

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

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8 SYNOPSIS: This bill would establish the Surplus Lines  
9 Insurance Multi-State Compliance Compact Act.

10 This bill would provide for exclusive  
11 single-state regulatory compliance for multi-state  
12 surplus lines and independently procured insurance  
13 placements.

14 This bill would provide for uniform premium  
15 tax allocation formulas.

16 This bill would provide a clearinghouse to  
17 facilitate correct calculations.

18 This bill would provide for reporting of  
19 premium taxes due to the compacting states.

20 This bill would provide that the compact  
21 shall become effective and binding upon legislative  
22 enactment of the compact into law by two compacting  
23 states, and the commission shall become effective  
24 for purposes of adopting rules and creating the  
25 clearinghouse when there are a total of 10  
26 compacting states and contracting states or,  
27 alternatively, when there are compacting states and

1 contracting states representing greater than 40  
2 percent of the surplus lines insurance premium  
3 volume based on records of the percentage of  
4 surplus lines insurance premium.

5  
6 A BILL  
7 TO BE ENTITLED  
8 AN ACT  
9

10 To establish the Surplus Lines Insurance Multi-State  
11 Compliance Compact Act providing for exclusive single-state  
12 regulatory compliance for multi-state surplus lines and  
13 independently procured insurance placements; providing for  
14 uniform premium tax allocation formulas; providing for a  
15 clearinghouse to facilitate correct calculations; providing  
16 for reporting of premium taxes due to the compacting states;  
17 and providing that the compact shall become effective and  
18 binding upon legislative enactment of the compact into law by  
19 two compacting states, and the commission shall become  
20 effective for purposes of adopting rules and creating the  
21 clearinghouse when there are a total of 10 compacting states  
22 and contracting states or, alternatively, when there are  
23 compacting states and contracting states representing greater  
24 than 40 percent of the surplus lines insurance premium volume  
25 based on records of the percentage of surplus lines insurance  
26 premium.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. The Surplus Lines Insurance Multi-State  
2 Compliance Compact Act is enacted into law and entered into  
3 with all jurisdictions mutually adopting the compact in the  
4 form substantially as follows:

5           PREAMBLE

6           WHEREAS, with regard to Non-Admitted Insurance  
7 policies with risk exposures located in multiple states, the  
8 111th United States Congress has stipulated in Title V,  
9 Subtitle B, the Non-Admitted and Reinsurance Reform Act of  
10 2010, of the Dodd-Frank Wall Street Reform and Consumer  
11 Protection Act, hereafter, the NRRRA, that:

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

15           (B) Any law, regulation, provision, or action of any  
16 State that applies or purports to apply to Non-Admitted  
17 Insurance sold to, solicited by, or negotiated with an insured  
18 whose Home State is another State shall be preempted with  
19 respect to such application; except that any State law, rule,  
20 or regulation that restricts the placement of worker's  
21 compensation insurance or excess insurance for self-funded  
22 worker's compensation plans with a Non-Admitted Insurer shall  
23 not be preempted;

24           WHEREAS, in compliance with NRRRA, no State other  
25 than the Home State of an insured may require any premium tax  
26 payment for Non-Admitted Insurance; and no State other than an  
27 insured's Home State may require a Surplus Lines Broker to be

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

3 WHEREAS, the NRRA intends to allocate that the  
4 states may enter into a compact or otherwise establish  
5 procedures to allocate among the States the premium taxes paid  
6 to an insured's Home State and that each State adopt  
7 nationwide uniform requirements, forms, and procedures, such  
8 as an interstate compact, that provide for the reporting,  
9 payment, collection, and allocation of premium taxes for  
10 Non-Admitted Insurance;

11 WHEREAS, after the expiration of the two-year period  
12 beginning on the date of the enactment of the NRRA, a State  
13 may not collect any fees relating to licensing of an  
14 individual or entity as a Surplus Lines Licensee in the State  
15 unless the State has in effect at such time laws or  
16 regulations that provide for participation by the State in the  
17 national insurance producer database of the NAIC, or any other  
18 equivalent uniform national database, for the licensure of  
19 Surplus Lines Licensees and the renewal of such licenses;

20 WHEREAS, a need exists for a system of regulation  
21 that will provide for Surplus Lines Insurance to be placed  
22 with reputable and financially sound Non-Admitted Insurers and  
23 that will permit orderly access to Surplus Lines Insurance in  
24 this State and encourage insurers to make new and innovative  
25 types of insurance available to consumers in this State;

26 WHEREAS, protecting the revenue of this state and  
27 other Compacting States may be accomplished by facilitating

1 the payment and collection of Premium Tax on Non-Admitted  
2 Insurance and providing for allocation of Premium Tax for  
3 Non-Admitted Insurance of Multi-State Risks among the States  
4 in accordance with Uniform Allocation Formulas;

5 WHEREAS, the efficiency of the surplus lines market  
6 may be improved by eliminating duplicative and inconsistent  
7 tax and regulatory requirements among the States and by  
8 promoting and protecting the interests of Surplus Lines  
9 Licensees who assist such insureds and Non-Admitted Insurers,  
10 thereby ensuring the continued availability of Non-Admitted  
11 Insurance to consumers;

12 WHEREAS, regulatory compliance with respect to  
13 Non-Admitted Insurance placements may be streamlined by  
14 providing for exclusive single-state regulatory compliance for  
15 Non-Admitted Insurance of Multi-State Risks, thereby providing  
16 certainty regarding such compliance to all persons who have an  
17 interest in such transactions, including, but not limited to,  
18 insureds, regulators, Surplus Lines Licensees, other insurance  
19 producers, and Surplus Lines Insurers;

20 WHEREAS, coordination of regulatory resources and  
21 expertise between State insurance departments and other State  
22 agencies, as well as State surplus lines stamping offices,  
23 with respect to Non-Admitted Insurance will be improved;

24 Now, Therefore, in consideration of the foregoing,  
25 the state of Alabama and the various other states do hereby  
26 solemnly covenant and agree, each with the other, as follows:

1 SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE

2 COMPACT

3 ARTICLE I

4 PURPOSE

5 The purposes of this Compact are:

6 1. To implement the express provisions of Title V,  
7 Subtitle B, the Non-Admitted and Reinsurance Reform Act of  
8 2010, of the Dodd-Frank Wall Street Reform and Consumer  
9 Protection Act.

