

HOUSE BILL NO. 439

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE COGHILL

Introduced: 2/10/06

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to authorizing the state to join with other states entering into the
2 Interstate Insurance Product Regulation Compact and authorizing the compact to
3 supersede existing statutes by approving standards, rules, or other action under the
4 terms of the compact."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 21.42 is amended by adding a new section to read:

7 **Article 2. Compact Concerning Annuity, Life, Disability, and Long-term Care**
8 **Insurance.**

9 **Sec. 21.42.700. Interstate Insurance Product Regulation Compact.** The
10 Interstate Insurance Product Regulation Compact contained in this section is enacted
11 into law and entered into on behalf of the state with other states joining in it in a form
12 substantially as set out in this section. The director of the division of insurance is
13 designated as the representative of this state to the commission created by the
14 compact.

1 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

2 ARTICLE I. PURPOSES

3 The purposes of this Compact are, through means of joint and cooperative
4 action among the Compacting States:

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

7 (2) To develop uniform standards for insurance products covered
8 under the Compact;

9 (3) To establish a central clearinghouse to receive and provide prompt
10 review of insurance products covered under the Compact and, in certain cases,
11 advertisements related thereto, submitted by insurers authorized to do business in one
12 or more Compacting States;

13 (4) To give appropriate regulatory approval to those product filings
14 and advertisements satisfying the applicable uniform standard;

15 (5) To improve coordination of regulatory resources and expertise
16 between state insurance departments regarding the setting of uniform standards and
17 review of insurance products covered under the Compact;

18 (6) To create the Interstate Insurance Product Regulation Commission;
19 and

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

22 ARTICLE II. DEFINITIONS

23 For purposes of this Compact:

24 (1) "Advertisement" means any material designed to create public
25 interest in a Product, or induce the public to purchase, increase, modify, reinstate,
26 borrow on, surrender, replace or retain a policy, as more specifically defined in the
27 Rules and Operating Procedures of the Commission.

28 (2) "Bylaws" mean those bylaws established by the Commission for its
29 governance, or for directing or controlling the Commission's actions or conduct.

30 (3) "Compacting State" means any State which has enacted this
31 Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1,

1 or been terminated pursuant to Article XIV, Section 2.

2 (4) "Commission" means the "Interstate Insurance Product Regulation
3 Commission" established by this Compact.

4 (5) "Commissioner" means the chief insurance regulatory official of a
5 State including, but not limited to commissioner, superintendent, director or
6 administrator.

7 (6) "Domiciliary State" means the state in which an Insurer is
8 incorporated or organized; or, in the case of an alien Insurer, its state of entry.

9 (7) "Insurer" means any entity licensed by a State to issue contracts of
10 insurance for any of the lines of insurance covered by this Act.

11 (8) "Member" means the person chosen by a Compacting State as its
12 representative to the Commission, or his or her designee.

13 (9) "Non-compacting State" means any State which is not at the time a
14 Compacting State.

15 (10) "Operating Procedures" mean procedures promulgated by the
16 Commission implementing a Rule, Uniform Standard or a provision of this Compact.

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

22 (12) "Rule" means a statement of general or particular applicability
23 and future effect promulgated by the Commission, including a Uniform Standard
24 developed pursuant to Article VII of this Compact, designed to implement, interpret,
25 or prescribe law or policy or describing the organization, procedure, or practice
26 requirements of the Commission, which shall have the force and effect of law in the
27 Compacting States.

28 (13) "State" means any state, district or territory of the United States of
29 America.

30 (14) "Third-Party Filer" means an entity that submits a Product filing
31 to the Commission on behalf of an Insurer.

1 (15) "Uniform Standard" means a standard adopted by the
 2 Commission for a Product line, pursuant to Article VII of this Compact, and shall
 3 include all of the Product requirements in aggregate; provided, that each Uniform
 4 Standard shall be construed, whether express or implied, to prohibit the use of any
 5 inconsistent, misleading or ambiguous provisions in a Product and the form of the
 6 Product made available to the public shall not be unfair, inequitable or against public
 7 policy as determined by the Commission.

8 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

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

18 (2) The Commission is a body corporate and politic, and an
 19 instrumentality of the Compacting States.

