

SENATE BILL 694

C4

11r1381

By: **Senators Kelley and Middleton**

Introduced and read first time: February 4, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Surplus Lines Insurance Multi-State Compliance Compact**

3 FOR the purpose of entering the State of Maryland in the Surplus Lines Insurance
4 Multi-State Compliance Compact; specifying the purposes of the Compact;
5 providing for the creation of the Surplus Lines Insurance Multi-State
6 Compliance Compact Commission as a body corporate and politic and an
7 instrumentality of the compacting states; authorizing the Commission to adopt
8 certain mandatory rules; providing that the Commission is solely responsible for
9 its liabilities with certain exceptions; providing for venue for judicial
10 proceedings; specifying the powers of the Commission; specifying the
11 membership, voting, bylaws, executive committee, personnel, and chairperson of
12 the Commission; providing for an operations committee and legislative and
13 advisory committees of the Commission; requiring the Commission to maintain
14 certain records; establishing qualified immunity, defense, and indemnification
15 provisions relating to the Commission; requiring the Commission to meet and
16 take certain actions; establishing the rulemaking authority and procedures of
17 the Commission; requiring the Commission to promulgate certain rules relating
18 to the Commission's records; requiring the Commission to monitor Compacting
19 States for compliance with certain rules and bylaws; requiring the Commission
20 to resolve certain disputes in a certain manner; establishing provisions
21 regarding review of Commission decisions; requiring the Commission to pay
22 certain expenses and certain fees; requiring the Commission to keep certain
23 financial records; providing that the Commission is not subject to certain taxes;
24 providing that any state is eligible to become a compacting state; specifying
25 when the Compact and the Commission are effective; providing for the
26 withdrawal of a compacting state from the Compact and reinstatement of a
27 withdrawing state; requiring the Commission to take certain actions in the
28 event of certain defaults by a compacting state; providing for the dissolution of
29 the Compact under certain circumstances; providing for the severability and
30 construction of the Compact; specifying the effect of the Compact on other laws
31 of a compacting state; establishing the binding effect of this Compact on

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 compacting states; defining certain terms; appointing the Maryland Insurance
2 Commissioner as the State's representative to the Commission; making this Act
3 subject to a certain contingency; and generally relating to the Surplus Lines
4 Insurance Multi-State Compliance Compact.

5 BY adding to

6 Article – Insurance

7 Section 31–101 and 31–102 to be under the new title “Title 31. Surplus Lines
8 Insurance Multi-State Compliance Compact”

9 Annotated Code of Maryland

10 (2006 Replacement Volume and 2010 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Insurance**

14 **TITLE 31. SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT.**

15 **31–101.**

16 **THE STATE OF MARYLAND HEREBY ENTERS THE SURPLUS LINES**
17 **INSURANCE MULTI-STATE COMPLIANCE COMPACT AS SET FORTH IN THIS**
18 **SECTION. THE COMPACT SHALL TAKE EFFECT IN ACCORDANCE WITH ARTICLE**
19 **XIII OF THE COMPACT. THE TEXT OF THE COMPACT IS AS FOLLOWS:**

20 **PREAMBLE**

21 **WHEREAS, WITH REGARD TO NON-ADMITTED INSURANCE POLICIES**
22 **WITH RISK EXPOSURES LOCATED IN MULTIPLE STATES, THE 111TH UNITED**
23 **STATES CONGRESS, HAS STIPULATED IN TITLE V, SUBTITLE B THE**
24 **NON-ADMITTED AND REINSURANCE REFORM ACT OF 2010, OF THE**
25 **DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT,**
26 **HEREAFTER, THE NRRA, THAT:**

27 **(A) THE PLACEMENT OF NON-ADMITTED INSURANCE SHALL BE**
28 **SUBJECT TO THE STATUTORY AND REGULATORY REQUIREMENTS SOLELY OF**
29 **THE INSURED'S HOME STATE, AND**

30 **(B) ANY LAW, REGULATION, PROVISION, OR ACTION OF ANY**
31 **STATE THAT APPLIES OR PURPORTS TO APPLY TO NON-ADMITTED INSURANCE**
32 **SOLD TO, SOLICITED BY, OR NEGOTIATED WITH AN INSURED WHOSE HOME**
33 **STATE IS ANOTHER STATE SHALL BE PREEMPTED WITH RESPECT TO SUCH**
34 **APPLICATION; EXCEPT THAT ANY STATE LAW, RULE, OR REGULATION THAT**
35 **RESTRICTS THE PLACEMENT OF WORKERS' COMPENSATION INSURANCE OR**

1 EXCESS INSURANCE FOR SELF-FUNDED WORKERS' COMPENSATION PLANS WITH
2 A NON-ADMITTED INSURER SHALL NOT BE PREEMPTED.

3 WHEREAS, IN COMPLIANCE WITH NRRA, NO STATE OTHER THAN THE
4 HOME STATE OF AN INSURED MAY REQUIRE ANY PREMIUM TAX PAYMENT FOR
5 NON-ADMITTED INSURANCE; AND NO STATE OTHER THAN AN INSURED'S HOME
6 STATE MAY REQUIRE A SURPLUS LINES BROKER TO BE LICENSED IN ORDER TO
7 SELL, SOLICIT, OR NEGOTIATE NON-ADMITTED INSURANCE WITH RESPECT TO
8 SUCH INSURED;

9 WHEREAS, THE NRRA INTENDS THAT THE STATES MAY ENTER INTO A
10 COMPACT OR OTHERWISE ESTABLISH PROCEDURES TO ALLOCATE AMONG THE
11 STATES THE PREMIUM TAXES PAID TO AN INSURED'S HOME STATE; AND THAT
12 EACH STATE ADOPT NATIONWIDE UNIFORM REQUIREMENTS, FORMS, AND
13 PROCEDURES, SUCH AS AN INTERSTATE COMPACT, THAT PROVIDE FOR THE
14 REPORTING, PAYMENT, COLLECTION, AND ALLOCATION OF PREMIUM TAXES
15 FOR NON-ADMITTED INSURANCE;

16 WHEREAS, AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD
17 BEGINNING ON THE DATE OF THE ENACTMENT OF THE NRRA, A STATE MAY
18 NOT COLLECT ANY FEES RELATING TO LICENSING OF AN INDIVIDUAL OR ENTITY
19 AS A SURPLUS LINES LICENSEE IN THE STATE UNLESS THE STATE HAS IN
20 EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR
21 PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER
22 DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL
23 DATABASE, FOR THE LICENSURE OF SURPLUS LINES LICENSEES AND THE
24 RENEWAL OF SUCH LICENSES;

25 WHEREAS, IN COMPLIANCE WITH NRRA, NO STATE OTHER THAN THE
26 HOME STATE OF AN INSURED MAY REQUIRE ANY PREMIUM TAX PAYMENT FOR
27 NON-ADMITTED INSURANCE; AND NO STATE OTHER THAN AN INSURED'S HOME
28 STATE MAY REQUIRE A SURPLUS LINES BROKER TO BE LICENSED IN ORDER TO
29 SELL, SOLICIT, OR NEGOTIATE NON-ADMITTED INSURANCE WITH RESPECT TO
30 SUCH INSURED;

31 WHEREAS, THE NRRA INTENDS THAT THE STATES MAY ENTER INTO A
32 COMPACT OR OTHERWISE ESTABLISH PROCEDURES TO ALLOCATE AMONG THE
33 STATES THE PREMIUM TAXES PAID TO AN INSURED'S HOME STATE; AND THAT
34 EACH STATE ADOPT NATIONWIDE UNIFORM REQUIREMENTS, FORMS, AND
35 PROCEDURES, SUCH AS AN INTERSTATE COMPACT, THAT PROVIDE FOR THE
36 REPORTING, PAYMENT, COLLECTION, AND ALLOCATION OF PREMIUM TAXES
37 FOR NON-ADMITTED INSURANCE;

1 **WHEREAS, AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD**
2 **BEGINNING ON THE DATE OF THE ENACTMENT OF THE NRRA, A STATE MAY**
3 **NOT COLLECT ANY FEES RELATING TO LICENSING OF AN INDIVIDUAL OR ENTITY**
4 **AS A SURPLUS LINES LICENSEE IN THE STATE UNLESS THE STATE HAS IN**
5 **EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR**
6 **PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER**
7 **DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL**
8 **DATABASE, FOR THE LICENSURE OF SURPLUS LINES LICENSEES AND THE**
9 **RENEWAL OF SUCH LICENSES;**

10 **WHEREAS, A NEED EXISTS FOR A SYSTEM OF REGULATION THAT WILL**
11 **PROVIDE FOR SURPLUS LINES INSURANCE TO BE PLACED WITH REPUTABLE**
12 **AND FINANCIALLY SOUND NON-ADMITTED INSURERS, AND THAT WILL PERMIT**
13 **ORDERLY ACCESS TO SURPLUS LINES INSURANCE IN THIS STATE AND**
14 **ENCOURAGE INSURERS TO MAKE NEW AND INNOVATIVE TYPES OF INSURANCE**
15 **AVAILABLE TO CONSUMERS IN THIS STATE;**

16 **WHEREAS, PROTECTING THE REVENUE OF THIS STATE AND OTHER**
17 **COMPACTING STATES MAY BE ACCOMPLISHED BY FACILITATING THE PAYMENT**
18 **AND COLLECTION OF PREMIUM TAX ON NON-ADMITTED INSURANCE AND**
19 **PROVIDING FOR ALLOCATION OF PREMIUM TAX FOR NON-ADMITTED**
20 **INSURANCE OF MULTI-STATE RISKS AMONG THE STATES IN ACCORDANCE**
21 **WITH UNIFORM ALLOCATION FORMULAS;**

22 **WHEREAS, THE EFFICIENCY OF THE SURPLUS LINES MARKET MAY BE**
23 **IMPROVED BY ELIMINATING DUPLICATIVE AND INCONSISTENT TAX AND**
24 **REGULATORY REQUIREMENTS AMONG THE STATES, AND BY PROMOTING AND**
25 **PROTECTING THE INTERESTS OF SURPLUS LINES LICENSEES WHO ASSIST SUCH**
26 **INSURED AND NON-ADMITTED INSURERS, THEREBY ENSURING THE**
27 **CONTINUED AVAILABILITY OF NON-ADMITTED INSURANCE TO CONSUMERS;**

28 **WHEREAS, REGULATORY COMPLIANCE WITH RESPECT TO**
29 **NON-ADMITTED INSURANCE PLACEMENTS MAY BE STREAMLINED BY**
30 **PROVIDING FOR EXCLUSIVE SINGLE-STATE REGULATORY COMPLIANCE FOR**
31 **NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, THEREBY PROVIDING**
32 **CERTAINTY REGARDING SUCH COMPLIANCE TO ALL PERSONS WHO HAVE AN**
33 **INTEREST IN SUCH TRANSACTIONS, INCLUDING BUT NOT LIMITED TO INSURED,**
34 **REGULATORS, SURPLUS LINES LICENSEES, OTHER INSURANCE PRODUCERS,**
35 **AND SURPLUS LINES INSURERS;**

36 **WHEREAS, COORDINATION OF REGULATORY RESOURCES AND**
37 **EXPERTISE BETWEEN STATE INSURANCE DEPARTMENTS AND OTHER STATE**
38 **AGENCIES, AS WELL AS STATE SURPLUS LINES STAMPING OFFICES, WITH**
39 **RESPECT TO NON-ADMITTED INSURANCE WILL BE IMPROVED;**

1 **NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE**
2 **STATE OF MARYLAND AND THE VARIOUS OTHER STATES DO HEREBY SOLEMNLY**
3 **COVENANT AND AGREE, EACH WITH THE OTHER AS FOLLOWS:**

4 **ARTICLE I**

5 **PURPOSE**

6 **THE PURPOSES OF THIS COMPACT ARE:**

7 1. **TO IMPLEMENT THE EXPRESS PROVISIONS OF THE NRRA.**

8 2. **TO PROTECT THE PREMIUM TAX REVENUES OF THE**
9 **COMPACTING STATES THROUGH FACILITATING THE PAYMENT AND**
10 **COLLECTION OF PREMIUM TAX ON NON-ADMITTED INSURANCE; AND TO**
11 **PROTECT THE INTERESTS OF THE COMPACTING STATES BY SUPPORTING THE**
12 **CONTINUED AVAILABILITY OF SUCH INSURANCE TO CONSUMERS; AND TO**
13 **PROVIDE FOR ALLOCATION OF PREMIUM TAX FOR NON-ADMITTED INSURANCE**
14 **OF MULTI-STATE RISKS AMONG THE STATES IN ACCORDANCE WITH UNIFORM**
15 **ALLOCATION FORMULAS TO BE DEVELOPED, ADOPTED, AND IMPLEMENTED BY**
16 **THE COMMISSION.**

