

Senate Bill 384

By: Senators Hudgens of the 47th and Rogers of the 21st

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 enact the Interstate Insurance Product Regulation Compact; to help states join together to
3 establish an interstate compact to regulate designated insurance products; to provide for
4 implementation of such compact; to provide for the Interstate Insurance Product Regulation
5 Commission; to provide for organization of the commission; to provide for related matters;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
10 adding a new Chapter 59 to read as follows:

11 style="text-align:center">"CHAPTER 59

12 33-59-1.

13 The Interstate Insurance Product Regulation Compact is enacted into law and entered into
14 by this state with all other jurisdictions legally joining therein in the form substantially as
15 follows:

16 style="text-align:center">INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

17 style="text-align:center">Article I. Purposes.

18 The purposes of this Interstate Insurance Product Regulation Compact are, through means
19 of joint and cooperative action among the Compacting States:

- 20 (1) To promote and protect the interest of consumers of individual and group annuity,
21 life insurance, disability income and long-term care insurance products;
- 22 (2) To develop uniform standards for insurance products covered under the Compact;

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

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

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

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

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

13 Article II. Definitions.

14 For purposes of this Compact:

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

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

21 (3) 'Compacting State' means any State which has enacted this Compact legislation and
 22 which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant
 23 to Article XIV, Section 2.

24 (4) 'Commission' means the Interstate Insurance Product Regulation Commission
 25 established by this Compact.

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

28 (6) 'Domiciliary State' means the state in which an Insurer is incorporated or organized,
 29 or, in the case of an alien Insurer, its state of entry.

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

32 (8) 'Member' means the person chosen by a Compacting State as its representative to the
 33 Commission, or his or her designee.

34 (9) 'Noncompacting State' means any State which is not at the time a Compacting State.

1 (10) 'Operating Procedures' mean procedures promulgated by the Commission
2 implementing a Rule, Uniform Standard, or a provision of this Compact.

3 (11) 'Product' means the form of a policy or contract, including any application,
4 endorsement, or related form which is attached to and made a part of the policy or
5 contract, and any evidence of coverage or certificate, for an individual or group annuity,
6 life insurance, disability income, or long-term care insurance product that an Insurer is
7 authorized to issue.

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

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

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

16 (15) 'Uniform Standard' means a standard adopted by the Commission for a Product line,
17 pursuant to Article VII of this Compact, and shall include all of the Product requirements
18 in aggregate; provided, that each Uniform Standard shall be construed, whether express
19 or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions
20 in a Product and the form of the Product made available to the public shall not be unfair,
21 inequitable, or against public policy as determined by the Commission.

22 Article III. Establishment of the Commission and Venue.

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

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

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

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

4 Article IV. Powers of the Commission.

5 The Commission shall have the following powers:

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

9 (2) To exercise its rulemaking authority and establish reasonable Uniform Standards for
10 Products covered under the Compact, and Advertisement related thereto, which shall
11 have the force and effect of law and shall be binding in the Compacting States, but only
12 for those Products filed with the Commission, provided, that a Compacting State shall
13 have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent
14 and in the manner provided in this Compact, and, provided further, that any Uniform
15 Standard established by the Commission for long-term care insurance products may
16 provide the same or greater protections for consumers as, but shall not provide less than,
17 those protections set forth in the National Association of Insurance Commissioners'
18 Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation,
19 respectively, adopted as of 2001. The Commission shall consider whether any
20 subsequent amendments to the NAIC Long-Term Care Insurance Model Act or
21 Long-Term Care Insurance Model Regulation adopted by the NAIC require amending
22 of the Uniform Standards established by the Commission for long-term care insurance
23 products;

24 (3) To receive and review in an expeditious manner Products filed with the Commission,
25 and rate filings for disability income and long-term care insurance Products, and give
26 approval of those Products and rate filings that satisfy the applicable Uniform Standard,
27 where such approval 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 Compact;

