ACT No. 2011 - 537

1 HB76

2 125347-4

3 By Representatives Wren and Canfield

4 RFD: Insurance

5 First Read: 01-MAR-11

RECEIVED
JUN - 2 2011
GOVERNOR'S OFFICE

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2 ENROLLED, An Act,

3 To establish the Surplus Lines Insurance Multi-State
4 Compliance Compact Act providing for exclusive single-state
5 regulatory compliance for multi-state surplus lines and
6 independently procured insurance placements; providing for
7 uniform premium tax allocation formulas; providing for a
8 clearinghouse to facilitate correct calculations; providing
9 for reporting of premium taxes due to the compacting states;
10 and providing that the compact shall become effective and
11 binding upon legislative enactment of the compact into law by
12 two compacting states, and the commission shall become
13 effective for purposes of adopting rules and creating the
14 clearinghouse when there are a total of 10 compacting states
15 and contracting states or, alternatively, when there are
16 compacting states and contracting states representing greater
17 than 40 percent of the surplus lines insurance premium volume
18 based on records of the percentage of surplus lines insurance
19 premium; to amend Section 27-10-31, Code of Alabama 1975,
20 relating to annual tax of surplus line brokers; and to provide
21 that the provisions of Section 2 would not be effective if the
22 compact is not enacted into law by two compacting states.
23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
24 Section 1. The Surplus Lines Insurance Multi-State
25 Compliance Compact Act is enacted into law and entered into

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

PREAMBLE

WHEREAS, with regard to Non-Admitted Insurance policies with risk exposures located in multiple states, the 111th United States Congress has stipulated in Title V, Subtitle B, the Non-Admitted and Reinsurance Reform Act of 2010, of the Dodd-Frank Wall Street Reform and Consumer Protection Act, hereafter, the NRRA, that:

(A) The placement of Non-Admitted Insurance shall be subject to the statutory and regulatory requirements solely of the insured's Home State, and

(B) Any law, regulation, provision, or action of any State that applies or purports to apply to Non-Admitted Insurance sold to, solicited by, or negotiated with an insured whose Home State is another State shall be preempted with respect to such application; except that any State law, rule, or regulation that restricts the placement of 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

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

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;

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
21 implemented by the Commission.
22 3. To streamline and improve the efficiency of the
23 surplus lines market by eliminating duplicative and
24 inconsistent tax and regulatory requirements among the States
25 and promote and protect the interest of Surplus Lines

1 Licensees who assist such insureds and Surplus Lines Insurers,
2 thereby ensuring the continued availability of Surplus Lines
3 Insurance to consumers.
4 4. To streamline regulatory compliance with respect
5 to Non-Admitted Insurance placements by providing for
6 exclusive single-state regulatory compliance for Non-Admitted
7 Insurance of Multi-State Risks, in accordance with Rules to be
8 adopted by the Commission, thereby providing certainty
9 regarding such compliance to all persons who have an interest
10 in such transactions, including, but not limited to, insureds,
11 regulators, Surplus Lines Licensees, other insurance
12 producers, and Surplus Lines Insurers.
13 5. To establish a Clearinghouse for receipt and
14 dissemination of Premium Tax and Clearinghouse Transaction
15 Data related to Non-Admitted Insurance of Multi-State Risks,
16 in accordance with Rules to be adopted by the Commission.
17 6. To improve coordination of regulatory resources
18 and expertise between State insurance departments and other
19 State agencies, as well as State surplus lines stamping
20 offices, with respect to Non-Admitted Insurance.
21 7. To adopt uniform Rules to provide for Premium Tax
22 payment, reporting, allocation, data collection, and
23 dissemination for Non-Admitted Insurance of Multi-State Risks
24 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,
24 any entity that controls, is controlled by, or is under common
25 control with the insured.

1 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
4 calculating Premium Taxes due.
5 4. "Bylaws" means those bylaws established by the
6 Commission for its governance, or for directing or controlling
7 the Commission's actions or conduct.
8 5. "Clearinghouse" means the Commission's operations
9 involving the acceptance, processing, and dissemination, among
10 the Compacting States, Contracting States, Surplus Lines
11 Licensees, insureds and other persons, of Premium Tax and
12 Clearinghouse Transaction Data for Non-Admitted Insurance of
13 Multi-State Risks, in accordance with this Compact and Rules
14 to be adopted by the Commission.
15 6. "Clearinghouse Transaction Data" means the
16 information regarding Non-Admitted Insurance of Multi-State
17 Risks required to be reported, accepted, collected, processed,
18 and disseminated by Surplus Lines Licensees for Surplus Lines
19 Insurance and insureds for Independently Procured Insurance
20 under this Compact and Rules to be adopted by the Commission.
21 Clearinghouse Transaction Data includes information related to
22 Single-State Risks if a state elects to have the Clearinghouse
23 collect taxes on Single-State Risks for such state.
24 7. "Compacting State" means any State which has
25 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.
3 8. "Commission" means the "Surplus Lines Insurance
4 Multi-State Compliance Compact Commission" established by this
5 Compact.
6 9. "Commissioner" means the chief insurance
7 regulatory official of a State including, but not limited to,
8 commissioner, superintendent, director, or administrator or
9 their designees.
10 10. "Contracting State" means any State which has
11 not enacted this Compact legislation but has entered into a
12 written contract with the Commission to utilize the services
13 of and fully participate in the Clearinghouse.
14 11. "Control" means an entity has "control" over
15 another entity if:
16 (A) the entity directly or indirectly or acting
17 through one or more other persons owns, controls, or has the
18 power to vote 25 percent or more of any class of voting
19 securities of the other entity; or (B) the entity controls in
20 any manner the election of a majority of the directors or
21 trustees of the other entity.
22 12. "Home State" (A) IN GENERAL. Except as provided
23 in subparagraph (B), the term "Home State" means, with respect
24 to an insured:

1 (i) the State in which an insured maintains its
2 principal place of business or, in the case of an individual,
3 the individual's principal residence; or
4 (ii) if 100 percent of the insured risk is located
5 out of the State referred to in subparagraph (A)(i), the State
6 to which the greatest percentage of the insured's taxable
7 premium for that insurance contract is allocated.
8 (B) AFFILIATED GROUPS. If more than one insured from
9 an affiliated group are named insureds on a single
10 Non-Admitted Insurance contract, the term "Home State" means
11 the Home State, as determined pursuant to subparagraph (A), of
12 the member of the affiliated group that has the largest
13 percentage of premium attributed to it under such insurance
14 contract.
15 13. "Independently Procured Insurance" means
16 insurance procured by an insured directly from a Surplus Lines
17 Insurer or other Non-Admitted Insurer as permitted by the laws
18 of the Home State.
19 14. "Insurer Eligibility Requirements" means the
20 criteria, forms, and procedures established to qualify as a
21 Surplus Lines Insurer under the law of the Home State provided
22 that such criteria, forms, and procedures are consistent with
23 the express provisions of the NRRA on and after July 21, 2011.
24 15. "Member" means the person or persons chosen by a
25 Compacting State as its representative or representatives to

1 the Commission provided that each Compacting State shall be
2 limited to one vote.
3 16. "Multi-State Risk" means a risk with insured
4 exposures in more than one State.
5 17. "Non-Compacting State" means any State which has
6 not adopted this Compact.
7 18. "Non-Admitted Insurance" means Surplus Lines
8 Insurance and Independently Procured Insurance.
9 19. "Non-Admitted Insurer" means an insurer that is
10 not authorized or admitted to transact the business of
11 insurance under the law of the Home State.
12 20. "NRRA" means the Non-Admitted and Reinsurance
13 Reform Act, which is Title V, Subtitle B, of the Dodd-Frank
14 Wall Street Reform and Consumer Protection Act.
15 21. "Policyholder Notice" means the disclosure
16 notice or stamp that is required to be furnished to the
17 applicant or policyholder in connection with a Surplus Lines
18 Insurance placement.
19 22. "Premium Tax" means, with respect to
20 Non-Admitted Insurance, any tax, fee, assessment, or other
21 charge imposed by a government entity directly or indirectly
22 based on any payment made as consideration for such insurance,
23 including premium deposits, assessments, registration fees,
24 and any other compensation given in consideration for a
25 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.
6 24. "Purchasing Group" means any group formed
7 pursuant to the Liability Risk Retention Act which has as one
8 of its purposes the purchase of liability insurance on a group
9 basis, purchases such insurance only for its group members and
10 only to cover their similar or related liability exposure, and
11 is composed of members whose businesses or activities are
12 similar or related with respect to the liability to which
13 members are exposed by virtue of any related, similar, or
14 common business, trade, product, services, premises, or
15 operations and is domiciled in any State.
16 25. "Rule" means a statement of general or
17 particular applicability and future effect promulgated by the
18 Commission designed to implement, interpret, or prescribe law
19 or policy or describing the organization, procedure, or
20 practice requirements of the Commission which shall have the
21 force and effect of law in the Compacting States.
22 26. "Single-State Risk" means a risk with insured
23 exposures in only one State.
24 27. "State" means any state, district, or territory
25 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.
7 29. "Surplus Lines Insurance" means insurance
8 procured by a Surplus Lines Licensee from a Surplus Lines
9 Insurer or other Non-Admitted Insurer as permitted under the
10 law of the Home State; for purposes of this Compact, "Surplus
11 Lines Insurance" shall also mean excess lines insurance as may
12 be defined by applicable State law.
13 30. "Surplus Lines Insurer" means a Non-Admitted
14 Insurer eligible under the law of the Home State to accept
15 business from a Surplus Lines Licensee; for purposes of this
16 Compact, "Surplus Lines Insurer" shall also mean an insurer
17 which is permitted to write Surplus Lines Insurance under the
18 laws of the State where such insurer is domiciled.
19 31. "Surplus Lines Licensee" means an individual,
20 firm, or corporation licensed under the law of the Home State
21 to place Surplus Lines Insurance.
22 ARTICLE III ESTABLISHMENT OF THE COMMISSION AND
23 VENUE

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

2. Pursuant to Article IV, the Commission will have the power to adopt mandatory Rules which establish exclusive Home State authority regarding Non-Admitted Insurance of Multi State Risks, Allocation Formulas, Clearinghouse Transaction Data, a Clearinghouse for receipt and distribution of allocated Premium Tax and Clearinghouse Transaction Data, and uniform rulemaking procedures and Rules for the purpose of financing, administering, operating, and enforcing compliance with the provisions of this Compact, its Bylaws, and Rules.

