- 1 HB76
- 2 125347-4
- 3 By Representatives Wren and Canfield
- 4 RFD: Insurance
- 5 First Read: 01-MAR-11

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2 ENROLLED, An Act,

To establish the Surplus Lines Insurance Multi-State Compliance Compact Act providing for exclusive single-state regulatory compliance for multi-state surplus lines and independently procured insurance placements; providing for uniform premium tax allocation formulas; providing for a clearinghouse to facilitate correct calculations; providing for reporting of premium taxes due to the compacting states; and providing that the compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states, and the commission shall become effective for purposes of adopting rules and creating the clearinghouse when there are a total of 10 compacting states and contracting states or, alternatively, when there are compacting states and contracting states representing greater than 40 percent of the surplus lines insurance premium volume based on records of the percentage of surplus lines insurance premium; to amend Section 27-10-31, Code of Alabama 1975, relating to annual tax of surplus line brokers; and to provide that the provisions of Section 2 would not be effective if the compact is not enacted into law by two compacting states.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Surplus Lines Insurance Multi-State Compliance Compact Act is enacted into law and entered into

with all jurisdictions mutually adopting the compact in the form substantially as follows:

PREAMBLE

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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 worker's compensation insurance or excess insurance for self-funded worker's 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

1 licensed in order to sell, solicit, or negotiate Non-Admitted
2 Insurance with respect to such insured;

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WHEREAS, the NRRA intends to allocate 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;

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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;

1	Now, Therefore, in consideration of the foregoing,
2	the state of Alabama and the various other states do hereby
3	solemnly covenant and agree, each with the other, as follows:
4	SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE
5	COMPACT
6	ARTICLE I
7	PURPOSE
8	The purposes of this Compact are:
9	1. To implement the express provisions of Title V,
10	Subtitle B, the Non-Admitted and Reinsurance Reform Act of
11	2010, of the Dodd-Frank Wall Street Reform and Consumer
12	Protection Act.
13	2. To protect the Premium Tax revenues of the
14	Compacting States through facilitating the payment and
15	collection of Premium Tax on Non-Admitted Insurance; to
16	protect the interests of the Compacting States by supporting
17	the continued availability of such insurance to consumers; and
18	to provide for allocation of Premium Tax for Non-Admitted
19	Insurance of Multi-State Risks among the States in accordance
20	with uniform Allocation Formulas to be developed, adopted, and

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

implemented by the Commission.

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Licensees who assist such insureds and Surplus Lines Insurers, thereby ensuring the continued availability of Surplus Lines Insurance to consumers.

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- 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

1	by the Commission, thereby promoting the overall efficiency of
2	the Non-Admitted Insurance market.
3	8. To adopt uniform mandatory Rules with respect to
4	regulatory compliance requirements for:
5	(i) foreign Insurer Eligibility Requirements;
6	(ii) surplus lines Policyholder Notices;
7	9. To establish the Surplus Lines Insurance
8	Multi-State Compliance Compact Commission.
9	10. To coordinate reporting of Clearinghouse
10	Transaction Data on Non-Admitted Insurance of Multi-State
11	Risks among Compacting States and Contracting States.
12	11. To perform these and such other related
13	functions as may be consistent with the purposes of the
14	Surplus Lines Insurance Multi-State Compliance Compact.
15	ARTICLE II DEFINITIONS
16	For purposes of this Compact, the following
17	definitions shall apply:
18	1. "Admitted Insurer" means an insurer that is
19	licensed, or authorized, to transact the business of insurance
20	under the law of the Home State; for purposes of this Compact,
21	"Admitted Insurer" shall not include a domestic surplus lines
22	insurer as may be defined by applicable State law.
23	2. "Affiliate" means, with respect to an insured,

any entity that controls, is controlled by, or is under common

control with the insured.

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L	3. "Allocation Formula" means the uniform methods
2	promulgated by the Commission by which insured risk exposures
3	will be apportioned to each State for the purpose of
1	calculating Premium Taxes due.

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- 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

1	pursuant	to	Article	XIV,	Section	1,	or	been	terminated
2	pursuant	to	Article	XIV,	Section	2.			

