERROR OR OMISSION
40 DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF
41 ANY SUCH PERSON.

42 S 8807. MEETINGS AND ACTS OF THE COMMISSION. (A) THE COMMISSION SHALL
43 MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS
44 COMPACT AND THE BY-LAWS.

45 (B) EACH MEMBER OF THE COMMISSION SHALL HAVE THE RIGHT AND POWER TO
46 CAST A VOTE TO WHICH THAT COMPACTING STATE IS ENTITLED AND TO PARTIC-
47 IPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION. A MEMBER SHALL VOTE
48 IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN THE BY-LAWS. THE BY-LAWS
49 MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER
50 MEANS OF COMMUNICATION.

51 (C) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR.
52 ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BY-LAWS.

53 S 8808. RULES AND OPERATING PROCEDURES; RULE MAKING FUNCTIONS OF THE
54 COMMISSION AND OPTING OUT OF UNIFORM STANDARDS. (A) THE COMMISSION SHALL
55 PROMULGATE REASONABLE RULES, INCLUDING UNIFORM STANDARDS AND OPERATING
56 PROCEDURES, IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES

1 OF THE COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE COMMIS-
2 SION EXERCISES ITS RULE MAKING AUTHORITY IN A MANNER THAT IS BEYOND THE
3 SCOPE OF THE PURPOSES OF THIS ARTICLE, OR THE POWERS GRANTED IN THIS
4 SECTION, THEN SUCH ACTION BY THE COMMISSION SHALL BE INVALID AND HAVE NO
5 FORCE AND EFFECT.

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

15 (C) A UNIFORM STANDARD SHALL BECOME EFFECTIVE NINETY DAYS AFTER ITS
16 PROMULGATION BY THE COMMISSION OR SUCH LATER DATE AS THE COMMISSION MAY
17 DETERMINE; PROVIDED, HOWEVER, THAT A COMPACTING STATE MAY OPT OUT OF A
18 UNIFORM STANDARD AS PROVIDED IN THIS ARTICLE. "OPT OUT" SHALL BE DEFINED
19 AS ANY ACTION BY A COMPACTING STATE TO DECLINE TO ADOPT OR PARTICIPATE
20 IN A PROMULGATED UNIFORM STANDARD. ALL OTHER RULES AND OPERATING PROCE-
21 DURES, AND AMENDMENTS THERETO, SHALL BECOME EFFECTIVE AS OF THE DATE
22 SPECIFIED IN EACH RULE, OPERATING PROCEDURE OR AMENDMENT.

23 (D) A COMPACTING STATE MAY OPT OUT OF A UNIFORM STANDARD, EITHER BY
24 LEGISLATION OR REGULATION DULY PROMULGATED BY THE INSURANCE DEPARTMENT
25 UNDER THE COMPACTING STATE'S ADMINISTRATIVE PROCEDURE ACT. IF A COMPACT-
26 ING STATE ELECTS TO OPT OUT OF A UNIFORM STANDARD BY REGULATION, IT MUST
27 GIVE WRITTEN NOTICE TO THE COMMISSION NO LATER THAN TEN BUSINESS DAYS
28 AFTER THE LATER OF THE UNIFORM STANDARD IS PROMULGATED OR AT THE TIME
29 THE STATE BECOMES A COMPACTING STATE, AND FIND THAT THE UNIFORM STANDARD
30 DOES NOT PROVIDE REASONABLE PROTECTIONS TO THE CITIZENS OF THE STATE
31 GIVEN THE CONDITIONS IN THE STATE. THE COMMISSIONER SHALL MAKE SPECIFIC
32 FINDINGS OF FACT AND CONCLUSIONS OF LAW, BASED ON A PREPONDERANCE OF THE
33 EVIDENCE, DETAILING THE CONDITIONS IN THE STATE WHICH WARRANT A DEPAR-
34 TURE FROM THE UNIFORM STANDARD AND DETERMINING THAT THE UNIFORM STANDARD
35 WOULD NOT REASONABLY PROTECT THE CITIZENS OF THE STATE. THE COMMISSIONER
36 MUST CONSIDER AND BALANCE THE FOLLOWING FACTORS AND FIND THAT THE CONDI-
37 TIONS IN THE STATE AND NEEDS OF THE CITIZENS OF THE STATE OUTWEIGH:

38 (1) THE INTENT OF THE LEGISLATURE TO PARTICIPATE IN, AND THE BENEFITS
39 OF, AN INTERSTATE AGREEMENT TO ESTABLISH NATIONAL UNIFORM CONSUMER
40 PROTECTIONS FOR THE PRODUCTS SUBJECT TO THIS ARTICLE; AND

41 (2) THE PRESUMPTION THAT A UNIFORM STANDARD ADOPTED BY THE COMMISSION
42 PROVIDES REASONABLE PROTECTIONS TO CONSUMERS OF THE RELEVANT PRODUCT.

43 NOTWITHSTANDING THE FOREGOING, A COMPACTING STATE MAY, AT THE TIME OF
44 ITS ENACTMENT OF THE COMPACT, PROSPECTIVELY OPT OUT OF ALL UNIFORM STAN-
45 DARDS INVOLVING THE LONG-TERM CARE INSURANCE PRODUCTS BY EXPRESSLY
46 PROVIDING FOR SUCH OPT OUT IN THE ENACTED COMPACT, AND SUCH OPT OUT
47 SHALL NOT BE TREATED AS A MATERIAL VARIANCE IN THE OFFER OR ACCEPTANCE
48 OF ANY STATE TO PARTICIPATE IN THE COMPACT. SUCH AN OPT OUT SHALL BE
49 EFFECTIVE AT THE TIME OF ENACTMENT OF THE COMPACT BY THE COMPACTING
50 STATE AND SHALL APPLY TO ALL EXISTING UNIFORM STANDARDS INVOLVING LONG-
51 TERM CARE INSURANCE PRODUCTS AND THOSE SUBSEQUENTLY PROMULGATED.

52 (E) IF A COMPACTING STATE ELECTS TO OPT OUT OF A UNIFORM STANDARD, THE
53 UNIFORM STANDARD SHALL REMAIN APPLICABLE IN THE COMPACTING STATE ELECT-
54 ING TO OPT OUT UNTIL SUCH TIME THE OPT OUT LEGISLATION IS ENACTED INTO
55 LAW OR THE REGULATION OPTING OUT BECOMES EFFECTIVE.

1 (F) ONCE THE OPT OUT OF A UNIFORM STANDARD BY A COMPACTING STATE
2 BECOMES EFFECTIVE AS PROVIDED UNDER THE LAWS OF THAT STATE, THE UNIFORM
3 STANDARD SHALL HAVE NO FURTHER FORCE AND EFFECT IN THAT STATE UNLESS AND
4 UNTIL THE LEGISLATION OR REGULATION IMPLEMENTING THE OPT OUT IS REPEALED
5 OR OTHERWISE BECOMES INEFFECTIVE UNDER THE LAWS OF THE STATE. IF A
6 COMPACTING STATE OPTS OUT OF A UNIFORM STANDARD AFTER THE UNIFORM STAND-
7 ARD HAS BEEN MADE EFFECTIVE IN THAT STATE, THE OPT OUT SHALL HAVE THE
8 SAME PROSPECTIVE EFFECT AS PROVIDED UNDER SECTION EIGHT THOUSAND EIGHT
9 HUNDRED FIFTEEN OF THIS ARTICLE FOR WITHDRAWALS.

