

ASSEMBLY BILL NO. 23—COMMITTEE  
ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF INSURANCE)

PREFILED DECEMBER 14, 2010

Referred to Committee on Commerce and Labor

SUMMARY—Enacts the Interstate Insurance Product Regulation Compact. (BDR 57-473)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to insurance; enacting the Interstate Insurance Product Regulation Compact; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The Interstate Insurance Product Regulation Compact is an interstate compact  
2 which addresses issues relating to the regulation of certain insurance products in  
3 states which are members of the Compact. The Compact creates an Interstate  
4 Insurance Product Regulation Commission which establishes uniform standards for  
5 certain insurance products and advertising relating to these insurance products.  
6 These uniform standards will govern those insurance products and advertising in  
7 lieu of other Nevada statutes and regulations under certain circumstances. The  
8 Compact also requires states that have enacted the Compact to choose a person to  
9 serve as a representative to the Commission.

10 **Section 2** of this bill enacts, without any modifications, the language of the  
11 Interstate Insurance Product Regulation Compact as written by the National  
12 Association of Insurance Commissioners. **Section 3** of this bill designates the  
13 Commissioner of Insurance as Nevada’s representative to the Interstate Insurance  
14 Product Regulation Commission. **Section 4** of this bill requires the Commissioner  
15 to opt out of any uniform standard which is less protective than a law of this State  
16 and provides that the State of Nevada opts out of all uniform standards involving  
17 long-term care insurance products. **Section 5** of this bill requires the Commissioner  
18 to report to the 77th Session of the Nevada Legislature concerning the status of the  
19 uniform standards involving long-term care insurance products.



\* A B 2 3 R 1 \*



1 2. "Bylaws" mean those bylaws established by the  
2 Commission for its governance, or for directing or controlling the  
3 Commission's actions or conduct.

4 3. "Compacting State" means any State which has enacted  
5 this Compact legislation and which has not withdrawn pursuant to  
6 Article XIV, Section 1, or been terminated pursuant to Article  
7 XIV, Section 2.

8 4. "Commission" means the "Interstate Insurance Product  
9 Regulation Commission" established by this Compact.

10 5. "Commissioner" means the chief insurance regulatory  
11 official of a State including, but not limited to commissioner,  
12 superintendent, director or administrator.

13 6. "Domiciliary State" means the state in which an Insurer is  
14 incorporated or organized; or, in the case of an alien Insurer, its  
15 state of entry.

16 7. "Insurer" means any entity licensed by a State to issue  
17 contracts of insurance for any of the lines of insurance covered by  
18 this Act.

19 8. "Member" means the person chosen by a Compacting  
20 State as its representative to the Commission, or his or her  
21 designee.

22 9. "Non-compacting State" means any State which is not at  
23 the time a Compacting State.

24 10. "Operating Procedures" mean procedures promulgated  
25 by the Commission implementing a Rule, Uniform Standard or a  
26 provision of this Compact.

27 11. "Product" means the form of a policy or contract,  
28 including any application, endorsement, or related form which is  
29 attached to and made a part of the policy or contract, and any  
30 evidence of coverage or certificate, for an individual or group  
31 annuity, life insurance, disability income or long-term care  
32 insurance product that an Insurer is authorized to issue.

33 12. "Rule" means a statement of general or particular  
34 applicability and future effect promulgated by the Commission,  
35 including a Uniform Standard developed pursuant to Article VII  
36 of this Compact, designed to implement, interpret, or prescribe law  
37 or policy or describing the organization, procedure, or practice  
38 requirements of the Commission, which shall have the force and  
39 effect of law in the Compacting States.

40 13. "State" means any state, district or territory of the United  
41 States of America.

42 14. "Third-Party Filer" means an entity that submits a  
43 Product filing to the Commission on behalf of an Insurer.

44 15. "Uniform Standard" means a standard adopted by the  
45 Commission for a Product line, pursuant to Article VII of this



1 *Compact, and shall include all of the Product requirements in*  
2 *aggregate; provided, that each Uniform Standard shall be*  
3 *construed, whether express or implied, to prohibit the use of any*  
4 *inconsistent, misleading or ambiguous provisions in a Product*  
5 *and the form of the Product made available to the public shall not*  
6 *be unfair, inequitable or against public policy as determined by*  
7 *the Commission.*

8  
9 *Article III. Establishment of the Commission and Venue*

10  
11 *1. The Compacting States hereby create and establish a joint*  
12 *public agency known as the “Interstate Insurance Product*  
13 *Regulation Commission.” Pursuant to Article IV, the Commission*  
14 *will have the power to develop Uniform Standards for Product*  
15 *lines, receive and provide prompt review of Products filed*  
16 *therewith, and give approval to those Product filings satisfying*  
17 *applicable Uniform Standards; provided, it is not intended for the*  
18 *Commission to be the exclusive entity for receipt and review of*  
19 *insurance product filings. Nothing herein shall prohibit any*  
20 *Insurer from filing its product in any State wherein the Insurer is*  
21 *licensed to conduct the business of insurance; and any such filing*  
22 *shall be subject to the laws of the State where filed.*

23 *2. The Commission is a body corporate and politic, and an*  
24 *instrumentality of the Compacting States.*

25 *3. The Commission is solely responsible for its liabilities*  
26 *except as otherwise specifically provided in this Compact.*

27 *4. Venue is proper and judicial proceedings by or against the*  
28 *Commission shall be brought solely and exclusively in a Court of*  
29 *competent jurisdiction where the principal office of the*  
30 *Commission is located.*

31  
32 *Article IV. Powers of the Commission*

33  
34 *The Commission shall have the following powers:*

35 *1. To promulgate Rules, pursuant to Article VII of this*  
36 *Compact, which shall have the force and effect of law and shall be*  
37 *binding in the Compacting States to the extent and in the manner*  
38 *provided in this Compact;*

