

1 **SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT**

2
3 **ARTICLE I**

4
5 **PURPOSE**

6
7 The purposes of this Compact are:

- 8
- 9 1. To protect the premium tax revenues of the Compacting States through
10 facilitating the payment and collection of Premium Taxes on Surplus Lines
11 Insurance and Independently Procured Insurance; and protect the interests of
12 the Compacting States by supporting the continued availability of such
13 insurance to consumers; and to provide for Non-Admitted Insurance
14 Premium Tax for Surplus Lines Insurance and Independently Procured
15 Insurance for Multi-State risks to be allocated among the States in
16 accordance with uniform Premium Tax Data Allocation Formulas to be
17 developed, adopted, and implemented by the Commission.
18
 - 19 2. To streamline and improve the efficiency of the surplus lines market by
20 eliminating duplicative and inconsistent tax and regulatory requirements
21 among the States; and promote and protect the interest of Surplus Lines
22 Licensees who assist such insureds and Surplus Lines Insurers, thereby
23 ensuring the continued availability of Surplus Lines Insurance to consumers.
24
 - 25 3. To streamline regulatory compliance with respect to Non-Admitted
26 Insurance placements by providing for exclusive single-state regulatory
27 compliance for multi-state Surplus Lines Insurance placements and multi-
28 state Independently Procured Insurance placements, in accordance with
29 Rules to be adopted by the Commission, thereby providing certainty
30 regarding such compliance to all persons who have an interest in such
31 transactions, including but not limited to insureds, regulators, Surplus Lines
32 Licensees, other insurance producers, and Surplus Lines Insurers.
33
 - 34 4. To establish a Clearinghouse for receipt and dissemination of Premium Tax
35 Data and Transaction Data related to Multi-State Risks and multi-state
36 Independently Procured Insurance placements, in accordance with Rules to
37 be adopted by the Commission.
38
 - 39 5. To improve coordination of regulatory resources and expertise between State
40 insurance departments and other State agencies, as well as State surplus lines

1 stamping offices, with respect to Surplus Lines Insurance and Independently
2 Procured Insurance.

- 3
- 4 6. To adopt uniform Rules with respect to premium tax payment, reporting,
5 allocation, data collection and dissemination for multi-state and single-state
6 Surplus Lines Insurance placements and multi-state and single-state
7 Independently Procured Insurance placements, in accordance with Rules to
8 be adopted by the Commission, thereby promoting the overall efficiency of
9 the Non-Admitted Insurance market.
- 10
- 11 7. To adopt Uniform Standards with respect to regulatory compliance
12 requirements for:
- 13
- 14 (i) Surplus Lines Transaction Documentation and Independent
15 Procurement Transaction Documentation;
- 16
- 17 (ii) Surplus Lines Licensee Banking, Bond, and
18 Record Keeping;
- 19
- 20 (iii) Surplus Lines Diligent Search and exemptions therefrom;
- 21
- 22 (iv) surplus lines Policyholder Notices.
23 and such other matters as specified in Article V;
- 24

25 Provided, however, that any Compacting State shall have the right to opt out
26 of any such Uniform Standard pursuant to Article IX to the extent and in the
27 manner provided in this Compact.

28

- 29 8. To establish the Surplus Lines Insurance Multi-State Compliance Compact
30 Commission.
- 31
- 32 9. To coordinate reporting Premium Tax Data and Transaction Data on Multi-
33 State Risk(s) among Compacting States and Non-Compacting States.
- 34
- 35 10. To perform these and such other related functions as may be consistent with
36 the purposes of the Surplus Lines Insurance Multi-State Compliance
37 Compact.

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1 **ARTICLE II**

2 **DEFINITIONS**

3 For purposes of this Compact the following definitions shall apply:

- 4
- 5 1. "Admitted Insurer" means an insurer that is licensed, or authorized, to
6 transact the business of insurance under the law of the Home State.
7
- 8 2. "Banking, Bond and Record Keeping" means the maintenance of bank
9 accounts, bonds and records by Surplus Lines Licensees with respect to
10 Surplus Lines Insurance for Multi-State Risks.
11
- 12 3. "Bylaws" means those bylaws established by the Commission for its
13 governance, or for directing or controlling the Commission's actions or
14 conduct.
15
- 16 4. "Clearinghouse" means the Commission's operations involving the
17 acceptance, processing, and dissemination, among the Compacting States,
18 Surplus Lines Licensees, insureds and other persons, of Premium Tax Data
19 and Transaction Data regarding Multi-State Risks involving Non-Admitted
20 Insurance, in accordance with this Compact and Rules to be adopted by the
21 Commission.
22
- 23 5. "Commercial Lines Insurance" means all types, kinds, and classes of
24 insurance other than life and Personal Lines Insurance.
25
- 26 6. "Compacting State" means any State which has enacted this Compact
27 legislation and which has not withdrawn pursuant to Article XV, Section 1.,
28 or been terminated pursuant to Article XV, Section 2.
29
- 30 7. "Commission" means the "Surplus Lines Insurance Multi-State Compliance
31 Compact Commission" established by this Compact.
32
- 33 8. "Commissioner" means the chief insurance regulatory official of a State
34 including, but not limited to commissioner, superintendent, director or
35 administrator or their designees.
36

- 1 9. “Diligent Search” means the duty to seek coverage for the insured from
2 Admitted Insurers as a condition precedent to placing the coverage with a
3 Surplus Lines Insurer.
4
- 5 10. "Home State", with respect to Commercial Lines Insurance, means
6
7 a. the State in which a portion of the Multi-State Risk is located and
8 which satisfies at least two of the following criteria:
9
10 (i) The State where negotiations by the insured, for the coverage,
11 took place;
12
13 (ii) The State where the policy was delivered to the insured;
14
15 (iii) The State where the principal office of the insured is located
16 and in the case of multiple insured entities, the State where the
17 principal office of the parent corporation or entity is located,
18
19 (iv) The State where the largest portion of the insured risk is located
20 based on the Premium Tax Data Allocation Formula, or
21
22 b. if a. is not applicable, the State where the largest portion of the
23 insured risk is located based on the Premium Tax Data Allocation
24 Formula.
25
- 26 11. "Home State", with respect to Personal Lines Insurance, means the State
27 where the principal residence of the insured is located, provided that if no
28 portion of the risk is located in that State then the Home State shall be the
29 State where the largest portion of the insured risk is located based on the
30 Premium Tax Data Allocation Formula.
31
- 32 12. “Independently Procured Insurance” means insurance procured by an insured
33 directly from a Non-Admitted Insurer as permitted by the laws of the Home
34 State.
35
- 36 13. “Insurer Eligibility Standards” means the requirements to qualify as a
37 Surplus Lines Insurer under the law of the Home State.
38

