

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1698

S.P. 630

In Senate, December 17, 2003

An Act To Join the Interstate Insurance Product Regulation Compact

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.
Cosponsored by Representative O'NEIL of Saco and
Senators: DOUGLASS of Androscoggin, MAYO of Sagadahoc, TURNER of Cumberland,
Representatives: CANAVAN of Waterville, FISCHER of Presque Isle, ROSEN of Bucksport,
WOODBURY of Yarmouth.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 24-A MRSA c. 28 is enacted to read:

6 CHAPTER 28

8 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

10 §2471. Short title -- Article 1

12 This chapter may be known and cited as "the Interstate Insurance Product Regulation Compact."

14 §2472. Interstate Insurance Product Regulation Compact established; purposes

16 1. Compact established. Pursuant to terms and conditions
18 of this chapter, the State seeks to join with other states and
20 establish the Interstate Insurance Product Regulation Compact,
22 referred to in this chapter as "the compact," and thus become a
24 member of the Interstate Insurance Product Regulation
Commission. The superintendent is designated to serve as the
representative of this State to the commission.

26 2. Purposes. The purposes of this compact are, through
means of joint and cooperative action among the compacting states:

28 A. To promote and protect the interest of consumers of
30 individual and group annuity, life, disability income and
long-term care insurance products;

32 B. To develop uniform standards for insurance products
34 covered under the compact;

36 C. To establish a central clearing house to receive and
38 provide prompt review of insurance products covered under
the compact and, in certain cases, advertisements related
thereto, submitted by insurers authorized to do business in
one or more compacting states;

40 D. To give appropriate regulatory approval to those product
42 filings and advertisements satisfying the applicable uniform
standard;

44 E. To improve coordination of regulatory resources and
46 expertise between state insurance departments regarding the
setting of uniform standards and review of insurance
48 products covered under the compact;

2 F. To create the Interstate Insurance Product Regulation
Commission; and

4 G. To perform these and such other related functions as may
6 be consistent with the state regulation of the business of
insurance.

8 **§2473. Definitions -- Article 2**

10 As used in this chapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

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

20 2. Bylaws. "Bylaws" means the bylaws established by the
22 commission for its governance or for directing or controlling the
commission's actions or conduct.

24 3. Compacting state. "Compacting state" means a state that
26 has enacted the compact and that has not withdrawn pursuant to
section 2485, subsection 1 or been terminated pursuant to section
2485, subsection 2.

28 4. Commission. "Commission" means the Interstate Insurance
30 Product Regulation Commission established by the compact.

32 5. Commissioner. "Commissioner" means the chief insurance
34 regulatory official of a compacting state, including, but not
limited to, commissioner, superintendent, director or
administrator.

36 6. Domiciliary state. "Domiciliary state" means the state
38 in which an insurer is incorporated or organized or, in the case
of an alien insurer, its state of entry.

40 7. Insurer. "Insurer" means an entity licensed by a state
42 to issue contracts of insurance for any of the lines of insurance
covered by the compact.

44 8. Management committee. "Management committee" means the
46 management committee established under section 2476, subsection 5.

48 9. Member. "Member" means the person chosen by a
50 compacting state as its representative to the commission, or the
member's designee.

2 10. Noncompacting state. "Noncompacting state" means a
state that is not a compacting state.

4 11. Operating procedures. "Operating procedures" means
procedures adopted by the commission implementing a rule, uniform
6 standard or provision of the compact.

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

14 13. Rule. "Rule" means a statement of general or
16 particular applicability and future effect adopted by the
commission, including a uniform standard developed pursuant to
18 section 2478, designed to implement, interpret or prescribe law
or policy or describing the organization, procedure or practice
20 requirements of the commission, that has the force and effect of
law in the compacting states.

22 14. State. "State" means any state, district or territory
24 of the United States of America.

26 15. Third-party filer. "Third-party filer" means an entity
that submits a product filing to the commission on behalf of an
28 insurer.

30 16. Uniform standard. "Uniform standard" means a standard
adopted by the commission for a product line, pursuant to section
32 2478, and includes all of the product requirements in aggregate.
Each uniform standard must be construed, whether the prohibition
34 is express or implied, to prohibit the use of any inconsistent,
misleading or ambiguous provisions in a product and the form of
36 the product made available to the public is not unfair,
inequitable or against public policy as determined by the
38 commission.

40 §2474. Establishment of commission; venue -- Article 3

42 1. Commission created. The compacting states hereby create
and establish a joint public agency known as the Interstate
44 Insurance Product Regulation Commission. The commission has the
power to develop uniform standards for product lines, receive and
46 provide prompt review of products filed and give approval to
those product filings satisfying applicable uniform standards.
48 It is not intended that the commission be the exclusive entity
for receipt and review of insurance product filings in the
50 State. This subsection does not prohibit an insurer from filing

2 its product in a state where the insurer is licensed to conduct
3 the business of insurance, and any such filing is subject to the
4 laws of the state where filed.