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- 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" means an entity has "control" over another entity if:
 - (A) the entity directly or indirectly or acting through one or more other persons owns, 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:

1	(i) th	ne State in v	which an ins	sured maint	tains its
2	principal place	of business	or, in the	case of an	n individual,
3	the individual's	s principal 1	residence;	or	

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- (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

1	the	Commission	provided	that	each	Compacting	State	shall	be
2	limi	ted to one	vote						

- 16. "Multi-State Risk" means a risk with insured exposures in more than one State.
- 5 17. "Non-Compacting State" means any State which has not adopted this Compact.
- 7 18. "Non-Admitted Insurance" means Surplus Lines 8 Insurance and Independently Procured Insurance.

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- 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.

1	23. "Principal Place of Business" means, with
2	respect to determining the Home State of the insured, the
3	state where the insured maintains its headquarters and where
4	the insured's high-level officers direct, control, and
5	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.

1	28. "State Transaction Documentation" means the
2	information required under the laws of the Home State to be
3	filed by Surplus Lines Licensees in order to report Surplus
4	Lines Insurance and verify compliance with surplus lines laws
5	and by insureds in order to report Independently Procured
6	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.
- 22 ARTICLE III ESTABLISHMENT OF THE COMMISSION AND
 23 VENUE

L	1. The Compacting	States hereby create and establish
2	a joint public agency known	as the "Surplus Lines Insurance
3	Multi-State Compliance Compa	act Commission."

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- 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

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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 Lines 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

L	limited to, processing Clearinghouse Transaction Data through
2	State stamping and service offices, State insurance
3	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;

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- (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.

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- 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

Lines Licensees and from insureds for Independently Procured
Insurance, where applicable, for reporting to the
Clearinghouse.

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- 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 Lines Licensee is required to be licensed only in the Home State of each insured for whom Surplus Lines Insurance has been procured.
- 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 Affocacton Formula adopted by the
2	Commission. A policy considered to be Independently Procured
3	Insurance in the insured's Home State shall be considered
4	Independently Procured Insurance in all Compacting States and
5	Contracting States. Each Compacting State and Contracting
6	State shall require the insured to pay every other Compacting
7	State and Contracting State the Independently Procured
8	Insurance Premium Tax on each Multi-State Risk through the
9	Clearinghouse pursuant to the uniform Allocation Formula
10	adopted by the Commission.
11	13. Uniform foreign Insurer Eligibility Requirements
12	as authorized by the NRRA.
13	14. A uniform Policyholder Notice.
14	15. Uniform treatment of Purchasing Group Surplus
15	Lines Insurance placements.
16	ARTICLE V
17	POWERS OF THE COMMISSION
18	The Commission shall have the following powers:
19	1. To promulgate Rules and operating procedures,
20	pursuant to Article VIII of this Compact, which shall have the
21	force and effect of law and shall be binding in the Compacting
22	States to the extent and in the manner provided in this

2. To bring and prosecute legal proceedings or

actions in the name of the Commission, provided that the

Compact;

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standing of any State insurance department to sue or be sued under applicable law shall not be affected;

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- 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, pursuant to the Merit System of Alabama, 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

1	procedure adopted by the Commission; and to establish the
2	Commission's personnel policies and programs relating to
3	conflicts of interest, rates of compensation and
4	qualifications of personnel, and other related personnel
5	matters;

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- 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, or 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:
- 22 a. Minimum audit standards, including sampling
 23 methods,
 - b. Review of internal controls,

Τ	c. Cooperation and snaring of audit responsibilities
2	between Compacting States,
3	d. Handling of refunds or credits due to
4	overpayments or improper allocation of Premium Taxes,
5	e. Taxpayer records to be reviewed including a
6	minimum retention period,
7	f. Authority of Compacting States to review,
8	challenge, or re-audit taxpayer records.
9	12. To enforce compliance by Compacting States and
10	Contracting States with Rules and Bylaws pursuant to the
11	authority set forth in Article XIV;
12	13. To provide for dispute resolution among
13	Compacting States and Contracting States;
14	14. To advise Compacting States and Contracting
15	States on tax-related issues relating to insurers, insureds,
16	Surplus Lines Licensees, agents, or brokers domiciled or doing
17	business in Non-Compacting States, consistent with the
18	purposes of this Compact;
19	15. To make available advice and training to those
20	personnel in State stamping offices, State insurance
21	departments, or other State departments for record keeping,
22	tax compliance, and tax allocations and to be a resource for
23	State insurance departments and other State departments;
24	16. To establish a budget and make expenditures;
25	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;