39 *2. To exercise its rule-making authority and establish*  
40 *reasonable Uniform Standards for Products covered under the*  
41 *Compact, and Advertisement related thereto, which shall have the*  
42 *force and effect of law and shall be binding in the Compacting*  
43 *States, but only for those Products filed with the Commission,*  
44 *provided, that a Compacting State shall have the right to opt out of*  
45 *such Uniform Standard pursuant to Article VII, to the extent and*



1 *in the manner provided in this Compact, and, provided further,*  
2 *that any Uniform Standard established by the Commission for*  
3 *long-term care insurance products may provide the same or*  
4 *greater protections for consumers as, but shall not provide less*  
5 *than, 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*  
11 *adopted 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 Products*  
15 *filed with the Commission, and rate filings for disability income*  
16 *and long-term care insurance Products, and give approval of those*  
17 *Products and rate filings that satisfy the applicable Uniform*  
18 *Standard, where such approval shall have the force and effect of*  
19 *law and be binding on the Compacting States to the extent and in*  
20 *the manner provided in the Compact;*

21 4. *To receive and review in an expeditious manner*  
22 *Advertisement relating to long-term care insurance products for*  
23 *which Uniform Standards have been adopted by the Commission,*  
24 *and give approval to all Advertisement that satisfies the applicable*  
25 *Uniform Standard. For any product covered under this Compact,*  
26 *other than long-term care insurance products, the Commission*  
27 *shall have the authority to require an insurer to submit all or any*  
28 *part of its Advertisement with respect to that product for review or*  
29 *approval prior to use, if the Commission determines that the*  
30 *nature of the product is such that an Advertisement of the product*  
31 *could have the capacity or tendency to mislead the public. The*  
32 *actions of the Commission as provided in this section shall have*  
33 *the force and effect of law and shall be binding in the Compacting*  
34 *States to the extent and in the manner provided in the Compact;*

35 5. *To exercise its rule-making authority and designate*  
36 *Products and Advertisement that may be subject to a self-*  
37 *certification process without the need for prior approval by the*  
38 *Commission.*

39 6. *To promulgate Operating Procedures, pursuant to Article*  
40 *VII of this Compact, which shall be binding in the Compacting*  
41 *States to the extent and in the manner provided in this Compact;*

42 7. *To bring and prosecute legal proceedings or actions in its*  
43 *name as the Commission; provided, that the standing of any state*  
44 *insurance department to sue or be sued under applicable law shall*  
45 *not be affected;*



1 8. To issue subpoenas requiring the attendance and testimony  
2 of witnesses and the production of evidence;

3 9. To establish and maintain offices;

4 10. To purchase and maintain insurance and bonds;

5 11. To borrow, accept or contract for services of personnel,  
6 including, but not limited to, employees of a Compacting State;

7 12. To hire employees, professionals or specialists, and elect  
8 or appoint officers, and to fix their compensation, define their  
9 duties and give them appropriate authority to carry out the  
10 purposes of the Compact, and determine their qualifications; and  
11 to establish the Commission's personnel policies and programs  
12 relating to, among other things, conflicts of interest, rates of  
13 compensation and qualifications of personnel;

14 13. To accept any and all appropriate donations and grants of  
15 money, equipment, supplies, materials and services, and to receive,  
16 utilize and dispose of the same; provided that at all times the  
17 Commission shall strive to avoid any appearance of impropriety;

18 14. To lease, purchase, accept appropriate gifts or donations  
19 of, or otherwise to own, hold, improve or use, any property, real,  
20 personal or mixed; provided that at all times the Commission shall  
21 strive to avoid any appearance of impropriety;

22 15. To sell, convey, mortgage, pledge, lease, exchange,  
23 abandon or otherwise dispose of any property, real, personal or  
24 mixed;

25 16. To remit filing fees to Compacting States as may be set  
26 forth in the Bylaws, Rules or Operating Procedures;

27 17. To enforce compliance by Compacting States with Rules,  
28 Uniform Standards, Operating Procedures and Bylaws;

29 18. To provide for dispute resolution among Compacting  
30 States;

31 19. To advise Compacting States on issues relating to  
32 Insurers domiciled or doing business in Non-compacting  
33 jurisdictions, consistent with the purposes of this Compact;

34 20. To provide advice and training to those personnel in state  
35 insurance departments responsible for product review, and to be a  
36 resource for state insurance departments;

37 21. To establish a budget and make expenditures;

38 22. To borrow money;

39 23. To appoint committees, including advisory committees  
40 comprising Members, state insurance regulators, state legislators  
41 or their representatives, insurance industry and consumer  
42 representatives, and such other interested persons as may be  
43 designated in the Bylaws;

44 24. To provide and receive information from, and to  
45 cooperate with law enforcement agencies;



- 1       25. *To adopt and use a corporate seal; and*  
2       26. *To perform such other functions as may be necessary or*  
3 *appropriate to achieve the purposes of this Compact consistent*  
4 *with the state regulation of the business of insurance.*

5  
6                   **Article V. Organization of the Commission**

7  
8           **1. Membership, Voting and Bylaws**

9           a. *Each Compacting State shall have and be limited to one*  
10 *Member. Each Member shall be qualified to serve in that capacity*  
11 *pursuant to applicable law of the Compacting State. Any Member*  
12 *may be removed or suspended from office as provided by the law*  
13 *of the State from which he or she shall be appointed. Any vacancy*  
14 *occurring in the Commission shall be filled in accordance with the*  
15 *laws of the Compacting State wherein the vacancy exists. Nothing*  
16 *herein shall be construed to affect the manner in which a*  
17 *Compacting State determines the election or appointment and*  
18 *qualification of its own Commissioner.*

