

WORKING DRAFT

HOUSE BILL NO. _____

Interstate insurance product regulation compact.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to insurance products; providing for entry
2 into an interstate insurance product regulation compact;
3 providing for approval of insurance policy forms; and
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 26-15-201 is created to read:

9

10 **26-15-201. Interstate insurance product regulation**
11 **compact.**

12

13 The Interstate Insurance Product Regulation Compact is
14 hereby enacted into law and entered into on behalf of this

1 state with any and all other states legally joining therein
2 in a form substantially as follows:

3

4 **INTERSTATE INSURANCE PRODUCT REGULATION COMPACT**

5

6 **Article I. Purposes**

7

8 (a) The purposes of this compact are, through means
9 of joint and cooperative action among the compacting
10 states:

11

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

15

16 (ii) To develop uniform standards for insurance
17 products covered under the compact;

18

19 (iii) To establish a central clearinghouse to
20 receive and provide prompt review of insurance products
21 covered under the compact and, in certain cases,
22 advertisements related thereto, submitted by insurers
23 authorized to do business in one or more compacting states;

24

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

4

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

9

10 (vi) To create the interstate insurance product
11 regulation commission; and

12

13 (vii) To perform these and such other related
14 functions as may be consistent with the state regulation of
15 the business of insurance.

16

17 **Article II. Definitions**

18

19 (a) Notwithstanding W.S. 26-1-102, for purposes of
20 this compact:

21

22 (i) "Advertisement" means any material designed
23 to create public interest in a product, or induce the
24 public to purchase, increase, modify, reinstate, borrow on,

1 surrender, replace or retain a policy, as more specifically
2 defined in the rules and operating procedures of the
3 commission;

4

5 (ii) "Bylaws" means those bylaws established by
6 the commission for its governance, or for directing or
7 controlling the Commission's actions or conduct;

8

9 (iii) "Compacting state" means any state which
10 has enacted this compact legislation and which has not
11 withdrawn pursuant to Article XIV, Section 1, or been
12 terminated pursuant to Article XIV, Section 2;

13

14 (iv) "Commission" means the "interstate
15 insurance product regulation commission" established by
16 this compact;

17

18 (v) "Commissioner" means the chief insurance
19 regulatory official of a state including, but not limited
20 to commissioner, superintendent, director or administrator;

21

22 (vi) "Domiciliary state" means the state in
23 which an insurer is incorporated or organized or, in the
24 case of an alien insurer, its state of entry;

1

2 (vii) "Insurer" means any entity licensed by a
3 state to issue contracts of insurance for any of the lines
4 of insurance covered by this compact;

5

6 (viii) "Member" means the person chosen by a
7 compacting state as its representative to the commission,
8 or his or her designee;

9

10 (ix) "Non-compacting state" means any state
11 which is not at the time a compacting state;

12

13 (x) "Operating Procedures" mean procedures
14 promulgated by the commission implementing a rule, uniform
15 standard or a provision of this compact;

16

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

24

1 (xii) "Rule" means a statement of general or
2 particular applicability and future effect promulgated by
3 the commission, including a uniform standard developed
4 pursuant to Article VII of this compact, designed to
5 implement, interpret or prescribe law or policy or
6 describing the organization, procedure or practice
7 requirements of the commission, which shall have the force
8 and effect of law in the compacting states;

9

10 (xiii) "State" means any state, district or
11 territory of the United States of America;

12

13 (xiv) "Third-Party filer" means an entity that
14 submits a product filing to the commission on behalf of an
15 insurer;

16

17 (xv) "Uniform standard" means a standard adopted
18 by the commission for a product line, pursuant to Article
19 VII of this compact, and shall include all of the product
20 requirements in aggregate, provided, that each uniform
21 standard shall be construed, whether express or implied, to
22 prohibit the use of any inconsistent, misleading or
23 ambiguous provisions in a product and the form of the
24 product made available to the public shall not be unfair,

1 inequitable or against public policy as determined by the
2 commission.

3

4 **Article III. Establishment of the commission and venue**

5

6 (a) The compacting states hereby create and establish
7 a joint public agency known as the "interstate insurance
8 product regulation commission." Pursuant to Article IV,
9 the commission will have the power to develop uniform
10 standards for product lines, receive and provide prompt
11 review of products filed therewith and give approval to
12 those product filings satisfying applicable uniform
13 standards; provided, it is not intended for the commission
14 to be the exclusive entity for receipt and review of
15 insurance product filings. Nothing herein shall prohibit
16 any insurer from filing its product in any state wherein
17 the insurer is licensed to conduct the business of
18 insurance; and any such filing shall be subject to the laws
19 of the state where filed.