10 2. To protect the Premium Tax revenues of the  
11 Compacting States through facilitating the payment and  
12 collection of Premium Tax on Non-Admitted Insurance; to  
13 protect the interests of the Compacting States by supporting  
14 the continued availability of such insurance to consumers; and  
15 to provide for allocation of Premium Tax for Non-Admitted  
16 Insurance of Multi-State Risks among the States in accordance  
17 with uniform Allocation Formulas to be developed, adopted, and  
18 implemented by the Commission.

19 3. To streamline and improve the efficiency of the  
20 surplus lines market by eliminating duplicative and  
21 inconsistent tax and regulatory requirements among the States  
22 and promote and protect the interest of Surplus Lines  
23 Licensees who assist such insureds and Surplus Lines Insurers,  
24 thereby ensuring the continued availability of Surplus Lines  
25 Insurance to consumers.

26 4. To streamline regulatory compliance with respect  
27 to Non-Admitted Insurance placements by providing for

1 exclusive single-state regulatory compliance for Non-Admitted  
2 Insurance of Multi-State Risks, in accordance with Rules to be  
3 adopted by the Commission, thereby providing certainty  
4 regarding such compliance to all persons who have an interest  
5 in such transactions, including, but not limited to, insureds,  
6 regulators, Surplus Lines Licensees, other insurance  
7 producers, and Surplus Lines Insurers.

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

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

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

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

24 (i) foreign Insurer Eligibility Requirements;

25 (ii) surplus lines Policyholder Notices;

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



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

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

7           ARTICLE II DEFINITIONS

8           For purposes of this Compact, the following  
9 definitions shall apply:

10           1. "Admitted Insurer" means an insurer that is  
11 licensed, or authorized, to transact the business of insurance  
12 under the law of the Home State; for purposes of this Compact,  
13 "Admitted Insurer" shall not include a domestic surplus lines  
14 insurer as may be defined by applicable State law.

15           2. "Affiliate" means, with respect to an insured,  
16 any entity that controls, is controlled by, or is under common  
17 control with the insured.

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

22           4. "Bylaws" means those bylaws established by the  
23 Commission for its governance, or for directing or controlling  
24 the Commission's actions or conduct.

25           5. "Clearinghouse" means the Commission's operations  
26 involving the acceptance, processing, and dissemination, among  
27 the Compacting States, Contracting States, Surplus Lines

1 Licensees, insureds and other persons, of Premium Tax and  
2 Clearinghouse Transaction Data for Non-Admitted Insurance of  
3 Multi-State Risks, in accordance with this Compact and Rules  
4 to be adopted by the Commission.

5 6. "Clearinghouse Transaction Data" means the  
6 information regarding Non-Admitted Insurance of Multi-State  
7 Risks required to be reported, accepted, collected, processed,  
8 and disseminated by Surplus Lines Licensees for Surplus Lines  
9 Insurance and insureds for Independently Procured Insurance  
10 under this Compact and Rules to be adopted by the Commission.  
11 Clearinghouse Transaction Data includes information related to  
12 Single-State Risks if a state elects to have the Clearinghouse  
13 collect taxes on Single-State Risks for such state.

14 7. "Compacting State" means any State which has  
15 enacted this Compact legislation and which has not withdrawn  
16 pursuant to Article XIV, Section 1, or been terminated  
17 pursuant to Article XIV, Section 2.

18 8. "Commission" means the "Surplus Lines Insurance  
19 Multi-State Compliance Compact Commission" established by this  
20 Compact.

21 9. "Commissioner" means the chief insurance  
22 regulatory official of a State including, but not limited to,  
23 commissioner, superintendent, director, or administrator or  
24 their designees.

25 10. "Contracting State" means any State which has  
26 not enacted this Compact legislation but has entered into a

1 written contract with the Commission to utilize the services  
2 of and fully participate in the Clearinghouse.

3 11. "Control" means an entity has "control" over  
4 another entity if:

5 (A) the entity directly or indirectly or acting  
6 through one or more other persons owns, controls, or has the  
7 power to vote 25 percent or more of any class of voting  
8 securities of the other entity; or (B) the entity controls in  
9 any manner the election of a majority of the directors or  
10 trustees of the other entity.

11 12. "Home State" (A) IN GENERAL. Except as provided  
12 in subparagraph (B), the term "Home State" means, with respect  
13 to an insured:

14 (i) the State in which an insured maintains its  
15 principal place of business or, in the case of an individual,  
16 the individual's principal residence; or

17 (ii) if 100 percent of the insured risk is located  
18 out of the State referred to in subparagraph (A)(i), the State  
19 to which the greatest percentage of the insured's taxable  
20 premium for that insurance contract is allocated.

21 (B) AFFILIATED GROUPS. If more than one insured from  
22 an affiliated group are named insureds on a single  
23 Non-Admitted Insurance contract, the term "Home State" means  
24 the Home State, as determined pursuant to subparagraph (A), of  
25 the member of the affiliated group that has the largest  
26 percentage of premium attributed to it under such insurance  
27 contract.

1           13. "Independently Procured Insurance" means  
2 insurance procured by an insured directly from a Surplus Lines  
3 Insurer or other Non-Admitted Insurer as permitted by the laws  
4 of the Home State.

5           14. "Insurer Eligibility Requirements" means the  
6 criteria, forms, and procedures established to qualify as a  
7 Surplus Lines Insurer under the law of the Home State provided  
8 that such criteria, forms, and procedures are consistent with  
9 the express provisions of the NRRA on and after July 21, 2011.

10          15. "Member" means the person or persons chosen by a  
11 Compacting State as its representative or representatives to  
12 the Commission provided that each Compacting State shall be  
13 limited to one vote.

14          16. "Multi-State Risk" means a risk with insured  
15 exposures in more than one State.

16          17. "Non-Compacting State" means any State which has  
17 not adopted this Compact.

18          18. "Non-Admitted Insurance" means Surplus Lines  
19 Insurance and Independently Procured Insurance.

20          19. "Non-Admitted Insurer" means an insurer that is  
21 not authorized or admitted to transact the business of  
22 insurance under the law of the Home State.