17 3. **TO STREAMLINE AND IMPROVE THE EFFICIENCY OF THE**
18 **SURPLUS LINES MARKET BY ELIMINATING DUPLICATIVE AND INCONSISTENT**
19 **TAX AND REGULATORY REQUIREMENTS AMONG THE STATES; AND PROMOTE**
20 **AND PROTECT THE INTEREST OF SURPLUS LINES LICENSEES WHO ASSIST SUCH**
21 **INSUREDS AND SURPLUS LINES INSURERS, THEREBY ENSURING THE**
22 **CONTINUED AVAILABILITY OF SURPLUS LINES INSURANCE TO CONSUMERS.**

23 4. **TO STREAMLINE REGULATORY COMPLIANCE WITH RESPECT**
24 **TO NON-ADMITTED INSURANCE PLACEMENTS BY PROVIDING FOR EXCLUSIVE**
25 **SINGLE-STATE REGULATORY COMPLIANCE FOR NON-ADMITTED INSURANCE**
26 **OF MULTI-STATE RISKS, IN ACCORDANCE WITH RULES TO BE ADOPTED BY THE**
27 **COMMISSION, THEREBY PROVIDING CERTAINTY REGARDING SUCH**
28 **COMPLIANCE TO ALL PERSONS WHO HAVE AN INTEREST IN SUCH**
29 **TRANSACTIONS, INCLUDING BUT NOT LIMITED TO INSUREDS, REGULATORS,**
30 **SURPLUS LINES LICENSEES, OTHER INSURANCE PRODUCERS, AND SURPLUS**
31 **LINES INSURERS.**

32 5. **TO ESTABLISH A CLEARINGHOUSE FOR RECEIPT AND**
33 **DISSEMINATION OF PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA**
34 **RELATED TO NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, IN**
35 **ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION.**

1 **6. TO IMPROVE COORDINATION OF REGULATORY RESOURCES**
2 **AND EXPERTISE BETWEEN STATE INSURANCE DEPARTMENTS AND OTHER**
3 **STATE AGENCIES, AS WELL AS STATE SURPLUS LINES STAMPING OFFICES, WITH**
4 **RESPECT TO NON-ADMITTED INSURANCE.**

5 **7. TO ADOPT UNIFORM RULES TO PROVIDE FOR PREMIUM TAX**
6 **PAYMENT, REPORTING, ALLOCATION, DATA COLLECTION AND DISSEMINATION**
7 **FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AND SINGLE-STATE**
8 **RISKS, IN ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION,**
9 **THEREBY PROMOTING THE OVERALL EFFICIENCY OF THE NON-ADMITTED**
10 **INSURANCE MARKET.**

11 **8. TO ADOPT UNIFORM MANDATORY RULES WITH RESPECT TO**
12 **REGULATORY COMPLIANCE REQUIREMENTS FOR:**

13 **(I) FOREIGN INSURER ELIGIBILITY REQUIREMENTS;**

14 **(II) SURPLUS LINES POLICYHOLDER NOTICES;**

15 **9. TO ESTABLISH THE SURPLUS LINES INSURANCE**
16 **MULTI-STATE COMPLIANCE COMPACT COMMISSION.**

17 **10. TO COORDINATE REPORTING OF CLEARINGHOUSE**
18 **TRANSACTION DATA ON NON-ADMITTED INSURANCE OF MULTI-STATE RISKS**
19 **AMONG COMPACTING STATES AND CONTRACTING STATES.**

20 **11. TO PERFORM THESE AND SUCH OTHER RELATED FUNCTIONS**
21 **AS MAY BE CONSISTENT WITH THE PURPOSES OF THE SURPLUS LINES**
22 **INSURANCE MULTI-STATE COMPLIANCE COMPACT.**

23 **ARTICLE II**

24 **DEFINITIONS**

25 **FOR PURPOSES OF THIS COMPACT THE FOLLOWING DEFINITIONS SHALL**
26 **APPLY:**

27 **1. “ADMITTED INSURER” MEANS AN INSURER THAT IS**
28 **LICENSED, OR AUTHORIZED, TO TRANSACT THE BUSINESS OF INSURANCE**
29 **UNDER THE LAW OF THE HOME STATE; FOR PURPOSES OF THIS COMPACT**
30 **“ADMITTED INSURER” SHALL NOT INCLUDE A DOMESTIC SURPLUS LINES**
31 **INSURER AS MAY BE DEFINED BY APPLICABLE STATE LAW.**

1 2. **“AFFILIATE” MEANS WITH RESPECT TO AN INSURED, ANY**
2 **ENTITY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL**
3 **WITH THE INSURED.**

4 3. **“ALLOCATION FORMULA” MEANS THE UNIFORM METHODS**
5 **PROMULGATED BY THE COMMISSION BY WHICH INSURED RISK EXPOSURES**
6 **WILL BE APPORTIONED TO EACH STATE FOR THE PURPOSE OF CALCULATING**
7 **PREMIUM TAXES DUE.**

8 4. **“BYLAWS” MEANS THOSE BYLAWS ESTABLISHED BY THE**
9 **COMMISSION FOR ITS GOVERNANCE, OR FOR DIRECTING OR CONTROLLING THE**
10 **COMMISSION’S ACTIONS OR CONDUCT.**

11 5. **“CLEARINGHOUSE” MEANS THE COMMISSION’S OPERATIONS**
12 **INVOLVING THE ACCEPTANCE, PROCESSING, AND DISSEMINATION, AMONG THE**
13 **COMPACTING STATES, CONTRACTING STATES, SURPLUS LINES LICENSEES,**
14 **INSUREDS AND OTHER PERSONS, OF PREMIUM TAX AND CLEARINGHOUSE**
15 **TRANSACTION DATA FOR NON-ADMITTED INSURANCE OF MULTI-STATE**
16 **RISKS, IN ACCORDANCE WITH THIS COMPACT AND RULES TO BE ADOPTED BY**
17 **THE COMMISSION.**

18 6. **“CLEARINGHOUSE TRANSACTION DATA” MEANS THE**
19 **INFORMATION REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE**
20 **RISKS REQUIRED TO BE REPORTED, ACCEPTED, COLLECTED, PROCESSED, AND**
21 **DISSEMINATED BY SURPLUS LINES LICENSEES FOR SURPLUS LINES**
22 **INSURANCE AND INSUREDS FOR INDEPENDENTLY PROCURED INSURANCE**
23 **UNDER THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION.**
24 **CLEARINGHOUSE TRANSACTION DATA INCLUDES INFORMATION RELATED TO**
25 **SINGLE-STATE RISKS IF A STATE ELECTS TO HAVE THE CLEARINGHOUSE**
26 **COLLECT TAXES ON SINGLE-STATE RISKS FOR SUCH STATE.**

27 7. **“COMPACTING STATE” MEANS ANY STATE WHICH HAS**
28 **ENACTED THIS COMPACT LEGISLATION AND WHICH HAS NOT WITHDRAWN**
29 **PURSUANT TO ARTICLE XIV, SECTION 1, OR BEEN TERMINATED PURSUANT TO**
30 **ARTICLE XIV, SECTION 2.**

31 8. **“COMMISSION” MEANS THE “SURPLUS LINES INSURANCE**
32 **MULTI-STATE COMPLIANCE COMPACT COMMISSION” ESTABLISHED BY THIS**
33 **COMPACT.**

34 9. **“COMMISSIONER” MEANS THE CHIEF INSURANCE**
35 **REGULATORY OFFICIAL OF A STATE INCLUDING, BUT NOT LIMITED TO**
36 **COMMISSIONER, SUPERINTENDENT, DIRECTOR OR ADMINISTRATOR OR THEIR**
37 **DESIGNEES.**

1 **10. “CONTRACTING STATE” MEANS ANY STATE WHICH HAS NOT**
2 **ENACTED THIS COMPACT LEGISLATION BUT HAS ENTERED INTO A WRITTEN**
3 **CONTRACT WITH THE COMMISSION TO UTILIZE THE SERVICES OF AND FULLY**
4 **PARTICIPATE IN THE CLEARINGHOUSE.**

5 **11. “CONTROL” AN ENTITY HAS “CONTROL” OVER ANOTHER**
6 **ENTITY IF:**

7 **(A) THE ENTITY DIRECTLY OR INDIRECTLY OR ACTING**
8 **THROUGH 1 OR MORE OTHER PERSONS OWN, CONTROLS, OR HAS THE POWER TO**
9 **VOTE 25 PERCENT OR MORE OF ANY CLASS OF VOTING SECURITIES OF THE**
10 **OTHER ENTITY; OR**

11 **(B) THE ENTITY CONTROLS IN ANY MANNER THE ELECTION**
12 **OF A MAJORITY OF THE DIRECTORS OR TRUSTEES OF THE OTHER ENTITY.**

13 **12. “HOME STATE”**

14 **(A) IN GENERAL. EXCEPT AS PROVIDED IN**
15 **SUBPARAGRAPH (B), THE TERM “HOME STATE” MEANS, WITH RESPECT TO AN**
16 **INSURED:**

17 **(I) THE STATE IN WHICH AN INSURED MAINTAINS ITS**
18 **PRINCIPAL PLACE OF BUSINESS OR, IN THE CASE OF AN INDIVIDUAL, THE**
19 **INDIVIDUAL’S PRINCIPAL RESIDENCE; OR**

20 **(II) IF 100 PERCENT OF THE INSURED RISK IS**
21 **LOCATED OUT OF THE STATE REFERRED TO IN SUBPARAGRAPH (A)(I), THE**
22 **STATE TO WHICH THE GREATEST PERCENTAGE OF THE INSURED’S TAXABLE**
23 **PREMIUM FOR THAT INSURANCE CONTRACT IS ALLOCATED.**

24 **(B) AFFILIATED GROUPS. IF MORE THAN ONE INSURED**
25 **FROM AN AFFILIATED GROUP ARE NAMED INSUREDS ON A SINGLE**
26 **NON-ADMITTED INSURANCE CONTRACT, THE TERM “HOME STATE” MEANS THE**
27 **HOME STATE, AS DETERMINED PURSUANT TO SUBPARAGRAPH (A), OF THE**
28 **MEMBER OF THE AFFILIATED GROUP THAT HAS THE LARGEST PERCENTAGE OF**
29 **PREMIUM ATTRIBUTED TO IT UNDER SUCH INSURANCE CONTRACT.**

30 **13. “INDEPENDENTLY PROCURED INSURANCE” MEANS**
31 **INSURANCE PROCURED BY AN INSURED DIRECTLY FROM A SURPLUS LINES**
32 **INSURER OR OTHER NON-ADMITTED INSURER AS PERMITTED BY THE LAWS OF**
33 **THE HOME STATE.**

1 14. “INSURER ELIGIBILITY REQUIREMENTS” MEANS THE
2 CRITERIA, FORMS AND PROCEDURES ESTABLISHED TO QUALIFY AS A SURPLUS
3 LINES INSURER UNDER THE LAW OF THE HOME STATE PROVIDED THAT SUCH
4 CRITERIA, FORMS AND PROCEDURES ARE CONSISTENT WITH THE EXPRESS
5 PROVISIONS OF THE NRRA ON AND AFTER JULY 21, 2011.

6 15. “MEMBER” MEANS THE PERSON OR PERSONS CHOSEN BY A
7 COMPACTING STATE AS ITS REPRESENTATIVE OR REPRESENTATIVES TO THE
8 COMMISSION PROVIDED THAT EACH COMPACTING STATE SHALL BE LIMITED TO
9 ONE VOTE.

10 16. “MULTI-STATE RISK” MEANS A RISK WITH INSURED
11 EXPOSURES IN MORE THAN ONE STATE.

12 17. “NON-COMPACTING STATE” MEANS ANY STATE WHICH HAS
13 NOT ADOPTED THIS COMPACT.

14 18. “NON-ADMITTED INSURANCE” MEANS SURPLUS LINES
15 INSURANCE AND INDEPENDENTLY PROCURED INSURANCE.

16 19. “NON-ADMITTED INSURER” MEANS AN INSURER THAT IS NOT
17 AUTHORIZED OR ADMITTED TO TRANSACT THE BUSINESS OF INSURANCE UNDER
18 THE LAW OF THE HOME STATE.