20 (3) The Commission is solely responsible for its liabilities except as
 21 otherwise specifically provided in this Compact.

22 (4) Venue is proper and judicial proceedings by or against the
 23 Commission shall be brought solely and exclusively in a Court of competent
 24 jurisdiction where the principal office of the Commission is located.

25 ARTICLE IV. POWERS OF THE COMMISSION

26 The Commission shall have the following powers:

27 (1) To promulgate Rules, pursuant to Article VII of this Compact,
 28 which shall have the force and effect of law and shall be binding in the Compacting
 29 States to the extent and in the manner provided in this Compact;

30 (2) To exercise its rule-making authority and establish reasonable
 31 Uniform Standards for Products covered under the Compact, and Advertisement

1 related thereto, which shall have the force and effect of law and shall be binding in the
2 Compacting States, but only for those Products filed with the Commission, provided,
3 that a Compacting State shall have the right to opt out of such Uniform Standard
4 pursuant to Article VII, to the extent and in the manner provided in this Compact, and,
5 provided further, that any Uniform Standard established by the Commission for long-
6 term care insurance products may provide the same or greater protections for
7 consumers as, but shall not provide less than, those protections set forth in the
8 National Association of Insurance Commissioners' Long-Term Care Insurance Model
9 Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of
10 2001. The Commission shall consider whether any subsequent amendments to the
11 NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model
12 Regulation adopted by the NAIC require amending of the Uniform Standards
13 established by the Commission for long-term care insurance products;

14 (3) To receive and review in an expeditious manner Products filed with
15 the Commission, and rate filings for disability income and long-term care insurance
16 Products, and give approval of those Products and rate filings that satisfy the
17 applicable Uniform Standard, where such approval shall have the force and effect of
18 law and be binding on the Compacting States to the extent and in the manner provided
19 in the Compact;

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

31 (5) To exercise its rule-making authority and designate Products and

1 Advertisement that may be subject to a self-certification process without the need for
2 prior approval by the Commission.

3 (6) To promulgate Operating Procedures, pursuant to Article VII of
4 this Compact, which shall be binding in the Compacting States to the extent and in the
5 manner provided in this Compact;

6 (7) To bring and prosecute legal proceedings or actions in its name as
7 the Commission; provided, that the standing of any state insurance department to sue
8 or be sued under applicable law shall not be affected;

9 (8) To issue subpoenas requiring the attendance and testimony of
10 witnesses and the production of evidence;

11 (9) To establish and maintain offices;

12 (10) To purchase and maintain insurance and bonds;

13 (11) To borrow, accept or contract for services of personnel, including,
14 but not limited to, employees of a Compacting State;

15 (12) To hire employees, professionals or specialists, and elect or
16 appoint officers, and to fix their compensation, define their duties and give them
17 appropriate authority to carry out the purposes of the Compact, and determine their
18 qualifications; and to establish the Commission's personnel policies and programs
19 relating to, among other things, conflicts of interest, rates of compensation and
20 qualifications of personnel;

21 (13) To accept any and all appropriate donations and grants of money,
22 equipment, supplies, materials and services, and to receive, utilize and dispose of the
23 same; provided that at all times the Commission shall strive to avoid any appearance
24 of impropriety;

25 (14) To lease, purchase, accept appropriate gifts or donations of, or
26 otherwise to own, hold, improve or use, any property, real, personal or mixed;
27 provided that at all times the Commission shall strive to avoid any appearance of
28 impropriety;

29 (15) To sell, convey, mortgage, pledge, lease, exchange, abandon or
30 otherwise dispose of any property, real, personal or mixed;

31 (16) To remit filing fees to Compacting States as may be set forth in

1 the Bylaws, Rules or Operating Procedures;

2 (17) To enforce compliance by Compacting States with Rules,
3 Uniform Standards, Operating Procedures and Bylaws;

4 (18) To provide for dispute resolution among Compacting States;

5 (19) To advise Compacting States on issues relating to Insurers
6 domiciled or doing business in Non-compacting jurisdictions, consistent with the
7 purposes of this Compact;

8 (20) To provide advice and training to those personnel in state
9 insurance departments responsible for product review, and to be a resource for state
10 insurance departments;

