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1lr1458 CF SB 694

## By: **Delegate Rudolph** Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

## 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;  $\mathbf{5}$ providing for the creation of the Surplus Lines Insurance Multi-State 6 Compliance Compact Commission as a body corporate and politic and an 7instrumentality 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 12the Commission; providing for an operations committee and legislative and 13advisory committees of the Commission; requiring the Commission to maintain 14 certain records; establishing qualified immunity, defense, and indemnification 15provisions relating to the Commission; requiring the Commission to meet and 16 take certain actions; establishing the rulemaking authority and procedures of 17the Commission; requiring the Commission to promulgate certain rules relating 18 to the Commission's records; requiring the Commission to monitor Compacting States for compliance with certain rules and bylaws; requiring the Commission 19 20to resolve certain disputes in a certain manner; establishing provisions 21regarding review of Commission decisions; requiring the Commission to pay 22certain expenses and certain fees; requiring the Commission to keep certain 23financial records; providing that the Commission is not subject to certain taxes; 24providing that any state is eligible to become a compacting state; specifying 25when the Compact and the Commission are effective; providing for the 26withdrawal of a compacting state from the Compact and reinstatement of a 27withdrawing state; requiring the Commission to take certain actions in the 28event of certain defaults by a compacting state; providing for the dissolution of 29the 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.



$egin{array}{c} 1 \\ 2 \\ 3 \\ 4 \end{array}$	compacting states; defining certain terms; appointing the Maryland Insurance Commissioner as the State's representative to the Commission; making this Act subject to a certain contingency; and generally relating to the Surplus Lines Insurance Multi–State Compliance Compact.	
$5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10$	BY adding to Article – Insurance Section 31–101 and 31–102 to be under the new title "Title 31. Surplus Lines Insurance Multi–State Compliance Compact" Annotated Code of Maryland (2006 Replacement Volume and 2010 Supplement)	
$\begin{array}{c} 11 \\ 12 \end{array}$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 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 17 18 19	THE STATE OF MARYLAND HEREBY ENTERS THE SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT AS SET FORTH IN THIS SECTION. THE COMPACT SHALL TAKE EFFECT IN ACCORDANCE WITH ARTICLE XIII OF THE COMPACT. THE TEXT OF THE COMPACT IS AS FOLLOWS:	
20	PREAMBLE	
21 22 23 24 25 26	WHEREAS, WITH REGARD TO NON-ADMITTED INSURANCE POLICIES WITH RISK EXPOSURES LOCATED IN MULTIPLE STATES, THE 111TH UNITED STATES CONGRESS, HAS STIPULATED IN TITLE V, SUBTITLE B THE NON-ADMITTED AND REINSURANCE REFORM ACT OF 2010, OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT, HEREAFTER, THE NRRA, THAT:	
27 28 29	(A) THE PLACEMENT OF NON–ADMITTED INSURANCE SHALL BE SUBJECT TO THE STATUTORY AND REGULATORY REQUIREMENTS SOLELY OF THE INSURED'S HOME STATE, AND	
30 31 32 33 34 35	(B) ANY LAW, REGULATION, PROVISION, OR ACTION OF ANY STATE THAT APPLIES OR PURPORTS TO APPLY TO NON-ADMITTED INSURANCE SOLD TO, SOLICITED BY, OR NEGOTIATED WITH AN INSURED WHOSE HOME STATE IS ANOTHER STATE SHALL BE PREEMPTED WITH RESPECT TO SUCH APPLICATION; EXCEPT THAT ANY STATE LAW, RULE, OR REGULATION THAT RESTRICTS THE PLACEMENT OF WORKERS' COMPENSATION INSURANCE OR	

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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;

WHEREAS, AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD 16BEGINNING ON THE DATE OF THE ENACTMENT OF THE NRRA, A STATE MAY 17NOT COLLECT ANY FEES RELATING TO LICENSING OF AN INDIVIDUAL OR ENTITY 18 AS A SURPLUS LINES LICENSEE IN THE STATE UNLESS THE STATE HAS IN 1920EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR 21PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER 22DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL 23DATABASE, FOR THE LICENSURE OF SURPLUS LINES LICENSEES AND THE 24**RENEWAL OF SUCH LICENSES;** 

WHEREAS, IN COMPLIANCE WITH NRRA, NO STATE OTHER THAN THE HOME STATE OF AN INSURED MAY REQUIRE ANY PREMIUM TAX PAYMENT FOR NON-ADMITTED INSURANCE; AND NO STATE OTHER THAN AN INSURED'S HOME STATE MAY REQUIRE A SURPLUS LINES BROKER TO BE LICENSED IN ORDER TO SELL, SOLICIT, OR NEGOTIATE NON-ADMITTED INSURANCE WITH RESPECT TO 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  $\mathbf{2}$ 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 AS A SURPLUS LINES LICENSEE IN THE STATE UNLESS THE STATE HAS IN 4 EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR  $\mathbf{5}$ PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER 6 DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL 78 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;

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

28WHEREAS, REGULATORY COMPLIANCE WITH RESPECT TO 29NON-ADMITTED INSURANCE PLACEMENTS MAY BE STREAMLINED BY PROVIDING FOR EXCLUSIVE SINGLE-STATE REGULATORY COMPLIANCE FOR 30 NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, THEREBY PROVIDING 3132CERTAINTY REGARDING SUCH COMPLIANCE TO ALL PERSONS WHO HAVE AN 33 INTEREST IN SUCH TRANSACTIONS, INCLUDING BUT NOT LIMITED TO INSUREDS, **REGULATORS, SURPLUS LINES LICENSEES, OTHER INSURANCE PRODUCERS,** 34AND SURPLUS LINES INSURERS; 35

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:

- **ARTICLE I** 4 PURPOSE  $\mathbf{5}$ 6 THE PURPOSES OF THIS COMPACT ARE: 7 1. TO IMPLEMENT THE EXPRESS PROVISIONS OF THE NRRA. 2. TO PROTECT THE PREMIUM TAX REVENUES OF THE 8 9 COMPACTING **STATES** THROUGH FACILITATING THE PAYMENT AND COLLECTION OF PREMIUM TAX ON NON-ADMITTED INSURANCE; AND TO 10 PROTECT THE INTERESTS OF THE COMPACTING STATES BY SUPPORTING THE 11 12CONTINUED AVAILABILITY OF SUCH INSURANCE TO CONSUMERS; AND TO 13 **PROVIDE FOR ALLOCATION OF PREMIUM TAX FOR NON-ADMITTED INSURANCE** OF MULTI-STATE RISKS AMONG THE STATES IN ACCORDANCE WITH UNIFORM 1415ALLOCATION FORMULAS TO BE DEVELOPED, ADOPTED, AND IMPLEMENTED BY
- 16 THE COMMISSION.