19           b. *Each Member shall be entitled to one vote and shall have an*  
20 *opportunity to participate in the governance of the Commission in*  
21 *accordance with the Bylaws. Notwithstanding any provision*  
22 *herein to the contrary, no action of the Commission with respect to*  
23 *the promulgation of a Uniform Standard shall be effective unless*  
24 *two-thirds (2/3) of the Members vote in favor thereof.*

25           c. *The Commission shall, by a majority of the Members,*  
26 *prescribe Bylaws to govern its conduct as may be necessary or*  
27 *appropriate to carry out the purposes, and exercise the powers, of*  
28 *the Compact, including, but not limited to:*

29           i. *Establishing the fiscal year of the Commission;*

30           ii. *Providing reasonable procedures for appointing and*  
31 *electing members, as well as holding meetings, of the*  
32 *Management Committee;*

33           iii. *Providing reasonable standards and procedures: (i) for*  
34 *the establishment and meetings of other committees, and (ii)*  
35 *governing any general or specific delegation of any authority or*  
36 *function of the Commission;*

37           iv. *Providing reasonable procedures for calling and*  
38 *conducting meetings of the Commission that consists of a majority*  
39 *of Commission members, ensuring reasonable advance notice of*  
40 *each such meeting and providing for the right of citizens to attend*  
41 *each such meeting with enumerated exceptions designed to protect*  
42 *the public's interest, the privacy of individuals, and insurers'*  
43 *proprietary information, including trade secrets. The Commission*  
44 *may meet in camera only after a majority of the entire*  
45 *membership votes to close a meeting en toto or in part. As soon as*



1 *practicable, the Commission must make public (i) a copy of the*  
2 *vote to close the meeting revealing the vote of each Member with*  
3 *no proxy votes allowed, and (ii) votes taken during such meeting;*

4 *v. Establishing the titles, duties and authority and*  
5 *reasonable procedures for the election of the officers of the*  
6 *Commission;*

7 *vi. Providing reasonable standards and procedures for the*  
8 *establishment of the personnel policies and programs of the*  
9 *Commission. Notwithstanding any civil service or other similar*  
10 *laws of any Compacting State, the Bylaws shall exclusively govern*  
11 *the personnel policies and programs of the Commission;*

12 *vii. Promulgating a code of ethics to address permissible*  
13 *and prohibited activities of commission members and employees;*  
14 *and*

15 *viii. Providing a mechanism for winding up the operations*  
16 *of the Commission and the equitable disposition of any surplus*  
17 *funds that may exist after the termination of the Compact after the*  
18 *payment and/or reserving of all of its debts and obligations.*

19 *d. The Commission shall publish its bylaws in a convenient*  
20 *form and file a copy thereof and a copy of any amendment thereto,*  
21 *with the appropriate agency or officer in each of the Compacting*  
22 *States.*

23 *2. Management Committee, Officers and Personnel*

24 *a. A Management Committee comprising no more than*  
25 *fourteen (14) members shall be established as follows:*

26 *i. One (1) member from each of the six (6) Compacting*  
27 *States with the largest premium volume for individual and group*  
28 *annuities, life, disability income and long-term care insurance*  
29 *products, determined from the records of the NAIC for the prior*  
30 *year;*

31 *ii. Four (4) members from those Compacting States with at*  
32 *least two percent (2%) of the market based on the premium*  
33 *volume described above, other than the six (6) Compacting States*  
34 *with the largest premium volume, selected on a rotating basis as*  
35 *provided in the Bylaws; and*

36 *iii. Four (4) members from those Compacting States with*  
37 *less than two percent (2%) of the market, based on the premium*  
38 *volume described above, with one (1) selected from each of the*  
39 *four (4) zone regions of the NAIC as provided in the Bylaws.*

40 *b. The Management Committee shall have such authority and*  
41 *duties as may be set forth in the Bylaws, including but not limited*  
42 *to:*

43 *i. Managing the affairs of the Commission in a manner*  
44 *consistent with the Bylaws and purposes of the Commission;*





1           ii. *Establishing and overseeing an organizational structure*  
2 *within, and appropriate procedures for, the Commission to provide*  
3 *for the creation of Uniform Standards and other Rules, receipt*  
4 *and review of product filings, administrative and technical support*  
5 *functions, review of decisions regarding the disapproval of a*  
6 *product filing, and the review of elections made by a Compacting*  
7 *State to opt out of a Uniform Standard; provided that a Uniform*  
8 *Standard shall not be submitted to the Compacting States for*  
9 *adoption unless approved by two-thirds (2/3) of the members of the*  
10 *Management Committee;*

11           iii. *Overseeing the offices of the Commission; and*

12           iv. *Planning, implementing, and coordinating*  
13 *communications and activities with other state, federal and local*  
14 *government organizations in order to advance the goals of the*  
15 *Commission.*

16           c. *The Commission shall elect annually officers from the*  
17 *Management Committee, with each having such authority and*  
18 *duties, as may be specified in the Bylaws.*

19           d. *The Management Committee may, subject to the approval of*  
20 *the Commission, appoint or retain an executive director for such*  
21 *period, upon such terms and conditions and for such*  
22 *compensation as the Commission may deem appropriate. The*  
23 *executive director shall serve as secretary to the Commission, but*  
24 *shall not be a Member of the Commission. The executive director*  
25 *shall hire and supervise such other staff as may be authorized by*  
26 *the Commission.*

27           3. *Legislative and Advisory Committees*

28           a. *A legislative committee comprising state legislators or their*  
29 *designees shall be established to monitor the operations of, and*  
30 *make recommendations to, the Commission, including the*  
31 *Management Committee; provided that the manner of selection*  
32 *and term of any legislative committee member shall be as set forth*  
33 *in the Bylaws. Prior to the adoption by the Commission of any*  
34 *Uniform Standard, revision to the Bylaws, annual budget or other*  
35 *significant matter as may be provided in the Bylaws, the*  
36 *Management Committee shall consult with and report to the*  
37 *legislative committee.*

