



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0843/1

PJK:jld:pg

2
Keep
mic run

D-note
(w/7-20)

2007 BILL

Regenerate



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, filing

BILL

1 insurance policy forms with the commissioner of insurance, suitability of
2 annuity contracts, and granting rule-making authority.

Analysis by the Legislative Reference Bureau***Interstate Insurance Product Regulation Compact***

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

BILL

Under current law, except for certain very limited types of insurance, all insurance forms must be filed with and approved by the commissioner 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 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.

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

BILL

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 clauses that require explicit approval. 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 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.

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.

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

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

, who must be an official or employee

of the office of the commissioner of insurance

BILL

1 member shall serve without compensation but shall be reimbursed from the
2 appropriation under s. 20.145 (1) (g) for actual and necessary expenses incurred in
3 the performance of his or her duties. The commission has the powers and duties
4 granted and imposed under s. 601.58.

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

6 40.55 (1) Except as provided in sub. (5), the state shall offer, through the group
7 insurance board, to eligible employees under s. 40.02 (25) (bm) and to state
8 annuitants long-term care insurance policies which have been approved for sale in
9 this state by filed with the office of the commissioner of insurance and which have
10 been approved for offering under contracts established by the group insurance board
11 if the insurer requests that the policy be offered and the state shall also allow an
12 eligible employee or a state annuitant to purchase those policies for his or her spouse
13 or parent.

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

15 100.205 (6) (intro.) Every warrantor shall purchase a policy of insurance
16 covering the financial integrity of its warranties. The policy of insurance shall be on
17 a form approved by the commissioner of insurance under s. 631.20 and shall have the
18 following minimum provisions:

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

20 **601.58 Interstate insurance product regulation compact.** The interstate
21 insurance product regulation compact is hereby enacted into law and entered into
22 by this state with all other jurisdictions legally joining therein, in substantially the
23 following form:

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

BILL

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

3 (b) To develop uniform standards for insurance products covered under the
4 compact.

5 (c) To establish a central clearinghouse to receive and provide prompt review
6 of insurance products covered under the compact and, in certain cases,
7 advertisements related thereto, submitted by insurers authorized to do business in
8 one or more compacting states.

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

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

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

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

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

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

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

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

BILL

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

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

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

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

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

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

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

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

22 (L) To hire employees, professionals, or specialists, and elect or appoint officers,
23 and to fix their compensation, define their duties and give them appropriate
24 authority to carry out the purposes of the compact, and determine their
25 qualifications; and to establish the commission's personnel policies and programs

BILL

1 relating to, among other things, conflicts of interest, rates of compensation, and
2 qualifications of personnel.

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

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

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

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

BILL

1 and exclusively in a court of competent jurisdiction where the principal office of the
2 commission is located.

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

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

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

23 (c) To receive and review in an expeditious manner products filed with the
24 commission, and rate filings for disability income and long-term care insurance
25 products, and give approval of those products and rate filings that satisfy the

BILL

1 applicable uniform standard, where such approval shall have the force and effect of
2 law and be binding on the compacting states to the extent and in the manner
3 provided in the compact.

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

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

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

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

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

BILL

1 (i) To establish and maintain offices.

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

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

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

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

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

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

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

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

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

BILL

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

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

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

8 (v) To borrow money.

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

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

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

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

19 **(5) ARTICLE V - ORGANIZATION OF THE COMMISSION.** (a) Each compacting state
20 shall have one member. Each member shall be qualified to serve in such capacity
21 under the applicable law of the compacting state. Any member may be removed or
22 suspended from office as provided by the law of the state from which he or she shall
23 be appointed. Any vacancy occurring in the commission shall be filled in accordance
24 with the laws of the compacting state wherein the vacancy exists. Nothing herein

BILL

1 shall be construed to affect the manner in which a compacting state determines the
2 election or appointment and qualification of its own commissioner.