173. TO STREAMLINE AND IMPROVE THE EFFICIENCY OF THE18SURPLUS LINES MARKET BY ELIMINATING DUPLICATIVE AND INCONSISTENT19TAX AND REGULATORY REQUIREMENTS AMONG THE STATES; AND PROMOTE20AND PROTECT THE INTEREST OF SURPLUS LINES LICENSEES WHO ASSIST SUCH21INSUREDS AND SURPLUS LINES INSURERS, THEREBY ENSURING THE22CONTINUED AVAILABILITY OF SURPLUS LINES INSURANCE TO CONSUMERS.

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

325. TO ESTABLISH A CLEARINGHOUSE FOR RECEIPT AND33DISSEMINATION OF PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA34RELATED TO NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, IN35ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION.

16.TO IMPROVE COORDINATION OF REGULATORY RESOURCES2AND EXPERTISE BETWEEN STATE INSURANCE DEPARTMENTS AND OTHER3STATE AGENCIES, AS WELL AS STATE SURPLUS LINES STAMPING OFFICES, WITH4RESPECT 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.

118.TO ADOPT UNIFORM MANDATORY RULES WITH RESPECT TO12REGULATORY COMPLIANCE REQUIREMENTS FOR:

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- (I) FOREIGN INSURER ELIGIBILITY REQUIREMENTS;
- 14 (II) SURPLUS LINES POLICYHOLDER NOTICES;

159. TO ESTABLISH THE SURPLUS LINES INSURANCE16MULTI-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.

2011. TO PERFORM THESE AND SUCH OTHER RELATED FUNCTIONS21AS MAY BE CONSISTENT WITH THE PURPOSES OF THE SURPLUS LINES22INSURANCE MULTI-STATE COMPLIANCE COMPACT.

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# ARTICLE II

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

1. "ADMITTED INSURER" MEANS AN INSURER THAT IS LICENSED, OR AUTHORIZED, TO TRANSACT THE BUSINESS OF INSURANCE UNDER THE LAW OF THE HOME STATE; FOR PURPOSES OF THIS COMPACT "ADMITTED INSURER" SHALL NOT INCLUDE A DOMESTIC SURPLUS LINES 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. TRANSACTION DATA" **"CLEARINGHOUSE** MEANS THE INFORMATION REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE 19 RISKS REQUIRED TO BE REPORTED, ACCEPTED, COLLECTED, PROCESSED, AND 20DISSEMINATED BY SURPLUS LINES LICENSEES FOR SURPLUS LINES 2122**INSURANCE AND INSUREDS FOR INDEPENDENTLY PROCURED INSURANCE** UNDER THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION. 23**CLEARINGHOUSE TRANSACTION DATA INCLUDES INFORMATION RELATED TO** 24SINGLE-STATE RISKS IF A STATE ELECTS TO HAVE THE CLEARINGHOUSE 25COLLECT TAXES ON SINGLE-STATE RISKS FOR SUCH STATE. 26

7. "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THIS COMPACT LEGISLATION AND WHICH HAS NOT WITHDRAWN PURSUANT TO ARTICLE XIV, SECTION 1, OR BEEN TERMINATED PURSUANT TO ARTICLE XIV, SECTION 2.

318. "Commission" means the "Surplus Lines Insurance32MULTI-STATE COMPLIANCE COMPACT COMMISSION" ESTABLISHED BY THIS33COMPACT.

349. "COMMISSIONER" MEANS THE CHIEF INSURANCE35REGULATORY OFFICIAL OF A STATE INCLUDING, BUT NOT LIMITED TO36COMMISSIONER, SUPERINTENDENT, DIRECTOR OR ADMINISTRATOR OR THEIR37DESIGNEES.

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 ELECTION12OF 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.

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

3013. "INDEPENDENTLYPROCUREDINSURANCE"MEANS31INSURANCE PROCURED BY AN INSURED DIRECTLY FROM A SURPLUS LINES32INSURER OR OTHER NON-ADMITTED INSURER AS PERMITTED BY THE LAWS OF33THE 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.

1418. "NON-ADMITTED INSURANCE" MEANS SURPLUS LINES15INSURANCE 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.

1920. "NRRA" MEANS THE NON-ADMITTED AND REINSURANCE20REFORM ACT WHICH IS TITLE V, SUBTITLE B OF THE DODD-FRANK WALL21STREET 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.

2622. "PREMIUM TAX" MEANS WITH RESPECT TO NON-ADMITTED 27INSURANCE, ANY TAX, FEE, ASSESSMENT, OR OTHER CHARGE IMPOSED BY A 28GOVERNMENT ENTITY DIRECTLY OR INDIRECTLY BASED ON ANY PAYMENT 29MADE AS CONSIDERATION FOR SUCH INSURANCE, INCLUDING PREMIUM ANY 30 DEPOSITS, ASSESSMENTS, REGISTRATION FEES, AND **OTHER** 31COMPENSATION 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.

"PURCHASING GROUP" MEANS ANY GROUP FORMED 3 **24**. PURSUANT TO THE LIABILITY RISK RETENTION ACT WHICH HAS AS ONE OF ITS 4 PURPOSES THE PURCHASE OF LIABILITY INSURANCE ON A GROUP BASIS,  $\mathbf{5}$ 6 PURCHASES SUCH INSURANCE ONLY FOR ITS GROUP MEMBERS AND ONLY TO 7COVER 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.

3330. "SURPLUS LINES INSURER" MEANS A NON-ADMITTED34INSURER ELIGIBLE UNDER THE LAW OF THE HOME STATE TO ACCEPT BUSINESS35FROM A SURPLUS LINES LICENSEE; FOR PURPOSES OF THIS COMPACT36"SURPLUS LINES INSURER" SHALL ALSO MEAN AN INSURER WHICH IS

1 PERMITTED TO WRITE SURPLUS LINES INSURANCE UNDER THE LAWS OF THE  $\mathbf{2}$ STATE WHERE SUCH INSURER IS DOMICILED. "SURPLUS LINES LICENSEE" MEANS AN INDIVIDUAL, FIRM OR 3 31. 4 CORPORATION LICENSED UNDER THE LAW OF THE HOME STATE TO PLACE SURPLUS LINES INSURANCE.  $\mathbf{5}$ 6 **ARTICLE III** 7 ESTABLISHMENT OF THE COMMISSION AND VENUE 8 1. THE COMPACTING STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE "SURPLUS LINES INSURANCE 9 MULTI-STATE COMPLIANCE COMPACT COMMISSION." 10 PURSUANT TO ARTICLE IV, THE COMMISSION WILL HAVE THE 11 2. POWER TO ADOPT MANDATORY RULES WHICH ESTABLISH EXCLUSIVE HOME 1213 STATE AUTHORITY REGARDING NON–ADMITTED INSURANCE OF MULTI STATE RISKS, ALLOCATION FORMULAS, CLEARINGHOUSE TRANSACTION DATA, A 14CLEARINGHOUSE FOR RECEIPT AND DISTRIBUTION OF ALLOCATED PREMIUM 15TAX AND CLEARINGHOUSE TRANSACTION DATA, AND UNIFORM RULEMAKING 16 PROCEDURES AND RULES FOR THE PURPOSE OF FINANCING, ADMINISTERING, 17 18 **OPERATING AND ENFORCING COMPLIANCE WITH THE PROVISIONS OF THIS** COMPACT, ITS BYLAWS AND RULES. 19203. PURSUANT TO ARTICLE IV, THE COMMISSION WILL HAVE THE MANDATORY RULES ESTABLISHING FOREIGN INSURER 21POWER TO ADOPT **ELIGIBILITY REQUIREMENTS AND A CONCISE AND OBJECTIVE POLICYHOLDER** 2223NOTICE REGARDING THE NATURE OF A SURPLUS LINES PLACEMENT. 244. THE COMMISSION IS A BODY CORPORATE AND POLITIC, AND 25AN INSTRUMENTALITY OF THE COMPACTING STATES. 265. THE COMMISSION IS SOLELY RESPONSIBLE FOR ITS 27LIABILITIES EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS 28Сомраст. 29VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR **6**. 30 AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A 31COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE 32COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND 33 JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO

	12 HOUSE BILL 911		
1	ARTICLE IV		
2	AUTHORITY TO ESTABLISH MANDATORY RULES		
3	THE COMMISSION SHALL ADOPT MANDATORY RULES WHICH ESTABLISH:		
4	1. Allocation Formulas for each type of Non-Admitted		
<b>5</b>	INSURANCE COVERAGE, WHICH ALLOCATION FORMULAS MUST BE USED BY		
6	EACH COMPACTING STATE AND CONTRACTING STATE IN ACQUIRING PREMIUM		
7	TAX AND CLEARINGHOUSE TRANSACTION DATA FROM SURPLUS LINES		
8	LICENSEES AND INSUREDS FOR REPORTING TO THE CLEARINGHOUSE CREATED		
9	BY THE COMPACT COMMISSION. SUCH ALLOCATION FORMULAS WILL BE		
10	ESTABLISHED WITH INPUT FROM SURPLUS LINES LICENSEES AND BE BASED		
11	UPON READILY AVAILABLE DATA WITH SIMPLICITY AND UNIFORMITY FOR THE		
12	SURPLUS LINE LICENSEE AS A MATERIAL CONSIDERATION.		
13	2. UNIFORM CLEARINGHOUSE TRANSACTION DATA REPORTING		
14	REQUIREMENTS FOR ALL INFORMATION REPORTED TO THE CLEARINGHOUSE.		
15	3. Methods by which Compacting States and		
16	CONTRACTING STATES REQUIRE SURPLUS LINES LICENSEES AND INSUREDS		
17	TO PAY PREMIUM TAX AND TO REPORT CLEARINGHOUSE TRANSACTION DATA		
18	TO THE CLEARINGHOUSE, INCLUDING BUT NOT LIMITED TO PROCESSING		
19	CLEARINGHOUSE TRANSACTION DATA THROUGH STATE STAMPING AND		
20	SERVICE OFFICES, STATE INSURANCE DEPARTMENTS, OR OTHER STATE		
21	DESIGNATED AGENCIES OR ENTITIES.		
22	4. THAT NON-ADMITTED INSURANCE OF MULTI-STATE RISKS		
23	SHALL BE SUBJECT TO ALL OF THE REGULATORY COMPLIANCE REQUIREMENTS		
24	OF THE HOME STATE EXCLUSIVELY. HOME STATE REGULATORY COMPLIANCE		
25	REQUIREMENTS APPLICABLE TO SURPLUS LINES INSURANCE SHALL INCLUDE		
26	BUT NOT BE LIMITED TO, (I) PERSON(S) REQUIRED TO BE LICENSED TO SELL,		
27	SOLICIT, OR NEGOTIATE SURPLUS LINES INSURANCE; (II) INSURER		
28	ELIGIBILITY REQUIREMENTS OR OTHER APPROVED NON-ADMITTED INSURER		
29	REQUIREMENTS; (III) DILIGENT SEARCH; (IV) STATE TRANSACTION		
30	DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA REGARDING THE		
31	PAYMENT OF PREMIUM TAX AS SET FORTH IN THIS COMPACT AND RULES TO BE		
32 33	ADOPTED BY THE COMMISSION. HOME STATE REGULATORY COMPLIANCE REQUIREMENTS ADDITION TO INDEPENDENTLY PROCUPED INSURANCE		
33 34	REQUIREMENTS APPLICABLE TO INDEPENDENTLY PROCURED INSURANCE PLACEMENTS SHALL INCLUDE BUT NOT BE LIMITED TO PROVIDING STATE		
$\frac{34}{35}$	TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA		
36	REGARDING THE PAYMENT OF PREMIUM TAX AS SET FORTH IN THIS COMPACT		
30 37	AND RULES TO BE ADOPTED BY THE COMMISSION.		
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1 5. THAT EACH COMPACTING STATE AND CONTRACTING STATE  $\mathbf{2}$ MAY CHARGE ITS OWN RATE OF TAXATION ON THE PREMIUM ALLOCATED TO 3 SUCH STATE BASED ON THE APPLICABLE ALLOCATION FORMULA PROVIDED THAT THE STATE ESTABLISHES ONE SINGLE RATE OF TAXATION APPLICABLE TO 4 ALL NON-ADMITTED INSURANCE TRANSACTIONS AND NO OTHER TAX, FEE  $\mathbf{5}$ ASSESSMENT OR OTHER CHARGE BY ANY GOVERNMENTAL OR QUASI 6 7GOVERNMENTAL 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 TAXATION. 10

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.

157. THAT EACH COMPACTING STATE AND CONTRACTING STATE16SHALL REQUIRE PREMIUM TAX PAYMENTS EITHER ANNUALLY,17SEMI-ANNUALLY, OR QUARTERLY UTILIZING ONE OR MORE OF THE FOLLOWING18DATES ONLY: MARCH 1, JUNE 1, SEPTEMBER 1, AND DECEMBER 1.

198. THAT EACH COMPACTING STATE AND CONTRACTING STATE20PROHIBIT ANY OTHER STATE AGENCY OR POLITICAL SUBDIVISION FROM21REQUIRING SURPLUS LINES LICENSEES TO PROVIDE CLEARINGHOUSE22TRANSACTION DATA AND STATE TRANSACTION DOCUMENTATION OTHER THAN23TO THE INSURANCE DEPARTMENT OR TAX OFFICIALS OF THE HOME STATE OR24ONE SINGLE DESIGNATED AGENT THEREOF.

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

3010. A METHOD FOR THE CLEARINGHOUSE TO PERIODICALLY31REPORT TO COMPACTING STATES, CONTRACTING STATES, SURPLUS LINES32LICENSEES AND INSUREDS WHO INDEPENDENTLY PROCURE INSURANCE, ALL33PREMIUM TAXES OWED TO EACH OF THE COMPACTING STATES AND34CONTRACTING STATES, THE DATES UPON WHICH PAYMENT OF SUCH PREMIUM35TAXES ARE DUE AND A METHOD TO PAY THEM THROUGH THE CLEARINGHOUSE.