38           b. *The Commission shall establish two (2) advisory*  
39 *committees, one of which shall comprise consumer representatives*  
40 *independent of the insurance industry, and the other comprising*  
41 *insurance industry representatives.*

42           c. *The Commission may establish additional advisory*  
43 *committees as its Bylaws may provide for the carrying out of its*  
44 *functions.*



1        **4. Corporate Records of the Commission**

2        *The Commission shall maintain its corporate books and*  
3 *records in accordance with the Bylaws.*

4        **5. Qualified Immunity, Defense and Indemnification**

5        *a. The Members, officers, executive director, employees and*  
6 *representatives of the Commission shall be immune from suit and*  
7 *liability, either personally or in their official capacity, for any*  
8 *claim for damage to or loss of property or personal injury or other*  
9 *civil liability caused by or arising out of any actual or alleged act,*  
10 *error or omission that occurred, or that the person against whom*  
11 *the claim is made had a reasonable basis for believing occurred*  
12 *within the scope of Commission employment, duties or*  
13 *responsibilities; provided, that nothing in this paragraph shall be*  
14 *construed to protect any such person from suit and/or liability for*  
15 *any damage, loss, injury or liability caused by the intentional or*  
16 *willful and wanton misconduct of that person.*

17        *b. The Commission shall defend any Member, officer,*  
18 *executive director, employee or representative of the Commission*  
19 *in any civil action seeking to impose liability arising out of any*  
20 *actual or alleged act, error or omission that occurred within the*  
21 *scope of Commission employment, duties or responsibilities, or*  
22 *that the person against whom the claim is made had a reasonable*  
23 *basis for believing occurred within the scope of Commission*  
24 *employment, duties or responsibilities; provided, that nothing*  
25 *herein shall be construed to prohibit that person from retaining*  
26 *his or her own counsel; and provided further, that the actual or*  
27 *alleged act, error or omission did not result from that person's*  
28 *intentional or willful and wanton misconduct.*

29        *c. The Commission shall indemnify and hold harmless any*  
30 *Member, officer, executive director, employee or representative of*  
31 *the Commission for the amount of any settlement or judgment*  
32 *obtained against that person arising out of any actual or alleged*  
33 *act, error or omission that occurred within the scope of*  
34 *Commission employment, duties or responsibilities, or that such*  
35 *person had a reasonable basis for believing occurred within the*  
36 *scope of Commission employment, duties or responsibilities,*  
37 *provided, that the actual or alleged act, error or omission did not*  
38 *result from the intentional or willful and wanton misconduct of*  
39 *that person.*

40  
41                    **Article VI. Meetings and Acts of the Commission**

42  
43        **1. The Commission shall meet and take such actions as are**  
44 *consistent with the provisions of this Compact and the Bylaws.*



1       2. *Each Member of the Commission shall have the right and*  
2 *power to cast a vote to which that Compacting State is entitled and*  
3 *to participate in the business and affairs of the Commission. A*  
4 *Member shall vote in person or by such other means as provided*  
5 *in the Bylaws. The Bylaws may provide for Members’*  
6 *participation in meetings by telephone or other means of*  
7 *communication.*

8       3. *The Commission shall meet at least once during each*  
9 *calendar year. Additional meetings shall be held as set forth in the*  
10 *Bylaws.*

11  
12                   **Article VII. Rules and Operating Procedures:**  
13                   **Rulemaking Functions of the Commission**  
14                   **and Opting Out of Uniform Standards**

15  
16       1. *Rulemaking Authority. The Commission shall promulgate*  
17 *reasonable Rules, including Uniform Standards, and Operating*  
18 *Procedures in order to effectively and efficiently achieve the*  
19 *purposes of this Compact. Notwithstanding the foregoing, in the*  
20 *event the Commission exercises its rulemaking authority in a*  
21 *manner that is beyond the scope of the purposes of this Act, or the*  
22 *powers granted hereunder, then such an action by the*  
23 *Commission shall be invalid and have no force and effect.*

24       2. *Rulemaking Procedure. Rules and Operating Procedures*  
25 *shall be made pursuant to a rulemaking process that conforms to*  
26 *the Model State Administrative Procedure Act of 1981 as*  
27 *amended, as may be appropriate to the operations of the*  
28 *Commission. Before the Commission adopts a Uniform Standard,*  
29 *the Commission shall give written notice to the relevant state*  
30 *legislative committee(s) in each Compacting State responsible for*  
31 *insurance issues of its intention to adopt the Uniform Standard.*  
32 *The Commission in adopting a Uniform Standard shall consider*  
33 *fully all submitted materials and issue a concise explanation of its*  
34 *decision.*

35       3. *Effective Date and Opt Out of a Uniform Standard. A*  
36 *Uniform Standard shall become effective ninety (90) days after its*  
37 *promulgation by the Commission or such later date as the*  
38 *Commission may determine; provided, however, that a*  
39 *Compacting State may opt out of a Uniform Standard as provided*  
40 *in this Article. “Opt out” shall be defined as any action by a*  
41 *Compacting State to decline to adopt or participate in a*  
42 *promulgated Uniform Standard. All other Rules and Operating*  
43 *Procedures, and amendments thereto, shall become effective as of*  
44 *the date specified in each Rule, Operating Procedure or*  
45 *amendment.*



