

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH50174-LT-60\* (3/9)

Short Title: Interstate Insurance Product Reg. Compact.-AB (Public)

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Sponsors: Representative Holliman.

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Referred to:

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A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH NORTH CAROLINA AS A MEMBER OF THE  
2 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT, TO  
3 REQUIRE THE COMMISSIONER OF INSURANCE TO REPORT WHETHER  
4 CONTINUED PARTICIPATION BY THIS STATE IN THE COMPACT IS IN  
5 THE BEST INTEREST OF THE CITIZENS AND POLICYHOLDERS OF THIS  
6 STATE, AND TO PROVIDE A SUNSET FOR PARTICIPATION IN THE  
7 COMPACT.  
8

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding the  
11 following new Article to read:

"Article 90.

"Interstate Insurance Product Regulation Compact Act.

14 **"§ 58-90-1. Preamble.**

15 The Interstate Insurance Product Regulation Compact Act is intended to help states  
16 join together to establish an interstate compact to regulate designated insurance  
17 products.

18 Pursuant to terms and conditions of this Article, this State seeks to join with other  
19 states and establish the Interstate Insurance Product Regulation Compact and thus  
20 become a member of the Interstate Insurance Product Regulation Commission. The  
21 Commissioner of Insurance, or the Commissioner's designee, is hereby designated to  
22 serve as the representative of this State to the Commission.

23 **"§ 58-90-5. Purposes.**

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

- 1           (1)    To promote and protect the interest of consumers of individual and  
2           group annuity, life insurance, disability income, and long-term care  
3           insurance products.
- 4           (2)    To develop uniform standards for insurance products covered under  
5           the Compact.
- 6           (3)    To establish a central clearinghouse to receive and provide prompt  
7           review of insurance products covered under the Compact and, in  
8           certain cases, advertisements related thereto, submitted by insurers  
9           authorized to do business in one or more compacting states.
- 10          (4)    To give appropriate regulatory approval to those product filings and  
11          advertisements satisfying the applicable uniform standard.
- 12          (5)    To improve coordination of regulatory resources and expertise  
13          between state insurance departments regarding the setting of uniform  
14          standards and review of insurance products covered under the  
15          Compact.
- 16          (6)    To create the Interstate Insurance Product Regulation Commission.
- 17          (7)    To perform these and any other related function as may be consistent  
18          with the state regulation of the business of insurance.

19    **"§ 58-90-10. Definitions.**

20        For purposes of this Article and the Compact:

- 21          (1)    "Advertisement" means any material designed to create public interest  
22          in a product, or induce the public to purchase, increase, modify,  
23          reinstate, borrow on, surrender, replace, or retain a policy, as more  
24          specifically defined in the Rules and Operating Procedures of the  
25          Commission.
- 26          (2)    "Bylaws" means those bylaws established by the Commission for its  
27          governance, or for directing or controlling the Commission's actions or  
28          conduct.
- 29          (3)    "Compacting state" means any state which has enacted this Compact  
30          legislation and which has not withdrawn or been terminated pursuant  
31          to G.S. 58-90-70.
- 32          (4)    "Commission" means the "Interstate Insurance Product Regulation  
33          Commission" established by this Compact.
- 34          (5)    "Commissioner" means the chief insurance regulatory official of a  
35          state, including a commissioner, superintendent, director, or  
36          administrator.
- 37          (6)    "Domiciliary state" means the state in which an insurer is incorporated  
38          or organized; or, in the case of an foreign insurer, its state of entry.
- 39          (7)    "Insurer" means any entity licensed by a state to issue contracts of  
40          insurance for any of the lines of insurance covered by this Article.
- 41          (8)    "Member" means the person chosen by a compacting state as its  
42          representative to the Commission, or that person's designee.
- 43          (9)    "Noncompacting state" means any state which is not at the time a  
44          compacting state.

- 1           (10) "Operating procedures" means procedures promulgated by the  
2           Commission implementing a rule, uniform standard, or a provision of  
3           this Compact.
- 4           (11) "Product" means the form of a policy or contract, including any  
5           application, endorsement, or related form which is attached to and  
6           made a part of the policy or contract, and any evidence of coverage or  
7           certificate, for an individual or group annuity, life insurance, disability  
8           income, or long-term care insurance product that an Insurer is  
9           authorized to issue.
- 10          (12) "Rule" means a statement of general or particular applicability and  
11          future effect promulgated by the Commission, including a uniform  
12          standard developed pursuant to G.S. 58-90-35, designed to implement,  
13          interpret, or prescribe law or policy or describing the organization,  
14          procedure, or practice requirements of the Commission, which shall  
15          have the force and effect of law in the compacting states.
- 16          (13) "State" means any state, district, or territory of the United States of  
17          America.
- 18          (14) "Third-party filer" means an entity that submits a product filing to the  
19          Commission on behalf of an insurer.
- 20          (15) "Uniform standard" means a standard adopted by the Commission for  
21          a product line, pursuant to G.S. 58-90-35, and shall include all of the  
22          product requirements in aggregate. Each uniform standard shall be  
23          construed, whether express or implied, to prohibit the use of any  
24          inconsistent, misleading, or ambiguous provisions in a product, and the  
25          form of the product made available to the public shall not be unfair,  
26          inequitable or against public policy as determined by the Commission.