20

21 (b) The commission is a body corporate and politic,
22 and an instrumentality of the compacting states.

23

1 (c) The commission is solely responsible for its
2 liabilities except as otherwise specifically provided in
3 this compact.

4

5 (d) Venue is proper and judicial proceedings by or
6 against the commission shall be brought solely and
7 exclusively in a court of competent jurisdiction where the
8 principal office of the commission is located.

9

10 **Article IV. Powers of the commission**

11

12 (a) The commission shall have the following powers:

13

14 (i) To promulgate rules, pursuant to Article VII
15 of this compact, which shall have the force and effect of
16 law and shall be binding in the compacting states to the
17 extent and in the manner provided in this compact;

18

19 (ii) To exercise its rule-making authority and
20 establish reasonable uniform standards for products covered
21 under the compact, and advertisement related thereto, which
22 shall have the force and effect of law and shall be binding
23 in the compacting states, but only for those products filed
24 with the commission, provided, that a compacting state

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

16

17 (iii) To receive and review in an expeditious
18 manner products filed with the commission, and rate filings
19 for disability income and long-term care insurance
20 products, and give approval of those products and rate
21 filings that satisfy the applicable uniform standard, where
22 such approval shall have the force and effect of law and be
23 binding on the compacting states to the extent and in the
24 manner provided in the compact;

1

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

18

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

23

1 (vi) To promulgate operating procedures,
2 pursuant to Article VII of this compact, which shall be
3 binding in the compacting states to the extent and in the
4 manner provided in this compact;

5

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

10

11 (viii) To issue subpoenas requiring the
12 attendance and testimony of witnesses and the production of
13 evidence;

14

15 (ix) To establish and maintain offices;

16

17 (x) To purchase and maintain insurance and
18 bonds;

19

20 (xi) To borrow, accept or contract for services
21 of personnel, including, but not limited to, employees of a
22 compacting state;

23

1 (xii) To hire employees, professionals or
2 specialists, and elect or appoint officers, and to fix
3 their compensation, define their duties and give them
4 appropriate authority to carry out the purposes of the
5 compact, and determine their qualifications; and to
6 establish the commission's personnel policies and programs
7 relating to, among other things, conflicts of interest,
8 rates of compensation and qualifications of personnel;

9

10 (xiii) To accept any and all appropriate
11 donations and grants of money, equipment, supplies,
12 materials and services, and to receive, utilize and dispose
13 of the same; provided that at all times the commission
14 shall strive to avoid any appearance of impropriety;

15

16 (xiv) To lease, purchase, accept appropriate
17 gifts or donations of, or otherwise to own, hold, improve
18 or use, any property, real, personal or mixed; provided
19 that at all times the commission shall strive to avoid any
20 appearance of impropriety;

21

22 (xv) To sell, convey, mortgage, pledge, lease,
23 exchange, abandon or otherwise dispose of any property,
24 real, personal or mixed;

1

2 (xvi) To remit filing fees to compacting states
3 as may be set forth in the bylaws, rules or operating
4 procedures;

5

6 (xvii) To enforce compliance by compacting
7 states with rules, uniform standards, operating procedures
8 and bylaws;

9

10 (xviii) To provide for dispute resolution among
11 compacting states;

12

13 (xix) To advise compacting states on issues
14 relating to insurers domiciled or doing business in non-
15 compacting jurisdictions, consistent with the purposes of
16 this compact;

17

18 (xx) To provide advice and training to those
19 personnel in state insurance departments responsible for
20 product review, and to be a resource for state insurance
21 departments;

22

23 (xxi) To establish a budget and make
24 expenditures;

1

2 (xxii) To borrow money;

3

4 (xxiii) To appoint committees, including
5 advisory committees comprising members, state insurance
6 regulators, state legislators or their representatives,
7 insurance industry and consumer representatives and such
8 other interested persons as may be designated in the
9 bylaws;

10

11 (xxiv) To provide and receive information from,
12 and to cooperate with law enforcement agencies;

13

14 (xxv) To adopt and use a corporate seal; and

15

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

20

21 **Article V. Organization of the commission**

22

23 (a) Membership, voting and bylaws shall be as

24 follows:

1

2 (i) Each compacting state shall have and be
3 limited to one member. Each member shall be qualified to
4 serve in that capacity pursuant to applicable law of the
5 compacting state. Any member may be removed or suspended
6 from office as provided by the law of the state from which
7 he or she shall be appointed. Any vacancy occurring in the
8 commission shall be filled in accordance with the laws of
9 the compacting state wherein the vacancy exists. Nothing
10 herein shall be construed to affect the manner in which a
11 compacting state determines the election or appointment and
12 qualification of its own commissioner;