6 2. **Body corporate.** The commission is a body corporate and
7 politic and an instrumentality of the compacting states.

8 3. **Not for profit.** The commission is a not-for-profit
9 entity, separate and distinct from the individual compacting
10 states.

12 4. **Responsible for liabilities.** The commission is solely
13 responsible for its liabilities except as otherwise specifically
14 provided in the compact.

16 5. **Venue.** Proper and judicial proceedings by or against
17 the commission must be brought solely and exclusively in a court
18 of competent jurisdiction where the principal office of the
19 commission is located.

20 **§2475. Powers of the commission -- Article 4**

22 The commission has the power:

24 1. **Promulgate rules.** To promulgate rules, pursuant to
25 section 2478, that have the force of law and are binding in the
26 compacting states to the extent and in the manner provided in the
27 compact;

30 2. **Uniform standards.** To exercise its rule-making
31 authority and establish reasonable uniform standards for products
32 and advertisements, which have the force of law and are binding
33 in the compacting states, but only for those products filed with
34 the commission. A compacting state has the right to opt out of
35 the uniform standard pursuant to section 2478 to the extent and
36 in the manner provided in the compact. A uniform standard
37 established by the commission for long-term care insurance
38 products may provide either the same or greater protections for
39 consumers as, but may not provide less than, those protections
40 set forth in the National Association of Insurance Commissioners'
41 Long-term Care Insurance Model Act and Long-term Care Insurance
42 Model Regulation, adopted by the National Association of
43 Insurance Commissioners as of 2001. The commission shall consider
44 whether any subsequent amendments to the National Association of
45 Insurance Commissioners' Long-term Care Insurance Model Act or
46 Long-term Care Insurance Model Regulation adopted as of 2001 by
47 the National Association of Insurance Commissioners require the
48 amendment of the uniform standards established by the commission
49 for long-term care insurance products;

2 3. Products; receive and review. To receive and review in
4 an expeditious manner products filed with the commission and rate
6 filings for disability income and long-term care insurance
8 products and to give approval of those products and rate filings
10 that satisfy the applicable uniform standard. Approval by the
12 commission has the force of law and is binding on the compacting
14 states to the extent and in the manner provided in the compact;

10 4. Advertisements. To receive and review in an expeditious
12 manner advertisements relating to long-term care insurance
14 products for which uniform standards have been adopted by the
16 commission and give approval to all advertisements that satisfy
18 the applicable uniform standard. For any product covered under
20 the compact, other than long-term care insurance products, the
22 commission has the authority to require an insurer to submit all
24 or any part of its advertisement with respect to that product for
26 review or approval prior to use, if the commission determines
28 that the nature of the product is such that an advertisement of
30 the product could mislead the public. The actions of commission
32 as provided in this section have the force of law and are binding
34 in the compacting states to the extent and in the manner provided
36 in the compact;

24 5. Self-certification process. To exercise its rule-making
26 authority and designate products and advertisements that may be
28 subject to a self-certification process without the need for
30 prior approval by the commission;

30 6. Operating procedures. To promulgate operating
32 procedures pursuant to section 2478 that are binding in the
34 compacting states to the extent and in the manner provided in the
36 compact;

34 7. Legal proceedings. To bring and prosecute legal
36 proceedings or actions in its name as the commission. The
38 standing of a state insurance department to sue or be sued under
40 applicable law is not affected by this subsection;

40 8. Subpoenas. To issue subpoenas requiring the attendance
42 and testimony of witnesses and the production of evidence;

42 9. Establish and maintain offices. To establish and
44 maintain offices;

44 10. Insurance; bonds. To purchase and maintain insurance
46 and bonds;

48 11. Personnel services. To borrow, accept or contract for
50 services of personnel, including, but not limited to, employees
of a compacting state;

2 **12. Employees; professionals; specialists.** To hire
4 employees, professionals or specialists and elect or appoint
6 officers and to fix their compensation, define their duties and
8 give them appropriate authority to carry out the purposes of the
10 compact and determine their qualifications. To establish the
12 commission's personnel policies and programs relating to, but not
14 limited to conflicts of interest, rates of compensation and
16 qualifications of personnel;

18 **13. Accept donations.** To accept any and all appropriate
20 donations and grants of money, equipment, supplies, materials and
22 services and to receive, utilize and dispose of the same,
24 striving to avoid any appearance of impropriety;

26 **14. Hold property.** To lease, purchase, accept appropriate
28 gifts or donations of or otherwise to own, hold, improve or use
30 any property, real, personal or mixed, striving at all times to
32 avoid any appearance of impropriety;