- 1 14. “Independent Procurement Transaction Documentation” means the
2 information required to be filed by the insured under the Home State’s laws,
3 and under this Compact, in order to report the independent procurement.
4
- 5 15. “Member” means the person or persons chosen by a Compacting State as its
6 representative or representatives to the Commission provided that each
7 Compacting State shall be limited to one vote.
8
- 9 16. “Multi-State Risk” means a risk with insured exposures in more than one
10 State.
11
- 12 17. “Non-Compacting State” means any State which has not adopted this
13 Compact.
14
- 15 18. “Non-Admitted Insurance” means Surplus Lines Insurance and
16 Independently Procured Insurance.
17
- 18 19. "Non-Admitted Insurer" means an insurer that is not authorized or admitted
19 to transact the business of insurance under the law of the Home State.
20
- 21 20. "Personal Lines Insurance" means all types, kinds, and classes of insurance
22 for personal, family or household needs, other than life insurance.
23
- 24 21. “Policyholder Notice” means the disclosure notice or stamp that is required
25 to be furnished to the applicant or policyholder in connection with a Surplus
26 Lines Insurance placement.
27
- 28 22. “Premium Tax” means any tax, fee, assessment, or other charge imposed by
29 a Compacting State, or political subdivision thereof, on an insured or
30 Surplus Lines Licensee based on any payment made as consideration for a
31 contract of Non-Admitted Insurance.
32
- 33 23. “Premium Tax Data Allocation Formula” means the uniform methods
34 promulgated by the Commission by which insured risk exposures will be
35 apportioned to each State for the purpose of calculating Premium Taxes due.
36
- 37 24. “Premium Tax Data and Transaction Data” means the information regarding
38 Surplus Lines Insurance and Independently Procured Insurance for Multi-
39 State Risks required to be reported, accepted, collected, processed, and
40 disseminated by the Surplus Lines Licensee for Surplus Lines Insurance and

1 insureds for Independently Procured Insurance under this Compact and
2 Rules to be adopted by the Commission.

3
4 25. “Purchasing Group” means any group formed pursuant to the Liability Risk
5 Retention Act which has as one of its purposes the purchase of liability
6 insurance on a group basis, purchases such insurance only for its group
7 members and only to cover their similar or related liability exposure and is
8 composed of members whose businesses or activities are similar or related
9 with respect to the liability to which members are exposed by virtue of any
10 related, similar or common business, trade, product, services, premises or
11 operations and is domiciled in any state.

12
13 26. “Rule” means a statement of general or particular applicability and future
14 effect promulgated by the Commission designed to implement, interpret, or
15 prescribe law or policy or describing the organization, procedure or practice
16 requirements of the Commission which shall have the force and effect of law
17 in the Compacting States.

18
19 27. "Single-State Risk" means a risk with insured exposures in only one State.

20
21 28. “State” means any state, district or territory of the United States of America.

22
23 29. “Surplus Lines Insurance” means insurance procured by a Surplus Lines
24 Licensee from a Surplus Lines Insurer or other Non-Admitted Insurer as
25 permitted under the law of the Home State; for purposes of this Compact
26 “Surplus Lines Insurance” shall also mean excess lines insurance as may be
27 defined by applicable State law.

28
29 30. "Surplus Lines Insurer" means a Non-Admitted Insurer permitted under the
30 law of the Home State to accept business from a Surplus Lines Licensee.

31
32 31. “Surplus Lines Licensee” means an individual, firm or corporation licensed
33 under the law of the Home State to place Surplus Lines Insurance.

34
35 32. “Surplus Lines Transaction Documentation” means the information required
36 by the Home State’s laws to be filed by the Surplus Lines Licensee in order
37 to verify compliance with its surplus lines laws.

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39 33. “Uniform Standard” means a standard adopted by the Commission pursuant
40 to Articles V and IX of this Compact.

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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 Surplus Lines Insurance and Independently Procured Insurance for Multi State Risks, Premium Tax Data Allocation Formulas, Premium Tax Data and Transaction Data, a Clearinghouse for receipt and distribution of allocated Premium Tax Data and Transaction Data, and uniform rule-making 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 V, the Commission will have the power to adopt Uniform Standards concerning Surplus Lines Transaction Documentation and Independently Procured Insurance Transaction Documentation; Banking, Bond and Record Keeping compliance requirements; Diligent Search compliance requirements and exemptions; a concise and objective Policyholder Notice regarding the nature of a surplus lines placement; uniform treatment of surplus lines transactions involving multiple insurance producers and/or Surplus Lines Licensees and such other matters as specified in Article V; which Uniform Standards will be binding in the Compacting States, provided that any Compacting State will have the right to opt out of any such Uniform Standard pursuant to Articles V and IX to the extent and in the manner provided in this Compact.
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.

1 6. Except as otherwise provided for alternative dispute resolution proceedings
2 venue is proper and judicial proceedings by or against the Commission shall
3 be brought solely and exclusively in a court of competent jurisdiction where
4 the principal office of the Commission is located.

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ARTICLE IV

Authority to Establish Mandatory Rules

The Commission shall adopt mandatory Rules which establish:

1. Premium Tax Data Allocation Formulas for each type of Surplus Lines Insurance coverage, which allocation formulas must be used by each Compacting State in acquiring Premium Tax Data and Transaction Data from Surplus Lines Licensees and insureds for reporting to the Clearinghouse created by the Compact Commission.
2. Uniform Premium Tax Data and Transaction Data reporting requirements for all information reported to the Clearinghouse.
3. Various methods by which a State can report or require Surplus Lines Licensees and insureds to report Premium Tax Data and Transaction Data to the States and/or the Clearinghouse, including but not limited to State stamping and service offices, State insurance departments, or other State designated agencies or entities.
4. That Surplus Lines Insurance and Independently Procured Insurance placements involving a Multi-State Risk 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 Standards or other approved Non-Admitted Insurer requirements; (iii) Diligent Search; (iv) Surplus Lines Transaction Documentation and Premium Tax Data and 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 Independent Procurement Transaction Documentation and Premium Tax Data and 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 may charge its own rate of taxation on the premium allocated to such state based on the applicable Premium Tax Data