19 20. “NRRA” MEANS THE NON-ADMITTED AND REINSURANCE
20 REFORM ACT WHICH IS TITLE V, SUBTITLE B OF THE DODD-FRANK WALL
21 STREET REFORM AND CONSUMER PROTECTION ACT.

22 21. “POLICYHOLDER NOTICE” MEANS THE DISCLOSURE NOTICE
23 OR STAMP THAT IS REQUIRED TO BE FURNISHED TO THE APPLICANT OR
24 POLICYHOLDER IN CONNECTION WITH A SURPLUS LINES INSURANCE
25 PLACEMENT.

26 22. “PREMIUM TAX” MEANS WITH RESPECT TO NON-ADMITTED
27 INSURANCE, ANY TAX, FEE, ASSESSMENT, OR OTHER CHARGE IMPOSED BY A
28 GOVERNMENT ENTITY DIRECTLY OR INDIRECTLY BASED ON ANY PAYMENT
29 MADE AS CONSIDERATION FOR SUCH INSURANCE, INCLUDING PREMIUM
30 DEPOSITS, ASSESSMENTS, REGISTRATION FEES, AND ANY OTHER
31 COMPENSATION GIVEN IN CONSIDERATION FOR A CONTRACT OF INSURANCE.

32 23. “PRINCIPAL PLACE OF BUSINESS” MEANS WITH RESPECT TO
33 DETERMINING THE HOME STATE OF THE INSURED, THE STATE WHERE THE
34 INSURED MAINTAINS ITS HEADQUARTERS AND WHERE THE INSURED’S

1 HIGH-LEVEL OFFICERS DIRECT, CONTROL AND COORDINATE THE BUSINESS
2 ACTIVITIES OF THE INSURED.

3 24. "PURCHASING GROUP" MEANS ANY GROUP FORMED
4 PURSUANT TO THE LIABILITY RISK RETENTION ACT WHICH HAS AS ONE OF ITS
5 PURPOSES THE PURCHASE OF LIABILITY INSURANCE ON A GROUP BASIS,
6 PURCHASES SUCH INSURANCE ONLY FOR ITS GROUP MEMBERS AND ONLY TO
7 COVER THEIR SIMILAR OR RELATED LIABILITY EXPOSURE AND IS COMPOSED OF
8 MEMBERS WHOSE BUSINESSES OR ACTIVITIES ARE SIMILAR OR RELATED WITH
9 RESPECT TO THE LIABILITY TO WHICH MEMBERS ARE EXPOSED BY VIRTUE OF
10 ANY RELATED, SIMILAR OR COMMON BUSINESS, TRADE, PRODUCT, SERVICES,
11 PREMISES OR OPERATIONS AND IS DOMICILED IN ANY STATE.

12 25. "RULE" MEANS A STATEMENT OF GENERAL OR PARTICULAR
13 APPLICABILITY AND FUTURE EFFECT PROMULGATED BY THE COMMISSION
14 DESIGNED TO IMPLEMENT, INTERPRET, OR PRESCRIBE LAW OR POLICY OR
15 DESCRIBING THE ORGANIZATION, PROCEDURE OR PRACTICE REQUIREMENTS
16 OF THE COMMISSION WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW IN
17 THE COMPACTING STATES.

18 26. "SINGLE-STATE RISK" MEANS A RISK WITH INSURED
19 EXPOSURES IN ONLY ONE STATE.

20 27. "STATE" MEANS ANY STATE, DISTRICT OR TERRITORY OF THE
21 UNITED STATES OF AMERICA.

22 28. "STATE TRANSACTION DOCUMENTATION" MEANS THE
23 INFORMATION REQUIRED UNDER THE LAWS OF THE HOME STATE TO BE FILED
24 BY SURPLUS LINES LICENSEES IN ORDER TO REPORT SURPLUS LINES
25 INSURANCE AND VERIFY COMPLIANCE WITH SURPLUS LINES LAWS, AND BY
26 INSUREDS IN ORDER TO REPORT INDEPENDENTLY PROCURED INSURANCE.

27 29. "SURPLUS LINES INSURANCE" MEANS INSURANCE PROCURED
28 BY A SURPLUS LINES LICENSEE FROM A SURPLUS LINES INSURER OR OTHER
29 NON-ADMITTED INSURER AS PERMITTED UNDER THE LAW OF THE HOME
30 STATE; FOR PURPOSES OF THIS COMPACT "SURPLUS LINES INSURANCE"
31 SHALL ALSO MEAN EXCESS LINES INSURANCE AS MAY BE DEFINED BY
32 APPLICABLE STATE LAW.

33 30. "SURPLUS LINES INSURER" MEANS A NON-ADMITTED
34 INSURER ELIGIBLE UNDER THE LAW OF THE HOME STATE TO ACCEPT BUSINESS
35 FROM A SURPLUS LINES LICENSEE; FOR PURPOSES OF THIS COMPACT
36 "SURPLUS LINES INSURER" SHALL ALSO MEAN AN INSURER WHICH IS

1 PERMITTED TO WRITE SURPLUS LINES INSURANCE UNDER THE LAWS OF THE
2 STATE WHERE SUCH INSURER IS DOMICILED.

3 31. "SURPLUS LINES LICENSEE" MEANS AN INDIVIDUAL, FIRM OR
4 CORPORATION LICENSED UNDER THE LAW OF THE HOME STATE TO PLACE
5 SURPLUS LINES INSURANCE.

6 ARTICLE III

7 ESTABLISHMENT OF THE COMMISSION AND VENUE

8 1. THE COMPACTING STATES HEREBY CREATE AND ESTABLISH
9 A JOINT PUBLIC AGENCY KNOWN AS THE "SURPLUS LINES INSURANCE
10 MULTI-STATE COMPLIANCE COMPACT COMMISSION."

11 2. PURSUANT TO ARTICLE IV, THE COMMISSION WILL HAVE THE
12 POWER TO ADOPT MANDATORY RULES WHICH ESTABLISH EXCLUSIVE HOME
13 STATE AUTHORITY REGARDING NON-ADMITTED INSURANCE OF MULTI STATE
14 RISKS, ALLOCATION FORMULAS, CLEARINGHOUSE TRANSACTION DATA, A
15 CLEARINGHOUSE FOR RECEIPT AND DISTRIBUTION OF ALLOCATED PREMIUM
16 TAX AND CLEARINGHOUSE TRANSACTION DATA, AND UNIFORM RULEMAKING
17 PROCEDURES AND RULES FOR THE PURPOSE OF FINANCING, ADMINISTERING,
18 OPERATING AND ENFORCING COMPLIANCE WITH THE PROVISIONS OF THIS
19 COMPACT, ITS BYLAWS AND RULES.

20 3. PURSUANT TO ARTICLE IV, THE COMMISSION WILL HAVE THE
21 POWER TO ADOPT MANDATORY RULES ESTABLISHING FOREIGN INSURER
22 ELIGIBILITY REQUIREMENTS AND A CONCISE AND OBJECTIVE POLICYHOLDER
23 NOTICE REGARDING THE NATURE OF A SURPLUS LINES PLACEMENT.

24 4. THE COMMISSION IS A BODY CORPORATE AND POLITIC, AND
25 AN INSTRUMENTALITY OF THE COMPACTING STATES.

26 5. THE COMMISSION IS SOLELY RESPONSIBLE FOR ITS
27 LIABILITIES EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS
28 COMPACT.

29 6. VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR
30 AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A
31 COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE
32 COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND
33 JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO
34 PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS.

ARTICLE IV**AUTHORITY TO ESTABLISH MANDATORY RULES**

THE COMMISSION SHALL ADOPT MANDATORY RULES WHICH ESTABLISH:

1. ALLOCATION FORMULAS FOR EACH TYPE OF NON-ADMITTED INSURANCE COVERAGE, WHICH ALLOCATION FORMULAS MUST BE USED BY EACH COMPACTING STATE AND CONTRACTING STATE IN ACQUIRING PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA FROM SURPLUS LINES LICENSEES AND INSUREDS FOR REPORTING TO THE CLEARINGHOUSE CREATED BY THE COMPACT COMMISSION. SUCH ALLOCATION FORMULAS WILL BE ESTABLISHED WITH INPUT FROM SURPLUS LINES LICENSEES AND BE BASED UPON READILY AVAILABLE DATA WITH SIMPLICITY AND UNIFORMITY FOR THE SURPLUS LINE LICENSEE AS A MATERIAL CONSIDERATION.

2. UNIFORM CLEARINGHOUSE TRANSACTION DATA REPORTING REQUIREMENTS FOR ALL INFORMATION REPORTED TO THE CLEARINGHOUSE.

3. METHODS BY WHICH COMPACTING STATES AND CONTRACTING STATES REQUIRE SURPLUS LINES LICENSEES AND INSUREDS TO PAY PREMIUM TAX AND TO REPORT CLEARINGHOUSE TRANSACTION DATA TO THE CLEARINGHOUSE, INCLUDING BUT NOT LIMITED TO PROCESSING CLEARINGHOUSE TRANSACTION DATA THROUGH STATE STAMPING AND SERVICE OFFICES, STATE INSURANCE DEPARTMENTS, OR OTHER STATE DESIGNATED AGENCIES OR ENTITIES.

4. THAT NON-ADMITTED INSURANCE OF MULTI-STATE RISKS SHALL BE SUBJECT TO ALL OF THE REGULATORY COMPLIANCE REQUIREMENTS OF THE HOME STATE EXCLUSIVELY. HOME STATE REGULATORY COMPLIANCE REQUIREMENTS APPLICABLE TO SURPLUS LINES INSURANCE SHALL INCLUDE BUT NOT BE LIMITED TO, (I) PERSON(S) REQUIRED TO BE LICENSED TO SELL, SOLICIT, OR NEGOTIATE SURPLUS LINES INSURANCE; (II) INSURER ELIGIBILITY REQUIREMENTS OR OTHER APPROVED NON-ADMITTED INSURER REQUIREMENTS; (III) DILIGENT SEARCH; (IV) STATE TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA REGARDING THE PAYMENT OF PREMIUM TAX AS SET FORTH IN THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION. HOME STATE REGULATORY COMPLIANCE REQUIREMENTS APPLICABLE TO INDEPENDENTLY PROCURED INSURANCE PLACEMENTS SHALL INCLUDE BUT NOT BE LIMITED TO PROVIDING STATE TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA REGARDING THE PAYMENT OF PREMIUM TAX AS SET FORTH IN THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION.

1 **5. THAT EACH COMPACTING STATE AND CONTRACTING STATE**
2 **MAY CHARGE ITS OWN RATE OF TAXATION ON THE PREMIUM ALLOCATED TO**
3 **SUCH STATE BASED ON THE APPLICABLE ALLOCATION FORMULA PROVIDED**
4 **THAT THE STATE ESTABLISHES ONE SINGLE RATE OF TAXATION APPLICABLE TO**
5 **ALL NON-ADMITTED INSURANCE TRANSACTIONS AND NO OTHER TAX, FEE**
6 **ASSESSMENT OR OTHER CHARGE BY ANY GOVERNMENTAL OR QUASI**
7 **GOVERNMENTAL AGENCY BE PERMITTED. NOTWITHSTANDING THE FOREGOING,**
8 **STAMPING OFFICE FEES MAY BE CHARGED AS A SEPARATE, ADDITIONAL COST**
9 **UNLESS SUCH FEES ARE INCORPORATED INTO A STATE'S SINGLE RATE OF**
10 **TAXATION.**

11 **6. THAT ANY CHANGE IN THE RATE OF TAXATION BY ANY**
12 **COMPACTING STATE OR CONTRACTING STATE BE RESTRICTED TO CHANGES**
13 **MADE PROSPECTIVELY ON NOT LESS THAN 90 DAYS ADVANCE NOTICE TO THE**
14 **COMPACT COMMISSION.**

15 **7. THAT EACH COMPACTING STATE AND CONTRACTING STATE**
16 **SHALL REQUIRE PREMIUM TAX PAYMENTS EITHER ANNUALLY,**
17 **SEMI-ANNUALLY, OR QUARTERLY UTILIZING ONE OR MORE OF THE FOLLOWING**
18 **DATES ONLY: MARCH 1, JUNE 1, SEPTEMBER 1, AND DECEMBER 1.**

19 **8. THAT EACH COMPACTING STATE AND CONTRACTING STATE**
20 **PROHIBIT ANY OTHER STATE AGENCY OR POLITICAL SUBDIVISION FROM**
21 **REQUIRING SURPLUS LINES LICENSEES TO PROVIDE CLEARINGHOUSE**
22 **TRANSACTION DATA AND STATE TRANSACTION DOCUMENTATION OTHER THAN**
23 **TO THE INSURANCE DEPARTMENT OR TAX OFFICIALS OF THE HOME STATE OR**
24 **ONE SINGLE DESIGNATED AGENT THEREOF.**