27 **"§ 58-90-15. Establishment of the Commission and venue.**

28       (a) The compacting states hereby create and establish a joint public agency  
29 known as the "Interstate Insurance Product Regulation Commission." Pursuant to  
30 G.S. 58-90-20, the Commission shall have the power to develop uniform standards for  
31 product lines, receive, and provide prompt review of products filed with the  
32 Commission, and give approval to those product filings satisfying applicable uniform  
33 standards. It is not intended for the Commission to be the exclusive entity for receipt  
34 and review of insurance product filings. Nothing herein shall prohibit any insurer from  
35 filing its product in any state wherein the insurer is licensed to conduct the business of  
36 insurance; and that filing shall be subject to the laws of the state where filed.

37       (b) The Commission is a body corporate and politic and an instrumentality of the  
38 compacting states.

39       (c) The Commission is solely responsible for its liabilities except as otherwise  
40 specifically provided in this Compact.

41       (d) Venue is proper and judicial proceedings by or against the Commission shall  
42 be brought solely and exclusively in a court of competent jurisdiction where the  
43 principal office of the Commission is located.

44 **"§ 58-90-20. Powers of the Commission.**

1        The Commission shall have the following powers:

- 2            (1)    To promulgate rules, pursuant to G.S. 58-90-35, which shall have the  
3                    force and effect of law and shall be binding in the compacting states to  
4                    the extent and in the manner provided in this Compact.
- 5            (2)    To exercise its rule-making authority and establish reasonable uniform  
6                    standards for products covered under the Compact, and advertisement  
7                    related thereto, which shall have the force and effect of law and shall  
8                    be binding in the compacting states, but only for those products filed  
9                    with the Commission. Notwithstanding this subdivision, a compacting  
10                   state shall have the right to opt out of a uniform standard pursuant to  
11                   G.S. 58-90-35, to the extent and in the manner provided in this  
12                   Compact, and any uniform standard established by the Commission for  
13                   long-term care insurance products may provide the same or greater  
14                   protections for consumers as, but shall not provide less than, those  
15                   protections set forth in the National Association of Insurance  
16                   Commissioners' Long-Term Care Insurance Model Act and  
17                   Long-Term Care Insurance Model Regulation, respectively, adopted as  
18                   of 2001. The Commission shall consider whether any subsequent  
19                   amendments to the NAIC Long-Term Care Insurance Model Act or  
20                   Long-Term Care Insurance Model Regulation adopted by the NAIC  
21                   require amending of the uniform standards established by the  
22                   Commission for long-term care insurance products.
- 23            (3)    To receive and review in an expeditious manner products filed with the  
24                    Commission, and rate filings for disability income and long-term care  
25                    insurance products, and give approval of those products and rate  
26                    filings that satisfy the applicable uniform standard, where the approval  
27                    shall have the force and effect of law and be binding on the  
28                    compacting states to the extent and in the manner provided in the  
29                    Compact.
- 30            (4)    To receive and review in an expeditious manner advertisement relating  
31                    to long-term care insurance products for which uniform standards have  
32                    been adopted by the Commission and give approval to all  
33                    advertisement that satisfies the applicable uniform standard. For any  
34                    product covered under this Compact, other than long-term care  
35                    insurance products, the Commission shall have the authority to require  
36                    an insurer to submit all or any part of its advertisement with respect to  
37                    that product for review or approval prior to use, if the Commission  
38                    determines that the nature of the product is such that an advertisement  
39                    of the product could have the capacity or tendency to mislead the  
40                    public. The actions of the Commission as provided in this section shall  
41                    have the force and effect of law and shall be binding in the compacting  
42                    states to the extent and in the manner provided in the Compact.