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

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

- 11 1. Establishing the fiscal year of the commission.
- 12 2. Providing reasonable procedures for appointing and electing members, as
13 well as holding meetings, of the management committee.
- 14 3. Providing reasonable standards and procedures for all of the following:
 - 15 a. The establishment and meetings of other committees.
 - 16 b. Governing any general or specific delegation of any authority or function of
17 the commission.
- 18 4. Providing reasonable procedures for calling and conducting meetings of the
19 commission that consist of a majority of commission members, ensuring reasonable
20 advance notice of each such meeting, and providing for the right of citizens to attend
21 each such meeting with enumerated exceptions designed to protect the public's
22 interest, the privacy of individuals, and insurers' proprietary information, including
23 trade secrets. The commission may meet in camera only after a majority of the entire
24 membership votes to close a meeting en toto or in part. As soon as practicable, the
25 commission must make public all of the following:

BILL

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

3 b. Votes taken during such meeting.

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

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

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

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

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

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

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

24 2. Four members from those compacting states with at least 2 percent of the
25 market based on the premium volume described in subd. 1., other than the 6

BILL

1 compacting states with the largest premium volume, selected on a rotating basis as
2 provided in the bylaws.

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

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

9 1. Managing the affairs of the commission in a manner consistent with the
10 bylaws and purposes of the commission.

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

19 3. Overseeing the offices of the commission.

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

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

BILL

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

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

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

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

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

22 (m) The members, officers, executive director, employees, and representatives
23 of the commission shall be immune from suit and liability, either personally or in
24 their official capacity, for any claim for damage to or loss of property or personal
25 injury or other civil liability caused by or arising out of or relating to any actual or

BILL

1 alleged act, error, or omission that occurred, or that the person against whom the
2 claim is made had a reasonable basis for believing occurred, within the scope of
3 commission employment, duties, or responsibilities; provided, that nothing in this
4 paragraph shall be construed to protect any such person from suit or liability for any
5 damage, loss, injury, or liability caused by the intentional or willful and wanton
6 misconduct of that person.

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

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

Insert 17-24 ✓



BILL

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

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

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

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

19 (b) Rules and operating procedures shall be made pursuant to a rule-making
20 process that conforms to the Model State Administrative Procedure Act of 1981 as
21 amended, as may be appropriate to the operations of the commission. Before the
22 commission adopts a uniform standard, the commission shall give written notice to
23 all relevant state legislative committees in each compacting state responsible for
24 insurance issues of its intention to adopt the uniform standard. The commission in

BILL

1 adopting a uniform standard shall consider fully all submitted materials and issue
2 a concise explanation of its decision.

3 (c) A uniform standard shall become effective 90 days after its promulgation
4 by the commission or such later date as the commission may determine; provided,
5 that a compacting state may opt out of a uniform standard as provided in this
6 subsection. "Opt out" shall be defined as any action by a compacting state to decline
7 to adopt or participate in a promulgated uniform standard. All other rules and
8 operating procedures, and amendments thereto, shall become effective as of the date
9 specified in each rule, operating procedure, or amendment.

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

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

BILL

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

3 2. Notwithstanding subd. 1., a compacting state may, at the time of its
4 enactment of this compact, prospectively opt out of all uniform standards involving
5 long-term care insurance products by expressly providing for such opt out in the
6 enacted compact, and such an opt out may not be treated as a material variance in
7 the offer or acceptance of any state to participate in this compact. Such an opt out
8 shall be effective at the time of enactment of this compact by the compacting state
9 and shall apply to all existing uniform standards involving long-term care insurance
10 products and those subsequently promulgated.

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

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

BILL

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

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

18 (8) ARTICLE VIII - COMMISSION RECORDS AND ENFORCEMENT. (a) The commission
19 shall promulgate rules establishing conditions and procedures for public inspection
20 and copying of its information and official records, except such information and
21 records involving the privacy of individuals and insurers' trade secrets. The
22 commission may promulgate additional rules under which it may make available to
23 federal and state agencies, including law enforcement agencies, records and
24 information otherwise exempt from disclosure, and may enter into agreements with

BILL

1 such agencies to receive or exchange information or records subject to nondisclosure
2 and confidentiality provisions.