25 **9. THE OBLIGATION OF THE HOME STATE BY ITSELF, THROUGH**
26 **A DESIGNATED AGENT, SURPLUS LINES STAMPING OR SERVICE OFFICE, TO**
27 **COLLECT CLEARINGHOUSE TRANSACTION DATA FROM SURPLUS LINE**
28 **LICENSEES AND FROM INSURED FOR INDEPENDENTLY PROCURED**
29 **INSURANCE, WHERE APPLICABLE, FOR REPORTING TO THE CLEARINGHOUSE.**

30 **10. A METHOD FOR THE CLEARINGHOUSE TO PERIODICALLY**
31 **REPORT TO COMPACTING STATES, CONTRACTING STATES, SURPLUS LINES**
32 **LICENSEES AND INSURED WHO INDEPENDENTLY PROCURE INSURANCE, ALL**
33 **PREMIUM TAXES OWED TO EACH OF THE COMPACTING STATES AND**
34 **CONTRACTING STATES, THE DATES UPON WHICH PAYMENT OF SUCH PREMIUM**
35 **TAXES ARE DUE AND A METHOD TO PAY THEM THROUGH THE CLEARINGHOUSE.**

36 **11. THAT EACH SURPLUS LINE LICENSEE IS REQUIRED TO BE**
37 **LICENSED ONLY IN THE HOME STATE OF EACH INSURED FOR WHOM SURPLUS**
38 **LINES INSURANCE HAS BEEN PROCURED.**

1 12. THAT A POLICY CONSIDERED TO BE SURPLUS LINES
2 INSURANCE IN THE INSURED’S HOME STATE SHALL BE CONSIDERED SURPLUS
3 LINES INSURANCE IN ALL COMPACTING STATES AND CONTRACTING STATES,
4 AND TAXED AS A SURPLUS LINES TRANSACTION IN ALL STATES TO WHICH A
5 PORTION OF THE RISK IS ALLOCATED. EACH COMPACTING STATE AND
6 CONTRACTING STATE SHALL REQUIRE EACH SURPLUS LINES LICENSEE TO PAY
7 TO EVERY OTHER COMPACTING STATE AND CONTRACTING STATE PREMIUM
8 TAXES ON EACH MULTI-STATE RISK THROUGH THE CLEARINGHOUSE AT SUCH
9 TAX RATE CHARGED ON SURPLUS LINES TRANSACTIONS IN SUCH OTHER
10 COMPACTING STATES AND CONTRACTING STATES ON THE PORTION OF THE
11 RISK IN EACH SUCH COMPACTING STATE AND CONTRACTING STATE AS
12 DETERMINED BY THE APPLICABLE UNIFORM ALLOCATION FORMULA ADOPTED
13 BY THE COMMISSION. A POLICY CONSIDERED TO BE INDEPENDENTLY
14 PROCURED INSURANCE IN THE INSURED’S HOME STATE SHALL BE
15 CONSIDERED INDEPENDENTLY PROCURED INSURANCE IN ALL COMPACTING
16 STATES AND CONTRACTING STATES. EACH COMPACTING STATE AND
17 CONTRACTING STATE SHALL REQUIRE THE INSURED TO PAY EVERY OTHER
18 COMPACTING STATE AND CONTRACTING STATE THE INDEPENDENTLY
19 PROCURED INSURANCE PREMIUM TAX ON EACH MULTI-STATE RISK THROUGH
20 THE CLEARINGHOUSE PURSUANT TO THE UNIFORM ALLOCATION FORMULA
21 ADOPTED BY THE COMMISSION.

22 13. UNIFORM FOREIGN INSURER ELIGIBILITY REQUIREMENTS
23 AS AUTHORIZED BY THE NRRA.

24 14. A UNIFORM POLICYHOLDER NOTICE.

25 15. UNIFORM TREATMENT OF PURCHASING GROUP SURPLUS
26 LINES INSURANCE PLACEMENTS.

27 **ARTICLE V**

28 **POWERS OF THE COMMISSION**

29 **THE COMMISSION SHALL HAVE THE FOLLOWING POWERS:**

30 1. TO PROMULGATE RULES AND OPERATING PROCEDURES,
31 PURSUANT TO ARTICLE VIII OF THIS COMPACT, WHICH SHALL HAVE THE
32 FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING
33 STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

34 2. TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS
35 IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY

1 STATE INSURANCE DEPARTMENT TO SUE OR BE SUED UNDER APPLICABLE LAW
2 SHALL NOT BE AFFECTED;

3 3. TO ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND
4 TESTIMONY OF WITNESSES AND THE PRODUCTION OF EVIDENCE, PROVIDED
5 HOWEVER, THE COMMISSION IS NOT EMPOWERED TO DEMAND OR SUBPOENA
6 RECORDS OR DATA FROM NON-ADMITTED INSURERS;

7 4. TO ESTABLISH AND MAINTAIN OFFICES INCLUDING THE
8 CREATION OF A CLEARINGHOUSE FOR THE RECEIPT OF PREMIUM TAX AND
9 CLEARINGHOUSE TRANSACTION DATA REGARDING NON-ADMITTED
10 INSURANCE OF MULTI-STATE RISKS, SINGLE-STATE RISKS FOR STATES
11 WHICH ELECT TO REQUIRE SURPLUS LINES LICENSEES TO PAY PREMIUM TAX
12 ON SINGLE STATE RISKS THROUGH THE CLEARINGHOUSE AND TAX REPORTING
13 FORMS;

14 5. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

15 6. TO BORROW, ACCEPT OR CONTRACT FOR SERVICES OF
16 PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A COMPACTING
17 STATE OR STAMPING OFFICE, PURSUANT TO AN OPEN, TRANSPARENT,
18 OBJECTIVE COMPETITIVE PROCESS AND PROCEDURE ADOPTED BY THE
19 COMMISSION;

20 7. TO HIRE EMPLOYEES, PROFESSIONALS OR SPECIALISTS, AND
21 ELECT OR APPOINT OFFICERS, AND TO FIX THEIR COMPENSATION, DEFINE
22 THEIR DUTIES AND GIVE THEM APPROPRIATE AUTHORITY TO CARRY OUT THE
23 PURPOSES OF THE COMPACT, AND DETERMINE THEIR QUALIFICATIONS,
24 PURSUANT TO AN OPEN, TRANSPARENT, OBJECTIVE COMPETITIVE PROCESS
25 AND PROCEDURE ADOPTED BY THE COMMISSION; AND TO ESTABLISH THE
26 COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS
27 OF INTEREST, RATES OF COMPENSATION AND QUALIFICATIONS OF PERSONNEL,
28 AND OTHER RELATED PERSONNEL MATTERS;

29 8. TO ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND
30 GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND TO
31 RECEIVE, UTILIZE AND DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES
32 THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR
33 CONFLICT OF INTEREST;

34 9. TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR
35 DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY
36 PROPERTY, REAL, PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE

1 COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR
2 CONFLICT OF INTEREST;

3 10. TO SELL CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE,
4 ABANDON OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL OR
5 MIXED;

6 11. TO PROVIDE FOR TAX AUDIT RULES AND PROCEDURES FOR
7 THE COMPACTING STATES WITH RESPECT TO THE ALLOCATION OF PREMIUM
8 TAXES INCLUDING:

9 A. MINIMUM AUDIT STANDARDS, INCLUDING SAMPLING
10 METHODS,

11 B. REVIEW OF INTERNAL CONTROLS,

12 C. COOPERATION AND SHARING OF AUDIT
13 RESPONSIBILITIES BETWEEN COMPACTING STATES,

14 D. HANDLING OF REFUNDS OR CREDITS DUE TO
15 OVERPAYMENTS OR IMPROPER ALLOCATION OF PREMIUM TAXES,

16 E. TAXPAYER RECORDS TO BE REVIEWED INCLUDING A
17 MINIMUM RETENTION PERIOD,

18 F. AUTHORITY OF COMPACTING STATES TO REVIEW,
19 CHALLENGE, OR RE-AUDIT TAXPAYER RECORDS.

20 12. TO ENFORCE COMPLIANCE BY COMPACTING STATES AND
21 CONTRACTING STATES WITH RULES, AND BYLAWS PURSUANT TO THE
22 AUTHORITY SET FORTH IN ARTICLE XIV;

23 13. TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING
24 STATES AND CONTRACTING STATES;

25 14. TO ADVISE COMPACTING STATES AND CONTRACTING STATES
26 ON TAX-RELATED ISSUES RELATING TO INSURERS, INSUREDS, SURPLUS LINES
27 LICENSEES, AGENTS OR BROKERS DOMICILED OR DOING BUSINESS IN
28 NON-COMPACTING STATES, CONSISTENT WITH THE PURPOSES OF THIS
29 COMPACT;

30 15. TO MAKE AVAILABLE ADVICE AND TRAINING TO THOSE
31 PERSONNEL IN STATE STAMPING OFFICES, STATE INSURANCE DEPARTMENTS
32 OR OTHER STATE DEPARTMENTS FOR RECORD KEEPING, TAX COMPLIANCE,

1 AND TAX ALLOCATIONS; AND TO BE A RESOURCE FOR STATE INSURANCE
2 DEPARTMENTS AND OTHER STATE DEPARTMENTS;

3 16. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;

4 17. TO BORROW MONEY;

5 18. TO APPOINT AND OVERSEE COMMITTEES, INCLUDING
6 ADVISORY COMMITTEES COMPRISED OF MEMBERS, STATE INSURANCE
7 REGULATORS, STATE LEGISLATORS OR THEIR REPRESENTATIVES, INSURANCE
8 INDUSTRY AND CONSUMER REPRESENTATIVES, AND SUCH OTHER INTERESTED
9 PERSONS AS MAY BE DESIGNATED IN THIS COMPACT AND THE BYLAWS;

10 19. TO ESTABLISH AN EXECUTIVE COMMITTEE OF NOT LESS
11 THAN SEVEN (7) NOR MORE THAN FIFTEEN (15) REPRESENTATIVES, WHICH
12 SHALL INCLUDE OFFICERS ELECTED BY THE COMMISSION AND SUCH OTHER
13 REPRESENTATIVES AS PROVIDED FOR HEREIN AND DETERMINED BY THE
14 BYLAWS. REPRESENTATIVES OF THE EXECUTIVE COMMITTEE SHALL SERVE A
15 ONE YEAR TERM. REPRESENTATIVES OF THE EXECUTIVE COMMITTEE SHALL BE
16 ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE
17 POWER TO ACT ON BEHALF OF THE COMMISSION, WITH THE EXCEPTION OF
18 RULEMAKING, DURING PERIODS WHEN THE COMMISSION IS NOT IN SESSION.
19 THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY TO DAY ACTIVITIES OF
20 THE ADMINISTRATION OF THE COMPACT, INCLUDING THE ACTIVITIES OF THE
21 OPERATIONS COMMITTEE CREATED UNDER THIS ARTICLE AND COMPLIANCE
22 AND ENFORCEMENT OF THE PROVISIONS OF THE COMPACT, ITS BYLAWS, AND
23 RULES, AND SUCH OTHER DUTIES AS PROVIDED HEREIN AND AS DEEMED
24 NECESSARY.

25 20. TO ESTABLISH AN OPERATIONS COMMITTEE OF NOT LESS
26 THAN SEVEN (7) AND NOT MORE THAN FIFTEEN (15) REPRESENTATIVES TO
27 PROVIDE ANALYSIS, ADVICE, DETERMINATIONS AND RECOMMENDATIONS
28 REGARDING TECHNOLOGY, SOFTWARE, AND SYSTEMS INTEGRATION TO BE
29 ACQUIRED BY THE COMMISSION AND TO PROVIDE ANALYSIS, ADVICE,
30 DETERMINATIONS AND RECOMMENDATIONS REGARDING THE ESTABLISHMENT
31 OF MANDATORY RULES TO BE ADOPTED TO BE BY THE COMMISSION.

