SENATE BILL 694

C4 (1lr1381)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Kelley and Middleton**

Read and Examined by Proofreaders:

_____

Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

President.

CHAPTER _____

AN ACT concerning

Insurance – Surplus Lines ~~Insurance Multi-State Compliance Compact~~

~~FOR the purpose of entering the State of Maryland in the Surplus Lines Insurance Multi-State Compliance Compact; specifying the purposes of the Compact; providing for the creation of the Surplus Lines Insurance Multi-State Compliance Compact Commission as a body corporate and politic and an instrumentality of the compacting states; authorizing the Commission to adopt certain mandatory rules; providing that the Commission is solely responsible for its liabilities with certain exceptions; providing for venue for judicial proceedings; specifying the powers of the Commission; specifying the membership, voting, bylaws, executive committee, personnel, and chairperson of the Commission; providing for an operations committee and legislative and advisory committees of the Commission; requiring the Commission to maintain certain records; establishing qualified immunity, defense, and indemnification provisions relating to the Commission; requiring the Commission to meet and~~

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.

[Brackets**]** indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.

~~take certain actions; establishing the rulemaking authority and procedures of the Commission; requiring the Commission to promulgate certain rules relating to the Commission's records; requiring the Commission to monitor Compacting States for compliance with certain rules and bylaws; requiring the Commission to resolve certain disputes in a certain manner; establishing provisions regarding review of Commission decisions; requiring the Commission to pay certain expenses and certain fees; requiring the Commission to keep certain financial records; providing that the Commission is not subject to certain taxes; providing that any state is eligible to become a compacting state; specifying when the Compact and the Commission are effective; providing for the withdrawal of a compacting state from the Compact and reinstatement of a withdrawing state; requiring the Commission to take certain actions in the event of certain defaults by a compacting state; providing for the dissolution of the Compact under certain circumstances; providing for the severability and construction of the Compact; specifying the effect of the Compact on other laws of a compacting state; establishing the binding effect of this Compact on 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.~~

FOR the purpose of requiring the Maryland Insurance Commissioner to participate in a certain database; altering the authority of the Commissioner to allow a commercial insured to waive certain search requirements for surplus lines coverage for certain purposes; authorizing a surplus lines broker not to perform a diligent search when placing certain coverage with an exempt commercial purchaser under certain circumstances; providing that certain persons are not required to obtain a certificate of qualification to act as a surplus lines broker in the State under certain circumstances; prohibiting the Commissioner from approving an insurer as a surplus lines insurer unless the insurer meets certain requirements or the Commissioner makes a certain finding; altering the process for an insurer to be approved by the Commissioner as a surplus lines insurer; altering certain prohibitions against a surplus lines broker placing surplus lines insurance with an unauthorized insurer; altering the calculation of the premium receipts tax on certain surplus lines insurance premiums that cover certain property, risks, and exposures that are located or to be performed entirely in the State or both in and outside the State; providing that, for policies effective on or after a certain date, only the home state of an insured may receive certain tax payments and reports for certain nonadmitted insurance; requiring the Commissioner to cooperate with other states to adopt and implement uniform requirements for nonadmitted insurance in compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010; providing that, for policies effective on or after a certain date, the regulation and placement of certain nonadmitted insurance is subject to the statutory and regulatory requirements solely of certain home states; altering certain requirements for certain surplus lines brokers and insureds to file certain statements and reports and pay certain taxes at certain times; requiring the Commissioner, by

regulation, to determine the content and filing deadlines for the reports; making conforming and clarifying changes; defining certain terms; requiring the Commissioner to conduct a certain study and report the findings of the study to certain committees of the General Assembly on or before a certain date; requiring qualified surplus lines brokers to provide certain information to the Commissioner under certain circumstances; and generally relating to the Maryland Insurance Commissioner and surplus lines.

~~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)~~

BY repealing and reenacting, with amendments,
Article – Insurance
Section 3–301, 3–304, 3–306, 3–306.1, 3–310, 3–318, 3–319, 3–324, 3–325, 4–209, 4–210, and 4–211
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY adding to
Article – Insurance
Section 4–211.1
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

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

Article – Insurance

3–301.

(A) In this subtitle**[**, "qualified**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(B) "ACT" MEANS THE FEDERAL NONADMITTED AND REINSURANCE REFORM ACT OF 2010.

(C) "ADMITTED INSURER" MEANS AN INSURER THAT IS AUTHORIZED TO ENGAGE IN THE BUSINESS OF INSURANCE IN THE STATE.

(D) "EXEMPT COMMERCIAL PURCHASER" HAS THE MEANING STATED IN § 527 OF THE ACT.

(E) "HOME STATE" HAS THE MEANING STATED IN § 527 OF THE ACT.

(F) "NONADMITTED INSURANCE" MEANS PROPERTY AND CASUALTY INSURANCE THAT MAY BE PLACED DIRECTLY OR THROUGH A SURPLUS LINES BROKER WITH A NONADMITTED INSURER THAT IS ELIGIBLE TO ACCEPT THE INSURANCE.

(G) (1) "NONADMITTED INSURER" MEANS AN INSURER THAT IS NOT AUTHORIZED TO ENGAGE IN THE BUSINESS OF INSURANCE IN THE STATE.

(2) "NONADMITTED INSURER" DOES NOT INCLUDE A RISK RETENTION GROUP.

(H) "QUALIFIED surplus lines broker" means a person that has obtained a certificate of qualification from the Commissioner to act as a surplus lines broker under this subtitle.

3–304.

The Commissioner may adopt reasonable regulations consistent with this subtitle to:

(1) carry out this subtitle;

(2) establish procedures for determining the eligibility of particular proposed coverages for placement with surplus lines insurers and maintain a list of the identified coverages;

(3) **[**permit a**] ALLOW AN EXEMPT** commercial **[**insured, as defined by the Commissioner,**] PURCHASER** to waive the diligent search requirement under § 3–306 of this subtitle for the procurement of a surplus lines insurance policy**[**:

(i) with an annual premium of not less than $5,000; and

(ii) issued by an insurer with a financial rating of "A" or better by the A.M. Best Company or an equivalent rating from an independent rating organization approved by the Commissioner**]**;

(4) provide for the content and use of the written disclosure required under § 3–308 of this subtitle; and

(5) provide for the periodic review, no less than annually, of information from surplus lines brokers, agents, and insurers and from other sources concerning the availability and affordability of insurance from authorized insurers in the State.

3–306.

(a) Surplus lines insurance may be procured from an unauthorized insurer if:

(1) for surplus lines insurance procured through a broker, the surplus lines insurance is procured through a qualified surplus lines broker;

(2) subject to the provisions of § 3–306.1 of this subtitle, a diligent search is made among the authorized insurers that are writing the particular kind and class of insurance in the State;

(3) except for insurance against liability of persons described in § 24–206(1) of this article, the amount of surplus lines insurance procured from an unauthorized insurer is only the excess over the amount that can be procured from authorized insurers;

(4) for insurance against liability of persons described in § 24–206(1) of this article, the insurance cannot be obtained from three or more authorized insurers that are writing on a broad basis that particular kind and class of insurance;

(5) except as provided in subsection (b) of this section, the surplus lines insurance is not procured:

(i) solely to obtain a lower premium rate than would be accepted by an authorized insurer;

(ii) solely to obtain more favorable terms of the insurance contract; or

(iii) to replace coverage on residential property which is insured by an authorized insurer and for which a renewal offer has been made on substantially the same terms and conditions as the current coverage; and

(6) there is compliance with other applicable provisions of this subtitle.