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

12. THAT A POLICY CONSIDERED TO BE SURPLUS LINES 1  $\mathbf{2}$ INSURANCE IN THE INSURED'S HOME STATE SHALL BE CONSIDERED SURPLUS LINES INSURANCE IN ALL COMPACTING STATES AND CONTRACTING STATES. 3 4 AND TAXED AS A SURPLUS LINES TRANSACTION IN ALL STATES TO WHICH A PORTION OF THE RISK IS ALLOCATED. EACH COMPACTING STATE AND  $\mathbf{5}$ CONTRACTING STATE SHALL REQUIRE EACH SURPLUS LINES LICENSEE TO PAY 6 TO EVERY OTHER COMPACTING STATE AND CONTRACTING STATE PREMIUM 7 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 12DETERMINED BY THE APPLICABLE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION. A POLICY CONSIDERED TO BE INDEPENDENTLY 13 14PROCURED INSURANCE IN THE INSURED'S HOME STATE SHALL BE CONSIDERED INDEPENDENTLY PROCURED INSURANCE IN ALL COMPACTING 15STATES AND CONTRACTING STATES. EACH COMPACTING STATE AND 16 17CONTRACTING STATE SHALL REQUIRE THE INSURED TO PAY EVERY OTHER COMPACTING STATE AND CONTRACTING STATE THE INDEPENDENTLY 18 **PROCURED INSURANCE PREMIUM TAX ON EACH MULTI-STATE RISK THROUGH** 19 20THE CLEARINGHOUSE PURSUANT TO THE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION. 2113. UNIFORM FOREIGN INSURER ELIGIBILITY REQUIREMENTS 2223AS AUTHORIZED BY THE NRRA. 2414. **A UNIFORM POLICYHOLDER NOTICE.** 25UNIFORM TREATMENT OF PURCHASING GROUP SURPLUS 15. 26LINES INSURANCE PLACEMENTS. 27**ARTICLE V** 28**POWERS OF THE COMMISSION** 29THE COMMISSION SHALL HAVE THE FOLLOWING POWERS: TO PROMULGATE RULES AND OPERATING PROCEDURES, 30 1. PURSUANT TO ARTICLE VIII OF THIS COMPACT, WHICH SHALL HAVE THE 3132FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING

33 STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

342.TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS35IN 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;

 $\overline{7}$ 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** INSURANCE OF MULTI-STATE RISKS, SINGLE-STATE RISKS FOR STATES 10 11 WHICH ELECT TO REQUIRE SURPLUS LINES LICENSEES TO PAY PREMIUM TAX **ON SINGLE STATE RISKS THROUGH THE CLEARINGHOUSE AND TAX REPORTING** 1213FORMS:

- 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;

207. TO HIRE EMPLOYEES, PROFESSIONALS OR SPECIALISTS, AND ELECT OR APPOINT OFFICERS, AND TO FIX THEIR COMPENSATION, DEFINE 2122THEIR DUTIES AND GIVE THEM APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND DETERMINE THEIR QUALIFICATIONS, 2324PURSUANT TO AN OPEN, TRANSPARENT, OBJECTIVE COMPETITIVE PROCESS AND PROCEDURE ADOPTED BY THE COMMISSION; AND TO ESTABLISH THE 2526**COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS** 27OF INTEREST, RATES OF COMPENSATION AND QUALIFICATIONS OF PERSONNEL, 28AND OTHER RELATED PERSONNEL MATTERS;

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

349.TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR35DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY36PROPERTY, REAL, PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE

1 COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR  $\mathbf{2}$ **CONFLICT OF INTEREST;** 3 10. TO SELL CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, 4 ABANDON OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL OR  $\mathbf{5}$ MIXED; 6 11. TO PROVIDE FOR TAX AUDIT RULES AND PROCEDURES FOR  $\overline{7}$ THE COMPACTING STATES WITH RESPECT TO THE ALLOCATION OF PREMIUM 8 **TAXES INCLUDING:** 9 MINIMUM AUDIT STANDARDS, INCLUDING SAMPLING A. 10 METHODS, 11 **REVIEW OF INTERNAL CONTROLS,** В. 12C. COOPERATION AND SHARING OF AUDIT 13 **RESPONSIBILITIES BETWEEN COMPACTING STATES,** 14 D. HANDLING OF REFUNDS OR CREDITS DUE TO OVERPAYMENTS OR IMPROPER ALLOCATION OF PREMIUM TAXES, 1516 TAXPAYER RECORDS TO BE REVIEWED INCLUDING A Е. 17MINIMUM RETENTION PERIOD, AUTHORITY OF COMPACTING STATES TO REVIEW, 18 F. 19 CHALLENGE, OR RE-AUDIT TAXPAYER RECORDS. 20TO ENFORCE COMPLIANCE BY COMPACTING STATES AND 12. CONTRACTING STATES WITH RULES, AND BYLAWS PURSUANT TO THE 2122AUTHORITY SET FORTH IN ARTICLE XIV; 2313. TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING 24**STATES AND CONTRACTING STATES:** TO ADVISE COMPACTING STATES AND CONTRACTING STATES 2514. 26ON TAX-RELATED ISSUES RELATING TO INSURERS, INSUREDS, SURPLUS LINES LICENSEES, AGENTS OR BROKERS DOMICILED OR DOING BUSINESS IN 2728NON-COMPACTING STATES, CONSISTENT WITH THE PURPOSES OF THIS **COMPACT:** 2930 TO MAKE AVAILABLE ADVICE AND TRAINING TO THOSE 15.

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31PERSONNEL IN STATE STAMPING OFFICES, STATE INSURANCE DEPARTMENTS32OR 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 TO ESTABLISH AN EXECUTIVE COMMITTEE OF NOT LESS **19**. 11 THAN SEVEN (7) NOR MORE THAN FIFTEEN (15) REPRESENTATIVES, WHICH SHALL INCLUDE OFFICERS ELECTED BY THE COMMISSION AND SUCH OTHER 12REPRESENTATIVES AS PROVIDED FOR HEREIN AND DETERMINED BY THE 1314BYLAWS. REPRESENTATIVES OF THE EXECUTIVE COMMITTEE SHALL SERVE A 15ONE YEAR TERM. REPRESENTATIVES OF THE EXECUTIVE COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE 16 17POWER TO ACT ON BEHALF OF THE COMMISSION, WITH THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE COMMISSION IS NOT IN SESSION. 18 THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY TO DAY ACTIVITIES OF 19 20THE ADMINISTRATION OF THE COMPACT, INCLUDING THE ACTIVITIES OF THE 21**OPERATIONS COMMITTEE CREATED UNDER THIS ARTICLE AND COMPLIANCE** 22AND ENFORCEMENT OF THE PROVISIONS OF THE COMPACT, ITS BYLAWS, AND 23RULES, AND SUCH OTHER DUTIES AS PROVIDED HEREIN AND AS DEEMED 24NECESSARY.

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.

3221. TO ENTER INTO CONTRACTS WITH CONTRACTING STATES SO33THAT CONTRACTING STATES CAN UTILIZE THE SERVICES OF AND FULLY34PARTICIPATE IN THE CLEARINGHOUSE SUBJECT TO THE TERMS AND35CONDITIONS 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.