- 1           (5)    To exercise its rule-making authority and designate products and  
2           advertisement that may be subject to a self-certification process  
3           without the need for prior approval by the Commission.
- 4           (6)    To promulgate operating procedures pursuant to G.S. 58-90-35 which  
5           shall be binding in the compacting states to the extent and in the  
6           manner provided in this Compact.
- 7           (7)    To bring and prosecute legal proceedings or actions in its name as the  
8           Commission except that the standing of any state insurance department  
9           to sue or be sued under applicable law shall not be affected.
- 10          (8)    To issue subpoenas requiring the attendance and testimony of  
11          witnesses and the production of evidence.
- 12          (9)    To establish and maintain offices.
- 13          (10)   To purchase and maintain insurance and bonds.
- 14          (11)   To borrow, accept, and contract for services of personnel, including  
15          employees of a compacting state.
- 16          (12)   To hire employees, professionals, or specialists, and elect or appoint  
17          officers, and to fix their compensation, define their duties, and give  
18          them appropriate authority to carry out the purposes of the Compact,  
19          and determine their qualifications; and to establish the Commission's  
20          personnel policies and programs relating to, among other things,  
21          conflicts of interest, rates of compensation, and qualifications of  
22          personnel.
- 23          (13)   To accept any and all appropriate donations and grants of money,  
24          equipment, supplies, materials, and services, and to receive, utilize,  
25          and dispose of the same. At all times the Commission shall strive to  
26          avoid any appearance of impropriety.
- 27          (14)   To lease, purchase, accept appropriate gifts or donations of, or  
28          otherwise to own, hold, improve, or use, any property, real, personal,  
29          or mixed. At all times the Commission shall strive to avoid any  
30          appearance of impropriety.
- 31          (15)   To sell, convey, mortgage, pledge, lease, exchange, abandon, or  
32          otherwise dispose of any property, real, personal, or mixed.
- 33          (16)   To remit filing fees to compacting states as may be set forth in the  
34          bylaws, rules, or operating procedures.
- 35          (17)   To enforce compliance by compacting states with rules, uniform  
36          standards, operating procedures, and bylaws.
- 37          (18)   To provide for dispute resolution among compacting states.
- 38          (19)   To advise compacting states on issues relating to insurers domiciled or  
39          doing business in noncompacting jurisdictions, consistent with the  
40          purposes of this Compact.
- 41          (20)   To provide advice and training to those personnel in state insurance  
42          departments responsible for product review, and to be a resource for  
43          state insurance departments.
- 44          (21)   To establish a budget and make expenditures.

- 1           (22) To borrow money.  
2           (23) To appoint committees, including advisory committees comprising  
3               members, state insurance regulators, state legislators or their  
4               representatives, insurance industry and consumer representatives, and  
5               such other interested persons as may be designated in the bylaws.  
6           (24) To provide and receive information from, and to cooperate with, law  
7               enforcement agencies.  
8           (25) To adopt and use a corporate seal.  
9           (26) To perform any other functions that may be necessary or appropriate to  
10               achieve the purposes of this Compact consistent with the state  
11               regulation of the business of insurance.

12 **"§ 58-90-25. Organization of the Commission.**

13       (a) Membership, Voting, and Bylaws. – Each compacting state shall have and be  
14 limited to one member. Each member shall be qualified to serve in that capacity  
15 pursuant to applicable law of the compacting state. Any member may be removed or  
16 suspended from office as provided by the law of the state from which the member shall  
17 be appointed. Any vacancy occurring in the Commission shall be filled in accordance  
18 with the laws of the compacting state wherein the vacancy exists. Nothing herein shall  
19 be construed to affect the manner in which a compacting state determines the election or  
20 appointment and qualification of its own Commissioner.

21       Each member shall be entitled to one vote and shall have an opportunity to  
22 participate in the governance of the Commission in accordance with the bylaws.  
23 Notwithstanding any provision herein to the contrary, no action of the Commission with  
24 respect to the promulgation of a uniform standard shall be effective unless two-thirds of  
25 the members vote in favor of the uniform standard.

26       The Commission shall, by a majority of the members, prescribe bylaws to govern its  
27 conduct as may be necessary or appropriate to carry out the purposes, and exercise the  
28 powers, of the Compact, including:

- 29           (1) Establishing the fiscal year of the Commission.  
30           (2) Providing reasonable procedures for appointing and electing members,  
31               as well as holding meetings, of the Management Committee.  
32           (3) Providing reasonable standards and procedures: (i) for the  
33               establishment and meetings of other committees, and (ii) governing  
34               any general or specific delegation of any authority or function of the  
35               Commission.  
36           (4) Providing reasonable procedures for calling and conducting meetings  
37               of the Commission that consist of a majority of Commission members,  
38               ensuring reasonable advance notice of each meeting and providing for  
39               the right of citizens to attend each meeting with enumerated exceptions  
40               designed to protect the public's interest, the privacy of individuals, and  
41               insurers' proprietary information, including trade secrets. The  
42               Commission may meet in camera only after a majority of the entire  
43               membership votes to close a meeting in toto or in part. As soon as  
44               practicable, the Commission must make public (i) a copy of the vote to

1 close the meeting revealing the vote of each member with no proxy  
2 votes allowed, and (ii) votes taken during the meeting.

3 (5) Establishing the titles, duties, and authority and reasonable procedures  
4 for the election of the officers of the Commission.

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

10 (7) Promulgating a code of ethics to address permissible and prohibited  
11 activities of commission members and employees.

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

16 The Commission shall publish its bylaws in a convenient form and file a copy of the  
17 bylaws and a copy of any amendment to the bylaws with the appropriate agency or  
18 officer in each of the compacting states.