34 **15. Sell property.** To sell, convey, mortgage, pledge,
36 lease, exchange, abandon or otherwise dispose of any property,
38 real, personal or mixed;

40 **16. Filing fees.** To remit filing fees to compacting states
42 as may be set forth in the bylaws, rules or operating procedures;

44 **17. Enforce compliance.** To enforce compliance of
46 compacting states with rules, uniform standards, operating
48 procedures and bylaws;

50 **18. Provide for dispute resolution.** To provide for dispute
52 resolution among compacting states;

54 **19. Advice relating to business in noncompacting**
56 **jurisdictions.** To advise compacting states on issues relating to
58 insurers domiciled or doing business in noncompacting
60 jurisdictions, consistent with the purposes of the compact;

62 **20. Advice and training.** To provide advice and training to
64 those personnel in state insurance departments responsible for
66 product review and to be a resource for state insurance
68 departments;

70 **21. Establish budget.** To establish a budget and make
72 expenditures;

74 **22. Borrow money.** To borrow money;

2 23. Appoint committees. To appoint committees, including
4 advisory committees of members, state insurance regulators, state
6 legislators or their representatives, insurance industry and
8 consumer representatives and any other interested persons as may
10 be designated in the bylaws;

12 24. Cooperation with law enforcement agencies. To provide
14 information to and receive information from, and to cooperate
16 with, law enforcement agencies;

18 25. Corporate seal. To adopt and use a corporate seal; and

20 26. Perform other functions. To perform functions other
22 than those set out explicitly in this section as necessary or
24 appropriate to achieve the purposes of the compact consistent
26 with the state regulation of the business of insurance.

28 **§2476. Organization of the commission -- Article 5**

30 1. Membership. Each compacting state has one member. Each
32 member must be qualified to serve in that capacity pursuant to
34 applicable law of the compacting state. A member may be removed
36 or suspended from office as provided by the law of the state from
38 which the member is appointed. A vacancy occurring in the
40 commission must be filled in accordance with the laws of the
42 compacting state where the vacancy exists. This subsection may
44 not be construed to affect the manner in which a compacting state
46 determines the election or appointment and qualification of its
48 own commissioner.

50 2. One vote. Each member is entitled to one vote and has
an opportunity to participate in the governance of the commission
in accordance with the bylaws. Notwithstanding any provision of
the compact to the contrary, action of the commission with
respect to the promulgation of a uniform standard does not take
effect unless 2/3 of the members vote in favor of the uniform
standard.

3. Bylaws. The commission shall, by a majority of the
members, adopt bylaws to govern its conduct as may be necessary
or appropriate to carry out the purposes and exercise the powers
of the compact, including, but not limited to:

A. Establishing the fiscal year of the commission;

B. Providing reasonable procedures for appointing and
electing members, as well as holding meetings, of the
management committee established under subsection 5;

C. Providing reasonable standards and procedures;

2 (i) For the establishment and meetings of other
3 committees; and

4 (ii) Governing any general or specific delegation of
5 any authority or function of the commission;

6 D. Providing reasonable procedures for calling and
7 conducting meetings of the commission that consist of a
8 majority of commission members, ensuring reasonable advance
9 notice of each meeting and providing for the right of
10 citizens to attend each meeting with enumerated exceptions
11 designed to protect the public's interest, the privacy of
12 individuals and insurers' proprietary information, including
13 trade secrets. The commission may meet in camera only after
14 a majority of the entire membership votes to close a meeting
15 in whole or in part. As soon as practicable, the commission
16 shall make public a copy of the vote to close the meeting
17 revealing the vote of each member with no proxy votes
18 allowed and votes taken during the meeting;

19 E. Establishing the titles, duties, authority and
20 reasonable procedures for the election of the officers of
21 the commission;

22 F. Providing reasonable standards and procedures for the
23 establishment of the personnel policies and programs of the
24 commission. Notwithstanding any civil service or similar
25 laws of any compacting state, the bylaws exclusively govern
26 the personnel policies and programs of the commission;

27 G. Promulgating a code of ethics to address permissible and
28 prohibited activities of commission members and employees;
29 and

30 H. Providing a mechanism for winding up the operations of
31 the commission and the equitable disposition of any surplus
32 funds that might exist after the termination of the compact
33 after the payment or reserving of all of its debts and
34 obligations.

35 4. File bylaws with compacting states. The commission
36 shall publish its bylaws in a convenient form and file a copy of
37 the bylaws and a copy of any amendment to the bylaws with the
38 appropriate agency or officer in each of the compacting states.

39 5. Management committee. The commission shall establish a
40 management committee.