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- than seven nor more than 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 and not more than 15 representatives to provide analysis, advice, determinations, and recommendations regarding technology, software, and systems integration to be

1	acquired by the Commission and to provide analysis, advice,
2	determinations, and recommendations regarding the
3	establishment of mandatory Rules to be adopted by the
4	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

2.1

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

1	Commission	shall	be f	filled	d in	accorda	ance	with	the	laws	of	the
2	Compacting	State	whei	rein t	the	vacancy	exis	sts.				

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- b. Each Member shall be entitled to one 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

1	Licensees'	proprietary	information,	including	trade	secrets.

- 2 The Commission may meet in camera only after a majority of the
- 3 entire membership votes to close a meeting in toto or in part.
- As soon as practicable, the Commission must make public:
- 5 (i) a copy of the vote to close the meeting
- 6 revealing the vote of each Member with no proxy votes allowed,
- 7 and (ii) votes taken during such meeting;
- 8 v. Establishing the titles, duties, and authority
- 9 and reasonable procedures for the election of the officers of
- 10 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
- 15 exclusively govern the personnel policies and programs of the
- 16 Commission; vii. Promulgating a code of ethics to address
- 17 permissible and prohibited activities of Commission Members
- 18 and employees;
- viii. Providing a mechanism for winding up the
- operations of the Commission and the equitable disposition of
- 21 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

L	amendment	thereto,	with	the	appropriate	agency	or	officer	in
2	each of th	ne Compact	ting S	State	es.				

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- 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 15 representatives, or one for each State if
 there are less than 15 Compacting States, who shall serve for
 a term to 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.

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- 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.

1	The Operations Committee shall have no more than 15
2	representatives or one for each State if there are less than
3	15 Compacting States, who shall serve for a term as shall be
4	established as set forth in the Bylaws.

5 The Operations Committee shall have responsibility 6 for:

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- 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 reporting 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 1 shall be individuals who have extensive experience and/or 2 3 employment in the Surplus Lines Insurance business including, but not limited to, executives and attorneys employed by 5 Surplus Lines Insurers, Surplus Lines Licensees, Law Firms, State Insurance Departments, and/or State stamping offices. 6 Operations Committee representatives from Compacting States 7 which utilize the services of a State stamping office must appoint the Chief Operating Officer or a senior manager of the 9 10 State stamping office to the Operations Committee.

4. Legislative and Advisory Committees

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- 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

НВ76

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

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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.

1	2. Each Member of the Commission shall have the
2	right and power to cast a vote to which that Compacting State
3	is entitled and to participate in the business and affairs of
4	the Commission. A Member shall vote in person or by such other
5	means as provided in the Bylaws. The Bylaws may provide for
6	Members' participation in meetings by telephone or other means
7	of communication.

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- 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, "U.S.C., Section 552(b)", 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 fromdisclosure by federal and State statute;

1	С	. Disc	lose	trade	secret	s or	commercial	or	financial
2	information	which	is r	orivile	eaed or	con	fidential:		

d. Involve accusing a person of a crime, or formally censuring a person;

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- 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.
- 6. 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.

1	ARTICLE VIII
2	RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS
3	OF THE COMMISSION
4	Rulemaking functions of the Commission:
5	1. Rulemaking Authority. The Commission shall
6	promulgate reasonable Rules in order to effectively and
7	efficiently achieve the purposes of this Compact.
8	Notwithstanding the foregoing, in the event the Commission
9	exercises its rulemaking authority in a manner that is beyond
10	the scope of the purposes of this Act, or the powers granted
11	hereunder, then such an action by the Commission shall be
12	invalid and have no force or effect.
13	2. Rulemaking Procedure. Rules shall be made
14	pursuant to a rulemaking process that substantially conforms
15	to the "Model State Administrative Procedure Act," of 1981,
16	Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as
17	may be appropriate to the operations of the Commission.
18	3. Effective Date. All Rules, and amendments
19	thereto, shall become effective as of the date specified in
20	each Rule, operating procedure, or amendment.
21	4. Not later than 30 days after a Rule is

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promulgated, any person may file a petition for judicial

petition shall not stay or otherwise prevent the Rule from

becoming effective unless the court finds that the Petitioner

review of the Rule; provided that the filing of such a

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

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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.

