

4869

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the tax law, in relation to establishing the surplus lines insurance multi-state compliance compact with respect to surplus lines insurance and premium tax allocation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Legislative findings. The legislature finds, with regard to
2 non-admitted insurance policies with risk exposures located in multiple
3 states, the 111th United States Congress has stipulated in title V,
4 subtitle B, the Non-Admitted and Reinsurance Reform Act of 2010 of the
5 Dodd-Frank Wall Street Reform and Consumer Protection Act (hereinafter
6 the NRRA) that:
- 7 1. The placement of non-admitted insurance shall be subject to the
8 statutory and regulatory requirements solely of the insured's home
9 state, and
- 10 2. Any law, regulation, provision or action of any state that applies
11 or purports to apply to non-admitted insurance sold to, solicited by or
12 negotiated with an insured whose home state is another state shall be
13 preempted with respect to such application; except that any state law,
14 rule or regulation that restricts the placement of workers' compensation
15 insurance or excess insurance for self-funded workers' compensation
16 plans with a non-admitted insurer shall not be preempted.
- 17 The legislature finds further that in compliance with NRRA, no state
18 other than the home state of an insured may require any premium tax
19 payment for non-admitted insurance; and no state other than an insured's
20 home state may require a surplus lines broker to be licensed in order to
21 sell, solicit or negotiate non-admitted insurance with respect to such
22 insured.
- 23 The legislature finds further that the NRRA intends that the states
24 may enter into a compact or otherwise establish procedures to allocate

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 among the states the premium taxes paid to an insured's home state; and
2 that each state adopt nationwide uniform requirements, form, and proce-
3 dures, such as an interstate compact, that provide for the reporting,
4 payment, collection and allocation of premium taxes for non-admitted
5 insurance.

6 The legislature finds further that after the expiration of the two-
7 year period beginning on the effective date of the NRRA, a state may not
8 collect any fees relating to licensing of an individual or entity as a
9 surplus lines licensee in the state unless the state has in effect at
10 such time laws or regulations that provide for participation by the
11 state in the national insurance producer database of the National Asso-
12 ciation of Insurance Commissioners (hereinafter the NAIC) or any other
13 equivalent uniform national database for the licensure of surplus lines
14 licensees and the renewal of such licenses.

15 The legislature recognizes that a need exists for a system of regu-
16 lation that will provide for surplus lines insurance to be placed with
17 reputable and financially sound non-admitted insurers and that will
18 permit orderly access to surplus lines insurance in this state and
19 encourage insurers to make new and innovative types of insurance avail-
20 able to consumers in this state.

21 The legislature finds that protecting the revenue of this state and
22 other compacting states may be accomplished by facilitating the payment
23 and collection of premium tax on non-admitted insurance and providing
24 for allocation of premium tax for non-admitted insurance of multi-state
25 risks among the states in accordance with uniform allocation formulas.

26 The legislature finds that the efficiency of the surplus lines market
27 may be improved by eliminating duplicative and inconsistent tax and
28 regulatory requirements among the states and by promoting and protecting
29 the interests of surplus lines licensees who assist such insureds and
30 non-admitted insurers, thereby ensuring the continued availability of
31 non-admitted insurance to consumers.

32 Regulatory compliance with respect to non-admitted insurance place-
33 ments may be streamlined by providing for exclusive single-state regula-
34 tory compliance for non-admitted insurance of multi-state risks, thereby
35 providing certainty regarding such compliance to all persons who have an
36 interest in such transactions, including but not limited to insureds,
37 regulators, surplus lines licensees, other insurance producers and
38 surplus lines insurers.

39 The legislature finds that coordination of regulatory resources and
40 expertise between state insurance departments and other state agencies,
41 as well as state surplus lines stamping offices, with respect to non-ad-
42 mitted insurance will be improved.

43 S. 2. The insurance law is amended by adding a new article 29 to read
44 as follows:

45 ARTICLE 29

46 SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT

47 SECTION 2901. SHORT TITLE.

48 2902. PURPOSES.

49 2903. DEFINITIONS.

50 2904. ESTABLISHMENT OF THE COMMISSION AND VENUE.

