

(S.B. 799)
(Conference)

(No. 161)

(Approved December 22, 2005)

AN ACT

To adopt the “Compact for the Interstate Regulation of Insurance Products,” establish its purposes, create the Interstate Insurance Products Regulatory Commission, establish its powers and duties, establish its organization, create an Administrative Committee and designate the Office of the Insurance Commissioner as the agency authorized to participate, establish agreements and coordinate with the Interstate Insurance Products Regulatory Commission for the administration of said Compact.

STATEMENT OF MOTIVES

Interstate Compacts are agreements between two or more states by virtue of which these are bound to comply with the terms and conditions provided to attend to a common need or legislation. They have the force of law and all the protection this provides for them. Historically, they have been useful and effective tools as mechanisms for cooperation for achieving concrete purposes.

The state insurance commissioners have acknowledged that the financial services industry is changing. Many products sold by life insurance companies have evolved to the point that they have become investment products. As a consequence of this, insurers are every day facing the direct

competition of the products offered by depository institutions and brokerage firms. Due to the fact that these competitors are able to sell a product at the national level in many cases without a prior regulatory review, they are able to introduce into the market new products faster and without the additional cost of having to meet the various regulatory requirements of the states.

In view of this fact several sectors involved in this matter have identified the controversies that have arisen in this area so as to offer possible solutions that reflect the new realities in the marketplace. To do this a new way in which to develop a more efficient process for the review of life insurance products and annuities has been suggested. This process would help insurers to better compete in the marketplace while maintaining a high level of protection for insurance consumers.

The best way to achieve this goal is through the creation of the “Compact for the Interstate Regulation of Insurance Products.” It is for this reason that the National Association of Insurance Commissioners (N.A.I.C.) establishes as one of its goals the creation of a national system for insurance regulation based on the states that would provide uniform standards and a seat for the introduction of diverse lines of insurance. This Compact shall include life insurance, annuities, disability payments and possibly, products for long-term care, among others.

The Legislature, committed to creating and strengthening organizations that would foster the development and achievement of new goals in the insurance field, hereby adopts this Compact. The latter would serve to provide greater protection to the consumers of insurance products through the creation of uniform standards applicable to their management.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-It is the interest of the Commonwealth of Puerto Rico to accept and adopt the clauses and conditions established in the “Compact for the Interstate Regulation of Insurance Products,” which reads as follows:

“Article 1.-Purpose.-

The purpose of the present Compact is to promote and protect, through the joint action of and the cooperation between the subscribing states, the interest of the consumers of insurance products, such as annuities, life insurance, and disability and both individual and group Long-term care insurance payments. The adoption of this Compact seeks to develop uniform standards among the various states for insurance products covered by the Compact.

The Interstate Insurance Products Regulatory Commission is hereby created as a body charged with developing and implementing uniform standards for the various insurance lines. To achieve the preceding, a central office is established to receive and expeditiously review the insurance products covered by the Compact as well as the advertising related to those products that are introduced by the insurers authorized to operate in one or more of the subscribing states. Another purpose of the former is to expedite the approval of the corresponding products and advertisements introduced that meet the applicable uniform standards.

The adoption of this Compact also seeks to foster the coordination of the regulatory resources and the expertise of the various state insurance departments regarding the establishment of uniform standards and to review the insurance products covered by said provision. To achieve this purpose all those functions consonant with the state regulations pertinent to the insurance business are carried out.

Article 2.-Definitions.-

For the purpose of this Compact, the following terms and phrases shall have the meaning expressed below:

a. “Advertisement” means any material designed to create public interest in a product or to induce the public to purchase, increase, modify, reinstate, deliver, replace or retain a policy or to take money on loan on account of the same, as defined in the Regulations and Operating Procedures of the Commission.

b. “Statutes” means the provisions established by the Commission to govern, direct or control the actions or conduct of the Commission.

c. “Subscribing state” means every state that has promulgated legislation pursuant to the present Compact and has not withdrawn pursuant to Section 1 of Article XIV or been separated pursuant to Section 2 of Article XIV.

d. “Commission” means the “Interstate Insurance Products Regulatory Commission,” established through the present Compact.

e. “Commissioner” means the main state official insurance regulator, including but not limited to the commissioner, the superintendent, the director or the administrator.

f. “Domiciliary state” means the state under which the insurer is incorporated or organized or in the case of a foreign insurer the state in which it is incorporated or organized.

g. “Insurer” means any entity authorized to by the state to execute insurance contracts in the insurance lines covered by the present Act.