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

13 (c) The commission shall monitor compacting states for compliance with duly
14 adopted bylaws, rules, including uniform standards, and operating procedures. The
15 commission shall notify any noncomplying compacting state in writing of its
16 noncompliance with commission bylaws, rules, or operating procedures. If a
17 noncomplying compacting state fails to remedy its noncompliance within the time
18 specified in the notice of noncompliance, the compacting state shall be deemed to be
19 in default under sub. (14).

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

BILL

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

7 2. Before a commissioner may bring an action for violation of any provision,
8 standard, or requirement of the compact relating to the content of an advertisement
9 not approved by or certified to the commission, the commission, or an authorized
10 commission officer or employee, must authorize the action. However, authorization
11 pursuant to this subdivision does not require notice to the insurer, opportunity for
12 hearing, or disclosure of requests for authorization or records of the commission's
13 action on such requests.

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

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

BILL

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

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

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

22 (b) The commission shall have authority to monitor, review, and reconsider
23 products and advertisement subsequent to their filing or approval upon a finding
24 that the product does not meet the relevant uniform standard. Where appropriate,

BILL

1 the commission may withdraw or modify its approval after proper notice and
2 hearing, subject to the appeal process in par. (a).

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

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

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

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

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

20 (f) The commission shall keep complete and accurate accounts of all its internal
21 receipts, including grants and donations, and disbursements of all funds under its
22 control. The internal financial accounts of the commission shall be subject to the
23 accounting procedures established under its bylaws. The financial accounts and
24 reports including the system of internal controls and procedures of the commission
25 shall be audited annually by an independent certified public accountant. Upon the

BILL

1 determination of the commission, but no less frequently than every 3 years, the
2 review of the independent auditor shall include a management and performance
3 audit of the commission. The commission shall make an annual report to the
4 governor and legislature of each of the compacting states, which shall include a
5 report of the independent audit. The commission's internal accounts shall not be
6 confidential and such materials may be shared with the commissioner of any
7 compacting state upon request; provided, that any work papers related to any
8 internal or independent audit and any information regarding the privacy of
9 individuals and insurers' proprietary information, including trade secrets, shall
10 remain confidential.

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

14 **(13) ARTICLE XIII - COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT. (a)**

15 Any state is eligible to become a compacting state.

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

BILL

1 binding as to any other compacting state upon enactment of the compact into law by
2 that state.

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

7 (14) ARTICLE XIV - WITHDRAWAL, DEFAULT, AND TERMINATION. (a) Once effective,
8 the compact shall continue in force and remain binding upon each and every
9 compacting state; provided, that a compacting state may withdraw from the compact
10 ("withdrawing state") by enacting a statute specifically repealing the statute that
11 enacted the compact into law.

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

17 (c) The commissioner of the withdrawing state shall immediately notify the
18 management committee in writing upon the introduction of legislation repealing this
19 compact in the withdrawing state.

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

22 (e) The withdrawing state is responsible for all obligations, duties, and
23 liabilities incurred through the effective date of withdrawal, including any
24 obligations, the performance of which extend beyond the effective date of
25 withdrawal, except to the extent those obligations may have been released or

BILL

1 relinquished by mutual agreement of the commission and the withdrawing state.
2 The commission's approval of products and advertisement prior to the effective date
3 of withdrawal shall continue to be effective and be given full force and effect in the
4 withdrawing state, unless formally rescinded by the withdrawing state in the same
5 manner as provided by the laws of the withdrawing state for the prospective
6 disapproval of products or advertisement previously approved under state law.

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

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

24 (h) Product approvals by the commission or product self-certifications, or any
25 advertisement in connection with such product, that are in force on the effective date

BILL

1 of termination shall remain in force in the defaulting state in the same manner as
2 if the defaulting state had withdrawn voluntarily under par. (a).

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

5 (j) The compact dissolves effective upon the date of the withdrawal or default
6 of the compacting state that reduces membership in the compact to one compacting
7 state.