51 2905. AUTHORITY TO ESTABLISH MANDATORY RULES.

52 2906. POWERS OF THE COMMISSION.

53 2907. ORGANIZATION OF THE COMMISSION.

54 2908. MEETINGS AND ACTS OF THE COMMISSION.

55 2909. RULEMAKING FUNCTIONS OF THE COMMISSION.

56 2910. COMMISSION RECORDS AND ENFORCEMENT.

2911. DISPUTE RESOLUTION.
2912. REVIEW OF COMMISSION DECISIONS.
2913. FINANCE.
2914. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.
2915. WITHDRAWAL, DEFAULT AND TERMINATION.
2916. SEVERABILITY AND CONSTRUCTION.
2917. BINDING EFFECT OF COMPACT AND OTHER LAWS.

S 2901. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT".

S 2902. PURPOSES. THE PURPOSES OF THIS COMPACT ARE:

(A) TO IMPLEMENT THE EXPRESS PROVISIONS OF THE NON-ADMITTED AND REINSURANCE REFORM ACT OF 2010 (HEREINAFTER THE NRRRA).

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

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

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

(E) TO ESTABLISH A CLEARINGHOUSE FOR RECEIPT AND DISSEMINATION OF PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA RELATED TO NON-ADMITTED INSURANCE OF MULTI-STATE RISKS, IN ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION.

(F) TO IMPROVE COORDINATION OF REGULATORY RESOURCES AND EXPERTISE BETWEEN STATE INSURANCE DEPARTMENTS AND OTHER STATE AGENCIES, AS WELL AS STATE SURPLUS LINES STAMPING OFFICES, WITH RESPECT TO NON-ADMITTED INSURANCE.

(G) TO ADOPT UNIFORM RULES TO PROVIDE FOR PREMIUM TAX PAYMENT, REPORTING, ALLOCATION, DATA COLLECTION AND DISSEMINATION FOR NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AND SINGLE-STATE RISKS, IN ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION, THEREBY PROMOTING THE OVERALL EFFICIENCY OF THE NON-ADMITTED INSURANCE MARKET.

(H) TO ADOPT UNIFORM MANDATORY RULES WITH RESPECT TO REGULATORY COMPLIANCE REQUIREMENTS FOR:

(1) FOREIGN INSURER ELIGIBILITY REQUIREMENTS; AND

(2) SURPLUS LINES POLICYHOLDER NOTICES.

(I) TO ESTABLISH THE SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT COMMISSION.

(J) TO COORDINATE REPORTING OF CLEARINGHOUSE TRANSACTION DATA ON NON-ADMITTED INSURANCE OF MULTI-STATE RISKS AMONG COMPACTING STATES AND CONTRACTING STATES.

1 (K) TO PERFORM THESE AND SUCH OTHER RELATED FUNCTIONS AS MAY BE
2 CONSISTENT WITH THE PURPOSES OF THE SURPLUS LINES INSURANCE MULTI-STATE
3 COMPLIANCE COMPACT.

4 S 2903. DEFINITIONS. FOR THE PURPOSES OF THIS COMPACT THE FOLLOWING
5 DEFINITIONS SHALL APPLY:

6 (A) "ADMITTED INSURER" MEANS AN INSURER THAT IS LICENSED OR AUTHORIZED
7 TO TRANSACT THE BUSINESS OF INSURANCE UNDER THE LAW OF THE HOME STATE;
8 FOR PURPOSES OF THIS COMPACT "ADMITTED INSURER" SHALL NOT INCLUDE A
9 DOMESTIC SURPLUS LINES INSURER AS MAY BE DEFINED BY APPLICABLE STATE
10 LAW.

11 (B) "AFFILIATE" MEANS, WITH RESPECT TO AN INSURED, ANY ENTITY THAT
12 CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH THE INSURED.

13 (C) "ALLOCATION FORMULA" MEANS THE UNIFORM METHODS PROMULGATED BY THE
14 COMMISSION BY WHICH INSURED RISK EXPOSURES WILL BE APPORTIONED TO EACH
15 STATE FOR THE PURPOSE OF CALCULATING PREMIUM TAXES DUE.