(b) This subtitle does not prohibit a lower premium rate or more favorable terms in the insurance contract of an unauthorized insurer if:

(1) the risk is eligible as surplus lines under subsection (a)(2), (3), and (4) of this section; or

(2) the applicant qualifies as **[**a**]** **AN EXEMPT** commercial **[**insured**]** **PURCHASER** who may waive**[**, as authorized by the Commissioner,**]** the diligent search that is otherwise required under this section.

(c) (1) This section does not prohibit a surplus lines broker from renewing a risk with a surplus lines insurer if the risk was initially written on a surplus lines basis when there were fewer than three authorized insurers actually writing on a broad basis the particular kind and class of insurance to provide coverage against liability of persons described in § 24–206(1) of this article in the State.

(2) However, even if on the date of renewal three or more authorized insurers are writing on a broad basis the particular kind and class of insurance required by the insured, a risk initially eligible for surplus lines insurance may be renewed on a surplus lines basis if the surplus lines insurer, licensed insurance producer, or surplus lines broker gives to the insured appropriate notice of the possible availability of comparable types of insurance being written by three or more authorized insurers:

(i) each year; and

(ii) sufficiently in advance of the renewal date to allow the insured to determine whether to renew the policy with the surplus lines insurer.

(D) THE COMMISSIONER SHALL PARTICIPATE IN THE NATIONAL INSURANCE PRODUCER DATABASE MAINTAINED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES.

3–306.1.

(a) (1) A diligent search required by § 3–306 of this subtitle shall be deemed completed if:

(i) the insured or the surplus lines broker or insurance producer obtains declinations of a risk from three authorized insurers that are writing the particular kind and class of insurance in this State; and

(ii) the declinations are included in the affidavit required under § 3–307 of this subtitle.

(2) In addition to the requirement of paragraph (1)(i) of this subsection, an insurance producer shall obtain a declination from each insurer for which the insurance producer has been appointed that the insurance producer knows, or should know, is actually writing on a broad basis the particular kind and class of insurance sought.

(b) A diligent search may not be required:

(1) for any coverage on a list of eligible surplus lines coverages compiled by the Commissioner; or

(2) if the diligent search is waived by [a] **AN EXEMPT** commercial [insured] **PURCHASER** in accordance with the [process determined by the Commissioner] **ACT**.

(c) Notwithstanding the renewal provisions of § 3–306(c) of this subtitle, a diligent search shall be required for each renewal of a personal lines insurance policy written through a surplus lines insurer.

(D) NOTWITHSTANDING SUBSECTION (B)(2) OF THIS SECTION, A SURPLUS LINES BROKER IS NOT REQUIRED TO PERFORM A DILIGENT SEARCH TO DETERMINE WHETHER THE FULL AMOUNT OR TYPE OF INSURANCE CAN BE OBTAINED FROM ADMITTED INSURERS WHEN THE SURPLUS LINES BROKER IS SEEKING TO PROCURE OR PLACE NONADMITTED INSURANCE FOR AN EXEMPT COMMERCIAL PURCHASER IF:

(1) THE SURPLUS LINES BROKER HAS DISCLOSED TO THE EXEMPT COMMERCIAL PURCHASER THAT THE INSURANCE MAY OR MAY NOT BE AVAILABLE FROM ADMITTED INSURERS THAT MAY BE SUBJECT TO GREATER PROTECTION AND REGULATORY OVERSIGHT; AND

(2) THE EXEMPT COMMERCIAL PURCHASER SUBSEQUENTLY HAS REQUESTED THE SURPLUS LINES BROKER IN WRITING TO PROCURE NONADMITTED INSURANCE FROM OR PLACE THE NONADMITTED INSURANCE WITH A NONADMITTED INSURER.

3–310.

(A) [A] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** person must obtain a certificate of qualification to act as a surplus lines broker before the person acts as a surplus lines broker in the State.

(B) A PERSON IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF QUALIFICATION TO ACT AS A SURPLUS LINES BROKER IN THE STATE IF:

(1) THE STATE IS NOT THE HOME STATE OF THE INSURED; AND

(2) THE SURPLUS LINES BROKER HAS OBTAINED A LICENSE OR OTHER AUTHORIZATION FROM THE HOME STATE OF THE INSURED.

3–318.

(A) THE COMMISSIONER MAY NOT APPROVE AN INSURER AS A SURPLUS LINES INSURER UNLESS THE INSURER:

(1) IS AUTHORIZED IN ITS DOMICILIARY JURISDICTION TO WRITE THE TYPE OF INSURANCE IT SEEKS TO WRITE;

(2) HAS CAPITAL AND SURPLUS, OR THEIR EQUIVALENT UNDER THE LAWS OF ITS DOMICILIARY JURISDICTION, EQUAL TO THE GREATER OF:

(I) THE MINIMUM CAPITAL AND SURPLUS REQUIRED UNDER THE LAWS OF ITS DOMICILIARY JURISDICTION; AND

(II) $15,000,000; AND

(3) FILES WITH THE COMMISSIONER THE INFORMATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(B) (1) FOR A FOREIGN INSURER, THE REQUIREMENTS OF SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE INSURER'S POSSESSING LESS THAN THE MINIMUM CAPITAL AND SURPLUS IF THE COMMISSIONER MAKES AN AFFIRMATIVE FINDING OF ACCEPTABILITY.

(2) THE FINDING SHALL BE BASED ON THE FOLLOWING OR SIMILAR FACTORS:

(I) QUALITY OF MANAGEMENT;

(II) CAPITAL AND SURPLUS OF ANY PARENT COMPANY;

(III) COMPANY UNDERWRITING PROFIT AND INVESTMENT INCOME TRENDS;

(IV) MARKET AVAILABILITY; AND

(V) COMPANY RECORD AND REPUTATION OF THE FOREIGN INSURER IN THE INDUSTRY.

(3) THE COMMISSIONER MAY NOT MAKE AN AFFIRMATIVE FINDING OF ACCEPTABILITY IF THE FOREIGN INSURER'S CAPITAL AND SURPLUS IS LESS THAN $4,500,000.

[(a)**] (C)** An insurer **[**may not be approved as a surplus lines insurer until the insurer files**] THAT SEEKS APPROVAL UNDER SUBSECTION (A) OF THIS SECTION SHALL FILE** each year with the Commissioner:

(1) a written request for approval as a surplus lines insurer [for those surplus lines authorized by the Commissioner] **TO WRITE THE TYPE OF INSURANCE IT SEEKS TO WRITE**;

(2) a certified copy of its annual statement, on convention form, that shows the amount by line of surplus lines business written on risks located in the State during the period covered by the annual statement; **AND**

(3) a certificate of compliance issued by the insurance department of the insurer's state of domicile[; and

(4) a certificate evidencing a deposit issued by the official custodian of deposits of the insurer's state of domicile].

[(b)] **(D)** An unauthorized insurer shall appoint in writing the Commissioner as agent for the acceptance of service of process.

3–319.

(a) A surplus lines broker may not place surplus lines insurance with an unauthorized insurer that:

(1) has not been approved by the Commissioner as a surplus lines insurer **IN ACCORDANCE WITH § 3–318 OF THIS SUBTITLE**;

(2) **FOR AN INSURER NOT DOMICILED IN THE STATE, HAS NOT QUALIFIED UNDER § 3–303 OF THIS SUBTITLE;**

(3) has been determined by the Commissioner to be insolvent or unsafe financially under subsection (b) of this section; or

[(3)] **(4)** has been determined by the Commissioner to have refused to pay just claims.

(b) (1) The Commissioner shall direct that surplus lines insurance may not be placed with a surplus lines insurer that has been approved by the Commissioner if the Commissioner determines that the surplus lines insurer:

(i) is not in a safe or solvent financial condition; or

(ii) has refused to pay just claims.