## **ARTICLE VI**

## **ORGANIZATION OF THE COMMISSION**

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 $\mathbf{5}$ 

4

1. MEMBERSHIP, VOTING AND BYLAWS

 $\overline{7}$ EACH COMPACTING STATE SHALL HAVE AND BE A. 8 TO ONE MEMBER. EACH STATE SHALL DETERMINE LIMITED THE 9 QUALIFICATIONS AND THE METHOD BY WHICH IT SELECTS A MEMBER AND SET FORTH THE SELECTION PROCESS IN THE ENABLING PROVISION OF THE 10 11 LEGISLATION WHICH ENACTS THIS COMPACT. IN THE ABSENCE OF SUCH A PROVISION THE MEMBER SHALL BE APPOINTED BY THE GOVERNOR OF SUCH 12COMPACTING STATE. ANY MEMBER MAY BE REMOVED OR SUSPENDED FROM 1314OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH HE OR SHE 15SHALL BE APPOINTED. ANY VACANCY OCCURRING IN THE COMMISSION SHALL BE FILLED IN ACCORDANCE WITH THE LAWS OF THE COMPACTING STATE 16 17 WHEREIN THE VACANCY EXISTS.

18B.EACH MEMBER SHALL BE ENTITLED TO ONE (1) VOTE19AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE20GOVERNANCE 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:

25I.ESTABLISHING THE FISCAL YEAR OF THE26COMMISSION;

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

30III. PROVIDING REASONABLE STANDARDS AND31PROCEDURES: (I) FOR THE ESTABLISHMENT AND MEETINGS OF COMMITTEES,32AND (II) GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY33AUTHORITY OR FUNCTION OF THE COMMISSION;

1 IV. **PROVIDING REASONABLE PROCEDURES** FOR  $\mathbf{2}$ 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 TO ATTEND EACH SUCH MEETING WITH ENUMERATED EXCEPTIONS DESIGNED  $\mathbf{5}$ TO PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS, AND 6 INSURERS' AND SURPLUS LINES LICENSEES' PROPRIETARY INFORMATION, 78 INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN CAMERA ONLY 9 AFTER A MAJORITY OF THE ENTIRE MEMBERSHIP VOTES TO CLOSE A MEETING IN TOTO OR IN PART. AS SOON AS PRACTICABLE, THE COMMISSION MUST MAKE 10 PUBLIC: (I) A COPY OF THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE 11 12OF EACH MEMBER WITH NO PROXY VOTES ALLOWED, AND (II) VOTES TAKEN 13 **DURING SUCH MEETING;** 

14V. ESTABLISHING THE TITLES, DUTIES AND15AUTHORITY AND REASONABLE PROCEDURES FOR THE ELECTION OF THE16OFFICERS OF THE COMMISSION;

17VI. PROVIDING REASONABLE **STANDARDS** AND 18 PROCEDURES FOR THE ESTABLISHMENT OF THE PERSONNEL POLICIES AND 19PROGRAMS OF THE COMMISSION. NOTWITHSTANDING ANY CIVIL SERVICE OR OTHER SIMILAR LAWS OF ANY COMPACTING STATE, THE BYLAWS SHALL 2021EXCLUSIVELY GOVERN THE PERSONNEL POLICIES AND PROGRAMS OF THE 22**COMMISSION;** 

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

31D.THE COMMISSION SHALL PUBLISH ITS BYLAWS IN A32CONVENIENT FORM AND FILE A COPY THEREOF AND A COPY OF ANY33AMENDMENT THERETO, WITH THE APPROPRIATE AGENCY OR OFFICER IN EACH34OF THE COMPACTING STATES.

35 **2. EXECUTIVE COMMITTEE, PERSONNEL AND CHAIRPERSON** 

36A. AN EXECUTIVE COMMITTEE OF THE COMMISSION37("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:

11I.MANAGING THE AFFAIRS OF THE COMMISSION IN12A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE13COMMISSION;

14II. ESTABLISHING AND OVERSEEING AN15ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR16THE COMMISSION TO PROVIDE FOR THE CREATION OF RULES AND OPERATING17PROCEDURES.

- 18 III. OVERSEEING THE OFFICES OF THE COMMISSION;
  19 AND
- 20IV.PLANNING, IMPLEMENTING, AND COORDINATING21COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL22GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE
- 23 COMMISSION.

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

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

- 35
- **3. OPERATIONS COMMITTEE**

AN OPERATIONS COMMITTEE SHALL BE ESTABLISHED. 1 A.  $\mathbf{2}$ 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 ACCEPT THE DETERMINATIONS AND RECOMMENDATIONS OF THE OPERATIONS  $\mathbf{5}$ 6 COMMITTEE UNLESS GOOD CAUSE IS SHOWN WHY SUCH DETERMINATIONS AND 7RECOMMENDATIONS 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.

11THE OPERATIONS COMMITTEE SHALL HAVE NO MORE THAN12FIFTEEN (15) REPRESENTATIVES OR ONE FOR EACH STATE IF THERE ARE LESS13THAN FIFTEEN (15) COMPACTING STATES, WHO SHALL SERVE FOR A TERM AND14SHALL BE ESTABLISHED AS SET FORTH IN THE BYLAWS.

15THE OPERATIONS COMMITTEE SHALL HAVE RESPONSIBILITY16FOR:

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

24II.MAKING RECOMMENDATIONS TO THE EXECUTIVE25COMMITTEE BASED ON ITS ANALYSIS AND DETERMINATION OF THE26CLEARINGHOUSE TECHNOLOGY REQUIREMENTS AND COMPATIBILITY WITH27EXISTING STATE AND STATE STAMPING OFFICE SYSTEMS,

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

iv. Such other duties and responsibilities as
 Are delegated to it by the Bylaws, the Executive Committee or the
 Commission.

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

11

### 4. LEGISLATIVE AND ADVISORY COMMITTEES

12A LEGISLATIVE COMMITTEE COMPRISED OF STATE A. 13LEGISLATORS OR THEIR DESIGNEES SHALL BE ESTABLISHED TO MONITOR THE 14OPERATIONS OF AND MAKE RECOMMENDATIONS TO, THE COMMISSION, INCLUDING THE EXECUTIVE COMMITTEE; PROVIDED THAT THE MANNER OF 1516SELECTION AND TERM OF ANY LEGISLATIVE COMMITTEE MEMBER SHALL BE AS SET FORTH IN THE BYLAWS. PRIOR TO THE ADOPTION BY THE COMMISSION OF 17ANY UNIFORM STANDARD, REVISION TO THE BYLAWS, ANNUAL BUDGET OR 18 19OTHER SIGNIFICANT MATTER AS MAY BE PROVIDED IN THE BYLAWS, THE EXECUTIVE COMMITTEE SHALL CONSULT WITH AND REPORT TO THE 2021LEGISLATIVE 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

29THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, A. EMPLOYEES AND REPRESENTATIVES OF THE COMMISSION, THE EXECUTIVE 30 COMMITTEE AND ANY OTHER COMMITTEE OF THE COMMISSION SHALL BE 3132IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR 33 OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY 34OR 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

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

THE COMMISSION SHALL DEFEND ANY MEMBER,  $\mathbf{5}$ В. 6 OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE 7COMMISSION, 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 COMMISSION WITHIN THE SCOPE OF EMPLOYMENT, DUTIES OR 11 RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE 12HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT 1314NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM 15RETAINING HIS OR HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT ERROR OR OMISSION DID NOT RESULT FROM THAT 16 17PERSON'S INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT.