11 (21) To establish a budget and make expenditures;

12 (22) To borrow money;

13 (23) To appoint committees, including advisory committees
14 comprising Members, state insurance regulators, state legislators or their
15 representatives, insurance industry and consumer representatives, and such other
16 interested persons as may be designated in the Bylaws;

17 (24) To provide and receive information from, and to cooperate with
18 law enforcement agencies;

19 (25) To adopt and use a corporate seal; and

20 (26) To perform such other functions as may be necessary or
21 appropriate to achieve the purposes of this Compact consistent with the state
22 regulation of the business of insurance.

23 ARTICLE V. ORGANIZATION OF THE COMMISSION

24 (1) Membership, Voting and Bylaws

25 (a) Each Compacting State shall have and be limited to one
26 Member. Each Member shall be qualified to serve in that capacity pursuant to
27 applicable law of the Compacting State. Any Member may be removed or
28 suspended from office as provided by the law of the State from which he or she
29 shall be appointed. Any vacancy occurring in the Commission shall be filled in
30 accordance with the laws of the Compacting State wherein the vacancy exists.
31 Nothing herein shall be construed to affect the manner in which a Compacting

1 State determines the election or appointment and qualification of its own
2 Commissioner.

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

9 (c) The Commission shall, by a majority of the Members,
10 prescribe Bylaws to govern its conduct as may be necessary or appropriate to
11 carry out the purposes, and exercise the powers, of the Compact, including, but
12 not limited to:

13 (i) Establishing the fiscal year of the Commission;

14 (ii) Providing reasonable procedures for appointing and
15 electing members, as well as holding meetings, of the Management
16 Committee;

17 (iii) Providing reasonable standards and procedures: (i)
18 for the establishment and meetings of other committees, and (ii)
19 governing any general or specific delegation of any authority or
20 function of the Commission;

21 (iv) Providing reasonable procedures for calling and
22 conducting meetings of the Commission that consists of a majority of
23 Commission members, ensuring reasonable advance notice of each
24 such meeting and providing for the right of citizens to attend each such
25 meeting with enumerated exceptions designed to protect the public's
26 interest, the privacy of individuals, and insurers' proprietary
27 information, including trade secrets. The Commission may meet in
28 camera only after a majority of the entire membership votes to close a
29 meeting en toto or in part. As soon as practicable, the Commission
30 must make public (i) a copy of the vote to close the meeting revealing
31 the vote of each Member with no proxy votes allowed, and (ii) votes

1 taken during such meeting;

2 (v) Establishing the titles, duties and authority and
3 reasonable procedures for the election of the officers of the
4 Commission;

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

10 (vii) Promulgating a code of ethics to address
11 permissible and prohibited activities of commission members and
12 employees; and

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

17 (d) The Commission shall publish its bylaws in a convenient
18 form and file a copy thereof and a copy of any amendment thereto, with the
19 appropriate agency or officer in each of the Compacting States.

20 (2) Management Committee, Officers and Personnel

21 (a) A Management Committee comprising no more than
22 fourteen (14) members shall be established as follows:

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

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

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

5 (b) The Management Committee shall have such authority and
6 duties as may be set forth in the Bylaws, including but not limited to:

7 (i) managing the affairs of the Commission in a manner
8 consistent with the Bylaws and purposes of the Commission;

9 (ii) establishing and overseeing an organizational
10 structure within, and appropriate procedures for, the Commission to
11 provide for the creation of Uniform Standards and other Rules, receipt
12 and review of product filings, administrative and technical support
13 functions, review of decisions regarding the disapproval of a product
14 filing, and the review of elections made by a Compacting State to opt
15 out of a Uniform Standard; provided that a Uniform Standard shall not
16 be submitted to the Compacting States for adoption unless approved by
17 two-thirds (2/3) of the members of the Management Committee;

18 (iii) overseeing the offices of the Commission; and

19 (iv) planning, implementing, and coordinating
20 communications and activities with other state, federal and local
21 government organizations in order to advance the goals of the
22 Commission.

23 (c) The Commission shall elect annually officers from the
24 Management Committee, with each having such authority and duties, as may
25 be specified in the Bylaws.