1        **4. Opt Out Procedure.** *A Compacting State may opt out of a*  
2 *Uniform Standard, either by legislation or regulation duly*  
3 *promulgated by the Insurance Department under the Compacting*  
4 *State's Administrative Procedure Act. If a Compacting State elects*  
5 *to opt out of a Uniform Standard by regulation, it must (a) give*  
6 *written notice to the Commission no later than ten (10) business*  
7 *days after the Uniform Standard is promulgated, or at the time the*  
8 *State becomes a Compacting State and (b) find that the Uniform*  
9 *Standard does not provide reasonable protections to the citizens of*  
10 *the State, given the conditions in the State. The Commissioner*  
11 *shall make specific findings of fact and conclusions of law, based*  
12 *on a preponderance of the evidence, detailing the conditions in the*  
13 *State which warrant a departure from the Uniform Standard and*  
14 *determining that the Uniform Standard would not reasonably*  
15 *protect the citizens of the State. The Commissioner must consider*  
16 *and balance the following factors and find that the conditions in*  
17 *the State and needs of the citizens of the State outweigh: (i) the*  
18 *intent of the legislature to participate in, and the benefits of, an*  
19 *interstate agreement to establish national uniform consumer*  
20 *protections for the Products subject to this Act; and (ii) the*  
21 *presumption that a Uniform Standard adopted by the Commission*  
22 *provides reasonable protections to consumers of the relevant*  
23 *Product.*

24 *Notwithstanding the foregoing, a Compacting State may, at the*  
25 *time of its enactment of this Compact, prospectively opt out of all*  
26 *Uniform Standards involving long-term care insurance products*  
27 *by expressly providing for such opt out in the enacted Compact,*  
28 *and such an opt out shall not be treated as a material variance in*  
29 *the offer or acceptance of any State to participate in this Compact.*  
30 *Such an opt out shall be effective at the time of enactment of this*  
31 *Compact by the Compacting State and shall apply to all existing*  
32 *Uniform Standards involving long-term care insurance products*  
33 *and those subsequently promulgated.*

34        **5. Effect of Opt Out.** *If a Compacting State elects to opt out of*  
35 *a Uniform Standard, the Uniform Standard shall remain*  
36 *applicable in the Compacting State electing to opt out until such*  
37 *time the opt out legislation is enacted into law or the regulation*  
38 *opting out becomes effective.*

39 *Once the opt out of a Uniform Standard by a Compacting State*  
40 *becomes effective as provided under the laws of that State, the*  
41 *Uniform Standard shall have no further force and effect in that*  
42 *State unless and until the legislation or regulation implementing*  
43 *the opt out is repealed or otherwise becomes ineffective under the*  
44 *laws of the State. If a Compacting State opts out of a Uniform*  
45 *Standard after the Uniform Standard has been made effective in*



1 *that State, the opt out shall have the same prospective effect as*  
2 *provided under Article XIV for withdrawals.*

3 *6. Stay of Uniform Standard. If a Compacting State has*  
4 *formally initiated the process of opting out of a Uniform Standard*  
5 *by regulation, and while the regulatory opt out is pending, the*  
6 *Compacting State may petition the Commission, at least fifteen*  
7 *(15) days before the effective date of the Uniform Standard, to stay*  
8 *the effectiveness of the Uniform Standard in that State. The*  
9 *Commission may grant a stay if it determines the regulatory opt*  
10 *out is being pursued in a reasonable manner and there is a*  
11 *likelihood of success. If a stay is granted or extended by the*  
12 *Commission, the stay or extension thereof may postpone the*  
13 *effective date by up to ninety (90) days, unless affirmatively*  
14 *extended by the Commission; provided, a stay may not be*  
15 *permitted to remain in effect for more than one (1) year unless the*  
16 *Compacting State can show extraordinary circumstances which*  
17 *warrant a continuance of the stay, including, but not limited to,*  
18 *the existence of a legal challenge which prevents the Compacting*  
19 *State from opting out. A stay may be terminated by the*  
20 *Commission upon notice that the rulemaking process has been*  
21 *terminated.*

22 *7. Not later than thirty (30) days after a Rule or Operating*  
23 *Procedure is promulgated, any person may file a petition for*  
24 *judicial review of the Rule or Operating Procedure; provided, that*  
25 *the filing of such a petition shall not stay or otherwise prevent the*  
26 *Rule or Operating Procedure from becoming effective unless the*  
27 *court finds that the petitioner has a substantial likelihood of*  
28 *success. The court shall give deference to the actions of the*  
29 *Commission consistent with applicable law and shall not find the*  
30 *Rule or Operating Procedure to be unlawful if the Rule or*  
31 *Operating Procedure represents a reasonable exercise of the*  
32 *Commission's authority.*

33  
34 *Article VIII. Commission Records and Enforcement*  
35

36 *1. The Commission shall promulgate Rules establishing*  
37 *conditions and procedures for public inspection and copying of its*  
38 *information and official records, except such information and*  
39 *records involving the privacy of individuals and insurers' trade*  
40 *secrets. The Commission may promulgate additional Rules under*  
41 *which it may make available to federal and state agencies,*  
42 *including law enforcement agencies, records and information*  
43 *otherwise exempt from disclosure, and may enter into agreements*  
44 *with such agencies to receive or exchange information or records*  
45 *subject to nondisclosure and confidentiality provisions.*



1       2. *Except as to privileged records, data and information, the*  
2 *laws of any Compacting State pertaining to confidentiality or*  
3 *nondisclosure shall not relieve any Compacting State*  
4 *Commissioner of the duty to disclose any relevant records, data or*  
5 *information to the Commission; provided, that disclosure to the*  
6 *Commission shall not be deemed to waive or otherwise affect any*  
7 *confidentiality requirement; and further provided, that, except as*  
8 *otherwise expressly provided in this Act, the Commission shall not*  
9 *be subject to the Compacting State's laws pertaining to*  
10 *confidentiality and nondisclosure with respect to records, data and*  
11 *information in its possession. Confidential information of the*  
12 *Commission shall remain confidential after such information is*  
13 *provided to any Commissioner.*

