



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0843

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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(w 5-15)

NO # filing insurance policy forms with the Commissioner of Insurance, suitability of annuity contracts,

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1 AN ACT *to repeal* 612.51 (1) and 628.347 (1) (c); *to renumber and amend* 631.20  
2 (6) (a); *to amend* 40.55 (1), 100.205 (6) (intro.), 605.03 (1) (a), 607.02 (1),  
3 628.347 (title), 628.347 (1) (b), 628.347 (2) (a), 628.347 (2) (b) 1., 628.347 (2) (b)  
4 2., 628.347 (2) (b) 3., 628.347 (2) (b) 4., 628.347 (2) (c) (intro.), 628.347 (3) (f) 2.,  
5 628.347 (5) (a), 628.347 (5) (b), 628.347 (5) (c), 628.347 (6) (b), 628.347 (6) (c),  
6 628.347 (7), 628.347 (8) (a), 631.01 (4m), 631.20 (1) (a), 631.20 (2) (intro.), 631.20  
7 (3), 631.20 (6) (title), 631.20 (6) (b), 631.21 (1) (intro.), 631.23 (1) (intro.), 631.36  
8 (1) (a), 632.32 (4) (intro.), 632.45 (2) and 646.35 (6) (bm); and *to create* 14.82,  
9 601.58, 631.20 (1) (c), 631.20 (1g), 631.20 (1m), 631.20 (6) (a) 2. and 631.20 (6)  
10 (c) of the statutes; **relating to:** the Interstate Insurance Product Regulation  
11 Compact, the Interstate Insurance Product Regulation Commission, and  
12 granting rule-making authority.

**Analysis by the Legislative Reference Bureau**

(This analysis addresses only the compact.)

This bill enacts the Interstate Insurance Product Regulation Compact (compact). The stated purposes of the compact include promoting and protecting the

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interests of consumers of annuity, life insurance, disability income, and long-term care insurance products (insurance products); developing uniform standards for insurance products; establishing a central clearinghouse for review of insurance products, and advertisements related to insurance products, that are filed with the Interstate Insurance Product Regulation Commission (commission); and giving regulatory approval to insurance products and related advertisements filed with the commission. The compact accomplishes its purposes through the commission, which is created in the bill. Each compacting state has one member on the commission, with one vote. Under the bill, the commissioner of insurance, or his or her designee, is the commission member from this state.

The commission is a body politic and corporate. The bill specifies, among other things, all of the following related to the commission: its organization, including required management and legislative committees; its powers, including rule making; meeting, voting, and notice requirements; requirements related to record keeping and confidentiality of its records; liability, and immunity from liability, of its members; monitoring and enforcement of compliance by the compacting states with its rules, standards, bylaws, and operating procedures; the financing of its operations, including the imposition of fees; auditing requirements; and reporting requirements.

One of the most important functions of the commission is establishing uniform standards for insurance products, which have the force and effect of law in the states that enact the compact for products filed with the commission. The uniform standards relate to the form of a policy or contract, including an application and evidence of coverage, for an insurance product and are intended to prohibit the use of inconsistent, misleading, or ambiguous provisions in insurance products. Before adopting a uniform standard, the commission must give written notice to the legislative committees of the compacting states with jurisdiction over insurance matters. A uniform standard becomes effective 90 days after it is promulgated by the commission, or at a later date determined by the commission. However, a compacting state may opt out of a uniform standard, by legislation or administrative rule, in accordance with procedures outlined in the bill. In addition, when enacting the compact a compacting state may prospectively opt out of all uniform standards established by the commission relating to long-term care insurance products; under this bill, however, Wisconsin does not prospectively opt out of those uniform standards.

Under current law, except for certain very limited types of insurance, all insurance forms must be filed with and approved by the commissioner of insurance before they may be used in this state. Under the bill, an important function of the commission is receiving and reviewing insurance products, rate filings for disability income and long-term care insurance products, and advertisements relating to long-term care insurance products for which the commission has developed uniform standards, which are voluntarily filed with the commission by insurers seeking the approval of the commission. The commission may approve those insurance products, rate filings, and advertisements that satisfy applicable uniform standards adopted by the commission. The approval has the force and effect of law in the compacting

(Commissioner)

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of insurance

states, and any insurance product that is approved by the commission may be sold in any of the compacting states. In addition, if the commission determines that the advertisement of an insurance product, other than a long-term care insurance product, could have the capacity or tendency to mislead the public, the commission may require an insurer to submit its advertisement for that insurance product for the commission's review or approval before the advertisement may be used. The commission may also designate products and advertisement that may be self-certified without prior approval by the commission.

The bill provides that the compact becomes effective and binding when two states enact it, except that the commission becomes effective for purposes of adopting uniform standards and reviewing and approving insurance products only after 26 states, or states representing greater than 40 percent of the premium volume for insurance products, become compacting states. In general, only states that enact the compact are subject to its provisions and the authority of the commission. The bill provides that a state may withdraw from the compact by repealing its enacting statute. A compacting state may be terminated from the compact if it defaults in the performance of any of its obligations or responsibilities under the compact.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 14.82 of the statutes is created to read:

2           **14.82 Interstate insurance product regulation commission.** There is  
3           created an interstate insurance product regulation commission as specified in s.  
4           601.58 (3). The member of the commission representing this state shall be the  
5           commissioner of insurance or his or her designated representative. The commission  
6           member shall serve without compensation but shall be reimbursed from the  
7           appropriation under s. 20.145 (1) (g) for actual and necessary expenses incurred in  
8           the performance of his or her duties. The commission has the powers and duties  
9           granted and imposed under s. 601.58.

10           **SECTION 2.** 40.55 (1) of the statutes is amended to read:

11           40.55 (1) Except as provided in sub. (5), the state shall offer, through the group  
12           insurance board, to eligible employees under s. 40.02 (25) (bm) and to state

1 annuitants long-term care insurance policies which have been approved for sale in  
2 this state by filed with the office of the commissioner of insurance and which have  
3 been approved for offering under contracts established by the group insurance board  
4 if the insurer requests that the policy be offered and the state shall also allow an  
5 eligible employee or a state annuitant to purchase those policies for his or her spouse  
6 or parent.

7 **SECTION 3.** 100.205 (6) (intro.) of the statutes is amended to read:

8 100.205 (6) (intro.) Every warrantor shall purchase a policy of insurance  
9 covering the financial integrity of its warranties. The policy of insurance shall be on  
10 a form approved by the commissioner of insurance under s. 631.20 and shall have the  
11 following minimum provisions:

12 **SECTION 4.** 601.58 of the statutes is created to read:

13 **601.58 Interstate insurance product regulation compact.** The interstate  
14 insurance product regulation compact is hereby enacted into law and entered into  
15 by this state with all other jurisdictions legally joining therein, in substantially the  
16 following form:

17 (1) **ARTICLE I - PURPOSES.** Through means of joint and cooperative action among  
18 the compacting states, the purposes of this compact include all of the following:

19 (a) To promote and protect the interest of consumers of individual and group  
20 annuity, life insurance, disability income, and long-term care insurance products.

21 (b) To develop uniform standards for insurance products covered under the  
22 compact.

23 (c) To establish a central clearinghouse to receive and provide prompt review  
24 of insurance products covered under the compact and, in certain cases,

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

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

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

8 (f) To create the interstate insurance product regulation commission.

