



States, Strength & Speed Aligned

**Testimony of Karen Z. Schutter, Executive Director
Interstate Insurance Product Regulation Commission
before the House Industry, Business and Labor Committee
North Dakota Legislative Assembly
Tuesday, March 14, 2023**

**Senate Bill 2172 – An Act to create and enact a new chapter to title 26.1 of the North
Dakota Century Code, relating to the interstate insurance product regulation
compact.**

Chairman Louser, Vice Chairman Ostlie, Representative Kasper and members of the House Industry, Business and Labor Committee, thank you for the opportunity to provide information and respond to questions to assist in the Committee’s consideration to enact the Interstate Insurance Product Regulation Compact (“Compact”) legislation and join the Interstate Insurance Product Regulation Commission.

What is the Compact?

The Insurance Compact is a sovereign agreement, which is enacted by law, amongst states to participate in a multi-state regulatory system for filing, review and approval of asset-based insurance products, including individual and group life insurance, annuities, long-term care insurance and disability income insurance. The Insurance Compact is intended to transform the product review process within the existing state-based system of insurance regulation by delivering speed-to-market through uniformity, reducing duplicative paperwork, processes and systems implementation for companies and removing state-by-state content variations thereby allowing insurance products to be rolled out in a manner and timeframe commensurate and competitive with other financial products while not sacrificing thoroughness in the review and compliance with strong state-based consumer protections.

The mission of this Compact is to promote and protect consumers while developing a streamlined review process of specific insurance products under Uniform Standards that member states, through their Insurance Commissioners and department staff, develop and adopt. Today, the Compact has 46 member jurisdictions – 44 States, the District of Columbia and Puerto Rico -- representing three-fourths of the premium volume written for the authorized product lines nationwide (life, annuity, long-term care and disability income).

In an increasingly mobile society, these are long-term products that will travel with people as they move across state lines and compete for Americans retirement dollars with banking and securities products, which are regulated at the federal level. As such, these asset-based insurance products are conducive to uniformity and are generally not as sensitive to local costs and conditions as are products such as automobile, homeowners and health insurance.

The Commission is a state-centric organization which was created to uphold and strengthen state-based regulation of asset-protection insurance products. With the ever-growing encroachment of federal regulation of the life insurance industry, the Commission demonstrates that states can join together to develop uniform product standards to benefit all consumers of these mobile-borne products and deliver speed-to-market efficiencies for insurance products being offered in the highly competitive financial sector marketplace.

North Dakota's participation in the Compact further strengthens its role of being at the forefront of regulatory innovation and cooperation. North Dakota has long promoted best practices for the technology involved in the sale and administration of insurance products. North Dakota has been very effective in advocating for meaningful uniformity across borders while soundly promoting the state-based system of insurance regulation in a manner that advances regulatory reform and supports strong markets and product availability across the nation. The Compact brings state insurance regulators together under the same principles to develop meaningful uniformity with strong consumer protections that are the hallmark of state-based insurance regulation resulting in a positive impact for North Dakota's consumers, insurance markets, and product availability.

How is it Structured?

The Compact includes one member from each of the compacting states and is designed to facilitate transparency and accountability. The activities of the Compact are governed by the bylaws and rulemaking procedures which have been developed through extensive consultations with the Commissioners and their staff in compacting states and state legislators as well as consumer advocates and industry representatives. The meetings are required to be open to the public, except in very limited situations which are detailed in the bylaws and rules. Compact-approved filings are easily accessible on the organization's web site.

The member for each compacting state is generally the insurance commissioner. The Commission is a member-driven body which benefits from the active input and leadership of insurance commissioners and their staff, including those regulators with expertise and experience in product filing requirements for asset-based insurance products. Through participation in the Compact, states have the opportunity to jointly collaborate and cooperate in pursuit of Uniform Standards that strongly protect the interests of consumers and form the foundation of a central clearinghouse for prompt review of asset-based insurance products.

The Uniform Standard-setting process is conducted through comprehensive public notice and comment procedures which allow all interested parties the opportunity to provide input. Another important feature of the process is its voluntary nature that preserves both state regulatory and legislative sovereign authority. A Uniform Standard can only be effective if it is adopted by a minimum of 2/3rds of all compacting states. If a compacting state believes the adopted Uniform Standard is not adequate, the state can opt-out of the Uniform Standard. These features promote a consensus-based approach to decision-making, which has produced over 100 detailed, consumer-oriented product standards to benefit consumers utilizing an effective single point of entry for filings that provide insurers with the "speed to market" they want in order to compete more effectively.

How is the Compact Funded?

The Compact is revenue neutral for its compacting states. The Compact is funded by insurers who pay filing fees and an annual registration fee to the Compact. There is no fiscal impact on state budgets because insurers continue to pay the state filing fees in addition to the fees for the Compact's value-added review and approval process.

In this period of state budget challenges, the Compact provides a solid resource for compacting states to handle the review and approval of product filings and allowing states to focus limited staffing resources on market regulatory functions. Importantly, state filing revenue remains in force, as the terms of the Compact expressly preserves the states' rights to collect filing fees. In 2022, the Compact Commission collected from companies and remitted to compacting states over \$2,500,000 in state filing fees.