1 Allocation Formula.

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- 3 6. That any change in a Compacting State's rate of taxation be restricted to
4 changes made prospectively on not less than 90 days advanced notice to the
5 Compact Commission.
6
- 7 7. That each Compacting State shall require tax payments either annually, semi-
8 annually, or quarterly utilizing one or more of the following dates only:
9 March 1, June 1, September 1, and December 1.
10
- 11 8. A prohibition by Compacting States from permitting any other State agency
12 or political subdivision from requiring Surplus Lines Licensees to provide
13 Premium Tax Data and Transaction Data and Surplus Lines Transaction
14 Documentation other than to the insurance department or tax officials of the
15 Home State or one single designated agent thereof.
16
- 17 9. The obligation of the Home State by itself, through a designated agent,
18 surplus lines stamping or service office, to collect Premium Tax Data and
19 Transaction Data from Surplus Line Licensees and from insureds for
20 Independently Procured Insurance, where applicable, for reporting to the
21 Clearinghouse.
22
- 23 10. A method for Surplus Lines Licensees and insureds for Independently
24 Procured Insurance, where applicable, to report to the Clearinghouse,
25 voluntarily, Premium Tax Data and Transaction Data for transactions where
26 the Home State is not a Compacting State.
27
- 28 11. A method for the Clearinghouse to periodically report to Compacting States,
29 Surplus Lines Licensees and insureds who independently procure insurance,
30 all taxes owed to each of the Compacting States and dates payment of such
31 Premium Taxes are due.
32
- 33 12. That each Surplus Line Licensee is required to be licensed only in the Home
34 State of each insured for whom Surplus Lines Insurance has been acquired.
35
- 36 13. That a policy considered to be Surplus Lines Insurance in the insured's
37 Home State shall be considered Surplus Lines Insurance in all Compacting
38 States. Each Compacting State shall require each Surplus Lines Licensee to
39 pay to every other Compacting State taxes on each Multi State Risk at such
40 tax rate charged on surplus lines transactions in such other Compacting

1 States on the portion of the risk in each such Compacting State as
2 determined by the applicable uniform Premium Tax Data Allocation
3 Formula adopted by the Commission. A placement considered to be
4 Independently Procured Insurance in the insured's Home State shall be
5 considered Independently Procured Insurance in all Compacting States.
6 Each Compacting State shall require the insured to pay every other
7 Compacting State the Independently Procured Insurance Premium Tax on
8 each Multi-State Risk pursuant to the uniform Premium Tax Data Allocation
9 Formula adopted by the Commission.

1 **Article V.**

2
3 **Uniform Standards Authority**

4
5 The Commission shall have the power to adopt Uniform Standards in accordance
6 with Article VI hereof and subject to the right of Compacting States to opt out of
7 such Uniform Standards pursuant to Article IX which Uniform Standards may
8 establish consistent regulation regarding:
9

- 10 1. Surplus Lines Transaction Documentation and Independently Procured
11 Insurance Documentation.
12
13 2. Surplus Lines Licensee Banking, Bond, and Record Keeping.
14
15 3. Surplus Lines Diligent Search and exemptions.
16
17 4. A concise and objective Policyholder Notice regarding the nature of a
18 surplus lines placement.
19
20 5. Uniform treatment of surplus line transactions involving multiple insurance
21 producers and/or Surplus Lines Licensees.
22
23 6. A requirement that each Compacting State set one tax rate which applies to
24 Surplus Lines Insurance, Independently Procured Insurance, industrial
25 insured insurance and any other form of Non-admitted Insurance.
26
27 7. A requirement that no Compacting State require Surplus Lines Licensees to
28
29 a) use different tax rates for different classes or types of insurance
30 coverage,
31
32 b) calculate and pay or account for any fire district charges, surcharges
33 or assessments except to the extent that such charges are either
34 incorporated into such Compacting State's single tax rate or can be
35 calculated simultaneously with the tax rate at inception of the policy
36 and,
37
38 c) to report tax information to any person, entity, governmental entity or
39 political subdivision except to a State agency or designee of a State
40 agency.

1 8. Uniform treatment of Purchasing Group insurance placements.

2

3 9. Other Uniform Standards with respect to surplus lines compliance
4 requirements which in the opinion of the Commission would result in
5 regulatory and market efficiencies without a reduction in any consumer
6 protection afforded insureds or claimants.

7

8 Within twelve months after the first meeting of the Commission created
9 hereunder the Commission shall consider the foregoing matters for adoption
10 as Uniform Standards and shall issue a written report to the Governors,
11 Senate Presidents, and House Speakers of the Compacting States concerning
12 the Commission's efforts to achieve the adoption of these Uniform
13 Standards. Subsequent reports shall be issued every twenty-four months
14 thereafter concerning the status of those issues for which Uniform Standards
15 have not yet been adopted.

16

1 **Article VI.**

2
3 **Powers of the Commission**

4
5 The Commission shall have the following powers:

- 6
- 7 1. To promulgate Rules and operating procedures, pursuant to Article IX of
8 this Compact, which shall have the force and effect of law and shall be
9 binding in the Compacting States to the extent and in the manner provided in
10 this Compact;
 - 11
 - 12 2. To promulgate Uniform Standards, pursuant to Articles V and IX of this
13 Compact, which shall have the force and effect of law and shall be binding
14 in the Compacting States to the extent and in the manner provided in this
15 Compact, subject to the right of any Compacting State to opt out of such
16 Uniform Standard;
 - 17
 - 18 3. To bring and prosecute legal proceedings or actions in the name of the
19 Commission; provided that the standing of any State insurance department
20 to sue or be sued under applicable law shall not be affected;
 - 21
 - 22 4. To issue subpoenas requiring the attendance and testimony of witnesses and
23 the production of evidence provided however, the Commission is not
24 empowered to demand or subpoena records or data from Non-Admitted
25 Insurers;
 - 26
 - 27 5. To establish and maintain offices including the creation of a Clearinghouse
28 for the receipt of Premium Tax Data and Transaction Data regarding Multi-
29 State Surplus Lines Insurance and Multi-State Independently Procured
30 Insurance placements, tax reporting forms, and if authorized by Commission
31 Rules at the request of one or more Compacting States, tax payments;
 - 32
 - 33 6. To purchase and maintain insurance and bonds;
 - 34
 - 35 7. To borrow, accept or contract for services of personnel, including, but not
36 limited to, employees of a Compacting State or stamping office;
 - 37
 - 38 8. To hire employees, professionals or specialists, and elect or appoint officers,
39 and to fix their compensation, define their duties and give them appropriate
40 authority to carry out the purposes of the Compact, and determine their

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

5 9. To accept any and all appropriate donations and grants of money,
6 equipment, supplies, materials and services, and to receive, utilize and
7 dispose of the same; provided that at all times the Commission shall strive to
8 avoid any appearance of impropriety;
9

10 10. To lease, purchase, accept appropriate gifts or donations of, or otherwise to
11 own, hold, improve or use, any property, real, personal or mixed; provided
12 that at all times the Commission shall strive to avoid any appearance of
13 impropriety;
14