16 (D) "BYLAWS" MEANS THOSE BYLAWS ESTABLISHED BY THE COMMISSION FOR ITS
17 GOVERNANCE OR FOR DIRECTING OR CONTROLLING THE COMMISSION'S ACTIONS OR
18 CONDUCT.

19 (E) "CLEARINGHOUSE" MEANS THE COMMISSION'S OPERATIONS INVOLVING THE
20 ACCEPTANCE, PROCESSING AND DISSEMINATION AMONG THE COMPACTING STATES,
21 CONTRACTING STATES, SURPLUS LINES LICENSEES, INSURED AND OTHER PERSONS
22 OF PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA FOR NON-ADMITTED
23 INSURANCE OF MULTI-STATE RISKS IN ACCORDANCE WITH THIS COMPACT AND RULES
24 TO BE ADOPTED BY THE COMMISSION.

25 (F) "CLEARINGHOUSE TRANSACTION DATA" MEANS THE INFORMATION REGARDING
26 NON-ADMITTED INSURANCE OF MULTI-STATE RISKS REQUIRED TO BE REPORTED,
27 ACCEPTED, COLLECTED, PROCESSED AND DISSEMINATED BY SURPLUS LINES LICEN-
28 SEES FOR SURPLUS LINES INSURANCE AND INSURED FOR INDEPENDENTLY PROCURED
29 INSURANCE UNDER THIS COMPACT AND RULES TO BE ADOPTED BY THE COMMISSION.
30 CLEARINGHOUSE TRANSACTION DATA INCLUDES INFORMATION RELATED TO
31 SINGLE-STATE RISKS IF A STATE ELECTS TO HAVE THE CLEARINGHOUSE COLLECT
32 TAXES ON SINGLE-STATE RISKS FOR SUCH STATE.

33 (G) "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THIS COMPACT
34 LEGISLATION AND WHICH HAS NOT WITHDRAWN PURSUANT TO SUBSECTION (A) OF
35 SECTION TWENTY-NINE HUNDRED FIFTEEN OF THIS ARTICLE OR BEEN TERMINATED
36 PURSUANT TO SUBSECTION (B) OF SECTION TWENTY-NINE HUNDRED FIFTEEN OF
37 THIS ARTICLE.

38 (H) "COMMISSION" MEANS THE SURPLUS LINES INSURANCE MULTI-STATE COMPLI-
39 ANCE COMPACT COMMISSION ESTABLISHED BY THIS COMPACT.

40 (I) "COMMISSIONER" MEANS THE CHIEF INSURANCE REGULATORY OFFICIAL OF A
41 STATE INCLUDING, BUT NOT LIMITED TO, COMMISSIONER, SUPERINTENDENT,
42 DIRECTOR OR ADMINISTRATOR OR THEIR DESIGNEES.

43 (J) "CONTRACTING STATE" MEANS ANY STATE WHICH HAS NOT ENACTED THIS
44 COMPACT LEGISLATION BUT HAS ENTERED INTO A WRITTEN CONTRACT WITH THE
45 COMMISSION TO UTILIZE THE SERVICES OF AND FULLY PARTICIPATE IN THE
46 CLEARINGHOUSE.

47 (K) "CONTROL" MEANS ONE ENTITY HAS POWER OVER ANOTHER. FOR THE
48 PURPOSES OF THIS ARTICLE, AN ENTITY HAS CONTROL OVER ANOTHER ENTITY IF:

49 (1) THE ENTITY DIRECTLY OR INDIRECTLY OR ACTING THROUGH ONE OR MORE
50 OTHER PERSONS OWN, CONTROLS OR HAS THE POWER TO VOTE TWENTY-FIVE PERCENT
51 OR MORE OF ANY CLASS OF VOTING SECURITIES OF THE OTHER ENTITY; OR

52 (2) SUCH ENTITY CONTROLS IN ANY MANNER THE ELECTION OF A MAJORITY OF
53 THE DIRECTORS OR TRUSTEES OF THE OTHER ENTITY.