10 (G) IF A COMPACTING STATE HAS FORMALLY INITIATED THE PROCESS OF OPTING
11 OUT OF A UNIFORM STANDARD BY REGULATION, AND WHILE THE REGULATORY OPT
12 OUT IS PENDING, THE COMPACTING STATE MAY PETITION THE COMMISSION, AT
13 LEAST FIFTEEN DAYS BEFORE THE EFFECTIVE DATE OF THE UNIFORM STANDARD, TO
14 STAY THE EFFECTIVENESS OF THE UNIFORM STANDARD IN THAT STATE. THE
15 COMMISSION MAY GRANT A STAY IF IT DETERMINES THE REGULATORY OPT OUT IS
16 BEING PURSUED IN A REASONABLE MANNER AND THERE IS A LIKELIHOOD OF
17 SUCCESS. IF A STAY IS GRANTED OR EXTENDED BY THE COMMISSION, THE STAY OR
18 EXTENSION THEREOF MAY POSTPONE THE EFFECTIVE DATE BY UP TO NINETY DAYS,
19 UNLESS AFFIRMATIVELY EXTENDED BY THE COMMISSION; PROVIDED HOWEVER, A
20 STAY MAY NOT BE PERMITTED TO REMAIN IN EFFECT FOR MORE THAN ONE YEAR
21 UNLESS THE COMPACTING STATE CAN SHOW EXTRAORDINARY CIRCUMSTANCES WHICH
22 WARRANT A CONTINUANCE OF THE STAY INCLUDING, BUT NOT LIMITED TO, THE
23 EXISTENCE OF A LEGAL CHALLENGE WHICH PREVENTS THE COMPACTING STATE FROM
24 OPTING OUT. A STAY MAY BE TERMINATED BY THE COMMISSION UPON NOTICE THAT
25 THE RULE MAKING PROCESS HAS BEEN TERMINATED.

26 (H) NOT LATER THAN THIRTY DAYS AFTER A RULE OR OPERATING PROCEDURE IS
27 PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE
28 RULE OR OPERATING PROCEDURE; PROVIDED, HOWEVER, THAT THE FILING OF SUCH
29 A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE OR OPERATING
30 PROCEDURE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETI-
31 TIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE
32 DEFERENCE TO THE ACTIONS OF THE COMMISSION CONSISTENT WITH APPLICABLE
33 LAW AND SHALL NOT FIND THE RULE OR OPERATING PROCEDURE TO BE UNLAWFUL IF
34 THE RULE OR OPERATING PROCEDURE REPRESENTS A REASONABLE EXERCISE OF THE
35 COMMISSION'S AUTHORITY.

36 S 8809. COMMISSION RECORDS AND ENFORCEMENT. (A) THE COMMISSION SHALL
37 PROMULGATE RULES ESTABLISHING CONDITIONS AND PROCEDURES FOR PUBLIC
38 INSPECTION AND COPYING OF ITS INFORMATION AND OFFICIAL RECORDS, EXCEPT
39 SUCH INFORMATION AND RECORDS INVOLVING THE PRIVACY OF INDIVIDUALS AND
40 INSURERS' TRADE SECRETS. THE COMMISSION MAY PROMULGATE ADDITIONAL RULES
41 UNDER WHICH IT MAY MAKE AVAILABLE TO FEDERAL AND STATE AGENCIES, INCLUD-
42 ING LAW ENFORCEMENT AGENCIES, RECORDS AND INFORMATION OTHERWISE EXEMPT
43 FROM DISCLOSURE, AND MAY ENTER INTO AGREEMENTS WITH SUCH AGENCIES TO
44 RECEIVE OR EXCHANGE INFORMATION OR RECORDS SUBJECT TO NONDISCLOSURE AND
45 CONFIDENTIALITY PROVISIONS.

46 (B) EXCEPT AS TO PRIVILEGED RECORDS, DATA AND INFORMATION, THE LAWS OF
47 ANY COMPACTING STATE PERTAINING TO CONFIDENTIALITY OR NONDISCLOSURE
48 SHALL NOT RELIEVE ANY COMPACTING STATE COMMISSIONER OF THE DUTY TO
49 DISCLOSE ANY RELEVANT RECORDS, DATA OR INFORMATION TO THE COMMISSION;
50 PROVIDED HOWEVER, THAT DISCLOSURE TO THE COMMISSION SHALL NOT BE DEEMED
51 TO WAIVE OR OTHERWISE AFFECT ANY CONFIDENTIALITY REQUIREMENT; AND
52 PROVIDED FURTHER THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS
53 ARTICLE, THE COMMISSION SHALL NOT BE SUBJECT TO THE LAWS OF ANY COMPACT-
54 ING STATE PERTAINING TO CONFIDENTIALITY AND NONDISCLOSURE WITH RESPECT
55 TO RECORDS, DATA AND INFORMATION IN ITS POSSESSION. CONFIDENTIAL INFOR-