14       3. *The Commission shall monitor Compacting States for*  
15 *compliance with duly adopted Bylaws, Rules, including Uniform*  
16 *Standards, and Operating Procedures. The Commission shall*  
17 *notify any non-complying Compacting State in writing of its*  
18 *noncompliance with Commission Bylaws, Rules or Operating*  
19 *Procedures. If a non-complying Compacting State fails to remedy*  
20 *its noncompliance within the time specified in the notice of*  
21 *noncompliance, the Compacting State shall be deemed to be in*  
22 *default as set forth in Article XIV.*

23       4. *The Commissioner of any State in which an Insurer is*  
24 *authorized to do business, or is conducting the business of*  
25 *insurance, shall continue to exercise his or her authority to*  
26 *oversee the market regulation of the activities of the Insurer in*  
27 *accordance with the provisions of the State's law. The*  
28 *Commissioner's enforcement of compliance with the Compact is*  
29 *governed by the following provisions:*

30       a. *With respect to the Commissioner's market regulation of a*  
31 *Product or Advertisement that is approved or certified to the*  
32 *Commission, the content of the Product or Advertisement shall not*  
33 *constitute a violation of the provisions, standards or requirements*  
34 *of the Compact except upon a final order of the Commission,*  
35 *issued at the request of a Commissioner after prior notice to the*  
36 *Insurer and an opportunity for hearing before the Commission.*

37       b. *Before a Commissioner may bring an action for violation of*  
38 *any provision, standard or requirement of the Compact relating to*  
39 *the content of an Advertisement not approved or certified to the*  
40 *Commission, the Commission, or an authorized Commission*  
41 *officer or employee, must authorize the action. However,*  
42 *authorization pursuant to this paragraph does not require notice*  
43 *to the Insurer, opportunity for hearing or disclosure of requests*  
44 *for authorization or records of the Commission's action on such*  
45 *requests.*



1 *Article IX. Dispute Resolution*

2  
3 *The Commission shall attempt, upon the request of a Member, to*  
4 *resolve any disputes or other issues that are subject to this*  
5 *Compact and which may arise between two or more Compacting*  
6 *States, or between Compacting States and Non-compacting States,*  
7 *and the Commission shall promulgate an Operating Procedure*  
8 *providing for resolution of such disputes.*  
9

10 *Article X. Product Filing and Approval*

11  
12 *1. Insurers and Third-Party Filers seeking to have a Product*  
13 *approved by the Commission shall file the Product with, and pay*  
14 *applicable filing fees to, the Commission. Nothing in this Act shall*  
15 *be construed to restrict or otherwise prevent an insurer from filing*  
16 *its Product with the insurance department in any State wherein*  
17 *the insurer is licensed to conduct the business of insurance, and*  
18 *such filing shall be subject to the laws of the States where filed.*

19 *2. The Commission shall establish appropriate filing and*  
20 *review processes and procedures pursuant to Commission Rules*  
21 *and Operating Procedures. Notwithstanding any provision herein*  
22 *to the contrary, the Commission shall promulgate Rules to*  
23 *establish conditions and procedures under which the Commission*  
24 *will provide public access to Product filing information. In*  
25 *establishing such Rules, the Commission shall consider the*  
26 *interests of the public in having access to such information, as*  
27 *well as protection of personal medical and financial information*  
28 *and trade secrets, that may be contained in a Product filing or*  
29 *supporting information.*

30 *3. Any Product approved by the Commission may be sold or*  
31 *otherwise issued in those Compacting States for which the Insurer*  
32 *is legally authorized to do business.*

33  
34 *Article XI. Review of Commission*  
35 *Decisions Regarding Filings*  
36

37 *1. Not later than thirty (30) days after the Commission has*  
38 *given notice of a disapproved Product or Advertisement filed with*  
39 *the Commission, the Insurer or Third Party Filer whose filing was*  
40 *disapproved may appeal the determination to a review panel*  
41 *appointed by the Commission. The Commission shall promulgate*  
42 *Rules to establish procedures for appointing such review panels*  
43 *and provide for notice and hearing. An allegation that the*  
44 *Commission, in disapproving a Product or Advertisement filed*  
45 *with the Commission, acted arbitrarily, capriciously, or in a*



1 *manner that is an abuse of discretion or otherwise not in*  
2 *accordance with the law, is subject to judicial review in*  
3 *accordance with Article III, Section 4.*

4 *2. The Commission shall have authority to monitor, review*  
5 *and reconsider Products and Advertisement subsequent to their*  
6 *filing or approval upon a finding that the product does not meet*  
7 *the relevant Uniform Standard. Where appropriate, the*  
8 *Commission may withdraw or modify its approval after proper*  
9 *notice and hearing, subject to the appeal process in Section 1*  
10 *above.*

11  
12 *Article XII. Finance*  
13

14 *1. The Commission shall pay or provide for the payment of*  
15 *the reasonable expenses of its establishment and organization. To*  
16 *fund the cost of its initial operations, the Commission may accept*  
17 *contributions and other forms of funding from the National*  
18 *Association of Insurance Commissioners, Compacting States and*  
19 *other sources. Contributions and other forms of funding from*  
20 *other sources shall be of such a nature that the independence of*  
21 *the Commission concerning the performance of its duties shall not*  
22 *be compromised.*

23 *2. The Commission shall collect a filing fee from each*  
24 *Insurer and Third Party Filer filing a product with the*  
25 *Commission to cover the cost of the operations and activities of*  
26 *the Commission and its staff in a total amount sufficient to cover*  
27 *the Commission's annual budget.*