23          20. "NRRA" means the Non-Admitted and Reinsurance  
24 Reform Act, which is Title V, Subtitle B, of the Dodd-Frank  
25 Wall Street Reform and Consumer Protection Act.

26          21. "Policyholder Notice" means the disclosure  
27 notice or stamp that is required to be furnished to the

1 applicant or policyholder in connection with a Surplus Lines  
2 Insurance placement.

3 22. "Premium Tax" means, with respect to  
4 Non-Admitted Insurance, any tax, fee, assessment, or other  
5 charge imposed by a government entity directly or indirectly  
6 based on any payment made as consideration for such insurance,  
7 including premium deposits, assessments, registration fees,  
8 and any other compensation given in consideration for a  
9 contract of insurance.

10 23. "Principal Place of Business" means, with  
11 respect to determining the Home State of the insured, the  
12 state where the insured maintains its headquarters and where  
13 the insured's high-level officers direct, control, and  
14 coordinate the business activities of the insured.

15 24. "Purchasing Group" means any group formed  
16 pursuant to the Liability Risk Retention Act which has as one  
17 of its purposes the purchase of liability insurance on a group  
18 basis, purchases such insurance only for its group members and  
19 only to cover their similar or related liability exposure, and  
20 is composed of members whose businesses or activities are  
21 similar or related with respect to the liability to which  
22 members are exposed by virtue of any related, similar, or  
23 common business, trade, product, services, premises, or  
24 operations and is domiciled in any State.

25 25. "Rule" means a statement of general or  
26 particular applicability and future effect promulgated by the  
27 Commission designed to implement, interpret, or prescribe law

1 or policy or describing the organization, procedure, or  
2 practice requirements of the Commission which shall have the  
3 force and effect of law in the Compacting States.

4 26. "Single-State Risk" means a risk with insured  
5 exposures in only one State.

6 27. "State" means any state, district, or territory  
7 of the United States of America.

8 28. "State Transaction Documentation" means the  
9 information required under the laws of the Home State to be  
10 filed by Surplus Lines Licensees in order to report Surplus  
11 Lines Insurance and verify compliance with surplus lines laws  
12 and by insureds in order to report Independently Procured  
13 Insurance.

14 29. "Surplus Lines Insurance" means insurance  
15 procured by a Surplus Lines Licensee from a Surplus Lines  
16 Insurer or other Non-Admitted Insurer as permitted under the  
17 law of the Home State; for purposes of this Compact, "Surplus  
18 Lines Insurance" shall also mean excess lines insurance as may  
19 be defined by applicable State law.

20 30. "Surplus Lines Insurer" means a Non-Admitted  
21 Insurer eligible under the law of the Home State to accept  
22 business from a Surplus Lines Licensee; for purposes of this  
23 Compact, "Surplus Lines Insurer" shall also mean an insurer  
24 which is permitted to write Surplus Lines Insurance under the  
25 laws of the State where such insurer is domiciled.

1           31. "Surplus Lines Licensee" means an individual,  
2 firm, or corporation licensed under the law of the Home State  
3 to place Surplus Lines Insurance.

4           ARTICLE III ESTABLISHMENT OF THE COMMISSION AND  
5 VENUE

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

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

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

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

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

1           6. Venue is proper and judicial proceedings by or  
2 against the Commission shall be brought solely and exclusively  
3 in a court of competent jurisdiction where the principal  
4 office of the Commission is located. The Commission may waive  
5 venue and jurisdictional defenses to the extent it adopts or  
6 consents to participate in alternative dispute resolution  
7 proceedings.

8           ARTICLE IV

9           AUTHORITY TO ESTABLISH MANDATORY RULES

10           The Commission shall adopt mandatory Rules which  
11 establish:

12           1. Allocation Formulas for each type of Non-Admitted  
13 Insurance coverage, which Allocation Formulas must be used by  
14 each Compacting State and Contracting State in acquiring  
15 Premium Tax and Clearinghouse Transaction Data from Surplus  
16 Lines Licensees and insureds for reporting to the  
17 Clearinghouse created by the Compact Commission. Such  
18 Allocation Formulas will be established with input from  
19 Surplus Lines Licensees and be based upon readily available  
20 data with simplicity and uniformity for the Surplus Lines  
21 Licensee as a material consideration.

22           2. Uniform Clearinghouse Transaction Data reporting  
23 requirements for all information reported to the  
24 Clearinghouse.

25           3. Methods by which Compacting States and  
26 Contracting States require Surplus Lines Licensees and  
27 insureds to pay Premium Tax and to report Clearinghouse



1 Transaction Data to the Clearinghouse, including, but not  
2 limited to, processing Clearinghouse Transaction Data through  
3 State stamping and service offices, State insurance  
4 departments, or other State designated agencies or entities.

5 4. That Non-Admitted Insurance of Multi-State Risks  
6 shall be subject to all of the regulatory compliance  
7 requirements of the Home State exclusively. Home State  
8 regulatory compliance requirements applicable to Surplus Lines  
9 Insurance shall include, but not be limited to:

10 (i) person(s) required to be licensed to sell,  
11 solicit, or negotiate Surplus Lines Insurance;

12 (ii) Insurer Eligibility Requirements or other  
13 approved Non-Admitted Insurer requirements;

14 (iii) Diligent Search;

15 (iv) State Transaction Documentation and  
16 Clearinghouse Transaction Data regarding the payment of  
17 Premium Tax as set forth in this Compact and Rules to be  
18 adopted by the Commission. Home State regulatory compliance  
19 requirements applicable to Independently Procured Insurance  
20 placements shall include, but not be limited to, providing  
21 State Transaction Documentation and Clearinghouse Transaction  
22 Data regarding the payment of Premium Tax as set forth in this  
23 Compact and Rules to be adopted by the Commission.

24 5. That each Compacting State and Contracting State  
25 may charge its own rate of taxation on the premium allocated  
26 to such State based on the applicable Allocation Formula,  
27 provided that the State establishes one single rate of

1 taxation applicable to all Non-Admitted Insurance transactions  
2 and no other tax, fee assessment, or other charge by any  
3 governmental or quasi governmental agency be permitted.  
4 Notwithstanding the foregoing, stamping office fees may be  
5 charged as a separate, additional cost unless such fees are  
6 incorporated into a State's single rate of taxation.