1 MATION OF THE COMMISSION SHALL REMAIN CONFIDENTIAL AFTER SUCH INFORMA-
2 TION IS PROVIDED TO ANY COMMISSIONER.

3 (C) THE COMMISSION SHALL MONITOR COMPACTING STATES FOR COMPLIANCE WITH
4 DULY ADOPTED BY-LAWS, RULES, INCLUDING UNIFORM STANDARDS, AND OPERATING
5 PROCEDURES. THE COMMISSION SHALL NOTIFY SUCH NONCOMPLYING COMPACTING
6 STATE IN WRITING OF ITS NONCOMPLIANCE WITH COMMISSION BY-LAWS, RULES OR
7 OPERATING PROCEDURES. IF THE NONCOMPLYING COMPACTING STATE FAILS TO
8 REMEDY SUCH NONCOMPLIANCE WITHIN THE TIME SPECIFIED IN THE NOTICE OF
9 NONCOMPLIANCE, THE COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS
10 SET FORTH IN SECTION EIGHT THOUSAND EIGHT HUNDRED FIFTEEN OF THIS ARTI-
11 CLE.

12 (D) THE COMMISSIONER OF ANY STATE IN WHICH AN INSURER IS AUTHORIZED TO
13 DO BUSINESS, OR IS CONDUCTING THE BUSINESS OF INSURANCE, SHALL CONTINUE
14 TO EXERCISE HIS OR HER AUTHORITY TO OVERSEE THE MARKET REGULATION OF THE
15 ACTIVITIES OF THE INSURER IN ACCORDANCE WITH THE PROVISIONS OF THE
16 STATE'S LAW. THE COMMISSIONER'S ENFORCEMENT OF COMPLIANCE WITH THE
17 COMPACT IS GOVERNED BY THE FOLLOWING PROVISIONS:

18 (1) WITH RESPECT TO THE COMMISSIONER'S MARKET REGULATION OF A PRODUCT
19 OR ADVERTISEMENT THAT IS APPROVED OR CERTIFIED TO THE COMMISSION, THE
20 CONTENT OF THE PRODUCT OR ADVERTISEMENT SHALL NOT CONSTITUTE A VIOLATION
21 OF THE PROVISIONS, STANDARDS OR REQUIREMENTS OF THE COMPACT EXCEPT UPON
22 A FINAL ORDER OF THE COMMISSION, ISSUED AT THE REQUEST OF A COMMISSIONER
23 AFTER PRIOR NOTICE TO THE INSURER AND AN OPPORTUNITY FOR HEARING BEFORE
24 THE COMMISSION.

25 (2) BEFORE A COMMISSIONER MAY BRING AN ACTION FOR VIOLATION OF ANY
26 PROVISION, STANDARD OR REQUIREMENT OF THE COMPACT RELATING TO THE
27 CONTENT OF AN ADVERTISEMENT NOT APPROVED OR CERTIFIED TO THE COMMISSION,
28 THE COMMISSION OR AN AUTHORIZED COMMISSION OFFICER OR EMPLOYEE, MUST
29 AUTHORIZE THE ACTION. HOWEVER, AUTHORIZATION PURSUANT TO THIS PARAGRAPH
30 DOES NOT REQUIRE NOTICE TO THE INSURER, OPPORTUNITY FOR HEARING OR
31 DISCLOSURE OF REQUESTS FOR AUTHORIZATION OR RECORDS OF THE COMMISSION'S
32 ACTION ON SUCH REQUESTS.

33 S 8810. DISPUTE RESOLUTION. THE COMMISSION SHALL ATTEMPT, UPON THE
34 REQUEST OF A MEMBER, TO RESOLVE ANY DISPUTES OR OTHER ISSUES THAT ARE
35 SUBJECT TO THIS COMPACT AND WHICH MAY ARISE BETWEEN TWO OR MORE COMPACT-
36 ING STATES, OR BETWEEN COMPACTING STATES AND NON-COMPACTING STATES, AND
37 THE COMMISSION SHALL PROMULGATE AN OPERATING PROCEDURE PROVIDING FOR
38 RESOLUTION OF SUCH DISPUTES.