2 A. The management committee consists of no more than 14
3 members as follows:

4 (1) One member from each of the 6 compacting states
5 with the largest premium volume for individual and
6 group annuities and life, disability income and
7 long-term care insurance products, determined from the
8 records of the National Association of Insurance
9 Commissioners for the prior year;

10 (2) Four members from those compacting states with at
11 least 2% of the market based on the premium volume
12 described in subparagraph (1) other than the 6
13 compacting states with the largest premium volume,
14 selected on a rotating basis as provided in the bylaws;
15 and

16 (3) Four members from those compacting states with
17 less than 2% of the market based on the premium volume
18 described in subparagraph (1) with one selected from
19 each of the 4 zone regions of the National Association
20 of Insurance Commissioners as provided in the bylaws.

21 B. The management committee has such authority and duties
22 as may be set forth in the bylaws, including, but not
23 limited to:

24 (1) Managing the affairs of the commission in a manner
25 consistent with the bylaws and purposes of the
26 commission;

27 (2) Establishing and overseeing an organizational
28 structure within and appropriate procedures for the
29 commission to provide for the creation of uniform
30 standards and other rules, receipt and review of
31 product filings, administrative and technical support
32 functions, review of decisions regarding the
33 disapproval of a product filing and review of elections
34 made by a compacting state to opt out of a uniform
35 standard. A uniform standard may not be submitted to
36 the compacting states for adoption unless approved by
37 2/3 of the members of the management committee;

38 (3) Overseeing the offices of the commission; and

39 (4) Planning, implementing and coordinating
40 communications and activities with other state, federal
41 and local government organizations in order to advance
42 the goals of the commission.

43

2 C. The commission shall elect annually its officers from
4 the management committee, with each having such authority
6 and duties, as specified in the bylaws.

8 D. The management committee may, subject to the approval of
10 the commission, appoint or retain an executive director for
12 such period, upon such terms and conditions and for such
14 compensation as the commission determines appropriate. The
16 executive director shall serve as secretary to the
18 commission, but may not be a member of the commission. The
20 executive director shall hire and supervise such other staff
22 as may be authorized by the commission.

24 6. Legislative committee. A legislative committee of state
26 legislators or their designees is established to monitor the
28 operations of, and make recommendations to, the commission,
30 including the management committee. The manner of selection and
32 term of any legislative committee member is set by the bylaws.
34 Prior to the adoption by the commission of any uniform standard,
36 revision to the bylaws, annual budget or other significant matter
38 as may be provided in the bylaws, the management committee shall
40 consult with and report to the legislative committee.

42 7. Advisory committees. The commission shall establish 2
44 advisory committees, one composed of consumer representatives
46 independent of the insurance industry and the other composed of
48 insurance industry representatives.

50 8. Additional advisory committees. The commission may
establish advisory committees in addition to those described in
subsection 7 as its bylaws may provide for the carrying out of
its functions.

9. Corporate records of the commission. The commission
shall maintain its corporate books and records in accordance with
the bylaws.

10. Qualified immunity, defense and indemnification. The
members, officers, executive director, employees and
representatives of the commission are immune from suit and
liability, either personally or in their official capacity, for
any claim for damage to or loss of property or personal injury or
other civil liability caused by or arising out of any actual or
alleged act, error or omission that occurred, or that the person
against whom the claim is made had a reasonable basis for
believing occurred, within the scope of commission employment,
duties or responsibilities. Nothing in this subsection may be
construed to protect any person from suit or liability for any
damage, loss, injury or liability caused by the intentional or
willful and wanton misconduct of that person.

2 11. Defend. The commission shall defend any member,
3 officer, executive director, employee or representative of the
4 commission in any civil action seeking to impose liability
5 arising out of any actual or alleged act, error or omission that
6 occurred within the scope of commission employment, duties or
7 responsibilities, or that the person against whom the claim is
8 made had a reasonable basis for believing occurred within the
9 scope of commission employment, duties or responsibilities, as
10 long as the actual or alleged act, error or omission did not
11 result from that person's intentional or willful and wanton
12 misconduct. Nothing in this subsection may be construed to
13 prohibit that person from retaining counsel.

14 12. Indemnification. The commission shall indemnify and
15 hold harmless any member, officer, executive director, employee
16 or representative of the commission for the amount of any
17 settlement or judgment obtained against that person arising out
18 of any actual or alleged act, error or omission that occurred
19 within the scope of commission employment, duties or
20 responsibilities, or that such person had a reasonable basis for
21 believing occurred within the scope of commission employment,
22 duties or responsibilities, as long as the actual or alleged act,
23 error or omission did not result from the intentional or willful
24 and wanton misconduct of that person.

25 **§2477. Meetings; acts of commission -- Article 6**

26 1. Meetings. The commission shall meet and take such
27 actions as are consistent with the provisions of this compact and
28 the bylaws.