29 (4) To receive and review in an expeditious manner Advertisement relating to long-term
30 care insurance products for which Uniform Standards have been adopted by the
31 Commission, and give approval to all Advertisement that satisfies the applicable Uniform
32 Standard. For any product covered under this Compact, other than long-term care
33 insurance products, the Commission shall have the authority to require an insurer to
34 submit all or any part of its Advertisement with respect to that product for review or
35 approval prior to use, if the Commission determines that the nature of the product is such

1 that an Advertisement of the product could have the capacity or tendency to mislead the
2 public. The actions of Commission as provided in this section shall have the force and
3 effect of law and shall be binding in the Compacting States to the extent and in the
4 manner provided in the Compact;

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

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

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

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

16 (9) To establish and maintain offices;

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

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

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

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

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

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

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

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

- 1 (18) To provide for dispute resolution among Compacting States;
- 2 (19) To advise Compacting States on issues relating to Insurers domiciled or doing
3 business in Noncompacting jurisdictions, consistent with the purposes of this Compact;
- 4 (20) To provide advice and training to those personnel in state insurance departments
5 responsible for product review, and to be a resource for state insurance departments;
- 6 (21) To establish a budget and make expenditures;
- 7 (22) To borrow money;
- 8 (23) To appoint committees, including advisory committees comprising Members, state
9 insurance regulators, state legislators or their representatives, insurance industry and
10 consumer representatives, and such other interested persons as may be designated in the
11 Bylaws;
- 12 (24) To provide and receive information from, and to cooperate with law enforcement
13 agencies;
- 14 (25) To adopt and use a corporate seal; and
- 15 (26) To perform such other functions as may be necessary or appropriate to achieve the
16 purposes of this Compact consistent with the state regulation of the business of insurance.

17 Article V. Organization of the Commission.

18 (1) Membership, Voting, and Bylaws.

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

27 (b) Each Member shall be entitled to one vote and shall have an opportunity to
28 participate in the governance of the Commission in accordance with the Bylaws.
29 Notwithstanding any provision herein to the contrary, no action of the Commission with
30 respect to the promulgation of a Uniform Standard shall be effective unless two-thirds
31 (2/3) of the Members vote in favor thereof.

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

- 35 (i) Establishing the fiscal year of the Commission;

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

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

6 (iv) Providing reasonable procedures for calling and conducting meetings of the
7 Commission that consists of a majority of Commission members, ensuring reasonable
8 advance notice of each such meeting and providing for the right of citizens to attend
9 each such meeting with enumerated exceptions designed to protect the public's interest,
10 the privacy of individuals, and insurers' proprietary information, including trade
11 secrets. The Commission may meet in camera only after a majority of the entire
12 membership votes to close a meeting en toto or in part. As soon as practicable, the
13 Commission must make public (i) a copy of the vote to close the meeting revealing the
14 vote of each Member with no proxy votes allowed, and (ii) votes taken during such
15 meeting;

16 (v) Establishing the titles, duties, and authority and reasonable procedures for the
17 election of the officers of the Commission;

18 (vi) Providing reasonable standards and procedures for the establishment of the
19 personnel policies and programs of the Commission. Notwithstanding any civil service
20 or other similar laws of any Compacting State, the Bylaws shall exclusively govern the
21 personnel policies and programs of the Commission;

22 (vii) Promulgating a code of ethics to address permissible and prohibited activities of
23 commission members and employees; and

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

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

30 (2) Management Committee, Officers, and Personnel.

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

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

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

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

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

10 (i) Managing the affairs of the Commission in a manner consistent with the Bylaws and
11 purposes of the Commission;

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

20 (iii) Overseeing the offices of the Commission; and

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

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

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

32 (3) Legislative and Advisory Committees.

33 (a) A legislative committee comprising state legislators or their designees shall be
34 established to monitor the operations of, and make recommendations to, the Commission,
35 including the Management Committee; provided that the manner of selection and term
36 of any legislative committee member shall be as set forth in the Bylaws. Prior to the
37 adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual

1 budget, or other significant matter as may be provided in the Bylaws, the Management
2 Committee shall consult with and report to the legislative committee.