15 11. To sell convey, mortgage, pledge, lease, exchange, abandon or otherwise
16 dispose of any property real, personal or mixed;
17

18 12. To provide for tax audit rules and procedures for the Compacting States with
19 respect to the allocation of Premium Taxes including:
20

21 a. Minimum audit standards, including sampling methods,
22

23 b. Review of internal controls,
24

25 c. Cooperation and sharing of audit responsibilities between Compacting
26 States,
27

28 d. Handling of refunds or credits due to overpayments or improper
29 allocation of Premium Taxes,
30

31 e. Taxpayer records to be reviewed including a minimum retention
32 period,
33

34 f. Authority of Compacting States to review, challenge, or re-audit
35 taxpayer records.
36

37 13. To enforce compliance by Compacting States with Rules, Uniform
38 Standards, and Bylaws pursuant to the authority set forth in Article XV;
39

40 14. To provide for dispute resolution among Compacting States;

- 1
2 15. To advise Compacting States on tax-related issues relating to insurers,
3 insureds, Surplus Lines Licensees, agents or brokers domiciled or doing
4 business in Non-Compacting States, consistent with the purposes of this
5 Compact;
6
- 7 16. To make available advice and training to those personnel in State stamping
8 offices, State insurance departments or other State departments for record
9 keeping, tax compliance, and tax allocations; and to be a resource for State
10 insurance departments and other State departments;
11
- 12 17. To establish a budget and make expenditures;
13
- 14 18. To borrow money;
15
- 16 19. To appoint committees, including advisory committees comprised of
17 Members, State insurance regulators, State legislators or their
18 representatives, insurance industry and consumer representatives, and such
19 other interested persons as may be designated in this Compact and the
20 Bylaws.
21
- 22 20. To provide and receive information from, and to cooperate with, law
23 enforcement agencies;
24
- 25 21. To adopt and use a corporate seal; and
26
- 27 22. To perform such other functions as may be necessary or appropriate to
28 achieve the purposes of this Compact consistent with the State regulation of
29 the business of insurance.

1 **Article VII.**

2
3 **Organization of the Commission**

4
5 1. Membership, Voting and Bylaws

6
7 a. Each Compacting State shall have and be limited to one Member.
8 Each State shall determine the qualifications and the method by which
9 it selects a Member and set forth the selection process in the enabling
10 provision of the legislation which enacts this Compact. In the absence
11 of such a provision the Member shall be appointed by the governor of
12 such Compacting State. Any Member may be removed or suspended
13 from office as provided by the law of the State from which he or she
14 shall be appointed. Any vacancy occurring in the Commission shall be
15 filled in accordance with the laws of the Compacting State wherein
16 the vacancy exists.

17
18 b. Each Member shall be entitled to one (1) vote and shall otherwise
19 have an opportunity to participate in the governance of the
20 Commission in accordance with the Bylaws. Notwithstanding any
21 provision herein to the contrary, no action of the Commission with
22 respect to the promulgation of a Uniform Standard shall be effective
23 unless two-thirds (2/3) of the Members vote in favor thereof.

24
25 c. The Commission shall, by a majority vote of the Members, prescribe
26 Bylaws to govern its conduct as may be necessary or appropriate to
27 carry out the purposes and exercise the powers of the Compact
28 including, but not limited to:

29
30 i. Establishing the fiscal year of the Commission;

31
32 ii. Providing reasonable procedures for holding meetings, of the
33 Commission and Management Committee;

34
35 iii. Providing reasonable standards and procedures: (i) for the
36 establishment and meetings of other committees, and (ii)
37 governing any general or specific delegation of any authority or
38 function of the Commission;

39
40

- 1 iv. Providing reasonable procedures for calling and conducting
2 meetings of the Commission that consists of a majority of
3 Commission Members, ensuring reasonable advance notice of
4 each such meeting and providing for the right of citizens to
5 attend each such meeting with enumerated exceptions designed
6 to protect the publics' interest, the privacy of individuals, and
7 insurers' and Surplus Lines Licensees' proprietary information,
8 including trade secrets. The Commission may meet in camera
9 only after a majority of the entire membership votes to close a
10 meeting in *toto* or in part. As soon as practicable, the
11 Commission must make public: (i) a copy of the vote to close
12 the meeting revealing the vote of each Member with no proxy
13 votes allowed, and (ii) votes taken during such meeting;
14
- 15 v. Establishing the titles, duties and authority and reasonable
16 procedures for the election of the officers of the Commission;
17
- 18 vi. Providing reasonable standards and procedures for the
19 establishment of the personnel policies and programs of the
20 Commission. Notwithstanding any civil service or other similar
21 laws of any Compacting State, the Bylaws shall exclusively
22 govern the personnel policies and programs of the Commission;
23
- 24 vii. Promulgating a code of ethics to address permissible and
25 prohibited activities of Commission Members and employees;
26
- 27 viii. Providing a mechanism for winding up the operations of the
28 Commission and the equitable disposition of any surplus funds
29 that may exist after the termination of the Compact after the
30 payment and/or reserving of all of its debts and obligations;
31
- 32 ix. The Commission shall publish its Bylaws in a convenient form
33 and file a copy thereof and a copy of any amendment thereto,
34 with the appropriate agency or officer in each of the
35 Compacting States.
36

37 2. Management Committee, Personnel and Chairperson
38

- 39 a. A Management Committee of the Commission shall be established.
40 The Management Committee shall have no more than fifteen (15)

1 representatives, or one for each state if there are less than fifteen (15)
2 Compacting States, who shall serve for a term to be determined in the
3 Bylaws, and shall be established as follows:
4

5 i. One (1) representative from each of the six (6) Compacting
6 States with the largest surplus lines premium volume,
7 determined by the data set forth in Appendix A hereto which
8 shall be updated by the Commission based on the release and
9 availability of revised data from each Compacting State.
10

11 ii. Up to five (5) representatives from those Compacting States
12 with at least two percent (2%) of the surplus lines market based
13 on the premium volume described above, other than the six (6)
14 Compacting States with the largest premium volume, selected
15 on a rotating basis as provided in the Bylaws; and
16

17 iii. Up to four (4) representatives from those Compacting States
18 with less than two percent (2%) of the surplus lines market,
19 based on the premium volume described above, with one (1)
20 selected from each of the four (4) zone regions of the NAIC as
21 provided in the Bylaws.
22

23 b. The Management Committee shall have such authority and duties as
24 may be set forth in the Bylaws, including but not limited to:
25

26 i. Managing the affairs of the Commission in a manner consistent
27 with the Bylaws and purposes of the Commission;
28

