

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1032

Chapter 92, Laws of 2005

59th Legislature
2005 Regular Session

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

EFFECTIVE DATE: 7/24/05

Passed by the House March 4, 2005
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 6, 2005
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved April 20, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1032** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 20, 2005 - 3:18 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1032

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives Kirby, Roach, Simpson and Schual-Berke; by request of Insurance Commissioner

Read first time 01/11/2005. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to adopting the interstate insurance product
2 regulation compact; and adding a new chapter to Title 48 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Under the terms and conditions of this
5 chapter, the state of Washington seeks to join with other states and
6 establish the interstate insurance product regulation compact and thus
7 become a member of the interstate insurance product regulation
8 commission. The insurance commissioner is hereby designated to serve
9 as the representative of this state to the commission. The purposes of
10 the compact under this chapter are, through means of joint and
11 cooperative action among the compacting states:

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

15 (2) To develop uniform standards for insurance products covered
16 under the compact;

17 (3) To establish a central clearinghouse to receive and provide
18 prompt review of insurance products covered under the compact and, in

1 certain cases, advertisements related thereto, submitted by insurers
2 authorized to do business in one or more compacting states;

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

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

8 (6) To create the interstate insurance product regulation
9 commission; and

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

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Advertisement" means any material designed to create public
15 interest in a product, or induce the public to purchase, increase,
16 modify, reinstate, borrow on, surrender, replace, or retain a policy,
17 as more specifically defined in the rules and operating procedures of
18 the commission.

19 (2) "Bylaws" means those bylaws established by the commission for
20 its governance, or for directing or controlling the commission's
21 actions or conduct.

22 (3) "Compact" means the compact set forth in this chapter.

23 (4) "Compacting state" means any state which has enacted the
24 compact and which has not withdrawn under section 14(1) of this act or
25 been terminated under section 14(2) of this act.

26 (5) "Commission" means the interstate insurance product regulation
27 commission established in section 3 of this act.

28 (6) "Commissioner" means the insurance commissioner or the chief
29 insurance regulatory official of a state including but not limited to
30 commissioner, superintendent, director, or administrator.

31 (7) "Domiciliary state" means the state in which an insurer is
32 incorporated or organized; or, in the case of an alien insurer, its
33 state of entry.

34 (8) "Insurer" means any entity licensed by a state to issue
35 contracts of insurance for any of the lines of insurance covered by the
36 compact.

1 (9) "Member" means the person chosen by a compacting state as its
2 representative to the commission, or his or her designee.

3 (10) "Noncompacting state" means any state which is not at the time
4 a compacting state.

5 (11) "Operating procedures" mean procedures adopted by the
6 commission implementing a rule, uniform standard, or a provision of the
7 compact.

8 (12) "Product" means the form of a policy or contract, including
9 any application, endorsement, or related form which is attached to and
10 made a part of the policy or contract, and any evidence of coverage or
11 certificate, for an individual or group annuity, life insurance,
12 disability income, or long-term care insurance product that an insurer
13 is authorized to issue.

14 (13) "Rule" means a statement of general or particular
15 applicability and future effect adopted by the commission, including a
16 uniform standard developed under section 7 of this act, designed to
17 implement, interpret, or prescribe law or policy or describing the
18 organization, procedure, or practice requirements of the commission,
19 which shall have the force and effect of law in the compacting states.

20 (14) "State" means any state, district, or territory of the United
21 States of America.

22 (15) "Third-party filer" means an entity that submits a product
23 filing to the commission on behalf of an insurer.

24 (16) "Uniform standard" means a standard adopted by the commission
25 for a product line, under section 7 of this act, and includes all of
26 the product requirements in aggregate. However, each uniform standard
27 shall be construed, whether express or implied, to prohibit the use of
28 any inconsistent, misleading, or ambiguous provisions in a product and
29 the form of the product made available to the public shall not be
30 unfair, inequitable, or against public policy as determined by the
31 commission.