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

11 (2) ARTICLE II - DEFINITIONS. In this compact:

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

16 (b) "Bylaws" mean those bylaws established by the commission for its  
17 governance, or for directing or controlling the commission's actions or conduct.

18 (c) "Commission" means the interstate insurance product regulation  
19 commission established by this compact.

20 (d) "Commissioner" means the chief insurance regulatory official of a state,  
21 including, but not limited to, commissioner, superintendent, director, or  
22 administrator.

23 (e) "Compacting state" means any state that has enacted this compact  
24 legislation and that has not withdrawn under sub. (14) (a) or been terminated under  
25 sub. (14) (g).

1 (f) "Domiciliary state" means the state in which an insurer is incorporated or  
2 organized; or, in the case of an alien insurer, its state of entry.

3 (g) "Insurer" means any entity licensed by a state to issue contracts of  
4 insurance for any of the lines of insurance covered by this section.

5 (h) "Member" means the person chosen by a compacting state as its  
6 representative to the commission, or his or her designee.

7 (i) "Noncompacting state" means any state that is not at the time a compacting  
8 state.

9 (j) "Operating procedures" mean procedures promulgated by the commission  
10 implementing a rule, a uniform standard, or a provision of this compact.

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

16 (L) To hire employees, professionals, or specialists, and elect or appoint officers,  
17 and to fix their compensation, define their duties and give them appropriate  
18 authority to carry out the purposes of the compact, and determine their  
19 qualifications; and to establish the commission's personnel policies and programs  
20 relating to, among other things, conflicts of interest, rates of compensation, and  
21 qualifications of personnel.

22 (m) "State" means any state, district, or territory of the United States of  
23 America.

24 (n) "Third-party filer" means an entity that submits a product filing to the  
25 commission on behalf of an insurer.

1           (o) "Uniform standard" means a standard adopted by the commission for a  
2 product line, pursuant to sub. (7), and shall include all of the product requirements  
3 in the aggregate; provided, that each uniform standard shall be construed, whether  
4 express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous  
5 provisions in a product and the form of the product made available to the public shall  
6 not be unfair, inequitable, or against public policy as determined by the commission.

7           **(3) ARTICLE III - ESTABLISHMENT OF THE COMMISSION AND VENUE.** The compacting  
8 states hereby create the interstate insurance product regulation commission.  
9 Pursuant to sub. (4), the commission will have the power to develop uniform  
10 standards for product lines, receive and provide prompt review of products filed  
11 therewith, and give approval to those product filings satisfying applicable uniform  
12 standards; provided, that it is not intended for the commission to be the exclusive  
13 entity for receipt and review of insurance product filings. Nothing herein shall  
14 prohibit any insurer from filing its product in any state wherein the insurer is  
15 licensed to conduct the business of insurance, and any such filing shall be subject to  
16 the laws of the state where filed. The commission is a body corporate and politic, and  
17 an instrumentality of the compacting states. The commission is solely responsible  
18 for its liabilities except as otherwise specifically provided in this compact. Venue is  
19 proper and judicial proceedings by or against the commission shall be brought solely  
20 and exclusively in a court of competent jurisdiction where the principal office of the  
21 commission is located.

22           **(4) ARTICLE IV - POWERS OF THE COMMISSION.** The commission shall have all of  
23 the following powers:

24           (a) To promulgate rules, pursuant to sub. (7), which shall be binding in the  
25 compacting states to the extent and in the manner provided in this compact.

1 (b) To exercise its rule-making authority and establish reasonable uniform  
2 standards for products covered under the compact, and advertisement related  
3 thereto, which shall have the force and effect of law and shall be binding in the  
4 compacting states, but only for those products filed with the commission; provided,  
5 that a compacting state shall have the right to opt out of such uniform standard  
6 pursuant to sub. (7), to the extent and in the manner provided in this compact; and  
7 provided further, that any uniform standard established by the commission for  
8 long-term care insurance products may provide the same or greater protections for  
9 consumers as, but shall not provide less than, those protections set forth in the  
10 National Association of Insurance Commissioners' Long-Term Care Insurance  
11 Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted  
12 as of 2001. The commission shall consider whether any subsequent amendments to  
13 the National Association of Insurance Commissioners' Long-Term Care Insurance  
14 Model Act or Long-Term Care Insurance Model Regulation adopted by the National  
15 Association of Insurance Commissioners require amending of the uniform standards  
16 established by the commission for long-term care insurance products.

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

23 (d) To receive and review in an expeditious manner advertisement relating to  
24 long-term care insurance products for which uniform standards have been adopted  
25 by the commission, and give approval to all advertisement that satisfies the



1 applicable uniform standard. For any product covered under this compact, other  
2 than long-term care insurance products, the commission shall have the authority to  
3 require an insurer to submit all or any part of its advertisement with respect to that  
4 product for review or approval prior to use, if the commission determines that the  
5 nature of the product is such that an advertisement of the product could have the  
6 capacity or tendency to mislead the public. The actions of the commission as  
7 provided in this subsection shall have the force and effect of law and shall be binding  
8 in the compacting states to the extent and in the manner provided in the compact.

9 (e) To exercise its rule-making authority and designate products and  
10 advertisement that may be subject to a self-certification process without the need  
11 for prior approval by the commission.

12 (f) To promulgate operating procedures, pursuant to sub. (7), that shall be  
13 binding in the compacting states to the extent and in the manner provided in this  
14 compact.

15 (g) To bring and prosecute legal proceedings or actions in its name as the  
16 commission; provided, that the standing of any state insurance department to sue  
17 or be sued under applicable law shall not be affected.

18 (h) To issue subpoenas requiring the attendance and testimony of witnesses  
19 and the production of evidence.

20 (i) To establish and maintain offices.

21 (j) To purchase and maintain insurance and bonds.

22 (k) To borrow, accept, or contract for services of personnel, including, but not  
23 limited to, employees of a compacting state.

24 (L) To hire employees, professionals, or specialists, and elect or appoint officers,  
25 and to fix their compensation, define their duties and give them appropriate

1 authority to carry out the purposes of the compact, and determine their  
2 qualifications; and to establish the commission's personnel policies and programs  
3 relating to, among other things, conflicts of interest, rates of compensation, and  
4 qualifications of personnel.

5 (m) To accept any and all appropriate donations and grants of money,  
6 equipment, supplies, materials, and services, and to receive, utilize, and dispose of  
7 the same; provided, that at all times the commission shall strive to avoid any  
8 appearance of impropriety.

9 (n) To lease, purchase, accept appropriate gifts or donations of, or otherwise  
10 own, hold, improve, or use, any property, real, personal, or mixed; provided, that at  
11 all times the commission shall strive to avoid any appearance of impropriety.

12 (o) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
13 dispose of any property, real, personal, or mixed.

14 (p) To remit filing fees to compacting states as may be set forth in the bylaws,  
15 rules, or operating procedures.

16 (q) To enforce compliance by compacting states with rules, uniform standards,  
17 operating procedures, and bylaws.

18 (r) To provide for dispute resolution among compacting states.

19 (s) To advise compacting states on issues relating to insurers domiciled or doing  
20 business in noncompacting jurisdictions, consistent with the purposes of this  
21 compact.

22 (t) To provide advice and training to those personnel in state insurance  
23 departments responsible for product review, and to be a resource for state insurance  
24 departments.