29 ii. Establishing and overseeing an organizational structure within,
30 and appropriate procedures for the Commission to provide for
31 the creation of Rules, operating procedures, Uniform Standards
32 and administrative and technical support functions, provided
33 that a Uniform Standard shall not be submitted to the
34 Commission for adoption unless approved by two-thirds (2/3)
35 of the representatives of the Management Committee;
36

37 iii. Overseeing the offices of the Commission; and
38

39 iv. Planning, implementing, and coordinating communications and
40 activities with other State, federal and local government

1 organizations in order to advance the goals of the Commission.
2

3 c. The Management Committee shall annually elect a Chairperson from
4 the Management Committee, having such authority and duties, as may
5 be specified in the Bylaws. No person shall be permitted to
6 participate as a representative on the Management Committee and as a
7 Member or representative of a Member of the Commission
8 simultaneously.
9

10 d. The Management Committee may, subject to the approval of the
11 Commission, appoint or retain an executive director for such period,
12 upon such terms and conditions and for such compensation as the
13 Commission may deem appropriate. The executive director shall serve
14 as secretary to the Commission, but shall not be a Member of the
15 Commission. The executive director shall hire and supervise such
16 other persons as may be authorized by the Commission.
17

18 e. All representatives of the Management Committee shall be appointed
19 as follows. Members of the Commission shall determine which states
20 qualify for voting rights under Article VII (2)(a)(i), (2)(a)(ii) or
21 (2)(a)(iii). The Management Committee shall be comprised of the
22 chief operating officers of the State stamping offices or service offices
23 if the State has a stamping office or service office and that State is
24 entitled to a representative on the Management Committee pursuant to
25 the provisions of Article VII (2)(a)(i) hereof. If the State has no
26 stamping office or service office, but is entitled to a representative on
27 the Management Committee pursuant to Article VII (2)(a)(i) hereof,
28 the Member from that State shall appoint the representative to the
29 Management Committee.
30

31 The Members of the Commission from the States qualifying under
32 Article VII (2)(a)(ii) shall elect a slate of nominees pursuant to
33 procedures established by the Bylaws. The Members of the
34 Commission from States qualifying under Article VII (2)(a)(iii) shall
35 elect a slate of nominees pursuant to procedures established by the
36 Bylaws. In no event shall a person other than the chief operating
37 officer of a State stamping office or service office be selected from a
38 State which operates a stamping office or service office.
39

40 f. Management Committee representatives shall serve for a term or

1 term(s) of office as provided in the Bylaws. The Bylaws will provide
2 for changes to the composition of the Management Committee
3 representatives to the extent new States become Compacting States
4 and to account for changes in the percentage of surplus line premium
5 each Compacting State bears to other Compacting States. The
6 Commission will determine the State by State portion of the surplus
7 lines market every five years beginning 2010 year end to determine
8 voting rights for representatives to the Management Committee.
9

10 3. Legislative and Advisory Committees
11

- 12 a. A legislative committee comprised of State legislators or their
13 designees shall be established to monitor the operations of and make
14 recommendations to, the Commission, including the Management
15 Committee; provided that the manner of selection and term of any
16 legislative committee member shall be as set forth in the Bylaws.
17 Prior to the adoption by the Commission of any Uniform Standard,
18 revision to the Bylaws, annual budget or other significant matter as
19 may be provided in the Bylaws, the Management Committee shall
20 consult with and report to the legislative committee.
21
- 22 b. The Commission may establish additional advisory committees as its
23 Bylaws may provide for the carrying out of its functions.
24

25 4. Corporate Records of the Commission
26

27 The Commission shall maintain its corporate books and records in
28 accordance with the Bylaws.
29

30 5. Qualified Immunity, Defense and Indemnification
31

- 32 a. The Members, officers, executive director, employees and
33 representatives of the Commission and the Management Committee
34 shall be immune from suit and liability, either personally or in their
35 official capacity, for any claim for damage to or loss of property or
36 personal injury or other civil liability caused by or arising out of any
37 actual or alleged act, error or omission that occurred, or that the
38 person against whom the claim is made had a reasonable basis for
39 believing occurred within the scope of Commission employment,
40 duties or responsibilities; provided, that nothing in this paragraph shall

1 be construed to protect any such person from suit and/or liability for
2 any damage, loss, injury or liability caused by the intentional or
3 willful or wanton misconduct of that person.
4

5 b. The Commission shall defend any Member, officer, executive
6 director, employee or representative of the Commission or
7 Management Committee in any civil action seeking to impose liability
8 arising out of any actual or alleged act, error or omission that occurred
9 within the scope of Commission employment, duties or
10 responsibilities, or that the person against whom the claim is made
11 had a reasonable basis for believing occurred within the scope of
12 Commission employment, duties or responsibilities; provided, that
13 nothing herein shall be construed to prohibit that person from
14 retaining his or her own counsel; and provided further, that the actual
15 or alleged act error or omission did not result from that person's
16 intentional or willful or wanton misconduct.
17

18 c. The Commission shall indemnify and hold harmless any Member,
19 officer, executive director, employee or representative of the
20 Commission and Management Committee for the amount of any
21 settlement or judgment obtained against that person arising out of any
22 actual or alleged act, error or omission that occurred within the scope
23 of Commission employment, duties or responsibilities, or that such
24 person had a reasonable basis for believing occurred within the scope
25 of Commission employment, duties or responsibilities, provided, that
26 the actual or alleged act, error or omission did not result from the
27 intentional or willful or wanton misconduct of that person.

1 **Article VIII.**

2
3 **Meetings and Acts of the Commission**

- 4
- 5 1. The Commission shall meet and take such actions as are consistent with the
6 provisions of this Compact and the Bylaws.
7
- 8 2. Each Member of the Commission shall have the right and power to cast a
9 vote to which that Compacting State is entitled and to participate in the
10 business and affairs of the Commission. A Member shall vote in person or
11 by such other means as provided in the Bylaws. The Bylaws may provide for
12 Members' participation in meetings by telephone or other means of
13 communication.
14
- 15 3. The Commission shall meet at least once during each calendar year.
16 Additional meetings shall be held as set forth in the Bylaws.
17
- 18 4. Public notice shall be given of all meetings and all meetings shall be open to
19 the public, except as set forth in the Rules or otherwise provided in the
20 Compact.
21
- 22 5. The Commission shall promulgate Rules concerning its meetings consistent
23 with the principles contained in the "Government in the Sunshine Act," 5
24 U.S.C., Section 552(b), as may be amended.
25
- 26 6. The Commission and its committees may close a meeting, or portion thereof,
27 where it determines by majority vote that an open meeting would be likely
28 to:
- 29 a. Relate solely to the Commission's internal personnel practices
30 and procedures;
 - 31
 - 32 b. Disclose matters specifically exempted from disclosure by
33 federal and State statute;
 - 34
 - 35 c. Disclose trade secrets or commercial or financial information
36 which is privileged or confidential;
 - 37
 - 38 d. Involve accusing a person of a crime, or formally censuring a
39 person;
 - 40

- 1 e. Disclose information of a personal nature where disclosure
- 2 would constitute a clearly unwarranted invasion of personal
- 3 privacy;
- 4
- 5 f. Disclose investigative records compiled for law enforcement
- 6 purposes;
- 7
- 8 g. Specifically relate to the Commission's issuance of a subpoena,
- 9 or its participation in a civil action or other legal proceeding.