26 (d) The Management Committee may, subject to the approval
27 of the Commission, appoint or retain an executive director for such period,
28 upon such terms and conditions and for such compensation as the Commission
29 may deem appropriate. The executive director shall serve as secretary to the
30 Commission, but shall not be a Member of the Commission. The executive
31 director shall hire and supervise such other staff as may be authorized by the

1 Commission.

2 (3) Legislative and Advisory Committees

3 (a) A legislative committee comprising state legislators or their
4 designees shall be established to monitor the operations of, and make
5 recommendations to, the Commission, including the Management Committee;
6 provided that the manner of selection and term of any legislative committee
7 member shall be as set forth in the Bylaws. Prior to the adoption by the
8 Commission of any Uniform Standard, revision to the Bylaws, annual budget
9 or other significant matter as may be provided in the Bylaws, the Management
10 Committee shall consult with and report to the legislative committee.

11 (b) The Commission shall establish two (2) advisory
12 committees, one of which shall comprise consumer representatives
13 independent of the insurance industry, and the other comprising insurance
14 industry representatives.

15 (c) The Commission may establish additional advisory
16 committees as its Bylaws may provide for the carrying out of its functions.

17 (4) Corporate Records of the Commission. The Commission shall
18 maintain its corporate books and records in accordance with the Bylaws.

19 (5) Qualified Immunity, Defense and Indemnification

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

31 (b) The Commission shall defend any Member, officer,

1 executive director, employee or representative of the Commission in any civil
 2 action seeking to impose liability arising out of any actual or alleged act, error
 3 or omission that occurred within the scope of Commission employment, duties
 4 or responsibilities, or that the person against whom the claim is made had a
 5 reasonable basis for believing occurred within the scope of Commission
 6 employment, duties or responsibilities; provided, that nothing herein shall be
 7 construed to prohibit that person from retaining his or her own counsel; and
 8 provided further, that the actual or alleged act, error or omission did not result
 9 from that person's intentional or willful and wanton misconduct.

10 (c) The Commission shall indemnify and hold harmless any
 11 Member, officer, executive director, employee or representative of the
 12 Commission for the amount of any settlement or judgment obtained against
 13 that person arising out of any actual or alleged act, error or omission that
 14 occurred within the scope of Commission employment, duties or
 15 responsibilities, or that such person had a reasonable basis for believing
 16 occurred within the scope of Commission employment, duties or
 17 responsibilities, provided, that the actual or alleged act, error or omission did
 18 not result from the intentional or willful and wanton misconduct of that person.

19 ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

20 (1) The Commission shall meet and take such actions as are consistent
 21 with the provisions of this Compact and the Bylaws.

22 (2) Each Member of the Commission shall have the right and power to
 23 cast a vote to which that Compacting State is entitled and to participate in the business
 24 and affairs of the Commission. A Member shall vote in person or by such other means
 25 as provided in the Bylaws. The Bylaws may provide for Members' participation in
 26 meetings by telephone or other means of communication.

27 (3) The Commission shall meet at least once during each calendar
 28 year. Additional meetings shall be held as set forth in the Bylaws.

29 ARTICLE VII. RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS 30 OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

31 (1) Rulemaking Authority. The Commission shall promulgate

1 reasonable Rules, including Uniform Standards, and Operating Procedures in order to
2 effectively and efficiently achieve the purposes of this Compact. Notwithstanding the
3 foregoing, in the event the Commission exercises its rulemaking authority in a manner
4 that is beyond the scope of the purposes of this Act, or the powers granted hereunder,
5 then such an action by the Commission shall be invalid and have no force and effect.

6 (2) Rulemaking Procedure. Rules and Operating Procedures shall be
7 made pursuant to a rulemaking process that conforms to the Model State
8 Administrative Procedure Act of 1981 as amended, as may be appropriate to the
9 operations of the Commission. Before the Commission adopts a Uniform Standard,
10 the Commission shall give written notice to the relevant state legislative committee(s)
11 in each Compacting State responsible for insurance issues of its intention to adopt the
12 Uniform Standard. The Commission in adopting a Uniform Standard shall consider
13 fully all submitted materials and issue a concise explanation of its decision.