39 S 8811. PRODUCT FILING AND APPROVAL. (A) INSURERS AND THIRD-PARTY
40 FILERS SEEKING TO HAVE A PRODUCT APPROVED BY THE COMMISSION SHALL FILE
41 SUCH PRODUCT WITH, AND PAY APPLICABLE FILING FEES TO, THE COMMISSION.
42 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO RESTRICT OR OTHERWISE
43 PREVENT AN INSURER FROM FILING ITS PRODUCT WITH THE INSURANCE DEPARTMENT
44 IN ANY STATE WHEREIN SUCH INSURER IS LICENSED TO CONDUCT THE BUSINESS OF
45 INSURANCE, AND SUCH FILING SHALL BE SUBJECT TO THE LAWS OF THE STATES
46 WHERE FILED.

47 (B) THE COMMISSION SHALL ESTABLISH APPROPRIATE FILING AND REVIEW PROC-
48 ESSES AND PROCEDURES PURSUANT TO COMMISSION RULES AND OPERATING PROC-
49 DURES. NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE CONTRARY,
50 THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH CONDITIONS AND PROC-
51 DURES UNDER WHICH THE COMMISSION WILL PROVIDE PUBLIC ACCESS TO PRODUCT
52 FILING INFORMATION. IN ESTABLISHING SUCH RULES, THE COMMISSION SHALL
53 CONSIDER THE INTERESTS OF THE PUBLIC IN HAVING ACCESS TO SUCH INFORMA-
54 TION, AS WELL AS PROTECTION OF PERSONAL MEDICAL AND FINANCIAL INFORMA-
55 TION AND TRADE SECRETS, THAT MAY BE CONTAINED IN A PRODUCT FILING OR
56 SUPPORTING INFORMATION.

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

4 S 8812. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS. (A) NOT
5 LATER THAN THIRTY DAYS AFTER THE COMMISSION HAS GIVEN NOTICE OF A DISAP-
6 PROVED PRODUCT OR ADVERTISEMENT FILED WITH THE COMMISSION, THE INSURER
7 OR THIRD PARTY FILER WHOSE FILING WAS DISAPPROVED MAY APPEAL THE DETER-
8 MINATION TO A REVIEW PANEL APPOINTED BY THE COMMISSION. THE COMMISSION
9 SHALL PROMULGATE RULES TO ESTABLISH PROCEDURES FOR APPOINTING SUCH
10 REVIEW PANEL AND PROVIDE FOR NOTICE AND HEARING. AN ALLEGATION THAT THE
11 COMMISSION, IN DISAPPROVING A PRODUCT OR ADVERTISEMENT FILED WITH THE
12 COMMISSION, ACTED ARBITRARILY, CAPRICIOUSLY OR IN A MANNER THAT IS AN
13 ABUSE OF DISCRETION OR OTHERWISE NOT IN ACCORDANCE WITH LAW, IS SUBJECT
14 TO JUDICIAL REVIEW IN ACCORDANCE WITH SUBSECTION (E) OF SECTION EIGHT
15 THOUSAND EIGHT HUNDRED FOUR OF THIS ARTICLE.

16 (B) THE COMMISSION SHALL HAVE AUTHORITY TO MONITOR, REVIEW AND RECON-
17 sider PRODUCTS AND ADVERTISEMENT SUBSEQUENT TO THEIR FILING OR APPROVAL
18 UPON A FINDING THAT THE PRODUCT DOES NOT MEET THE RELEVANT UNIFORM STAN-
19 DARD. WHERE APPROPRIATE, THE COMMISSION MAY WITHDRAW OR MODIFY ITS
20 APPROVAL AFTER PROPER NOTICE AND HEARING, SUBJECT TO THE APPEAL PROCESS
21 SET FORTH IN SUBSECTION (A) OF THIS SECTION.