13

14 (ii) Each member shall be entitled to one (1)
15 vote and shall have an opportunity to participate in the
16 governance of the commission in accordance with the bylaws.
17 Notwithstanding any provision herein to the contrary, no
18 action of the commission with respect to the promulgation
19 of a uniform standard shall be effective unless two-thirds
20 (2/3) of the members vote in favor thereof;

21

22 (iii) The commission shall, by a majority of the
23 members, prescribe bylaws to govern its conduct as may be
24 necessary or appropriate to carry out the purposes, and

1 exercise the powers, of the compact, including, but not
2 limited to:

3

4 (A) Establishing the fiscal year of the
5 commission;

6

7 (B) Providing reasonable procedures for
8 appointing and electing members, as well as holding
9 meetings, of the management committee;

10

11 (C) Providing reasonable standards and
12 procedures:

13

14 (1) For the establishment and meetings
15 of other committees; and

16

17 (2) Governing any general or specific
18 delegation of any authority or function of the Commission;

19

20 (D) Providing reasonable procedures for
21 calling and conducting meetings of the commission that
22 consist of a majority of commission members, ensuring
23 reasonable advance notice of each such meeting and
24 providing for the right of citizens to attend each such

1 meeting with enumerated exceptions designed to protect the
2 public's interest, the privacy of individuals, and
3 insurers' proprietary information, including trade secrets.
4 The commission may meet in camera only after a majority of
5 the entire membership votes to close a meeting en toto or
6 in part. As soon as practicable, the commission must make
7 public:

8 (1) A copy of the vote to close the
9 meeting revealing the vote of each Member with no proxy
10 votes allowed; and

11

12 (2) votes taken during such meeting;

13

14 (E) Establishing the titles, duties and
15 authority and reasonable procedures for the election of the
16 officers of the commission;

17

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

24

1 (G) Promulgating a code of ethics to
2 address permissible and prohibited activities of commission
3 members and employees; and
4

5 (H) Providing a mechanism for winding up
6 the operations of the commission and the equitable
7 disposition of any surplus funds that may exist after the
8 termination of the compact after the payment and/or
9 reserving of all of its debts and obligations; and
10

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

16 (b) Management committee, officers and personnel
17 shall be as follows:
18

19 (i) A management committee comprising no more
20 than fourteen (14) members shall be established as follows:
21

22 (A) One (1) member from each of the six (6)
23 compacting states with the largest premium volume for

1 individual and group annuities, life, disability income and
2 long-term care insurance products, determined from the
3 records of the NAIC for the prior year;

4

5 (B) Four (4) members from those compacting
6 states with at least two percent (2%) of the market based
7 on the premium volume described above, other than the six
8 (6) compacting states with the largest premium volume,
9 selected on a rotating basis as provided in the bylaws; and

10

11 (C) Four (4) members from those compacting
12 states with less than two percent (2%) of the market, based
13 on the premium volume described above, with one (1)
14 selected from each of the four (4) zone regions of the NAIC
15 as provided in the bylaws;

16

17 (ii) The management committee shall have such
18 authority and duties as may be set forth in the bylaws,
19 including but not limited to:

20

21 (A) Managing the affairs of the commission
22 in a manner consistent with the bylaws and purposes of the
23 commission;

24

1 (B) Establishing and overseeing an
2 organizational structure within, and appropriate procedures
3 for, the commission to provide for the creation of uniform
4 standards and other rules, receipt and review of product
5 filings, administrative and technical support functions,
6 review of decisions regarding the disapproval of a product
7 filing, and the review of elections made by a compacting
8 state to opt out of a uniform standard; provided that a
9 uniform standard shall not be submitted to the compacting
10 states for adoption unless approved by two-thirds (2/3) of
11 the members of the management committee;

12

13 (C) Overseeing the offices of the
14 commission; and

15

16 (D) Planning, implementing and coordinating
17 communications and activities with other state, federal and
18 local government organizations in order to advance the
19 goals of the commission;

20

21 (iii) The commission shall elect annually
22 officers from the management committee, with each having
23 such authority and duties, as may be specified in the
24 bylaws;

1

2 (iv) The management committee may, subject to
3 the approval of the commission, appoint or retain an
4 executive director for such period, upon such terms and
5 conditions and for such compensation as the commission may
6 deem appropriate. The executive director shall serve as
7 secretary to the commission, but shall not be a member of
8 the commission. The executive director shall hire and
9 supervise such other staff as may be authorized by the
10 commission.