14 (3) Effective Date and Opt Out of a Uniform Standard. A Uniform
15 Standard shall become effective ninety (90) days after its promulgation by the
16 Commission or such later date as the Commission may determine; provided, however,
17 that a Compacting State may opt out of a Uniform Standard as provided in this Article.
18 "Opt out" shall be defined as any action by a Compacting State to decline to adopt or
19 participate in a promulgated Uniform Standard. All other Rules and Operating
20 Procedures, and amendments thereto, shall become effective as of the date specified in
21 each Rule, Operating Procedure or amendment.

22 (4) Opt Out Procedure. A Compacting State may opt out of a Uniform
23 Standard, either by legislation or regulation duly promulgated by the Insurance
24 Department under the Compacting State's Administrative Procedure Act. If a
25 Compacting State elects to opt out of a Uniform Standard by regulation, it must (a)
26 give written notice to the Commission no later than ten (10) business days after the
27 Uniform Standard is promulgated, or at the time the State becomes a Compacting
28 State and (b) find that the Uniform Standard does not provide reasonable protections
29 to the citizens of the State, given the conditions in the State. The Commissioner shall
30 make specific findings of fact and conclusions of law, based on a preponderance of the
31 evidence, detailing the conditions in the State which warrant a departure from the

1 Uniform Standard and determining that the Uniform Standard would not reasonably
2 protect the citizens of the State. The Commissioner must consider and balance the
3 following factors and find that the conditions in the State and needs of the citizens of
4 the State outweigh: (i) the intent of the legislature to participate in, and the benefits of,
5 an interstate agreement to establish national uniform consumer protections for the
6 Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted
7 by the Commission provides reasonable protections to consumers of the relevant
8 Product. Notwithstanding the foregoing, a Compacting State may, at the time of its
9 enactment of this Compact, prospectively opt out of all Uniform Standards involving
10 long-term care insurance products by expressly providing for such opt out in the
11 enacted Compact, and such an opt out shall not be treated as a material variance in the
12 offer or acceptance of any State to participate in this Compact. Such an opt out shall
13 be effective at the time of enactment of this Compact by the Compacting State and
14 shall apply to all existing Uniform Standards involving long-term care insurance
15 products and those subsequently promulgated.

16 (5) Effect of Opt Out. If a Compacting State elects to opt out of a
17 Uniform Standard, the Uniform Standard shall remain applicable in the Compacting
18 State electing to opt out until such time the opt out legislation is enacted into law or
19 the regulation opting out becomes effective. Once the opt out of a Uniform Standard
20 by a Compacting State becomes effective as provided under the laws of that State, the
21 Uniform Standard shall have no further force and effect in that State unless and until
22 the legislation or regulation implementing the opt out is repealed or otherwise
23 becomes ineffective under the laws of the State. If a Compacting State opts out of a
24 Uniform Standard after the Uniform Standard has been made effective in that State,
25 the opt out shall have the same prospective effect as provided under Article XIV for
26 withdrawals.

27 (6) Stay of Uniform Standard. If a Compacting State has formally
28 initiated the process of opting out of a Uniform Standard by regulation, and while the
29 regulatory opt out is pending, the Compacting State may petition the Commission, at
30 least fifteen (15) days before the effective date of the Uniform Standard, to stay the
31 effectiveness of the Uniform Standard in that State. The Commission may grant a stay

1 if it determines the regulatory opt out is being pursued in a reasonable manner and
2 there is a likelihood of success. If a stay is granted or extended by the Commission,
3 the stay or extension thereof may postpone the effective date by up to ninety (90)
4 days, unless affirmatively extended by the Commission; provided, a stay may not be
5 permitted to remain in effect for more than one (1) year unless the Compacting State
6 can show extraordinary circumstances which warrant a continuance of the stay,
7 including, but not limited to, the existence of a legal challenge which prevents the
8 Compacting State from opting out. A stay may be terminated by the Commission upon
9 notice that the rulemaking process has been terminated.