22 S 8813. FINANCE. (A) THE COMMISSION SHALL PAY OR PROVIDE FOR THE
23 PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT AND ORGANIZA-
24 TION. TO FUND THE COST OF ITS INITIAL OPERATIONS, THE COMMISSION MAY
25 ACCEPT CONTRIBUTIONS AND OTHER FORMS OF FUNDING FROM THE NAIC, COMPACT-
26 ING STATES AND OTHER SOURCES. CONTRIBUTIONS AND OTHER FORMS OF FUNDING
27 FROM OTHER SOURCES SHALL BE OF SUCH A NATURE THAT THE INDEPENDENCE OF
28 THE COMMISSION CONCERNING THE PERFORMANCE OF ITS DUTIES SHALL NOT BE
29 COMPROMISED.

30 (B) THE COMMISSION SHALL COLLECT A FILING FEE FROM EACH INSURER AND
31 THIRD PARTY FILER FILING A PRODUCT WITH THE COMMISSION TO COVER THE COST
32 OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF IN A
33 TOTAL AMOUNT SUFFICIENT TO COVER THE COMMISSION'S ANNUAL BUDGET.

34 (C) THE COMMISSION'S BUDGET FOR A FISCAL YEAR SHALL NOT BE APPROVED
35 UNTIL IT HAS BEEN SUBJECT TO NOTICE AND COMMENT AS SET FORTH IN SECTION
36 EIGHT THOUSAND EIGHT HUNDRED EIGHT OF THIS ARTICLE.

37 (D) THE COMMISSION SHALL BE EXEMPT FROM ALL TAXATION IN AND BY THE
38 COMPACTING STATES.

39 (E) THE COMMISSION SHALL NOT PLEDGE THE CREDIT OF ANY COMPACTING
40 STATE, EXCEPT BY AND WITH THE APPROPRIATE LEGAL AUTHORITY OF THAT
41 COMPACTING STATE.

42 (F) THE COMMISSION SHALL KEEP COMPLETE AND ACCURATE ACCOUNTS OF ALL
43 ITS INTERNAL RECEIPTS, INCLUDING GRANTS AND DONATIONS AND DISBURSEMENTS
44 OF ALL FUNDS UNDER ITS CONTROL. THE INTERNAL FINANCIAL ACCOUNTS OF THE
45 COMMISSION SHALL BE SUBJECT TO THE ACCOUNTING PROCEDURES ESTABLISHED
46 UNDER ITS BY-LAWS. THE FINANCIAL ACCOUNTS AND REPORTS INCLUDING THE
47 SYSTEM OF INTERNAL CONTROLS AND PROCEDURES OF THE COMMISSION SHALL BE
48 AUDITED ANNUALLY BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UPON THE
49 DETERMINATION OF THE COMMISSION, BUT NO LESS FREQUENTLY THAN EVERY THREE
50 YEARS, THE REVIEW OF SUCH INDEPENDENT AUDITOR SHALL INCLUDE A MANAGEMENT
51 AND PERFORMANCE AUDIT OF THE COMMISSION. THE COMMISSION SHALL MAKE AN
52 ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE OF THE COMPACTING STATES,
53 WHICH SHALL INCLUDE A REPORT OF SUCH INDEPENDENT AUDIT. THE COMMISSION'S
54 INTERNAL ACCOUNTS SHALL NOT BE CONFIDENTIAL AND SUCH MATERIALS MAY BE
55 SHARED WITH THE COMMISSIONER OF ANY COMPACTING STATE UPON REQUEST,
56 PROVIDED, HOWEVER, THAT ANY WORK PAPERS RELATED TO ANY INTERNAL OR INDE-

PENDENT AUDIT AND ANY INFORMATION REGARDING THE PRIVACY OF INDIVIDUALS AND INSURERS' PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS, SHALL REMAIN CONFIDENTIAL.

(G) 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.

S 8814. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT. (A) ANY STATE IS ELIGIBLE TO BECOME A COMPACTING STATE.

(B) THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY TWO COMPACTING STATES; PROVIDED HOWEVER, THAT 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 TWENTY-SIX STATES ARE COMPACTING STATES OR, ALTERNATIVELY, BY STATES REPRESENTING GREATER THAN FORTY PERCENT OF THE PREMIUM VOLUME FOR LIFE INSURANCE, ANNUITY, DISABILITY INCOME AND LONG-TERM CARE INSURANCE PRODUCTS, BASED ON RECORDS OF THE NAIC FOR THE PRIOR YEAR. THEREAFTER, IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER COMPACTING STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE.