h. “Member” means the person designated by the subscribing state as its representative before the Commission or the person designated by him/her.

i. “Non-subscribing state” means any state which by the date of approval of this Act is not a subscribing state.

j. “Operating procedures” means the procedures promulgated by the Commission to implement a rule, a uniform standard or the provisions of the present Compact.

k. “Product” means the policy or insurance contract document including any application, endorsement or related form attached to said policy or contract and which becomes part of the same, as well as any evidence of coverage or certificate regarding an individual or group insurance product, be it annuity, life insurance, disability or Long-term care payments which the insurer is authorized to issue.

l. “Regulation” means a statement promulgated by the Commission, of general or specific application, effective as of a specific date, including the uniform standards developed pursuant to Article 7 of the present Compact for the purpose of implementing, interpreting or establishing the rights or the policies or describe the requirements regarding the organization, the procedures or the business practices established by the Commission which shall have the force of law in the subscribing states.

m. “State” means a state or territory of the United States of America, the District of Columbia and the Commonwealth of Puerto Rico.

n. “Third party intermediary” means an entity that introduces an insurance product with the Commission on behalf of an insurer.

o. “Uniform standard” means a standard adopted by the Commission for a line of insurance products pursuant with Article 7 of the present Compact which shall include all the requirements for the products as a whole, provided that every uniform standard shall be understood to prohibit provisions that may be explicit or implicit, incongruent, deceitful or

ambiguous in the products and that the manner in which the product is presented to the public shall not be unfair, onerous or contrary to the public policy as determined by the Commission.

Article 3.-Interstate Insurance Products Regulatory Commission.-

The subscribing states hereby create and establish an entity known as the “Interstate Insurance Products Regulatory Commission.” Pursuant to Article 4, the Commission shall have the power to develop uniform standards for the product lines, to receive and make an expeditious review of the products introduced to said Commission and approve the products introduced that meet the applicable uniform standards, provided that the Commission shall not be the only entity in charge of receiving and reviewing the insurance products introduced. No provision of this Article shall constitute a hindrance to the introduction of a product by an insurer in any state in which the former is authorized to engage in the insurance business. Said introduction shall be subject to the laws of the state in which the introduction is made.

The Commission is a corporate non profit entity independent and distinguishable from each of the subscribing states. The Commission shall have exclusive liability over its obligations, except as otherwise provided in the present Compact.

The proper forum for initiating judicial actions against the Commission or initiated by the latter, shall be the court of the jurisdiction corresponding to the seat of the Commission.

Article 4.-Powers and duties of the Interstate Commission.-

The Commission shall have the following powers and duties:

a. To promulgate regulations pursuant to Article 7 of the present Compact that shall have the force of law and bind the subscribing states as provided in the present Compact;

b. To establish regulations and uniform standards for the products covered by the present Compact and their publicity; these shall have the force of law and bind the subscribing states only concerning the products introduced at the Commission; provided that the subscribing states shall be entitled to being excluded from said standard pursuant to Article 7. All standards established by the Commission for Long-term care insurance products may offer greater protection to the consumers, but not less than the protection provided by the “Long-term Care Insurance Model Act” and the “Long-term Care Insurance Model Regulation of the National Association of Insurance Commissioners” (N.A.I.C), respectively adopted as of the year 2001. The Commission shall evaluate whether according to the subsequent amendments introduced to the “Long-term Care Insurance Model Act” and the “Long-term Care Insurance Model Regulation” of the N.A.I.C. it is necessary to amend the standards introduced by the Commission for long-term care insurance products;

c. To receive, review and expeditiously approve the products and rates introduced at the Commission for disability compensation and long-term care insurance products according to the applicable uniform standard. Said approval shall have full force of law and bind the subscribing states;

d. To receive and expeditiously approve all publicity material that meets the applicable uniform standard related to long-term care insurance products for which the Commission has adopted standards. The Commission shall be authorized to demand that the insurer present the totality or part of its publicity material for its review or approval as regards the products

covered by the present Compact, besides the long-term insurance products. Should the Commission determine that the product is of such a nature that the publicity material related to said product might tend to deceive the citizenry, said material must be approved prior to its being used. The actions of the Commission shall have the force of law and bind the subscribing states;

e. To regulate and designate the publicity products and material subject to a certification process conducted by those that issue said products and materials without the need for the prior approval of the Commission;

f. To promulgate operating procedures pursuant to Article 7 of the present Compact; these shall be of an obligatory nature with regard to the subscribing states;