28 *3. The Commission's budget for a fiscal year shall not be*  
29 *approved until it has been subject to notice and comment as set*  
30 *forth in Article VII of this Compact.*

31 *4. The Commission shall be exempt from all taxation in and*  
32 *by the Compacting States.*

33 *5. The Commission shall not pledge the credit of any*  
34 *Compacting State, except by and with the appropriate legal*  
35 *authority of that Compacting State.*

36 *6. The Commission shall keep complete and accurate*  
37 *accounts of all its internal receipts, including grants and*  
38 *donations, and disbursements of all funds under its control. The*  
39 *internal financial accounts of the Commission shall be subject to*  
40 *the accounting procedures established under its Bylaws. The*  
41 *financial accounts and reports including the system of internal*  
42 *controls and procedures of the Commission shall be audited*  
43 *annually by an independent certified public accountant. Upon the*  
44 *determination of the Commission, but no less frequently than*  
45 *every three (3) years, the review of the independent auditor shall*





1 *include a management and performance audit of the Commission.*  
2 *The Commission shall make an Annual Report to the Governor*  
3 *and legislature of the Compacting States, which shall include a*  
4 *report of the independent audit. The Commission's internal*  
5 *accounts shall not be confidential and such materials may be*  
6 *shared with the Commissioner of any Compacting State upon*  
7 *request provided, however, that any work papers related to any*  
8 *internal or independent audit and any information regarding the*  
9 *privacy of individuals and insurers' proprietary information,*  
10 *including trade secrets, shall remain confidential.*

11 *7. No Compacting State shall have any claim to or ownership*  
12 *of any property held by or vested in the Commission or to any*  
13 *Commission funds held pursuant to the provisions of this*  
14 *Compact.*

15  
16 *Article XIII. Compacting States, Effective*  
17 *Date and Amendment*  
18

19 *1. Any State is eligible to become a Compacting State.*

20 *2. The Compact shall become effective and binding upon*  
21 *legislative enactment of the Compact into law by two Compacting*  
22 *States; provided, the Commission shall become effective for*  
23 *purposes of adopting Uniform Standards for, reviewing, and*  
24 *giving approval or disapproval of, Products filed with the*  
25 *Commission that satisfy applicable Uniform Standards only after*  
26 *twenty-six (26) States are Compacting States or, alternatively, by*  
27 *States representing greater than forty percent (40%) of the*  
28 *premium volume for life insurance, annuity, disability income and*  
29 *long-term care insurance products, based on records of the NAIC*  
30 *for the prior year. Thereafter, it shall become effective and*  
31 *binding as to any other Compacting State upon enactment of the*  
32 *Compact into law by that State.*

33 *3. Amendments to the Compact may be proposed by the*  
34 *Commission for enactment by the Compacting States. No*  
35 *amendment shall become effective and binding upon the*  
36 *Commission and the Compacting States unless and until all*  
37 *Compacting States enact the amendment into law.*  
38

39 *Article XIV. Withdrawal, Default and Termination*  
40

41 *1. Withdrawal*

42 *a. Once effective, the Compact shall continue in force and*  
43 *remain binding upon each and every Compacting State; provided,*  
44 *that a Compacting State may withdraw from the Compact*



1 (“Withdrawing State”) by enacting a statute specifically repealing  
2 the statute which enacted the Compact into law.

3 b. The effective date of withdrawal is the effective date of the  
4 repealing statute. However, the withdrawal shall not apply to any  
5 product filings approved or self-certified, or any Advertisement of  
6 such products, on the date the repealing statute becomes effective,  
7 except by mutual agreement of the Commission and the  
8 Withdrawing State unless the approval is rescinded by the  
9 Withdrawing State as provided in Paragraph e of this section.

10 c. The Commissioner of the Withdrawing State shall  
11 immediately notify the Management Committee in writing upon  
12 the introduction of legislation repealing this Compact in the  
13 Withdrawing State.

14 d. The Commission shall notify the other Compacting States of  
15 the introduction of such legislation within ten (10) days after its  
16 receipt of notice thereof.

17 e. The Withdrawing State is responsible for all obligations,  
18 duties and liabilities incurred through the effective date of  
19 withdrawal, including any obligations, the performance of which  
20 extend beyond the effective date of withdrawal, except to the extent  
21 those obligations may have been released or relinquished by  
22 mutual agreement of the Commission and the Withdrawing State.  
23 The Commission’s approval of Products and Advertisement prior  
24 to the effective date of withdrawal shall continue to be effective  
25 and be given full force and effect in the Withdrawing State, unless  
26 formally rescinded by the Withdrawing State in the same manner  
27 as provided by the laws of the Withdrawing State for the  
28 prospective disapproval of products or advertisement previously  
29 approved under state law.

30 f. Reinstatement following withdrawal of any Compacting  
31 State shall occur upon the effective date of the Withdrawing State  
32 reenacting the Compact.

## 33 2. Default

34 a. If the Commission determines that any Compacting State  
35 has at any time defaulted (“Defaulting State”) in the performance  
36 of any of its obligations or responsibilities under this Compact, the  
37 Bylaws or duly promulgated Rules or Operating Procedures, then,  
38 after notice and hearing as set forth in the Bylaws, all rights,  
39 privileges and benefits conferred by this Compact on the  
40 Defaulting State shall be suspended from the effective date of  
41 default as fixed by the Commission. The grounds for default  
42 include, but are not limited to, failure of a Compacting State to  
43 perform its obligations or responsibilities, and any other grounds  
44 designated in Commission Rules. The Commission shall  
45 immediately notify the Defaulting State in writing of the



1 *Defaulting State's suspension pending a cure of the default. The*  
2 *Commission shall stipulate the conditions and the time period*  
3 *within which the Defaulting State must cure its default. If the*  
4 *Defaulting State fails to cure the default within the time period*  
5 *specified by the Commission, the Defaulting State shall be*  
6 *terminated from the Compact and all rights, privileges and*  
7 *benefits conferred by this Compact shall be terminated from the*  
8 *effective date of termination.*