25 ARTICLE X

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1 DISPUTE RESOLUTION

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- 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 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.

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- 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

HB76

shall be audited annually by an independent certified public 1 2 accountant. Upon the determination of the Commission, but not 3 less frequently than every three 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. 7 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 13 regarding the privacy of individuals, and licensees' and insurers' proprietary information, including trade secrets, shall remain confidential. 15

- 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.

25 ARTICLE XIII

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1	COMPACTING	STATES,	EFFECTIVE	DATE,	AND	AMENDMENT
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- 2 1. Any State is eligible to become a Compacting
- 3 State.
- 2. The Compact shall become effective and binding 4 5 upon legislative enactment of the Compact into law by two Compacting States, provided the Commission shall become 6 7 effective for purposes of adopting Rules and creating the Clearinghouse when there are a total of 10 Compacting States 9 and Contracting States or, alternatively, when there are 10 Compacting States and Contracting States representing greater 11 than 40 percent of the Surplus Lines Insurance premium volume 12 based on records of the percentage of Surplus Lines Insurance 13 premium set forth as agreed to by the Compacting States. 14 Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law 15 16 by that State. Notwithstanding the foregoing, the 17 Clearinghouse operations and the duty to report Clearinghouse Transaction Data shall begin on the first January 1st or July 18 19 1st following the first anniversary of the Commission effective date. For States which join the Compact subsequent 20 2.1 to the effective date, a start date for reporting 22 Clearinghouse Transaction Data shall be set by the Commission 23 provided Surplus Lines Licensees and all other interested 24 parties receive not less than 90 days' advance notice.

1	3. Amendments to the Compact may be proposed by the
2	Commission for enactment by the Compacting States. No
3	amendment shall become effective and binding upon the
4	Commission and the Compacting States unless and until all
5	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 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

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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

1	date of default as fixed by the Commission. The grounds for
2	default include, but are not limited to, failure of a
3	Compacting State to perform its obligations or
4	responsibilities, and any other grounds designated in
5	Commission Rules. The Commission shall immediately notify the
6	Defaulting State in writing of the Defaulting State's
7	suspension pending a cure of the default. The Commission shall
8	stipulate the conditions and the time period within which the
9	Defaulting State must cure its default. If the Defaulting
10	State fails to cure the default within the time period
11	specified by the Commission, the Defaulting State shall be
12	terminated from the Compact and all rights, privileges, and
13	benefits conferred by this Compact shall be terminated from
14	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.

1	b. Upon the dissolution of this Compact, the Compact
2	becomes null and void and shall have no further force or
3	effect, and the business and affairs of the Commission shall
4	be wound up and any surplus funds shall be distributed in
5	accordance with the Rules and Bylaws.
6	ARTICLE XV
7	SEVERABILITY AND CONSTRUCTION
8	1. The provisions of this Compact shall be severable
9	and if any phrase, clause, sentence, or provision is deemed
10	unenforceable, the remaining provisions of the Compact shall
11	be enforceable.
12	2. The provisions of this Compact shall be liberally
13	construed to effectuate its purposes.
14	3. Throughout this Compact the use of the singular
15	shall include the plural and vice-versa.
16	4. The headings and captions of articles, sections,
17	and sub-sections used in this Compact are for convenience only
18	and shall be ignored in construing the substantive provisions
19	of this Compact.
20	ARTICLE XVI
21	BINDING EFFECT OF COMPACT AND OTHER LAWS
22	1. Other Laws
23	a. Nothing herein prevents the enforcement of any
24	other law of a Compacting State except as provided in
25	paragraph b. of this section.