10 (7) Not later than thirty (30) days after a Rule or Operating Procedure
11 is promulgated, any person may file a petition for judicial review of the Rule or
12 Operating Procedure; provided, that the filing of such a petition shall not stay or
13 otherwise prevent the Rule or Operating Procedure from becoming effective unless the
14 court finds that the petitioner has a substantial likelihood of success. The court shall
15 give deference to the actions of the Commission consistent with applicable law and
16 shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating
17 Procedure represents a reasonable exercise of the Commission's authority.

18 ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT

19 (1) The Commission shall promulgate Rules establishing conditions
20 and procedures for public inspection and copying of its information and official
21 records, except such information and records involving the privacy of individuals and
22 insurers' trade secrets. The Commission may promulgate additional Rules under which
23 it may make available to federal and state agencies, including law enforcement
24 agencies, records and information otherwise exempt from disclosure, and may enter
25 into agreements with such agencies to receive or exchange information or records
26 subject to nondisclosure and confidentiality provisions.

27 (2) Except as to privileged records, data and information, the laws of
28 any Compacting State pertaining to confidentiality or nondisclosure shall not relieve
29 any Compacting State Commissioner of the duty to disclose any relevant records, data
30 or information to the Commission; provided, that disclosure to the Commission shall
31 not be deemed to waive or otherwise affect any confidentiality requirement; and

1 further provided, that, except as otherwise expressly provided in this Act, the
2 Commission shall not be subject to the Compacting State's laws pertaining to
3 confidentiality and nondisclosure with respect to records, data and information in its
4 possession. Confidential information of the Commission shall remain confidential
5 after such information is provided to any Commissioner.

6 (3) The Commission shall monitor Compacting States for compliance
7 with duly adopted Bylaws, Rules, including Uniform Standards, and Operating
8 Procedures. The Commission shall notify any non-complying Compacting State in
9 writing of its noncompliance with Commission Bylaws, Rules or Operating
10 Procedures. If a noncomplying Compacting State fails to remedy its noncompliance
11 within the time specified in the notice of noncompliance, the Compacting State shall
12 be deemed to be in default as set forth in Article XIV.

13 (4) The Commissioner of any State in which an Insurer is authorized to
14 do business, or is conducting the business of insurance, shall continue to exercise his
15 or her authority to oversee the market regulation of the activities of the Insurer in
16 accordance with the provisions of the State's law. The Commissioner's enforcement of
17 compliance with the Compact is governed by the following provisions:

18 (a) With respect to the Commissioner's market regulation of a
19 Product or Advertisement that is approved or certified to the Commission, the
20 content of the Product or Advertisement shall not constitute a violation of the
21 provisions, standards or requirements of the Compact except upon a final order
22 of the Commission, issued at the request of a Commissioner after prior notice
23 to the Insurer and an opportunity for hearing before the Commission.

24 (b) Before a Commissioner may bring an action for violation of
25 any provision, standard or requirement of the Compact relating to the content
26 of an Advertisement not approved or certified to the Commission, the
27 Commission, or an authorized Commission officer or employee, must
28 authorize the action. However, authorization pursuant to this paragraph does
29 not require notice to the Insurer, opportunity for hearing or disclosure of
30 requests for authorization or records of the Commission's action on such
31 requests.

1 ARTICLE IX. DISPUTE RESOLUTION

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

7 ARTICLE X. PRODUCT FILING AND APPROVAL

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

14 (2) The Commission shall establish appropriate filing and review
15 processes and procedures pursuant to Commission Rules and Operating Procedures.
16 Notwithstanding any provision herein to the contrary, the Commission shall
17 promulgate Rules to establish conditions and procedures under which the Commission
18 will provide public access to Product filing information. In establishing such Rules,
19 the Commission shall consider the interests of the public in having access to such
20 information, as well as protection of personal medical and financial information and
21 trade secrets, that may be contained in a Product filing or supporting information.

22 (3) Any Product approved by the Commission may be sold or
23 otherwise issued in those Compacting States for which the Insurer is legally
24 authorized to do business.