10

11 7. For a meeting, or portion of a meeting, closed pursuant to this provision, the

12 Commission's legal counsel or designee shall certify that the meeting may

13 be closed and shall reference each relevant exemptive provision. The

14 Commission shall keep minutes which shall fully and clearly describe all

15 matters discussed in a meeting and shall provide a full and accurate

16 summary of actions taken, and the reasons therefore, including a description

17 of the views expressed and the record of a roll call vote. All documents

18 considered in connection with an action shall be identified in such minutes.

19 All minutes and documents of a closed meeting shall remain under seal,

20 subject to release by a majority vote of the Commission.

21

22

1 **Article IX.**

2
3 **Rules, Operating Procedures, and Uniform Standards: Rulemaking**
4 **Functions of the Commission and Opting Out of Uniform Standards**
5

6 Rulemaking functions of the commission:
7

- 8 1. Rulemaking Authority—The Commission shall promulgate reasonable
9 Rules, including Uniform Standards, in order to effectively and efficiently
10 achieve the purposes of this Compact. Notwithstanding the foregoing, in the
11 event the Commission exercises its rulemaking authority in a manner that is
12 beyond the scope of the purposes of this Act, or the powers granted
13 hereunder, then such an action by the Commission shall be invalid and have
14 no force or effect.
15
- 16 2. Rulemaking Procedure—Rules and Uniform Standards shall be made
17 pursuant to a rulemaking process that substantially conforms to the “Model
18 State Administrative Procedure Act,” of 1981 Act, Uniform Laws
19 Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the
20 operations of the Commission. Before the Commission adopts a Uniform
21 Standard, the Commission shall give written notice to the insurance
22 Commissioner in each Compacting State of its intention to adopt the
23 Uniform Standard. The Commission in adopting a Uniform Standard shall
24 consider fully all submitted materials, including testimony, if any, and issue
25 a concise explanation of its decision.
26
- 27 3. Effective Date and Opt Out of a Uniform Standard.—A Uniform Standard
28 shall become effective ninety (90) days after its promulgation by the
29 Commission or such later date as the Commission may determine; provided,
30 however, that a Compacting State may opt out of a Uniform Standard as
31 provided in this Article. “Opt out” shall be defined as any action by a
32 Compacting State to decline to adopt or participate in a promulgated
33 Uniform Standard. All other Rules and amendments, thereto, shall become
34 effective as of the date specified in each Rule, operating procedure or
35 amendment.
36
- 37 4. Opt Out Procedure.—A Compacting State may opt out of a Uniform
38 Standard either by legislation or regulation duly promulgated by the
39 insurance department under the Compacting State’s Administrative
40 Procedure Act. If a Compacting State elects to opt out of a Uniform

1 Standard by regulation, it must (a) give written notice to the Commission no
2 later than thirty (30) days after the Uniform Standard is promulgated and (b)
3 find that the Uniform Standard does not provide reasonable protections to
4 the citizens of the State, given the conditions in the State. The
5 Commissioner, or authorized designee, shall make specific findings of fact
6 and conclusions of law, based on a preponderance of the evidence, detailing
7 the conditions in the State which warrant a departure from the Uniform
8 Standard and determining that the Uniform Standard would not reasonable
9 protect the citizens of the State. The Commissioner must consider and
10 balance the following factors and find that the conditions in the State and
11 needs of the citizens of the State outweigh: (i) the intent of the legislature to
12 participate in, and the benefits of, an interstate agreement to establish
13 national Uniform Standards for Surplus Lines Insurance or Independently
14 Procured Insurance for risks subject to this Act; and (ii) the presumption that
15 a Uniform Standard adopted by the Commission provides reasonable
16 protections to the citizens of that state.

17
18 5. *Effect of Opt Out.*---If a Compacting State elects to opt out of a Uniform
19 Standard, the Uniform Standard shall remain applicable in the Compacting
20 State electing to opt out until such time the opt out legislation is enacted into
21 law or the regulation opting out becomes effective. Once the opt out of a
22 Uniform Standard by a Compacting State becomes effective as provided
23 under the laws of that State, the Uniform Standard shall have no further
24 force and effect in that State unless and until the legislation or regulation
25 implementing the opt out is repealed or otherwise becomes ineffective under
26 the laws of the State. If a Compacting State opts out of a Uniform Standard
27 after the Uniform Standard has been made effective in that State, the opt out
28 shall have the same prospective effect as provided under Article XV for
29 withdrawals, except that such an opt out shall not be treated as a material
30 variance in the offer or acceptance of any State to participate in this
31 Compact with respect to all other Rules, operating procedures and Uniform
32 Standards.

33
34 6. *Stay of Uniform Standard.*---If a Compacting State has formally initiated the
35 process of opting out of a Uniform Standard by regulation, and while the
36 regulatory opt out is pending, the Compacting State may petition the
37 Commission, at least fifteen (15) days before the effective date of the
38 Uniform Standard, to stay the effectiveness of the Uniform Standard in that
39 State. The Commission may grant a stay if it determines the regulatory opt
40 out is being pursued in a reasonable manner and there is a likelihood of

1 success. If a stay is granted or extended by the Commission, the stay or
2 extension thereof may postpone the effective date by up to ninety (90) days,
3 unless affirmatively extended by the Commission; provided, a stay may not
4 be permitted to remain in effect for more than one (1) year unless the
5 Compacting State can show extraordinary circumstances which warrant a
6 continuance of the stay, including, but not limited to, the existence of a legal
7 challenge which prevents the Compacting State from opting out. A stay may
8 be terminated by the Commission upon notice that the rulemaking process
9 has been terminated.

