

**CS FOR HOUSE BILL NO. 439(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/3/06

Referred: Judiciary

Sponsor(s): REPRESENTATIVE COGHILL

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to authorizing the state to join with other states in entering into the**  
2 **Interstate Insurance Product Regulation Compact."**

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

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

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

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

13 **INTERSTATE INSURANCE PRODUCT REGULATION COMPACT**

14 **ARTICLE I. PURPOSES**



1 Commission" established by this Compact.

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

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

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

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

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

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

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

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

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

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

30 (15) "Uniform Standard" means a standard adopted by the  
31 Commission for a Product line, pursuant to Article VII of this Compact, and shall

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

#### 6 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

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

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

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

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

#### 23 ARTICLE IV. POWERS OF THE COMMISSION

24 The Commission shall have the following powers:

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

28 (2) To exercise its rule-making authority and establish reasonable  
 29 Uniform Standards for Products covered under the Compact, and Advertisement  
 30 related thereto, which shall have the force and effect of law and shall be binding in the  
 31 Compacting States, but only for those Products filed with the Commission, provided,

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

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

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

29 (5) To exercise its rule-making authority and designate Products and  
30 Advertisement that may be subject to a self-certification process without the need for  
31 prior approval by the Commission.

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

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

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

9                   (9) To establish and maintain offices;

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

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

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

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

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

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

29                  (16) To remit filing fees to Compacting States as may be set forth in  
30 the Bylaws, Rules or Operating Procedures;

31                  (17) To enforce compliance by Compacting States with Rules,

1 Uniform Standards, Operating Procedures and Bylaws;

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

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

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

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

10 (22) To borrow money;

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

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

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

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

21 **ARTICLE V. ORGANIZATION OF THE COMMISSION**

22 (1) Membership, Voting and Bylaws

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

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

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

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

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

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

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

31 (v) Establishing the titles, duties and authority and

1 reasonable procedures for the election of the officers of the  
2 Commission;

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

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

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

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

18 (2) Management Committee, Officers and Personnel

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

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

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

30 (iii) Four (4) members from those Compacting States  
31 with less than two percent (2%) of the market, based on the premium

1 volume described above, with one (1) selected from each of the four (4)  
2 zone regions of the NAIC as provided in the Bylaws.

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

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

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

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

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

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

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

31 (3) Legislative and Advisory Committees

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

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

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

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

17 (5) Qualified Immunity, Defense and Indemnification

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

29 (b) The Commission shall defend any Member, officer,  
30 executive director, employee or representative of the Commission in any civil  
31 action seeking to impose liability arising out of any actual or alleged act, error

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

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

#### 17 ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

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

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

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

#### 27 ARTICLE VII. RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS 28 OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

29 (1) Rulemaking Authority. The Commission shall promulgate  
 30 reasonable Rules, including Uniform Standards, and Operating Procedures in order to  
 31 effectively and efficiently achieve the purposes of this Compact. Notwithstanding the

1           foregoing, in the event the Commission exercises its rulemaking authority in a manner  
2           that is beyond the scope of the purposes of this Act, or the powers granted hereunder,  
3           then such an action by the Commission shall be invalid and have no force and effect.

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

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

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

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

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

25 (6) Stay of Uniform Standard. If a Compacting State has formally  
26 initiated the process of opting out of a Uniform Standard by regulation, and while the  
27 regulatory opt out is pending, the Compacting State may petition the Commission, at  
28 least fifteen (15) days before the effective date of the Uniform Standard, to stay the  
29 effectiveness of the Uniform Standard in that State. The Commission may grant a stay  
30 if it determines the regulatory opt out is being pursued in a reasonable manner and  
31 there is a likelihood of success. If a stay is granted or extended by the Commission,

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

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

#### 16 ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT

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

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

1 confidentiality and nondisclosure with respect to records, data and information in its  
2 possession. Confidential information of the Commission shall remain confidential  
3 after such information is provided to any Commissioner.

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

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

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

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

#### 30 ARTICLE IX. DISPUTE RESOLUTION

31 The Commission shall attempt, upon the request of a Member, to resolve any

1 disputes or other issues that are subject to this Compact and which may arise between  
 2 two or more Compacting States, or between Compacting States and Non-compacting  
 3 States, and the Commission shall promulgate an Operating Procedure providing for  
 4 resolution of such disputes.

#### 5 ARTICLE X. PRODUCT FILING AND APPROVAL

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

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

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

#### 23 ARTICLE XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

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

1 is subject to judicial review in accordance with Article III, Section 4.

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

#### 7 ARTICLE XII. FINANCE

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

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

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

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

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

26 (6) The Commission shall keep complete and accurate accounts of all  
27 its internal receipts, including grants and donations, and disbursements of all funds  
28 under its control. The internal financial accounts of the Commission shall be subject to  
29 the accounting procedures established under its Bylaws. The financial accounts and  
30 reports including the system of internal controls and procedures of the Commission  
31 shall be audited annually by an independent certified public accountant. Upon the

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

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

### 13 ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

### 29 ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION

30 (1) Withdrawal

31 (a) Once effective, the Compact shall continue in force and

1 remain binding upon each and every Compacting State; provided, that a  
2 Compacting State may withdraw from the Compact ("Withdrawing State") by  
3 enacting a statute specifically repealing the statute which enacted the Compact  
4 into law.

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

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

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

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

28 (f) Reinstatement following withdrawal of any Compacting  
29 State shall occur upon the effective date of the Withdrawing State reenacting  
30 the Compact.

31 (2) Default

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

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

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

25 (3) Dissolution of Compact

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

29 (b) Upon the dissolution of this Compact, the Compact  
30 becomes null and void and shall be of no further force or effect, and the  
31 business and affairs of the Commission shall be wound up and any surplus

1 funds shall be distributed in accordance with the Bylaws.

2 ARTICLE XV. SEVERABILITY AND CONSTRUCTION

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

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

8 ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

9 (1) Other Laws

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

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

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

28 (2) Binding Effect of this Compact

29 (a) All lawful actions of the Commission, including all Rules  
30 and Operating Procedures promulgated by the Commission, are binding upon  
31 the Compacting States.

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

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

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

15 \* **Sec. 2.** AS 21.53.010 is amended to read:

16 **Sec. 21.53.010. Prohibited sale or advertising.** An insurer, hospital or  
17 medical service corporation, or [A] fraternal benefit society may not advertise, market,  
18 sell, deliver, or offer for delivery a long-term care insurance policy unless the policy  
19 complies with this chapter, AS 21.18, AS 21.45, the health insurance requirements  
20 imposed under AS 21.51, and, if a group policy, the group health insurance  
21 requirements imposed under AS 21.54, **or unless it has been approved by and**  
22 **complies with the Interstate Insurance Product Regulation Compact under**  
23 **AS 21.42.700.**