19 (b) Management Committee, Officers and Personnel. – A Management  
20 Committee comprising no more than 14 members shall be established as follows:

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

25 (2) Four members from those compacting states with at least two percent  
26 (2%) of the market based on the premium volume described above,  
27 other than the six compacting states with the largest premium volume,  
28 selected on a rotating basis as provided in the bylaws.

29 (3) Four members from those compacting states with less than two percent  
30 (2%) of the market, based on the premium volume described above,  
31 with one selected from each of the four zone regions of the NAIC as  
32 provided in the bylaws.

33 The Management Committee shall have such authority and duties as may be set  
34 forth in the bylaws, including but not limited to:

35 (1) Managing the affairs of the Commission in a manner consistent with  
36 the bylaws and purposes of the Commission.

37 (2) Establishing and overseeing an organizational structure within, and  
38 appropriate procedures for, the Commission to provide for the creation  
39 of uniform standards and other rules, receipt and review of product  
40 filings, administrative and technical support functions, review of  
41 decisions regarding the disapproval of a product filing, and the review  
42 of elections made by a compacting state to opt out of a uniform  
43 standard, except that that a uniform standard shall not be submitted to

1           the compacting states for adoption unless approved by two-thirds of  
2           the members of the Management Committee.

3           (3) Overseeing the offices of the Commission.

4           (4) Planning, implementing, and coordinating communications and  
5           activities with other state, federal, and local government organizations  
6           in order to advance the goals of the Commission.

7           The Commission shall elect annually officers from the Management Committee,  
8           with each having the authority and duties specified in the bylaws.

9           The Management Committee may, subject to the approval of the Commission,  
10          appoint or retain an executive director for a period of time, upon the terms and  
11          conditions, and for the compensation deemed appropriate by the Commission. The  
12          executive director shall serve as secretary to the Commission, but shall not be a member  
13          of the Commission. The executive director shall hire and supervise any other staff  
14          authorized by the Commission.

15          (c) Legislative and Advisory Committees. – A legislative committee comprising  
16          state legislators or their designees shall be established to monitor the operations of, and  
17          make recommendations to, the Commission, including the Management Committee.  
18          The manner of selection and term of any legislative committee member shall be as set  
19          forth in the bylaws. Prior to the adoption by the Commission of any uniform standard,  
20          revision to the bylaws, annual budget, or other significant matter as may be provided in  
21          the bylaws, the Management Committee shall consult with and report to the legislative  
22          committee.

23          The Commission shall establish two advisory committees, one of which shall  
24          comprise consumer representatives independent of the insurance industry, and the other  
25          comprising insurance industry representatives.

26          The Commission may establish additional advisory committees as its bylaws may  
27          provide for the carrying out of its functions.

28          (d) Corporate Records of the Commission. – The Commission shall maintain its  
29          corporate books and records in accordance with the bylaws.

30          (e) Qualified Immunity, Defense, and Indemnification. – The members, officers,  
31          executive director, employees, and representatives of the Commission shall be immune  
32          from suit and liability, either personally or in their official capacity, for any claim for  
33          damage to or loss of property or personal injury or other civil liability caused by or  
34          arising out of any actual or alleged act, error, or omission that occurred, or that the  
35          person against whom the claim is made had a reasonable basis for believing occurred  
36          within the scope of Commission employment, duties, or responsibilities except that  
37          nothing in this subsection shall be construed to protect any such person from suit or  
38          liability for any damage, loss, injury, or liability caused by the intentional or willful and  
39          wanton misconduct of that person.

40          The Commission shall defend any member, officer, executive director, employee, or  
41          representative of the Commission in any civil action seeking to impose liability arising  
42          out of any actual or alleged act, error, or omission that occurred within the scope of  
43          Commission employment, duties, or responsibilities, or that the person against whom  
44          the claim is made had a reasonable basis for believing occurred within the scope of

1 Commission employment, duties, or responsibilities as long as the actual or alleged act,  
2 error, or omission did not result from that person's intentional or willful and wanton  
3 misconduct. Nothing in this subsection shall be construed to prohibit that person from  
4 retaining his or her own counsel.

5 The Commission shall indemnify and hold harmless any member, officer, executive  
6 director, employee, or representative of the Commission for the amount of any  
7 settlement or judgment obtained against that person arising out of any actual or alleged  
8 act, error, or omission that occurred within the scope of Commission employment,  
9 duties, or responsibilities, or that the person had a reasonable basis for believing  
10 occurred within the scope of Commission employment, duties, or responsibilities as  
11 long as the actual or alleged act, error, or omission did not result from the intentional or  
12 willful and wanton misconduct of that person.

13 **"§ 58-90-30. Meetings; acts of the Commission.**

14 (a) The Commission shall meet and take such actions as are consistent with the  
15 provisions of this Compact and the bylaws.