18THE COMMISSION SHALL INDEMNIFY AND HOLD C. 19HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR 20REPRESENTATIVE OF THE COMMISSION, EXECUTIVE COMMITTEE OR ANY 21OTHER COMMITTEE OF THE COMMISSION FOR THE AMOUNT OF ANY 22SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF 23ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES, OR 2425THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED 26WITHIN SCOPE OF COMMISSION EMPLOYMENT, THE DUTIES OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR OR 2728OMISSION 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

321.THE COMMISSION SHALL MEET AND TAKE SUCH ACTIONS AS33ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS.

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

	24HOUSE BILL 911
$\frac{1}{2}$	THE BYLAWS. THE BYLAWS MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.
$egin{array}{c} 3 \\ 4 \\ 5 \end{array}$	3. THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.
6 7 8	4. PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR OTHERWISE PROVIDED IN THE COMPACT.
9 10 11 12	5. THE COMMISSION SHALL PROMULGATE RULES CONCERNING ITS MEETINGS CONSISTENT WITH THE PRINCIPLES CONTAINED IN THE "GOVERNMENT IN THE SUNSHINE ACT," 5 U.S.C., SECTION 552B, AS MAY BE AMENDED.
$\begin{array}{c} 13\\14\\15\end{array}$	6. THE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY MAJORITY VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:
$\frac{16}{17}$	A. RELATE SOLELY TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;
$\frac{18}{19}$	B. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;
$\begin{array}{c} 20\\ 21 \end{array}$	C. DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;
$\begin{array}{c} 22\\ 23 \end{array}$	D. INVOLVE ACCUSING A PERSON OF A CRIME, OR FORMALLY CENSURING A PERSON;
24 25 26	E. DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;
$\begin{array}{c} 27\\ 28\end{array}$	F. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;
29 30 31	G. SPECIFICALLY RELATE TO THE COMMISSION'S ISSUANCE OF A SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

1 7. FOR A MEETING, OR PORTION OF A MEETING, CLOSED  $\mathbf{2}$ PURSUANT TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR 3 DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL **REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE COMMISSION SHALL** 4 KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS  $\mathbf{5}$ DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE 6 7SUMMARY 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 BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED 10 MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY 11 12VOTE OF THE COMMISSION.

ARTICLE VIII

13

- RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE
   COMMISSION
- 16 **RULEMAKING FUNCTIONS OF THE COMMISSION:**

171. RULEMAKING AUTHORITY.—THE COMMISSION SHALL 18 PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING 19 20THE FOREGOING, IN THE EVENT THE COMMISSION EXERCISES ITS RULEMAKING 21AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF 22THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY 23THE 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.

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

4. NOT LATER THAN THIRTY (30) DAYS AFTER A RULE IS PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE; PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE 1 COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE

2 **R**ULE TO BE UNLAWFUL IF THE **R**ULE REPRESENTS A REASONABLE EXERCISE 3 OF THE COMMISSION'S AUTHORITY.

## ARTICLE IX

# $\mathbf{5}$

4

### COMMISSION RECORDS AND ENFORCEMENT

6 THE COMMISSION 1. **RULES** SHALL PROMULGATE 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 TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA 11 12COLLECTED BY THE CLEARINGHOUSE SHALL BE USED FOR ONLY THOSE 13PURPOSES EXPRESSED IN OR REASONABLY IMPLIED UNDER THE PROVISIONS 14OF THIS COMPACT AND THE COMMISSION SHALL AFFORD THIS DATA THE 15BROADEST PROTECTIONS AS PERMITTED BY ANY APPLICABLE LAW FOR PROPRIETARY INFORMATION, TRADE SECRETS OR PERSONAL DATA. THE 16COMMISSION MAY PROMULGATE ADDITIONAL RULES UNDER WHICH IT MAY 17MAKE AVAILABLE TO FEDERAL AND STATE AGENCIES, INCLUDING LAW 18 ENFORCEMENT AGENCIES, RECORDS AND INFORMATION OTHERWISE EXEMPT 1920FROM DISCLOSURE, AND MAY ENTER INTO AGREEMENTS WITH SUCH AGENCIES 21TO RECEIVE OR EXCHANGE INFORMATION OR RECORDS SUBJECT TO 22NONDISCLOSURE AND CONFIDENTIALITY PROVISIONS.

232. EXCEPT  $\mathbf{AS}$ TO PRIVILEGED RECORDS, DATA AND 24INFORMATION, THE LAWS OF ANY COMPACTING STATE PERTAINING TO CONFIDENTIALITY OR NONDISCLOSURE SHALL NOT RELIEVE ANY COMPACTING 25STATE MEMBER OF THE DUTY TO DISCLOSE ANY RELEVANT RECORDS, DATA OR 2627INFORMATION TO THE COMMISSION; PROVIDED THAT DISCLOSURE TO THE 28COMMISSION SHALL NOT BE DEEMED TO WAIVE OR OTHERWISE AFFECT ANY 29CONFIDENTIALITY REQUIREMENT, AND FURTHER PROVIDED THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ACT, THE COMMISSION SHALL NOT 30 SUBJECT TO THE COMPACTING STATE'S LAWS PERTAINING 31BE TO 32CONFIDENTIALITY AND NONDISCLOSURE WITH RESPECT TO RECORDS, DATA 33 AND INFORMATION IN ITS POSSESSION. CONFIDENTIAL INFORMATION OF THE 34COMMISSION SHALL REMAIN CONFIDENTIAL AFTER SUCH INFORMATION IS 35PROVIDED TO ANY MEMBER, AND THE COMMISSION SHALL MAINTAIN THE 36 CONFIDENTIALITY OF ANY INFORMATION PROVIDED BY A MEMBER THAT IS CONFIDENTIAL UNDER THAT MEMBER'S STATE LAW. 37