32 NEW SECTION. **Sec. 3.** (1) The compacting states hereby create and
33 establish a joint public agency known as the interstate insurance
34 product regulation commission. Under section 4 of this act, the
35 commission will have the power to develop uniform standards for product
36 lines, receive and provide prompt review of products filed therewith,
37 and give approval to those product filings satisfying applicable

1 uniform standards. However, it is not intended for the commission to
2 be the exclusive entity for receipt and review of insurance product
3 filings. This section does not prohibit any insurer from filing its
4 product in any state wherein the insurer is licensed to conduct the
5 business of insurance; and any such filing shall be subject to the laws
6 of the state where filed.

7 (2) The commission is a body corporate and politic, and an
8 instrumentality of the compacting states.

9 (3) The commission is solely responsible for its liabilities except
10 as otherwise specifically provided in the compact.

11 (4) Venue is proper and judicial proceedings by or against the
12 commission shall be brought solely and exclusively in a court of
13 competent jurisdiction where the principal office of the commission is
14 located.

15 NEW SECTION. **Sec. 4.** The commission shall have the following
16 powers:

17 (1) To adopt rules, under section 7 of this act, which shall have
18 the force and effect of law and shall be binding in the compacting
19 states to the extent and in the manner provided in the compact;

20 (2) To exercise its rule-making authority and establish reasonable
21 uniform standards for products covered under the compact, and
22 advertisement related thereto, which shall have the force and effect of
23 law and shall be binding in the compacting states, but only for those
24 products filed with the commission. However, a compacting state shall
25 have the right to opt out of such uniform standard under section 7 of
26 this act, to the extent and in the manner provided in this compact.
27 Any uniform standard established by the commission for long-term care
28 insurance products may provide the same or greater protections for
29 consumers as, but shall not provide less than, those protections set
30 forth in the national association of insurance commissioners' long-term
31 care insurance model act and long-term care insurance model regulation,
32 respectively, adopted as of 2001. The commission shall consider
33 whether any subsequent amendments to the long-term care insurance model
34 act or long-term care insurance model regulation adopted by the
35 national association of insurance commissioners require amending of the
36 uniform standards established by the commission for long-term care
37 insurance products;

1 (3) To receive and review in an expeditious manner products filed
2 with the commission, and rate filings for disability income and long-
3 term care insurance products, and give approval of those products and
4 rate filings that satisfy the applicable uniform standard, where such
5 approval shall have the force and effect of law and be binding on the
6 compacting states to the extent and in the manner provided in the
7 compact;

8 (4) To receive and review in an expeditious manner advertisement
9 relating to long-term care insurance products for which uniform
10 standards have been adopted by the commission, and give approval to all
11 advertisement that satisfies the applicable uniform standard. For any
12 product covered under this compact, other than long-term care insurance
13 products, the commission shall have the authority to require an insurer
14 to submit all or any part of its advertisement with respect to that
15 product for review or approval prior to use, if the commission
16 determines that the nature of the product is such that an advertisement
17 of the product could have the capacity or tendency to mislead the
18 public. The actions of the commission as provided in this section
19 shall have the force and effect of law and shall be binding in the
20 compacting states to the extent and in the manner provided in the
21 compact;

22 (5) To exercise its rule-making authority and designate products
23 and advertisement that may be subject to a self-certification process
24 without the need for prior approval by the commission;

25 (6) To adopt operating procedures, under section 7 of this act,
26 which shall be binding in the compacting states to the extent and in
27 the manner provided in the compact;

28 (7) To bring and prosecute legal proceedings or actions in its name
29 as the commission. However, the standing of any state insurance
30 department to sue or be sued under applicable law shall not be
31 affected;

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

34 (9) To establish and maintain offices;

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

36 (11) To borrow, accept, or contract for services of personnel,
37 including, but not limited to, employees of a compacting state;