16 (b) Each member of the Commission shall have the right and power to cast a vote  
17 to which that compacting state is entitled and to participate in the business and affairs of  
18 the Commission. A member shall vote in person or by any means provided in the  
19 bylaws. The bylaws may provide for members' participation in meetings by telephone or  
20 other means of communication.

21 (c) The Commission shall meet at least once during each calendar year.  
22 Additional meetings shall be held as set forth in the bylaws.

23 **"§ 58-90-35. Rules and operating procedures: rule-making functions of the**  
24 **Commission and opting out of uniform standards.**

25 (a) Rule-Making Authority. – The Commission shall promulgate reasonable  
26 rules, including uniform standards, and operating procedures in order to effectively and  
27 efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the  
28 event the Commission exercises its rule-making authority in a manner that is beyond the  
29 scope of the purposes of this Article, or the powers granted in this Article, then that  
30 action by the Commission shall be invalid and have no force and effect.

31 (b) Rule-Making Procedure. – Rules and operating procedures shall be made  
32 pursuant to a rule-making process that conforms to the Model State Administrative  
33 Procedure Act of 1981 as amended, as may be appropriate to the operations of the  
34 Commission. Before the Commission adopts a uniform standard, the Commission shall  
35 give written notice to the relevant state legislative committee in each compacting state  
36 responsible for insurance issues of its intention to adopt the uniform standard. The  
37 Commission in adopting a uniform standard shall consider fully all submitted materials  
38 and issue a concise explanation of its decision.

39 (c) Effective Date and Opt Out of a Uniform Standard. – A uniform standard  
40 shall become effective 90 days after its promulgation by the Commission or such later  
41 date as the Commission may determine except that a compacting state may opt out of a  
42 uniform standard as provided in this Article. "Opt out" shall be defined as any action by  
43 a compacting state to decline to adopt or participate in a promulgated uniform standard.  
44 All other rules and operating procedures, and amendments to the rules and operating

1 procedures, shall become effective as of the date specified in each rule, operating  
2 procedure, or amendment.

3 (d) Opt Out Procedure. – A compacting state may opt out of a uniform standard,  
4 either by legislation or regulation duly promulgated by the insurance department under  
5 the compacting state's administrative procedure act. If a compacting state elects to opt  
6 out of a uniform standard by regulation, it must (i) give written notice to the  
7 Commission no later than 10 business days after the uniform standard is promulgated,  
8 or at the time the state becomes a compacting state and (ii) find that the uniform  
9 standard does not provide reasonable protections to the citizens of the state, given the  
10 conditions in the state. The Commissioner shall make specific findings of fact and  
11 conclusions of law, based on a preponderance of the evidence, detailing the conditions  
12 in the state that warrant a departure from the uniform standard and determining that the  
13 uniform standard would not reasonably protect the citizens of the state. The  
14 Commissioner must consider and balance the following factors and find that the  
15 conditions in the state and needs of the citizens of the state outweigh:

- 16 (1) The intent of the legislature to participate in, and the benefits of, an  
17 interstate agreement to establish national uniform consumer  
18 protections for the products subject to this Article; and  
19 (2) The presumption that a uniform standard adopted by the Commission  
20 provides reasonable protections to consumers of the relevant product.

21 Notwithstanding the foregoing, a compacting state may, at the time of its enactment  
22 of this Compact, prospectively opt out of all uniform standards involving long-term care  
23 insurance products by expressly providing for the opt out in the enacted Compact, and  
24 the opt out shall not be treated as a material variance in the offer or acceptance of any  
25 state to participate in this Compact. The opt out shall be effective at the time of  
26 enactment of this Compact by the compacting state and shall apply to all existing  
27 uniform standards involving long-term care insurance products and those subsequently  
28 promulgated.

29 (e) Effect of Opt Out. – If a compacting state elects to opt out of a uniform  
30 standard, the uniform standard shall remain applicable in the compacting state electing  
31 to opt out until such time the opt out legislation is enacted into law or the regulation  
32 opting out becomes effective. Once the opt out of a uniform standard by a compacting  
33 state becomes effective as provided under the laws of that state, the uniform standard  
34 shall have no further force and effect in that state unless and until the legislation or  
35 regulation implementing the opt out is repealed or otherwise becomes ineffective under  
36 the laws of the state. If a compacting state opts out of a uniform standard after the  
37 uniform standard has been made effective in that state, the opt out shall have the same  
38 prospective effect as provided under G.S. 58-90-70 for withdrawals.