3. Pursuant to Article IV, the Commission will have the power to adopt mandatory Rules establishing foreign Insurer Eligibility Requirements and a concise and objective Policyholder Notice regarding the nature of a surplus lines placement.

4. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

5. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

6. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal

office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

ARTICLE IV

AUTHORITY TO ESTABLISH MANDATORY RULES

The Commission shall adopt mandatory Rules which establish:

1. Allocation Formulas for each type of Non-Admitted Insurance coverage, which Allocation Formulas must be used by each Compacting State and Contracting State in acquiring Premium Tax and Clearinghouse Transaction Data from Surplus Lines Licensees and insureds for reporting to the Clearinghouse created by the Compact Commission. Such Allocation Formulas will be established with input from Surplus Lines Licensees and be based upon readily available data with simplicity and uniformity for the Surplus 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

1 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 4. That Non-Admitted Insurance of Multi-State Risks
5 shall be subject to all of the regulatory compliance
6 requirements of the Home State exclusively. Home State
7 regulatory compliance requirements applicable to Surplus Lines
8 Insurance shall include, but not be limited to:
9 (i) person(s) required to be licensed to sell,
10 solicit, or negotiate Surplus Lines Insurance;
11 (ii) Insurer Eligibility Requirements or other
12 approved Non-Admitted Insurer requirements;
13 (iii) Diligent Search;
14 (iv) State Transaction Documentation and
15 Clearinghouse Transaction Data regarding the payment of
16 Premium Tax as set forth in this Compact and Rules to be
17 adopted by the Commission. Home State regulatory compliance
18 requirements applicable to Independently Procured Insurance
19 placements shall include, but not be limited to, providing
20 State Transaction Documentation and Clearinghouse Transaction
21 Data regarding the payment of Premium Tax as set forth in this
22 Compact and Rules to be adopted by the Commission.
23 5. That each Compacting State and Contracting State
24 may charge its own rate of taxation on the premium allocated
25 to such State based on the applicable Allocation Formula,

1 provided that the State establishes one single rate of
2 taxation applicable to all Non-Admitted Insurance transactions
3 and no other tax, fee assessment, or other charge by any
4 governmental or quasi governmental agency be permitted.
5 Notwithstanding the foregoing, stamping office fees may be
6 charged as a separate, additional cost unless such fees are
7 incorporated into a State's single rate of taxation.
8 6. That any change in the rate of taxation by any
9 Compacting State or Contracting State be restricted to changes
10 made prospectively on not less than 90 days' advance notice to
11 the Compact Commission.
12 7. That each Compacting State and Contracting State
13 shall require Premium Tax payments either annually,
14 semi-annually, or quarterly utilizing one or more of the
15 following dates only: March 1, June 1, September 1, and
16 December 1.
17 8. That each Compacting State and Contracting State
18 prohibit any other State agency or political subdivision from
19 requiring Surplus Lines Licensees to provide Clearinghouse
20 Transaction Data and State Transaction Documentation other
21 than to the insurance department or tax officials of the Home
22 State or one single designated agent thereof.
23 9. The obligation of the Home State by itself,
24 through a designated agent, surplus lines stamping or service
25 office, to collect Clearinghouse Transaction Data from Surplus

1 Lines Licensees and from insureds for Independently Procured
2 Insurance, where applicable, for reporting to the
3 Clearinghouse.
4 10. A method for the Clearinghouse to periodically
5 report to Compacting States, Contracting States, Surplus Lines
6 Licensees, and insureds who independently procure insurance,
7 all Premium Taxes owed to each of the Compacting States and
8 Contracting States, the dates upon which payment of such
9 Premium Taxes are due, and a method to pay them through the
10 Clearinghouse.
11 11. That each Surplus Lines Licensee is required to
12 be licensed only in the Home State of each insured for whom
13 Surplus Lines Insurance has been procured.
14 12. That a policy considered to be Surplus Lines
15 Insurance in the insured's Home State shall be considered
16 Surplus Lines Insurance in all Compacting States, and
17 Contracting States and taxed as a Surplus Lines transaction in
18 all states to which a portion of the risk is allocated. Each
19 Compacting State and Contracting State shall require each
20 Surplus Lines Licensee to pay to every other Compacting State
21 and Contracting State Premium Taxes on each Multi-State Risk
22 through the Clearinghouse at such tax rate charged on Surplus
23 Lines transactions in such other Compacting States and
24 Contracting States on the portion of the risk in each such
25 Compacting State and Contracting State as determined by the

1 applicable uniform Allocation 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
23 Compact;
24 2. To bring and prosecute legal proceedings or
25 actions in the name of the Commission, provided that the