25 ARTICLE XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

26 (1) Not later than thirty (30) days after the Commission has given
27 notice of a disapproved Product or Advertisement filed with the Commission, the
28 Insurer or Third Party Filer whose filing was disapproved may appeal the
29 determination to a review panel appointed by the Commission. The Commission shall
30 promulgate Rules to establish procedures for appointing such review panels and
31 provide for notice and hearing. An allegation that the Commission, in disapproving a

1 Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or
2 in a manner that is an abuse of discretion or otherwise not in accordance with the law,
3 is subject to judicial review in accordance with Article III, Section 4.

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

9 ARTICLE XII. FINANCE

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

17 (2) The Commission shall collect a filing fee from each Insurer and
18 Third Party Filer filing a product with the Commission to cover the cost of the
19 operations and activities of the Commission and its staff in a total amount sufficient to
20 cover the Commission's annual budget.

21 (3) The Commission's budget for a fiscal year shall not be approved
22 until it has been subject to notice and comment as set forth in Article VII of this
23 Compact.

24 (4) The Commission shall be exempt from all taxation in and by the
25 Compacting States.

26 (5) The Commission shall not pledge the credit of any Compacting
27 State, except by and with the appropriate legal authority of that Compacting State.

28 (6) The Commission shall keep complete and accurate accounts of all
29 its internal receipts, including grants and donations, and disbursements of all funds
30 under its control. The internal financial accounts of the Commission shall be subject to
31 the accounting procedures established under its Bylaws. The financial accounts and

1 reports including the system of internal controls and procedures of the Commission
 2 shall be audited annually by an independent certified public accountant. Upon the
 3 determination of the Commission, but no less frequently than every three (3) years, the
 4 review of the independent auditor shall include a management and performance audit
 5 of the Commission. The Commission shall make an Annual Report to the Governor
 6 and legislature of the Compacting States, which shall include a report of the
 7 independent audit. The Commission's internal accounts shall not be confidential and
 8 such materials may be shared with the Commissioner of any Compacting State upon
 9 request provided, however, that any work papers related to any internal or independent
 10 audit and any information regarding the privacy of individuals and insurers'
 11 proprietary information, including trade secrets, shall remain confidential.

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

15 ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

16 (1) Any State is eligible to become a Compacting State.

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

27 (3) Amendments to the Compact may be proposed by the Commission
 28 for enactment by the Compacting States. No amendment shall become effective and
 29 binding upon the Commission and the Compacting States unless and until all
 30 Compacting States enact the amendment into law.

31 ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION

1 (1) Withdrawal

2 (a) Once effective, the Compact shall continue in force and
3 remain binding upon each and every Compacting State; provided, that a
4 Compacting State may withdraw from the Compact ("Withdrawing State") by
5 enacting a statute specifically repealing the statute which enacted the Compact
6 into law.

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

13 (c) The Commissioner of the Withdrawing State shall
14 immediately notify the Management Committee in writing upon the
15 introduction of legislation repealing this Compact in the Withdrawing State.

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

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

30 (f) Reinstatement following withdrawal of any Compacting
31 State shall occur upon the effective date of the Withdrawing State reenacting

1 the Compact.

2 (2) Default

3 (a) If the Commission determines that any Compacting State
4 has at any time defaulted ("Defaulting State") in the performance of any of its
5 obligations or responsibilities under this Compact, the Bylaws or duly
6 promulgated Rules or Operating Procedures, then, after notice and hearing as
7 set forth in the Bylaws, all rights, privileges and benefits conferred by this
8 Compact on the Defaulting State shall be suspended from the effective date of
9 default as fixed by the Commission. The grounds for default include, but are
10 not limited to, failure of a Compacting State to perform its obligations or
11 responsibilities, and any other grounds designated in Commission Rules. The
12 Commission shall immediately notify the Defaulting State in writing of the
13 Defaulting State's suspension pending a cure of the default. The Commission
14 shall stipulate the conditions and the time period within which the Defaulting
15 State must cure its default. If the Defaulting State fails to cure the default
16 within the time period specified by the Commission, the Defaulting State shall
17 be terminated from the Compact and all rights, privileges and benefits
18 conferred by this Compact shall be terminated from the effective date of
19 termination.

20 (b) Product approvals by the Commission or product self-
21 certifications, or any Advertisement in connection with such product, that are
22 in force on the effective date of termination shall remain in force in the
23 Defaulting State in the same manner as if the Defaulting State had withdrawn
24 voluntarily pursuant to Section 1 of this article.