39 (f) Stay of Uniform Standard. – If a compacting state has formally initiated the  
40 process of opting out of a uniform standard by regulation, and while the regulatory opt  
41 out is pending, the compacting state may petition the Commission, at least 15 days  
42 before the effective date of the uniform standard, to stay the effectiveness of the  
43 uniform standard in that state. The Commission may grant a stay if it determines the  
44 regulatory opt out is being pursued in a reasonable manner and there is a likelihood of

1 success. If a stay is granted or extended by the Commission, the stay or extension  
2 thereof may postpone the effective date by up to 90 days, unless affirmatively extended  
3 by the Commission. A stay shall not be permitted to remain in effect for more than one  
4 year unless the compacting state can show extraordinary circumstances that warrant a  
5 continuance of the stay, including the existence of a legal challenge that prevents the  
6 compacting state from opting out. A stay may be terminated by the Commission upon  
7 notice that the rule-making process has been terminated.

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

16 **"§ 58-90-40. Commission records and enforcement.**

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

25 (b) Except as to privileged records, data, and information, the laws of any  
26 compacting state pertaining to confidentiality or nondisclosure shall not relieve any  
27 compacting state commissioner of the duty to disclose any relevant records, data, or  
28 information to the Commission. Disclosure to the Commission shall not be deemed to  
29 waive or otherwise affect any confidentiality requirement. Except as otherwise  
30 expressly provided in this Article, the Commission shall not be subject to the  
31 compacting state's laws pertaining to confidentiality and nondisclosure with respect to  
32 records, data, and information in its possession. Confidential information of the  
33 Commission shall remain confidential after the information is provided to any  
34 commissioner.

35 (c) The Commission shall monitor compacting states for compliance with duly  
36 adopted bylaws, rules, including uniform standards, and operating procedures. The  
37 Commission shall notify any noncomplying compacting state in writing of its  
38 noncompliance with Commission bylaws, rules, or operating procedures. If a  
39 noncomplying compacting state fails to remedy its noncompliance within the time  
40 specified in the notice of noncompliance, the compacting state shall be deemed to be in  
41 default as set forth in G.S. 58-90-70.

42 (d) The commissioner of any state in which an insurer is authorized to do  
43 business, or is conducting the business of insurance, shall continue to exercise that  
44 person's authority to oversee the market regulation of the activities of the insurer in

1 accordance with the provisions of the state's law. The commissioner's enforcement of  
2 compliance with the Compact is governed by the following provisions:

3 (1) With respect to the commissioner's market regulation of a product or  
4 advertisement that is approved or certified to the Commission, the  
5 content of the product or advertisement shall not constitute a violation  
6 of the provisions, standards, or requirements of the Compact except  
7 upon a final order of the Commission, issued at the request of a  
8 commissioner after prior notice to the insurer and an opportunity for  
9 hearing before the Commission.

10 (2) Before a commissioner may bring an action for violation of any  
11 provision, standard, or requirement of the Compact relating to the  
12 content of an advertisement not approved or certified to the  
13 Commission, the Commission, or an authorized Commission officer or  
14 employee, must authorize the action. However, authorization pursuant  
15 to this subdivision does not require notice to the insurer, opportunity  
16 for hearing, or disclosure of requests for authorization or records of the  
17 Commission's action on the requests.

18 **"§ 58-90-45. Dispute resolution.**

19 The Commission shall attempt, upon the request of a member, to resolve any  
20 disputes or other issues that are subject to this Compact and which may arise between  
21 two or more compacting states, or between compacting states and noncompacting states,  
22 and the Commission shall promulgate an operating procedure providing for resolution  
23 of those disputes.

24 **"§ 58-90-50. Product filing and approval.**

25 (a) Insurers and third-party filers seeking to have a product approved by the  
26 Commission shall file the product with, and pay applicable filing fees to, the  
27 Commission. Nothing in this Article shall be construed to restrict or otherwise prevent  
28 an insurer from filing its product with the insurance department in any state wherein the  
29 insurer is licensed to conduct the business of insurance, and the filing shall be subject to  
30 the laws of the states where filed.

31 (b) The Commission shall establish appropriate filing and review processes and  
32 procedures pursuant to Commission rules and operating procedures. Notwithstanding  
33 any provision in this Article to the contrary, the Commission shall promulgate rules to  
34 establish conditions and procedures under which the Commission will provide public  
35 access to product filing information. In establishing rules, the Commission shall  
36 consider the interests of the public in having access to the information, as well as  
37 protection of personal medical and financial information and trade secrets, that may be  
38 contained in a product filing or supporting information.

39 (c) Any product approved by the Commission may be sold or otherwise issued in  
40 those compacting states for which the insurer is legally authorized to do business.

41 **"§ 58-90-55. Review of Commission decisions regarding filings.**

42 (a) Not later than 30 days after the Commission has given notice of a  
43 disapproved product or advertisement filed with the Commission, the insurer or  
44 third-party filer whose filing was disapproved may appeal the determination to a review

1 panel appointed by the Commission. The Commission shall promulgate rules to  
2 establish procedures for appointing review panels and provide for notice and hearing.  
3 An allegation that the Commission, in disapproving a product or advertisement filed  
4 with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of  
5 discretion or otherwise not in accordance with the law, is subject to judicial review in  
6 accordance with G.S. 58-90-15.