29 2. Participate at meetings. Each member of the commission
30 has the right and power to cast the vote to which the member's
31 compacting state is entitled and to participate in the business
32 and affairs of the commission. A member shall vote in person or
33 by such other means as provided in the bylaws. The bylaws may
34 provide for members' participation in meetings by telephone or
35 other means of communication.

36 3. Annual meeting. The commission shall meet at least once
37 during each calendar year. Additional meetings are held as set
38 forth in the bylaws.

39 **§2478. Rules and operating procedures, rule-making functions of**
40 **the commission and opting out of uniform standards --**
41 **Article 7**

42 1. Rule-making authority. The commission shall promulgate
43 reasonable rules, including uniform standards and operating
44

2 procedures, in order to effectively and efficiently achieve the
3 purposes of this compact. Notwithstanding this subsection, in
4 the event the commission exercises its rule-making authority in a
5 manner that is beyond the scope of the purposes of this chapter
6 or the powers granted under this chapter, then such an action by
7 the commission is invalid and has no effect.

8 **2. Rule-making procedure.** Rules and operating procedures
9 must be made pursuant to a rule-making process that conforms to
10 the Model State Administrative Procedure Act of 1981 as amended,
11 as may be appropriate to the operations of the commission.
12 Before the commission adopts a uniform standard, the commission
13 shall give written notice to the relevant state legislative
14 committee in each compacting state responsible for insurance
15 issues of its intention to adopt the uniform standard. The
16 commission in adopting a uniform standard shall consider fully
17 all submitted materials and issue a concise explanation of its
18 decision.

19 **3. Effective date and opting out of uniform standard.** A
20 uniform standard becomes effective 90 days after its promulgation
21 by the commission or such later date as the commission may
22 determine. A compacting state may opt out of a uniform standard
23 as provided in subsection 4. "Opt out" means any action by a
24 compacting state to decline to adopt or participate in a
25 promulgated uniform standard. All other rules and operating
26 procedures, and amendments thereto, become effective as of the
27 date specified in each rule, operating procedure or amendment.

28 **4. Procedure for opting out.** A compacting state may opt
29 out of a uniform standard either by legislation or regulation
30 duly promulgated by the insurance department under the compacting
31 state's administrative procedure act. If a compacting state
32 elects to opt out of a uniform standard by regulation, it must
33 give written notice to the commission no later than 10 business
34 days after the uniform standard is promulgated, or at the time
35 the state becomes a compacting state, and must find that the
36 uniform standard does not provide reasonable protections to the
37 citizens of the state, given the conditions in the state. The
38 commissioner shall make specific findings of fact and conclusions
39 of law, based on a preponderance of the evidence, detailing the
40 conditions in the state that warrant a departure from the uniform
41 standard and determining that the uniform standard would not
42 reasonably protect the citizens of the state. The commissioner
43 must consider and balance the following factors and find that the
44 conditions in the state and needs of the citizens of the state
45 outweigh:

46 A. The intent of the legislature to participate in, and the
47 benefits of, an interstate agreement to establish national
48 standards for insurance.

2 uniform consumer protections for the products subject to
3 this chapter; and

4 B. The presumption that a uniform standard adopted by the
5 commission provides reasonable protections to consumers of
6 the relevant product.

8 Notwithstanding this subsection, a compacting state may at the
9 time of its enactment of this compact, prospectively opt out of
10 all uniform standards involving long-term care insurance products
11 by expressly providing for such an option in the enacted compact,
12 and opting out may not be treated as a material variance in the
13 offer or acceptance of any state to participate in this compact.
14 Opting out is effective at the time of enactment of this compact
15 by the compacting state and applies to all existing uniform
16 standards involving long-term care insurance products and those
17 subsequently promulgated.

18 5. Effect of opting out. If a compacting state elects to
19 opt out of a uniform standard, the uniform standard remains
20 applicable in the compacting state electing to opt out until such
21 time as the legislation opting out is enacted into law or the
22 regulation opting out becomes effective.

23 Once the opting out of a uniform standard by a compacting state
24 becomes effective as provided under the laws of that state, the
25 uniform standard has no further force and effect in that state
26 unless and until the legislation or regulation implementing the
27 opting out is repealed or otherwise becomes ineffective under the
28 laws of the state. If a compacting state opts out of a uniform
29 standard after the uniform standard has been made effective in
30 that state, the opting out has the same prospective effect as
31 provided under section 2485 for withdrawals.