(C) 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.

S 8815. WITHDRAWAL, DEFAULT AND TERMINATION. (A)(1) ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY COMPACTING STATE; PROVIDED THAT A COMPACTING STATE MAY WITHDRAW FROM THE COMPACT ("WITHDRAWING STATE") BY ENACTING A STATUTE SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

(2) THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE REPEALING STATUTE. 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 STATUTE 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 FIVE OF THIS SUBSECTION.

(3) 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.

(4) THE COMMISSION SHALL NOTIFY THE OTHER COMPACTING STATES OF THE INTRODUCTION OF SUCH LEGISLATION WITHIN TEN DAYS AFTER ITS RECEIPT OF NOTICE THEREOF.

(5) 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.

(6) REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY COMPACTING STATE SHALL OCCUR UPON THE EFFECTIVE DATE OF THE WITHDRAWING STATE'S LEGISLATION REENACTING THE COMPACT.

1 (B) (1) IF THE COMMISSION DETERMINES THAT ANY COMPACTING STATE HAS AT
2 ANY TIME DEFAULTED ("DEFAULTING STATE") IN THE PERFORMANCE OF ANY OF ITS
3 OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, THE BY-LAWS OR DULY
4 PROMULGATED RULES OR OPERATING PROCEDURES, THEN, AFTER NOTICE AND HEAR-
5 ING AS SET FORTH IN THE BY-LAWS, ALL RIGHTS, PRIVILEGES AND BENEFITS
6 CONFERRED BY THE COMPACT ON THE DEFAULTING STATE SHALL BE SUSPENDED FROM
7 THE EFFECTIVE DATE OF DEFAULT AS FIXED BY THE COMMISSION. THE GROUNDS
8 FOR DEFAULT INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING
9 STATE TO PERFORM ITS OBLIGATIONS OR RESPONSIBILITIES, AND ANY OTHER
10 GROUNDS DESIGNATED IN COMMISSION RULES. THE COMMISSION SHALL IMMEDIATELY
11 NOTIFY THE DEFAULTING STATE IN WRITING OF THE DEFAULTING STATE'S SUSPEN-
12 SION PENDING A CURE OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE
13 CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST
14 CURE ITS DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT
15 WITHIN THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE
16 SHALL BE TERMINATED FROM THE COMPACT AND ALL RIGHTS, PRIVILEGES AND
17 BENEFITS CONFERRED BY THE COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE
18 DATE OF TERMINATION.

19 (2) PRODUCT APPROVALS BY THE COMMISSION OR PRODUCT SELF-CERTIFICA-
20 TIONS, OR ANY ADVERTISEMENT IN CONNECTION WITH SUCH PRODUCT, THAT ARE IN
21 FORCE ON THE EFFECTIVE DATE OF TERMINATION SHALL REMAIN IN FORCE IN THE
22 DEFAULTING STATE IN THE SAME MANNER AS IF THE DEFAULTING STATE HAD WITH-
23 DRAWN VOLUNTARILY UNDER THIS SECTION.

24 (3) REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE
25 REQUIRES A REENACTMENT OF THE COMPACT BY THAT STATE.

26 (C)(1) THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE OF THE WITHDRAWAL
27 OR DEFAULT OF THE COMPACTING STATE WHICH REDUCES MEMBERSHIP IN THE
28 COMPACT TO ONE COMPACTING STATE.

29 (2) UPON THE DISSOLUTION OF THE COMPACT, THE COMPACT BECOMES NULL AND
30 VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS AND
31 AFFAIRS OF THE COMMISSION SHALL BE WOUND UP AND ANY SURPLUS FUNDS SHALL
32 BE DISTRIBUTED IN ACCORDANCE WITH THE BY-LAWS.

33 S 8816. SEVERABILITY AND CONSTRUCTION. (A) THE PROVISIONS OF THE
34 COMPACT SHALL BE SEVERABLE; AND IF ANY PHRASE, CLAUSE, SENTENCE OR
35 PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE
36 COMPACT SHALL BE ENFORCEABLE.