g. To initiate judicial actions on behalf of the Commission, provided that the active legitimacy of the state insurance commissioners shall not be affected to initiate suits or be sued pursuant to the applicable laws;

h. To issue summons for appearance and witness testimonies and the introduction of evidence;

i. To establish and maintain offices;

j. To purchase and maintain insurance and bonds;

k. To borrow, accept and contract personnel services, including but not limited to, employees of the subscribing state;

l. To contract employees, professionals and specialists, select and appoint officers, fix their compensation, define their duties and grant them the suitable authority to implement the purposes of the present Compact, as well as to determine their qualification; establish the personnel standards of

the Commission and the programs related to conflicts of interest, salary schedules and personnel qualifications, among other matters;

m. To accept any donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same, provided that the Commission shall avoid the appearance of irregularities;

n. To lease, purchase and accept suitable donations of real, personal or mixed property and possess, own, improve or use the same, provided that the Commission shall avoid the appearance of irregularities;

o. To sell, transfer, mortgage, assign, rent, exchange, abandon or otherwise dispose of any real, personal or mixed property;

p. To pay the introduction fees of the subscribing states, as provided in the statutes, regulations or operating procedures;

q. To ensure compliance by the subscribing states with the regulations, the uniform standards, the operating procedures and the statutes;

r. To provide for the resolution of controversies among the subscribing states;

s. To advise the subscribing states on matters related to the domiciled insurers or to those that operate in jurisdictions of the non-subscribing states, consistent with the purposes of this Compact;

t. To provide advisory and training services to the personnel of the state insurance commissioners who are in charge of the review of the products and to serve as a resource for the state insurance commissioners;

u. To establish a budget and make disbursements;

v. To borrow money;

w. To appoint commissions, including a consulting committee constituted by the state insurance commissioners, the legislators or their representatives, representatives of the insurance industry and of the

consumers and any other interested persons that may be designated in the statutes;

x. To provide and receive information from the agencies and cooperate with said agencies;

y. Adopt a corporate seal;

z. Conduct any other functions needed to achieve the purposes of the present Compact pursuant to state regulations for the insurance business.

Article 5.-Organization and Operation of the Interstate Commission.-

Section A. Members, voting and statutes.

1. Every subscribing state shall have a member. Every member shall be qualified to serve as such pursuant to the laws of the subscribing state. Any member may be discharged or suspended from office pursuant to the laws of the state that appointed him/her. Any vacancy that may arise in the Commission shall be filled according to the laws of the subscribing state where the vacancy arose. None of the provisions of this paragraph shall affect the way in which the subscribing state determines the election or appointment and qualifications of its own Insurance Commissioner.

2. Every member shall be entitled to one vote and have the opportunity of participating in the government of the Commission according to the statutes. However, no action of the Commission regarding the promulgation of any uniform standard shall be effective unless two thirds (2/3) of the members vote in its favor.

3. The Commission shall approve statutes to govern its affairs through the majority vote of its members as necessary and appropriate to achieve the purposes and exercise the powers of the present Compact, which include but are not limited to:

a. establish the fiscal year

b. establish procedures to appoint and elect its members besides holding meetings of the Administrative Committee;

c. provide reasonable standards and procedures to furnish information to other committees and establish the procedure for generally or specifically delegating any authority or function of the Commission;

d. establish procedures to notify, convoke and conduct meetings of the Commission consisting of the majority of the members of the Commission, ensuring that they were duly notified about each meeting and that the citizens were given the right of attending every meeting to protect the public interest, the personal information of the individuals and the privileged information of the insurers, including business secrets. The Commission may meet in private only if the majority of the members vote to hold the meeting partially or totally closed. As soon as possible the Commission shall publish a copy of the number of votes cast in favor of holding a closed meeting containing the name and the vote of every members who exercised his/her right to vote. The votes cast by proxy shall not be considered in this type of meeting;

e. establish the titles and define the duties of the officers as well as the procedures to elect them;

f. establish personnel standards and procedures and programs related thereto. Notwithstanding the public service laws, or those of a similar nature of the subscribing state, said statutes shall exclusively govern the personnel policies and programs of the Commission;

g. provide a mechanism for the close of the operations of the Commission and the disbursement of surplus funds that may exist after paying and/or setting asides reserves for paying all its debts and obligations when the Compact concludes; and

h. publish its regulations and conserve a copy of the original and a copy of its amendments in each of the agencies or offices of the states which subscribe the Compact.

Section B.-Administrative Committee, officers and personnel.