3 (b) The Commission shall establish two (2) advisory committees, one of which shall
4 comprise consumer representatives independent of the insurance industry, and the other
5 comprising insurance industry representatives.

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

8 (4) Corporate Records of the Commission.

9 The Commission shall maintain its corporate books and records in accordance with the
10 Bylaws.

11 (5) Qualified Immunity, Defense, and Indemnification.

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

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

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

1 Article VI. Meetings and Acts of the Commission.

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

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

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

11 RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING
12 OUT OF UNIFORM STANDARDS

13 Article VII. Rules and Operating Procedures.

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

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

28 (3) EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A Uniform Standard shall
29 become effective ninety (90) days after its promulgation by the Commission or such later
30 date as the Commission may determine; provided, however, that a Compacting State may
31 opt out of a Uniform Standard as provided in this Article. 'Opt out' shall be defined as any
32 action by a Compacting State to decline to adopt or participate in a promulgated Uniform
33 Standard. All other Rules and Operating Procedures, and amendments thereto, shall

1 become effective as of the date specified in each Rule, Operating Procedure, or
2 amendment.

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

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

28 (5) EFFECT OF OPT OUT. If a Compacting State elects to opt out of a Uniform Standard,
29 the Uniform Standard shall remain applicable in the Compacting State electing to opt out
30 until such time the opt out legislation is enacted into law or the regulation opting out
31 becomes effective.

32 Once the opt out of a Uniform Standard by a Compacting State becomes effective as
33 provided under the laws of that State, the Uniform Standard shall have no further force and
34 effect in that State unless and until the legislation or regulation implementing the opt out
35 is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting
36 State opts out of a Uniform Standard after the Uniform Standard has been made effective

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

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

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

25 Article VIII. Commission Records and Enforcement.

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

34 (2) Except as to privileged records, data, and information, the laws of any Compacting
35 State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State

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

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

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

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

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

33 Article IX. Dispute Resolution.

34 The Commission shall attempt, upon the request of a Member, to resolve any disputes or
35 other issues that are subject to this Compact and which may arise between two or more

1 Compacting States, or between Compacting States and Noncompacting States, and the
2 Commission shall promulgate an Operating Procedure providing for resolution of such
3 disputes.

4 Article X. Product Filing and Approval.

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

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

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

21 Article XI. Review of Commission Decisions Regarding Filings.

22 (1) Not later than thirty (30) days after the Commission has given notice of a
23 disapproved Product or Advertisement filed with the Commission, the Insurer or Third
24 Party Filer whose filing was disapproved may appeal the determination to a review panel
25 appointed by the Commission. The Commission shall promulgate Rules to establish
26 procedures for appointing such review panels and provide for notice and hearing. An
27 allegation that the Commission, in disapproving a Product or Advertisement filed with
28 the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of
29 discretion or otherwise not in accordance with the law, is subject to judicial review in
30 accordance with Article III, Section (4).

31 (2) The Commission shall have authority to monitor, review, and reconsider Products
32 and Advertisement subsequent to their filing or approval upon a finding that the product
33 does not meet the relevant Uniform Standard. Where appropriate, the Commission may

1 withdraw or modify its approval after proper notice and hearing, subject to the appeal
2 process in Section (1) above.

3 Article XII. Finance.

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

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

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

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

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

20 (6) The Commission shall keep complete and accurate accounts of all its internal
21 receipts, including grants and donations, and disbursements of all funds under its control.
22 The internal financial accounts of the Commission shall be subject to the accounting
23 procedures established under its Bylaws. The financial accounts and reports including
24 the system of internal controls and procedures of the Commission shall be audited
25 annually by an independent certified public accountant. Upon the determination of the
26 Commission, but no less frequently than every three (3) years, the review of the
27 independent auditor shall include a management and performance audit of the
28 Commission. The Commission shall make an Annual Report to the Governor and
29 legislature of the Compacting States, which shall include a report of the independent
30 audit. The Commission's internal accounts shall not be confidential and such materials
31 may be shared with the Commissioner of any Compacting State upon request provided,
32 however, that any work papers related to any internal or independent audit and any
33 information regarding the privacy of individuals and insurers' proprietary information,
34 including trade secrets, shall remain confidential.