54 (L) "HOME STATE" SHALL HAVE TWO MEANINGS DEPENDING ON CONTEXT:

55 (1) EXCEPT AS PROVIDED IN PARAGRAPH TWO OF THIS SUBSECTION, THE TERM
56 "HOME STATE" MEANS, WITH RESPECT TO AN INSURED:

1 (A) THE STATE IN WHICH AN INSURED MAINTAINS ITS PRINCIPAL PLACE OF
2 BUSINESS OR, IN THE CASE OF AN INDIVIDUAL, THE INDIVIDUAL'S PRINCIPAL
3 RESIDENCE; OR

4 (B) IF ONE HUNDRED PERCENT OF THE INSURED RISK IS LOCATED OUT OF THE
5 STATE REFERRED TO IN SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE STATE TO
6 WHICH THE GREATEST PERCENTAGE OF THE INSURED'S TAXABLE PREMIUM FOR THAT
7 INSURANCE CONTRACT IS ALLOCATED.

8 (2) IF MORE THAN ONE INSURED FROM AN AFFILIATED GROUP ARE NAMED
9 INSUREDS ON A SINGLE NON-ADMITTED INSURANCE CONTRACT, THE TERM "HOME
10 STATE" MEANS THE HOME STATE, AS DETERMINED PURSUANT TO PARAGRAPH ONE OF
11 THIS SUBSECTION, OF THE MEMBER OF THE AFFILIATED GROUP THAT HAS THE
12 LARGEST PERCENTAGE OF PREMIUM ATTRIBUTED TO IT UNDER SUCH INSURANCE
13 CONTRACT.

14 (M) "INDEPENDENTLY PROCURED INSURANCE" MEANS INSURANCE PROCURED BY AN
15 INSURED DIRECTLY FROM A SURPLUS LINES INSURER OR OTHER NON-ADMITTED
16 INSURER AS PERMITTED BY THE LAWS OF THE HOME STATE.

17 (N) "INSURER ELIGIBILITY REQUIREMENTS" MEANS THE CRITERIA, FORMS AND
18 PROCEDURES ESTABLISHED TO QUALIFY AS A SURPLUS LINES INSURER UNDER THE
19 LAW OF THE HOME STATE PROVIDED THAT SUCH CRITERIA, FORMS AND PROCEDURES
20 ARE CONSISTENT WITH THE EXPRESS PROVISIONS OF THE NRRA ON AND AFTER JULY
21 TWENTY-FIRST, TWO THOUSAND ELEVEN.

22 (O) "MEMBER" MEANS THE PERSON OR PERSONS CHOSEN BY A COMPACTING STATE
23 AS ITS REPRESENTATIVE OR REPRESENTATIVES TO THE COMMISSION PROVIDED THAT
24 EACH COMPACTING STATE SHALL BE LIMITED TO ONE VOTE.

25 (P) "MULTI-STATE RISK" MEANS A RISK WITH INSURED EXPOSURES IN MORE
26 THAN ONE STATE.

27 (Q) "NON-COMPACTING STATE" MEANS ANY STATE WHICH HAS NOT ADOPTED THIS
28 COMPACT.

29 (R) "NON-ADMITTED INSURANCE" MEANS SURPLUS LINES INSURANCE AND INDE-
30 PENDENTLY PROCURED INSURANCE.

31 (S) "NON-ADMITTED INSURER" MEANS AN INSURER THAT IS NOT AUTHORIZED OR
32 ADMITTED TO TRANSACT THE BUSINESS OF INSURANCE UNDER THE LAW OF THE HOME
33 STATE.

34 (T) "NRRA" MEANS THE NON-ADMITTED AND REINSURANCE REFORM ACT OF 2010,
35 FOUND IN TITLE V, SUBTITLE B OF THE FEDERAL DODD-FRANK WALL STREET
36 REFORM AND CONSUMER PROTECTION ACT.

37 (U) "POLICYHOLDER NOTICE" MEANS THE DISCLOSURE NOTICE OR STAMP THAT IS
38 REQUIRED TO BE FURNISHED TO THE APPLICANT OR POLICYHOLDER IN CONNECTION
39 WITH A SURPLUS LINES INSURANCE PLACEMENT.