1. An Administrative Committee shall be established constituted by not more than fourteen (14) members as indicated below:

a. A member of each of the six (6) subscribing states with the largest volume of premiums for life annuities, disability payments and long-term care insurance products, as indicated in the N.A.I.C. registers for the preceding year;

b. Four (4) members of the subscribing states with at least two percent (2%) of the market on the basis of the aforementioned volume of the six (6) subscribing states with the largest volume of premiums, selected by rotation as provided in the statutes; and

c. Four (4) members of the subscribing states with less than two percent (2%) of the market on the basis of the aforementioned volume, each of which shall be selected from each of the four (4) zone regions of the N.A.I.C as provided in the statutes.

2. The Administrative Committee shall have the authority and the duties provided in the statutes, which shall include but not be limited to:

a. Administering all affairs of the Commission according to its purposes;

b. Establishing and overseeing the internal organization structure as well as the proper procedures to enable the Commission to provide for the creation of uniform standards and other regulations for receiving and reviewing the introduction of products, the administrative and technical support functions, the review of decisions related to the denial of a

product introduced and the review of cases whereby a subscribing state has opted to be excluded from a certain uniform standard. Provided that the uniform standard shall not be presented to the subscribing states for their adoption unless it has been approved by two thirds (2/3) of the members of the Administrative Committee;

c. Overseeing the offices of the Commission; and

d. Planning, implementing and coordinating activities with other state and federal government entities that promote the goals of the Commission.

3. The Commission shall annually elect the officers of the Administrative Committee who shall have the authority and duties provided through regulations.

4. The Administrative Committee shall appoint or contract an Executive Director, subject to the approval of the Commission under the terms and conditions and with the compensation the Commission may deem appropriate. The Executive Director shall act as Secretary of the Commission but shall not be a member of the same. The Executive Director shall contract and supervise the additional personnel the Commission may authorize.

Section 3.-Legislative and Consultancy Committees.

1. A legislative committee shall be established constituted by legislators or their representatives to oversee the operations of the Commission and make recommendations. Provided that the manner in which said officer is to be selected and his/her term of office shall be established through by-laws. Before the Commission establishes any uniform standard, any review of the regulations or any annual budget or before it attends to any other important matter pursuant to the regulations, the Administrative

Committee shall consult the legislative committee and submit a report thereto.

2. The Commission shall establish two (2) consultancy committees, the first constituted by representatives of the consumers independent from the insurance industry and the second constituted by representatives of the insurance industry.

3. The Commission may establish through regulations other consultancy committees to carry out its functions.

Section 4.-Corporate Registers of the Commission.

The Commission shall maintain its books and registers pursuant to the regulatory provisions.

Section 5.-Limited Immunity, Defense and Indemnification.

The members, officers, the executive director and the employees and the representatives of the Commission shall have immunity regarding any legal action, whether in their personal or official capacity, for any claim for damages or loss of property or personal injury or any other civil liability caused by or arising from any action taken or alleged, or error or omission which occurs within their workplace or concerning the duties or responsibilities of the Commission; provided that nothing of what has been established shall be construed as protecting any person against suits and/or any liability for damages, losses or bodily injuries caused by the crass, intentional and voluntary prejudicial action of that person.

The Commission shall defend all members, officers, the executive director and the employees or the representatives of the Commission in any civil action directed to imposing some liability arising from any actual or alleged action, or error or omission that occurs as a consequence of their employment, duties or responsibilities in the Commission or in those cases

whereby the defendant had reasonable cause to believe that they occurred within his/her workplace, or regarding his/her duties or responsibilities in the Commission; further provided, that the actual or alleged action, error or omission did not occur as a result of crass negligence or the intentional act on the part of said person.

The Commission shall provide compensation and relieve from all responsibility all members, officers, the executive director and the employees or the representatives of the Commission for any transaction or sentence pronounced against said persons, arising from an action, error or omission, real or alleged, that occurs within the workplace or the duties or responsibilities in the Commission, provided that the real or alleged action, error or omission was not the result of crass negligence or intentional improper conduct on the part of said person.

Article 6.-Meetings and Acts of the Commission.

The Commission shall meet and take those actions that are consistent with the provisions of this Compact.

All members of the Commission shall be entitled and have the power to cast their vote to which the subscribing state is entitled and to participate in the work and affairs of the Commission. Every member shall cast his/her vote in person or through the means provided through regulations. The regulations shall provide for the participation of the members at the meetings through a path or other telecommunication or electronic communication means.

The Commission shall meet at least once every calendar year. Additional meetings shall be called as provided in the regulations.