32 6. Stay of uniform standard. If a compacting state has
33 formally initiated the process of opting out of a uniform
34 standard by regulation, and while the regulatory opting out is
35 pending, the compacting state may petition the commission, at
36 least 15 days before the effective date of the uniform standard,
37 to stay the effectiveness of the uniform standard in that state.
38 The commission may grant a stay if it determines the regulatory
39 opting out is being pursued in a reasonable manner and there is a
40 likelihood of success. If a stay is granted or extended by the
41 commission, the stay or extension may postpone the effective date
42 by up to 90 days, unless the stay is affirmatively extended by
43 the commission. A stay may not be permitted to remain in effect
44 for more than one year unless the compacting state can show
45 extraordinary circumstances that warrant a continuance of the
46 stay, including, but not limited to, the existence of a legal
47 challenge that prevents the compacting state from opting out. A
48 stay shall not be granted if the compacting state has already
49 opted out of the uniform standard.
50 A stay shall not be granted if the compacting state has already

2 stay may be terminated by the commission upon notice that the
3 rule-making process has been terminated.

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

16 **§2479. Commission records and enforcement -- Article 8**

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

28 **2. Laws pertaining to confidentiality or nondisclosure.**
29 Except as to privileged records, data and information, the laws
30 of any compacting state pertaining to confidentiality or
31 nondisclosure do not relieve any compacting state commissioner of
32 the duty to disclose any relevant records, data or information to
33 the commission. Disclosure to the commission may not be
34 considered to waive or otherwise affect any confidentiality
35 requirement. Except as otherwise expressly provided in this
36 chapter, the commission is not subject to the compacting state's
37 laws pertaining to confidentiality and nondisclosure with respect
38 to records, data and information in its possession. Confidential
39 information of the commission remains confidential after such
40 information is provided to any commissioner.

41 **3. Compliance.** The commission shall monitor compacting
42 states for compliance with duly adopted bylaws, rules, including
43 uniform standards, and operating procedures. The commission
44 shall notify any noncomplying compacting state in writing of its
45 noncompliance with commission bylaws, rules or operating
46 procedures. If a noncomplying compacting state fails to remedy
47 the noncompliance, the commission may petition the court to
48 enforce compliance.

2 its noncompliance within the time specified in the notice of
3 noncompliance, the compacting state is in default as set forth in
4 section 2485.

6 **4. Commissioner's authority to oversee market regulation.**

7 The commissioner of any state in which an insurer is authorized
8 to do business or is conducting the business of insurance shall
9 continue to exercise the commissioner's authority to oversee the
10 market regulation of the activities of the insurer in accordance
11 with the provisions of the state's law. The commissioner's
12 enforcement of compliance with the compact is governed by the
13 following provisions.

14 A. With respect to the commissioner's market regulation of
15 a product or advertisement that is approved by or certified
16 to the commission, the content of the product or
17 advertisement does not constitute a violation of the
18 provisions, standards or requirements of the compact except
19 upon a final order of the commission issued at the request
20 of a commissioner after prior notice to the insurer and an
21 opportunity for hearing before the commission.

22 B. Before a commissioner may bring an action for violation
23 of any provision, standard or requirement of the compact
24 relating to the content of an advertisement not approved by
25 or certified to the commission, the commission, or an
26 authorized commission officer or employee, must authorize
27 the action. However, authorization pursuant to this
28 paragraph does not require notice to the insurer,
29 opportunity for hearing or disclosure of requests for
30 authorization or records of the commission's action on such
31 requests.

34 **§2480. Dispute resolution -- Article 9**

35 The commission shall attempt, upon the request of a member,
36 to resolve any disputes or other issues that are subject to this
37 compact and that may arise between 2 or more compacting states,
38 or between compacting states and noncompacting states, and the
39 commission shall promulgate an operating procedure providing for
40 resolution of such disputes.

42 **§2481. Product filing and approval -- Article 10**

43 **1. Filing of product with commission.** Insurers and
44 3rd-party filers seeking to have a product approved by the
45 commission shall file the product with, and pay applicable filing
46 fees to, the commission. Nothing in this chapter may be
47 construed to restrict or otherwise prevent an insurer from filing
48 its product with the insurance department in any state where the
49 insurance department is authorized to regulate the business of
50 insurance.

insurer is licensed to conduct the business of insurance, and such filing is subject to the laws of the states where filed.

2. Commission to establish filing and review processes. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any other provision of this chapter, the commission shall promulgate rules to establish conditions and procedures for providing public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets that may be contained in a product filing or supporting information.

3. Product approved by commission may be sold in certain compacting states. Any product approved by the commission may be sold or otherwise issued in those compacting states in which the insurer is legally authorized to do business.

**§2482. Review of commission decisions regarding filings --
Article 11**

1. Appeal to review panel appointed by commission. Not later than 30 days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or 3rd-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing a review panel and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial review in accordance with section 2474, subsection 5.

2. Commission may monitor, review and reconsider. The commission has authority to monitor, review and reconsider products and advertisements subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in subsection 1.