32 21. TO ENTER INTO CONTRACTS WITH CONTRACTING STATES SO
33 THAT CONTRACTING STATES CAN UTILIZE THE SERVICES OF AND FULLY
34 PARTICIPATE IN THE CLEARINGHOUSE SUBJECT TO THE TERMS AND
35 CONDITIONS SET FORTH IN SUCH CONTRACTS;

36 22. TO ADOPT AND USE A CORPORATE SEAL; AND

1 **23. TO PERFORM SUCH OTHER FUNCTIONS AS MAY BE**
 2 **NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT**
 3 **CONSISTENT WITH THE STATE REGULATION OF THE BUSINESS OF INSURANCE.**

4 **ARTICLE VI**

5 **ORGANIZATION OF THE COMMISSION**

6 **1. MEMBERSHIP, VOTING AND BYLAWS**

7 **A. EACH COMPACTING STATE SHALL HAVE AND BE**
 8 **LIMITED TO ONE MEMBER. EACH STATE SHALL DETERMINE THE**
 9 **QUALIFICATIONS AND THE METHOD BY WHICH IT SELECTS A MEMBER AND SET**
 10 **FORTH THE SELECTION PROCESS IN THE ENABLING PROVISION OF THE**
 11 **LEGISLATION WHICH ENACTS THIS COMPACT. IN THE ABSENCE OF SUCH A**
 12 **PROVISION THE MEMBER SHALL BE APPOINTED BY THE GOVERNOR OF SUCH**
 13 **COMPACTING STATE. ANY MEMBER MAY BE REMOVED OR SUSPENDED FROM**
 14 **OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH HE OR SHE**
 15 **SHALL BE APPOINTED. ANY VACANCY OCCURRING IN THE COMMISSION SHALL**
 16 **BE FILLED IN ACCORDANCE WITH THE LAWS OF THE COMPACTING STATE**
 17 **WHEREIN THE VACANCY EXISTS.**

18 **B. EACH MEMBER SHALL BE ENTITLED TO ONE (1) VOTE**
 19 **AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE**
 20 **GOVERNANCE OF THE COMMISSION IN ACCORDANCE WITH THE BYLAWS.**

21 **C. THE COMMISSION SHALL, BY A MAJORITY VOTE OF THE**
 22 **MEMBERS, PRESCRIBE BYLAWS TO GOVERN ITS CONDUCT AS MAY BE**
 23 **NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES AND EXERCISE**
 24 **THE POWERS OF THE COMPACT INCLUDING, BUT NOT LIMITED TO:**

25 **I. ESTABLISHING THE FISCAL YEAR OF THE**
 26 **COMMISSION;**

27 **II. PROVIDING REASONABLE PROCEDURES FOR**
 28 **HOLDING MEETINGS OF THE COMMISSION, THE EXECUTIVE COMMITTEE, AND**
 29 **THE OPERATIONS COMMITTEE;**

30 **III. PROVIDING REASONABLE STANDARDS AND**
 31 **PROCEDURES: (I) FOR THE ESTABLISHMENT AND MEETINGS OF COMMITTEES,**
 32 **AND (II) GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY**
 33 **AUTHORITY OR FUNCTION OF THE COMMISSION;**

1 IV. PROVIDING REASONABLE PROCEDURES FOR
2 CALLING AND CONDUCTING MEETINGS OF THE COMMISSION THAT CONSIST OF
3 A MAJORITY OF COMMISSION MEMBERS, ENSURING REASONABLE ADVANCE
4 NOTICE OF EACH SUCH MEETING AND PROVIDING FOR THE RIGHT OF CITIZENS
5 TO ATTEND EACH SUCH MEETING WITH ENUMERATED EXCEPTIONS DESIGNED
6 TO PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS, AND
7 INSURERS' AND SURPLUS LINES LICENSEES' PROPRIETARY INFORMATION,
8 INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN CAMERA ONLY
9 AFTER A MAJORITY OF THE ENTIRE MEMBERSHIP VOTES TO CLOSE A MEETING
10 IN TOTO OR IN PART. AS SOON AS PRACTICABLE, THE COMMISSION MUST MAKE
11 PUBLIC: (I) A COPY OF THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE
12 OF EACH MEMBER WITH NO PROXY VOTES ALLOWED, AND (II) VOTES TAKEN
13 DURING SUCH MEETING;

14 V. ESTABLISHING THE TITLES, DUTIES AND
15 AUTHORITY AND REASONABLE PROCEDURES FOR THE ELECTION OF THE
16 OFFICERS OF THE COMMISSION;

17 VI. PROVIDING REASONABLE STANDARDS AND
18 PROCEDURES FOR THE ESTABLISHMENT OF THE PERSONNEL POLICIES AND
19 PROGRAMS OF THE COMMISSION. NOTWITHSTANDING ANY CIVIL SERVICE OR
20 OTHER SIMILAR LAWS OF ANY COMPACTING STATE, THE BYLAWS SHALL
21 EXCLUSIVELY GOVERN THE PERSONNEL POLICIES AND PROGRAMS OF THE
22 COMMISSION;

23 VII. PROMULGATING A CODE OF ETHICS TO ADDRESS
24 PERMISSIBLE AND PROHIBITED ACTIVITIES OF COMMISSION MEMBERS AND
25 EMPLOYEES;

26 VIII. PROVIDING A MECHANISM FOR WINDING UP THE
27 OPERATIONS OF THE COMMISSION AND THE EQUITABLE DISPOSITION OF ANY
28 SURPLUS FUNDS THAT MAY EXIST AFTER THE TERMINATION OF THE COMPACT
29 AFTER THE PAYMENT AND/OR RESERVING OF ALL OF ITS DEBTS AND
30 OBLIGATIONS;

31 D. THE COMMISSION SHALL PUBLISH ITS BYLAWS IN A
32 CONVENIENT FORM AND FILE A COPY THEREOF AND A COPY OF ANY
33 AMENDMENT THERETO, WITH THE APPROPRIATE AGENCY OR OFFICER IN EACH
34 OF THE COMPACTING STATES.

35 2. EXECUTIVE COMMITTEE, PERSONNEL AND CHAIRPERSON

36 A. AN EXECUTIVE COMMITTEE OF THE COMMISSION
37 (“EXECUTIVE COMMITTEE”) SHALL BE ESTABLISHED. ALL ACTIONS, OF THE

1 EXECUTIVE COMMITTEE, INCLUDING COMPLIANCE AND ENFORCEMENT ARE
2 SUBJECT TO THE REVIEW AND RATIFICATION OF THE COMMISSION AS
3 PROVIDED IN THE BYLAWS.

4 THE EXECUTIVE COMMITTEE SHALL HAVE NO MORE THAN
5 FIFTEEN (15) REPRESENTATIVES, OR ONE FOR EACH STATE IF THERE ARE LESS
6 THAN FIFTEEN (15) COMPACTING STATES, WHO SHALL SERVE FOR A TERM AND
7 BE ESTABLISHED IN ACCORDANCE WITH THE BYLAWS.

8 B. THE EXECUTIVE COMMITTEE SHALL HAVE SUCH
9 AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING
10 BUT NOT LIMITED TO:

11 I. MANAGING THE AFFAIRS OF THE COMMISSION IN
12 A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE
13 COMMISSION;

14 II. ESTABLISHING AND OVERSEEING AN
15 ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR
16 THE COMMISSION TO PROVIDE FOR THE CREATION OF RULES AND OPERATING
17 PROCEDURES.

18 III. OVERSEEING THE OFFICES OF THE COMMISSION;
19 AND

20 IV. PLANNING, IMPLEMENTING, AND COORDINATING
21 COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL
22 GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE
23 COMMISSION.

24 C. THE COMMISSION SHALL ANNUALLY ELECT OFFICERS
25 FROM THE EXECUTIVE COMMITTEE, WITH EACH HAVING SUCH AUTHORITY AND
26 DUTIES, AS MAY BE SPECIFIED IN THE BYLAWS.

27 D. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE
28 APPROVAL OF THE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR
29 FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH
30 COMPENSATION AS THE COMMISSION MAY DEEM APPROPRIATE. THE
31 EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE COMMISSION, BUT
32 SHALL NOT BE A MEMBER OF THE COMMISSION. THE EXECUTIVE DIRECTOR
33 SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY
34 THE COMMISSION.

35 3. OPERATIONS COMMITTEE

1 **A. AN OPERATIONS COMMITTEE SHALL BE ESTABLISHED.**
2 **ALL ACTIONS OF THE OPERATIONS COMMITTEE ARE SUBJECT TO THE REVIEW**
3 **AND OVERSIGHT OF THE COMMISSION AND THE EXECUTIVE COMMITTEE AND**
4 **MUST BE APPROVED BY THE COMMISSION. THE EXECUTIVE COMMITTEE WILL**
5 **ACCEPT THE DETERMINATIONS AND RECOMMENDATIONS OF THE OPERATIONS**
6 **COMMITTEE UNLESS GOOD CAUSE IS SHOWN WHY SUCH DETERMINATIONS AND**
7 **RECOMMENDATIONS SHOULD NOT BE APPROVED. ANY DISPUTES AS TO**
8 **WHETHER GOOD CAUSE EXISTS TO REJECT ANY DETERMINATION OR**
9 **RECOMMENDATION OF THE OPERATIONS COMMITTEE SHALL BE RESOLVED BY**
10 **THE MAJORITY VOTE OF THE COMMISSION.**

11 **THE OPERATIONS COMMITTEE SHALL HAVE NO MORE THAN**
12 **FIFTEEN (15) REPRESENTATIVES OR ONE FOR EACH STATE IF THERE ARE LESS**
13 **THAN FIFTEEN (15) COMPACTING STATES, WHO SHALL SERVE FOR A TERM AND**
14 **SHALL BE ESTABLISHED AS SET FORTH IN THE BYLAWS.**

15 **THE OPERATIONS COMMITTEE SHALL HAVE RESPONSIBILITY**
16 **FOR:**

17 **I. EVALUATING TECHNOLOGY REQUIREMENTS FOR**
18 **THE CLEARINGHOUSE, ASSESSING EXISTING SYSTEMS USED BY STATE**
19 **REGULATORY AGENCIES AND STATE STAMPING OFFICES TO MAXIMIZE THE**
20 **EFFICIENCY AND SUCCESSFUL INTEGRATION OF THE CLEARINGHOUSE**
21 **TECHNOLOGY SYSTEMS WITH STATE AND STATE STAMPING OFFICE**
22 **TECHNOLOGY PLATFORMS AND TO MINIMIZE COSTS TO THE STATES, STATE**
23 **STAMPING OFFICES AND THE CLEARINGHOUSE.**

24 **II. MAKING RECOMMENDATIONS TO THE EXECUTIVE**
25 **COMMITTEE BASED ON ITS ANALYSIS AND DETERMINATION OF THE**
26 **CLEARINGHOUSE TECHNOLOGY REQUIREMENTS AND COMPATIBILITY WITH**
27 **EXISTING STATE AND STATE STAMPING OFFICE SYSTEMS,**

28 **III. EVALUATING THE MOST SUITABLE PROPOSALS**
29 **FOR ADOPTION AS MANDATORY RULES, ASSESSING SUCH PROPOSALS FOR EASE**
30 **OF INTEGRATION BY STATES, AND LIKELIHOOD OF SUCCESSFUL**
31 **IMPLEMENTATION AND TO REPORT TO THE EXECUTIVE COMMITTEE ITS**
32 **DETERMINATIONS AND RECOMMENDATIONS.**

33 **IV. SUCH OTHER DUTIES AND RESPONSIBILITIES AS**
34 **ARE DELEGATED TO IT BY THE BYLAWS, THE EXECUTIVE COMMITTEE OR THE**
35 **COMMISSION.**

1 **B. ALL REPRESENTATIVES OF THE OPERATIONS**
2 **COMMITTEE SHALL BE INDIVIDUALS WHO HAVE EXTENSIVE EXPERIENCE**
3 **AND/OR EMPLOYMENT IN THE SURPLUS LINES INSURANCE BUSINESS**
4 **INCLUDING BUT NOT LIMITED TO EXECUTIVES AND ATTORNEYS EMPLOYED BY**
5 **SURPLUS LINE INSURERS, SURPLUS LINE LICENSEES, LAW FIRMS, STATE**
6 **INSURANCE DEPARTMENTS AND/OR STATE STAMPING OFFICES. OPERATIONS**
7 **COMMITTEE REPRESENTATIVES FROM COMPACTING STATES WHICH UTILIZE**
8 **THE SERVICES OF A STATE STAMPING OFFICE MUST APPOINT THE CHIEF**
9 **OPERATING OFFICER OR A SENIOR MANAGER OF THE STATE STAMPING OFFICE**
10 **TO THE OPERATIONS COMMITTEE.**