1	b. Decisions of the Commission, and any Rules, and
2	any other requirements of the Commission shall constitute the
3	exclusive Rule or determination applicable to the Compacting
4	States. Any law or regulation regarding Non-Admitted Insurance
5	of Multi-State Risks that is contrary to Rules of the
6	Commission is preempted with respect to the following:
7	(i) Clearinghouse Transaction Data reporting
8	requirements;
9	(ii) Allocation Formula;
10	(iii) Clearinghouse Transaction Data collection
11	requirements;
12	(iv) Premium Tax payment time frames and Rules
13	concerning dissemination of data among the Compacting States
14	for Non-Admitted Insurance of Multi-State Risks and
15	Single-State Risks;
16	(v) Exclusive compliance with surplus lines law of
17	the Home State of the insured;
18	(vi) Rules for reporting to a Clearinghouse for
19	receipt and distribution of Clearinghouse Transaction Data
20	related to Non-Admitted Insurance of Multi-State Risks;
21	(vii) Uniform foreign Insurers Eligibility
22	Requirements;
23	(viii) Uniform Policyholder Notice; and (ix) Uniform
24	treatment of Purchasing Groups procuring Non-Admitted
25	Insurance.

1	c. Except as stated in paragraph b., any Rule,
2	Uniform Standard, or other requirement of the Commission shall
3	constitute the exclusive provision that a Commissioner may
4	apply to compliance or tax determinations. Notwithstanding the
5	foregoing, no action taken by the Commission shall abrogate or
6	restrict:

- (i) the access of any person to State courts;
- (ii) the availability of alternative dispute resolution under Article X of this Compact;

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- 10 (iii) remedies available under State law related to
 11 breach of contract, tort, or other laws not specifically
 12 directed to compliance or tax determinations;
- 13 (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

НВ76

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.

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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.

Section 2. The Governor is directed to enter into a compact on behalf of the State of Alabama with any state in the United States legally joining the compact in the form as substantially provided for in Section 1

Section 3. The compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States, and the Commission shall become effective for purposes of adopting rules and creating the clearinghouse when there are a total of 10 Compacting States and Contracting States or, alternatively, when there are Compacting States and Contracting States representing greater

1	than 40 percent of the Surplus Lines Insurance premium volume
2	based on records of the percentage of Surplus Lines Insurance
3	premium.
4	Section 4. Section 27-10-31, Code of Alabama 1975,
5	is amended to read as follows:
6	<u>"\$27-10-31.</u>
7	"(a) On or before the first day of March each year,
8	the surplus line broker shall remit to the State Treasurer
9	through the commissioner, as a tax imposed for the privilege
10	of transacting business as a surplus line broker in this
11	state, a tax of six percent on the direct premiums, less
12	return premiums and exclusive of sums collected to cover state
13	or federal taxes, on surplus line insurance subject to tax
14	transacted by the broker during the preceding calendar year as
15	shown by the annual statement filed with the commissioner.
16	"(b) If a surplus line policy covers risks or
17	exposures only partially in this state, the tax so payable
18	shall be computed on the proportion of the premium which is
19	properly allocable to the risks or exposures located in this
20	state.
21	"(c) (b) The tax under the provisions of this section
22	shall be subject to deduction of the full amount of all

expenses of examination of the surplus line broker by the

insurers for examination expenses under the provisions of

commissioner in the same manner as that allowed for domestic

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1	subdivision (5) of subsection (c) of Section 27-4A-3. All
2	taxes collected under this section shall be deposited in the
3	State Treasury to the credit of the State General Fund."
4	Section 5. The provisions of Section 4 shall not be
5	effective if the Surplus Lines Insurance Multi-State
6	Compliance Compact is not enacted into law by two compacting
7	states.
8	Section 6. This act shall become effective on the
9	first day of the third month following its passage and
10	approval by the Governor, or its otherwise becoming law.

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4		Speaker of the House of Representatives	
5	_		
6		President and Presiding Officer of the Senat	e
7 8 9	and was p	House of Representatives I hereby certify that the within Act originate bassed by the House 05-MAY-11, as amended.	d in
10 11 12 13		Greg Pappas Clerk	
14			
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16	Senate	02-JUN-11	Passed