11

12 (c) Legislative and advisory committees shall be as
13 follows:

14

15 (i) A legislative committee comprising state
16 legislators or their designees shall be established to
17 monitor the operations of, and make recommendations to, the
18 commission, including the management committee; provided
19 that the manner of selection and term of any legislative
20 committee member shall be as set forth in the bylaws.
21 Prior to the adoption by the commission of any uniform
22 standard, revision to the bylaws, annual budget or other
23 significant matter as may be provided in the bylaws, the

1 management committee shall consult with and report to the
2 legislative committee;

3

4 (ii) The commission shall establish two (2)
5 advisory committees, one of which shall comprise consumer
6 representatives independent of the insurance industry, and
7 the other comprising insurance industry representatives;

8

9 (iii) The commission may establish additional
10 advisory committees as its bylaws may provide for the
11 carrying out of its functions.

12

13 (d) Corporate records of the commission shall be as
14 follows:

15

16 (i) The commission shall maintain its corporate
17 books and records in accordance with the bylaws.

18

19 (e) Qualified immunity, defense and indemnification
20 shall be as follows:

21

22 (i) The members, officers, executive director,
23 employees and representatives of the commission shall be
24 immune from suit and liability, either personally or in

1 their official capacity, for any claim for damage to or
2 loss of property or personal injury or other civil
3 liability caused by or arising out of any actual or alleged
4 act, error or omission that occurred, or that the person
5 against whom the claim is made had a reasonable basis for
6 believing occurred within the scope of commission
7 employment, duties or responsibilities; provided, that
8 nothing in this paragraph shall be construed to protect any
9 such person from suit and/or liability for any damage,
10 loss, injury or liability caused by the intentional or
11 willful and wanton misconduct of that person;

12

13 (ii) The commission shall defend any member,
14 officer, executive director, employee or representative of
15 the commission in any civil action seeking to impose
16 liability arising out of any actual or alleged act, error
17 or omission that occurred within the scope of commission
18 employment, duties or responsibilities, or that the person
19 against whom the claim is made had a reasonable basis for
20 believing occurred within the scope of commission
21 employment, duties or responsibilities, provided, that
22 nothing herein shall be construed to prohibit that person
23 from retaining his or her own counsel, and provided
24 further, that the actual or alleged act, error or omission

1 did not result from that person's intentional or willful
2 and wanton misconduct;

3

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

16

17 **Article VI. Meetings and acts of the commission**

18

19 (a) The commission shall meet and take such actions
20 as are consistent with the provisions of this compact and
21 the bylaws.

22

23 (b) Each member of the commission shall have the
24 right and power to cast a vote to which that compacting

1 state is entitled and to participate in the business and
2 affairs of the commission. A member shall vote in person
3 or by such other means as provided in the bylaws. The
4 bylaws may provide for members' participation in meetings
5 by telephone or other means of communication.

6

7 (c) The commission shall meet at least once during
8 each calendar year. Additional meetings shall be held as
9 set forth in the bylaws.

10

11 **Article VII. Rules and operating procedures: rulemaking**
12 **functions of the commission and opting out of uniform**
13 **standards**

14

15 (a) Rulemaking authority. The commission shall
16 promulgate reasonable rules, including uniform standards,
17 and operating procedures in order to effectively and
18 efficiently achieve the purposes of this compact.
19 Notwithstanding the foregoing, in the event the commission
20 exercises its rulemaking authority in a manner that is
21 beyond the scope of the purposes of this compact, or the
22 powers granted hereunder, then such an action by the
23 commission shall be invalid and have no force and effect.

24

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

13

14 (c) Effective date and opt out of a uniform standard.
15 A uniform standard shall become effective ninety (90) days
16 after its promulgation by the commission or such later date
17 as the commission may determine; provided, however, that a
18 compacting state may opt out of a uniform standard as
19 provided in this article. "Opt out" shall be defined as
20 any action by a compacting state to decline to adopt or
21 participate in a promulgated uniform standard. All other
22 rules and operating procedures, and amendments thereto,
23 shall become effective as of the date specified in each
24 rule, operating procedure or amendment.