37 (B) THE PROVISIONS OF THE COMPACT SHALL BE LIBERALLY CONSTRUED TO
38 EFFECTUATE ITS PURPOSES.

39 S 8817. BINDING EFFECT OF COMPACT AND OTHER LAWS. (A) NOTHING IN THIS
40 SECTION PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A COMPACTING STATE,
41 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

42 (B) FOR ANY PRODUCT APPROVED OR CERTIFIED TO THE COMMISSION, THE
43 RULES, UNIFORM STANDARDS AND ANY OTHER REQUIREMENTS OF THE COMMISSION
44 SHALL CONSTITUTE THE EXCLUSIVE PROVISIONS APPLICABLE TO THE CONTENT,
45 APPROVAL AND CERTIFICATION OF SUCH PRODUCTS. FOR ADVERTISEMENT THAT IS
46 SUBJECT TO THE COMMISSION'S AUTHORITY, ANY RULE, UNIFORM STANDARD OR
47 OTHER REQUIREMENT OF THE COMMISSION WHICH GOVERNS THE CONTENT OF THE
48 ADVERTISEMENT SHALL CONSTITUTE THE EXCLUSIVE PROVISION THAT A COMMIS-
49 SIONER MAY APPLY TO THE CONTENT OF THE ADVERTISEMENT. NOTWITHSTANDING
50 THE FOREGOING, NO ACTION TAKEN BY THE COMMISSION SHALL ABROGATE OR
51 RESTRICT:

52 (1) THE ACCESS OF ANY PERSON TO STATE COURTS;

53 (2) REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT,
54 TORT OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO THE CONTENT OF THE PROD-
55 UCT;

56 (3) STATE LAW RELATING TO THE CONSTRUCTION OF INSURANCE CONTRACTS; OR

1 (4) THE AUTHORITY OF THE ATTORNEY GENERAL OF THE STATE INCLUDING, BUT
2 NOT LIMITED TO, MAINTAINING ANY ACTIONS OR PROCEEDINGS AS AUTHORIZED BY
3 LAW.

4 (C) ALL INSURANCE PRODUCTS FILED WITH INDIVIDUAL STATES SHALL BE
5 SUBJECT TO THE LAWS OF THOSE STATES.

6 (D) ALL LAWFUL ACTIONS OF THE COMMISSION, INCLUDING ALL RULES AND
7 OPERATING PROCEDURES PROMULGATED BY THE COMMISSION, ARE BINDING UPON THE
8 COMPACTING STATES.

9 (E) ALL AGREEMENTS BETWEEN THE COMMISSION AND THE COMPACTING STATES
10 ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

11 (F) UPON THE REQUEST OF A PARTY TO A CONFLICT OVER THE MEANING OR
12 INTERPRETATION OF COMMISSION ACTIONS, AND UPON A MAJORITY VOTE OF THE
13 COMPACTING STATES, THE COMMISSION MAY ISSUE ADVISORY OPINIONS REGARDING
14 THE DISPUTED MEANING OR INTERPRETATION.

15 (G) IN THE EVENT ANY PROVISION OF THIS ARTICLE EXCEEDS THE CONSTITU-
16 TIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY COMPACTING STATE, THE
17 OBLIGATIONS, DUTIES, POWERS OR JURISDICTION SOUGHT TO BE CONFERRED BY
18 THAT PROVISION UPON THE COMMISSION SHALL BE INEFFECTIVE AS TO SUCH
19 COMPACTING STATE, AND SUCH OBLIGATIONS, DUTIES, POWERS OR JURISDICTION
20 SHALL REMAIN IN THE COMPACTING STATE AND SHALL BE EXERCISED BY THE AGEN-
21 CY THEREOF TO WHICH SUCH OBLIGATIONS, DUTIES, POWERS OR JURISDICTION ARE
22 DELEGATED BY LAW IN EFFECT AT THE TIME THE COMPACT BECOMES EFFECTIVE.

23 S 3. This act shall take effect January 1, 2013 and shall expire and
24 be deemed repealed December 31, 2015; provided, however, that any policy
25 or contract issued during the period that the provisions of this act are
26 in effect that has been approved in accordance with the provisions of
27 this act shall continue in full force and effect.