§2483. Finance -- Article 12

1. Commission shall fund its establishment and organization. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the

2 commission may accept contributions and other forms of funding
3 from the National Association of Insurance Commissioners,
4 compacting states and other sources. Contributions and other
5 forms of funding from other sources must be of such a nature that
6 the independence of the commission concerning the performance of
7 its duties is not compromised.

8 2. Commission shall collect filing fee. The commission
9 shall collect a filing fee from each insurer and 3rd-party filer
10 filing a product with the commission to cover the cost of the
11 operations and activities of the commission and its staff in a
12 total amount sufficient to cover the commission's annual budget.

13 3. Notice and comment for budget approval. The
14 commission's budget for a fiscal year may not be approved until
15 it has been subject to notice and comment as set forth in section
16 2478.

17 4. Commission exempt from taxation. The commission is
18 exempt from all taxation in and by the compacting states.

19 5. Commission authority to pledge credit of compacting
20 state limited. The commission may not pledge the credit of any
21 compacting state, except by and with the appropriate legal
22 authority of that compacting state.

23 6. Commission to keep complete and accurate accounts. The
24 commission shall keep complete and accurate accounts of all its
25 internal receipts, including grants and donations, and
26 disbursements of all funds under its control. The internal
27 financial accounts of the commission are subject to the
28 accounting procedures established under its bylaws. The
29 financial accounts and reports, including the system of internal
30 controls and procedures of the commission, must be audited
31 annually by an independent certified public accountant. Upon the
32 determination of the commission, but no less frequently than
33 every 3 years, the review of the independent auditor must include
34 a management and performance audit of the commission. The
35 commission shall make an annual report to the governor and
36 legislature of each compacting state, which must include a report
37 of the independent audit. The commission's internal accounts are
38 not confidential and such materials may be shared with the
39 commissioner of any compacting state upon request, except that
40 any work papers related to any internal or independent audit and
41 any information regarding the privacy of individuals and
42 insurers' proprietary information, including trade secrets, must
43 remain confidential.

44 7. Compacting states do not have ownership of commission
45 property. A compacting state does not have any claim to or
46 control over the commission's property.

2 ownership of any property held by or vested in the commission or
3 to any commission funds held pursuant to the provisions of this
4 compact.

6 **§2484. Compacting states, effective date and amendment --**
7 **Article 13**

8 **1. Any state eligible to become compacting state.** Any
9 state is eligible to become a compacting state.

10 **2. Effective dates for compact and commission.** The compact
11 becomes effective and binding upon legislative enactment by 2
12 compacting states. The commission becomes effective for purposes
13 of adopting uniform standards for, reviewing and giving approval
14 or disapproval of products filed with the commission only after
15 26 states are compacting states or, alternatively, after states
16 representing more than 40% of the premium volume for life
17 insurance, annuity, disability income and long-term care
18 insurance products, based on records of the National Association
19 of Insurance Commissioners for the prior year, are compacting
20 states. Thereafter, it becomes effective and binding as to any
21 other compacting state upon enactment of the compact into law by
22 that state.

23 **3. Amendments to the compact.** Amendments to the compact
24 may be proposed by the commission for enactment by the compacting
25 states. An amendment does not become effective and binding upon
26 the commission and the compacting states unless and until all
27 compacting states enact the amendment into law.

28 **§2485. Withdrawal, default and termination -- Article 14**

29 **1. Withdrawal.** The following provisions govern withdrawal
30 from the compact.

31 **A.** Once effective, the compact continues in force and
32 remains binding upon each compacting state. A compacting
33 state may withdraw from the compact by enacting a statute
34 specifically repealing the statute that enacted the compact.

35 **B.** The effective date of withdrawal is the effective date
36 of the repealing law. However, the withdrawal does not
37 apply to any product filings approved or self-certified, or
38 any advertisement of such products, on the date the
39 repealing statute becomes effective, except by mutual
40 agreement of the commission and the withdrawing state unless
41 the approval is rescinded by the withdrawing state as
42 provided in paragraph E.

2 C. The commissioner of the withdrawing state shall
4 immediately notify the management committee in writing upon
the introduction of legislation repealing this compact in
the withdrawing state.

6 D. The commission shall notify the other compacting states
8 of the introduction of such legislation within 10 days after
it receives notice under paragraph C.

10 E. The withdrawing state is responsible for all
12 obligations, duties and liabilities incurred through the
14 effective date of withdrawal, including any obligations the
16 performance of which extend beyond the effective date of
18 withdrawal, except to the extent those obligations may have
20 been released or relinquished by mutual agreement of the
22 commission and the withdrawing state. The commission's
24 approval of products and advertisements prior to the
effective date of withdrawal continues to be effective and
must be given full force and effect in the withdrawing state
unless formally rescinded by the withdrawing state in the
same manner as provided by the laws of the withdrawing state
for the prospective disapproval of products or
advertisements previously approved under state law.