Article 7.-Regulations and Operating Procedures: Functions of the Commission and Exclusion from the Uniform Standards.

Section A. Regulating Authority.

The Commission shall establish through regulations uniform standards and operating procedures in order to achieve the purposes of the present Compact. However, should the Commission, while exercising its authority, exceeds the scope of the present Act or the powers conferred by the same, said action shall have neither validity nor force of law.

Section B. Regulating Procedure.

The regulations and operating procedures shall be promulgated pursuant to the criteria established in the “Model State Administrative Procedures Act,” as suitable for the operations of the Commission. Before the Commission adopts any uniform standard it shall notify the corresponding state legislative committee of each subscribing state in writing of its intention to adopt said standard.

Section C. Effective Date and Option for Exclusion.

The uniform standards shall take effect ninety (90) days of their being promulgated by the Commission or at a later date as determined by the Commission, provided however, that the subscribing state may opt to be excluded from any uniform standard. Said option shall be construed as every action directed to refusing to adopt or to participate from any uniform standard that has been promulgated. The regulations and operating procedures and the amendments thereto shall take effect on the date specified in the same.

Section D. Procedure for Exclusion.

The subscribing states may opt to be excluded from any uniform standard through legislation or regulations adopted by the Insurance Commissioner, pursuant to the Administrative Procedures Act of the subscribing state. Should a subscribing state opt to be excluded from any

uniform standard, it shall (a) notify the Commission in writing at the latest within the next ten (10) days following its promulgation or at the moment the state becomes a subscribing state; and (b) determine that the uniform standard fails to provide reasonable protection to the citizens of said state given the existing conditions of said state.

The Commissioner shall make determinations of fact and conclusions of law based on the preponderance of the evidence in which he/she shall set forth in detail the conditions that exist in the state which justify the deviation from the uniform standard or the determination that the latter fails to reasonably protect the citizens of the state. The Commission shall carefully consider and determine that the conditions that exist in the state and the needs of the citizens of said state are stronger than: (a) the intention of the Legislature of participating in an interstate agreement to establish uniform protection for the consumer at the national level with regard to the products object of the present law and the benefits to be derived from said agreement; and (b) the presumption that the uniform standard adopted by the Commission provides reasonable protection to the consumers of the corresponding product.

However, at the time of approval of the present Compact, the subscribing state may, prospectively, opt to be excluded from all uniform standards related to long term care insurance products by expressly providing said option in the promulgation of the Compact and shall not consider said option as an essential variation in the offer to or acceptance of a state to participate in the present Compact. Said option shall take effect at the time of approval of the present Compact by the subscribing state and shall apply to all uniform standards related to long term care insurance products and those that may be promulgated in the future.

Section E.-Effect of the Option for Exclusion.

Should a subscribing state opt to be excluded from a uniform standard, the latter shall remain in force in the state that exercises said option until said option for exclusion is approved as law or until regulations in that respect are adopted.

Once said option for exclusion becomes effective in a subscribing state, the uniform standard shall have no force of law until said law is repealed or the regulations to that effect are invalidated. Should the subscribing state opt to be excluded from a uniform standard after said standard has been in effect in the state, the option for exclusion shall have prospective effect as provided in Article 14 of this Compact with respect to the exclusion.

Section F.-Postponement of the Execution of the Uniform Standard.

If the subscribing state has formally initiated the process for exercising the option for exclusion from a uniform standard through regulations and while said process is pending, the subscribing state may request, at least fifteen (15) days prior to the effective date of the uniform standard, that the Commission postpone the effective date. The Commission may grant said postponement if it determines that the option for exclusion is being reasonable transacted through regulations and that said transaction has the probability of being successful. Should the Commission grants the postponement or extend the same, the effective date may be suspended by the postponement or extension of the same for up to ninety (90) days, unless the Commission extends the effective date affirmatively; provided that said suspension shall not remain in force for more than one (1) year unless the subscribing state gives evidence of extraordinary circumstances that merit the continuation of the suspension, which shall include but not be limited to:

the existence of an objection before the courts that prevents the subscribing state from exercising the option for exclusion. The Commission may declare the suspension without effect if it is notified that the regulating process has concluded.

Section G.-Judicial Review.

Any person may introduce a petition for the judicial review of a rule or procedure not later than the thirty (30) days after the promulgation of the same, provided that said petition shall neither delay nor prevent the rule or operating procedure from being effective, except if the Court determines that the petitioner has a substantial probability of being successful. The Court shall agree to the actions of the Commission pursuant to the applicable laws and shall not decide that the rule or operating procedure is contrary to law if said rule or operating procedure stands for the reasonable exercise of the authority of the Commission.