7 6. That any change in the rate of taxation by any  
8 Compacting State or Contracting State be restricted to changes  
9 made prospectively on not less than 90 days' advance notice to  
10 the Compact Commission.

11 7. That each Compacting State and Contracting State  
12 shall require Premium Tax payments either annually,  
13 semi-annually, or quarterly utilizing one or more of the  
14 following dates only: March 1, June 1, September 1, and  
15 December 1.

16 8. That each Compacting State and Contracting State  
17 prohibit any other State agency or political subdivision from  
18 requiring Surplus Lines Licensees to provide Clearinghouse  
19 Transaction Data and State Transaction Documentation other  
20 than to the insurance department or tax officials of the Home  
21 State or one single designated agent thereof.

22 9. The obligation of the Home State by itself,  
23 through a designated agent, surplus lines stamping or service  
24 office, to collect Clearinghouse Transaction Data from Surplus  
25 Lines Licensees and from insureds for Independently Procured  
26 Insurance, where applicable, for reporting to the  
27 Clearinghouse.

1           10. A method for the Clearinghouse to periodically  
2 report to Compacting States, Contracting States, Surplus Lines  
3 Licensees, and insureds who independently procure insurance,  
4 all Premium Taxes owed to each of the Compacting States and  
5 Contracting States, the dates upon which payment of such  
6 Premium Taxes are due, and a method to pay them through the  
7 Clearinghouse.

8           11. That each Surplus Lines Licensee is required to  
9 be licensed only in the Home State of each insured for whom  
10 Surplus Lines Insurance has been procured.

11           12. That a policy considered to be Surplus Lines  
12 Insurance in the insured's Home State shall be considered  
13 Surplus Lines Insurance in all Compacting States, and  
14 Contracting States and taxed as a Surplus Lines transaction in  
15 all states to which a portion of the risk is allocated. Each  
16 Compacting State and Contracting State shall require each  
17 Surplus Lines Licensee to pay to every other Compacting State  
18 and Contracting State Premium Taxes on each Multi-State Risk  
19 through the Clearinghouse at such tax rate charged on Surplus  
20 Lines transactions in such other Compacting States and  
21 Contracting States on the portion of the risk in each such  
22 Compacting State and Contracting State as determined by the  
23 applicable uniform Allocation Formula adopted by the  
24 Commission. A policy considered to be Independently Procured  
25 Insurance in the insured's Home State shall be considered  
26 Independently Procured Insurance in all Compacting States and  
27 Contracting States. Each Compacting State and Contracting

1 State shall require the insured to pay every other Compacting  
2 State and Contracting State the Independently Procured  
3 Insurance Premium Tax on each Multi-State Risk through the  
4 Clearinghouse pursuant to the uniform Allocation Formula  
5 adopted by the Commission.

6 13. Uniform foreign Insurer Eligibility Requirements  
7 as authorized by the NRRA.

8 14. A uniform Policyholder Notice.

9 15. Uniform treatment of Purchasing Group Surplus  
10 Lines Insurance placements.

11 ARTICLE V

12 POWERS OF THE COMMISSION

13 The Commission shall have the following powers:

14 1. To promulgate Rules and operating procedures,  
15 pursuant to Article VIII of this Compact, which shall have the  
16 force and effect of law and shall be binding in the Compacting  
17 States to the extent and in the manner provided in this  
18 Compact;

19 2. To bring and prosecute legal proceedings or  
20 actions in the name of the Commission, provided that the  
21 standing of any State insurance department to sue or be sued  
22 under applicable law shall not be affected;

23 3. To issue subpoenas requiring the attendance and  
24 testimony of witnesses and the production of evidence,  
25 provided, however, the Commission is not empowered to demand  
26 or subpoena records or data from Non-Admitted Insurers;

1           4. To establish and maintain offices including the  
2 creation of a Clearinghouse for the receipt of Premium Tax and  
3 Clearinghouse Transaction Data regarding Non-Admitted  
4 Insurance of Multi-State Risks, Single-State Risks for states  
5 which elect to require Surplus Lines Licensees to pay Premium  
6 Tax on Single-State Risks through the Clearinghouse and tax  
7 reporting forms;

8           5. To purchase and maintain insurance and bonds;

9           6. To borrow, accept, or contract for services of  
10 personnel, including, but not limited to, employees of a  
11 Compacting State or stamping office, pursuant to an open,  
12 transparent, objective competitive process and procedure  
13 adopted by the Commission;

14           7. To hire employees, professionals, or specialists,  
15 and elect or appoint officers, and to fix their compensation,  
16 define their duties, and give them appropriate authority to  
17 carry out the purposes of the Compact, and determine their  
18 qualifications, pursuant to an open, transparent, objective,  
19 competitive process and procedure adopted by the Commission;  
20 and to establish the Commission's personnel policies and  
21 programs relating to conflicts of interest, rates of  
22 compensation and qualifications of personnel, and other  
23 related personnel matters;

24           8. To accept any and all appropriate donations and  
25 grants of money, equipment, supplies, materials, and services  
26 and to receive, utilize, and dispose of the same; provided

1 that at all times the Commission shall avoid any appearance of  
2 impropriety and/or conflict of interest;

3 9. To lease, purchase, or accept appropriate gifts  
4 or donations of, or otherwise to own, hold, improve, or use,  
5 any property, real, personal, or mixed; provided that at all  
6 times the Commission shall avoid any appearance of impropriety  
7 and/or conflict of interest;

8 10. To sell, convey, mortgage, pledge, lease,  
9 exchange, abandon, or otherwise dispose of any property, real,  
10 personal, or mixed;

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

14 a. Minimum audit standards, including sampling  
15 methods,

16 b. Review of internal controls,

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

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

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

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

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

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

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

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

13           16. To establish a budget and make expenditures;

14           17. To borrow money;

15           18. To appoint and oversee committees, including  
16 advisory committees comprised of Members, State insurance  
17 regulators, State legislators or their representatives,  
18 insurance industry and consumer representatives, and such  
19 other interested persons as may be designated in this Compact  
20 and the Bylaws;

21           19. To establish an Executive Committee of not less  
22 than seven nor more than 15 representatives, which shall  
23 include officers elected by the Commission and such other  
24 representatives as provided for herein and determined by the  
25 Bylaws. Representatives of the Executive Committee shall serve  
26 a one-year term. Representatives of the Executive Committee  
27 shall be entitled to one vote each. The Executive Committee

1 shall have the power to act on behalf of the Commission, with  
2 the exception of rulemaking, during periods when the  
3 Commission is not in session. The Executive Committee shall  
4 oversee the day-to-day activities of the administration of the  
5 Compact, including the activities of the Operations Committee  
6 created under this Article and compliance and enforcement of  
7 the provisions of the Compact, its Bylaws, and Rules, and such  
8 other duties as provided herein and as deemed necessary.