(2) After written notice of a determination made by the Commissioner under paragraph (1) of this subsection is mailed by the Commissioner to qualified surplus lines brokers, surplus lines insurance may not be placed with the surplus lines insurer.

(c) Notwithstanding any other provision of this subtitle, a surplus lines broker may not place surplus lines insurance with an insurer if the broker knows, or reasonably should know, that the insurer is in an unsafe or insolvent financial condition.

(d) A qualified surplus lines broker may not place a risk in an unauthorized insurer that has not previously appointed the Commissioner as agent for the acceptance of service of process.

3–324.

(a) This section does not apply to insurance of risks of the State or a political subdivision of the State.

(b) The premiums charged for surplus lines insurance are subject to a premium receipts tax of 3% on all gross premiums, less any returned premiums, charged for surplus lines insurance.

(C) FOR POLICIES EFFECTIVE BEFORE JULY 21, 2011:

(1) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED ENTIRELY IN THE STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN SUBSECTION (B) OF THIS SECTION; AND

(2) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED BOTH IN AND OUTSIDE THE STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED AT THE RATE SPECIFIED IN SUBSECTION (B) OF THIS SECTION ONLY ON THAT PORTION OF THE PREMIUM THAT IS PROPERLY ALLOCABLE TO THE RISKS LOCATED IN THE STATE.

(D) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, IF THE STATE IS THE INSURED'S HOME STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

(E) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, ONLY THE HOME STATE OF AN INSURED MAY RECEIVE PREMIUM RECEIPTS TAX PAYMENTS AND REPORTS FOR NONADMITTED INSURANCE.

[(c)**] (F)** (1) On delivery of the cover note, certificate of insurance, policy, or other initial confirmation of insurance, a surplus lines broker shall charge the insured the amount of the **PREMIUM RECEIPTS** tax in addition to the full amount of the gross premium charged by the insurer for the surplus lines insurance.

(2) The surplus lines broker shall return to the insured the **PREMIUM RECEIPTS** tax on any unearned part of the premium.

[(d)**] (G)** The surplus lines broker may not:

(1) absorb the premium receipts tax; or

(2) rebate all or part of the premium receipts tax or the surplus lines broker's commission.

[(e) If a surplus lines policy covers risks only partly in the State, the tax payable shall be computed on the part of the premium that is properly allocable to the risks located in the State.**]**

(H) THE COMMISSIONER SHALL COOPERATE WITH OTHER STATES TO ADOPT AND IMPLEMENT UNIFORM REQUIREMENTS FOR NONADMITTED INSURANCE IN COMPLIANCE WITH THE ACT.

(I) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, THE REGULATION OF NONADMITTED INSURANCE IS SUBJECT TO THE STATUTORY AND REGULATORY REQUIREMENTS SOLELY OF THE HOME STATE OF THE INSURED.

3–325.

(a) On or before March 15 and September 15 of each year**, OR AT ANOTHER INTERVAL THAT THE COMMISSIONER DIRECTS**, each surplus lines broker shall:

(1) file with the Commissioner a **[**semiannual statement that reports**] REPORT, ON A FORM THE COMMISSIONER PRESCRIBES,** on business subject to tax during the preceding half calendar year **OR OTHER INTERVAL THAT THE COMMISSIONER DIRECTS**; and

(2) pay to the Commissioner the total amount of tax **[**imposed by § 3–324 of this subtitle and appearing on the semiannual statement filed under this section**] STATED IN THE REPORT**.

[(b) The semiannual statement shall be verified in the manner that the Commissioner requires and contain the following information:

(1) the gross amount of each kind of insurance business transacted and the total gross premiums charged;

(2) the total returned premiums and taxes paid to insureds;

(3) the total net premiums; and

(4) any additional information that the Commissioner reasonably requires.]

(B) BY REGULATION, THE COMMISSIONER SHALL DETERMINE THE REQUIRED CONTENT AND FILING DEADLINES OF THE REPORT.

(c) Each [semiannual statement] **REPORT** shall be open to public inspection.

(d) A **QUALIFIED** surplus lines broker may credit any examination expense paid or assessed under § 2–208 of this article against the premium receipts tax due **TO THE STATE**.

(e) With respect to [a penalty that has become final] **SURPLUS LINES PREMIUM RECEIPTS TAX DUE TO THE STATE**, a surplus lines broker is subject to the provisions of Title 6, Subtitle 1 of this article relating to penalties, interest, audits, assessments, limitations, appeals, and refunds.

4–209.

(a) This section does not apply to:

(1) premiums on lawfully procured surplus lines insurance;

(2) premiums on independently procured insurance on which a tax has been paid under § 4–211 of this subtitle; or

(3) wet marine and transportation insurance.

(b) (1) If an unauthorized insurer effects, continues, or renews insurance on a subject resident, located, or to be performed in the State, the unauthorized insurer shall pay to the Commissioner, before March 1 of the next calendar year, a premium receipts tax of 3% of gross premiums charged for the insurance.

(2) FOR POLICIES EFFECTIVE BEFORE JULY 21, 2011:

(I) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED ENTIRELY IN THE STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED BOTH IN AND OUTSIDE THE STATE,

THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED AT THE RATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION ONLY ON THAT PORTION OF THE PREMIUM THAT IS PROPERLY ALLOCABLE TO THE RISKS LOCATED IN THE STATE.

(3) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, IF THE STATE IS THE INSURED'S HOME STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

[(2)**] (4)** Insurance that an unauthorized insurer effects, continues, or renews on a subject resident, located, or to be performed in the State that is procured through negotiations or an application wholly or partly occurring or made in or from within or outside of the State, or for which premiums wholly or partly are remitted directly or indirectly from in or outside of the State, is deemed to be insurance procured, continued, or renewed in the State.

(c) The premium receipts tax under this section is instead of all other State taxes.

(d) If an unauthorized insurer defaults on the payment of the tax under this section, the insured shall pay the tax.

(e) If the tax is not timely paid under subsection (b) of this section, the amount of the tax due shall be increased by a penalty of:

(1) 25% of the tax due; and

(2) an amount computed at the rate of 1% per month or any part of a month after the date the payment was due to the date the payment is made.

[(f) (1) If a policy covers a risk or exposure that is partly in the State, the tax payable shall be computed on the part of the premium that is properly allocable to the risk or exposure located in the State.

(2) Except for premiums that are properly allocated or apportioned and reported as taxable premiums of another state, in determining the amount of premiums taxable in this State, all premiums written, procured, or received in this State and all premiums on policies negotiated in this State shall be deemed written on property or risks located or resident in this State.**]**

4–210.

(a) In this section, "insured" includes an industrial insured who procures insurance of a risk through a full–time employee acting as a risk manager.

(b) (1) Each insured that procures or causes to be procured insurance with an unauthorized insurer, or an insured or self–insured that procures or continues excess loss, catastrophe, or other insurance with an unauthorized insurer, on a subject of insurance resident, located, or to be performed in the State other than surplus lines insurance, shall file with the Commissioner a report under this section **[**within 60 days after the date that the insurance was procured**]**.

(2) Insurance with an unauthorized insurer on a subject of insurance resident, located, or to be performed in the State that is procured through negotiations or an application wholly or partly occurring or made in or from within or outside of the State, or for which the premiums wholly or partly are remitted directly or indirectly from in or outside of the State, is deemed to be insurance procured in the State.