- 1 (12) To hire employees, professionals, or specialists, and elect or
2 appoint officers, and to fix their compensation, define their duties,
3 and give them appropriate authority to carry out the purposes of the
4 compact, and determine their qualifications; and to establish the
5 commission's personnel policies and programs relating to, among other
6 things, conflicts of interest, rates of compensation, and
7 qualifications of personnel;
- 8 (13) To accept any and all appropriate donations and grants of
9 money, equipment, supplies, materials, and services, and to receive,
10 utilize, and dispose of the same. However, the commission shall strive
11 to avoid any appearance of impropriety;
- 12 (14) To lease, purchase, accept appropriate gifts or donations of,
13 or otherwise to own, hold, improve, or use, any property, real,
14 personal, or mixed. However, the commission shall strive to avoid any
15 appearance of impropriety;
- 16 (15) To sell, convey, mortgage, pledge, lease, exchange, abandon,
17 or otherwise dispose of any property, real, personal, or mixed;
- 18 (16) To remit filing fees to compacting states as may be set forth
19 in the bylaws, rules, or operating procedures;
- 20 (17) To enforce compliance by compacting states with rules, uniform
21 standards, operating procedures, and bylaws;
- 22 (18) To provide for dispute resolution among compacting states;
- 23 (19) To advise compacting states on issues relating to insurers
24 domiciled or doing business in noncompacting jurisdictions, consistent
25 with the purposes of the compact;
- 26 (20) To provide advice and training to those personnel in state
27 insurance departments responsible for product review, and to be a
28 resource for state insurance departments;
- 29 (21) To establish a budget and make expenditures;
- 30 (22) To borrow money;
- 31 (23) To appoint committees, including advisory committees
32 comprising members, state insurance regulators, state legislators or
33 their representatives, insurance industry and consumer representatives,
34 and such other interested persons as may be designated in the bylaws;
- 35 (24) To provide and receive information from, and to cooperate
36 with, law enforcement agencies;
- 37 (25) To adopt and use a corporate seal; and

1 (26) To perform such other functions as may be necessary or
2 appropriate to achieve the purposes of the compact consistent with the
3 state regulation of the business of insurance.

4 NEW SECTION. **Sec. 5.** (1)(a) Each compacting state shall have and
5 be limited to one member. Each member shall be qualified to serve in
6 that capacity pursuant to applicable law of the compacting state. Any
7 member may be removed or suspended from office as provided by the law
8 of the state from which he or she shall be appointed. Any vacancy
9 occurring in the commission shall be filled in accordance with the laws
10 of the compacting state wherein the vacancy exists. This section does
11 not affect the manner in which a compacting state determines the
12 election or appointment and qualification of its own commissioner.

13 (b) Each member shall be entitled to one vote and shall have an
14 opportunity to participate in the governance of the commission in
15 accordance with the bylaws. Notwithstanding any provision in this
16 chapter to the contrary, no action of the commission with respect to
17 the adoption of a uniform standard shall be effective unless two-thirds
18 of the members vote in favor thereof.

19 (c) The commission shall, by a majority of the members, prescribe
20 bylaws to govern its conduct as may be necessary or appropriate to
21 carry out the purposes, and exercise the powers, of the compact,
22 including, but not limited to:

23 (i) Establishing the fiscal year of the commission;

24 (ii) Providing reasonable procedures for appointing and electing
25 members, as well as holding meetings, of the management committee;

26 (iii) Providing reasonable standards and procedures for: (A) The
27 establishment and meetings of other committees; and (B) governing any
28 general or specific delegation of any authority or function of the
29 commission;

30 (iv) Providing reasonable procedures for calling and conducting
31 meetings of the commission that consists of a majority of commission
32 members, ensuring reasonable advance notice of each such meeting and
33 providing for the right of citizens to attend each such meeting with
34 enumerated exceptions designed to protect the public's interest, the
35 privacy of individuals, and insurers' proprietary information,
36 including trade secrets. The commission may meet in camera only after
37 a majority of the entire membership votes to close a meeting. As soon

1 as practicable, the commission must make public: (A) A copy of the
2 vote to close the meeting revealing the vote of each member with no
3 proxy votes allowed; and (B) votes taken during such meeting;