Article 8.-Registers of the Commission and Compliance with the Compact.

The Commission shall promulgate the rules that establish conditions and procedures according to which the official information and registers are to be disclosed to the public to be examined or copied. The Commission may promulgate additional rules according to which the registers and the information that otherwise would be exempt from being disclosed is to be disclosed to the federal and state agencies, including the law and order agencies, and may execute agreements with said agencies to receive and exchange information or registers subject to the provisions for nondisclosure and confidentiality.

Except for privileged information, registers and data, the laws of the subscribing states relative to confidentiality or nondisclosure shall not

exempt the Commissioner of the subscribing state from his/her duty of disclosing any pertinent register, data or information to the Commission, provided that said disclosure is not to be construed as constituting an exclusion nor that it shall otherwise affect the confidentiality requirement; and furthermore that except as otherwise provided, the Commission shall not be subject to the laws of the subscribing state relative to the confidentiality or nondisclosure with respect to the registers, data and information in its power. The information of the Commission shall maintain its confidentiality after the same has been delivered to some Commissioner.

The Commission shall oversee the subscribing states to ensure compliance with the duly adopted statutes, regulations, uniform standards and operating procedures. The Commission shall notify the subscribing states in writing about their noncompliance with respect to the statutes, the regulations and the operating procedures. Should the subscribing state that has incurred such noncompliance does not remedy this situation within the term specified in the notice, it shall be understood that the subscribing state is in default as provided in Article 14 of this Compact.

The Commissioner of any state where the insurer is authorized to operate or is operating an insurance business shall continue to exercise his/her authority for overseeing the regulation of the market in which the activities of the insurer are conducted according to the provisions of the state laws. The following provisions shall govern the actions of the Commission to ensure compliance with said laws:

Regarding the regulation of the market by the Commissioner of publicity products or materials approved or certified by the Commission, no activity of an insurer shall constitute a violation of the provisions, standards or requirements of the Compact, except as provided by the Commission

through a final order issued at the request of the Commissioner after notification to the insurer giving the latter the opportunity for attending a hearing before the Commission.

Before a Commissioner can initiate an action before the Commission for the violation of a provision, standard or requirement of the Compact related to the use of publicity material that has not been approved or certified, the Commission or an official or employee authorized by the Commission must authorize said action. Said authorization shall not require that the insurer be notified or that a hearing be granted, or the disclosure of applications for authorization or registers of the action taken by the Commission for attending to said applications.

Article 9.-Resolution of Controversies.

At the request of a member, the Commission shall resolve all controversies or matters that may arise between two or more subscribing states as well as among the non-subscribing states. The Commission shall promulgate an operating procedure in order to provide for the resolution of said controversies.

Article 10.-Introduction and Approval of Products.

The insurers and third party intermediaries that promote the approval of a product by the Commission shall introduce said product before the Commission and pay the applicable introduction fees. It shall not be construed that the provisions of this Compact restrict or prevent the insurer from introducing a product with the insurance department of any state in which the insurer is licensed to operate an insurance business. Said introduction shall be subject to the laws of the state in which the introduction is made.

The Commission shall establish suitable processes and procedures for introductions and reviews according to the regulations and operating procedures of the Commission. However, should any provision be construed in an opposite sense, the Commission shall promulgate rules to establish conditions and procedures according to which the Commission shall provide public access to the information related to the introduction of products. In establishing said rules, the Commission shall take into account the interests of the citizens in having access to said information as well as in the protection of personal medical and financial information and the business secrets that may be part of the process for introducing a product or its related information.

Any product approved by the Commission may be sold or introduced in the subscribing states in which the insurer is authorized to operate.

Article 11.-Review of the Decisions of the Commission.

Not later than the thirty (30) days after the Commission has notified the disapproval of a publicity product or material introduced before the Commission, the insurer or third party intermediary whose introduction has been disapproved may appeal the determination before a review board appointed by the Commission. The Commission shall promulgate the rules for establishing the procedures for appointing said boards and provide for the notification and celebration of a hearing. Any allegation in the sense that the Commission in disapproving a publicity product or material introduced before the same, has acted arbitrarily, capriciously or abusively regarding its discretion or otherwise illicitly, shall be subject to judicial review.

The Commission shall be authorized to oversee, review and reconsider the publicity products and materials after they are introduced or approved when it determines that the product does not meet with the

corresponding uniform standard. The Commission may withdraw or modify its approval after the proper prior notice and the celebration of a hearing, subject to the appeal process provided in this Compact.