[(c) The report shall:

(1) be in writing;

(2) be on the form provided by the Commissioner to the insured on request; and

(3) contain:

(i) the name and address of the insured;

(ii) the name and address of the insurer;

(iii) the subject of the insurance;

(iv) a general description of the coverage;

(v) the amount of the premium charged for the coverage; and

(vi) any other pertinent information that the Commissioner reasonably requests.**]**

(C) FOR POLICIES EFFECTIVE BEFORE JULY 21, 2011, A REPORT UNDER THIS SECTION SHALL BE FILED WITHIN 60 DAYS AFTER THE DATE THAT THE INSURANCE WAS PROCURED.

(D) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, ON OR BEFORE MARCH 15 AND SEPTEMBER 15 OF EACH YEAR, OR AT ANOTHER INTERVAL THAT THE COMMISSIONER DIRECTS, EACH INSURED SHALL:

(1) FILE WITH THE COMMISSIONER A REPORT, ON A FORM THE COMMISSIONER PRESCRIBES, ON BUSINESS SUBJECT TO TAX DURING THE

PRECEDING HALF CALENDAR YEAR OR OTHER INTERVAL THAT THE COMMISSIONER DIRECTS; AND

(2) PAY TO THE COMMISSIONER THE TOTAL AMOUNT OF TAX STATED IN THE REPORT.

(E) BY REGULATION, THE COMMISSIONER SHALL DETERMINE THE REQUIRED CONTENT AND FILING DEADLINES OF THE ~~*REPORT*~~ *REPORTS*.

4–211.

(a) This section does not apply to wet marine and transportation insurance.

(b) (1) If an insured procures, continues, or renews insurance from an unauthorized insurer that is subject to a report under § 4–210 of this subtitle, a premium receipts tax of 3% of the gross premiums charged for the insurance is levied on the obligation, chose in action, or right represented by the premium charged for the insurance.

(2) **[**The insured shall pay the amount of the tax to the Commissioner before March 1 of the next calendar year after the insurance was procured, continued, or renewed.

(3)**]** If an insurance contract subject to the tax is canceled and rewritten, the additional premium, for purposes of the premium receipts tax, is the premium in excess of the unearned premium of the canceled insurance contract.

(c) **[**(1) If a policy covers a risk or exposure that is only partly in the State, the tax payable shall be computed on the part of the premium that is properly allocable to the risk or exposure located in the State.

(2) Except for premiums that are properly allocated or apportioned and reported as taxable premiums in another state, in determining the amount of premiums taxable in this State, all premiums written, procured, or received in this State and all premiums on policies negotiated in this State shall be deemed written on property or risks located or resident in this State.

(d)**]** If the insured fails to withhold from the premium the amount of the tax levied under this section, the insured is liable for the amount of the tax **IMPOSED UNDER SUBSECTION (B) OF THIS SECTION** and shall pay the tax to the Commissioner **[**in accordance with subsection (c) of this section**]**.

[(e)**] (D)** If the tax **[**required by**] IMPOSED UNDER** subsection **[**(d)**] (B)** of this section is not timely paid **[**under subsection (c) of this section**]**, the amount of the tax due shall be increased by a penalty of:

(1) 25% of the tax due; and

(2) an amount computed at the rate of 1% per month or part of a month after the date the payment is due until the date the payment is made.

[(f)**] (E)** If the tax is not timely paid under this section, on request of the Commissioner, the Attorney General shall proceed in a court of this State or another state or in a federal court or agency to recover the tax.

4–211.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ACT" HAS THE MEANING STATED IN § 3–301 OF THIS ARTICLE.

(3) "HOME STATE" HAS THE MEANING STATED IN § 3–301 OF THIS ARTICLE.

(4) "NONADMITTED INSURANCE" HAS THE MEANING STATED IN § 3–301 OF THIS ARTICLE.

(B) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, THE PLACEMENT OF NONADMITTED INSURANCE IS SUBJECT TO THE STATUTORY AND REGULATORY REQUIREMENTS SOLELY OF THE INSURED'S HOME STATE.

(C) THE PREMIUMS CHARGED FOR UNAUTHORIZED INSURANCE ARE SUBJECT TO A PREMIUM RECEIPTS TAX IN THE STATE ON ALL GROSS PREMIUMS, LESS ANY RETURNED PREMIUMS, CHARGED FOR NONADMITTED INSURANCE AS SPECIFIED IN §§ 4–209 AND 4–211 OF THIS SUBTITLE.

(D) FOR POLICIES EFFECTIVE BEFORE JULY 21, 2011:

(1) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED ENTIRELY IN THE STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN SUBSECTION (C) OF THIS SECTION; AND

(2) IF THE POLICY COVERS PROPERTY, RISKS, OR EXPOSURES LOCATED OR TO BE PERFORMED BOTH IN AND OUTSIDE THE STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED AT THE RATE SPECIFIED IN

SUBSECTION (C) OF THIS SECTION ONLY ON THAT PORTION OF THE PREMIUM THAT IS PROPERLY ALLOCABLE TO THE RISKS LOCATED IN THE STATE.

(E) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, IF THE STATE IS THE INSURED'S HOME STATE, THE PREMIUM RECEIPTS TAX SHALL BE COMPUTED ON THE ENTIRE PREMIUM AT THE RATE SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

(F) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, ONLY THE HOME STATE OF AN INSURED MAY RECEIVE PREMIUM RECEIPTS TAX PAYMENTS AND REPORTS FOR NONADMITTED INSURANCE.

(G) FOR POLICIES EFFECTIVE ON OR AFTER JULY 21, 2011, THE REGULATION OF NONADMITTED INSURANCE IS SUBJECT TO THE STATUTORY AND REGULATORY REQUIREMENTS SOLELY OF THE HOME STATE OF THE INSURED.

(H) THE COMMISSIONER SHALL COOPERATE WITH OTHER STATES TO ADOPT AND IMPLEMENT UNIFORM REQUIREMENTS FOR NONADMITTED INSURANCE IN COMPLIANCE WITH THE ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before January 1, 2012, the Maryland Insurance Commissioner shall:

(1) study the various approaches taken by other states to implement the federal Nonadmitted and Reinsurance Reform Act of 2010, paying specific attention to the approaches taken by contiguous states; and

(2) report the findings of the study, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

(b) The study required under subsection (a)(1) of this section shall include a review of:

(1) the approaches taken by other states, including:

(i) legislative enactments;

(ii) the execution of agreements or compacts, if any;

(iii) the impact on nonadmitted premium receipts tax revenue experienced by other states based on the approach taken, if known; and

(iv) future plans for implementation, if known or ascertainable;

(2) the impact of Maryland's approach on its nonadmitted premium receipts tax revenue, if any;

(3) relevant congressional guidance;

(4) guidance provided by the National Council of Insurance Legislators, the Council of State Government, the National Council of State Legislators, and the National Association of Insurance Commissioners; and

(5) industry guidance, statistics, or information.

(c) On request of the Maryland Insurance Commissioner, qualified surplus lines brokers shall provide to the Commissioner, to the extent practicable, information regarding written premium on risks located in Maryland and multistate risks so as to provide more information regarding premium receipts tax revenue.