4 (v) Establishing the titles, duties, and authority and reasonable
5 procedures for the election of the officers of the commission;

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

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

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

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

20 (2)(a) A management committee comprising no more than fourteen
21 members shall be established as follows:

22 (i) One member from each of the six compacting states with the
23 largest premium volume for individual and group annuities, life,
24 disability income, and long-term care insurance products, determined
25 from the records of the national association of insurance commissioners
26 for the prior year;

27 (ii) Four members from those compacting states with at least two
28 percent of the market based on the premium volume described under
29 (a)(i) of this subsection, other than the six compacting states with
30 the largest premium volume, selected on a rotating basis as provided in
31 the bylaws; and

32 (iii) Four members from those compacting states with less than two
33 percent of the market, based on the premium volume described under
34 (a)(i) of this subsection, with one selected from each of the four zone
35 regions of the national association of insurance commissioners as
36 provided in the bylaws.

37 (b) The management committee shall have such authority and duties
38 as may be set forth in the bylaws, including but not limited to:

1 (i) Managing the affairs of the commission in a manner consistent
2 with the bylaws and purposes of the commission;

3 (ii) Establishing and overseeing an organizational structure
4 within, and appropriate procedures for, the commission to provide for
5 the creation of uniform standards and other rules, receipt and review
6 of product filings, administrative and technical support functions,
7 review of decisions regarding the disapproval of a product filing, and
8 the review of elections made by a compacting state to opt out of a
9 uniform standard. However, a uniform standard shall not be submitted
10 to the compacting states for adoption unless approved by two-thirds of
11 the members of the management committee;

12 (iii) Overseeing the offices of the commission; and

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

16 (c) The commission shall elect annually officers from the
17 management committee, with each having such authority and duties, as
18 may be specified in the bylaws.

19 (d) The management committee may, subject to the approval of the
20 commission, appoint or retain an executive director for such period,
21 upon such terms and conditions and for such compensation as the
22 commission may deem appropriate. The executive director shall serve as
23 secretary to the commission, but shall not be a member of the
24 commission. The executive director shall hire and supervise such other
25 staff as may be authorized by the commission.

26 (3)(a) A legislative committee comprising state legislators or
27 their designees shall be established to monitor the operations of, and
28 make recommendations to, the commission, including the management
29 committee. However, the manner of selection and term of any
30 legislative committee member shall be as set forth in the bylaws.
31 Prior to the adoption by the commission of any uniform standard,
32 revision to the bylaws, annual budget, or other significant matter as
33 may be provided in the bylaws, the management committee shall consult
34 with and report to the legislative committee.

35 (b) The commission shall establish two advisory committees, one of
36 which shall comprise consumer representatives independent of the
37 insurance industry, and the other comprising insurance industry
38 representatives.

1 (c) The commission may establish additional advisory committees as
2 its bylaws may provide for the carrying out of its functions.

3 (4) The commission shall maintain its corporate books and records
4 in accordance with the bylaws.

5 (5)(a) The members, officers, executive director, employees, and
6 representatives of the commission shall be immune from suit and
7 liability, either personally or in their official capacity, for any
8 claim for damage to or loss of property or personal injury or other
9 civil liability caused by or arising out of any actual or alleged act,
10 error, or omission that occurred, or that the person against whom the
11 claim is made had a reasonable basis for believing occurred within the
12 scope of commission employment, duties, or responsibilities. However,
13 this subsection (5)(a) does not protect any such person from suit or
14 liability for any damage, loss, injury or liability caused by the
15 intentional or willful and wanton misconduct of that person.

16 (b) The commission shall defend any member, officer, executive
17 director, employee, or representative of the commission in any civil
18 action seeking to impose liability arising out of any actual or alleged
19 act, error, or omission that occurred within the scope of commission
20 employment, duties, or responsibilities, or that the person against
21 whom the claim is made had a reasonable basis for believing occurred
22 within the scope of commission employment, duties, or responsibilities.
23 However, this subsection (5)(b) does not prohibit that person from
24 retaining his or her own counsel. Also, the actual or alleged act,
25 error, or omission may not have resulted from that person's intentional
26 or willful and wanton misconduct.