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  $\mathbf{2}$ WRITING OF ITS NONCOMPLIANCE WITH COMMISSION BYLAWS OR RULES. IF A 3 NON-COMPLYING COMPACTING STATE FAILS TO REMEDY ITS NONCOMPLIANCE WITHIN THE TIME SPECIFIED IN THE NOTICE OF NONCOMPLIANCE, THE 4  $\mathbf{5}$ COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS SET FORTH IN 6 ARTICLE XIV. 7 **ARTICLEX** 8 **DISPUTE RESOLUTION** 9 BEFORE A MEMBER MAY BRING AN ACTION IN A COURT OF 1. 10 COMPETENT JURISDICTION FOR VIOLATION OF ANY PROVISION, STANDARD OR REQUIREMENT OF THE COMPACT, THE COMMISSION SHALL ATTEMPT, UPON 11 THE REQUEST OF A MEMBER, TO RESOLVE ANY DISPUTES OR OTHER ISSUES 12THAT ARE SUBJECT TO THIS COMPACT AND WHICH MAY ARISE BETWEEN TWO 13 OR MORE COMPACTING STATES, CONTRACTING STATES OR NON-COMPACTING 1415STATES, AND THE COMMISSION SHALL PROMULGATE A RULE PROVIDING ALTERNATIVE DISPUTE RESOLUTION PROCEDURES FOR SUCH DISPUTES. 16 172. THE COMMISSION SHALL ALSO PROVIDE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES TO RESOLVE ANY DISPUTES BETWEEN 18 **INSUREDS OR SURPLUS LINES LICENSEES CONCERNING A TAX CALCULATION** 19 20OR ALLOCATION OR RELATED ISSUES WHICH ARE THE SUBJECT OF THIS 21COMPACT. 223. ANY ALTERNATIVE DISPUTE RESOLUTION PROCEDURES 23SHALL BE UTILIZED IN CIRCUMSTANCES WHERE A DISPUTE ARISES AS TO WHICH STATE CONSTITUTES THE HOME STATE. 2425**ARTICLE XI REVIEW OF COMMISSION DECISIONS** 2627**REGARDING COMMISSION DECISIONS:** 281. EXCEPT AS NECESSARY FOR PROMULGATING RULES TO FULFILL THE PURPOSES OF THIS COMPACT, THE COMMISSION SHALL NOT HAVE 29AUTHORITY TO OTHERWISE REGULATE INSURANCE IN THE COMPACTING 30 31 STATES. 322. NOT LATER THAN THIRTY (30) DAYS AFTER THE COMMISSION 33 HAS GIVEN NOTICE OF ANY RULE OR ALLOCATION FORMULA, ANY THIRD PARTY 34FILER 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

15

## **ARTICLE XII**

### 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.

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

30 4. THE COMMISSION SHALL BE REGARDED AS PERFORMING 31ESSENTIAL GOVERNMENTAL FUNCTIONS IN EXERCISING SUCH POWERS AND 32FUNCTIONS 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 34OR 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.

5. THE COMMISSION SHALL KEEP COMPLETE AND ACCURATE 1  $\mathbf{2}$ ACCOUNTS OF ALL ITS INTERNAL RECEIPTS, INCLUDING GRANTS AND 3 DONATIONS, AND DISBURSEMENTS FOR ALL FUNDS UNDER ITS CONTROL. THE INTERNAL FINANCIAL ACCOUNTS OF THE COMMISSION SHALL BE SUBJECT TO 4 THE ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. THE  $\mathbf{5}$ 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. 12THE COMMISSION SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE OF THE COMPACTING STATES, WHICH SHALL INCLUDE A REPORT 13 14OF THE INDEPENDENT AUDIT. THE COMMISSION'S INTERNAL ACCOUNTS SHALL 15NOT BE CONFIDENTIAL AND SUCH MATERIALS MAY BE SHARED WITH THE COMMISSIONER, THE CONTROLLER, OR THE STAMPING OFFICE OF ANY 16 17COMPACTING STATE UPON REQUEST PROVIDED, HOWEVER, THAT ANY WORK 18 PAPERS RELATED TO ANY INTERNAL OR INDEPENDENT AUDIT AND ANY INFORMATION REGARDING THE PRIVACY OF INDIVIDUALS, AND LICENSEES' AND 1920**INSURERS' PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS, SHALL** 21**REMAIN CONFIDENTIAL.** 

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

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

31

## **ARTICLE XIII**

**COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT** 

32

33

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

342. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING35UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY TWO (2)36COMPACTING STATES, PROVIDED THE COMMISSION SHALL BECOME EFFECTIVE37FOR PURPOSES OF ADOPTING RULES, AND CREATING THE CLEARINGHOUSE

1 WHEN THERE ARE A TOTAL OF TEN (10) COMPACTING STATES AND  $\mathbf{2}$ CONTRACTING STATES OR, ALTERNATIVELY, WHEN THERE ARE COMPACTING 3 STATES AND CONTRACTING STATES REPRESENTING GREATER THAN FORTY PERCENT (40%) OF THE SURPLUS LINES INSURANCE PREMIUM VOLUME BASED 4  $\mathbf{5}$ ON RECORDS OF THE PERCENTAGE OF SURPLUS LINES INSURANCE PREMIUM SET FORTH IN APPENDIX A HERETO. THEREAFTER, IT SHALL BECOME 6 EFFECTIVE AND BINDING AS TO ANY OTHER COMPACTING STATE UPON 78 ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. NOTWITHSTANDING 9 THE FOREGOING, THE CLEARINGHOUSE OPERATIONS AND THE DUTY TO **REPORT CLEARINGHOUSE TRANSACTION DATA SHALL BEGIN ON THE FIRST** 10 JANUARY 1ST OR JULY 1ST FOLLOWING THE FIRST ANNIVERSARY OF THE 11 12COMMISSION EFFECTIVE DATE. FOR STATES WHICH JOIN THE COMPACT 13SUBSEQUENT TO THE EFFECTIVE DATE, A START DATE FOR REPORTING CLEARINGHOUSE TRANSACTION DATA SHALL BE SET BY THE COMMISSION 14**PROVIDED SURPLUS LINES LICENSEES AND ALL OTHER INTERESTED PARTIES** 15**RECEIVE NOT LESS THAN 90 DAYS ADVANCE NOTICE.** 16

173. Amendments to the Compact may be proposed by the18Commission for enactment by the Compacting States. No amendment19Shall become effective and binding upon the Commission and the20Compacting States unless and until all Compacting States enact21THE AMENDMENT INTO LAW.

22

### **ARTICLE XIV**

- 23
- WITHDRAWAL, DEFAULT AND TERMINATION
- **1. WITHDRAWAL**

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

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

C. THE MEMBER OF THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE EXECUTIVE COMMITTEE OF THE COMMISSION IN 1 WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS 2 COMPACT IN THE WITHDRAWING STATE.