1

2 (d) Opt out procedure. A compacting state may opt
3 out of a uniform standard, either by legislation or
4 regulation duly promulgated by the insurance department
5 under the compacting state's administrative procedure act.
6 If a compacting state elects to opt out of a uniform
7 standard by regulation, it must:

8

9 (i) Give written notice to the commission no
10 later than ten (10) business days after the uniform
11 standard is promulgated, or at the time the state becomes a
12 compacting state; and

13

14 (ii) Find that the uniform standard does not
15 provide reasonable protections to the citizens of the
16 state, given the conditions in the state. The commissioner
17 shall make specific findings of fact and conclusions of
18 law, based on a preponderance of the evidence, detailing
19 the conditions in the state which warrant a departure from
20 the uniform standard and determining that the uniform
21 standard would not reasonably protect the citizens of the
22 state. The commissioner must consider and balance the
23 following factors and find that the conditions in the state
24 and needs of the citizens of the state outweigh:

1

2 (A) The intent of the legislature to
3 participate in, and the benefits of, an interstate
4 agreement to establish national uniform consumer
5 protections for the products subject to this compact; and

6

7 (B) The presumption that a uniform standard
8 adopted by the commission provides reasonable protections
9 to consumers of the relevant product.

10

11 (iii) Notwithstanding the foregoing, a
12 compacting state may, at the time of its enactment of this
13 compact, prospectively opt out of all uniform standards
14 involving long-term care insurance products by expressly
15 providing for such opt out in the enacted compact, and such
16 an opt out shall not be treated as a material variance in
17 the offer or acceptance of any state to participate in this
18 compact. Such an opt out shall be effective at the time of
19 enactment of this compact by the compacting state and shall
20 apply to all existing uniform standards involving long-term
21 care insurance products and those subsequently promulgated.

22

23 (e) Effect of opt out is as follows:

24

1 (i) If a compacting state elects to opt out of a
2 uniform standard, the uniform standard shall remain
3 applicable in the compacting state electing to opt out
4 until such time the opt out legislation is enacted into law
5 or the regulation opting out becomes effective;

6
7 (ii) Once the opt out of a uniform standard by a
8 compacting state becomes effective as provided under the
9 laws of that state, the uniform standard shall have no
10 further force and effect in that state unless and until the
11 legislation or regulation implementing the opt out is
12 repealed or otherwise becomes ineffective under the laws of
13 the state. If a compacting state opts out of a uniform
14 standard after the uniform standard has been made effective
15 in that state, the opt out shall have the same prospective
16 effect as provided under Article XIV for withdrawals.

17
18 (f) Stay of uniform standard. If a compacting state
19 has formally initiated the process of opting out of a
20 uniform standard by regulation, and while the regulatory
21 opt out is pending, the compacting state may petition the
22 commission, at least fifteen (15) days before the effective
23 date of the uniform standard, to stay the effectiveness of
24 the uniform standard in that state. The commission may

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

14

15 (g) Not later than thirty (30) days after a rule or
16 operating procedure is promulgated, any person may file a
17 petition for judicial review of the rule or operating
18 procedure; provided, that the filing of such a petition
19 shall not stay or otherwise prevent the rule or operating
20 procedure from becoming effective unless the court finds
21 that the petitioner has a substantial likelihood of
22 success. The court shall give deference to the actions of
23 the commission consistent with applicable law and shall not
24 find the rule or operating procedure to be unlawful if the

1 rule or operating procedure represents a reasonable
2 exercise of the commission's authority.

3

4 **Article VIII. Commission records and enforcement**

5

6 (a) The commission shall promulgate rules
7 establishing conditions and procedures for public
8 inspection and copying of its information and official
9 records, except such information and records involving the
10 privacy of individuals and insurers' trade secrets. The
11 commission may promulgate additional rules under which it
12 may make available to federal and state agencies, including
13 law enforcement agencies, records and information otherwise
14 exempt from disclosure, and may enter into agreements with
15 such agencies to receive or exchange information or records
16 subject to nondisclosure and confidentiality provisions.

17

18 (b) Except as to privileged records, data and
19 information, the laws of any compacting state pertaining to
20 confidentiality or nondisclosure shall not relieve any
21 compacting state commissioner of the duty to disclose any
22 relevant records, data or information to the commission;
23 provided, that disclosure to the commission shall not be
24 deemed to waive or otherwise affect any confidentiality

1 requirement; and further provided, that, except as
2 otherwise expressly provided in this compact, the
3 commission shall not be subject to the compacting state's
4 laws pertaining to confidentiality and nondisclosure with
5 respect to records, data and information in its possession.
6 Confidential information of the commission shall remain
7 confidential after such information is provided to any
8 commissioner.

