

**State Corporation Commission
2004 Fiscal Impact Statement**

1. Bill Number HB1155

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron Morgan

3. Committee Commerce and Labor

4. Title Interstate Insurance Product Regulation Compact.

5. Summary/Purpose: HB 1155 adds a new Chapter 61 to Title 38.2, relating to the Interstate Insurance Product Regulation Compact (Compact). Chapter 61 consists of §38.2-6100, which contains Articles 1 through 16, and §38.2-6101.

Section 38.2-6100, Article 1, sets forth the purpose of the chapter, which is to:

- promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;
- develop Uniform Standards for Products (Uniform Standards) covered under the Compact;
- act as a central clearinghouse to review insurance products, and advertisements related thereto, submitted by insurers;
- approve product filings and advertisements satisfying the applicable Uniform Standard;
- improve coordination of regulatory resources and expertise among state insurance departments regarding the setting of Uniform Standards and review of insurance products covered under the Compact;
- create the Interstate Insurance Product Regulation Commission (Commission);and
- perform other related functions consistent with state regulation of the business of insurance.

Article 2 sets forth the definitions applicable to the chapter. "Compacting State" is defined as any state, which has enacted this Compact.

Article 3 establishes the Commission, which is described as being a corporate body that is a not-for-profit entity. The Commission is solely responsible for its liabilities except as otherwise provided for in Chapter 61, and venue in proceedings involving the Commission will be in the jurisdiction in which the Commission's principal office is located.

Article 4 sets forth the powers of the Commission emphasizing that approval by the Commission of products, forms and advertisements shall be binding on the Compacting States. The Commission's powers include:

1. the promulgation of rules, which shall be bonding on Compacting States;
2. establishing reasonable Uniform Standards;

3. the receipt and expeditious review of products and rates filed with the Commission, and approval of filings that satisfy the Uniform Standards;
4. the receipt and expeditious review of advertisement relating to long-term care insurance products filed with the Commission, and approval of filings that satisfy the Uniform Standards;
5. exercise rule-making authority and designate products and advertisements subject to a self-certification process;
6. promulgate operating procedures;
7. bring and prosecute legal actions;
8. issue subpoenas;
9. establish and maintain offices;
10. purchase and maintain insurance and bonds;
11. borrow, accept or contract for personnel services;
12. hire employees, establish personnel policies;
13. accept appropriate donations avoiding the appearance of impropriety;
14. lease, purchase, accept property avoiding the appearance of impropriety;
15. sell, convey, lease, mortgage, etc. property;
16. remit filing fees to Compacting States as set forth in bylaws, etc.;
17. enforce compliance by Compacting States of the Rules, Uniform Standards, Operating procedures and Bylaws;
18. provide for dispute resolution between Compacting States;
19. advise Compacting States on issues involving insurers domiciled or doing business in non-compacting jurisdictions;
20. advise and train state insurance department personnel responsible for product review;
21. establish a budget and make expenditures;
22. borrow money;
23. appoint committees;
24. cooperate with law enforcement agencies;
25. adopt and use a corporate seal; and
26. perform other functions as necessary.

Article 5 sets forth how the Commission will be organized, and covers the following areas:

- membership, voting and bylaws;
- management committee, officers and personnel;
- legislative and advisory committees;
- corporate records of the Commission; and
- qualified immunity, defense and indemnification.

Article 6 sets forth the Commission's ability to meet and take action. Each Compacting State member will have a right to vote and participate in the business and affairs of the Commission. The Commission will meet at least once during each calendar year.

Article 7 sets forth the Commission's rules and operating procedures, including:

- rulemaking authority;
- rulemaking procedure;
- effective date and opt out of a Uniform Standard;
- opt out procedure;

- effect of opt out;
- stay of Uniform Standard; and
- judicial review of the Rule or Operating Procedure

Article 8 sets forth the Commission's authority to promulgate rules establishing conditions and procedures for public inspection and copying of official records. The article discusses privileged records; noncompliance of Compacting States with adopted Bylaws, Rules, Uniform Standards and Operating procedures; and states authority to oversee market regulation.

Article 9 sets forth dispute resolution provisions.

Article 10 sets forth product filing and approval procedures.

Article 11 sets forth the review of Commission decisions regarding filings.

Article 12 outlines the provisions for the financing of the Commission.

Article 13 outlines the provisions for a state to become a Compacting State, the effective date of the Compact, and the effective date of amendments to the Compact.

Article 14 sets forth the provisions for withdrawal, default and termination of a Compacting State.

Article 15 sets forth severability and construction clause of the Chapter.

Article 16 outlines the provisions for the binding effect of the Compact and other laws.

Section 38.2-6101 appoints the Commissioner of Insurance as the Commonwealth's representative to the Commission.

6. No Fiscal Impact on the State Corporation Commission

7. Budget amendment necessary: No

8. Fiscal implications: None

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: Yes. The State Corporation Commission Bureau of Insurance has learned that the model prepared by the National Association of Insurance Commissioners on which HB 1155 was based was not the final version of the model. The Bureau is, therefore, recommending to Delegate Morgan that the bill be amended again in Senate Commerce and Labor as follows:

Strike Lines 89-90 and renumber accordingly.

On Line 553, after the word "person," strike "including the attorney general"

This is the language that was the subject of the January 27, 2004 amendment to the bill.

11. Other comments: The Interstate Insurance Product Regulation Compact (the Compact) creates a more streamlined system of insurance product regulation. Insurers would be permitted to submit product filings for individual and group products for life insurance, annuities, disability income and long-term care insurance to the Compact entity. These specific lines were chosen because these are long-term, investment-oriented products sold by insurers to compete with products offered by banks and brokerage firms, such as retirement and estate-planning instruments. Compact staff reviews the insurance product filing according to national uniform standards developed by compacting states to apply to the types of insurance products included in the Compact.

States have the right to “opt out” of a specific standard either by regulation or by enactment of law if the standard in question does not provide reasonable protections to the citizens of the state.

This new Compact system would allow insurers that file with the Compact entity to market their insurance products in the compacting states simultaneously, reducing the number of variations of the same product that an insurer must now produce to meet state-specific product standards.

Currently, insurers are required to file their products in each state and to meet state specific requirements, a time-consuming and costly process for insurers (a cost that may ultimately be passed on to consumers), that creates an advantage for the products marketed by banks and brokerage firms, which have a far more streamlined regulatory system. States can withdraw from the compact at any time by repealing the statute that enacted the Compact into law.

Both the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL) endorsed the compact as an effective tool for state regulation. If enacted, Virginia would be one of the first compacting states.

Date: 02/05/04 / V. Tompkins

cc: Secretary of Commerce and Trade