1 standing of any State insurance department to sue or be sued
2 under applicable law shall not be affected;
3 3. To issue subpoenas requiring the attendance and
4 testimony of witnesses and the production of evidence,
5 provided, however, the Commission is not empowered to demand
6 or subpoena records or data from Non-Admitted Insurers;
7 4. To establish and maintain offices including the
8 creation of a Clearinghouse for the receipt of Premium Tax and
9 Clearinghouse Transaction Data regarding Non-Admitted
10 Insurance of Multi-State Risks, Single-State Risks for states
11 which elect to require Surplus Lines Licensees to pay Premium
12 Tax on Single-State Risks through the Clearinghouse and tax
13 reporting forms;
14 5. To purchase and maintain insurance and bonds;
15 6. To borrow, accept, or contract for services of
16 personnel, including, but not limited to, employees of a
17 Compacting State or stamping office, pursuant to an open,
18 transparent, objective competitive process and procedure
19 adopted by the Commission;
20 7. To hire employees, professionals, or specialists,
21 pursuant to the Merit System of Alabama, and elect or appoint
22 officers, and to fix their compensation, define their duties,
23 and give them appropriate authority to carry out the purposes
24 of the Compact, and determine their qualifications, pursuant
25 to an open, transparent, objective, competitive process and

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

8. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

9. To lease, purchase, 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:

a. Minimum audit standards, including sampling methods,

b. Review of internal controls,

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

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

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

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

12. To enforce compliance by Compacting States and Contracting States with Rules and Bylaws pursuant to the authority set forth in Article XIV;

13. To provide for dispute resolution among Compacting States and Contracting States;

14. To advise Compacting States and Contracting States on tax-related issues relating to insurers, insureds, Surplus Lines Licensees, agents, or brokers domiciled or doing business in Non-Compacting States, consistent with the purposes of this Compact;

15. To make available advice and training to those personnel in State stamping offices, State insurance departments, or other State departments for record keeping, tax compliance, and tax allocations and to be a resource for State insurance departments and other State departments;

16. To establish a budget and make expenditures;

17. To borrow money;

1 18. To appoint and oversee committees, including
2 advisory committees comprised of Members, State insurance
3 regulators, State legislators or their representatives,
4 insurance industry and consumer representatives, and such
5 other interested persons as may be designated in this Compact
6 and the Bylaws;
7 19. To establish an Executive Committee of not less
8 than seven nor more than 15 representatives, which shall
9 include officers elected by the Commission and such other
10 representatives as provided for herein and determined by the
11 Bylaws. Representatives of the Executive Committee shall serve
12 a one-year term. Representatives of the Executive Committee
13 shall be entitled to one vote each. The Executive Committee
14 shall have the power to act on behalf of the Commission, with
15 the exception of rulemaking, during periods when the
16 Commission is not in session. The Executive Committee shall
17 oversee the day-to-day activities of the administration of the
18 Compact, including the activities of the Operations Committee
19 created under this Article and compliance and enforcement of
20 the provisions of the Compact, its Bylaws, and Rules, and such
21 other duties as provided herein and as deemed necessary.
22 20. To establish an Operations Committee of not less
23 than seven and not more than 15 representatives to provide
24 analysis, advice, determinations, and recommendations
25 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.
5 21. To enter into contracts with Contracting States
6 so that Contracting States can utilize the services of and
7 fully participate in the Clearinghouse subject to the terms
8 and conditions set forth in such contracts;
9 22. To adopt and use a corporate seal; and
10 23. To perform such other functions as may be
11 necessary or appropriate to achieve the purposes of this
12 Compact consistent with the State regulation of the business
13 of insurance.
14 ARTICLE VI
15 ORGANIZATION OF THE COMMISSION
16 1. Membership, Voting, and Bylaws
17 a. Each Compacting State shall have and be limited
18 to one Member. Each State shall determine the qualifications
19 and the method by which it selects a Member and set forth the
20 selection process in the enabling provision of the legislation
21 which enacts this Compact. In the absence of such a provision,
22 the Member shall be appointed by the governor of such
23 Compacting State. Any Member may be removed or suspended from
24 office as provided by the law of the State from which he or
25 she shall be appointed. Any vacancy occurring in the

1 Commission shall be filled in accordance with the laws of the
2 Compacting State wherein the vacancy exists.
3 b. Each Member shall be entitled to one vote and
4 shall otherwise have an opportunity to participate in the
5 governance of the Commission in accordance with the Bylaws.
6 c. The Commission shall, by a majority vote of the
7 Members, prescribe Bylaws to govern its conduct as may be
8 necessary or appropriate to carry out the purposes and
9 exercise the powers of the Compact including, but not limited
10 to:
11 i. Establishing the fiscal year of the Commission;
12 ii. Providing reasonable procedures for holding
13 meetings of the Commission, the Executive Committee, and the
14 Operations Committee;
15 iii. Providing reasonable standards and procedures:
16 (i) for the establishment and meetings of committees, and (ii)
17 governing any general or specific delegation of any authority
18 or function of the Commission;
19 iv. Providing reasonable procedures for calling and
20 conducting meetings of the Commission that consist of a
21 majority of Commission Members, ensuring reasonable advance
22 notice of each such meeting and providing for the right of
23 citizens to attend each such meeting with enumerated
24 exceptions designed to protect the public's interest, the
25 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.
4 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;
11 vi. Providing reasonable standards and procedures
12 for the establishment of the personnel policies and programs
13 of the Commission. Notwithstanding any civil service or other
14 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;
19 viii. Providing a mechanism for winding up the
20 operations of the Commission and the equitable disposition of
21 any surplus funds that may exist after the termination of the
22 Compact after the payment and/or reserving of all of its debts
23 and obligations;
24 d. The Commission shall publish its Bylaws in a
25 convenient form and file a copy thereof, and a copy of any