26 F. Reinstatement following withdrawal of any compacting
28 state occurs upon the effective date of the withdrawing
state's reenacting the compact.

30 **2. Default.** The following provisions govern default.

32 A. If the commission determines that a compacting state has
34 defaulted in the performance of any of its obligations or
36 responsibilities under this compact, the bylaws or duly
38 promulgated rules or operating procedures, then, after
40 notice and hearing as set forth in the bylaws, all rights,
42 privileges and benefits conferred by this compact on the
44 defaulting state are suspended from the effective date of
46 default as fixed by the commission. The grounds for default
48 include, but are not limited to, failure of a compacting
state to perform its obligations or responsibilities, and
any other grounds designated in commission rules. The
commission shall immediately notify the defaulting state in
writing of the defaulting state's suspension pending a cure
of the default. The commission shall stipulate the
conditions and the time period within which the defaulting
state must cure its default. If the defaulting state fails
to cure the default within the time period specified by the
commission, the defaulting state must be terminated from the
compact and all rights, privileges and benefits conferred by

2 this compact are terminated from the effective date of
3 termination.

4 B. Product approvals by the commission or product
5 self-certifications, or any advertisement in connection with
6 such a product, that are in force on the effective date of
7 termination remain in force in the defaulting state in the
8 same manner as if the defaulting state had withdrawn
9 voluntarily pursuant to subsection 1.

10 C. Reinstatement following termination of a compacting
11 state requires a reenactment of the compact.

12
13 **3. Dissolution of compact.** The following provisions govern
14 the dissolution of the compact.

15
16 A. The compact dissolves upon the date of the withdrawal or
17 default of the compacting state that reduces membership in
18 the compact to one compacting state.

19
20 B. Upon the dissolution of this compact, the compact
21 becomes void and is of no further effect, and the business
22 and affairs of the commission must be wound up and any
23 surplus funds must be distributed in accordance with the
24 bylaws.

25
26 **§2486. Construction -- Article 15**

27
28 The provisions of this compact must be liberally construed
29 to effectuate its purposes.

30
31 **§2487. Binding effect of compact and other laws -- Article 16**

32
33 **1. Laws of compacting state.** Nothing in this chapter
34 prevents the enforcement of any laws of a compacting state other
35 than this compact, except as provided in subsection 2.

36
37 **2. Exclusive provisions.** For any product approved by or
38 certified to the commission, the rules, uniform standards and any
39 other requirements of the commission constitute the exclusive
40 provisions applicable to the content, approval and certification
41 of that product. For an advertisement that is subject to the
42 commission's authority, any rule, uniform standard or other
43 requirement of the commission that governs the content of the
44 advertisement constitutes the exclusive provision that a
45 commissioner may apply to the content of the advertisement.
46 Notwithstanding this subsection, an action taken by the
47 commission may not abrogate or restrict:

48
49 A. The access of any person to state courts;
50

2 B. Remedies available under state law related to breach of
4 contract, tort or other laws not specifically directed to
 the content of the product;

6 C. State law relating to the construction of insurance
 contracts; or

8 D. The authority of the attorney general of the state,
10 including, but not limited to, maintaining any actions or
 proceedings, as authorized by law.

12 3. Insurance products subject to laws. All insurance
14 products filed with individual states are subject to the laws of
 those states.

16 4. Binding effect of compact. The compact is binding as
18 follows.

20 A. All lawful actions of the commission, including all
22 rules and operating procedures promulgated by the
 commission, are binding upon the compacting states.

24 B. All agreements between the commission and the compacting
 states are binding in accordance with their terms.

26 C. Upon the request of a party to a conflict over the
28 meaning or interpretation of commission actions, and upon a
 majority vote of the compacting states, the commission may
30 issue advisory opinions regarding the meaning or
 interpretation in dispute.

32 D. In the event any provision of this compact exceeds the
34 constitutional limits imposed on the legislature of a
 compacting state, the obligation, duty, power or
36 jurisdiction sought to be conferred by that provision upon
 the commission is ineffective as to that compacting state,
38 and that obligation, duty, power or jurisdiction remains in
 the compacting state and must be exercised by the agency
40 thereof to which that obligation, duty, power or
 jurisdiction is delegated by law in effect at the time this
42 compact becomes effective.

44 Sec. 2. Legislative intent. The text and numbering of the
46 Interstate Insurance Product Regulation Compact have been changed
48 to conform to the Maine statutory conventions. The changes are
50 technical in nature, and it is the intent of the Legislature that
 this Act be interpreted as substantively the same as the original
 compact.

2

SUMMARY

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This bill establishes the Interstate Insurance Product Regulation Compact and the Interstate Product Regulation Commission to facilitate the regulation of certain insurance products.