As Agenda Item 3 for its March 23, 2021, meeting, the Insurance Compact Commission (Commission) will address Emergency Rule 1 (ER-1), which is set to expire on April 3, 2021.

Adopted in December 2020, ER-1 stayed the immediate effectiveness of an amendment to Section 4(B)(3) of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, for 120 days for purposes of certain Uniform Standards for annuity products.

The proposal for Agenda Item 3 is to replace ER-1 with Emergency Rule 2 (ER-2) to immediately implement the Uniform Standards amendments proposed under Agenda Item 2 for up to 180 days while the Uniform Standards amendments are in the Commission’s rulemaking process.

The reason for replacing ER-1 with ER-2 is to transition from a stay of the Model 805 amendment to a Uniform Standards approach that incorporates each state’s law in effect for the minimum nonforfeiture interest rate at the time a product is issued, while the proposed Uniform Standards amendments to this effect are likely to be in the rulemaking process for at least six months.

In adopting ER-1, the Commission acted on the public policy concern that the Model 805 amendment requires state action to be effective, which creates a timing concern based on immediate effectiveness of the amendment in the Uniform Standards because the Model 805 requirement is incorporated by reference.

To address this timing and public policy issue going forward, the PSC is proposing amendments to the Uniform Standards to indicate the minimum nonforfeiture rate for a product filed with the Commission follow each state’s law in effect at the time a product is issued.

The approach of following the law of the state where the product is delivered or issued for delivery is taken in other provisions in the Uniform Standards, such as for legal action provisions in life insurance policies and annuity contracts.

Specifically, the Uniform Standards amendments propose the addition of a definition for “nonforfeiture rate” and to clarify throughout that the references to NAIC Model 805 are modified to use this definition. This approach will not require a product to be re-filed based on state adoptions of the Model 805 amendment.