- 10
11 7. Not later than thirty (30) days after a Rule is promulgated, any person may
12 file a petition for judicial review of the Rule; provided, that the filing of such
13 a petition shall not stay or otherwise prevent the Rule from becoming
14 effective unless the court finds that the Petitioner has a substantial likelihood
15 of success. The court shall give deference to the actions of the Commission
16 consistent with applicable law and shall not find the Rule to be unlawful if
17 the Rule represents a reasonable exercise of the Commission's authority.
18

1 **Article X.**

2
3 **Commission Records and Enforcement**

- 4
- 5 1. The Commission shall promulgate Rules establishing conditions and
6 procedures for public inspection and copying of its information and official
7 records, except such information and records involving the privacy of
8 individuals, insurers, insureds or Surplus Lines Licensee trade secrets.
9 Independent Procurement Transaction Documentation, Surplus Lines
10 Transaction Documentation and Premium Tax Data and Transaction Data
11 collected by the Clearinghouse shall be used for only those purposes
12 expressed in or reasonably implied under the provisions of this Compact and
13 the Commission shall afford this data the broadest protections as permitted
14 by any applicable law for proprietary information, trade secrets or personal
15 data. The Commission may promulgate additional Rules under which it may
16 make available to federal and State agencies, including law enforcement
17 agencies, records and information otherwise exempt from disclosure, and
18 may enter into agreements with such agencies to receive or exchange
19 information or records subject to nondisclosure and confidentiality
20 provisions.
- 21
- 22 2. Except as to privileged records, data and information, the laws of any
23 Compacting State pertaining to confidentiality or nondisclosure shall not
24 relieve any Compacting State Member of the duty to disclose any relevant
25 records, data or information to the Commission; provided, that disclosure to
26 the Commission shall not be deemed to waive or otherwise affect any
27 confidentiality requirement, and further provided that, except as otherwise
28 expressly provided in this Act, the Commission shall not be subject to the
29 Compacting State's laws pertaining to confidentiality and nondisclosure with
30 respect to records, data and information in its possession. Confidential
31 information of the Commission shall remain confidential after such
32 information is provided to any Member.
- 33
- 34 3. The Commission shall monitor Compacting States for compliance with duly
35 adopted Bylaws, Rules, and Uniform Standards. The Commission shall
36 notify any non-complying Compacting State in writing of its noncompliance
37 with Commission Bylaws, Rules or Uniform Standards. If a non-complying
38 Compacting State fails to remedy its noncompliance within the time
39 specified in the notice of noncompliance, the Compacting State shall be
40 deemed to be in default as set forth in Article XV.

1 **Article XII.**

2
3 **Review of Commission Decisions**

4
5 Regarding Commission decisions:

- 6
- 7 1. Except as necessary for promulgating Rules, and Uniform Standards to
8 fulfill the purposes of this Compact, the Commission shall not have
9 authority to otherwise regulate insurance in the Compacting States.
10
 - 11 2. Not later than thirty (30) days after the Commission has given notice of any
12 Rule, Premium Tax Data Allocation Formula or Uniform Standard, any third
13 party filer or Compacting State may appeal the determination to a review
14 panel appointed by the Commission. The Commission shall promulgate
15 Rules to establish procedures for appointing such review panels and provide
16 for notice and hearing. An allegation that the Commission, in making
17 compliance or tax determinations acted arbitrarily, capriciously, or in a
18 manner that is an abuse of discretion or otherwise not in accordance with the
19 law, is subject to judicial review in accordance with Article III, Section 6.
20
 - 21 3. The Commission shall have authority to monitor, review and reconsider
22 Commission decisions upon a finding that the determinations or allocations
23 do not meet the relevant Rule or Uniform Standard. Where appropriate, the
24 Commission may withdraw or modify its determination or allocation after
25 proper notice and hearing, subject to the appeal process in Section 2 above.
26

1 **Article XIII.**

2
3 **Finance**

- 4
- 5 1. The Commission shall pay or provide for the payment of the reasonable
6 expenses of its establishment and organization. To fund the cost of its initial
7 operations the Commission may accept contributions, grants, and other
8 forms of funding from the State stamping offices, Compacting States and
9 other sources.
10
 - 11 2. The Commission shall collect a fee payable by the insured on each
12 transaction processed through the Compact Clearinghouse, to cover the cost
13 of the operations and activities of the Commission and its staff in a total
14 amount sufficient to cover the Commission's annual budget.
15
 - 16 3. The Commission's budget for a fiscal year shall not be approved until it has
17 been subject to notice and comment as set forth in Article X of this
18 Compact.
19
 - 20 4. The Commission shall be exempt from all taxation in and by the
21 Compacting States.
22
 - 23 5. The Commission shall keep complete and accurate accounts of all its
24 internal receipts, including grants and donations, and disbursements for all
25 funds under its control. The internal financial accounts of the Commission
26 shall be subject to the accounting procedures established under its Bylaws.
27 The financial accounts and reports including the system of internal controls
28 and procedures of the Commission shall be audited annually by an
29 independent certified public accountant. Upon the determination of the
30 Commission, but not less frequently than every three (3) years, the review of
31 the independent auditor shall include a management and performance audit
32 of the Commission. The Commission shall make an annual report to the
33 Governor and legislature of the Compacting States, which shall include a
34 report of the independent audit. The Commission's internal accounts shall
35 not be confidential and such materials may be shared with the
36 Commissioner, the controller, or the stamping office of any Compacting
37 State upon request provided, however, that any work papers related to any
38 internal or independent audit and any information regarding the privacy of
39 individuals, licensees and insurers' proprietary information, including trade
40 secrets shall remain confidential.

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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.

1 **Article XIV.**

2
3 **Compacting States, Effective Date and Amendment**

- 4
- 5 1. Any State is eligible to become a Compacting State.
 - 6
 - 7 2. The Compact shall become effective and binding upon legislative enactment
8 of the Compact into law by two (2) Compacting States provided, the
9 Commission shall become effective for purposes of adopting Rules, Uniform
10 Standards and creating the Clearinghouse when ten (10) States are
11 Compacting States or, alternatively, by States representing greater than forty
12 percent (40%) of the Surplus Lines Insurance premium volume based on
13 records of the percentage of Surplus Lines Insurance premium set forth in
14 Appendix A hereto. Thereafter, it shall become effective and binding as to
15 any other Compacting State upon enactment of the Compact into law by that
16 State. Notwithstanding the foregoing, the Clearinghouse operations and the
17 duty to report Premium Tax Data and Transaction Data shall begin on the
18 first January 1st or July 1st following the first anniversary of the Compact
19 effective date. For States which join the Compact subsequent to the
20 effective date, a start date for reporting Premium Tax Data and Transaction
21 Data shall be set by the Commission provided Surplus Lines Licensees and
22 all other interested parties receive not less than 90 days advance notice.
 - 23
 - 24 3. Amendments to the Compact may be proposed by the Commission for
25 enactment by the Compacting States. No amendment shall become effective
26 and binding upon the Commission and the Compacting States unless and
27 until all Compacting States enact the amendment into law.