25 (u) To establish a budget and make expenditures.

1 (v) To borrow money.

2 (w) To appoint committees, including advisory committees comprising  
3 members, state insurance regulators, state legislators or their representatives,  
4 insurance industry and consumer representatives, and such other interested  
5 persons as may be designated in the bylaws.

6 (x) To provide and receive information from, and to cooperate with, law  
7 enforcement agencies.

8 (y) To adopt and use a corporate seal.

9 (z) To perform such other functions as may be necessary or appropriate to  
10 achieve the purposes of this compact consistent with the state regulation of the  
11 business of insurance.

12 (5) ARTICLE V - ORGANIZATION OF THE COMMISSION. (a) Each compacting state  
13 shall have one member. Each member shall be qualified to serve in such capacity  
14 under the applicable law of the compacting state. Any member may be removed or  
15 suspended from office as provided by the law of the state from which he or she shall  
16 be appointed. Any vacancy occurring in the commission shall be filled in accordance  
17 with the laws of the compacting state wherein the vacancy exists. Nothing herein  
18 shall be construed to affect the manner in which a compacting state determines the  
19 election or appointment and qualification of its own commissioner.

20 (b) Each member shall be entitled to one vote and shall have an opportunity  
21 to participate in the governance of the commission in accordance with the bylaws.  
22 Notwithstanding any provision herein to the contrary, no action of the commission  
23 with respect to the promulgation of a uniform standard shall be effective unless  
24 two-thirds of the members vote in favor thereof.

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

4 1. Establishing the fiscal year of the commission.

5 2. Providing reasonable procedures for appointing and electing members, as  
6 well as holding meetings, of the management committee.

7 3. Providing reasonable standards and procedures for all of the following:

8 a. The establishment and meetings of other committees.

9 b. Governing any general or specific delegation of any authority or function of  
10 the commission.

11 4. Providing reasonable procedures for calling and conducting meetings of the  
12 commission that consist of a majority of commission members, ensuring reasonable  
13 advance notice of each such meeting, and providing for the right of citizens to attend  
14 each such meeting with enumerated exceptions designed to protect the public's  
15 interest, the privacy of individuals, and insurers' proprietary information, including  
16 trade secrets. The commission may meet in camera only after a majority of the entire  
17 membership votes to close a meeting en toto or in part. As soon as practicable, the  
18 commission must make public all of the following:

19 a. A copy of the vote to close the meeting revealing the vote of each member with  
20 no proxy votes allowed.

21 b. Votes taken during such meeting.

22 5. Establishing the titles, duties, and authority, and reasonable procedures for  
23 the election, of the officers of the commission.

24 6. Providing reasonable standards and procedures for the establishment of the  
25 personnel policies and programs of the commission. Notwithstanding any civil

1 service or other similar laws of any compacting state, the bylaws shall exclusively  
2 govern the personnel policies and programs of the commission.

3 7. Promulgating a code of ethics to address permissible and prohibited  
4 activities of commission members and employees.

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

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

11 (e) A management committee comprising no more than 14 members shall be  
12 established as follows:

13 1. One member from each of the 6 compacting states with the largest premium  
14 volume for individual and group annuities, life insurance, disability income, and  
15 long-term care insurance products, determined from the records of the National  
16 Association of Insurance Commissioners for the prior year.

17 2. Four members from those compacting states with at least 2 percent of the  
18 market based on the premium volume described in subd. 1., other than the 6  
19 compacting states with the largest premium volume, selected on a rotating basis as  
20 provided in the bylaws.

21 3. Four members from those compacting states with less than 2 percent of the  
22 market, based on the premium volume described in subd. 1., with one selected from  
23 each of the 4 zone regions of the National Association of Insurance Commissioners  
24 as provided in the bylaws.

1 (f) The management committee shall have such authority and duties as may  
2 be set forth in the bylaws, including, but not limited to, all of the following:

3 1. Managing the affairs of the commission in a manner consistent with the  
4 bylaws and purposes of the commission.

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

13 3. Overseeing the offices of the commission.

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

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

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

1           (i) A legislative committee comprising state legislators or their designees shall  
2 be established to monitor the operations of, and make recommendations to, the  
3 commission, including the management committee; provided, that the manner of  
4 selection and term of any legislative committee member shall be as set forth in the  
5 bylaws. Prior to the adoption by the commission of any uniform standard, revision  
6 to the bylaws, annual budget, or other significant matter as may be provided in the  
7 bylaws, the management committee shall consult with and report to the legislative  
8 committee.

9           (j) The commission shall establish 2 advisory committees, one of which shall  
10 comprise consumer representatives independent of the insurance industry, and the  
11 other comprising insurance industry representatives.

12           (k) The commission may establish additional advisory committees as its bylaws  
13 may provide for the carrying out of its functions.

14           (L) The commission shall maintain its corporate books and records in  
15 accordance with the bylaws.

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

1           (n) The commission shall defend any member, officer, executive director,  
2 employee, or representative of the commission in any civil action seeking to impose  
3 liability arising out of any actual or alleged act, error, or omission that occurred  
4 within the scope of commission employment, duties, or responsibilities, or that the  
5 person against whom the claim is made had a reasonable basis for believing occurred  
6 within the scope of commission employment, duties, or responsibilities; provided,  
7 that nothing herein shall be construed to prohibit that person from retaining his or  
8 her own counsel; and provided further, that the actual or alleged act, error, or  
9 omission did not result from that person's intentional or willful and wanton  
10 misconduct.

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

19           **(6) ARTICLE VI - MEETINGS AND ACTS OF THE COMMISSION.** (a) The commission  
20 shall meet and take such actions as are consistent with the provisions of this compact  
21 and the bylaws.

22           (b) Each member of the commission shall have the right and power to cast a vote  
23 to which that compacting state is entitled and to participate in the business and  
24 affairs of the commission. A member shall vote in person or by such other means as



1 provided in the bylaws. The bylaws may provide for members' participation in  
2 meetings by telephone or other means of communication.

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

5 (7) ARTICLE VII - RULES AND OPERATING PROCEDURES; RULE-MAKING FUNCTIONS  
6 OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS. (a) The commission shall  
7 promulgate reasonable rules, including uniform standards, and operating  
8 procedures in order to effectively and efficiently achieve the purposes of this  
9 compact. Notwithstanding the foregoing, in the event the commission exercises its  
10 rule-making authority in a manner that is beyond the scope of the purposes of this  
11 section, or the powers granted hereunder, then such an action by the commission  
12 shall be invalid and have no force and effect.

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

21 (c) A uniform standard shall become effective 90 days after its promulgation  
22 by the commission or such later date as the commission may determine; provided,  
23 that a compacting state may opt out of a uniform standard as provided in this  
24 subsection. "Opt out" shall be defined as any action by a compacting state to decline  
25 to adopt or participate in a promulgated uniform standard. All other rules and

1 operating procedures, and amendments thereto, shall become effective as of the date  
2 specified in each rule, operating procedure, or amendment.