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

~~**31–101.**~~

~~**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:**~~

~~**PREAMBLE**~~

~~**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:**~~

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

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

~~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;~~

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

~~WHEREAS, AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING ON THE DATE OF THE ENACTMENT OF THE NRRA, A STATE MAY 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 EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL DATABASE, FOR THE LICENSURE OF SURPLUS LINES LICENSEES AND THE 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;~~

~~WHEREAS, THE NRRA INTENDS THAT THE STATES MAY ENTER INTO A COMPACT OR OTHERWISE ESTABLISH PROCEDURES TO ALLOCATE AMONG THE STATES THE PREMIUM TAXES PAID TO AN INSURED'S HOME STATE; AND THAT EACH STATE ADOPT NATIONWIDE UNIFORM REQUIREMENTS, FORMS, AND PROCEDURES, SUCH AS AN INTERSTATE COMPACT, THAT PROVIDE FOR THE~~

~~REPORTING, PAYMENT, COLLECTION, AND ALLOCATION OF PREMIUM TAXES FOR NON-ADMITTED INSURANCE;~~

~~WHEREAS, AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING ON THE DATE OF THE ENACTMENT OF THE NRRA, A STATE MAY 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 EFFECT AT SUCH TIME LAWS OR REGULATIONS THAT PROVIDE FOR PARTICIPATION BY THE STATE IN THE NATIONAL INSURANCE PRODUCER DATABASE OF THE NAIC, OR ANY OTHER EQUIVALENT UNIFORM NATIONAL DATABASE, FOR THE LICENSURE OF SURPLUS LINES LICENSEES AND THE RENEWAL OF SUCH LICENSES;~~

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

~~WHEREAS, PROTECTING THE REVENUE OF THIS STATE AND OTHER COMPACTING STATES MAY BE ACCOMPLISHED BY FACILITATING THE PAYMENT AND COLLECTION OF PREMIUM TAX ON NON-ADMITTED INSURANCE AND PROVIDING FOR ALLOCATION OF PREMIUM TAX FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AMONG THE STATES IN ACCORDANCE 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;~~

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

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

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

~~ARTICLE I~~

~~PURPOSE~~

~~THE PURPOSES OF THIS COMPACT ARE:~~

~~1. TO IMPLEMENT THE EXPRESS PROVISIONS OF THE NRRA.~~

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

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

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

~~5. To establish a Clearinghouse for receipt and dissemination of Premium Tax and Clearinghouse Transaction Data related to Non-Admitted Insurance of Multi-State Risks, in accordance with Rules to be adopted by the Commission.~~

~~6. To improve coordination of regulatory resources and expertise between State insurance departments and other State agencies, as well as State surplus lines stamping offices, with respect to Non-Admitted Insurance.~~

~~7. To adopt uniform Rules to provide for Premium Tax payment, reporting, allocation, data collection and dissemination for Non-Admitted Insurance of Multi-State Risks and Single-State Risks, in accordance with Rules to be adopted by the Commission, thereby promoting the overall efficiency of the Non-Admitted Insurance market.~~

~~8. To adopt uniform mandatory Rules with respect to regulatory compliance requirements for:~~

~~(I) foreign Insurer Eligibility Requirements;~~

~~(II) surplus lines Policyholder Notices;~~

~~9. To establish the Surplus Lines Insurance Multi-State Compliance Compact Commission.~~

~~10. To coordinate reporting of Clearinghouse Transaction Data on Non-Admitted Insurance of Multi-State Risks among Compacting States and Contracting States.~~

~~11. To perform these and such other related functions as may be consistent with the purposes of the Surplus Lines Insurance Multi-State Compliance Compact.~~

~~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.~~

~~2. "AFFILIATE" MEANS WITH RESPECT TO AN INSURED, ANY ENTITY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH THE INSURED.~~

~~3. "ALLOCATION FORMULA" MEANS THE UNIFORM METHODS PROMULGATED BY THE COMMISSION BY WHICH INSURED RISK EXPOSURES WILL BE APPORTIONED TO EACH STATE FOR THE PURPOSE OF CALCULATING PREMIUM TAXES DUE.~~

~~4. "BYLAWS" MEANS THOSE BYLAWS ESTABLISHED BY THE COMMISSION FOR ITS GOVERNANCE, OR FOR DIRECTING OR CONTROLLING THE COMMISSION'S ACTIONS OR CONDUCT.~~

~~5. "CLEARINGHOUSE" MEANS THE COMMISSION'S OPERATIONS INVOLVING THE ACCEPTANCE, PROCESSING, AND DISSEMINATION, AMONG THE COMPACTING STATES, CONTRACTING STATES, SURPLUS LINES LICENSEES, INSUREDS AND OTHER PERSONS, OF PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, IN ACCORDANCE WITH THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION.~~

~~6. "CLEARINGHOUSE TRANSACTION DATA" MEANS THE INFORMATION REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE RISKS REQUIRED TO BE REPORTED, ACCEPTED, COLLECTED, PROCESSED, AND DISSEMINATED BY SURPLUS LINES LICENSEES FOR SURPLUS LINES INSURANCE AND INSUREDS FOR INDEPENDENTLY PROCURED INSURANCE UNDER THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION. CLEARINGHOUSE TRANSACTION DATA INCLUDES INFORMATION RELATED TO SINGLE-STATE RISKS IF A STATE ELECTS TO HAVE THE CLEARINGHOUSE COLLECT TAXES ON SINGLE-STATE RISKS FOR SUCH STATE.~~

~~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.~~

~~8. "COMMISSION" MEANS THE "SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT COMMISSION" ESTABLISHED BY THIS COMPACT.~~

~~9. "COMMISSIONER" MEANS THE CHIEF INSURANCE REGULATORY OFFICIAL OF A STATE INCLUDING, BUT NOT LIMITED TO COMMISSIONER, SUPERINTENDENT, DIRECTOR OR ADMINISTRATOR OR THEIR DESIGNEES.~~

~~10. "CONTRACTING STATE" MEANS ANY STATE WHICH HAS NOT ENACTED THIS COMPACT LEGISLATION BUT HAS ENTERED INTO A WRITTEN CONTRACT WITH THE COMMISSION TO UTILIZE THE SERVICES OF AND FULLY PARTICIPATE IN THE CLEARINGHOUSE.~~

~~11. "CONTROL" AN ENTITY HAS "CONTROL" OVER ANOTHER ENTITY IF:~~

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

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

~~12. "HOME STATE"~~

~~(A) IN GENERAL. EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), THE TERM "HOME STATE" MEANS, WITH RESPECT TO AN INSURED:~~

~~(I) THE STATE IN WHICH AN INSURED MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS OR, IN THE CASE OF AN INDIVIDUAL, THE INDIVIDUAL'S PRINCIPAL RESIDENCE; OR~~

~~(II) IF 100 PERCENT OF THE INSURED RISK IS LOCATED OUT OF THE STATE REFERRED TO IN SUBPARAGRAPH (A)(I), THE STATE TO WHICH THE GREATEST PERCENTAGE OF THE INSURED'S TAXABLE 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.~~

~~13. "INDEPENDENTLY PROCURED INSURANCE" MEANS INSURANCE PROCURED BY AN INSURED DIRECTLY FROM A SURPLUS LINES INSURER OR OTHER NON-ADMITTED INSURER AS PERMITTED BY THE LAWS OF THE HOME STATE.~~

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

~~15. "MEMBER" MEANS THE PERSON OR PERSONS CHOSEN BY A COMPACTING STATE AS ITS REPRESENTATIVE OR REPRESENTATIVES TO THE COMMISSION PROVIDED THAT EACH COMPACTING STATE SHALL BE LIMITED TO ONE VOTE.~~

~~16. "MULTI-STATE RISK" MEANS A RISK WITH INSURED EXPOSURES IN MORE THAN ONE STATE.~~

~~17. "NON-COMPACTING STATE" MEANS ANY STATE WHICH HAS NOT ADOPTED THIS COMPACT.~~

~~18. "NON-ADMITTED INSURANCE" MEANS SURPLUS LINES INSURANCE AND INDEPENDENTLY PROCURED INSURANCE.~~

~~19. "NON-ADMITTED INSURER" MEANS AN INSURER THAT IS NOT AUTHORIZED OR ADMITTED TO TRANSACT THE BUSINESS OF INSURANCE UNDER THE LAW OF THE HOME STATE.~~