Article 12.-Finances.

The Commission shall pay or provide for the payment of reasonable expenses incurred for its establishment and organization. In order to subsidize the cost of its initial operations, the Commission may accept contributions and other types of subsidies from the National Association of Insurance Commissioners, the subscribing states and other sources. The contributions and other types of subsidies from other sources shall be of such a nature that the independence of the Commission with respect to the performance of its duties shall not be in doubt.

The Commission shall collect introduction fees from any insurer or third party intermediary that introduces a produce before the Commission and its personnel, whose total shall be sufficient to cover the annual budget of the Commission.

The budget for the Commission for the fiscal year shall not be approved until it has been presented and discussed as provided in Article 7 of the present Compact.

The Commission shall be exempt from any taxation in the subscribing states or taxation exercised by these.

The Commission shall not pledge the credit of any subscribing state except if the Commission is given the corresponding legal authority by said subscribing state.

The Commission shall keep an account of all internal revenues, including subsidies and donations as well as of the disbursement of all funds under its control. The internal financial accounts of the Commission shall be

subject to the accounting procedures provided in the statutes. The financial accounts and reports, including the internal control systems and procedures of the Commission, shall be audited annually by an independent certified public accountant. At least every three (3) years said accountant shall include an administrative and performance audit of the Commission. The Commission shall present an Annual Report to the Governor and to the Legislatures of the subscribing states that shall include a report of the independent audit. The internal accounts of the Commission shall not be confidential and all documents must be shared with the Commissioners who subscribe this Compact once these request them, provided that only those work documents related to internal or independent audits, to individual personal information and to the confidential information of the insurers, including business secrets, shall remain confidential.

No subscribing state shall be entitled to present a claim for or reclaim the title of any property of the Commission over which the Commission has a vested right nor any of the funds of the Commission possesses pursuant to the provisions of the present Compact.

Article 13.-Subscribing States, Effective Date and Amendments.

Any state shall be eligible to become a subscribing state.

The Compact shall take effect and be obligatory as of the moment in which two (2) subscribing states turn the Compact into law, provided that the Commission shall be effective for the purpose of adopting uniform standards for the products introduced to the Commission, for reviewing, approving or disapproving the same if they meet the uniform standards applicable, when twenty-six (26) states have become subscribing states, or as an alternative, through the approval by the states which represent over forty percent (40%) of the volume of premiums for life insurance, annuities,

disability payments and long term insurance products based on the N.A.I.C. registers for the preceding year. This shall be effective and obligatory with respect to all other subscribing states when the present Compact becomes law in any of said states.

The Commission may propose amendments to the present Compact to be approved by the subscribing states. No amendment shall become effective nor be compulsory for the Commission or the subscribing states until the subscribing states approve said amendment as law.

Article 14.-Disaffiliation, Default and Dissolution.

Section A.-Disaffiliation.

Once the Compact is in effect it shall remain in effect and shall be obligatory in all subscribing states, provided that a subscribing state may disaffiliate itself from the Compact through the approval of a law that repeals the statute by which the Compact became law.

The effective date of the disaffiliation shall be the effective date of the repeal. However, the disaffiliation shall not apply to the products introduced that have been approved or are already certified or to the publicity material of said products by the date in which the law through which the disaffiliation took place becomes effective, except through an agreement between the Commission and the disaffiliated state, unless the disaffiliated state revokes the approval as provided in the present Compact.

The Commissioner of the disaffiliating state shall immediately notify the Administrative Committee upon the introduction of the bill to repeal the Compact in the disaffiliating state.

The Commission shall notify all other subscribing states about the filing to repeal this Compact in the disaffiliated state within ten (10) days of having received notice thereof.

The disaffiliated state shall be liable for all obligations, duties and responsibilities incurred to the effective date of disaffiliation, including any obligation whose execution extends beyond the effective date of disaffiliation, except those obligations that may be excused or delivered through a mutual agreement between the Commission and the disaffiliated state. The approval granted by the Commission about the publicity products and materials prior to the date of disaffiliation of the state shall remain in force, except if revoked by said state in the same way the laws of the disaffiliated state authorize the prospective disapproval of publicity products or materials.

Reinstatement after disaffiliation shall take place when the disaffiliated state again approves the Compact.

Section B.-Default.