9 20. To establish an Operations Committee of not less  
10 than seven and not more than 15 representatives to provide  
11 analysis, advice, determinations, and recommendations  
12 regarding technology, software, and systems integration to be  
13 acquired by the Commission and to provide analysis, advice,  
14 determinations, and recommendations regarding the  
15 establishment of mandatory Rules to be adopted by the  
16 Commission.

17 21. To enter into contracts with Contracting States  
18 so that Contracting States can utilize the services of and  
19 fully participate in the Clearinghouse subject to the terms  
20 and conditions set forth in such contracts;

21 22. To adopt and use a corporate seal; and

22 23. To perform such other functions as may be  
23 necessary or appropriate to achieve the purposes of this  
24 Compact consistent with the State regulation of the business  
25 of insurance.

26 ARTICLE VI

27 ORGANIZATION OF THE COMMISSION



1                   1. Membership, Voting, and Bylaws

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

13                   b. Each Member shall be entitled to one vote and  
14 shall otherwise have an opportunity to participate in the  
15 governance of the Commission in accordance with the Bylaws.

16                   c. The Commission shall, by a majority vote of the  
17 Members, prescribe Bylaws to govern its conduct as may be  
18 necessary or appropriate to carry out the purposes and  
19 exercise the powers of the Compact including, but not limited  
20 to:

21                   i. Establishing the fiscal year of the Commission;

22                   ii. Providing reasonable procedures for holding  
23 meetings of the Commission, the Executive Committee, and the  
24 Operations Committee;

25                   iii. Providing reasonable standards and procedures:

26                   (i) for the establishment and meetings of committees, and (ii)

1 governing any general or specific delegation of any authority  
2 or function of the Commission;

3 iv. Providing reasonable procedures for calling and  
4 conducting meetings of the Commission that consist of a  
5 majority of Commission Members, ensuring reasonable advance  
6 notice of each such meeting and providing for the right of  
7 citizens to attend each such meeting with enumerated  
8 exceptions designed to protect the public's interest, the  
9 privacy of individuals, and insurers' and Surplus Lines  
10 Licensees' proprietary information, including trade secrets.  
11 The Commission may meet in camera only after a majority of the  
12 entire membership votes to close a meeting in toto or in part.  
13 As soon as practicable, the Commission must make public:

14 (i) a copy of the vote to close the meeting  
15 revealing the vote of each Member with no proxy votes allowed,  
16 and (ii) votes taken during such meeting;

17 v. Establishing the titles, duties, and authority  
18 and reasonable procedures for the election of the officers of  
19 the Commission;

20 vi. Providing reasonable standards and procedures  
21 for the establishment of the personnel policies and programs  
22 of the Commission. Notwithstanding any civil service or other  
23 similar laws of any Compacting State, the Bylaws shall  
24 exclusively govern the personnel policies and programs of the  
25 Commission; vii. Promulgating a code of ethics to address  
26 permissible and prohibited activities of Commission Members  
27 and employees;

1           viii. Providing a mechanism for winding up the  
2 operations of the Commission and the equitable disposition of  
3 any surplus funds that may exist after the termination of the  
4 Compact after the payment and/or reserving of all of its debts  
5 and obligations;

6           d. The Commission shall publish its Bylaws in a  
7 convenient form and file a copy thereof, and a copy of any  
8 amendment thereto, with the appropriate agency or officer in  
9 each of the Compacting States.

10           2. Executive Committee, Personnel, and Chairperson

11           a. An Executive Committee of the Commission  
12 ("Executive Committee") shall be established. All actions of  
13 the Executive Committee, including compliance and enforcement,  
14 are subject to the review and ratification of the Commission  
15 as provided in the Bylaws. The Executive Committee shall have  
16 no more than 15 representatives, or one for each State if  
17 there are less than 15 Compacting States, who shall serve for  
18 a term to be established in accordance with the Bylaws.

19           b. The Executive Committee shall have such authority  
20 and duties as may be set forth in the Bylaws, including, but  
21 not limited to:

22           i. Managing the affairs of the Commission in a  
23 manner consistent with the Bylaws and purposes of the  
24 Commission;

25           ii. Establishing and overseeing an organizational  
26 structure within, and appropriate procedures for the

1 Commission to provide for, the creation of Rules and operating  
2 procedures;

3 iii. Overseeing the offices of the Commission; and

4 iv. Planning, implementing, and coordinating  
5 communications and activities with other State, federal, and  
6 local government organizations in order to advance the goals  
7 of the Commission.

8 c. The Commission shall annually elect officers from  
9 the Executive Committee, with each having such authority and  
10 duties as may be specified in the Bylaws.

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

### 19 3. Operations Committee

20 a. An Operations Committee shall be established. All  
21 actions of the Operations Committee are subject to the review  
22 and oversight of the Commission and the Executive Committee  
23 and must be approved by the Commission. The Executive  
24 Committee will accept the determinations and recommendations  
25 of the Operations Committee unless good cause is shown why  
26 such determinations and recommendations should not be  
27 approved. Any disputes as to whether good cause exists to

1 reject any determination or recommendation of the Operations  
2 Committee shall be resolved by the majority vote of the  
3 Commission.

4 The Operations Committee shall have no more than 15  
5 representatives or one for each State if there are less than  
6 15 Compacting States, who shall serve for a term as shall be  
7 established as set forth in the Bylaws.