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

~~21. "POLICYHOLDER NOTICE" MEANS THE DISCLOSURE NOTICE OR STAMP THAT IS REQUIRED TO BE FURNISHED TO THE APPLICANT OR POLICYHOLDER IN CONNECTION WITH A SURPLUS LINES INSURANCE PLACEMENT.~~

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

~~23. "PRINCIPAL PLACE OF BUSINESS" MEANS WITH RESPECT TO DETERMINING THE HOME STATE OF THE INSURED, THE STATE WHERE THE INSURED MAINTAINS ITS HEADQUARTERS AND WHERE THE INSURED'S HIGH-LEVEL OFFICERS DIRECT, CONTROL AND COORDINATE THE BUSINESS ACTIVITIES OF THE INSURED.~~

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

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

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

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

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

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

~~30. "SURPLUS LINES INSURER" MEANS A NON-ADMITTED INSURER ELIGIBLE UNDER THE LAW OF THE HOME STATE TO ACCEPT BUSINESS FROM A SURPLUS LINES LICENSEE; FOR PURPOSES OF THIS COMPACT "SURPLUS LINES INSURER" SHALL ALSO MEAN AN INSURER WHICH IS PERMITTED TO WRITE SURPLUS LINES INSURANCE UNDER THE LAWS OF THE STATE WHERE SUCH INSURER IS DOMICILED.~~

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

~~ARTICLE III~~

~~ESTABLISHMENT OF THE COMMISSION AND VENUE~~

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

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

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

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

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

~~6. VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE~~

~~COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO 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.~~

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

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

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

~~8. THAT EACH COMPACTING STATE AND CONTRACTING STATE PROHIBIT ANY OTHER STATE AGENCY OR POLITICAL SUBDIVISION FROM REQUIRING SURPLUS LINES LICENSEES TO PROVIDE CLEARINGHOUSE TRANSACTION DATA AND STATE TRANSACTION DOCUMENTATION OTHER THAN TO THE INSURANCE DEPARTMENT OR TAX OFFICIALS OF THE HOME STATE OR ONE 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.~~

~~10. A METHOD FOR THE CLEARINGHOUSE TO PERIODICALLY REPORT TO COMPACTING STATES, CONTRACTING STATES, SURPLUS LINES LICENSEES AND INSUREDS WHO INDEPENDENTLY PROCURE INSURANCE, ALL PREMIUM TAXES OWED TO EACH OF THE COMPACTING STATES AND CONTRACTING STATES, THE DATES UPON WHICH PAYMENT OF SUCH PREMIUM TAXES 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 INSURANCE IN THE INSURED'S HOME STATE SHALL BE CONSIDERED SURPLUS LINES INSURANCE IN ALL COMPACTING STATES AND CONTRACTING STATES, AND TAXED AS A SURPLUS LINES TRANSACTION IN ALL STATES TO WHICH A PORTION OF THE RISK IS ALLOCATED. EACH COMPACTING STATE AND CONTRACTING STATE SHALL REQUIRE EACH SURPLUS LINES LICENSEE TO PAY TO EVERY OTHER COMPACTING STATE AND CONTRACTING STATE PREMIUM TAXES ON EACH MULTI-STATE RISK THROUGH THE CLEARINGHOUSE AT SUCH TAX RATE CHARGED ON SURPLUS LINES TRANSACTIONS IN SUCH OTHER COMPACTING STATES AND CONTRACTING STATES ON THE PORTION OF THE RISK IN EACH SUCH COMPACTING STATE AND CONTRACTING STATE AS DETERMINED BY THE APPLICABLE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION. A POLICY CONSIDERED TO BE INDEPENDENTLY PROCURED INSURANCE IN THE INSURED'S HOME STATE SHALL BE CONSIDERED INDEPENDENTLY PROCURED INSURANCE IN ALL COMPACTING STATES AND CONTRACTING STATES. EACH COMPACTING STATE AND CONTRACTING STATE SHALL REQUIRE THE INSURED TO PAY EVERY OTHER COMPACTING STATE AND CONTRACTING STATE THE INDEPENDENTLY PROCURED INSURANCE PREMIUM TAX ON EACH MULTI-STATE RISK THROUGH THE CLEARINGHOUSE PURSUANT TO THE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION.~~

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

~~14. A UNIFORM POLICYHOLDER NOTICE.~~

~~15. UNIFORM TREATMENT OF PURCHASING GROUP SURPLUS LINES INSURANCE PLACEMENTS.~~

~~ARTICLE V~~

~~POWERS OF THE COMMISSION~~

~~THE COMMISSION SHALL HAVE THE FOLLOWING POWERS:~~

~~1. TO PROMULGATE RULES AND OPERATING PROCEDURES, PURSUANT TO ARTICLE VIII OF THIS COMPACT, WHICH SHALL HAVE THE~~

~~FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;~~

~~2. TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE INSURANCE DEPARTMENT TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;~~

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

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

~~5. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;~~

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

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

~~9. TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL, PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;~~

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

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

~~A. MINIMUM AUDIT STANDARDS, INCLUDING SAMPLING METHODS,~~

~~B. REVIEW OF INTERNAL CONTROLS,~~

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

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

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

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

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

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

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

~~15. TO MAKE AVAILABLE ADVICE AND TRAINING TO THOSE PERSONNEL IN STATE STAMPING OFFICES, STATE INSURANCE DEPARTMENTS OR OTHER STATE DEPARTMENTS FOR RECORD KEEPING, TAX COMPLIANCE, AND TAX ALLOCATIONS; AND TO BE A RESOURCE FOR STATE INSURANCE DEPARTMENTS AND OTHER STATE DEPARTMENTS;~~

~~16. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;~~

~~17. TO BORROW MONEY;~~

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

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

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

~~21. TO ENTER INTO CONTRACTS WITH CONTRACTING STATES SO THAT CONTRACTING STATES CAN UTILIZE THE SERVICES OF AND FULLY~~

~~PARTICIPATE IN THE CLEARINGHOUSE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH CONTRACTS;~~

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

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

~~ARTICLE VI~~

~~ORGANIZATION OF THE COMMISSION~~

~~1. MEMBERSHIP, VOTING AND BYLAWS~~

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

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

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

~~I. ESTABLISHING THE FISCAL YEAR OF THE COMMISSION;~~

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

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

~~IV. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE COMMISSION THAT CONSIST OF A MAJORITY OF COMMISSION MEMBERS, ENSURING REASONABLE ADVANCE NOTICE OF EACH SUCH MEETING AND PROVIDING FOR THE RIGHT OF CITIZENS TO ATTEND EACH SUCH MEETING WITH ENUMERATED EXCEPTIONS DESIGNED TO PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS, AND INSURERS' AND SURPLUS LINES LICENSEES' PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN CAMERA ONLY 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 PUBLIC: (I) A COPY OF THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE OF EACH MEMBER WITH NO PROXY VOTES ALLOWED, AND (II) VOTES TAKEN DURING SUCH MEETING;~~

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

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

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

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

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

~~2. EXECUTIVE COMMITTEE, PERSONNEL AND CHAIRPERSON~~

~~A. AN EXECUTIVE COMMITTEE OF THE COMMISSION ("EXECUTIVE COMMITTEE") SHALL BE ESTABLISHED. ALL ACTIONS, OF THE EXECUTIVE COMMITTEE, INCLUDING COMPLIANCE AND ENFORCEMENT ARE SUBJECT TO THE REVIEW AND RATIFICATION OF THE COMMISSION AS PROVIDED IN THE BYLAWS.~~