Should the Commission determine that a subscribing state has failed to meet (has been in default of) its obligations or responsibilities pursuant to the present Compact, all rights, privileges and benefits shall be suspended after notice and hearing as provided in the regulations, effective to the date the Commission may determine. The grounds for determining whether the state is in default include but are not limited to, (a) whether the subscribing state has failed to meet its obligations and responsibilities as established in the regulations of the Commission. The Commission shall immediately notify the state in writing about the suspension until noncompliance has been remedied. The Commission shall stipulate the conditions and the term within which noncompliance must be remedied. Should the state fail to remedy the errors within the term established by the Commission, it shall be suspended from the Compact and all its rights, privileges and benefits shall cease as of the effective date of the separation.

The approval of products granted by the Commission or the certification of products made by the party which makes the introduction, or of all materials related to said products that are in effect at the time of separation of the state, shall remain in force as if the state in default had disaffiliated itself voluntarily pursuant to this Article.

Reinstatement after the disaffiliation of a subscribing state shall again require approval of the Compact through a law.

Section C.-Dissolution of the Compact.

The dissolution of the Compact shall occur on the effective date of the disaffiliation or default of the subscribing state that would reduce the number of members of the Compact to a single subscribing state. Upon the dissolution of the present Compact, the same shall be null and shall not have force or effect of law and the operations and the affairs of the Commission shall be concluded and any surplus funds shall be distributed according to the by-laws.

Section 15.-Separability and Construction.

The provisions of the present Compact shall be separable and if it is determined that any phrase, clause or sentence cannot be enforced or is declared unconstitutional by a competent court of any participating state or territory or by the United States, the judgment rendered to that effect shall not affect, prejudice or invalidate the remaining provisions of law. All remaining parts shall have full force and effect.

The provisions of the present Compact shall be construed liberally to achieve their purpose.

Article 16.-Obligatory Effect of the Compact and other Laws.

Section A. Other Laws.

Nothing of what is here provided shall prevent compliance with any other law of a participating state which is not inconsistent with this Compact, except as provided in the present Article.

In relation to the products approved or certified by the Commission, the regulations, the uniform standards and all other requirement of the Commission shall constitute the exclusive provisions applicable to the contents, the approval and the certification of said products. As regards the publicity materials subject to the authority of the Commission, any rule, uniform standards or other requirement of the Commission that governs the contents of the publicity materials shall constitute the exclusive provision which a Commissioner may apply to the contents of said materials. However, no action taken by the Commission shall neither abrogate nor restrict: (a) the access of any person, including the Secretary of Justice and the state courts; (b) the remedies available pursuant to the state laws related to contract noncompliance, civil damages or other laws not specifically related to the contents of the product; or (c) the state laws related to the interpretation of insurance contracts.

All insurance products introduced in the individual states shall be subject to the laws of said states.

Section B.-Obligatory Effect of the Compact.

All regulations and operating procedures promulgated by the Commission shall be of an obligatory nature with respect to the subscribing states.

All agreements between the Commission and the subscribing states shall be of an obligatory nature pursuant to their terms.

At the request of any of the parties in a controversy with respect to the meaning or construction of any action of the Commission and with the prior

majority vote of the subscribing states, the Commission may issue consultative opinions with respect to the controversial meaning or construction.

In case any provision of the present Compact exceeds the constitutional limitations imposed on the Legislature of any subscribing state, the obligations, duties, powers or jurisdiction asked to be conferred upon the Commission by said provision shall not have any effect and said obligations, duties, powers or jurisdiction shall remain in the subscribing state and be exercised by the agency of the latter to which said obligations, duties, powers or jurisdiction are delegated by a law in effect when this Compact is in force.”

Section 2.-Designation.

The Office of the Insurance Commissioner is hereby designated as the agency that shall participate, agree and coordinate, as representative of the Commonwealth of Puerto Rico, with the Interstate Commission created by virtue of the Compact for the Interstate Regulation of Insurance Products.

Section 3.-Construction.

This Act shall be approved in the Spanish language, provided however, that in case a construction conflict may arise between the Spanish version and the English version, the text in English shall prevail.

Section 4.-Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 161 (S.B. 799) (Conference) of the 2nd Session of the 15th Legislature of Puerto Rico:

AN ACT to adopt the “Compact for the Interstate Regulation of Insurance Products,” establish its purposes, create the Interstate Insurance Products Regulatory Commission, establish its powers and duties, establish its organization, create an Administrative Committee and designate the Office of the Insurance Commissioner as the agency authorized to participate, establish agreements and coordinate with the Interstate Insurance Products Regulatory Commission for the administration of said Compact,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 5th of July of 2006.

Francisco J. Domenech
Director