1 amendment thereto, with the appropriate agency or officer in
2 each of the Compacting States.
3 2. Executive Committee, Personnel, and Chairperson
4 a. An Executive Committee of the Commission
5 ("Executive Committee") shall be established. All actions of
6 the Executive Committee, including compliance and enforcement,
7 are subject to the review and ratification of the Commission
8 as provided in the Bylaws. The Executive Committee shall have
9 no more than 15 representatives, or one for each State if
10 there are less than 15 Compacting States, who shall serve for
11 a term to be established in accordance with the Bylaws.
12 b. The Executive Committee shall have such authority
13 and duties as may be set forth in the Bylaws, including, but
14 not limited to:
15 i. Managing the affairs of the Commission in a
16 manner consistent with the Bylaws and purposes of the
17 Commission;
18 ii. Establishing and overseeing an organizational
19 structure within, and appropriate procedures for the
20 Commission to provide for, the creation of Rules and operating
21 procedures;
22 iii. Overseeing the offices of the Commission; and
23 iv. Planning, implementing, and coordinating
24 communications and activities with other State, federal, and

1 local government organizations in order to advance the goals
2 of the Commission.
3 c. The Commission shall annually elect officers from
4 the Executive Committee, with each having such authority and
5 duties as may be specified in the Bylaws.
6 d. The Executive Committee may, subject to the
7 approval of the Commission, appoint or retain an executive
8 director for such period, upon such terms and conditions, and
9 for such compensation as the Commission may deem appropriate.
10 The executive director shall serve as secretary to the
11 Commission, but shall not be a Member of the Commission. The
12 executive director shall hire and supervise such other persons
13 as may be authorized by the Commission.
14 3. Operations Committee
15 a. An Operations Committee shall be established. All
16 actions of the Operations Committee are subject to the review
17 and oversight of the Commission and the Executive Committee
18 and must be approved by the Commission. The Executive
19 Committee will accept the determinations and recommendations
20 of the Operations Committee unless good cause is shown why
21 such determinations and recommendations should not be
22 approved. Any disputes as to whether good cause exists to
23 reject any determination or recommendation of the Operations
24 Committee shall be resolved by the majority vote of the
25 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:
7 i. Evaluating technology requirements for the
8 Clearinghouse, assessing existing systems used by State
9 regulatory agencies and State stamping offices to maximize the
10 efficiency and successful integration of the Clearinghouse
11 technology systems with state and state stamping office
12 technology platforms and to minimize costs to the States,
13 State stamping offices, and the Clearinghouse;
14 ii. Making recommendations to the Executive
15 Committee based on its analysis and determination of the
16 Clearinghouse technology requirements and compatibility with
17 existing State and State stamping office systems;
18 iii. Evaluating the most suitable proposals for
19 adoption as mandatory Rules, assessing such proposals for ease
20 of integration by States and likelihood of successful
21 implementation, and reporting to the Executive Committee its
22 determinations and recommendations;
23 iv. Such other duties and responsibilities as are
24 delegated to it by the Bylaws, the Executive Committee, or the
25 Commission.

1 b. All representatives of the Operations Committee
2 shall be individuals who have extensive experience and/or
3 employment in the Surplus Lines Insurance business including,
4 but not limited to, executives and attorneys employed by
5 Surplus Lines Insurers, Surplus Lines Licensees, Law Firms,
6 State Insurance Departments, and/or State stamping offices.
7 Operations Committee representatives from Compacting States
8 which utilize the services of a State stamping office must
9 appoint the Chief Operating Officer or a senior manager of the
10 State stamping office to the Operations Committee.
11 4. Legislative and Advisory Committees
12 a. A legislative committee comprised of State
13 legislators or their designees shall be established to monitor
14 the operations of, and make recommendations to, the
15 Commission, including the Executive Committee; provided that
16 the manner of selection and term of any legislative committee
17 member shall be as set forth in the Bylaws. Prior to the
18 adoption by the Commission of any Uniform Standard, revision
19 to the Bylaws, annual budget, or other significant matter as
20 may be provided in the Bylaws, the Executive Committee shall
21 consult with and report to the legislative committee.
22 b. The Commission may establish additional advisory
23 committees as its Bylaws may provide for the carrying out of
24 its functions.
25 5. Corporate Records of the Commission