9

10 (c) The commission shall monitor compacting states
11 for compliance with duly adopted bylaws, rules, including
12 uniform standards, and operating procedures. The
13 commission shall notify any non-complying compacting state
14 in writing of its noncompliance with commission bylaws,
15 rules or operating procedures. If a non-complying
16 compacting state fails to remedy its noncompliance within
17 the time specified in the notice of noncompliance, the
18 compacting state shall be deemed to be in default as set
19 forth in Article XIV.

20

21 (d) The commissioner of any state in which an insurer
22 is authorized to do business, or is conducting the business
23 of insurance, shall continue to exercise his authority to
24 oversee the market regulation of the activities of the

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

4

5 (i) With respect to the commissioner's market
6 regulation of a product or advertisement that is approved
7 or certified to the commission, the content of the product
8 or advertisement shall not constitute a violation of the
9 provisions, standards or requirements of the compact except
10 upon a final order of the commission, issued at the request
11 of a commissioner after prior notice to the insurer and an
12 opportunity for hearing before the commission;

13

14 (ii) Before a commissioner may bring an action
15 for violation of any provision, standard or requirement of
16 the compact relating to the content of an advertisement not
17 approved or certified to the commission, the commission, or
18 an authorized commission officer or employee, must
19 authorize the action. However, authorization pursuant to
20 this paragraph does not require notice to the insurer,
21 opportunity for hearing or disclosure of requests for
22 authorization or records of the commission's action on such
23 requests.

24

1 **Article IX. Dispute resolution**

2

3 The commission shall attempt, upon the request of a member,
4 to resolve any disputes or other issues that are subject to
5 this compact and which may arise between two (2) or more
6 compacting states, or between compacting states and non-
7 compacting states, and the commission shall promulgate an
8 operating procedure providing for resolution of such
9 disputes.

10

11 **Article X. Product filing and approval**

12

13 (a) Insurers and third-party filers seeking to have a
14 product approved by the commission shall file the product
15 with, and pay applicable filing fees to, the commission.
16 Nothing in this compact shall be construed to restrict or
17 otherwise prevent an insurer from filing its product with
18 the insurance department in any state wherein the insurer
19 is licensed to conduct the business of insurance, and such
20 filing shall be subject to the laws of the states where
21 filed.

22

23 (b) The commission shall establish appropriate filing
24 and review processes and procedures pursuant to commission

1 rules and operating procedures. Notwithstanding any
2 provision herein to the contrary, the commission shall
3 promulgate rules to establish conditions and procedures
4 under which the commission will provide public access to
5 product filing information. In establishing such rules,
6 the commission shall consider the interests of the public
7 in having access to such information, as well as protection
8 of personal medical and financial information and trade
9 secrets, that may be contained in a product filing or
10 supporting information.

11

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

15

16 **Article XI. Review of commission decisions regarding**
17 **filings**

18

19 (a) Not later than thirty (30) days after the
20 commission has given notice of a disapproved product or
21 advertisement filed with the commission, the insurer or
22 third-party filer whose filing was disapproved may appeal
23 the determination to a review panel appointed by the
24 commission. The commission shall promulgate rules to

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

8

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

16

17 **Article XII. Finance**

18

19 (a) The commission shall pay or provide for the
20 payment of the reasonable expenses of its establishment and
21 organization. To fund the cost of its initial operations,
22 the commission may accept contributions and other forms of
23 funding from the national association of insurance
24 commissioners, compacting states and other sources.

1 Contributions and other forms of funding from other sources
2 shall be of such a nature that the independence of the
3 commission concerning the performance of its duties shall
4 not be compromised.

5

6 (b) The commission shall collect a filing fee from
7 each insurer and third-party filer filing a product with
8 the commission to cover the cost of the operations and
9 activities of the commission and its staff in a total
10 amount sufficient to cover the commission's annual budget.

11

12 (c) The commission's budget for a fiscal year shall
13 not be approved until it has been subject to notice and
14 comment as set forth in Article VII of this compact.

15

16 (d) The commission shall be exempt from all taxation
17 in and by the compacting states.

18

19 (e) The commission shall not pledge the credit of any
20 compacting state, except by and with the appropriate legal
21 authority of that compacting state.

22

23 (f) The commission shall keep complete and accurate
24 accounts of all its internal receipts, including grants and

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

21

22 (g) No compacting state shall have any claim to or
23 ownership of any property held by or vested in the

1 commission or to any commission funds held pursuant to the
2 provisions of this compact.

3

4 **Article XIII. Compacting states, effective date and**
5 **amendment**

6

7 (a) Any state is eligible to become a compacting
8 state.