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

4 Article XIII. Compacting States, Effective Date, and Amendment.

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

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

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

19 Article XIV. Withdrawal, Default, and Termination.

20 (1) Withdrawal.

21 (a) Once effective, the Compact shall continue in force and remain binding upon each
22 and every Compacting State; provided, that a Compacting State may withdraw from the
23 Compact ('Withdrawing State') by enacting a statute specifically repealing the statute
24 which enacted the Compact into law.

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

31 (c) The Commissioner of the Withdrawing State shall immediately notify the
32 Management Committee in writing upon the introduction of legislation repealing this
33 Compact in the Withdrawing State.

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

3 (e) The Withdrawing State is responsible for all obligations, duties, and liabilities
4 incurred through the effective date of withdrawal, including any obligations, the
5 performance of which extend beyond the effective date of withdrawal, except to the
6 extent those obligations may have been released or relinquished by mutual agreement of
7 the Commission and the Withdrawing State. The Commission's approval of Products
8 and Advertisement prior to the effective date of withdrawal shall continue to be effective
9 and be given full force and effect in the Withdrawing State, unless formally rescinded by
10 the Withdrawing State in the same manner as provided by the laws of the Withdrawing
11 State for the prospective disapproval of products or advertisement previously approved
12 under state law.

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

15 (2) Default.

16 (a) If the Commission determines that any Compacting State has at any time defaulted
17 ('Defaulting State') in the performance of any of its obligations or responsibilities under
18 this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after
19 notice and hearing as set forth in the Bylaws, all rights, privileges, and benefits conferred
20 by this Compact on the Defaulting State shall be suspended from the effective date of
21 default as fixed by the Commission. The grounds for default include, but are not limited
22 to, failure of a Compacting State to perform its obligations or responsibilities, and any
23 other grounds designated in Commission Rules. The Commission shall immediately
24 notify the Defaulting State in writing of the Defaulting State's suspension pending a cure
25 of the default. The Commission shall stipulate the conditions and the time period within
26 which the Defaulting State must cure its default. If the Defaulting State fails to cure the
27 default within the time period specified by the Commission, the Defaulting State shall be
28 terminated from the Compact and all rights, privileges, and benefits conferred by this
29 Compact shall be terminated from the effective date of termination.

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

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

36 (3) Dissolution of Compact.

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

3 (b) Upon the dissolution of this Compact, the Compact becomes null and void and shall
4 be of no further force or effect, and the business and affairs of the Commission shall be
5 wound up and any surplus funds shall be distributed in accordance with the Bylaws.

6 Article XV. Severability and Construction.

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

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

11 Article XVI. Binding Effect of Compact and Other Laws.

12 (1) Other Laws.

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

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

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

30 (2) Binding Effect of this Compact.

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

- 1 (b) All agreements between the Commission and the Compacting States are binding in
2 accordance with their terms.
- 3 (c) Upon the request of a party to a conflict over the meaning or interpretation of
4 Commission actions, and upon a majority vote of the Compacting States, the Commission
5 may issue advisory opinions regarding the meaning or interpretation in dispute.
- 6 (d) In the event any provision of this Compact exceeds the constitutional limits imposed
7 on the legislature of any Compacting State, the obligations, duties, powers, or jurisdiction
8 sought to be conferred by that provision upon the Commission shall be ineffective as to
9 that Compacting State, and those obligations, duties, powers, or jurisdiction shall remain
10 in the Compacting State and shall be exercised by the agency thereof to which those
11 obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this
12 Compact becomes effective.

13 33-59-2.

14 Pursuant to terms and conditions of this chapter, the State of Georgia seeks to join with
15 other States and establish the Interstate Insurance Product Regulation Compact, and thus
16 become a member of the Interstate Insurance Product Regulation Commission. The
17 Commissioner of Insurance is hereby designated to serve as the representative of the State
18 of Georgia to the Commission."

19 **SECTION 2.**

20 All laws and parts of laws in conflict with this Act are repealed.