11 **4. LEGISLATIVE AND ADVISORY COMMITTEES**

12 **A. A LEGISLATIVE COMMITTEE COMPRISED OF STATE**
13 **LEGISLATORS OR THEIR DESIGNEES SHALL BE ESTABLISHED TO MONITOR THE**
14 **OPERATIONS OF AND MAKE RECOMMENDATIONS TO, THE COMMISSION,**
15 **INCLUDING THE EXECUTIVE COMMITTEE; PROVIDED THAT THE MANNER OF**
16 **SELECTION AND TERM OF ANY LEGISLATIVE COMMITTEE MEMBER SHALL BE AS**
17 **SET FORTH IN THE BYLAWS. PRIOR TO THE ADOPTION BY THE COMMISSION OF**
18 **ANY UNIFORM STANDARD, REVISION TO THE BYLAWS, ANNUAL BUDGET OR**
19 **OTHER SIGNIFICANT MATTER AS MAY BE PROVIDED IN THE BYLAWS, THE**
20 **EXECUTIVE COMMITTEE SHALL CONSULT WITH AND REPORT TO THE**
21 **LEGISLATIVE COMMITTEE.**

22 **B. THE COMMISSION MAY ESTABLISH ADDITIONAL**
23 **ADVISORY COMMITTEES AS ITS BYLAWS MAY PROVIDE FOR THE CARRYING OUT**
24 **OF ITS FUNCTIONS.**

25 **5. CORPORATE RECORDS OF THE COMMISSION**

26 **THE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS**
27 **AND RECORDS IN ACCORDANCE WITH THE BYLAWS.**

28 **6. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION**

29 **A. THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR,**
30 **EMPLOYEES AND REPRESENTATIVES OF THE COMMISSION, THE EXECUTIVE**
31 **COMMITTEE AND ANY OTHER COMMITTEE OF THE COMMISSION SHALL BE**
32 **IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR**
33 **OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY**
34 **OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT**
35 **OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED, OR**
36 **THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE**
37 **BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION**

1 EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT NOTHING IN
2 THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM
3 SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY OR LIABILITY CAUSED
4 BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

5 B. THE COMMISSION SHALL DEFEND ANY MEMBER,
6 OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE
7 COMMISSION, THE EXECUTIVE COMMITTEE OR ANY OTHER COMMITTEE OF THE
8 COMMISSION IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT
9 OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED
10 WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR
11 RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE
12 HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF
13 COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT
14 NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM
15 RETAINING HIS OR HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE
16 ACTUAL OR ALLEGED ACT ERROR OR OMISSION DID NOT RESULT FROM THAT
17 PERSON'S INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT.

18 C. THE COMMISSION SHALL INDEMNIFY AND HOLD
19 HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR
20 REPRESENTATIVE OF THE COMMISSION, EXECUTIVE COMMITTEE OR ANY
21 OTHER COMMITTEE OF THE COMMISSION FOR THE AMOUNT OF ANY
22 SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF
23 ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN
24 THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES, OR
25 THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED
26 WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR
27 RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR OR
28 OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR WANTON
29 MISCONDUCT OF THAT PERSON.

30 ARTICLE VII

31 MEETINGS AND ACTS OF THE COMMISSION

32 1. THE COMMISSION SHALL MEET AND TAKE SUCH ACTIONS AS
33 ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS.

34 2. EACH MEMBER OF THE COMMISSION SHALL HAVE THE RIGHT
35 AND POWER TO CAST A VOTE TO WHICH THAT COMPACTING STATE IS ENTITLED
36 AND TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION. A
37 MEMBER SHALL VOTE IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN

1 THE BYLAWS. THE BYLAWS MAY PROVIDE FOR MEMBERS' PARTICIPATION IN
2 MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

3 3. THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH
4 CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE
5 BYLAWS.

6 4. PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL
7 MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE
8 RULES OR OTHERWISE PROVIDED IN THE COMPACT.

9 5. THE COMMISSION SHALL PROMULGATE RULES CONCERNING
10 ITS MEETINGS CONSISTENT WITH THE PRINCIPLES CONTAINED IN THE
11 "GOVERNMENT IN THE SUNSHINE ACT," 5 U.S.C., SECTION 552B, AS MAY BE
12 AMENDED.

13 6. THE COMMISSION AND ITS COMMITTEES MAY CLOSE A
14 MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY MAJORITY VOTE
15 THAT AN OPEN MEETING WOULD BE LIKELY TO:

16 A. RELATE SOLELY TO THE COMMISSION'S INTERNAL
17 PERSONNEL PRACTICES AND PROCEDURES;

18 B. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM
19 DISCLOSURE BY FEDERAL AND STATE STATUTE;

20 C. DISCLOSE TRADE SECRETS OR COMMERCIAL OR
21 FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

22 D. INVOLVE ACCUSING A PERSON OF A CRIME, OR
23 FORMALLY CENSURING A PERSON;

24 E. DISCLOSE INFORMATION OF A PERSONAL NATURE
25 WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION
26 OF PERSONAL PRIVACY;

27 F. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR
28 LAW ENFORCEMENT PURPOSES;

29 G. SPECIFICALLY RELATE TO THE COMMISSION'S
30 ISSUANCE OF A SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR OTHER
31 LEGAL PROCEEDING.

1 7. FOR A MEETING, OR PORTION OF A MEETING, CLOSED
2 PURSUANT TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR
3 DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL
4 REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE COMMISSION SHALL
5 KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS
6 DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE
7 SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFORE, INCLUDING A
8 DESCRIPTION OF THE VIEWS EXPRESSED AND THE RECORD OF A ROLL CALL
9 VOTE. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL
10 BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED
11 MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY
12 VOTE OF THE COMMISSION.

13 **ARTICLE VIII**

14 **RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE**
15 **COMMISSION**

16 **RULEMAKING FUNCTIONS OF THE COMMISSION:**

17 1. **RULEMAKING AUTHORITY.**—THE COMMISSION SHALL
18 PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND
19 EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING
20 THE FOREGOING, IN THE EVENT THE COMMISSION EXERCISES ITS RULEMAKING
21 AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF
22 THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY
23 THE COMMISSION SHALL BE INVALID AND HAVE NO FORCE OR EFFECT.

24 2. **RULEMAKING PROCEDURE.**—RULES SHALL BE MADE
25 PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO
26 THE “MODEL STATE ADMINISTRATIVE PROCEDURE ACT,” OF 1981 ACT,
27 UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000) AS AMENDED, AS MAY BE
28 APPROPRIATE TO THE OPERATIONS OF THE COMMISSION.

29 3. **EFFECTIVE DATE – ALL RULES AND AMENDMENTS, THERETO,**
30 **SHALL BECOME EFFECTIVE AS OF THE DATE SPECIFIED IN EACH RULE,**
31 **OPERATING PROCEDURE OR AMENDMENT.**

32 4. **NOT LATER THAN THIRTY (30) DAYS AFTER A RULE IS**
33 **PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF**
34 **THE RULE; PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY**
35 **OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE**
36 **COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF**
37 **SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE**

1 COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE
2 RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE
3 OF THE COMMISSION'S AUTHORITY.

4 ARTICLE IX

5 COMMISSION RECORDS AND ENFORCEMENT

6 1. THE COMMISSION SHALL PROMULGATE RULES
7 ESTABLISHING CONDITIONS AND PROCEDURES FOR PUBLIC INSPECTION AND
8 COPYING OF ITS INFORMATION AND OFFICIAL RECORDS, EXCEPT SUCH
9 INFORMATION AND RECORDS INVOLVING THE PRIVACY OF INDIVIDUALS,
10 INSURERS, INSUREDS OR SURPLUS LINES LICENSEE TRADE SECRETS. STATE
11 TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA
12 COLLECTED BY THE CLEARINGHOUSE SHALL BE USED FOR ONLY THOSE
13 PURPOSES EXPRESSED IN OR REASONABLY IMPLIED UNDER THE PROVISIONS
14 OF THIS COMPACT AND THE COMMISSION SHALL AFFORD THIS DATA THE
15 BROADEST PROTECTIONS AS PERMITTED BY ANY APPLICABLE LAW FOR
16 PROPRIETARY INFORMATION, TRADE SECRETS OR PERSONAL DATA. THE
17 COMMISSION MAY PROMULGATE ADDITIONAL RULES UNDER WHICH IT MAY
18 MAKE AVAILABLE TO FEDERAL AND STATE AGENCIES, INCLUDING LAW
19 ENFORCEMENT AGENCIES, RECORDS AND INFORMATION OTHERWISE EXEMPT
20 FROM DISCLOSURE, AND MAY ENTER INTO AGREEMENTS WITH SUCH AGENCIES
21 TO RECEIVE OR EXCHANGE INFORMATION OR RECORDS SUBJECT TO
22 NONDISCLOSURE AND CONFIDENTIALITY PROVISIONS.

23 2. EXCEPT AS TO PRIVILEGED RECORDS, DATA AND
24 INFORMATION, THE LAWS OF ANY COMPACTING STATE PERTAINING TO
25 CONFIDENTIALITY OR NONDISCLOSURE SHALL NOT RELIEVE ANY COMPACTING
26 STATE MEMBER OF THE DUTY TO DISCLOSE ANY RELEVANT RECORDS, DATA OR
27 INFORMATION TO THE COMMISSION; PROVIDED THAT DISCLOSURE TO THE
28 COMMISSION SHALL NOT BE DEEMED TO WAIVE OR OTHERWISE AFFECT ANY
29 CONFIDENTIALITY REQUIREMENT, AND FURTHER PROVIDED THAT, EXCEPT AS
30 OTHERWISE EXPRESSLY PROVIDED IN THIS ACT, THE COMMISSION SHALL NOT
31 BE SUBJECT TO THE COMPACTING STATE'S LAWS PERTAINING TO
32 CONFIDENTIALITY AND NONDISCLOSURE WITH RESPECT TO RECORDS, DATA
33 AND INFORMATION IN ITS POSSESSION. CONFIDENTIAL INFORMATION OF THE
34 COMMISSION SHALL REMAIN CONFIDENTIAL AFTER SUCH INFORMATION IS
35 PROVIDED TO ANY MEMBER, AND THE COMMISSION SHALL MAINTAIN THE
36 CONFIDENTIALITY OF ANY INFORMATION PROVIDED BY A MEMBER THAT IS
37 CONFIDENTIAL UNDER THAT MEMBER'S STATE LAW.

38 3. THE COMMISSION SHALL MONITOR COMPACTING STATES
39 FOR COMPLIANCE WITH DULY ADOPTED BYLAWS AND RULES. THE

1 COMMISSION SHALL NOTIFY ANY NON-COMPLYING COMPACTING STATE IN
2 WRITING OF ITS NONCOMPLIANCE WITH COMMISSION BYLAWS OR RULES. IF A
3 NON-COMPLYING COMPACTING STATE FAILS TO REMEDY ITS NONCOMPLIANCE
4 WITHIN THE TIME SPECIFIED IN THE NOTICE OF NONCOMPLIANCE, THE
5 COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS SET FORTH IN
6 ARTICLE XIV.

7 ARTICLE X

8 DISPUTE RESOLUTION

9 1. BEFORE A MEMBER MAY BRING AN ACTION IN A COURT OF
10 COMPETENT JURISDICTION FOR VIOLATION OF ANY PROVISION, STANDARD OR
11 REQUIREMENT OF THE COMPACT, THE COMMISSION SHALL ATTEMPT, UPON
12 THE REQUEST OF A MEMBER, TO RESOLVE ANY DISPUTES OR OTHER ISSUES
13 THAT ARE SUBJECT TO THIS COMPACT AND WHICH MAY ARISE BETWEEN TWO
14 OR MORE COMPACTING STATES, CONTRACTING STATES OR NON-COMPACTING
15 STATES, AND THE COMMISSION SHALL PROMULGATE A RULE PROVIDING
16 ALTERNATIVE DISPUTE RESOLUTION PROCEDURES FOR SUCH DISPUTES.

17 2. THE COMMISSION SHALL ALSO PROVIDE ALTERNATIVE
18 DISPUTE RESOLUTION PROCEDURES TO RESOLVE ANY DISPUTES BETWEEN
19 INSUREDS OR SURPLUS LINES LICENSEES CONCERNING A TAX CALCULATION
20 OR ALLOCATION OR RELATED ISSUES WHICH ARE THE SUBJECT OF THIS
21 COMPACT.

22 3. ANY ALTERNATIVE DISPUTE RESOLUTION PROCEDURES
23 SHALL BE UTILIZED IN CIRCUMSTANCES WHERE A DISPUTE ARISES AS TO WHICH
24 STATE CONSTITUTES THE HOME STATE.