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

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

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

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

20 (b) For any product approved by or certified to the commission, the rules,
21 uniform standards, and any other requirements of the commission shall constitute
22 the exclusive provisions applicable to the content, approval, and certification of such
23 products. For advertisement that is subject to the commission's authority, any rule,
24 uniform standard, or other requirement of the commission that governs the content
25 of the advertisement shall constitute the exclusive provision that a commissioner

BILL

1 may apply to the content of the advertisement. Notwithstanding the foregoing, no
2 action taken by the commission shall abrogate or restrict any of the following:

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

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

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

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

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

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

14 All agreements between the commission and the compacting states are binding in
15 accordance with their terms. Upon the request of a party to a conflict over the
16 meaning or interpretation of commission actions, and upon a majority vote of the
17 compacting states, the commission may issue advisory opinions regarding the
18 meaning or interpretation in dispute.

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

BILL

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

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

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

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

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

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

15 **628.347 (title) Suitability of annuity sales to senior consumers.**

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

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

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

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

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

BILL

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

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

6 628.347 (2) (b) 1. The senior consumer's financial status.

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

8 628.347 (2) (b) 2. The senior consumer's tax status.

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

10 628.347 (2) (b) 3. The senior consumer's investment objectives.

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

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

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

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

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

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

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

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

BILL

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

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

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

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

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

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

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

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

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

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

BILL

1 completed by the insurer, except as otherwise permitted by the commissioner by rule.
2 An insurer may, but is not required to, maintain records on behalf of an insurance
3 intermediary, including a general agent and an independent agency.

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

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

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

8 631.01 (4m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
9 of insurance to cover a warranty, as defined in s. 100.205 (1) (g), shall comply with
10 s. 632.18 and the policy shall be on a form approved by the commissioner ~~under s.~~
11 ~~631.20.~~

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

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

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

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

- 24 1. A form subject to s. 655.24 (1).
- 25 2. A form for a worker's compensation policy.

BILL

1 3. A form for a Medicare replacement policy or a Medicare supplement policy.

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

4 5. A form filed under ch. 149.

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

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

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

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

14 10. A warranty contract form.

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

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

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

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

24 **631.20 (1m) USE OF CERTAIN FORMS.** (a) Except as exempted under sub. (1g) or
25 s. 631.01 (2) to (5) or by a rule promulgated by the commissioner, an insurer may not,

BILL

1 on or after the effective date of this paragraph [revisor inserts date], use a form
2 that is exempt from sub. (1) (a) under sub. (1) (c) unless the insurer does all of the
3 following:

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

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

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

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

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

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

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

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

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

25 631.20 (6) (title) ~~APPROVED FORM WHICH~~ FORM THAT VIOLATES STATUTE OR RULE.

a person who is an

11
12

insert 36-12

BILL

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

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

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

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

10 631.20 (6) (a) 2. The use of a form solely based on a finding of the commissioner
11 that the content of the form is misleading under s. 628.34 (1).

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

13 631.20 (6) (b) Use An insurer's use of a form that does not comply with a statute
14 or rule which, including a rule or uniform standard adopted by the Interstate
15 Insurance Product Regulation Commission, that takes effect after the date the form
16 was approved or deemed to be approved under sub. (1) (a) or s. 601.58 is a violation
17 of the statute or rule, and the penalties under s. 601.64 may be imposed against the
18 insurer using the form.

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

20 631.20 (6) (c) Except as provided in par. (a) 2., an insurer's use of a form filed
21 under sub. (1m) that violates chs. 600 to 655 or rules promulgated under chs. 600 to
22 655 is a violation of the statute or rule, regardless of whether the form has been
23 subsequently disapproved under sub. (3). The insurer is subject to the penalties and
24 remedial orders provided under chs. 600 to 655, including ss. 601.41 (4) and 601.64.