3 (d) 1. A compacting state may opt out of a uniform standard either by legislation  
4 or regulation duly promulgated by the insurance department under the compacting  
5 state's administrative procedure act. If a compacting state elects to opt out of a  
6 uniform standard by regulation, it must give written notice to the commission no  
7 later than 10 business days after the uniform standard is promulgated, or at the time  
8 the state becomes a compacting state, and find that the uniform standard does not  
9 provide reasonable protections to the citizens of the state, given the conditions in the  
10 state. The commissioner shall make specific findings of fact and conclusions of law,  
11 based on a preponderance of the evidence, detailing the conditions in the state that  
12 warrant a departure from the uniform standard and determining that the uniform  
13 standard would not reasonably protect the citizens of the state. The commissioner  
14 must consider and balance all of the following factors and find that the conditions in  
15 the state and needs of the citizens of the state outweigh all of the following factors:

16 a. The intent of the legislature to participate in, and the benefits of, an  
17 interstate agreement to establish national uniform consumer protections for the  
18 products subject to this section.

19 b. The presumption that a uniform standard adopted by the commission  
20 provides reasonable protections to consumers of the relevant product.

21 2. Notwithstanding subd. 1., a compacting state may, at the time of its  
22 enactment of this compact, prospectively opt out of all uniform standards involving  
23 long-term care insurance products by expressly providing for such opt out in the  
24 enacted compact, and such an opt out may not be treated as a material variance in  
25 the offer or acceptance of any state to participate in this compact. Such an opt out

1 shall be effective at the time of enactment of this compact by the compacting state  
2 and shall apply to all existing uniform standards involving long-term care insurance  
3 products and those subsequently promulgated.

4 (e) If a compacting state elects to opt out of a uniform standard, the uniform  
5 standard shall remain applicable in the compacting state electing to opt out until  
6 such time as the opt out legislation is enacted into law or the regulation opting out  
7 becomes effective. Once the opt out of a uniform standard by a compacting state  
8 becomes effective as provided under the laws of that state, the uniform standard  
9 shall have no further force or effect in that state unless and until the legislation or  
10 regulation implementing the opt out is repealed or otherwise becomes ineffective  
11 under the laws of the state. If a compacting state opts out of a uniform standard after  
12 the uniform standard has been made effective in that state, the opt out shall have  
13 the same prospective effect as provided under sub. (14) for withdrawals.

14 (f) If a compacting state has formally initiated the process of opting out of a  
15 uniform standard by regulation, and while the regulatory opt out is pending, the  
16 compacting state may petition the commission, at least 15 days before the effective  
17 date of the uniform standard, to stay the effectiveness of the uniform standard in that  
18 state. The commission may grant a stay if it determines the regulatory opt out is  
19 being pursued in a reasonable manner and there is a likelihood of success. If a stay  
20 is granted or extended by the commission, the stay or extension thereof may postpone  
21 the effective date by up to 90 days, unless affirmatively extended by the commission;  
22 provided, that a stay may not be permitted to remain in effect for more than one year  
23 unless the compacting state can show extraordinary circumstances that warrant a  
24 continuance of the stay, including, but not limited to, the existence of a legal  
25 challenge that prevents the compacting state from opting out. A stay may be

1 terminated by the commission upon notice that the rule-making process has been  
2 terminated.

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

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

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

1 commission shall not be subject to the compacting state's laws pertaining to  
2 confidentiality and nondisclosure with respect to records, data, and information in  
3 its possession. Confidential information of the commission shall remain confidential  
4 after such information is provided to any commissioner.

5 (c) The commission shall monitor compacting states for compliance with duly  
6 adopted bylaws, rules, including uniform standards, and operating procedures. The  
7 commission shall notify any noncomplying compacting state in writing of its  
8 noncompliance with commission bylaws, rules, or operating procedures. If a  
9 noncomplying compacting state fails to remedy its noncompliance within the time  
10 specified in the notice of noncompliance, the compacting state shall be deemed to be  
11 in default under sub. (14).

12 (d) The commissioner of any state in which an insurer is authorized to do  
13 business, or is conducting the business of insurance, shall continue to exercise his or  
14 her authority to oversee the market regulation of the activities of the insurer in  
15 accordance with the provisions of the state's law. The commissioner's enforcement  
16 of compliance with the compact is governed by the following provisions:

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

23 2. Before a commissioner may bring an action for violation of any provision,  
24 standard, or requirement of the compact relating to the content of an advertisement  
25 not approved by or certified to the commission, the commission, or an authorized

1 commission officer or employee, must authorize the action. However, authorization  
2 pursuant to this subdivision does not require notice to the insurer, opportunity for  
3 hearing, or disclosure of requests for authorization or records of the commission's  
4 action on such requests.

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

10 (10) ARTICLE X - PRODUCT FILING AND APPROVAL. (a) Insurers and 3rd-party  
11 filers seeking to have a product approved by the commission shall file the product  
12 with, and pay applicable filing fees to, the commission. Nothing in this section shall  
13 be construed to restrict or otherwise prevent an insurer from filing its product with  
14 the insurance department in any state wherein the insurer is licensed to conduct the  
15 business of insurance, and such filing shall be subject to the laws of the states where  
16 filed.

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

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

3 (11) ARTICLE XI - REVIEW OF COMMISSION DECISIONS REGARDING FILINGS. (a) Not  
4 later than 30 days after the commission has given notice of a disapproved product  
5 or advertisement filed with the commission, the insurer or 3rd-party filer whose  
6 filing was disapproved may appeal the determination to a review panel appointed by  
7 the commission. The commission shall promulgate rules to establish procedures for  
8 appointing such review panels and provide for notice and hearing. An allegation that  
9 the commission, in disapproving a product or advertisement filed with the  
10 commission, acted arbitrarily, capriciously, or in a manner that is an abuse of  
11 discretion or otherwise not in accordance with the law, is subject to judicial review  
12 in accordance with sub. (3).

13 (b) The commission shall have authority to monitor, review, and reconsider  
14 products and advertisement subsequent to their filing or approval upon a finding  
15 that the product does not meet the relevant uniform standard. Where appropriate,  
16 the commission may withdraw or modify its approval after proper notice and  
17 hearing, subject to the appeal process in par. (a).

18 (12) ARTICLE XII - FINANCE. (a) The commission shall pay or provide for the  
19 payment of the reasonable expenses of its establishment and organization. To fund  
20 the cost of its initial operations, the commission may accept contributions and other  
21 forms of funding from the National Association of Insurance Commissioners,  
22 compacting states, and other sources. Contributions and other forms of funding from  
23 other sources shall be of such a nature that the independence of the commission  
24 concerning the performance of its duties shall not be compromised.

1 (b) The commission shall collect a filing fee from each insurer and 3rd-party  
2 filer filing a product with the commission to cover the cost of the operations and  
3 activities of the commission and its staff in a total amount sufficient to cover the  
4 commission's annual budget.

5 (c) The commission's budget for a fiscal year may not be approved until it has  
6 been subject to notice and comment as set forth in sub. (7).

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

9 (e) The commission may not pledge the credit of any compacting state, except  
10 by and with the appropriate legal authority of that compacting state.

11 (f) The commission shall keep complete and accurate accounts of all its internal  
12 receipts, including grants and donations, and disbursements of all funds under its  
13 control. The internal financial accounts of the commission shall be subject to the  
14 accounting procedures established under its bylaws. The financial accounts and  
15 reports including the system of internal controls and procedures of the commission  
16 shall be audited annually by an independent certified public accountant. Upon the  
17 determination of the commission, but no less frequently than every 3 years, the  
18 review of the independent auditor shall include a management and performance  
19 audit of the commission. The commission shall make an annual report to the  
20 governor and legislature of each of the compacting states, which shall include a  
21 report of the independent audit. The commission's internal accounts shall not be  
22 confidential and such materials may be shared with the commissioner of any  
23 compacting state upon request; provided, that any work papers related to any  
24 internal or independent audit and any information regarding the privacy of



1 individuals and insurers' proprietary information, including trade secrets, shall  
2 remain confidential.