9

10 (b) The compact shall become effective and binding
11 upon legislative enactment of the compact into law by two
12 compacting states; provided, the commission shall become
13 effective for purposes of adopting uniform standards for,
14 reviewing, and giving approval or disapproval of, products
15 filed with the commission that satisfy applicable uniform
16 standards only after twenty-six (26) states are compacting
17 states or, alternatively, by states representing greater
18 than forty percent (40%) of the premium volume for life
19 insurance, annuity, disability income and long-term care
20 insurance products, based on records of the national
21 association of insurance commissioners for the prior year.
22 Thereafter, it shall become effective and binding as to any
23 other compacting state upon enactment of the compact into
24 law by that state.

1

2 (c) Amendments to the compact may be proposed by the
3 commission for enactment by the compacting states. No
4 amendment shall become effective and binding upon the
5 commission and the compacting states unless and until all
6 compacting states enact the amendment into law.

7

8 **Article XIV. Withdrawal, default and termination**

9

10 (a) Withdrawal shall be as follows:

11

12 (i) Once effective, the compact shall continue
13 in force and remain binding upon each and every compacting
14 state; provided, that a compacting state may withdraw from
15 the compact ("withdrawing state") by enacting a statute
16 specifically repealing the statute which enacted the
17 compact into law.

18

19 (ii) The effective date of withdrawal is the
20 effective date of the repealing statute. However, the
21 withdrawal shall not apply to any product filings approved
22 or self-certified, or any advertisement of such products,
23 on the date the repealing statute becomes effective, except
24 by mutual agreement of the commission and the withdrawing

1 state unless the approval is rescinded by the withdrawing
2 state as provided in paragraph (v) of this subsection.

3

4 (iii) The commissioner of the withdrawing state
5 shall immediately notify the management committee in
6 writing upon the introduction of legislation repealing this
7 compact in the withdrawing state.

8

9 (iv) The commission shall notify the other
10 compacting states of the introduction of such legislation
11 within ten (10) days after its receipt of notice thereof.

12

13 (v) The withdrawing state is responsible for all
14 obligations, duties and liabilities incurred through the
15 effective date of withdrawal, including any obligations,
16 the performance of which extend beyond the effective date
17 of withdrawal, except to the extent those obligations may
18 have been released or relinquished by mutual agreement of
19 the commission and the withdrawing state. The commission's
20 approval of products and advertisement prior to the
21 effective date of withdrawal shall continue to be effective
22 and be given full force and effect in the withdrawing
23 state, unless formally rescinded by the withdrawing state
24 in the same manner as provided by the laws of the

1 withdrawing state for the prospective disapproval of
2 products or advertisement previously approved under state
3 law.

4

5 (vi) Reinstatement following withdrawal of any
6 compacting state shall occur upon the effective date of the
7 withdrawing state reenacting the compact.

8

9 (b) Default shall be as follows:

10

11 (i) If the commission determines that any
12 compacting state has at any time defaulted ("defaulting
13 state") in the performance of any of its obligations or
14 responsibilities under this compact, the bylaws or duly
15 promulgated rules or operating procedures, then, after
16 notice and hearing as set forth in the bylaws, all rights,
17 privileges and benefits conferred by this compact on the
18 defaulting state shall be suspended from the effective date
19 of default as fixed by the commission. The grounds for
20 default include, but are not limited to, failure of a
21 compacting state to perform its obligations or
22 responsibilities, and any other grounds designated in
23 commission rules. The commission shall immediately notify
24 the defaulting state in writing of the defaulting state's

1 suspension pending a cure of the default. The commission
2 shall stipulate the conditions and the time period within
3 which the defaulting state must cure its default. If the
4 defaulting state fails to cure the default within the time
5 period specified by the commission, the defaulting state
6 shall be terminated from the compact and all rights,
7 privileges and benefits conferred by this compact shall be
8 terminated from the effective date of termination.

9

10 (ii) Product approvals by the commission or
11 product self-certifications, or any advertisement in
12 connection with such product, that are in force on the
13 effective date of termination shall remain in force in the
14 defaulting state in the same manner as if the defaulting
15 state had withdrawn voluntarily pursuant to subsection (a)
16 of this Article.

17

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

20

21 (c) Dissolution of the compact shall be as follows:

22

23 (i) The compact dissolves effective upon the
24 date of the withdrawal or default of the compacting state

1 which reduces membership in the compact to one (1)
2 compacting state.

3

4 (ii) Upon the dissolution of this compact, the
5 compact becomes null and void and shall be of no further
6 force or effect, and the business and affairs of the
7 commission shall be wound up and any surplus funds shall be
8 distributed in accordance with the bylaws.