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

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

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

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

~~III. OVERSEEING THE OFFICES OF THE COMMISSION; AND~~

~~IV. PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE 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.~~

~~D. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION AS THE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE COMMISSION, BUT~~

~~SHALL NOT BE A MEMBER OF THE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE COMMISSION.~~

~~3. OPERATIONS COMMITTEE~~

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

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

~~THE OPERATIONS COMMITTEE SHALL HAVE RESPONSIBILITY FOR:~~

~~I. EVALUATING TECHNOLOGY REQUIREMENTS FOR THE CLEARINGHOUSE, ASSESSING EXISTING SYSTEMS USED BY STATE REGULATORY AGENCIES AND STATE STAMPING OFFICES TO MAXIMIZE THE EFFICIENCY AND SUCCESSFUL INTEGRATION OF THE CLEARINGHOUSE TECHNOLOGY SYSTEMS WITH STATE AND STATE STAMPING OFFICE TECHNOLOGY PLATFORMS AND TO MINIMIZE COSTS TO THE STATES, STATE STAMPING OFFICES AND THE CLEARINGHOUSE.~~

~~II. MAKING RECOMMENDATIONS TO THE EXECUTIVE COMMITTEE BASED ON ITS ANALYSIS AND DETERMINATION OF THE CLEARINGHOUSE TECHNOLOGY REQUIREMENTS AND COMPATIBILITY WITH EXISTING 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.~~

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

~~4. LEGISLATIVE AND ADVISORY COMMITTEES~~

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

~~B. THE COMMISSION MAY ESTABLISH ADDITIONAL ADVISORY COMMITTEES AS ITS BYLAWS MAY PROVIDE FOR THE CARRYING OUT OF ITS FUNCTIONS.~~

~~5. CORPORATE RECORDS OF THE COMMISSION~~

~~THE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS.~~

~~6. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION~~

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

~~OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE 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.~~

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

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

~~ARTICLE VII~~

~~MEETINGS AND ACTS OF THE COMMISSION~~

~~1. THE COMMISSION SHALL MEET AND TAKE SUCH ACTIONS AS ARE 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 THE BYLAWS. THE BYLAWS MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.~~

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

~~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.~~

~~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.~~

~~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:~~

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

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

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

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

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

~~F. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;~~

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

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

~~ARTICLE VIII~~

~~RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE COMMISSION~~

~~RULEMAKING FUNCTIONS OF THE COMMISSION:~~

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

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

~~3. EFFECTIVE DATE – ALL RULES AND AMENDMENTS, THERETO, SHALL BECOME EFFECTIVE AS OF THE DATE SPECIFIED IN EACH RULE, OPERATING 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 COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE OF THE COMMISSION'S AUTHORITY.~~

~~ARTICLE IX~~

~~COMMISSION RECORDS AND ENFORCEMENT~~

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

~~2. EXCEPT AS TO PRIVILEGED RECORDS, DATA AND INFORMATION, THE LAWS OF ANY COMPACTING STATE PERTAINING TO CONFIDENTIALITY OR NONDISCLOSURE SHALL NOT RELIEVE ANY COMPACTING STATE MEMBER OF THE DUTY TO DISCLOSE ANY RELEVANT RECORDS, DATA OR INFORMATION TO THE COMMISSION; PROVIDED THAT DISCLOSURE TO THE COMMISSION SHALL NOT BE DEEMED TO WAIVE OR OTHERWISE AFFECT ANY CONFIDENTIALITY REQUIREMENT, AND FURTHER PROVIDED THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ACT, THE COMMISSION SHALL NOT BE SUBJECT TO THE COMPACTING STATE'S LAWS PERTAINING TO CONFIDENTIALITY AND NONDISCLOSURE WITH RESPECT TO RECORDS, DATA AND INFORMATION IN ITS POSSESSION. CONFIDENTIAL INFORMATION OF THE COMMISSION SHALL REMAIN CONFIDENTIAL AFTER SUCH INFORMATION IS PROVIDED TO ANY MEMBER, AND THE COMMISSION SHALL MAINTAIN THE~~

~~CONFIDENTIALITY OF ANY INFORMATION PROVIDED BY A MEMBER THAT IS CONFIDENTIAL UNDER THAT MEMBER'S STATE LAW.~~

~~3. THE COMMISSION SHALL MONITOR COMPACTING STATES FOR COMPLIANCE WITH DULY ADOPTED BYLAWS AND RULES. THE COMMISSION SHALL NOTIFY ANY NON-COMPLYING COMPACTING STATE IN WRITING OF ITS NONCOMPLIANCE WITH COMMISSION BYLAWS OR RULES. IF A NON-COMPLYING COMPACTING STATE FAILS TO REMEDY ITS NONCOMPLIANCE WITHIN THE TIME SPECIFIED IN THE NOTICE OF NONCOMPLIANCE, THE COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS SET FORTH IN ARTICLE XIV.~~

~~ARTICLE X~~

~~DISPUTE RESOLUTION~~

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

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

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

~~ARTICLE XI~~

~~REVIEW OF COMMISSION DECISIONS~~

~~REGARDING COMMISSION DECISIONS:~~

~~1. EXCEPT AS NECESSARY FOR PROMULGATING RULES TO FULFILL THE PURPOSES OF THIS COMPACT, THE COMMISSION SHALL NOT HAVE~~

~~AUTHORITY TO OTHERWISE REGULATE INSURANCE IN THE COMPACTING STATES.~~

~~2. NOT LATER THAN THIRTY (30) DAYS AFTER THE COMMISSION HAS GIVEN NOTICE OF ANY RULE OR ALLOCATION FORMULA, ANY THIRD PARTY FILER OR COMPACTING STATE MAY APPEAL THE DETERMINATION TO A REVIEW PANEL APPOINTED BY THE COMMISSION. THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH PROCEDURES FOR APPOINTING SUCH REVIEW PANELS AND PROVIDE FOR NOTICE AND HEARING. AN ALLEGATION THAT THE COMMISSION, IN MAKING COMPLIANCE OR TAX DETERMINATIONS ACTED ARBITRARILY, CAPRICIOUSLY, OR IN A MANNER THAT IS AN ABUSE OF DISCRETION OR OTHERWISE NOT IN ACCORDANCE WITH THE LAW, IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH ARTICLE III, SECTION 6.~~

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

~~ARTICLE XII~~

~~FINANCE~~

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

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

~~4. THE COMMISSION SHALL BE REGARDED AS PERFORMING ESSENTIAL GOVERNMENTAL FUNCTIONS IN EXERCISING SUCH POWERS AND~~

~~FUNCTIONS AND IN CARRYING OUT THE PROVISIONS OF THIS COMPACT AND OF ANY LAW RELATING THERETO, AND SHALL NOT BE REQUIRED TO PAY ANY TAXES OR ASSESSMENTS OF ANY CHARACTER, LEVIED BY ANY STATE OR POLITICAL SUBDIVISION THEREOF, UPON ANY OF THE PROPERTY USED BY IT FOR SUCH PURPOSES, OR ANY INCOME OR REVENUE THEREFROM, INCLUDING ANY PROFIT FROM A SALE OR EXCHANGE.~~

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

~~ARTICLE XIII~~

~~COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT~~

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

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

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

~~ARTICLE XIV~~

~~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 WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS 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.~~