3 (g) No compacting state shall have any claim to or ownership of any property  
4 held by or vested in the commission or to any commission funds held pursuant to the  
5 provisions of this compact.

6 (13) ARTICLE XIII - COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT. (a)  
7 Any state is eligible to become a compacting state.

8 (b) The compact shall become effective and binding upon legislative enactment  
9 of the compact into law by 2 compacting states; provided, that the commission shall  
10 become effective for purposes of adopting uniform standards for, reviewing, and  
11 giving approval or disapproval of, products filed with the commission that satisfy  
12 applicable uniform standards only after 26 states are compacting states or,  
13 alternatively, only after states representing greater than 40 percent of the premium  
14 volume for life insurance, annuity, disability income, and long-term care insurance  
15 products, based on records of the National Association of Insurance Commissioners  
16 for the prior year, are compacting states. Thereafter, it shall become effective and  
17 binding as to any other compacting state upon enactment of the compact into law by  
18 that state.

19 (c) Amendments to the compact may be proposed by the commission for  
20 enactment by the compacting states. No amendment shall become effective and  
21 binding upon the commission and the compacting states unless and until all  
22 compacting states enact the amendment into law.

23 (14) ARTICLE XIV - WITHDRAWAL, DEFAULT, AND TERMINATION. (a) Once effective,  
24 the compact shall continue in force and remain binding upon each and every  
25 compacting state; provided, that a compacting state may withdraw from the compact

1 (“withdrawing state”) by enacting a statute specifically repealing the statute that  
2 enacted the compact into law.

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

\*\*\*\*NOTE: Some rewording of par. (b) was necessary. Is the new language consistent  
with the intended meaning? How is the choice between the alternatives made? Is it  
whichever occurs first? Does the commission decide?

8 (c) The commissioner of the withdrawing state shall immediately notify the  
9 management committee in writing upon the introduction of legislation repealing this  
10 compact in the withdrawing state.

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

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

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

3 (g) If the commission determines that any compacting state has at any time  
4 defaulted ("defaulting state") in the performance of any of its obligations or  
5 responsibilities under this compact, the bylaws, or duly promulgated rules or  
6 operating procedures, then, after notice and hearing as set forth in the bylaws, all  
7 rights, privileges, and benefits conferred by this compact on the defaulting state  
8 shall be suspended from the effective date of default as fixed by the commission. The  
9 grounds for default include, but are not limited to, failure of a compacting state to  
10 perform its obligations or responsibilities and any other grounds designated in  
11 commission rules. The commission shall immediately notify the defaulting state in  
12 writing of the defaulting state's suspension pending a cure of the default. The  
13 commission shall stipulate the conditions and the time period within which the  
14 defaulting state must cure its default. If the defaulting state fails to cure the default  
15 within the time period specified by the commission, the defaulting state shall be  
16 terminated from the compact and all rights, privileges, and benefits conferred by this  
17 compact shall be terminated from the effective date of termination.

18 (h) Product approvals by the commission or product self-certifications, or any  
19 advertisement in connection with such product, that are in force on the effective date  
20 of termination shall remain in force in the defaulting state in the same manner as  
21 if the defaulting state had withdrawn voluntarily under par. (a).

22 (i) Reinstatement following termination of any compacting state requires a  
23 reenactment of the compact.

1 (j) The compact dissolves effective upon the date of the withdrawal or default  
2 of the compacting state that reduces membership in the compact to one compacting  
3 state.

\*\*\*\*NOTE: Since a defaulting state has an opportunity to cure a default before it is terminated, should this say "the date of the withdrawal or *termination* of the compacting state" instead of "the date of the withdrawal or *default* of the compacting state"?

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

8 (15) ARTICLE XV - SEVERABILITY AND CONSTRUCTION. (a) The provisions of this  
9 compact shall be severable; and if any phrase, clause, sentence, or provision is  
10 deemed unenforceable, the remaining provisions of the compact shall be enforceable.

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

13 (16) ARTICLE XVI - BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) Nothing  
14 herein prevents the enforcement of any other law of a compacting state, except as  
15 provided in par. (b).

16 (b) For any product approved by or certified to the commission, the rules,  
17 uniform standards, and any other requirements of the commission shall constitute  
18 the exclusive provisions applicable to the content, approval, and certification of such  
19 products. For advertisement that is subject to the commission's authority, any rule,  
20 uniform standard, or other requirement of the commission that governs the content  
21 of the advertisement shall constitute the exclusive provision that a commissioner  
22 may apply to the content of the advertisement. Notwithstanding the foregoing, no  
23 action taken by the commission shall abrogate or restrict any of the following:

1           1. The access of any person to state courts.

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

4           3. State law relating to the construction of insurance contracts.

5           4. The authority of the secretary of agriculture, trade and consumer protection  
6 or the attorney general of the state, including, but not limited to, maintaining any  
7 actions or proceedings, as authorized by law.

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

10           (d) All lawful actions of the commission, including all rules and operating  
11 procedures promulgated by the commission, are binding upon the compacting states.  
12 All agreements between the commission and the compacting states are binding in  
13 accordance with their terms. Upon the request of a party to a conflict over the  
14 meaning or interpretation of commission actions, and upon a majority vote of the  
15 compacting states, the commission may issue advisory opinions regarding the  
16 meaning or interpretation in dispute.

17           (e) In the event any provision of this compact exceeds the constitutional limits  
18 imposed on the legislature of any compacting state, the obligations, duties, powers,  
19 or jurisdiction sought to be conferred by that provision upon the commission shall be  
20 ineffective as to that compacting state, and such obligations, duties, powers, or  
21 jurisdiction shall remain in the compacting state and shall be exercised by the agency  
22 thereof to which such obligations, duties, powers, or jurisdiction are delegated by law  
23 in effect at the time this compact becomes effective.

24           **SECTION 5.** 605.03 (1) (a) of the statutes is amended to read:

1           605.03 (1) (a) *Mandatory coverage.* The property fund shall provide protection  
2 against fire and extended coverage perils. The coverage shall be at least as favorable  
3 as that customarily provided by policies ~~approved by~~ filed with the commissioner for  
4 the use of private insurers in insuring comparable property.

5           **SECTION 6.** 607.02 (1) of the statutes is amended to read:

6           607.02 (1) TYPES OF POLICIES PERMITTED. Subject to sub. (2), the life fund may  
7 issue to any resident of the state any kind of life insurance with any riders or  
8 endorsements thereto that would be filed with the commissioner ~~would approve~~ for  
9 issuance by private insurers authorized to do a life insurance business in this state.  
10 Coverages may be combined and granted in the same policy by the life fund to the  
11 same extent as by a private life insurer.

12           **SECTION 7.** 612.51 (1) of the statutes is repealed.

13           **SECTION 8.** 628.347 (title) of the statutes is amended to read:

14           **628.347 (title) Suitability of annuity sales to senior consumers.**

15           **SECTION 9.** 628.347 (1) (b) of the statutes is amended to read:

16           628.347 (1) (b) "Recommendation" means advice provided by an insurance  
17 intermediary, or an insurer if no intermediary is involved, to an individual senior  
18 consumer that results in the purchase or exchange of an annuity in accordance with  
19 that advice.

