



Guidelines for Input by the Office of the Interstate Insurance Product Regulation Commission in Third-Party Litigation

These procedures are adopted by the Interstate Insurance Product Regulation Commission (Commission) to establish guidelines for the Executive Director and Commission Office with respect to providing input on factual and legal issues about the Interstate Insurance Product Regulation Compact (Compact), its Commission or the Commission Office and any aspect thereto raised in third-party litigation. Third-party litigation does not include litigation where the Commission or any member, officer, executive director, employee or representative of the Commission is a named party in the litigation.

Amicus Curiae Briefs

The Commission Office may seek leave to file a “friend of the court” or *amicus curiae* brief or legal memorandum at the trial and/or appellate levels as appropriate on behalf of the Commission in litigation matters that raise a factual or legal issue with respect to any aspect of the Interstate Insurance Product Regulation Compact provided it meets the criteria set forth below.

1. The Commission Office shall provide written notice to all Commission members at least twenty (20) days prior to making a filing with the court of jurisdiction of its intention to file the *amicus curiae* brief (in extraordinary circumstances to comply with an unforeseen court deadline, the Commission Office may shorten this period of notice). If a Commission member objects to the Commission Office filing an *amicus curiae* brief in the matter, the Commission member shall send a written request to the Executive Director requesting that the Management Committee vote to approve the request for *amicus curiae* brief before it is filed.
2. Subject to the notice and opportunity to request a Management Committee vote as provided in Section 1 above, the Commission Office is authorized to file an *amicus curiae* brief when the subject of the litigation involves, directly or indirectly, one or more of the factors below:
 - a. Issues regarding the interpretation, constitutionality or enforceability of the Interstate Insurance Product Regulation Compact (including a state’s statutory enactment) or any provision therein;
 - b. Issues regarding the interpretation, constitutionality or enforceability of the Commission’s Rules, Uniform Standards or Operating Procedures or any provision therein;
 - c. Issues regarding the exercise of the powers of the Commission or the Commission Office including but not limited to approval or disapproval of a product, providing required notices and information to any individual or required recipient, and conducting its rulemaking activities.
3. Upon submission of an *amicus curiae* brief, the Commission Office shall distribute the brief to all Commission members and publish the brief on its website.

4. If a named party to the litigation includes the Commission or any member, officer, executive director, employee or representative of the Commission or the subject of the litigation is outside the factors in Section 2 herein or a Commission member submits a written request to the Executive Director provided in Section 1 herein, the Commission Office may only file an *amicus curiae* brief after notice to all Commission members and upon a vote in favor by a majority of the Management Committee. This provision is not triggered if any member or representative of the Commission participates in the litigation as *amicus curiae* or otherwise in support of the Commission Office's participation.

Factual Information for Pre-Trial Motions or Discovery

The Commission Office may provide factual information by way of affidavit, deposition or other legal process in litigation matters that raise a factual or legal issue with respect to any aspect of the Interstate Insurance Product Regulation Compact provided it meets the criteria set forth below.

1. Under the Bylaws, the Executive Director has the explicit duty to receive service of process on the Commission's behalf and is authorized to respond to service of process on behalf of the Commission in matters of third-party litigation without notice to or action on behalf of the Commission, Management Committee, or any Commission member.
2. As the custodian of all documents and records pertaining to the Compact's status and the Commission business, the Executive Director is authorized to provide a court with background or contextual information on the Interstate Insurance Product Regulation Compact, Rules, Uniform Standards, Operating Procedures and/or the activities and processes of the Commission and/or the Commission Office. The Executive Director shall notify the Commission member in the jurisdiction where the third-party litigation is located.
3. If the Commission or any member, officer, executive director, employee or representative of the Commission is a named party in the litigation, the Executive Director shall only provide factual information by way of affidavit or deposition in response to legal service of process or at the written request of the Commission member from the jurisdiction where the litigation is located.
4. The Executive Director or the Commission Office acting on behalf of the Commission shall not be authorized to intervene or seek other legal process to become a named party in litigation unless such action is approved by a majority of the Management Committee.