1 The Commission shall maintain its corporate books
2 and records in accordance with the Bylaws.
3 6. Qualified Immunity, Defense, and Indemnification
4 a. The Members, officers, executive director,
5 employees, and representatives of the Commission, the
6 Executive Committee, and any other Committee of the Commission
7 shall be immune from suit and liability, either personally or
8 in their official capacity, for any claim for damage to or
9 loss of property or personal injury or other civil liability
10 caused by or arising out of any actual or alleged act, error,
11 or omission that occurred, or that the person against whom the
12 claim is made had a reasonable basis for believing occurred
13 within the scope of Commission employment, duties, or
14 responsibilities; provided that nothing in this paragraph
15 shall be construed to protect any such person from suit and/or
16 liability for any damage, loss, injury, or liability caused by
17 the intentional or willful or wanton misconduct of that
18 person.
19 b. The Commission shall defend any Member, officer,
20 executive director, employee, or representative of the
21 Commission, the Executive Committee, or any other Committee of
22 the Commission in any civil action seeking to impose liability
23 arising out of any actual or alleged act, error, or omission
24 that occurred within the scope of Commission employment,
25 duties, or responsibilities, or that the person against whom

1 the claim is made had a reasonable basis for believing
2 occurred within the scope of Commission employment, duties, or
3 responsibilities; provided that nothing herein shall be
4 construed to prohibit that person from retaining his or her
5 own counsel; and provided further, that the actual or alleged
6 act, error, or omission did not result from that person's
7 intentional or willful or wanton misconduct.
8 c. The Commission shall indemnify and hold harmless
9 any Member, officer, executive director, employee, or
10 representative of the Commission, Executive Committee, or any
11 other Committee of the Commission for the amount of any
12 settlement or judgment obtained against that person arising
13 out of any actual or alleged act, error, or omission that
14 occurred within the scope of Commission employment, duties, or
15 responsibilities, or that such person had a reasonable basis
16 for believing occurred within the scope of Commission
17 employment, duties, or responsibilities, provided that the
18 actual or alleged act, error, or omission did not result from
19 the intentional or willful or wanton misconduct of that
20 person.
21 ARTICLE VII
22 MEETINGS AND ACTS OF THE COMMISSION
23 1. The Commission shall meet and take such actions
24 as are consistent with the provisions of this Compact and the
25 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.
8 3. The Commission shall meet at least once during
9 each calendar year. Additional meetings shall be held as set
10 forth in the Bylaws.
11 4. Public notice shall be given of all meetings and
12 all meetings shall be open to the public, except as set forth
13 in the Rules or otherwise provided in the Compact.
14 5. The Commission shall promulgate Rules concerning
15 its meetings consistent with the principles contained in the
16 Government in the Sunshine Act, "U.S.C., Section 552(b)", as
17 may be amended.
18 6. The Commission and its committees may close a
19 meeting, or portion thereof, where it determines by majority
20 vote that an open meeting would be likely to:
21 a. Relate solely to the Commission's internal
22 personnel practices and procedures;
23 b. Disclose matters specifically exempted from
24 disclosure by federal and State statute;

1 c. Disclose trade secrets or commercial or financial
2 information which is privileged or confidential;
3 d. Involve accusing a person of a crime, or formally
4 censuring a person;
5 e. Disclose information of a personal nature where
6 disclosure would constitute a clearly unwarranted invasion of
7 personal privacy;
8 f. Disclose investigative records compiled for law
9 enforcement purposes;
10 g. Specifically relate to the Commission's issuance
11 of a subpoena, or its participation in a civil action or other
12 legal proceeding.
13 6. For a meeting, or portion of a meeting, closed
14 pursuant to this provision, the Commission's legal counsel or
15 designee shall certify that the meeting may be closed and
16 shall reference each relevant exemptive provision. The
17 Commission shall keep minutes which shall fully and clearly
18 describe all matters discussed in a meeting and shall provide
19 a full and accurate summary of actions taken, and the reasons
20 therefore, including a description of the views expressed and
21 the record of a roll call vote. All documents considered in
22 connection with an action shall be identified in such minutes.
23 All minutes and documents of a closed meeting shall remain
24 under seal, subject to release by a majority vote of the
25 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
22 promulgated, any person may file a petition for judicial
23 review of the Rule; provided that the filing of such a
24 petition shall not stay or otherwise prevent the Rule from
25 becoming effective unless the court finds that the Petitioner

1 has a substantial likelihood of success. The court shall give
2 deference to the actions of the Commission consistent with
3 applicable law and shall not find the Rule to be unlawful if
4 the Rule represents a reasonable exercise of the Commission's
5 authority.

6 ARTICLE IX

7 COMMISSION RECORDS AND ENFORCEMENT

8 1. The Commission shall promulgate Rules
9 establishing conditions and procedures for public inspection
10 and copying of its information and official records, except
11 such information and records involving the privacy of
12 individuals, insurers, insureds, or Surplus Lines Licensee
13 trade secrets. State Transaction Documentation and
14 Clearinghouse Transaction Data collected by the Clearinghouse
15 shall be used for only those purposes expressed in or
16 reasonably implied under the provisions of this Compact and
17 the Commission shall afford this data the broadest protections
18 as permitted by any applicable law for proprietary
19 information, trade secrets, or personal data. The Commission
20 may promulgate additional Rules under which it may make
21 available to federal and State agencies, including law
22 enforcement agencies, records and information otherwise exempt
23 from disclosure, and may enter into agreements with such
24 agencies to receive or exchange information or records subject
25 to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data, and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Member of the duty to disclose any relevant records, data, or information to the Commission; provided that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further provided that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Member, and the Commission shall maintain the confidentiality of any information provided by a member that is confidential under that Member's State Law.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws and Rules. The Commission shall notify any non-complying Compacting State in writing of its noncompliance with Commission Bylaws or Rules. If a non-complying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