20           **SECTION 10.** 628.347 (1) (c) of the statutes is repealed.

21           **SECTION 11.** 628.347 (2) (a) of the statutes is amended to read:

22           628.347 (2) (a) Except as provided in par. (c), an insurance intermediary, or  
23 insurer if no intermediary is involved, may not recommend to a senior consumer the  
24 purchase or exchange of an annuity if the recommendation results in an insurance  
25 transaction or series of insurance transactions unless the intermediary or insurer

1 has reasonable grounds to believe that the recommendation is suitable for the ~~senior~~  
2 consumer on the basis of facts disclosed by the ~~senior~~ consumer as to his or her  
3 investments, other insurance products, and financial situation and needs.

4 **SECTION 12.** 628.347 (2) (b) 1. of the statutes is amended to read:

5 628.347 (2) (b) 1. The ~~senior~~ consumer's financial status.

6 **SECTION 13.** 628.347 (2) (b) 2. of the statutes is amended to read:

7 628.347 (2) (b) 2. The ~~senior~~ consumer's tax status.

8 **SECTION 14.** 628.347 (2) (b) 3. of the statutes is amended to read:

9 628.347 (2) (b) 3. The ~~senior~~ consumer's investment objectives.

10 **SECTION 15.** 628.347 (2) (b) 4. of the statutes is amended to read:

11 628.347 (2) (b) 4. Any other information that is reasonably appropriate for  
12 determining the suitability of a recommendation to the ~~senior~~ consumer.

13 **SECTION 16.** 628.347 (2) (c) (intro.) of the statutes is amended to read:

14 628.347 (2) (c) (intro.) An insurance intermediary, or insurer if no intermediary  
15 is involved, has no obligation under par. (a) to a ~~senior~~ consumer related to a  
16 recommendation if the ~~senior~~ consumer does any of the following:

17 **SECTION 17.** 628.347 (3) (f) 2. of the statutes is amended to read:

18 628.347 (3) (f) 2. Include in its system of supervision an insurance  
19 intermediary's recommendations made to ~~senior~~ consumers of products other than  
20 annuities offered by the insurer, general agent, or independent agency.

21 **SECTION 18.** 628.347 (5) (a) of the statutes is amended to read:

22 628.347 (5) (a) Order an insurer to take reasonably appropriate corrective  
23 action for any ~~senior~~ consumer harmed by a violation of this section by the insurer  
24 or the insurer's insurance intermediary.

25 **SECTION 19.** 628.347 (5) (b) of the statutes is amended to read:

1           628.347 (5) (b) Order an insurance intermediary to take reasonably  
2 appropriate corrective action for any ~~senior~~ consumer harmed by a violation of this  
3 section by the insurance intermediary.

4           **SECTION 20.** 628.347 (5) (c) of the statutes is amended to read:

5           628.347 (5) (c) Order a general agent or independent agency that employs or  
6 contracts with an insurance intermediary to sell, or solicit the sale of, annuities to  
7 ~~senior~~ consumers to take reasonably appropriate corrective action for any ~~senior~~  
8 consumer harmed by a violation of this section by the insurance intermediary.

9           **SECTION 21.** 628.347 (6) (b) of the statutes is amended to read:

10           628.347 (6) (b) A penalty under par. (a) for a violation of sub. (2) (a), (b), or (d),  
11 including a forfeiture, may be reduced or eliminated to the extent provided by rule  
12 of the commissioner if corrective action is taken for the ~~senior~~ consumer promptly  
13 after the violation is discovered.

14           **SECTION 22.** 628.347 (6) (c) of the statutes is amended to read:

15           628.347 (6) (c) The commissioner may promulgate rules related to the  
16 reduction or elimination of penalties for violations of this section on the basis of  
17 prompt action taken to correct any harm caused to ~~senior~~ consumers by the  
18 violations.

19           **SECTION 23.** 628.347 (7) of the statutes is amended to read:

20           628.347 (7) RECORD KEEPING. An insurer and an insurance intermediary,  
21 including a general agent and an independent agency, shall maintain, or be able to  
22 make available to the commissioner, records of the information collected from a  
23 ~~senior~~ consumer and other information used in making a recommendation that was  
24 the basis for an insurance transaction for 6 years after the insurance transaction is  
25 completed by the insurer, except as otherwise permitted by the commissioner by rule.



1 An insurer may, but is not required to, maintain records on behalf of an insurance  
2 intermediary, including a general agent and an independent agency.

3 **SECTION 24.** 628.347 (8) (a) of the statutes is amended to read:

4 628.347 (8) (a) Direct response solicitations in which no recommendation is  
5 made based on information collected from the senior consumer.

6 **SECTION 25.** 631.01 (4m) of the statutes is amended to read:

7 631.01 (4m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy  
8 of insurance to cover a warranty, as defined in s. 100.205 (1) (g), shall comply with  
9 s. 632.18 and the policy shall be on a form approved by the commissioner ~~under s.~~  
10 631.20.

11 **SECTION 26.** 631.20 (1) (a) of the statutes is amended to read:

12 631.20 (1) (a) No form subject to s. 631.01 (1), except as exempted under par.  
13 (c), sub. (1g), or s. 631.01 (2) to (5) or by rule under par. (b), may be used unless it has  
14 been filed with and approved by the commissioner and unless the insurer certifies  
15 that the form complies with chs. 600 to 655 and rules promulgated under chs. 600  
16 to 655. It is deemed approved if it is not disapproved within 30 days after filing, or  
17 within a 30-day extension of that period ordered by the commissioner prior to the  
18 expiration of the first 30 days.

19 **SECTION 27.** 631.20 (1) (c) of the statutes is created to read:

20 631.20 (1) (c) Subject to sub. (1m), a form first used and not already filed under  
21 par. (a) on or after the effective date of this paragraph .... [revisor inserts date], is  
22 exempt from par. (a) except for any of the following:

- 23 1. A form subject to s. 655.24 (1).
- 24 2. A form for a worker's compensation policy.
- 25 3. A form for a Medicare replacement policy or a Medicare supplement policy.

1           4. A form for a long-term care insurance policy, including a form for a nursing  
2 home or home health care policy.

3           5. A form filed under ch. 149.

4           6. A form issued by an insurer ordered by the commissioner under s. 601.41 (4)  
5 to file forms under par. (a). The commissioner may require an insurer to file forms  
6 under par. (a) to secure compliance with the law, including if the commissioner  
7 determines that the insurer violated sub. (1m).

8           7. A form that includes an appraisal or arbitration provision not specifically  
9 authorized by rule. The entire form, including the appraisal or arbitration provision,  
10 is subject to par. (a).

11          8. A form that contains a clause subject to s. 631.21, but only as to the clause.

12          9. A form subject to s. 618.41 (6m).

13          10. A warranty contract form.

14          11. A form required to be filed under par. (a) by a rule promulgated by the  
15 commissioner.