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

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

~~2. DEFAULT~~

~~A. IF THE COMMISSION DETERMINES THAT ANY COMPACTING STATE HAS AT ANY TIME DEFAULTED ("DEFAULTING STATE") IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, THE BYLAWS OR DULY PROMULGATED RULES THEN AFTER NOTICE AND HEARING AS SET FORTH IN THE BYLAWS, ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT ON THE DEFAULTING STATE SHALL BE SUSPENDED FROM THE EFFECTIVE DATE OF DEFAULT AS FIXED BY THE COMMISSION. THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM ITS OBLIGATIONS OR RESPONSIBILITIES, AND ANY OTHER GROUNDS DESIGNATED IN COMMISSION RULES. THE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE DEFAULTING STATE'S SUSPENSION PENDING A CURE OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS~~

~~DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION.~~

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

~~C. REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE REQUIRES A REENACTMENT OF THE COMPACT.~~

~~3. DISSOLUTION OF COMPACT~~

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

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

~~ARTICLE XV~~

~~SEVERABILITY AND CONSTRUCTION~~

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

~~2. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.~~

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

~~4. THE HEADINGS AND CAPTIONS OF ARTICLES, SECTIONS AND SUB-SECTIONS USED IN THIS COMPACT ARE FOR CONVENIENCE ONLY AND~~

~~SHALL BE IGNORED IN CONSTRUING THE SUBSTANTIVE PROVISIONS OF THIS COMPACT.~~

~~ARTICLE XVI~~

~~BINDING EFFECT OF COMPACT AND OTHER LAWS~~

~~1. OTHER LAWS~~

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

~~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:~~

~~(I) CLEARINGHOUSE TRANSACTION DATA REPORTING REQUIREMENTS;~~

~~(II) ALLOCATION FORMULA;~~

~~(III) CLEARINGHOUSE TRANSACTION DATA COLLECTION REQUIREMENTS;~~

~~(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;~~

~~(V) EXCLUSIVE COMPLIANCE WITH SURPLUS LINES LAW OF THE HOME STATE OF THE INSURED;~~

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

~~(VII) UNIFORM FOREIGN INSURERS ELIGIBILITY REQUIREMENTS;~~

~~(VIII) UNIFORM POLICYHOLDER NOTICE; AND~~

~~(IX) UNIFORM TREATMENT OF PURCHASING GROUPS PROCURING NON–ADMITTED INSURANCE.~~

~~C. EXCEPT AS STATED IN PARAGRAPH B, ANY RULE, UNIFORM STANDARD OR OTHER REQUIREMENT OF THE COMMISSION SHALL CONSTITUTE THE EXCLUSIVE PROVISION THAT A COMMISSIONER MAY APPLY TO COMPLIANCE OR TAX DETERMINATIONS. NOTWITHSTANDING THE FOREGOING, NO ACTION TAKEN BY THE COMMISSION SHALL ABROGATE OR RESTRICT: (I) THE ACCESS OF ANY PERSON TO STATE COURTS; (II) THE AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION UNDER ARTICLE X OF THIS COMPACT (III) REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT, TORT, OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO COMPLIANCE OR TAX DETERMINATIONS; (IV) STATE LAW RELATING TO THE CONSTRUCTION OF INSURANCE CONTRACTS; OR (V) THE AUTHORITY OF THE ATTORNEY GENERAL OF THE STATE, INCLUDING BUT NOT LIMITED TO MAINTAINING ANY ACTIONS OR PROCEEDINGS, AS AUTHORIZED BY LAW.~~

~~2. BINDING EFFECT OF THIS COMPACT~~

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

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

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

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

~~Surplus Line Insurance Premiums by State Appendix A~~

~~State~~	~~Premiums based on taxes paid~~	~~Share of Total Premiums~~
~~Alabama~~	~~445,746,000~~	~~1.47%~~
~~Alaska~~	~~89,453,519~~	~~0.29%~~
~~Arizona~~	~~663,703,267~~	~~2.18%~~
~~Arkansas~~	~~201,859,750~~	~~0.66%~~
~~California~~	~~5,622,450,467~~	~~18.49%~~
~~Colorado~~	~~543,781,333~~	~~1.79%~~
~~Connecticut~~	~~329,358,800~~	~~1.08%~~
~~Delaware~~	~~92,835,950~~	~~0.31%~~
~~Florida~~	~~2,660,908,760~~	~~8.75%~~
~~Georgia~~	~~895,643,150~~	~~2.95%~~
~~Hawaii~~	~~232,951,489~~	~~0.77%~~
~~Idaho~~	~~74,202,255~~	~~0.24%~~
~~Illinois~~	~~1,016,504,629~~	~~3.34%~~
~~Indiana~~	~~412,265,320~~	~~1.36%~~
~~Iowa~~	~~135,130,933~~	~~0.44%~~
~~Kansas~~	~~160,279,300~~	~~0.53%~~
~~Kentucky~~	~~167,996,133~~	~~0.55%~~
~~Louisiana~~	~~853,173,280~~	~~2.81%~~
~~Maine~~	~~60,111,200~~	~~0.20%~~
~~Maryland~~	~~434,887,600~~	~~1.43%~~
~~Massachusetts~~	~~708,640,225~~	~~2.33%~~
~~Michigan~~	~~703,357,040~~	~~2.31%~~
~~Minnesota~~	~~393,128,400~~	~~1.29%~~
~~Mississippi~~	~~263,313,175~~	~~0.87%~~
~~Missouri~~	~~404,489,860~~	~~1.33%~~
~~Montana~~	~~64,692,873~~	~~0.21%~~
~~Nebraska~~	~~92,141,167~~	~~0.30%~~
~~Nevada~~	~~354,271,514~~	~~1.17%~~
~~New Hampshire~~	~~102,946,250~~	~~0.34%~~
~~New Jersey~~	~~1,087,994,033~~	~~3.58%~~
~~New Mexico~~	~~67,608,458~~	~~0.22%~~
~~New York~~	~~2,768,618,083~~	~~9.11%~~
~~North Carolina~~	~~514,965,060~~	~~1.69%~~
~~North Dakota~~	~~36,223,943~~	~~0.12%~~
~~Ohio~~	~~342,000,000~~	~~1.12%~~
~~Oklahoma~~	~~319,526,400~~	~~1.05%~~
~~Oregon~~	~~312,702,150~~	~~1.03%~~
~~Pennsylvania~~	~~780,666,667~~	~~2.57%~~

~~RHODE ISLAND~~	~~71,794,067~~	~~0.24%~~
~~SOUTH CAROLINA~~	~~412,489,825~~	~~1.36%~~
~~SOUTH DAKOTA~~	~~38,702,120~~	~~0.13%~~
~~TENNESSEE~~	~~451,775,240~~	~~1.49%~~
~~TEXAS~~	~~3,059,170,454~~	~~10.06%~~
~~UTAH~~	~~142,593,412~~	~~0.47%~~
~~VERMONT~~	~~41,919,433~~	~~0.14%~~
~~VIRGINIA~~	~~611,530,667~~	~~2.01%~~
~~WASHINGTON~~	~~739,932,050~~	~~2.43%~~
~~WEST VIRGINIA~~	~~130,476,250~~	~~0.43%~~
~~WISCONSIN~~	~~248,758,333~~	~~0.82%~~
~~WYOMING~~	~~40,526,967~~	~~0.13%~~
~~TOTAL~~	~~30,400,197,251~~	~~100.00%~~

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

~~31–102.~~

~~THE MARYLAND INSURANCE COMMISSIONER OF THE MARYLAND INSURANCE ADMINISTRATION IS HEREBY APPOINTED AS THE STATE OF MARYLAND'S REPRESENTATIVE TO THE SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT COMMISSION.~~

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

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