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

1 NEW SECTION. **Sec. 6.** (1) The commission shall meet and take such
2 actions as are consistent with the provisions of the compact and the
3 bylaws.

4 (2) Each member of the commission shall have the right and power to
5 cast a vote to which that compacting state is entitled and to
6 participate in the business and affairs of the commission. A member
7 shall vote in person or by such other means as provided in the bylaws.
8 The bylaws may provide for members' participation in meetings by
9 telephone or other means of communication.

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

12 NEW SECTION. **Sec. 7.** (1) The commission shall adopt reasonable
13 rules, including uniform standards, and operating procedures in order
14 to effectively and efficiently achieve the purposes of the compact. In
15 the event the commission exercises its rule-making authority in a
16 manner that is beyond the scope of the purposes of this chapter, then
17 such an action by the commission shall be invalid and have no force and
18 effect.

19 (2) Rules and operating procedures shall be made pursuant to a
20 rule-making process that conforms to the model state administrative
21 procedure act of 1981 as amended, as may be appropriate to the
22 operations of the commission. Before the commission adopts a uniform
23 standard, the commission shall give written notice to the relevant
24 state legislative committees in each compacting state responsible for
25 insurance issues of its intention to adopt the uniform standard. The
26 commission in adopting a uniform standard shall consider fully all
27 submitted materials and issue a concise explanation of its decision.

28 (3) A uniform standard shall become effective ninety days after its
29 adoption by the commission or such later date as the commission may
30 determine. However, a compacting state may opt out of a uniform
31 standard as provided in this section. "Opt out" means any action by a
32 compacting state to decline to adopt or participate in an adopted
33 uniform standard. All other rules and operating procedures, and
34 amendments thereto, shall become effective as of the date specified in
35 each rule, operating procedure, or amendment.

36 (4)(a) A compacting state may opt out of a uniform standard, either
37 by legislation or regulation adopted by the insurance department under

1 the compacting state's administrative procedure act. If a compacting
2 state elects to opt out of a uniform standard by rule, it must: (i)
3 Give written notice to the commission no later than ten business days
4 after the uniform standard is adopted, or at the time the state becomes
5 a compacting state; and (ii) find that the uniform standard does not
6 provide reasonable protections to the citizens of the state, given the
7 conditions in the state.

8 (b) The commissioner shall make specific findings of fact and
9 conclusions of law, based on a preponderance of the evidence, detailing
10 the conditions in the state which warrant a departure from the uniform
11 standard and determining that the uniform standard would not reasonably
12 protect the citizens of the state. The commissioner must consider and
13 balance the following factors and find that the conditions in the state
14 and needs of the citizens of the state outweigh: (i) The intent of the
15 legislature to participate in, and the benefits of, an interstate
16 agreement to establish national uniform consumer protections for the
17 products subject to this chapter; and (ii) the presumption that a
18 uniform standard adopted by the commission provides reasonable
19 protections to consumers of the relevant product.

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

29 (5) If a compacting state elects to opt out of a uniform standard,
30 the uniform standard shall remain applicable in the compacting state
31 electing to opt out until such time the opt out legislation is enacted
32 into law or the regulation opting out becomes effective. Once the opt
33 out of a uniform standard by a compacting state becomes effective as
34 provided under the laws of that state, the uniform standard shall have
35 no further force and effect in that state unless and until the
36 legislation or regulation implementing the opt out is repealed or
37 otherwise becomes ineffective under the laws of the state. If a
38 compacting state opts out of a uniform standard after the uniform

1 standard has been made effective in that state, the opt out shall have
2 the same prospective effect as provided under section 14 of this act
3 for withdrawals.