16          **SECTION 28.** 631.20 (1g) of the statutes is created to read:

17          **631.20 (1g) EXEMPT IF APPROVED BY COMMISSION.** A form for a product, as defined  
18 in s. 601.58 (2) (k), that is approved by or self-certified to, and not disapproved by,  
19 the Interstate Insurance Product Regulation Commission is exempt from subs. (1)  
20 (a) and (1m) (a), unless otherwise provided by a rule promulgated by the  
21 commissioner under s. 601.58.

22          **SECTION 29.** 631.20 (1m) of the statutes is created to read:

23          **631.20 (1m) USE OF CERTAIN FORMS.** (a) Except as exempted under sub. (1g) or  
24 s. 631.01 (2) to (5) or by a rule promulgated by the commissioner, an insurer may not,  
25 on or after the effective date of this paragraph .... [revisor inserts date], use a form

1 that is exempt from sub. (1) (a) under sub. (1) (c) unless the insurer does all of the  
2 following:

3 1. Files the form with the commissioner 30 days before its use.

\*\*\*\*NOTE: Should this be "at least 30 days" or "not more than 30 days"? The suggested language means "exactly 30 days." Is that what you intend?

4 2. Files the form in the manner and format, and with the attachments,  
5 prescribed by the commissioner.

6 3. Certifies as required under par. (b) that the form complies with chs. 600 to  
7 655 and rules promulgated under chs. 600 to 655. The commissioner may require  
8 an insurer to include specific compliance certifications.

9 (b) An insurer shall provide the certification under par. (a) 3. in the form  
10 prescribed by the commissioner. The certification shall be executed by the insurer's  
11 officer responsible for policy form development. No insurer may file, and no insurer's  
12 officer may execute, a false certification.

13 **SECTION 30.** 631.20 (2) (intro.) of the statutes is amended to read:

14 631.20 (2) GROUNDS FOR DISAPPROVAL. (intro.) The commissioner may  
15 disapprove a form under sub. (1) (a) or (3) upon a finding:

16 **SECTION 31.** 631.20 (3) of the statutes is amended to read:

17 631.20 (3) SUBSEQUENT DISAPPROVAL. Whenever the commissioner finds, after  
18 a hearing, that a form approved or deemed to be approved under sub. (1) (a) ~~would,~~  
19 a form filed under sub. (1m), or a form subject to subsequent disapproval under s.  
20 601.58 (14) should be disapproved under sub. (2) ~~if newly filed,~~ the commissioner  
21 may order that on or before a date not less than 30 nor more than 90 days after the  
22 order the use of the form shall be discontinued or appropriate changes shall be made.

23 **SECTION 32.** 631.20 (6) (title) of the statutes is amended to read:

1 631.20 (6) (title) ~~APPROVED FORM WHICH~~ FORM THAT VIOLATES STATUTE OR RULE.

2 **SECTION 33.** 631.20 (6) (a) of the statutes is renumbered 631.20 (6) (a) (intro.)  
3 and amended to read:

4 631.20 (6) (a) (intro.) The penalties under s. 601.64 (3) to (5) may not be imposed  
5 against an insurer for using any of the following:

6 1. Using a form that does not comply with a statute or rule, including a rule or  
7 uniform standard adopted by the Interstate Insurance Product Regulation  
8 Commission, if the statute or rule was in effect on the date the form was approved  
9 or deemed to be approved under sub. (1) (a) or s. 601.58.

10 **SECTION 34.** 631.20 (6) (a) 2. of the statutes is created to read:

11 631.20 (6) (a) 2. The use of a form solely based on a finding of the commissioner  
12 that the content of the form is misleading under s. 628.34 (1).

\*\*\*\*NOTE: Is this really intended to mean that the insurer used a form solely because the commissioner found that the content of the form was misleading? That doesn't make sense to me. Is the intended meaning actually that the penalties do not apply if the only problem with the form is that the commissioner found the content to be misleading?

13 **SECTION 35.** 631.20 (6) (b) of the statutes is amended to read:

14 631.20 (6) (b) Use An insurer's use of a form that does not comply with a statute  
15 or rule which, including a rule or uniform standard adopted by the Interstate  
16 Insurance Product Regulation Commission, that takes effect after the date the form  
17 was approved or deemed to be approved under sub. (1) (a) or s. 601.58 is a violation  
18 of the statute or rule, and the penalties under s. 601.64 may be imposed against the  
19 insurer using the form.

20 **SECTION 36.** 631.20 (6) (c) of the statutes is created to read:

21 631.20 (6) (c) Except as provided in par. (a) 2., an insurer's use of a form filed  
22 under sub. (1m) that violates chs. 600 to 655 or rules promulgated under chs. 600 to

1 655 is a violation of the statute or rule, regardless of whether the form has been  
2 subsequently disapproved under sub. (3). The insurer is subject to the penalties and  
3 remedial orders provided under chs. 600 to 655, including ss. 601.41 (4) and 601.64.

4 **SECTION 37.** 631.21 (1) (intro.) of the statutes is amended to read:

5 631.21 (1) REQUIRED APPROVAL. (intro.) Despite the filing or general approval  
6 of a form under s. 631.20, the following clauses ~~are not approved~~ may not be used  
7 even if contained in the form unless the commissioner gives explicit approval to  
8 them:

9 **SECTION 38.** 631.23 (1) (intro.) of the statutes is amended to read:

10 631.23 (1) PROMULGATION OF CLAUSES. (intro.) The commissioner may not  
11 promulgate mandatory uniform clauses that preclude an insurer from filing its own  
12 forms ~~for approval~~ under s. 631.20; the commissioner may only disapprove such  
13 forms on the basis of the criteria stated in that section. Subject thereto, the  
14 commissioner may promulgate authorized clauses by rule upon a finding that:

15 **SECTION 39.** 631.36 (1) (a) of the statutes is amended to read:

16 631.36 (1) (a) *General.* Except as otherwise provided in this section or in other  
17 statutes or by rule under par. (c), this section applies to all contracts of insurance  
18 based on forms which ~~that~~ are subject to filing and approval under s. 601.58 or 631.20  
19 (1) (a).

20 **SECTION 40.** 632.32 (4) (intro.) of the statutes is amended to read:

21 632.32 (4) REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES.  
22 (intro.) Every policy of insurance subject to this section that insures with respect to  
23 any motor vehicle registered or principally garaged in this state against loss  
24 resulting from liability imposed by law for bodily injury or death suffered by any  
25 person arising out of the ownership, maintenance, or use of a motor vehicle shall

1 contain therein or supplemental thereto the following provisions approved by the  
2 commissioner:

3 **SECTION 41.** 632.45 (2) of the statutes is amended to read:

4 632.45 (2) AMENDMENTS. Any contract under sub. (1) shall state whether it may  
5 be amended as to investment policy, voting rights, and conduct of the business and  
6 affairs of any segregated account. Subject to any preemptive provision of federal law,  
7 any such amendment is subject to filing ~~and approval~~ under s. 631.20 and approval  
8 by a majority of the policyholders in the segregated account.

9 **SECTION 42.** 646.35 (6) (bm) of the statutes is amended to read:

10 646.35 (6) (bm) For coverages continued pursuant to par. (b), the fund may  
11 substitute a comprehensive health insurance policy ~~approved by the commissioner~~  
12 for a health maintenance organization policy that is subject to sub. (3), and increase  
13 rates or premiums for the substituted coverage as provided in sub. (5).