9

10 **Article XV. Severability and construction**

11

12 (a) The provisions of this compact shall be
13 severable; and if any phrase, clause, sentence or provision
14 is deemed unenforceable, the remaining provisions of the
15 Compact shall be enforceable.

16

17 (b) The provisions of this compact shall be liberally
18 construed to effectuate its purposes.

19

20 **Article XVI. Binding effect of compact and other laws**

21

22 (a) Other Laws:

23

1 (i) Nothing herein prevents the enforcement of
2 any other law of a compacting state, except as provided in
3 paragraph (ii) of this subsection.

4
5 (ii) For any product approved or certified to
6 the commission, the rules, uniform standards and any other
7 requirements of the commission shall constitute the
8 exclusive provisions applicable to the content, approval
9 and certification of such products. For advertisement that
10 is subject to the commission's authority, any rule, uniform
11 standard or other requirement of the commission which
12 governs the content of the advertisement shall constitute
13 the exclusive provision that a commissioner may apply to
14 the content of the advertisement. Notwithstanding the
15 foregoing, no action taken by the commission shall abrogate
16 or restrict:

17
18 (A) The access of any person to state
19 courts;

20
21 (B) Remedies available under state law
22 related to breach of contract, tort, or other laws not
23 specifically directed to the content of the product;

24

1 (C) State law relating to the construction
2 of insurance contracts; or

3

4 (D) The authority of the attorney general
5 of the state, including but not limited to maintaining any
6 actions or proceedings, as authorized by law.

7

8 (iii) All insurance products filed with
9 individual states shall be subject to the laws of those
10 states.

11

12 (b) Binding effect of this compact:

13

14 (i) All lawful actions of the commission,
15 including all rules and operating procedures promulgated by
16 the commission, are binding upon the compacting states.

17

18 (ii) All agreements between the commission and
19 the compacting states are binding in accordance with their
20 terms.

21

22 (iii) Upon the request of a party to a conflict
23 over the meaning or interpretation of commission actions,
24 and upon a majority vote of the compacting states, the

1 commission may issue advisory opinions regarding the
2 meaning or interpretation in dispute.

3

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

15

16 **Section 2.** 26-15-110(a) and (d) by creating a new
17 paragraph (iii) are amended to read:

18

19 **26-15-110. Filing and approval of application forms.**

20

21 (a) No basic insurance policy or annuity contract
22 form, or application form if written application is
23 required and is to be made a part of the policy or
24 contract, or printed rider or endorsement form or form of

1 renewal certificate, shall be delivered or issued for
2 delivery in this state unless the form is filed with and
3 approved by the commissioner or is approved as provided in
4 W.S. 26-15-201. This provision does not apply to surety
5 bonds, or to specially rated inland marine risks, nor to
6 policies, riders, endorsements or forms of unique character
7 designed for and used with relation to insurance upon a
8 particular subject, or which relate to the manner of
9 distribution of benefits or to the reservation of rights
10 and benefits under life or disability insurance policies
11 and are used at the request of the individual policyholder,
12 contract holder or certificate holder. As to forms for use
13 in property, marine, other than wet marine and
14 transportation insurance, casualty and surety insurance
15 coverages, the filing required by this subsection may be
16 made by advisory and rating organizations on behalf of
17 their members and subscribers. This provision does not
18 prohibit any member or subscriber from filing the forms on
19 its own behalf.

20

21 (d) The commissioner, by order, may exempt from the
22 requirements of this section for so long as he deems proper
23 any insurance document or form or type thereof as specified
24 in the order, to which, in his opinion:

1

2 (i) This section may not practicably be applied;

3 ~~or~~

4

5 (ii) The filing and approval of which are not
6 desirable or necessary for the public's protection; or

7

8 (iii) The document or form or type thereof has
9 been approved under the provisions of the Interstate
10 Insurance Product Regulation Compact as provided in W.S.
11 26-15-201.

12

13 **Section 3.** Pursuant to terms and conditions of this
14 act, the State of Wyoming seeks to join with other states
15 and establish the Interstate Insurance Product Regulation
16 Compact, and thus become a member of the Interstate
17 Insurance Product Regulation Commission. The insurance
18 commissioner is hereby designated to serve as the
19 representative of this state to the commission.

20

21 **Section 4.** This act is effective immediately upon
22 completion of all acts necessary for a bill to become law
23 as provided by Article 4, Section 8 of the Wyoming
24 Constitution.

1

2

(END)