ARTICLE X

1 DISPUTE RESOLUTION

2 1. Before a Member may bring an action in a court of
3 competent jurisdiction for violation of any provision,
4 standard, or requirement of the Compact, the Commission shall
5 attempt, upon the request of a Member, to resolve any disputes
6 or other issues that are subject to this Compact and which may
7 arise between two or more Compacting States, Contracting
8 States, or Non-Compacting States, and the Commission shall
9 promulgate a Rule providing alternative dispute resolution
10 procedures for such disputes.

11 2. The Commission shall also provide alternative
12 dispute resolution procedures to resolve any disputes between
13 insureds or Surplus Lines Licensees concerning a tax
14 calculation or allocation or related issues which are the
15 subject of this Compact.

16 3. Any alternative dispute resolution procedures
17 shall be utilized in circumstances where a dispute arises as
18 to which State constitutes the Home State.

19 ARTICLE XI

20 REVIEW OF COMMISSION DECISIONS Regarding Commission
21 decisions:

22 1. Except as necessary for promulgating Rules to
23 fulfill the purposes of this Compact, the Commission shall not
24 have authority to otherwise regulate insurance in the
25 Compacting States.

1 2. Not later than 30 days after the Commission has
2 given notice of any Rule or Allocation Formula, any third
3 party filer or Compacting State may appeal the determination
4 to a review panel appointed by the Commission. The Commission
5 shall promulgate Rules to establish procedures for appointing
6 such review panels and provide for notice and hearing. An
7 allegation that the Commission, in making compliance or tax
8 determinations acted arbitrarily, capriciously, or in a manner
9 that is an abuse of discretion or otherwise not in accordance
10 with the law, is subject to judicial review in accordance with
11 Article III, Section 6.
12 3. The Commission shall have authority to monitor,
13 review, and reconsider Commission decisions upon a finding
14 that the determinations or allocations do not meet the
15 relevant Rule. Where appropriate, the Commission may withdraw
16 or modify its determination or allocation after proper notice
17 and hearing, subject to the appeal process in Section 2 above.
18 ARTICLE XII
19 FINANCE 1. The Commission shall pay or provide for
20 the payment of the reasonable expenses of its establishment
21 and organization. To fund the cost of its initial operations,
22 the Commission may accept contributions, grants, and other
23 forms of funding from the State stamping offices, Compacting
24 States, and other sources.

1 2. The Commission shall collect a fee payable by the
2 insured directly or through a Surplus Lines Licensee on each
3 transaction processed through the Compact Clearinghouse, to
4 cover the cost of the operations and activities of the
5 Commission and its staff in a total amount sufficient to cover
6 the Commission's annual budget.
7 3. The Commission's budget for a fiscal year shall
8 not be approved until it has been subject to notice and
9 comment as set forth in Article VIII of this Compact.
10 4. The Commission shall be regarded as performing
11 essential governmental functions in exercising such powers and
12 functions and in carrying out the provisions of this Compact
13 and of any law relating thereto, and shall not be required to
14 pay any taxes or assessments of any character, levied by any
15 State or political subdivision thereof, upon any of the
16 property used by it for such purposes, or any income or
17 revenue therefrom, including any profit from a sale or
18 exchange.
19 5. The Commission shall keep complete and accurate
20 accounts of all its internal receipts, including grants and
21 donations, and disbursements for all funds under its control.
22 The internal financial accounts of the Commission shall be
23 subject to the accounting procedures established under its
24 Bylaws. The financial accounts and reports, including the
25 system of internal controls and procedures, of the Commission

shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but not less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an annual report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner, the controller, or the stamping office of any Compacting State upon request; provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals, and licensees' and insurers' proprietary information, including trade secrets, shall remain confidential.

6. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

7. The Commission shall not make any political contributions to candidates for elected office, elected officials, political parties, nor political action committees. The Commission shall not engage in lobbying except with respect to changes to this Compact.

ARTICLE XIII

1 COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT
2 1. Any State is eligible to become a Compacting
3 State.
4 2. The Compact shall become effective and binding
5 upon legislative enactment of the Compact into law by two
6 Compacting States, provided the Commission shall become
7 effective for purposes of adopting Rules and creating the
8 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
15 other Compacting State upon enactment of the Compact into law
16 by that State. Notwithstanding the foregoing, the
17 Clearinghouse operations and the duty to report Clearinghouse
18 Transaction Data shall begin on the first January 1st or July
19 1st following the first anniversary of the Commission
20 effective date. For States which join the Compact subsequent
21 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.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

ARTICLE XIV

WITHDRAWAL, DEFAULT, AND TERMINATION

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State, provided that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any tax or compliance determinations approved on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Commission.