14 **SECTION 43. Effective dates.** This act takes effect on the day after publication,  
15 except as follows:

16 (1) INSURANCE FORM FILING. The treatment of sections 40.55 (1), 100.205 (6)  
17 (intro.), 605.03 (1) (a), 607.02 (1), 612.51 (1), 631.01 (4m), 631.20 (1) (a) and (c), (1g),  
18 (1m), (2) (intro.), (3), and (6) (title), (b), and (c), 631.21 (1) (intro.), 631.23 (1) (intro.),  
19 631.36 (1) (a), 632.32 (4) (intro.), 632.45 (2), and 646.35 (6) (bm) of the statutes, the  
20 renumbering and amendment of section 631.20 (6) (a) of the statutes, and the  
21 creation of section 631.20 (6) (a) 2. of the statutes take effect on the first day of the  
22 4th month beginning after publication.

23 (2) SUITABILITY OF ANNUITY SALES. The treatment of section 628.347 (title), (1)  
24 (b) and (c), (2) (a), (b) 1., 2., 3., and 4., and (c) (intro.), (3) (f) 2., (5) (a), (b), and (c), (6)

1 (b) and (c), (7), and (8) (a) of the statutes takes effect on the first day of the 7th month  
2 beginning after publication.

3 (END)

*D-vote*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0843/1dn

PJK/ldnwn

keep

date

I have removed all embedded NOTES<sup>✓</sup> from the draft on the assumption that you did not want any changes to the text on the basis of my questions or comments.

Pamela J. Kahler  
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2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0843/lins  
PJK:jld:nwn

INSERT A-1

*Interstate Insurance Product Regulation Compact* ✓

(END OF INSERT A-1)

INSERT A-2

*Insurance form filing with the commissioner* ✓

Under current law, with a few exceptions, no insurance policy or group certificate form may be used unless it has been filed with and approved by the commissioner. ✓ Any form that has not been disapproved in 30 ✓ days after filing is approved. The statutes set out the grounds on which the commissioner may disapprove a form. The commissioner may order that the use of a form be discontinued if, after a hearing, the commissioner finds that an approved form would now be disapproved if newly filed. Penalties may not be imposed against an insurer for using a form that does not comply with a statute or rule if the statute or rule was in effect when the form was approved. However, penalties may be imposed against an insurer for using a form that does not comply with a statute or rule if the statute or rule takes effect after the date ✓ on which the form was approved.

This bill provides that, with a number of specified exceptions, a form first used on or after the effective date of the provision (which is approximately ✓ three months after the bill is passed and published) that has not already been filed by that date may be used without approval by the commissioner. The specified exceptions, which must still be filed and approved before use, include forms for ✓ long-term care insurance, worker's compensation policies, Medicare replacement or supplement policies, health care liability insurance, policies under the ✓ Health Insurance Risk-Sharing Plan, ✓ rustproofing warranty insurance, and warranty contracts; forms ordered to be filed by the commissioner or required to be filed by a rule of the commissioner; forms that include appraisal or arbitration provisions not specifically authorized by rule; and forms containing certain ~~prohibited~~ clauses. For forms that do not have to be filed and approved before use, however, the insurer must still file the form with the commissioner 30 ✓ days before use and certify that the form complies with the statutes related to insurance and any rules promulgated under those statutes. The commissioner may still, after a hearing, order the discontinuance of the use of a form that did not require approval before use if there are grounds for disapproval. Any form that was approved by, or self-certified ✓ to and not disapproved by, the Interstate Insurance Product Regulation Commission is not subject to any requirement for filing with the commissioner.

The bill provides that penalties may not be imposed against an insurer for the use of a form solely based on a finding of the commissioner that the content of the form is misleading. The bill also provides that, ✓ if an insurer uses a form that was filed but not approved before use and that violates a statute related to insurance or any rules promulgated under those statutes, the insurer violates that statute or rule and is subject to penalties. ✓

*that require explicit approval*



*Ins A-2 contd*

***Suitability of annuity contracts***

\*

Under current law, an insurance intermediary, or insurer if no intermediary is involved, is prohibited from making a recommendation to a person who is 65 years old or older (senior consumer) about purchasing or exchanging an annuity unless the intermediary or insurer has reasonable grounds to believe that the recommendation is suitable for the senior consumer based on facts disclosed by the senior consumer. Before making a recommendation, the intermediary or insurer must make reasonable efforts to obtain information from the senior consumer about his or her financial status, tax status, and investment objectives. The bill makes these provisions apply to all consumers, not just to those who are 65 years old or older.

(END OF INSERT A-2)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0843/1dn  
PJK:jld:pg

May 16, 2007

I have removed all embedded NOTES from the draft on the assumption that you did not want any changes to the text on the basis of my questions or comments.

Pamela J. Kahler  
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**Kahler, Pam**

**From:** Nepple, Fred - OCI  
**Sent:** Thursday, July 19, 2007 5:08 PM  
**To:** Kahler, Pam  
**Subject:** RE: 0843/1 draft revision requests.doc

No as to the second point. It is a an officer who is responsible for the form who must certify. I am trying to retain the point that it must be an officer of the insurer. "the insurer's officer who is responsible for the form" probably would work but seem awkward. Alternatively "responsible for the form" is not very significant so probably could just be left out.

**Fred Nepple, General Counsel**

**Fred.Nepple@oci.state.wi.us**

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**From:** Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]  
**Sent:** Thursday, July 19, 2007 5:04 PM  
**To:** Nepple, Fred - OCI  
**Subject:** RE: 0843/1 draft revision requests.doc

So, 893.80 does not apply, and it's the insurer, not the officer, who is responsible. Let me know if I'm wrong. Thanks.

**From:** Nepple, Fred - OCI  
**Sent:** Thursday, July 19, 2007 5:02 PM  
**To:** Kahler, Pam  
**Subject:** RE: 0843/1 draft revision requests.doc

Pam:

How is this?

- 1) In no. 2, is the intent that s. 893.80 does not apply to claims against the commission? "The commission is not subject to s. 893.80" would mean that the commission does not have to provide the 120 day notice if it files a claim against a governmental body.

"S. 893.80 does not apply to a claim brought against the commission."

- 2) In no. 3, does "responsible for the form that is the subject of the filing" refer to the officer or the insurer?

07/19/2007

“The certificate shall be executed by an officer of the insurer who is responsible for the form that is the subject of the filing.”

---

**From:** Nepple, Fred - OCI  
**Sent:** Thursday, July 19, 2007 3:15 PM  
**To:** Kahler, Pam  
**Cc:** Guidry, Jim R - OCI  
**Subject:** 0843/1 draft revision requests.doc

Pam

We have complete discussions with several parties. As a result we have several, we believe, minor changes, to the draft to put it in its final form. Please let me know if you have any questions.

07/19/2007



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor  
Sean Dilweg, Commissioner

Wisconsin.gov

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Date: July 19, 2007  
To: Ms. Pam Kahler  
From: Fred Nepple, General Counsel  
Subject: Policy and Form Package LRB-0843/1

As a result of discussions with several parties we are requesting the following drafting changes:

- ✓ 1) On page 5, line 4, add "The commissioner of insurance may only designate an official or employee of the office of the commissioner of insurance as the representative."
- ✓ 2) On page 30, after line 25, insert: "(17) CLAIMS. The commission is not subject to s. 893.80."
- 2) On page 36, lines 11-12, substitute "The certificate shall be executed by an officer of the insurer responsible for the form that is the subject of the filing."