25 (c) Reinstatement following termination of any Compacting
26 State requires a reenactment of the Compact.

27 (3) Dissolution of Compact

28 (a) The Compact dissolves effective upon the date of the
29 withdrawal or default of the Compacting State which reduces membership in
30 the Compact to one Compacting State.

31 (b) Upon the dissolution of this Compact, the Compact

1 becomes null and void and shall be of no further force or effect, and the
2 business and affairs of the Commission shall be wound up and any surplus
3 funds shall be distributed in accordance with the Bylaws.

4 ARTICLE XV. SEVERABILITY AND CONSTRUCTION

5 (1) The provisions of this Compact shall be severable; and if any
6 phrase, clause, sentence or provision is deemed unenforceable, the remaining
7 provisions of the Compact shall be enforceable.

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

10 ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

11 (1) Other Laws

12 (a) Nothing herein prevents the enforcement of any other law
13 of a Compacting State, except as provided in Paragraph (b) of this section.

14 (b) For any Product approved or certified to the Commission,
15 the Rules, Uniform Standards and any other requirements of the Commission
16 shall constitute the exclusive provisions applicable to the content, approval and
17 certification of such Products. For Advertisement that is subject to the
18 Commission's authority, any Rule, Uniform Standard or other requirement of
19 the Commission which governs the content of the Advertisement shall
20 constitute the exclusive provision that a Commissioner may apply to the
21 content of the Advertisement. Notwithstanding the foregoing, no action taken
22 by the Commission shall abrogate or restrict: (i) the access of any person to
23 state courts; (ii) remedies available under state law related to breach of
24 contract, tort, or other laws not specifically directed to the content of the
25 Product; (iii) state law relating to the construction of insurance contracts; or
26 (iv) the authority of the attorney general of the state, including but not limited
27 to maintaining any actions or proceedings, as authorized by law.

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

30 (2) Binding Effect of this Compact

31 (a) All lawful actions of the Commission, including all Rules

1 and Operating Procedures promulgated by the Commission, are binding upon
2 the Compacting States.

3 (b) All agreements between the Commission and the
4 Compacting States are binding in accordance with their terms.

5 (c) Upon the request of a party to a conflict over the meaning
6 or interpretation of Commission actions, and upon a majority vote of the
7 Compacting States, the Commission may issue advisory opinions regarding the
8 meaning or interpretation in dispute.

9 (d) In the event any provision of this Compact exceeds the
10 constitutional limits imposed on the legislature of any Compacting State, the
11 obligations, duties, powers or jurisdiction sought to be conferred by that
12 provision upon the Commission shall be ineffective as to that Compacting
13 State, and those obligations, duties, powers or jurisdiction shall remain in the
14 Compacting State and shall be exercised by the agency thereof to which those
15 obligations, duties, powers or jurisdiction are delegated by law in effect at the
16 time this Compact becomes effective.

17 * **Sec. 2.** AS 21.45.010 is amended by adding a new subsection to read:

18 (b) The provisions of this chapter may be entirely superseded by uniform
19 standards, rules, procedures, or other action adopted under the Interstate Insurance
20 Product Regulation Compact under AS 21.42.700.

21 * **Sec. 3.** AS 21.51.010 is amended by adding a new subsection to read:

22 (b) The provisions of this chapter may be entirely superseded by uniform
23 standards, rules, procedures, or other action adopted under the Interstate Insurance
24 Product Regulation Compact under AS 21.42.700.

25 * **Sec. 4.** AS 21.53.010 is amended to read:

26 **Sec. 21.53.010. Prohibited sale or advertising.** An insurer, hospital or
27 medical service corporation, or [A] fraternal benefit society may not advertise, market,
28 sell, deliver, or offer for delivery a long-term care insurance policy unless the policy
29 complies with this chapter, AS 21.18, AS 21.45, the health insurance requirements
30 imposed under AS 21.51, and, if a group policy, the group health insurance
31 requirements imposed under AS 21.54, or unless it has been approved by and

1 complies with the Interstate Insurance Product Regulation Compact under
2 AS 21.42.700.