9 *b. Product approvals by the Commission or product self-*  
10 *certifications, or any Advertisement in connection with such*  
11 *product, that are in force on the effective date of termination shall*  
12 *remain in force in the Defaulting State in the same manner as if*  
13 *the Defaulting State had withdrawn voluntarily pursuant to*  
14 *Section 1 of this article.*

15 *c. Reinstatement following termination of any Compacting*  
16 *State requires a reenactment of the Compact.*

17 **3. Dissolution of Compact**

18 *a. The Compact dissolves effective upon the date of the*  
19 *withdrawal or default of the Compacting State which reduces*  
20 *membership in the Compact to one Compacting State.*

21 *b. Upon the dissolution of this Compact, the Compact becomes*  
22 *null and void and shall be of no further force or effect, and the*  
23 *business and affairs of the Commission shall be wound up and*  
24 *any surplus funds shall be distributed in accordance with the*  
25 *Bylaws.*

26  
27 **Article XV. Severability and Construction**  
28

29 *1. The provisions of this Compact shall be severable; and if*  
30 *any phrase, clause, sentence or provision is deemed*  
31 *unenforceable, the remaining provisions of the Compact shall be*  
32 *enforceable.*

33 *2. The provisions of this Compact shall be liberally construed*  
34 *to effectuate its purposes.*

35  
36 **Article XVI. Binding Effect of**  
37 **Compact and Other Laws**  
38

39 **1. Other Laws**

40 *a. Nothing herein prevents the enforcement of any other law*  
41 *of a Compacting State, except as provided in Paragraph b of this*  
42 *section.*

43 *b. For any Product approved or certified to the Commission,*  
44 *the Rules, Uniform Standards and any other requirements of the*  
45 *Commission shall constitute the exclusive provisions applicable to*



1 *the content, approval and certification of such Products. For*  
2 *Advertisement that is subject to the Commission's authority, any*  
3 *Rule, Uniform Standard or other requirement of the Commission*  
4 *which governs the content of the Advertisement shall constitute*  
5 *the exclusive provision that a Commissioner may apply to the*  
6 *content of the Advertisement. Notwithstanding the foregoing, no*  
7 *action taken by the Commission shall abrogate or restrict: (i) the*  
8 *access of any person to state courts; (ii) remedies available under*  
9 *state law related to breach of contract, tort, or other laws not*  
10 *specifically directed to the content of the Product; (iii) state law*  
11 *relating to the construction of insurance contracts; or (iv) the*  
12 *authority of the attorney general of the state, including but not*  
13 *limited to maintaining any actions or proceedings, as authorized*  
14 *by law.*

15 *c. All insurance products filed with individual States shall be*  
16 *subject to the laws of those States.*

17 **2. Binding Effect of this Compact**

18 *a. All lawful actions of the Commission, including all Rules*  
19 *and Operating Procedures promulgated by the Commission, are*  
20 *binding upon the Compacting States.*

21 *b. All agreements between the Commission and the*  
22 *Compacting States are binding in accordance with their terms.*

23 *c. Upon the request of a party to a conflict over the meaning or*  
24 *interpretation of Commission actions, and upon a majority vote of*  
25 *the Compacting States, the Commission may issue advisory*  
26 *opinions regarding the meaning or interpretation in dispute.*

27 *d. In the event any provision of this Compact exceeds the*  
28 *constitutional limits imposed on the legislature of any Compacting*  
29 *State, the obligations, duties, powers or jurisdiction sought to be*  
30 *conferred by that provision upon the Commission shall be*  
31 *ineffective as to that Compacting State, and those obligations,*  
32 *duties, powers or jurisdiction shall remain in the Compacting*  
33 *State and shall be exercised by the agency thereof to which those*  
34 *obligations, duties, powers or jurisdiction are delegated by law in*  
35 *effect at the time this Compact becomes effective.*

36 **Sec. 3.** *The Commissioner of Insurance is hereby designated*  
37 *to serve as the representative of this State to the Interstate*  
38 *Insurance Product Regulation Commission.*

39 **Sec. 4. 1.** *It is the policy of this State to opt out of and the*  
40 *Commissioner of Insurance shall by regulation opt out of any*  
41 *uniform standard adopted by the Interstate Insurance Product*  
42 *Regulation Commission which provides less protection than a law*  
43 *of this State or otherwise diminishes the rights of policyholders*  
44 *and persons applying for a policy of insurance in this State.*



1       2. *Upon determining, or upon becoming aware of a finding of*  
2 *a court of competent jurisdiction which found, that this State must*  
3 *opt out of a uniform standard pursuant to subsection 1, the*  
4 *Commissioner shall provide to the Director of the Legislative*  
5 *Counsel Bureau for transmittal to the next regular session of the*  
6 *Legislature notice of such determination or finding.*

7       3. *This State prospectively opts out of all uniform standards*  
8 *adopted by the Interstate Insurance Product Regulation*  
9 *Commission involving long-term care insurance products.*

10       **Sec. 5.** The Commissioner of Insurance shall monitor the  
11 progress of the uniform standards adopted by the Interstate  
12 Insurance Product Regulation Commission involving long-term care  
13 insurance products and shall, on or before January 31, 2013, provide  
14 to the Director of the Legislative Counsel Bureau for transmittal to  
15 the 77th Session of the Nevada Legislature:

16       1. A written report regarding the progress of those uniform  
17 standards; and

18       2. Any recommendations concerning the adoption of those  
19 uniform standards, including, without limitation, the possible repeal  
20 of subsection 3 of section 4 of this act.