8 The Operations Committee shall have responsibility  
9 for:

10 i. Evaluating technology requirements for the  
11 Clearinghouse, assessing existing systems used by State  
12 regulatory agencies and State stamping offices to maximize the  
13 efficiency and successful integration of the Clearinghouse  
14 technology systems with state and state stamping office  
15 technology platforms and to minimize costs to the States,  
16 State stamping offices, and the Clearinghouse;

17 ii. Making recommendations to the Executive  
18 Committee based on its analysis and determination of the  
19 Clearinghouse technology requirements and compatibility with  
20 existing State and State stamping office systems;

21 iii. Evaluating the most suitable proposals for  
22 adoption as mandatory Rules, assessing such proposals for ease  
23 of integration by States and likelihood of successful  
24 implementation, and reporting to the Executive Committee its  
25 determinations and recommendations;

1           iv. Such other duties and responsibilities as are  
2 delegated to it by the Bylaws, the Executive Committee, or the  
3 Commission.

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

#### 14           4. Legislative and Advisory Committees

15           a. A legislative committee comprised of State  
16 legislators or their designees shall be established to monitor  
17 the operations of, and make recommendations to, the  
18 Commission, including the Executive Committee; provided that  
19 the manner of selection and term of any legislative committee  
20 member shall be as set forth in the Bylaws. Prior to the  
21 adoption by the Commission of any Uniform Standard, revision  
22 to the Bylaws, annual budget, or other significant matter as  
23 may be provided in the Bylaws, the Executive Committee shall  
24 consult with and report to the legislative committee.

25           b. The Commission may establish additional advisory  
26 committees as its Bylaws may provide for the carrying out of  
27 its functions.

1                   5. Corporate Records of the Commission

2                   The Commission shall maintain its corporate books  
3 and records in accordance with the Bylaws.

4                   6. Qualified Immunity, Defense, and Indemnification

5                   a. The Members, officers, executive director,  
6 employees, and representatives of the Commission, the  
7 Executive Committee, and any other Committee of the Commission  
8 shall be immune from suit and liability, either personally or  
9 in their official capacity, for any claim for damage to or  
10 loss of property or personal injury or other civil liability  
11 caused by or arising out of any actual or alleged act, error,  
12 or omission that occurred, or that the person against whom the  
13 claim is made had a reasonable basis for believing occurred  
14 within the scope of Commission employment, duties, or  
15 responsibilities; provided that nothing in this paragraph  
16 shall be construed to protect any such person from suit and/or  
17 liability for any damage, loss, injury, or liability caused by  
18 the intentional or willful or wanton misconduct of that  
19 person.

20                   b. The Commission shall defend any Member, officer,  
21 executive director, employee, or representative of the  
22 Commission, the Executive Committee, or any other Committee of  
23 the Commission in any civil action seeking to impose liability  
24 arising out of any actual or alleged act, error, or omission  
25 that occurred within the scope of Commission employment,  
26 duties, or responsibilities, or that the person against whom  
27 the claim is made had a reasonable basis for believing

1 occurred within the scope of Commission employment, duties, or  
2 responsibilities; provided that nothing herein shall be  
3 construed to prohibit that person from retaining his or her  
4 own counsel; and provided further, that the actual or alleged  
5 act, error, or omission did not result from that person's  
6 intentional or willful or wanton misconduct.

7 c. The Commission shall indemnify and hold harmless  
8 any Member, officer, executive director, employee, or  
9 representative of the Commission, Executive Committee, or any  
10 other Committee of the Commission for the amount of any  
11 settlement or judgment obtained against that person arising  
12 out of any actual or alleged act, error, or omission that  
13 occurred within the scope of Commission employment, duties, or  
14 responsibilities, or that such person had a reasonable basis  
15 for believing occurred within the scope of Commission  
16 employment, duties, or responsibilities, provided that the  
17 actual or alleged act, error, or omission did not result from  
18 the intentional or willful or wanton misconduct of that  
19 person.

20 ARTICLE VII

21 MEETINGS AND ACTS OF THE COMMISSION

22 1. The Commission shall meet and take such actions  
23 as are consistent with the provisions of this Compact and the  
24 Bylaws.

25 2. Each Member of the Commission shall have the  
26 right and power to cast a vote to which that Compacting State  
27 is entitled and to participate in the business and affairs of



1 the Commission. A Member shall vote in person or by such other  
2 means as provided in the Bylaws. The Bylaws may provide for  
3 Members' participation in meetings by telephone or other means  
4 of communication.

5 3. The Commission shall meet at least once during  
6 each calendar year. Additional meetings shall be held as set  
7 forth in the Bylaws.

8 4. Public notice shall be given of all meetings and  
9 all meetings shall be open to the public, except as set forth  
10 in the Rules or otherwise provided in the Compact.

11 5. The Commission shall promulgate Rules concerning  
12 its meetings consistent with the principles contained in the  
13 Government in the Sunshine Act, "U.S.C., Section 552(b)", as  
14 may be amended.

15 6. The Commission and its committees may close a  
16 meeting, or portion thereof, where it determines by majority  
17 vote that an open meeting would be likely to:

18 a. Relate solely to the Commission's internal  
19 personnel practices and procedures;

20 b. Disclose matters specifically exempted from  
21 disclosure by federal and State statute;

22 c. Disclose trade secrets or commercial or financial  
23 information which is privileged or confidential;

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

1 e. Disclose information of a personal nature where  
2 disclosure would constitute a clearly unwarranted invasion of  
3 personal privacy;

4 f. Disclose investigative records compiled for law  
5 enforcement purposes;

6 g. Specifically relate to the Commission's issuance  
7 of a subpoena, or its participation in a civil action or other  
8 legal proceeding.

9 6. For a meeting, or portion of a meeting, closed  
10 pursuant to this provision, the Commission's legal counsel or  
11 designee shall certify that the meeting may be closed and  
12 shall reference each relevant exemptive provision. The  
13 Commission shall keep minutes which shall fully and clearly  
14 describe all matters discussed in a meeting and shall provide  
15 a full and accurate summary of actions taken, and the reasons  
16 therefore, including a description of the views expressed and  
17 the record of a roll call vote. All documents considered in  
18 connection with an action shall be identified in such minutes.  
19 All minutes and documents of a closed meeting shall remain  
20 under seal, subject to release by a majority vote of the  
21 Commission.