7 (b) The Commission shall have authority to monitor, review, and reconsider  
8 products and advertisement subsequent to their filing or approval upon a finding that the  
9 product does not meet the relevant uniform standard. Where appropriate, the  
10 Commission may withdraw or modify its approval after proper notice and hearing,  
11 subject to the appeal process in subsection (a) of this section.

12 **"§ 58-90-60. Finance.**

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

20 (b) The Commission shall collect a filing fee from each insurer and third-party  
21 filer filing a product with the Commission to cover the cost of the operations and  
22 activities of the Commission and its staff in a total amount sufficient to cover the  
23 Commission's annual budget.

24 (c) The Commission's budget for a fiscal year shall not be approved until it has  
25 been subject to notice and comment as set forth in G.S. 58-90-35.

26 (d) The Commission shall be exempt from all taxation in and by the compacting  
27 states.

28 (e) The Commission shall not pledge the credit of any compacting state, except  
29 by and with the appropriate legal authority of that compacting state.

30 (f) The Commission shall keep complete and accurate accounts of all its internal  
31 receipts, including grants and donations, and disbursements of all funds under its  
32 control. The internal financial accounts of the Commission shall be subject to the  
33 accounting procedures established under its bylaws. The financial accounts and reports,  
34 including the system of internal controls and procedures of the Commission, shall be  
35 audited annually by an independent certified public accountant. Upon the determination  
36 of the Commission, but no less frequently than every three years, the review of the  
37 independent auditor shall include a management and performance audit of the  
38 Commission. The Commission shall make an annual report to the Governor and  
39 legislature of the compacting states, which shall include a report of the independent  
40 audit. The Commission's internal accounts shall not be confidential, and those materials  
41 may be shared with the commissioner of any compacting state upon request except that  
42 any work papers related to any internal or independent audit and any information  
43 regarding the privacy of individuals and insurers' proprietary information, including  
44 trade secrets, shall remain confidential.

1       (g) No compacting state shall have any claim to or ownership of any property  
2 held by or vested in the Commission or to any Commission funds held pursuant to the  
3 provisions of this Compact.

4 **"§ 58-90-65. Compacting states; effective date; amendment.**

5       (a) Any State is eligible to become a compacting state.

6       (b) The Compact shall become effective and binding upon legislative enactment  
7 of the Compact into law by two compacting states except that the Commission shall  
8 become effective for purposes of adopting uniform standards for, reviewing, and giving  
9 approval or disapproval of, products filed with the Commission that satisfy applicable  
10 uniform standards only after 26 states are compacting states or, alternatively, by states  
11 representing greater than forty percent (40%) of the premium volume for life insurance,  
12 annuity, disability income, and long-term care insurance products, based on records of  
13 the NAIC for the prior year. Thereafter, it shall become effective and binding as to any  
14 other compacting state upon enactment of the Compact into law by that state.

15       (c) Amendments to the Compact may be proposed by the Commission for  
16 enactment by the compacting states. No amendment shall become effective and binding  
17 upon the Commission and the compacting states unless and until all compacting states  
18 enact the amendment into law.

19 **"§ 58-90-70. Withdrawal; default; termination.**

20       (a) Withdrawal. – Once effective, the Compact shall continue in force and  
21 remain binding upon each and every compacting state though a compacting state may  
22 withdraw from the Compact ("withdrawing state") by enacting a statute specifically  
23 repealing the statute which enacted the Compact into law.

24       The effective date of withdrawal is the effective date of the repealing statute.  
25 However, the withdrawal shall not apply to any product filings approved or  
26 self-certified, or any advertisement of such products, on the date the repealing statute  
27 becomes effective, except by mutual agreement of the Commission and the withdrawing  
28 state unless the approval is rescinded by the withdrawing state as provided in this  
29 subsection.

30       The commissioner of the withdrawing state shall immediately notify the  
31 Management Committee in writing upon the introduction of legislation repealing this  
32 Compact in the withdrawing state.

33       The Commission shall notify the other compacting states of the introduction of such  
34 legislation within 10 days after its receipt of the notice.

35       The withdrawing state is responsible for all obligations, duties, and liabilities  
36 incurred through the effective date of withdrawal, including any obligations, the  
37 performance of which extend beyond the effective date of withdrawal, except to the  
38 extent those obligations may have been released or relinquished by mutual agreement of  
39 the Commission and the withdrawing state. The Commission's approval of products and  
40 advertisement prior to the effective date of withdrawal shall continue to be effective and  
41 be given full force and effect in the withdrawing state, unless formally rescinded by the  
42 withdrawing state in the same manner as provided by the laws of the withdrawing state  
43 for the prospective disapproval of products or advertisement previously approved under  
44 state law.

1        Reinstatement following withdrawal of any compacting state shall occur upon the  
2 effective date of the withdrawing state reenacting the Compact.

