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National Council of Insurance Legislators (NCOIL)

Resolution in Support of Position Statement Recognizing Congressional Consent to the *Interstate Insurance Product Regulation Compact*

****Adopted by the NCOIL Life Insurance & Financial Planning Committee on July 15, 2022 and
NCOIL Executive Committee on July 16, 2022***

****Sponsored by Rep. Deborah Ferguson, DDS (AR), NCOIL Secretary and Rep. Matt Lehman
(IN), NCOIL Immediate Past President***

WHEREAS, it is well established that states have primary jurisdiction and responsibility for regulating insurance products offered by the life insurance industry to consumers in their respective jurisdictions; and

WHEREAS, the National Council of Insurance Legislators (NCOIL) strongly supports rights of states to regulate their unique insurance markets while joining together to support targeted modernization initiatives that protect insurance consumers and streamline regulation; and

WHEREAS, NCOIL endorsed the development and implementation of the *Interstate Insurance Product Regulation Compact* (Insurance Compact) in 2004 and has actively supported its mission with NCOIL leaders serving on the Insurance Compact Legislative Committee; and

WHEREAS, the Insurance Compact serves to bring states together to set national Uniform Standards that apply as the product requirements for life insurance, annuity, disability income, and long-term care insurance products, including requirements that in certain cases may differ from state-specific product requirements; and

WHEREAS, the Insurance Compact is an instrumentality of the states serving as a central clearinghouse for prompt and thorough product review and approval while preserving state authority over all other areas of insurance regulation—including agent licensing, market conduct, company licensing and solvency regulation—as well as preserving applicable state filing fee revenues; and

WHEREAS, since it became operational in 2006, the Insurance Compact has demonstrated sustained growth in the number of Compacting States, the number of Uniform Standards for the authorized product lines, the number of filing companies and product filings and has transformed the state-based product filing platform for Compacting States, their regulated entities and insurance consumers.

WHEREAS, the Compacting States represent 46 jurisdictions comprising more than 70 percent of the nationwide premium volume for asset-protection insurance products; and

WHEREAS, more than 100 product Uniform Standards prepared and adopted by the Insurance Compact member states have fulfilled the promise of stringent and detailed requirements administered by knowledgeable, professional staff, with over 12,000 insurance products reviewed and approved for use in the Compacting States; and

WHEREAS, states' legislatures determine the extent and authority of participation in the Insurance Compact, and further exercise their sovereign authority and rights, through their legislatively designated representative to the Insurance Compact, who serves on the Compact Commission, its governing body; and

WHEREAS, the Insurance Compact has become an extremely important part of the fabric of state-based product regulation for these authorized insurance products; and

WHEREAS, a recent court opinion by the Colorado Supreme Court found that congressional consent to an interstate compact would affect whether states could join together to embrace provisions in duly promulgated uniform standards that may differ from state laws; and

WHEREAS, it is well-established in interstate compact case law that regulations adopted by states pursuant to an interstate compact with congressional consent can apply when different from state law; and

WHEREAS, the Insurance Compact is considering adoption of a position statement known as Position Statement 1-2022 to document that Congress conferred implied consent for the Insurance Compact in 2006 in the form of Public Law 109-356 enacted by Congress and signed by President George W. Bush, which authorized the District of Columbia to enter the Compact, and approved the delegation of authority necessary for the Commission to achieve the purposes of the Compact; and

WHEREAS, NCOIL wishes to reaffirm its support and commitment of the Insurance Compact as an essential state-based statutory legal vehicle to embracing uniformity, efficiency, and speed-to-market for insurance products among the Compacting States that regularly compete with federally-regulated banking and securities products;

NOW, THEREFORE BE IT RESOLVED that NCOIL renews its endorsement of the Insurance Compact as the state-driven solution to making the product submission, review, and approval process more uniform, efficient, and robust across states; and

BE IT ALSO RESOLVED that NCOIL agrees that the Compact Commission, working with legislators, regulators, and others in Compacting States, should take action to further strengthen and inform on the legal foundation of the Insurance Compact, an interstate agreement among the states; and

BE IT FURTHER RESOLVED that NCOIL supports the adoption by the Compact Commission of Position Statement 1-2022 acknowledging implied congressional consent was given to the Insurance Compact in 2006; and

BE IT FINALLY RESOLVED that a copy of this Resolution shall be distributed to the Office of the Interstate Insurance Product Regulation Commission with instructions to distribute to its members, members of the Legislative Committee and members of its Consumer and Industry Advisory Committees.