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

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

31 NEW SECTION. **Sec. 8.** (1) The commission shall adopt rules
32 establishing conditions and procedures for public inspection and
33 copying of its information and official records, except such
34 information and records involving the privacy of individuals and
35 insurers' trade secrets. The commission may adopt additional rules
36 under which it may make available to federal and state agencies,
37 including law enforcement agencies, records and information otherwise

1 exempt from disclosure, and may enter into agreements with such
2 agencies to receive or exchange information or records subject to
3 nondisclosure and confidentiality provisions.

4 (2) Except as to privileged records, data, and information, the
5 laws of any compacting state pertaining to confidentiality or
6 nondisclosure shall not relieve any compacting state commissioner of
7 the duty to disclose any relevant records, data or information to the
8 commission. However, disclosure to the commission does not waive or
9 otherwise affect any confidentiality requirement. Also, except as
10 otherwise expressly provided in this chapter, the commission shall not
11 be subject to the compacting state's laws pertaining to confidentiality
12 and nondisclosure with respect to records, data, and information in its
13 possession. Confidential information of the commission shall remain
14 confidential after such information is provided to any commissioner.

15 (3) The commission shall monitor compacting states for compliance
16 with duly adopted bylaws, rules, including uniform standards, and
17 operating procedures. The commission shall notify any noncomplying
18 compacting state in writing of its noncompliance with commission
19 bylaws, rules or operating procedures. If a noncomplying compacting
20 state fails to remedy its noncompliance within the time specified in
21 the notice of noncompliance, the compacting state shall be deemed to be
22 in default as set forth in section 14 of this act.

23 (4) The commissioner of any state in which an insurer is authorized
24 to do business, or is conducting the business of insurance, shall
25 continue to exercise his or her authority to oversee the market
26 regulation of the activities of the insurer in accordance with the
27 provisions of the state's law. The commissioner's enforcement of
28 compliance with the compact is governed by the following provisions:

29 (a) With respect to the commissioner's market regulation of a
30 product or advertisement that is approved or certified to the
31 commission, the content of the product or advertisement shall not
32 constitute a violation of the provisions, standards, or requirements of
33 the compact except upon a final order of the commission, issued at the
34 request of a commissioner after prior notice to the insurer and an
35 opportunity for hearing before the commission.

36 (b) Before a commissioner may bring an action for violation of any
37 provision, standard, or requirement of the compact relating to the
38 content of an advertisement not approved or certified to the

1 commission, the commission, or an authorized commission officer or
2 employee, must authorize the action. However, authorization under this
3 subsection (4)(b) does not require notice to the insurer, opportunity
4 for hearing, or disclosure of requests for authorization or records of
5 the commission's action on such requests.

6 NEW SECTION. **Sec. 9.** The commission shall attempt, upon the
7 request of a member, to resolve any disputes or other issues that are
8 subject to this compact and which may arise between two or more
9 compacting states, or between compacting states and noncompacting
10 states, and the commission shall adopt an operating procedure providing
11 for resolution of such disputes.

12 NEW SECTION. **Sec. 10.** (1) Insurers and third-party filers seeking
13 to have a product approved by the commission shall file the product
14 with, and pay applicable filing fees to, the commission. This chapter
15 does not restrict or otherwise prevent an insurer from filing its
16 product with the insurance department in any state wherein the insurer
17 is licensed to conduct the business of insurance, and such filing shall
18 be subject to the laws of the states where filed.

19 (2) The commission shall establish appropriate filing and review
20 processes and procedures pursuant to commission rules and operating
21 procedures. The commission shall adopt rules to establish conditions
22 and procedures under which the commission will provide public access to
23 product filing information. In establishing such rules, the commission
24 shall consider the interests of the public in having access to such
25 information, as well as protection of personal medical and financial
26 information and trade secrets, that may be contained in a product
27 filing or supporting information.

28 (3) Any product approved by the commission may be sold or otherwise
29 issued in those compacting states for which the insurer is legally
30 authorized to do business.

