

**§2476. Organization of the commission -- Article 5**

**1. Membership.** Each compacting state has one member. Each member must be qualified to serve in that capacity pursuant to applicable law of the compacting state. A member may be removed or suspended from office as provided by the law of the state from which the member is appointed. A vacancy occurring in the commission must be filled in accordance with the laws of the compacting state where the vacancy exists. This subsection may not be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner. [PL 2003, c. 680, §1 (NEW).]

**2. One vote.** Each member is entitled to one vote and has an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision of the compact to the contrary, action of the commission with respect to the promulgation of a uniform standard does not take effect unless 2/3 of the members vote in favor of the uniform standard. [PL 2003, c. 680, §1 (NEW).]

**3. Bylaws.** The commission shall, by a majority of the members, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

A. Establishing the fiscal year of the commission; [PL 2003, c. 680, §1 (NEW).]

B. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee established under subsection 5; [PL 2003, c. 680, §1 (NEW).]

C. Providing reasonable standards and procedures:

(1) For the establishment and meetings of other committees; and

(2) Governing any general or specific delegation of any authority or function of the commission; [RR 2003, c. 2, §86 (COR).]

D. Providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of each meeting and providing for the right of citizens to attend each meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed and votes taken during the meeting; [PL 2003, c. 680, §1 (NEW).]

E. Establishing the titles, duties, authority and reasonable procedures for the election of the officers of the commission; [PL 2003, c. 680, §1 (NEW).]

F. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or similar laws of any compacting state, the bylaws exclusively govern the personnel policies and programs of the commission; [PL 2003, c. 680, §1 (NEW).]

G. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and [PL 2003, c. 680, §1 (NEW).]

H. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that might exist after the termination of the compact after the payment or reserving of all of its debts and obligations. [PL 2003, c. 680, §1 (NEW).]

[RR 2003, c. 2, §86 (COR).]

**4. File bylaws with compacting states.** The commission shall publish its bylaws in a convenient form and file a copy of the bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the compacting states.

[PL 2003, c. 680, §1 (NEW).]

**5. Management committee.** The commission shall establish a management committee.

A. The management committee consists of no more than 14 members as follows:

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

(2) Four members from those compacting states with at least 2% of the market based on the premium volume described in subparagraph (1) other than the 6 compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and

(3) Four members from those compacting states with less than 2% of the market based on the premium volume described in subparagraph (1) with one selected from each of the 4 zone regions of the National Association of Insurance Commissioners as provided in the bylaws.  
[PL 2003, c. 680, §1 (NEW).]

B. The management committee has such authority and duties as may be set forth in the bylaws, including, but not limited to:

(1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(2) Establishing and overseeing an organizational structure within and appropriate procedures for the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing and review of elections made by a compacting state to opt out of a uniform standard. A uniform standard may not be submitted to the compacting states for adoption unless approved by 2/3 of the members of the management committee;

(3) Overseeing the offices of the commission; and

(4) Planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.  
[PL 2003, c. 680, §1 (NEW).]

C. The commission shall elect annually its officers from the management committee, with each having such authority and duties, as specified in the bylaws. [PL 2003, c. 680, §1 (NEW).]

D. The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission, but may not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission. [PL 2003, c. 680, §1 (NEW).]  
[PL 2003, c. 680, §1 (NEW).]

**6. Legislative committee.** A legislative committee of state legislators or their designees is established to monitor the operations of, and make recommendations to, the commission, including the management committee. The manner of selection and term of any legislative committee member is set by the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

[PL 2003, c. 680, §1 (NEW).]

**7. Advisory committees.** The commission shall establish 2 advisory committees, one composed of consumer representatives independent of the insurance industry and the other composed of insurance industry representatives.

[PL 2003, c. 680, §1 (NEW).]

**8. Additional advisory committees.** The commission may establish advisory committees in addition to those described in subsection 7 as its bylaws may provide for the carrying out of its functions.

[PL 2003, c. 680, §1 (NEW).]

**9. Corporate records of the commission.** The commission shall maintain its corporate books and records in accordance with the bylaws.

[PL 2003, c. 680, §1 (NEW).]

**10. Qualified immunity, defense and indemnification.** The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities. Nothing in this subsection may be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

[PL 2003, c. 680, §1 (NEW).]

**11. Defend.** The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from that person's intentional or willful and wanton misconduct. Nothing in this subsection may be construed to prohibit that person from retaining counsel.

[PL 2003, c. 680, §1 (NEW).]

**12. Indemnification.** The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional or willful and wanton misconduct of that person.

[PL 2003, c. 680, §1 (NEW).]

## SECTION HISTORY

RR 2003, c. 2, §86 (COR). PL 2003, c. 680, §1 (NEW).

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