25 ARTICLE XI

26 REVIEW OF COMMISSION DECISIONS

27 REGARDING COMMISSION DECISIONS:

28 1. EXCEPT AS NECESSARY FOR PROMULGATING RULES TO
29 FULFILL THE PURPOSES OF THIS COMPACT, THE COMMISSION SHALL NOT HAVE
30 AUTHORITY TO OTHERWISE REGULATE INSURANCE IN THE COMPACTING
31 STATES.

32 2. NOT LATER THAN THIRTY (30) DAYS AFTER THE COMMISSION
33 HAS GIVEN NOTICE OF ANY RULE OR ALLOCATION FORMULA, ANY THIRD PARTY
34 FILER OR COMPACTING STATE MAY APPEAL THE DETERMINATION TO A REVIEW

1 PANEL APPOINTED BY THE COMMISSION. THE COMMISSION SHALL
2 PROMULGATE RULES TO ESTABLISH PROCEDURES FOR APPOINTING SUCH
3 REVIEW PANELS AND PROVIDE FOR NOTICE AND HEARING. AN ALLEGATION
4 THAT THE COMMISSION, IN MAKING COMPLIANCE OR TAX DETERMINATIONS
5 ACTED ARBITRARILY, CAPRICIOUSLY, OR IN A MANNER THAT IS AN ABUSE OF
6 DISCRETION OR OTHERWISE NOT IN ACCORDANCE WITH THE LAW, IS SUBJECT
7 TO JUDICIAL REVIEW IN ACCORDANCE WITH ARTICLE III, SECTION 6.

8 3. THE COMMISSION SHALL HAVE AUTHORITY TO MONITOR,
9 REVIEW AND RECONSIDER COMMISSION DECISIONS UPON A FINDING THAT THE
10 DETERMINATIONS OR ALLOCATIONS DO NOT MEET THE RELEVANT RULE.
11 WHERE APPROPRIATE, THE COMMISSION MAY WITHDRAW OR MODIFY ITS
12 DETERMINATION OR ALLOCATION AFTER PROPER NOTICE AND HEARING,
13 SUBJECT TO THE APPEAL PROCESS IN SECTION 2 ABOVE.

14 ARTICLE XII

15 FINANCE

16 1. THE COMMISSION SHALL PAY OR PROVIDE FOR THE PAYMENT
17 OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT AND ORGANIZATION.
18 TO FUND THE COST OF ITS INITIAL OPERATIONS THE COMMISSION MAY ACCEPT
19 CONTRIBUTIONS, GRANTS, AND OTHER FORMS OF FUNDING FROM THE STATE
20 STAMPING OFFICES, COMPACTING STATES AND OTHER SOURCES.

21 2. THE COMMISSION SHALL COLLECT A FEE PAYABLE BY THE
22 INSURED DIRECTLY OR THROUGH A SURPLUS LINES LICENSEE ON EACH
23 TRANSACTION PROCESSED THROUGH THE COMPACT CLEARINGHOUSE, TO
24 COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION
25 AND ITS STAFF IN A TOTAL AMOUNT SUFFICIENT TO COVER THE COMMISSION'S
26 ANNUAL BUDGET.

27 3. THE COMMISSION'S BUDGET FOR A FISCAL YEAR SHALL NOT
28 BE APPROVED UNTIL IT HAS BEEN SUBJECT TO NOTICE AND COMMENT AS SET
29 FORTH IN ARTICLE VIII OF THIS COMPACT.

30 4. THE COMMISSION SHALL BE REGARDED AS PERFORMING
31 ESSENTIAL GOVERNMENTAL FUNCTIONS IN EXERCISING SUCH POWERS AND
32 FUNCTIONS AND IN CARRYING OUT THE PROVISIONS OF THIS COMPACT AND OF
33 ANY LAW RELATING THERETO, AND SHALL NOT BE REQUIRED TO PAY ANY TAXES
34 OR ASSESSMENTS OF ANY CHARACTER, LEVIED BY ANY STATE OR POLITICAL
35 SUBDIVISION THEREOF, UPON ANY OF THE PROPERTY USED BY IT FOR SUCH
36 PURPOSES, OR ANY INCOME OR REVENUE THEREFROM, INCLUDING ANY PROFIT
37 FROM A SALE OR EXCHANGE.

1 **5. THE COMMISSION SHALL KEEP COMPLETE AND ACCURATE**
 2 **ACCOUNTS OF ALL ITS INTERNAL RECEIPTS, INCLUDING GRANTS AND**
 3 **DONATIONS, AND DISBURSEMENTS FOR ALL FUNDS UNDER ITS CONTROL. THE**
 4 **INTERNAL FINANCIAL ACCOUNTS OF THE COMMISSION SHALL BE SUBJECT TO**
 5 **THE ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. THE**
 6 **FINANCIAL ACCOUNTS AND REPORTS INCLUDING THE SYSTEM OF INTERNAL**
 7 **CONTROLS AND PROCEDURES OF THE COMMISSION SHALL BE AUDITED**
 8 **ANNUALLY BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UPON THE**
 9 **DETERMINATION OF THE COMMISSION, BUT NOT LESS FREQUENTLY THAN**
 10 **EVERY THREE (3) YEARS, THE REVIEW OF THE INDEPENDENT AUDITOR SHALL**
 11 **INCLUDE A MANAGEMENT AND PERFORMANCE AUDIT OF THE COMMISSION.**
 12 **THE COMMISSION SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR AND**
 13 **LEGISLATURE OF THE COMPACTING STATES, WHICH SHALL INCLUDE A REPORT**
 14 **OF THE INDEPENDENT AUDIT. THE COMMISSION’S INTERNAL ACCOUNTS SHALL**
 15 **NOT BE CONFIDENTIAL AND SUCH MATERIALS MAY BE SHARED WITH THE**
 16 **COMMISSIONER, THE CONTROLLER, OR THE STAMPING OFFICE OF ANY**
 17 **COMPACTING STATE UPON REQUEST PROVIDED, HOWEVER, THAT ANY WORK**
 18 **PAPERS RELATED TO ANY INTERNAL OR INDEPENDENT AUDIT AND ANY**
 19 **INFORMATION REGARDING THE PRIVACY OF INDIVIDUALS, AND LICENSEES’ AND**
 20 **INSURERS’ PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS, SHALL**
 21 **REMAIN CONFIDENTIAL.**

22 **6. NO COMPACTING STATE SHALL HAVE ANY CLAIM TO OR**
 23 **OWNERSHIP OF ANY PROPERTY HELD BY OR VESTED IN THE COMMISSION OR TO**
 24 **ANY COMMISSION FUNDS HELD PURSUANT TO THE PROVISIONS OF THIS**
 25 **COMPACT.**

26 **7. THE COMMISSION SHALL NOT MAKE ANY POLITICAL**
 27 **CONTRIBUTIONS TO CANDIDATES FOR ELECTED OFFICE, ELECTED OFFICIALS,**
 28 **POLITICAL PARTIES NOR POLITICAL ACTION COMMITTEES. THE COMMISSION**
 29 **SHALL NOT ENGAGE IN LOBBYING EXCEPT WITH RESPECT TO CHANGES TO THIS**
 30 **COMPACT.**

31 **ARTICLE XIII**

32 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

33 **1. ANY STATE IS ELIGIBLE TO BECOME A COMPACTING STATE.**

34 **2. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING**
 35 **UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY TWO (2)**
 36 **COMPACTING STATES, PROVIDED THE COMMISSION SHALL BECOME EFFECTIVE**
 37 **FOR PURPOSES OF ADOPTING RULES, AND CREATING THE CLEARINGHOUSE**

1 WHEN THERE ARE A TOTAL OF TEN (10) COMPACTING STATES AND
2 CONTRACTING STATES OR, ALTERNATIVELY, WHEN THERE ARE COMPACTING
3 STATES AND CONTRACTING STATES REPRESENTING GREATER THAN FORTY
4 PERCENT (40%) OF THE SURPLUS LINES INSURANCE PREMIUM VOLUME BASED
5 ON RECORDS OF THE PERCENTAGE OF SURPLUS LINES INSURANCE PREMIUM
6 SET FORTH IN APPENDIX A HERETO. THEREAFTER, IT SHALL BECOME
7 EFFECTIVE AND BINDING AS TO ANY OTHER COMPACTING STATE UPON
8 ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. NOTWITHSTANDING
9 THE FOREGOING, THE CLEARINGHOUSE OPERATIONS AND THE DUTY TO
10 REPORT CLEARINGHOUSE TRANSACTION DATA SHALL BEGIN ON THE FIRST
11 JANUARY 1ST OR JULY 1ST FOLLOWING THE FIRST ANNIVERSARY OF THE
12 COMMISSION EFFECTIVE DATE. FOR STATES WHICH JOIN THE COMPACT
13 SUBSEQUENT TO THE EFFECTIVE DATE, A START DATE FOR REPORTING
14 CLEARINGHOUSE TRANSACTION DATA SHALL BE SET BY THE COMMISSION
15 PROVIDED SURPLUS LINES LICENSEES AND ALL OTHER INTERESTED PARTIES
16 RECEIVE NOT LESS THAN 90 DAYS ADVANCE NOTICE.

17 3. AMENDMENTS TO THE COMPACT MAY BE PROPOSED BY THE
18 COMMISSION FOR ENACTMENT BY THE COMPACTING STATES. NO AMENDMENT
19 SHALL BECOME EFFECTIVE AND BINDING UPON THE COMMISSION AND THE
20 COMPACTING STATES UNLESS AND UNTIL ALL COMPACTING STATES ENACT
21 THE AMENDMENT INTO LAW.

22 ARTICLE XIV

23 WITHDRAWAL, DEFAULT AND TERMINATION

24 1. WITHDRAWAL

25 A. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN
26 FORCE AND REMAIN BINDING UPON EACH AND EVERY COMPACTING STATE,
27 PROVIDED THAT A COMPACTING STATE MAY WITHDRAW FROM THE COMPACT
28 (“WITHDRAWING STATE”) BY ENACTING A STATUTE SPECIFICALLY REPEALING
29 THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

30 B. THE EFFECTIVE DATE OF WITHDRAWAL IS THE
31 EFFECTIVE DATE OF THE REPEALING STATUTE. HOWEVER, THE WITHDRAWAL
32 SHALL NOT APPLY TO ANY TAX OR COMPLIANCE DETERMINATIONS APPROVED
33 ON THE DATE THE REPEALING STATUTE BECOMES EFFECTIVE, EXCEPT BY
34 MUTUAL AGREEMENT OF THE COMMISSION AND THE WITHDRAWING STATE
35 UNLESS THE APPROVAL IS RESCINDED BY THE COMMISSION.

36 C. THE MEMBER OF THE WITHDRAWING STATE SHALL
37 IMMEDIATELY NOTIFY THE EXECUTIVE COMMITTEE OF THE COMMISSION IN

1 WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS
2 COMPACT IN THE WITHDRAWING STATE.

3 D. THE COMMISSION SHALL NOTIFY THE OTHER
4 COMPACTING STATES OF THE INTRODUCTION OF SUCH LEGISLATION WITHIN
5 TEN (10) DAYS AFTER ITS RECEIPT OF NOTICE THEREOF.

6 E. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL
7 OBLIGATIONS, DUTIES AND LIABILITIES INCURRED THROUGH THE EFFECTIVE
8 DATE OF WITHDRAWAL, INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF
9 WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL. TO THE
10 EXTENT THOSE OBLIGATIONS MAY HAVE BEEN RELEASED OR RELINQUISHED BY
11 MUTUAL AGREEMENT OF THE COMMISSION AND THE WITHDRAWING STATE,
12 THE COMMISSION'S DETERMINATIONS PRIOR TO THE EFFECTIVE DATE OF
13 WITHDRAWAL SHALL CONTINUE TO BE EFFECTIVE AND BE GIVEN FULL FORCE
14 AND EFFECT IN THE WITHDRAWING STATE, UNLESS FORMALLY RESCINDED BY
15 THE COMMISSION.

16 F. REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY
17 COMPACTING STATE SHALL OCCUR UPON THE EFFECTIVE DATE OF THE
18 WITHDRAWING STATE REENACTING THE COMPACT.