c. The Member of the Withdrawing State shall immediately notify the Executive Committee of the Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

1 d. The Commission shall notify the other Compacting
2 States of the introduction of such legislation within 10 days
3 after its receipt of notice thereof.
4 e. The Withdrawing State is responsible for all
5 obligations, duties, and liabilities incurred through the
6 effective date of withdrawal, including any obligations, the
7 performance of which extend beyond the effective date of
8 withdrawal. To the extent those obligations may have been
9 released or relinquished by mutual agreement of the Commission
10 and the Withdrawing State, the Commission's determinations
11 prior to the effective date of withdrawal shall continue to be
12 effective and be given full force and effect in the
13 Withdrawing State, unless formally rescinded by the
14 Commission.
15 f. Reinstatement following withdrawal of any
16 Compacting State shall occur upon the effective date of the
17 Withdrawing State reenacting the Compact.
18 2. Default
19 a. If the Commission determines that any Compacting
20 State has at any time defaulted ("Defaulting State") in the
21 performance of any of its obligations or responsibilities
22 under this Compact, the Bylaws, or duly promulgated Rules
23 then, after notice and hearing as set forth in the Bylaws, all
24 rights, privileges, and benefits conferred by this Compact on
25 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.
15 b. Decisions of the Commission that are issued on
16 the effective date of termination shall remain in force in the
17 Defaulting State in the same manner as if the Defaulting State
18 had withdrawn voluntarily pursuant to Section 1 of this
19 Article.
20 c. Reinstatement following termination of any
21 Compacting State requires a reenactment of the Compact.
22 3. Dissolution of Compact
23 a. The Compact dissolves effective upon the date of
24 the withdrawal or default of the Compacting State which
25 reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall have no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Rules and Bylaws.

ARTICLE XV

SEVERABILITY AND CONSTRUCTION

1. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

3. Throughout this Compact the use of the singular shall include the plural and vice-versa.

4. The headings and captions of articles, sections, and sub-sections used in this Compact are for convenience only and shall be ignored in construing the substantive provisions of this Compact.

ARTICLE XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State except as provided in paragraph b. of this section.

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:
7 (i) the access of any person to State courts;
8 (ii) the availability of alternative dispute
9 resolution under Article X of this Compact;
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
14 insurance contracts; or
15 (v) the authority of the attorney general of the
16 State, including, but not limited to, maintaining any actions
17 or proceedings, as authorized by law.
18 2. Binding Effect of this Compact
19 a. All lawful actions of the Commission, including
20 all Rules promulgated by the Commission, are binding upon the
21 Compacting States, except as provided herein.
22 b. All agreements between the Commission and the
23 Compacting States are binding in accordance with their terms.
24 c. Upon the request of a party to a conflict over
25 the meaning or interpretation of Commission actions, and upon

1 a majority vote of the Compacting States, the Commission may
2 issue advisory opinions regarding the meaning or
3 interpretation in dispute. This provision may be implemented
4 by Rule at the discretion of the Commission.
5 d. In the event any provision of this Compact
6 exceeds the constitutional limits imposed on the legislature
7 of any Compacting State, the obligations, duties, powers, or
8 jurisdiction sought to be conferred by that provision upon the
9 Commission shall be ineffective as to that State and those
10 obligations, duties, powers, or jurisdiction shall remain in
11 the Compacting State and shall be exercised by the agency
12 thereof to which those obligations, duties, powers, or
13 jurisdiction are delegated by law in effect at the time this
14 Compact becomes effective.
15 Section 2. The Governor is directed to enter into a
16 compact on behalf of the State of Alabama with any state in
17 the United States legally joining the compact in the form as
18 substantially provided for in Section 1
19 Section 3. The compact shall become effective and
20 binding upon legislative enactment of the Compact into law by
21 two Compacting States, and the Commission shall become
22 effective for purposes of adopting rules and creating the
23 clearinghouse when there are a total of 10 Compacting States
24 and Contracting States or, alternatively, when there are
25 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.

Section 4. Section 27-10-31, Code of Alabama 1975, is amended to read as follows:

"§27-10-31.

"(a) On or before the first day of March each year, the surplus line broker shall remit to the State Treasurer through the commissioner, as a tax imposed for the privilege of transacting business as a surplus line broker in this state, a tax of six percent on the direct premiums, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by the broker during the preceding calendar year as shown by the annual statement filed with the commissioner.

~~"(b) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.~~

"~~(c)~~ (b) The tax under the provisions of this section shall be subject to deduction of the full amount of all expenses of examination of the surplus line broker by the commissioner in the same manner as that allowed for domestic insurers for examination expenses under the provisions of

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.

1
2
3
4 Speaker of the House of Representatives

5 Kay Ivey
6 President and Presiding Officer of the Senate

7 House of Representatives
8 I hereby certify that the within Act originated in
9 and was passed by the House 05-MAY-11, as amended.
10
11 Greg Pappas
12 Clerk
13

14
15
16 Senate 02-JUN-11 Passed
17

APPROVED June 9, 2011
TIME 8:15 am
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-537
Bill Num...: H-76

Recv'd 06/09/11 01:15pmJJB