31 NEW SECTION. **Sec. 11.** (1) Not later than thirty days after the
32 commission has given notice of a disapproved product or advertisement
33 filed with the commission, the insurer or third-party filer whose
34 filing was disapproved may appeal the determination to a review panel
35 appointed by the commission. The commission shall adopt rules to

1 establish procedures for appointing such review panels and provide for
2 notice and hearing. An allegation that the commission, in disapproving
3 a product or advertisement filed with the commission, acted
4 arbitrarily, capriciously, or in a manner that is an abuse of
5 discretion or otherwise not in accordance with the law, is subject to
6 judicial review in accordance with section 3(4) of this act.

7 (2) The commission shall have authority to monitor, review, and
8 reconsider products and advertisement subsequent to their filing or
9 approval upon a finding that the product does not meet the relevant
10 uniform standard. Where appropriate, the commission may withdraw or
11 modify its approval after proper notice and hearing, subject to the
12 appeal process in subsection (1) of this section.

13 NEW SECTION. **Sec. 12.** (1) The commission shall pay or provide for
14 the payment of the reasonable expenses of its establishment and
15 organization. To fund the cost of its initial operations, the
16 commission may accept contributions and other forms of funding from the
17 national association of insurance commissioners, compacting states, and
18 other sources. Contributions and other forms of funding from other
19 sources shall be of such a nature that the independence of the
20 commission concerning the performance of its duties shall not be
21 compromised.

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

26 (3) The commission's budget for a fiscal year shall not be approved
27 until it has been subject to notice and comment as set forth in section
28 7 of this act.

29 (4) The commission shall be exempt from all taxation in and by the
30 compacting states.

31 (5) The commission shall not pledge the credit of any compacting
32 state, except by and with the appropriate legal authority of that
33 compacting state.

34 (6) The commission shall keep complete and accurate accounts of all
35 its internal receipts, including grants and donations, and
36 disbursements of all funds under its control. The internal financial
37 accounts of the commission shall be subject to the accounting

1 procedures established under its bylaws. The financial accounts and
2 reports including the system of internal controls and procedures of the
3 commission shall be audited annually by an independent certified public
4 accountant. Upon the determination of the commission, but no less
5 frequently than every three years, the review of the independent
6 auditor shall include a management and performance audit of the
7 commission. The commission shall make an annual report to the governor
8 and legislature of the compacting states, which shall include a report
9 of the independent audit. The commission's internal accounts shall not
10 be confidential and such materials may be shared with the commissioner
11 of any compacting state upon request. However, any work papers related
12 to any internal or independent audit and any information regarding the
13 privacy of individuals and insurers' proprietary information, including
14 trade secrets, shall remain confidential.

15 (7) A compacting state does not have any claim to or ownership of
16 any property held by or vested in the commission or to any commission
17 funds held under this chapter.

18 NEW SECTION. **Sec. 13.** (1) Any state is eligible to become a
19 compacting state.

20 (2) The compact shall become effective and binding upon legislative
21 enactment of the compact into law by two compacting states. However,
22 the commission shall become effective for purposes of adopting uniform
23 standards for, reviewing, and giving approval or disapproval of
24 products filed with the commission that satisfy applicable uniform
25 standards only after twenty-six states are compacting states or,
26 alternatively, by states representing greater than forty percent of the
27 premium volume for life insurance, annuity, disability income, and
28 long-term care insurance products, based on records of the national
29 association of insurance commissioners for the prior year. Thereafter,
30 it shall become effective and binding as to any other compacting state
31 upon enactment of the compact into law by that state.

32 (3) Amendments to the compact may be proposed by the commission for
33 enactment by the compacting states. An amendment does not become
34 effective and binding upon the commission and the compacting states
35 unless and until all compacting states enact the amendment into law.

1 NEW SECTION. **Sec. 14.** (1)(a) Once effective, the compact shall
2 continue in force and remain binding upon each and every compacting
3 state. However, a compacting state may withdraw from the compact by
4 enacting a statute specifically repealing the statute which enacted the
5 compact into law.