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

BILL

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

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

6 631.23 (1) PROMULGATION OF CLAUSES. (intro.) The commissioner may not
7 promulgate mandatory uniform clauses that preclude an insurer from filing its own
8 forms ~~for approval~~ under s. 631.20; the commissioner may only disapprove such
9 forms on the basis of the criteria stated in that section. Subject thereto, the
10 commissioner may promulgate authorized clauses by rule upon a finding that:

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

12 631.36 (1) (a) *General.* Except as otherwise provided in this section or in other
13 statutes or by rule under par. (c), this section applies to all contracts of insurance
14 based on forms ~~which that~~ are subject to filing ~~and approval~~ under s. 601.58 or 631.20
15 ~~(1) (a).~~

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

17 632.32 (4) REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES.
18 (intro.) Every policy of insurance subject to this section that insures with respect to
19 any motor vehicle registered or principally garaged in this state against loss
20 resulting from liability imposed by law for bodily injury or death suffered by any
21 person arising out of the ownership, maintenance, or use of a motor vehicle shall
22 contain therein or supplemental thereto the following provisions ~~approved by the~~
23 ~~commissioner:~~

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

BILL

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

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

7 646.35 (6) (bm) For coverages continued pursuant to par. (b), the fund may
8 substitute a comprehensive health insurance policy approved by the commissioner
9 for a health maintenance organization policy that is subject to sub. (3), and increase
10 rates or premiums for the substituted coverage as provided in sub. (5).

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

13 (1) **INSURANCE FORM FILING.** The treatment of sections 40.55 (1), 100.205 (6)
14 (intro.), 605.03 (1) (a), 607.02 (1), 612.51 (1), 631.01 (4m), 631.20 (1) (a) and (c), (1g),
15 (1m), (2) (intro.), (3), and (6) (title), (b), and (c), 631.21 (1) (intro.), 631.23 (1) (intro.),
16 631.36 (1) (a), 632.32 (4) (intro.), 632.45 (2), and 646.35 (6) (bm) of the statutes, the
17 renumbering and amendment of section 631.20 (6) (a) of the statutes, and the
18 creation of section 631.20 (6) (a) 2. of the statutes take effect on the first day of the
19 4th month beginning after publication.

20 (2) **SUITABILITY OF ANNUITY SALES.** The treatment of section 628.347 (title), (1)
21 (b) and (c), (2) (a), (b) 1., 2., 3., and 4., and (c) (intro.), (3) (f) 2., (5) (a), (b), and (c), (6)
22 (b) and (c), (7), and (8) (a) of the statutes takes effect on the first day of the 7th month
23 beginning after publication.

24 **(END)**

Insert 39-10

D. note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0843/2ins
PJK:.....

INSERT 17-24

1 (p) Section 893.80[✓] does not apply to claims against the commission.[✓]

(END OF INSERT 17-24)

INSERT 36-12

2 ^{not} of the insurer[✓] and who is responsible for the form that is the subject of the filing ²⁰

(END OF INSERT 36-12)

INSERT 39-10

(END OF INSERT 39-10)

3 **SECTION 1.** 893.80^x (8) of the statutes is amended to read:

4 893.80 (8) This section does not apply to actions commenced under s. 19.37,
5 19.97, or 281.99 or to claims against the interstate insurance product regulation
6 commission.[✓]

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0843/2dn

PJK:...

date

Jld

I made a couple of the changes at slightly different locations than suggested and will point them out so that you can find them more easily. I made the first change in the middle of s. 14.82, instead of at the end. For the second change, I created s. 601.58 (5) (p), instead of creating s. 601.58 (17), and amended s. 893.80 (8) in current law. The third change, of course, must be made at s. 631.20 (1m) (b).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

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

LRB-0843/2dn
PJK:jld:pg

July 23, 2007

I made a couple of the changes at slightly different locations than suggested and will point them out so that you can find them more easily. I made the first change in the middle of s. 14.82, instead of at the end. For the second change, I created s. 601.58 (5) (p), instead of creating s. 601.58 (17), and amended s. 893.80 (8) in current law. The third change, of course, must be made at s. 631.20 (1m) (b).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Duerst, Christina

From: Piliouras, Elizabeth
Sent: Tuesday, October 16, 2007 9:43 AM
To: LRB.Legal
Subject: Senate Jacket for LRB0843

Please have LRB0843/2 (this should be the most recent version), jacket for the Senate and sent to Senator Roger Breske at room 316 South.

Beth Piliouras

Senator Roger Breske

608-266-2509