1 **Article XV.**

2
3 **Withdrawal, Default and Termination**

4 1. **Withdrawal**

- 5
- 6 a. Once effective, the Compact shall continue in force and remain
7 binding upon each and every Compacting State, provided that a
8 Compacting State may withdraw from the Compact ("Withdrawing
9 State") by enacting a statute specifically repealing the statute which
10 enacted the Compact into law.
- 11
- 12 b. The effective date of withdrawal is the effective date of the repealing
13 statute. However, the withdrawal shall not apply to any tax or
14 compliance determinations approved on the date the repealing statute
15 becomes effective, except by mutual agreement of the Commission
16 and the Withdrawing State unless the approval is rescinded by the
17 Commission.
- 18
- 19 c. The Member of the Withdrawing State shall immediately notify the
20 Management Committee of the Commission in writing upon the
21 introduction of legislation repealing this Compact in the Withdrawing
22 State.
- 23
- 24 d. The Commission shall notify the other Compacting States of the
25 introduction of such legislation within ten (10) days after its receipt of
26 notice thereof.
- 27
- 28 e. The Withdrawing State is responsible for all obligations, duties and
29 liabilities incurred through the effective date of withdrawal, including
30 any obligations, the performance of which extend beyond the effective
31 date of withdrawal. To the extent those obligations may have been
32 released or relinquished by mutual agreement of the Commission and
33 the Withdrawing State, the Commission's determinations prior to the
34 effective date of withdrawal shall continue to be effective and be
35 given full force and effect in the Withdrawing State, unless formally
36 rescinded by the Commission.
- 37
- 38 f. Reinstatement following withdrawal of any Compacting State shall
39 occur upon the effective date of the Withdrawing State reenacting the
40 Compact.

1 2. Default

- 2
- 3 a. If the Commission determines that any Compacting State has at any
- 4 time defaulted ("Defaulting State") in the performance of any of its
- 5 obligations or responsibilities under this Compact, the Bylaws or duly
- 6 promulgated Rules or Uniform Standards, then, after notice and
- 7 hearing as set forth in the Bylaws, all rights, privileges and benefits
- 8 conferred by this Compact on the Defaulting State shall be suspended
- 9 from the effective date of default as fixed by the Commission. The
- 10 grounds for default include, but are not limited to, failure of a
- 11 Compacting State to perform its obligations or responsibilities, and
- 12 any other grounds designated in Commission Rules. The Commission
- 13 shall immediately notify the Defaulting State in writing of the
- 14 Defaulting State's suspension pending a cure of the default. The
- 15 Commission shall stipulate the conditions and the time period within
- 16 which the Defaulting State must cure its default. If the Defaulting
- 17 State fails to cure the default within the time period specified by the
- 18 Commission, the Defaulting State shall be terminated from the
- 19 Compact and all rights, privileges and benefits conferred by this
- 20 Compact shall be terminated from the effective date of termination.
- 21
- 22 b. Decisions of the Commission that are issued on the effective date of
- 23 termination shall remain in force in the Defaulting State in the same
- 24 manner as if the Defaulting State had withdrawn voluntarily pursuant
- 25 to Section 1 of this Article.
- 26
- 27 c. Reinstatement following termination of any Compacting State
- 28 requires a reenactment of the Compact.
- 29

30 3. Dissolution of Compact

- 31
- 32 a. The Compact dissolves effective upon the date of the withdrawal or
- 33 default of the Compacting State which reduces membership in the
- 34 Compact to one Compacting State.
- 35
- 36 b. Upon the dissolution of this Compact, the Compact becomes null and
- 37 void and shall be of no further force or effect, and the business and
- 38 affairs of the Commission shall be wound up and any surplus funds
- 39 shall be distributed in accordance with the Rules and Bylaws.
- 40

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Article XVI.

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.

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Article XVII.

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, Uniform Standards and any other requirements of the Commission shall constitute the exclusive Rule, Uniform Standard, or determination applicable to the Compacting States, subject to the opt out provisions of Article IX regarding Uniform Standards. Any law or regulation regarding the placement of a Multi-State Risk with a Non-Admitted Insurer, that is contrary to Rules of the Commission, is preempted with respect to the following:
 - (i) Premium Tax Data and Transaction Data reporting requirements;
 - (ii) Premium Tax Data Allocation Formula;
 - (iii) Premium Tax Data and Transaction Data collection requirements;
 - (iv) Premium Tax payment time frames and Rules concerning dissemination of data among the Compacting States for multi-state and single-state Surplus Lines Insurance placements and multi-state and single-state Independently Procured Insurance placements;
 - (v) exclusive compliance with surplus lines law of the Home State of the insured; and
 - (vi) Rules for reporting to a Clearinghouse for receipt and distribution of Premium Tax Data and Transaction Data related to Multi-State Risks.

1 c. Except as stated in paragraph b, any Rule, Uniform Standard or other
2 requirement of the Commission shall constitute the exclusive
3 provision that a Commissioner may apply to the compliance or tax
4 determinations. Notwithstanding the foregoing, no action taken by the
5 Commission shall abrogate or restrict: (i) the access of any person to
6 State courts; (ii) the availability of alternative dispute resolution under
7 Article XI of this compact (iii) remedies available under State law
8 related to breach of contract, tort, or other laws not specifically
9 directed to the compliance or tax determination; (iv) State law relating
10 to the construction of insurance contracts; or (v) the authority of the
11 attorney general of the State, including but not limited to maintaining
12 any actions or proceedings, as authorized by law.

13
14 2. Binding Effect of this Compact

15
16 a. All lawful actions of the Commission, including all Rules and
17 Uniform Standards promulgated by the Commission, are binding upon
18 the Compacting States, except as provided herein.

19
20 b. All agreements between the Commission and the Compacting States
21 are binding in accordance with their terms.

22
23 c. Upon the request of a party to a conflict over the meaning or
24 interpretation of Commission actions, and upon a majority vote of the
25 Compacting States, the Commission may issue advisory opinions
26 regarding the meaning or interpretation in dispute. This provision
27 may be implemented by Rule at the discretion of the Commission.

28
29 d. In the event any provision of this Compact exceeds the constitutional
30 limits imposed on the legislature of any Compacting State, the
31 obligations, duties, powers or jurisdiction sought to be conferred by
32 that provision upon the Commission shall be ineffective as to that
33 State and those obligations duties, powers or jurisdiction shall remain
34 in the Compacting State and shall be exercised by the agency thereof
35 to which those obligations, duties, powers or jurisdiction are delegated
36 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%

2 This Data is 2005 Calendar Year Data excerpted from a study dated February 27, 2007 by
3 Mackin & Company.

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%

1
2
3

This Data is 2005 Calendar Year Data excerpted from a study dated February 27, 2007 by Mackin & Company.