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

13 (c) The commissioner of the withdrawing state shall immediately
14 notify the management committee in writing upon the introduction of
15 legislation repealing the compact in the withdrawing state.

16 (d) The commission shall notify the other compacting states of the
17 introduction of such legislation within ten days after its receipt of
18 notice thereof.

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

31 (f) Reinstatement following withdrawal of any compacting state
32 shall occur upon the effective date of the withdrawing state reenacting
33 the compact.

34 (2)(a) If the commission determines that any compacting state has
35 at any time defaulted in the performance of any of its obligations or
36 responsibilities under the compact, the bylaws, or adopted rules or
37 operating procedures, then, after notice and hearing as set forth in
38 the bylaws, all rights, privileges, and benefits conferred by the

1 compact on the defaulting state shall be suspended from the effective
2 date of default as fixed by the commission. The grounds for default
3 include, but are not limited to, failure of a compacting state to
4 perform its obligations or responsibilities, and any other grounds
5 designated in commission rules. The commission shall immediately
6 notify the defaulting state in writing of the defaulting state's
7 suspension pending a cure of the default. The commission shall
8 stipulate the conditions and the time period within which the
9 defaulting state must cure its default. If the defaulting state fails
10 to cure the default within the time period specified by the commission,
11 the defaulting state shall be terminated from the compact and all
12 rights, privileges, and benefits conferred by the compact shall be
13 terminated from the effective date of termination.

14 (b) Product approvals by the commission or product self-
15 certifications, or any advertisement in connection with such product,
16 that are in force on the effective date of termination shall remain in
17 force in the defaulting state in the same manner as if the defaulting
18 state had withdrawn voluntarily under subsection (1) of this section.

19 (c) Reinstatement following termination of any compacting state
20 requires a reenactment of the compact.

21 (3)(a) The compact dissolves effective upon the date of the
22 withdrawal or default of the compacting state which reduces membership
23 in the compact to one compacting state.

24 (b) Upon the dissolution of the compact, the compact becomes null
25 and void and shall be of no further force or effect, and the business
26 and affairs of the commission shall be wound up and any surplus funds
27 shall be distributed in accordance with the bylaws.

28 NEW SECTION. **Sec. 15.** (1)(a) The compact does not prevent the
29 enforcement of any other law of a compacting state, except as provided
30 in (b) of this subsection.

31 (b) For any product approved or certified to the commission, the
32 rules, uniform standards, and any other requirements of the commission
33 shall constitute the exclusive provisions applicable to the content,
34 approval, and certification of such products. For advertisement that
35 is subject to the commission's authority, any rule, uniform standard,
36 or other requirement of the commission which governs the content of the
37 advertisement shall constitute the exclusive provision that a

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

10 (c) All insurance products filed with individual states shall be
11 subject to the laws of those states.

12 (2)(a) All lawful actions of the commission, including all rules
13 and operating procedures adopted by the commission, are binding upon
14 the compacting states.

15 (b) All agreements between the commission and the compacting states
16 are binding in accordance with their terms.

17 (c) Upon the request of a party to a conflict over the meaning or
18 interpretation of commission actions, and upon a majority vote of the
19 compacting states, the commission may issue advisory opinions regarding
20 the meaning or interpretation in dispute.

21 (d) In the event any provision of the compact exceeds the
22 constitutional limits imposed on the legislature of any compacting
23 state, the obligations, duties, powers, or jurisdiction sought to be
24 conferred by that provision upon the commission shall be ineffective as
25 to that compacting state, and those obligations, duties, powers, or
26 jurisdiction shall remain in the compacting state and shall be
27 exercised by the agency thereof to which those obligations, duties,
28 powers, or jurisdiction are delegated by law in effect at the time the
29 compact becomes effective.

30 NEW SECTION. **Sec. 16.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 17.** This chapter shall be liberally construed.

1 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act
2 constitute a new chapter in Title 48 RCW.

Passed by the House March 4, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor April 20, 2005.

Filed in Office of Secretary of State April 20, 2005.