22 ARTICLE VIII

23 RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS  
24 OF THE COMMISSION

25 Rulemaking functions of the Commission:

26 1. Rulemaking Authority. The Commission shall  
27 promulgate reasonable Rules in order to effectively and

1 efficiently achieve the purposes of this Compact.  
2 Notwithstanding the foregoing, in the event the Commission  
3 exercises its rulemaking authority in a manner that is beyond  
4 the scope of the purposes of this Act, or the powers granted  
5 hereunder, then such an action by the Commission shall be  
6 invalid and have no force or effect.

7 2. Rulemaking Procedure. Rules shall be made  
8 pursuant to a rulemaking process that substantially conforms  
9 to the "Model State Administrative Procedure Act," of 1981,  
10 Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as  
11 may be appropriate to the operations of the Commission.

12 3. Effective Date. All Rules, and amendments  
13 thereto, shall become effective as of the date specified in  
14 each Rule, operating procedure, or amendment.

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

25 ARTICLE IX

26 COMMISSION RECORDS AND ENFORCEMENT

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

19          2. Except as to privileged records, data, and  
20          information, the laws of any Compacting State pertaining to  
21          confidentiality or nondisclosure shall not relieve any  
22          Compacting State Member of the duty to disclose any relevant  
23          records, data, or information to the Commission; provided that  
24          disclosure to the Commission shall not be deemed to waive or  
25          otherwise affect any confidentiality requirement, and further  
26          provided that, except as otherwise expressly provided in this  
27          Act, the Commission shall not be subject to the Compacting

1 State's laws pertaining to confidentiality and nondisclosure  
2 with respect to records, data and information in its  
3 possession. Confidential information of the Commission shall  
4 remain confidential after such information is provided to any  
5 Member, and the Commission shall maintain the confidentiality  
6 of any information provided by a member that is confidential  
7 under that Member's State Law.

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

#### 16 ARTICLE X

#### 17 DISPUTE RESOLUTION

18 1. Before a Member may bring an action in a court of  
19 competent jurisdiction for violation of any provision,  
20 standard, or requirement of the Compact, the Commission shall  
21 attempt, upon the request of a Member, to resolve any disputes  
22 or other issues that are subject to this Compact and which may  
23 arise between two or more Compacting States, Contracting  
24 States, or Non-Compacting States, and the Commission shall  
25 promulgate a Rule providing alternative dispute resolution  
26 procedures for such disputes.

1           2. The Commission shall also provide alternative  
2       dispute resolution procedures to resolve any disputes between  
3       insureds or Surplus Lines Licensees concerning a tax  
4       calculation or allocation or related issues which are the  
5       subject of this Compact.

6           3. Any alternative dispute resolution procedures  
7       shall be utilized in circumstances where a dispute arises as  
8       to which State constitutes the Home State.

9           ARTICLE XI

10          REVIEW OF COMMISSION DECISIONS Regarding Commission  
11       decisions:

12           1. Except as necessary for promulgating Rules to  
13       fulfill the purposes of this Compact, the Commission shall not  
14       have authority to otherwise regulate insurance in the  
15       Compacting States.

16           2. Not later than 30 days after the Commission has  
17       given notice of any Rule or Allocation Formula, any third  
18       party filer or Compacting State may appeal the determination  
19       to a review panel appointed by the Commission. The Commission  
20       shall promulgate Rules to establish procedures for appointing  
21       such review panels and provide for notice and hearing. An  
22       allegation that the Commission, in making compliance or tax  
23       determinations acted arbitrarily, capriciously, or in a manner  
24       that is an abuse of discretion or otherwise not in accordance  
25       with the law, is subject to judicial review in accordance with  
26       Article III, Section 6.

1           3. The Commission shall have authority to monitor,  
2 review, and reconsider Commission decisions upon a finding  
3 that the determinations or allocations do not meet the  
4 relevant Rule. Where appropriate, the Commission may withdraw  
5 or modify its determination or allocation after proper notice  
6 and hearing, subject to the appeal process in Section 2 above.

7           ARTICLE XII

8           FINANCE 1. The Commission shall pay or provide for  
9 the payment of the reasonable expenses of its establishment  
10 and organization. To fund the cost of its initial operations,  
11 the Commission may accept contributions, grants, and other  
12 forms of funding from the State stamping offices, Compacting  
13 States, and other sources.

14           2. The Commission shall collect a fee payable by the  
15 insured directly or through a Surplus Lines Licensee on each  
16 transaction processed through the Compact Clearinghouse, to  
17 cover the cost of the operations and activities of the  
18 Commission and its staff in a total amount sufficient to cover  
19 the Commission's annual budget.

20           3. The Commission's budget for a fiscal year shall  
21 not be approved until it has been subject to notice and  
22 comment as set forth in Article VIII of this Compact.

23           4. The Commission shall be regarded as performing  
24 essential governmental functions in exercising such powers and  
25 functions and in carrying out the provisions of this Compact  
26 and of any law relating thereto, and shall not be required to  
27 pay any taxes or assessments of any character, levied by any

1 State or political subdivision thereof, upon any of the  
2 property used by it for such purposes, or any income or  
3 revenue therefrom, including any profit from a sale or  
4 exchange.

5 5. The Commission shall keep complete and accurate  
6 accounts of all its internal receipts, including grants and  
7 donations, and disbursements for all funds under its control.  
8 The internal financial accounts of the Commission shall be  
9 subject to the accounting procedures established under its  
10 Bylaws. The financial accounts and reports, including the  
11 system of internal controls and procedures, of the Commission  
12 shall be audited annually by an independent certified public  
13 accountant. Upon the determination of the Commission, but not  
14 less frequently than every three years, the review of the  
15 independent auditor shall include a management and performance  
16 audit of the Commission. The Commission shall make an annual  
17 report to the Governor and legislature of the Compacting  
18 States, which shall include a report of the independent audit.  
19 The Commission's internal accounts shall not be confidential  
20 and such materials may be shared with the Commissioner, the  
21 controller, or the stamping office of any Compacting State  
22 upon request; provided, however, that any work papers related  
23 to any internal or independent audit and any information  
24 regarding the privacy of individuals, and licensees' and  
25 insurers' proprietary information, including trade secrets,  
26 shall remain confidential.



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

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

10           ARTICLE XIII

11           COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

12           1. Any State is eligible to become a Compacting  
13 State.