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

6 Е. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL  $\overline{7}$ **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, THE COMMISSION'S DETERMINATIONS PRIOR TO THE EFFECTIVE DATE OF 1213WITHDRAWAL SHALL CONTINUE TO BE EFFECTIVE AND BE GIVEN FULL FORCE AND EFFECT IN THE WITHDRAWING STATE, UNLESS FORMALLY RESCINDED BY 14THE COMMISSION. 15

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

20A. IF THE COMMISSION **DETERMINES** THAT ANY 21COMPACTING STATE HAS AT ANY TIME DEFAULTED ("DEFAULTING STATE") IN 22THE PERFORMANCE OF ANY OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, THE BYLAWS OR DULY PROMULGATED RULES THEN AFTER 2324NOTICE AND HEARING AS SET FORTH IN THE BYLAWS, ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT ON THE DEFAULTING STATE 2526SHALL BE SUSPENDED FROM THE EFFECTIVE DATE OF DEFAULT AS FIXED BY 27THE COMMISSION. THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT 28LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM ITS OBLIGATIONS 29OR RESPONSIBILITIES, AND ANY OTHER GROUNDS DESIGNATED IN COMMISSION 30 RULES. THE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE DEFAULTING STATE'S SUSPENSION PENDING A CURE 31 32OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS 33 34DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN 35 THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT AND ALL RIGHTS, PRIVILEGES 36 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  $\mathbf{2}$ THE EFFECTIVE DATE OF TERMINATION SHALL REMAIN IN FORCE IN THE 3 DEFAULTING STATE IN THE SAME MANNER AS IF THE DEFAULTING STATE HAD WITHDRAWN VOLUNTARILY PURSUANT TO SECTION 1 OF THIS ARTICLE. 4 **REINSTATEMENT FOLLOWING TERMINATION OF ANY**  $\mathbf{5}$ C. 6 **COMPACTING STATE REQUIRES A REENACTMENT OF THE COMPACT.** 7 3. **DISSOLUTION OF COMPACT** 8 THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE A. 9 OF THE WITHDRAWAL OR DEFAULT OF THE COMPACTING STATE WHICH 10 **REDUCES MEMBERSHIP IN THE COMPACT TO ONE COMPACTING STATE.** UPON THE DISSOLUTION OF THIS COMPACT, THE 11 B. 12COMPACT BECOMES NULL AND VOID AND SHALL HAVE NO FURTHER FORCE OR 13EFFECT, AND THE BUSINESS AND AFFAIRS OF THE COMMISSION SHALL BE 14WOUND UP AND ANY SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE 15WITH THE RULES AND BYLAWS. **ARTICLE XV** 16 17 SEVERABILITY AND CONSTRUCTION 181. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION IS DEEMED 19UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE 20ENFORCEABLE. 21222. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY 23CONSTRUED TO EFFECTUATE ITS PURPOSES. 243. THROUGHOUT THIS COMPACT THE USE OF THE SINGULAR SHALL INCLUDE THE PLURAL AND VICE-VERSA. 25264. THE HEADINGS AND CAPTIONS OF ARTICLES, SECTIONS AND 27SUB-SECTIONS USED IN THIS COMPACT ARE FOR CONVENIENCE ONLY AND 28SHALL BE IGNORED IN CONSTRUING THE SUBSTANTIVE PROVISIONS OF THIS 29COMPACT. **ARTICLE XVI** 30 31 **BINDING EFFECT OF COMPACT AND OTHER LAWS** 

1	1. OTHER LAWS			
$2 \\ 3 \\ 4$	A. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A COMPACTING STATE EXCEPT AS PROVIDED IN PARAGRAPH B. OF THIS SECTION.			
$5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10$	B. DECISIONS OF THE COMMISSION, AND ANY RULES, AND ANY OTHER REQUIREMENTS OF THE COMMISSION SHALL CONSTITUTE THE EXCLUSIVE RULE, OR DETERMINATION APPLICABLE TO THE COMPACTING STATES. ANY LAW OR REGULATION REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE RISKS THAT IS CONTRARY TO RULES OF THE COMMISSION IS PREEMPTED WITH RESPECT TO THE FOLLOWING:			
11 12	(I) CLEARINGHOUSE TRANSACTION DATA REPORTING REQUIREMENTS;			
13	(II) ALLOCATION FORMULA;			
14 15	(III) CLEARINGHOUSE TRANSACTION DATA COLLECTION REQUIREMENTS;			
16 17 18 19	(IV) PREMIUM TAX PAYMENT TIME FRAMES AND RULES CONCERNING DISSEMINATION OF DATA AMONG THE COMPACTING STATES FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AND SINGLE-STATE RISKS;			
$\begin{array}{c} 20\\ 21 \end{array}$	(V) EXCLUSIVE COMPLIANCE WITH SURPLUS LINES LAW OF THE HOME STATE OF THE INSURED;			
22 23 24	(VI) RULES FOR REPORTING TO A CLEARINGHOUSE FOR RECEIPT AND DISTRIBUTION OF CLEARINGHOUSE TRANSACTION DATA RELATED TO NON- ADMITTED INSURANCE OF MULTI-STATE RISKS;			
$\frac{25}{26}$	(VII) UNIFORM FOREIGN INSURERS ELIGIBILITY REQUIREMENTS;			
27	(VIII) UNIFORM POLICYHOLDER NOTICE; AND			
28 29	(IX) UNIFORM TREATMENT OF PURCHASING GROUPS PROCURING NON- ADMITTED INSURANCE.			
30 31	C. EXCEPT AS STATED IN PARAGRAPH B, ANY RULE, 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,  $\mathbf{2}$ 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)  $\mathbf{5}$ REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT, 6 TORT, OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO COMPLIANCE OR TAX 7DETERMINATIONS; (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

12A. ALL LAWFUL ACTIONS OF THE COMMISSION,13INCLUDING ALL RULES PROMULGATED BY THE COMMISSION, ARE BINDING14UPON THE COMPACTING STATES, EXCEPT AS PROVIDED HEREIN.

15B. ALL AGREEMENTS BETWEEN THE COMMISSION AND16THE 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.

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

32 SURPLUS LINE INSURANCE PREMIUMS BY STATE APPENDIX A

RE OF TOTAL
REMIUMS
1.47%
0.29%

1		663,703,267	9 1 9 0/
$\frac{1}{2}$	ARIZONA Arkansas	201,859,750	2.18% 0.66%
$\frac{2}{3}$	CALIFORNIA	5,622,450,467	18.49%
$\frac{5}{4}$	COLORADO	543,781,333	1.79%
5	CONNECTICUT	329,358,800	1.08%
6 6	DELAWARE	92,835,950	0.31%
7	FLORIDA	2,660,908,760	8.75%
8	GEORGIA	2,000,508,700 895,643,150	<b>2.95</b> %
9	HAWAII	232,951,489	0.77%
10	Ідано	74,202,255	0.24%
11	ILLINOIS	1,016,504,629	
12	INDIANA	412,265,320	1.36%
13	IOWA	135,130,933	0.44%
10	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	2.35% 2.31%
$\frac{2}{21}$	MINNESOTA	393,128,400	1.29%
22	MISSISSIPPI	263,313,175	0.87%
23	MISSISSITT	404,489,860	1.33%
<b>-</b> 3 24	MONTANA	64,692,873	0.21%
25	NEBRASKA	92,141,167	0.30%
26 26	NEVADA	354,271,514	1.17%
$\frac{1}{27}$	NEW HAMPSHIRE	102,946,250	0.34%
<u>-</u> . 28	NEW JERSEY	1,087,994,033	3.58%
<b>-</b> 0 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	Оню	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%
* *		011,000,007	2.01/0

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%

TOTAL30,400,197,251100.00%

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

8 **31–102.** 

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# 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.

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

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.