How do State Legislators Participate in the Compact?

The Compact legislation is based on the model law developed by the National Association of Insurance Commissioners (NAIC) through an open, deliberative process and in close consultation and collaboration with the National Conference of Insurance Legislators (NCOIL) and the National Conference of State Legislatures (NCSL).

State legislators are actively represented in the Compact process with a proactive Legislative Committee, comprised of eight (8) legislators who are very supportive of this state-based modernization initiative, selected by the National Conference of Insurance Legislators (NCOIL) and the National Conference of State Legislatures (NCSL) (both have endorsed the Compact), and who provide extremely useful input into policy matters before the Interstate Insurance Product Regulation Commission through funded participation. The Compact encourages consumer participation through its Consumer Advisory Committee and funds the travel expenses for consumer representatives to participate in Commission meetings and conference calls.

As a contract between states, an interstate compact allows for cooperation on multi-state or national issues while maintaining state sovereignty. Interstate Compacts are specifically mentioned in the U.S. Constitution. The Interstate Insurance Product Regulation Compact provides a superior alternative to federal preemption or regulation of

the business of insurance. Although interstate compacts historically have been used to address border disputes and water rights, their use has expanded significantly in recent decades to cover such areas as drivers' licensing and vehicle registration, environmental issues, emergency management, juveniles, adult offenders and other issues. In recent years, North Dakota and other state legislature have considered and enacted occupational licensing compacts including for medical providers, nurses, and physical, occupational and speech therapists. The Compact was modeled on other widely-adopted compacts including the Interstate Compact for Adult Supervision which has been adopted by North Dakota.

Under the Compact legislation, each state, through its member, Governor and state legislature, has a significant role and authority in terms of its participation in the Compact. Each state retains ultimately authority to enter into and withdraw from the Compact as well as to opt-out of Uniform Standards at any time. The member actively participates in the Commission's decision-making process including development and adoption of Uniform Standards, operating procedures and rules and may opt-out of a Uniform Standard by regulation pursuant to the terms of the Compact and the state's own administrative procedures. Further, the Compact has several protections to ensure reasonable notice is provided to states, including their legislatures, before Uniform Standards are adopted with the further requirement that a Uniform Standard can only be adopted by a two-thirds vote of the entire Commission and its Management Committee.

One important provision strongly endorsed by all three organizations is Article XVI of the Compact model which provides that other than the limited jurisdiction of the Interstate Insurance Product Regulation Commission over the content, approval and certification of Products and Advertisements filed with the Commission, *"no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law."* States and state attorneys general retain their full authority to regulate the marketing and servicing of Compact-approved products in their respective jurisdictions.

How Does the Compact Protect Policyholders?

The Compact has an operational history of adopting Uniform Standards with high consumer protection thresholds. The Compact also conducts its policy- and decision-making process in an open and transparent process providing multiple opportunities for public notice and comment on proposed Uniform Standards and operating procedures while soliciting input from its Legislative Committee, both the Industry and Consumer Advisory Committees and other interested parties; as well as publishing all information related to both proposed and adopted rulemaking actions on its website at www.insurancecompact.org.

North Dakota will have an opportunity to have an active voice in the development of Uniform Standards as the Commission continues to develop Uniform Standards for authorized group insurance product lines and is required to review its Uniform Standards, at a minimum, every five years.

With an ever-vigilant eye towards consumer protections and best practices, the compacting states have diligently and conscientiously approached their duty to develop Uniform Standards that can be embraced by all compacting states. The provisions within Uniform Standards are detailed and comprehensive seeking to ensure important policyholder protections. For instance, the Uniform Standards include provisions that prohibit a war risk exclusion if the policyholder is a member of the military, military reserves, or the National Guard. This prohibition extends to service members, whether active or inactive, and prohibits exclusions for the risk of death as a result of war or any act related to military service. The Uniform Standards conscientiously carve out the applicability of a war risk exclusion for veterans and those serving our country and include the requirement that the application include a question to ascertain whether the applicant/proposed policyholder is a member of the military, military reserve, or National Guard, whether active or inactive, or intends to become a military service member in the future.

Compact-approved product filings are submitted through the System for Electronic Rate and Form Filing (SERFF), which is utilized by all compacting states including North Dakota and over 3,000 insurance companies. This allows the state insurance departments

to have ready access to Compact-approved product filings during the review process and after final disposition in order to carry out their market oversight duties.

Moreover, the Compact team of reviewers is comprised of experienced regulatory staff who previously worked for state insurance departments with a combined 50 years of state product review experience. The Compact Review Team has thoroughly reviewed and approved more than 12,000 product filings since June 2007 when the first filings were received with an average turnaround time of 30 days or less.

In summary, the Compact benefits consumers, states, and the insurance industry. North Dakota consumers will benefit from having timely access to asset-based insurance products while continuing to have their questions and problems addressed locally. Regulators will collaborate and leverage resources and expertise to help create high national standards which include strong consumer protections. Additionally, by creating a central clearinghouse to receive, review and approve asset-based insurance products, the Compact will improve speed-to-market for insurers, which will ultimately result in reduced expenses, increased efficiencies and positive economic impact for North Dakota and companies doing business here.