19 2. DEFAULT

20 A. IF THE COMMISSION DETERMINES THAT ANY
21 COMPACTING STATE HAS AT ANY TIME DEFAULTED ("DEFAULTING STATE") IN
22 THE PERFORMANCE OF ANY OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER
23 THIS COMPACT, THE BYLAWS OR DULY PROMULGATED RULES THEN AFTER
24 NOTICE AND HEARING AS SET FORTH IN THE BYLAWS, ALL RIGHTS, PRIVILEGES
25 AND BENEFITS CONFERRED BY THIS COMPACT ON THE DEFAULTING STATE
26 SHALL BE SUSPENDED FROM THE EFFECTIVE DATE OF DEFAULT AS FIXED BY
27 THE COMMISSION. THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT
28 LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM ITS OBLIGATIONS
29 OR RESPONSIBILITIES, AND ANY OTHER GROUNDS DESIGNATED IN COMMISSION
30 RULES. THE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING
31 STATE IN WRITING OF THE DEFAULTING STATE'S SUSPENSION PENDING A CURE
32 OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND
33 THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS
34 DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN
35 THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE
36 SHALL BE TERMINATED FROM THE COMPACT AND ALL RIGHTS, PRIVILEGES
37 AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM
38 THE EFFECTIVE DATE OF TERMINATION.

1 **B. DECISIONS OF THE COMMISSION THAT ARE ISSUED ON**
2 **THE EFFECTIVE DATE OF TERMINATION SHALL REMAIN IN FORCE IN THE**
3 **DEFAULTING STATE IN THE SAME MANNER AS IF THE DEFAULTING STATE HAD**
4 **WITHDRAWN VOLUNTARILY PURSUANT TO SECTION 1 OF THIS ARTICLE.**

5 **C. REINSTATEMENT FOLLOWING TERMINATION OF ANY**
6 **COMPACTING STATE REQUIRES A REENACTMENT OF THE COMPACT.**

7 **3. DISSOLUTION OF COMPACT**

8 **A. THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE**
9 **OF THE WITHDRAWAL OR DEFAULT OF THE COMPACTING STATE WHICH**
10 **REDUCES MEMBERSHIP IN THE COMPACT TO ONE COMPACTING STATE.**

11 **B. UPON THE DISSOLUTION OF THIS COMPACT, THE**
12 **COMPACT BECOMES NULL AND VOID AND SHALL HAVE NO FURTHER FORCE OR**
13 **EFFECT, AND THE BUSINESS AND AFFAIRS OF THE COMMISSION SHALL BE**
14 **WOUND UP AND ANY SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE**
15 **WITH THE RULES AND BYLAWS.**

16 **ARTICLE XV**

17 **SEVERABILITY AND CONSTRUCTION**

18 **1. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE**
19 **AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION IS DEEMED**
20 **UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE**
21 **ENFORCEABLE.**

22 **2. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY**
23 **CONSTRUED TO EFFECTUATE ITS PURPOSES.**

24 **3. THROUGHOUT THIS COMPACT THE USE OF THE SINGULAR**
25 **SHALL INCLUDE THE PLURAL AND VICE-VERSA.**

26 **4. THE HEADINGS AND CAPTIONS OF ARTICLES, SECTIONS AND**
27 **SUB-SECTIONS USED IN THIS COMPACT ARE FOR CONVENIENCE ONLY AND**
28 **SHALL BE IGNORED IN CONSTRUING THE SUBSTANTIVE PROVISIONS OF THIS**
29 **COMPACT.**

30 **ARTICLE XVI**

31 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

1 **1. OTHER LAWS**

2 **A. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF**
3 **ANY OTHER LAW OF A COMPACTING STATE EXCEPT AS PROVIDED IN**
4 **PARAGRAPH B. OF THIS SECTION.**

5 **B. DECISIONS OF THE COMMISSION, AND ANY RULES, AND**
6 **ANY OTHER REQUIREMENTS OF THE COMMISSION SHALL CONSTITUTE THE**
7 **EXCLUSIVE RULE, OR DETERMINATION APPLICABLE TO THE COMPACTING**
8 **STATES. ANY LAW OR REGULATION REGARDING NON-ADMITTED INSURANCE**
9 **OF MULTI-STATE RISKS THAT IS CONTRARY TO RULES OF THE COMMISSION IS**
10 **PREEMPTED WITH RESPECT TO THE FOLLOWING:**

11 **(I) CLEARINGHOUSE TRANSACTION DATA**
12 **REPORTING REQUIREMENTS;**

13 **(II) ALLOCATION FORMULA;**

14 **(III) CLEARINGHOUSE TRANSACTION DATA**
15 **COLLECTION REQUIREMENTS;**

16 **(IV) PREMIUM TAX PAYMENT TIME FRAMES AND**
17 **RULES CONCERNING DISSEMINATION OF DATA AMONG THE COMPACTING**
18 **STATES FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AND**
19 **SINGLE-STATE RISKS;**

20 **(V) EXCLUSIVE COMPLIANCE WITH SURPLUS LINES**
21 **LAW OF THE HOME STATE OF THE INSURED;**

22 **(VI) RULES FOR REPORTING TO A CLEARINGHOUSE**
23 **FOR RECEIPT AND DISTRIBUTION OF CLEARINGHOUSE TRANSACTION DATA**
24 **RELATED TO NON- ADMITTED INSURANCE OF MULTI-STATE RISKS;**

25 **(VII) UNIFORM FOREIGN INSURERS ELIGIBILITY**
26 **REQUIREMENTS;**

27 **(VIII) UNIFORM POLICYHOLDER NOTICE; AND**

28 **(IX) UNIFORM TREATMENT OF PURCHASING GROUPS**
29 **PROCURING NON- ADMITTED INSURANCE.**

30 **C. EXCEPT AS STATED IN PARAGRAPH B, ANY RULE,**
31 **UNIFORM STANDARD OR OTHER REQUIREMENT OF THE COMMISSION SHALL**
32 **CONSTITUTE THE EXCLUSIVE PROVISION THAT A COMMISSIONER MAY APPLY TO**

1 COMPLIANCE OR TAX DETERMINATIONS. NOTWITHSTANDING THE FOREGOING,
 2 NO ACTION TAKEN BY THE COMMISSION SHALL ABROGATE OR RESTRICT: (I)
 3 THE ACCESS OF ANY PERSON TO STATE COURTS; (II) THE AVAILABILITY OF
 4 ALTERNATIVE DISPUTE RESOLUTION UNDER ARTICLE X OF THIS COMPACT (III)
 5 REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT,
 6 TORT, OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO COMPLIANCE OR TAX
 7 DETERMINATIONS; (IV) STATE LAW RELATING TO THE CONSTRUCTION OF
 8 INSURANCE CONTRACTS; OR (V) THE AUTHORITY OF THE ATTORNEY GENERAL
 9 OF THE STATE, INCLUDING BUT NOT LIMITED TO MAINTAINING ANY ACTIONS OR
 10 PROCEEDINGS, AS AUTHORIZED BY LAW.

11 **2. BINDING EFFECT OF THIS COMPACT**

12 **A. ALL LAWFUL ACTIONS OF THE COMMISSION,**
 13 **INCLUDING ALL RULES PROMULGATED BY THE COMMISSION, ARE BINDING**
 14 **UPON THE COMPACTING STATES, EXCEPT AS PROVIDED HEREIN.**

15 **B. ALL AGREEMENTS BETWEEN THE COMMISSION AND**
 16 **THE COMPACTING STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.**

17 **C. UPON THE REQUEST OF A PARTY TO A CONFLICT OVER**
 18 **THE MEANING OR INTERPRETATION OF COMMISSION ACTIONS, AND UPON A**
 19 **MAJORITY VOTE OF THE COMPACTING STATES, THE COMMISSION MAY ISSUE**
 20 **ADVISORY OPINIONS REGARDING THE MEANING OR INTERPRETATION IN**
 21 **DISPUTE. THIS PROVISION MAY BE IMPLEMENTED BY RULE AT THE DISCRETION**
 22 **OF THE COMMISSION.**

23 **D. IN THE EVENT ANY PROVISION OF THIS COMPACT**
 24 **EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY**
 25 **COMPACTING STATE, THE OBLIGATIONS, DUTIES, POWERS OR JURISDICTION**
 26 **SOUGHT TO BE CONFERRED BY THAT PROVISION UPON THE COMMISSION SHALL**
 27 **BE INEFFECTIVE AS TO THAT STATE AND THOSE OBLIGATIONS DUTIES, POWERS**
 28 **OR JURISDICTION SHALL REMAIN IN THE COMPACTING STATE AND SHALL BE**
 29 **EXERCISED BY THE AGENCY THEREOF TO WHICH THOSE OBLIGATIONS, DUTIES,**
 30 **POWERS OR JURISDICTION ARE DELEGATED BY LAW IN EFFECT AT THE TIME**
 31 **THIS COMPACT BECOMES EFFECTIVE.**

32 **SURPLUS LINE INSURANCE PREMIUMS BY STATE APPENDIX A**

33 STATE	34 PREMIUMS BASED ON TAXES PAID	SHARE OF TOTAL PREMIUMS
35 ALABAMA	445,746,000	1.47%
36 ALASKA	89,453,519	0.29%

1	ARIZONA	663,703,267	2.18%
2	ARKANSAS	201,859,750	0.66%
3	CALIFORNIA	5,622,450,467	18.49%
4	COLORADO	543,781,333	1.79%
5	CONNECTICUT	329,358,800	1.08%
6	DELAWARE	92,835,950	0.31%
7	FLORIDA	2,660,908,760	8.75%
8	GEORGIA	895,643,150	2.95%
9	HAWAII	232,951,489	0.77%
10	IDAHO	74,202,255	0.24%
11	ILLINOIS	1,016,504,629	3.34%
12	INDIANA	412,265,320	1.36%
13	IOWA	135,130,933	0.44%
14	KANSAS	160,279,300	0.53%
15	KENTUCKY	167,996,133	0.55%
16	LOUISIANA	853,173,280	2.81%
17	MAINE	60,111,200	0.20%
18	MARYLAND	434,887,600	1.43%
19	MASSACHUSETTS	708,640,225	2.33%
20	MICHIGAN	703,357,040	2.31%
21	MINNESOTA	393,128,400	1.29%
22	MISSISSIPPI	263,313,175	0.87%
23	MISSOURI	404,489,860	1.33%
24	MONTANA	64,692,873	0.21%
25	NEBRASKA	92,141,167	0.30%
26	NEVADA	354,271,514	1.17%
27	NEW HAMPSHIRE	102,946,250	0.34%
28	NEW JERSEY	1,087,994,033	3.58%
29	NEW MEXICO	67,608,458	0.22%
30	NEW YORK	2,768,618,083	9.11%
31	NORTH CAROLINA	514,965,060	1.69%
32	NORTH DAKOTA	36,223,943	0.12%
33	OHIO	342,000,000	1.12%
34	OKLAHOMA	319,526,400	1.05%
35	OREGON	312,702,150	1.03%
36	PENNSYLVANIA	780,666,667	2.57%
37	RHODE ISLAND	71,794,067	0.24%
38	SOUTH CAROLINA	412,489,825	1.36%
39	SOUTH DAKOTA	38,702,120	0.13%
40	TENNESSEE	451,775,240	1.49%
41	TEXAS	3,059,170,454	10.06%
42	UTAH	142,593,412	0.47%
43	VERMONT	41,919,433	0.14%
44	VIRGINIA	611,530,667	2.01%

1	WASHINGTON	739,932,050	2.43%
2	WEST VIRGINIA	130,476,250	0.43%
3	WISCONSIN	248,758,333	0.82%
4	WYOMING	40,526,967	0.13%
5	TOTAL	30,400,197,251	100.00%

6 **THIS DATA IS 2005 CALENDAR YEAR DATA EXCERPTED FROM A STUDY**
7 **DATED FEBRUARY 27, 2007 BY MACKIN & COMPANY.**

8 **31-102.**

9 **THE MARYLAND INSURANCE COMMISSIONER OF THE MARYLAND**
10 **INSURANCE ADMINISTRATION IS HEREBY APPOINTED AS THE STATE OF**
11 **MARYLAND'S REPRESENTATIVE TO THE SURPLUS LINES INSURANCE**
12 **MULTI-STATE COMPLIANCE COMPACT COMMISSION.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take
14 effect until a similar Act is enacted by at least one other state; that at least one other
15 state is requested to concur in this Act of the General Assembly of Maryland by the
16 enactment of a similar Act; that the Department of Legislative Services shall notify
17 the appropriate officials of the other states of the enactment of this Act; and that upon
18 the concurrence in this Act by at least one other state, the Governor of the State of
19 Maryland shall issue a proclamation declaring this Act valid and effective and shall
20 forward a copy of the proclamation to the Director of the Department of Legislative
21 Services.

22 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
23 this Act, this Act shall take effect July 1, 2011.