14           2. The Compact shall become effective and binding  
15 upon legislative enactment of the Compact into law by two  
16 Compacting States, provided the Commission shall become  
17 effective for purposes of adopting Rules and creating the  
18 Clearinghouse when there are a total of 10 Compacting States  
19 and Contracting States or, alternatively, when there are  
20 Compacting States and Contracting States representing greater  
21 than 40 percent of the Surplus Lines Insurance premium volume  
22 based on records of the percentage of Surplus Lines Insurance  
23 premium set forth as agreed to by the Compacting States.

24           Thereafter, it shall become effective and binding as to any  
25 other Compacting State upon enactment of the Compact into law  
26 by that State. Notwithstanding the foregoing, the  
27 Clearinghouse operations and the duty to report Clearinghouse

1 Transaction Data shall begin on the first January 1st or July  
2 1st following the first anniversary of the Commission  
3 effective date. For States which join the Compact subsequent  
4 to the effective date, a start date for reporting  
5 Clearinghouse Transaction Data shall be set by the Commission  
6 provided Surplus Lines Licensees and all other interested  
7 parties receive not less than 90 days' advance notice.

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

#### 13 ARTICLE XIV

#### 14 WITHDRAWAL, DEFAULT, AND TERMINATION

##### 15 1. Withdrawal

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

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

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

5           d. The Commission shall notify the other Compacting  
6 States of the introduction of such legislation within 10 days  
7 after its receipt of notice thereof.

8           e. The Withdrawing State is responsible for all  
9 obligations, duties, and liabilities incurred through the  
10 effective date of withdrawal, including any obligations, the  
11 performance of which extend beyond the effective date of  
12 withdrawal. To the extent those obligations may have been  
13 released or relinquished by mutual agreement of the Commission  
14 and the Withdrawing State, the Commission's determinations  
15 prior to the effective date of withdrawal shall continue to be  
16 effective and be given full force and effect in the  
17 Withdrawing State, unless formally rescinded by the  
18 Commission.

19           f. Reinstatement following withdrawal of any  
20 Compacting State shall occur upon the effective date of the  
21 Withdrawing State reenacting the Compact.

## 22           2. Default

23           a. If the Commission determines that any Compacting  
24 State has at any time defaulted ("Defaulting State") in the  
25 performance of any of its obligations or responsibilities  
26 under this Compact, the Bylaws, or duly promulgated Rules  
27 then, after notice and hearing as set forth in the Bylaws, all

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

17 b. Decisions of the Commission that are issued on  
18 the effective date of termination shall remain in force in the  
19 Defaulting State in the same manner as if the Defaulting State  
20 had withdrawn voluntarily pursuant to Section 1 of this  
21 Article.

22 c. Reinstatement following termination of any  
23 Compacting State requires a reenactment of the Compact.

### 24 3. Dissolution of Compact

25 a. The Compact dissolves effective upon the date of  
26 the withdrawal or default of the Compacting State which  
27 reduces membership in the Compact to one Compacting State.

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

6           ARTICLE XV

7           SEVERABILITY AND CONSTRUCTION

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

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

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

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

20           ARTICLE XVI

21           BINDING EFFECT OF COMPACT AND OTHER LAWS

22           1. Other Laws

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

26           b. Decisions of the Commission, and any Rules, and  
27 any other requirements of the Commission shall constitute the

1 exclusive Rule or determination applicable to the Compacting  
2 States. Any law or regulation regarding Non-Admitted Insurance  
3 of Multi-State Risks that is contrary to Rules of the  
4 Commission is preempted with respect to the following:

5 (i) Clearinghouse Transaction Data reporting  
6 requirements;

7 (ii) Allocation Formula;

8 (iii) Clearinghouse Transaction Data collection  
9 requirements;

10 (iv) Premium Tax payment time frames and Rules  
11 concerning dissemination of data among the Compacting States  
12 for Non-Admitted Insurance of Multi-State Risks and  
13 Single-State Risks;

14 (v) Exclusive compliance with surplus lines law of  
15 the Home State of the insured;

16 (vi) Rules for reporting to a Clearinghouse for  
17 receipt and distribution of Clearinghouse Transaction Data  
18 related to Non-Admitted Insurance of Multi-State Risks;

19 (vii) Uniform foreign Insurers Eligibility  
20 Requirements;

21 (viii) Uniform Policyholder Notice; and (ix) Uniform  
22 treatment of Purchasing Groups procuring Non-Admitted  
23 Insurance.

24 c. Except as stated in paragraph b., any Rule,  
25 Uniform Standard, or other requirement of the Commission shall  
26 constitute the exclusive provision that a Commissioner may  
27 apply to compliance or tax determinations. Notwithstanding the

1 foregoing, no action taken by the Commission shall abrogate or  
2 restrict:

3 (i) the access of any person to State courts;

4 (ii) the availability of alternative dispute  
5 resolution under Article X of this Compact;

6 (iii) remedies available under State law related to  
7 breach of contract, tort, or other laws not specifically  
8 directed to compliance or tax determinations;

9 (iv) State law relating to the construction of  
10 insurance contracts; or

11 (v) the authority of the attorney general of the  
12 State, including, but not limited to, maintaining any actions  
13 or proceedings, as authorized by law.

## 14 2. Binding Effect of this Compact

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

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

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

26 d. In the event any provision of this Compact  
27 exceeds the constitutional limits imposed on the legislature

1 of any Compacting State, the obligations, duties, powers, or  
2 jurisdiction sought to be conferred by that provision upon the  
3 Commission shall be ineffective as to that State and those  
4 obligations, duties, powers, or jurisdiction shall remain in  
5 the Compacting State and shall be exercised by the agency  
6 thereof to which those obligations, duties, powers, or  
7 jurisdiction are delegated by law in effect at the time this  
8 Compact becomes effective.

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

13 Section 3. The compact shall become effective and  
14 binding upon legislative enactment of the Compact into law by  
15 two Compacting States, and the Commission shall become  
16 effective for purposes of adopting rules and creating the  
17 clearinghouse when there are a total of 10 Compacting States  
18 and Contracting States or, alternatively, when there are  
19 Compacting States and Contracting States representing greater  
20 than 40 percent of the Surplus Lines Insurance premium volume  
21 based on records of the percentage of Surplus Lines Insurance  
22 premium.

23 Section 4. This act shall become effective on the  
24 first day of the third month following its passage and  
25 approval by the Governor, or its otherwise becoming law.