3        (b) Default. – If the Commission determines that any compacting state has at any  
4 time defaulted ("defaulting state") in the performance of any of its obligations or  
5 responsibilities under this Compact, the bylaws or duly promulgated rules or operating  
6 procedures, then, after notice and hearing as set forth in the bylaws, all rights,  
7 privileges, and benefits conferred by this Compact on the defaulting state shall be  
8 suspended from the effective date of default as fixed by the Commission. The grounds  
9 for default include failure of a compacting state to perform its obligations or  
10 responsibilities, and any other grounds designated in Commission rules. The  
11 Commission shall immediately notify the defaulting state in writing of the defaulting  
12 state's suspension pending a cure of the default. The Commission shall stipulate the  
13 conditions and the time period within which the defaulting state must cure its default. If  
14 the defaulting state fails to cure the default within the time period specified by the  
15 Commission, the defaulting state shall be terminated from the Compact and all rights,  
16 privileges, and benefits conferred by this Compact shall be terminated from the  
17 effective date of termination.

18        Product approvals by the Commission or product self-certifications, or any  
19 advertisement in connection with such product, that are in force on the effective date of  
20 termination shall remain in force in the defaulting state in the same manner as if the  
21 defaulting state had withdrawn voluntarily pursuant to subsection (a) of this section.

22        Reinstatement following termination of any compacting state requires a reenactment  
23 of the Compact.

24        (c) Dissolution of Compact. – The Compact dissolves effective upon the date of  
25 the withdrawal or default of the compacting state which reduces membership in the  
26 Compact to one compacting state.

27        Upon the dissolution of this Compact, the Compact becomes null and void and shall  
28 be of no further force or effect, and the business and affairs of the Commission shall be  
29 wound up and any surplus funds shall be distributed in accordance with the bylaws.

30        **"§ 58-90-75. Severability; construction.**

31        (a) The provisions of this Compact shall be severable; and if any phrase, clause,  
32 sentence, or provision is deemed unenforceable, the remaining provisions of the  
33 Compact shall be enforceable.

34        (b) The provisions of this Compact shall be liberally construed to effectuate its  
35 purposes.

36        **"§ 58-90-80. Binding effect of Compact; other laws.**

37        (a) Other Laws. – Nothing herein prevents the enforcement of any other law of a  
38 compacting state, except as provided in subsection (b) of this section.

39        For any product approved or certified to the Commission, the rules, uniform  
40 standards, and any other requirements of the Commission shall constitute the exclusive  
41 provisions applicable to the content, approval, and certification of such products. For  
42 advertisement that is subject to the Commission's authority, any rule, uniform standard,  
43 or other requirement of the Commission that governs the content of the advertisement  
44 shall constitute the exclusive provision that a Commissioner may apply to the content of

1 the advertisement. Notwithstanding the foregoing, no action taken by the Commission  
2 shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies  
3 available under state law related to breach of contract, tort, or other laws not specifically  
4 directed to the content of the product; (iii) state law relating to the construction of  
5 insurance contracts; or (iv) the authority of the attorney general of the state, including,  
6 but not limited to, maintaining any actions or proceedings, as authorized by law.

7 All insurance products filed with individual states shall be subject to the laws of  
8 those states.

9 (b) Binding Effect of This Compact. – All lawful actions of the Commission,  
10 including all rules and operating procedures promulgated by the Commission, are  
11 binding upon the compacting states.

12 All agreements between the Commission and the compacting states are binding in  
13 accordance with their terms.

14 Upon the request of a party to a conflict over the meaning or interpretation of  
15 Commission actions, and upon a majority vote of the compacting states, the  
16 Commission may issue advisory opinions regarding the meaning or interpretation in  
17 dispute.

18 In the event any provision of this Compact exceeds the constitutional limits imposed  
19 on the legislature of any compacting state, the obligations, duties, powers, or  
20 jurisdiction sought to be conferred by that provision upon the Commission shall be  
21 ineffective as to that compacting state, and those obligations, duties, powers, or  
22 jurisdiction shall remain in the compacting state and shall be exercised by the agency  
23 thereof to which those obligations, duties, powers, or jurisdiction are delegated by law  
24 in effect at the time this Compact becomes effective."

25 **SECTION 2.** The Commissioner may submit interim reports to the General  
26 Assembly as deemed appropriate by the Commissioner on the effectiveness of the  
27 State's participation in the Compact. No later than January 1, 2009, the Commissioner  
28 shall submit a final report to the General Assembly on the effectiveness of the State's  
29 participation in the Compact. The report may include consideration of any issues  
30 deemed relevant by the Commissioner to the State's participation in the Compact and  
31 may include recommended legislative proposals related to the Compact. The report shall  
32 include the Commissioner's recommendation to the General Assembly as to whether the  
33 State's continued participation in the Compact is in the best interest of the citizens of  
34 this State.

35 **SECTION 3.** This act becomes effective October 1, 2005, and expires  
36 October 1, 2009.