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

46 (W) "PRINCIPAL PLACE OF BUSINESS" MEANS WITH RESPECT TO DETERMINING
47 THE HOME STATE OF THE INSURED, THE STATE WHERE THE INSURED MAINTAINS ITS
48 HEADQUARTERS AND WHERE THE INSURED'S HIGH-LEVEL OFFICERS DIRECT, CONTROL
49 AND COORDINATE THE BUSINESS ACTIVITIES OF THE INSURED.

50 (X) "PURCHASING GROUP" MEANS ANY GROUP FORMED PURSUANT TO THE LIABIL-
51 ITY RISK RETENTION ACT WHICH HAS AS ONE OF ITS PURPOSES THE PURCHASE OF
52 LIABILITY INSURANCE ON A GROUP BASIS, PURCHASES SUCH INSURANCE ONLY FOR
53 ITS GROUP MEMBERS AND ONLY TO COVER THEIR SIMILAR OR RELATED LIABILITY
54 EXPOSURE AND IS COMPOSED OF MEMBERS WHOSE BUSINESSES OR ACTIVITIES ARE
55 SIMILAR OR RELATED WITH RESPECT TO THE LIABILITY TO WHICH MEMBERS ARE

1 EXPOSED BY VIRTUE OF ANY RELATED, SIMILAR OR COMMON BUSINESS, TRADE,
2 PRODUCT, SERVICES, PREMISES OR OPERATIONS AND IS DOMICILED IN ANY STATE.
3 (Y) "RULE" MEANS A STATEMENT OF GENERAL OR PARTICULAR APPLICABILITY
4 AND FUTURE EFFECT PROMULGATED BY THE COMMISSION DESIGNED TO IMPLEMENT,
5 INTERPRET OR PRESCRIBE LAW OR POLICY OR DESCRIBING THE ORGANIZATION,
6 PROCEDURE OR PRACTICE REQUIREMENTS OF THE COMMISSION WHICH SHALL HAVE
7 THE FORCE AND EFFECT OF LAW IN THE COMPACTING STATES.
8 (Z) "SINGLE-STATE RISK" MEANS A RISK WITH INSURED EXPOSURES IN ONLY
9 ONE STATE.
10 (AA) "STATE" MEANS ANY STATE, DISTRICT OR TERRITORY OF THE UNITED
11 STATES OF AMERICA.
12 (BB) "STATE TRANSACTION DOCUMENTATION" MEANS THE INFORMATION REQUIRED
13 UNDER THE LAWS OF THE HOME STATE TO BE FILED BY SURPLUS LINES LICENSEES
14 IN ORDER TO REPORT SURPLUS LINES INSURANCE AND VERIFY COMPLIANCE WITH
15 SURPLUS LINES LAWS AND BY INSUREDS IN ORDER TO REPORT INDEPENDENTLY
16 PROCURED INSURANCE.
17 (CC) "SURPLUS LINES INSURANCE" MEANS INSURANCE PROCURED BY A SURPLUS
18 LINES LICENSEE FROM A SURPLUS LINES INSURER OR OTHER NON-ADMITTED INSUR-
19 ER AS PERMITTED UNDER THE LAW OF THE HOME STATE. FOR THE PURPOSES OF
20 THIS COMPACT "SURPLUS LINES INSURANCE" SHALL ALSO MEAN EXCESS LINE
21 INSURANCE AS THAT TERM IS USED PURSUANT TO SECTION TWO THOUSAND ONE
22 HUNDRED FIVE OF THIS CHAPTER.
23 (DD) "SURPLUS LINES INSURER" MEANS A NON-ADMITTED INSURER ELIGIBLE
24 UNDER THE LAW OF THE HOME STATE TO ACCEPT BUSINESS FROM A SURPLUS LINES
25 LICENSEE. FOR THE PURPOSES OF THIS COMPACT "SURPLUS LINES INSURER"
26 SHALL ALSO MEAN AN INSURER WHICH IS PERMITTED TO WRITE SURPLUS LINES
27 INSURANCE UNDER THE LAWS OF THE STATE WHERE SUCH INSURER IS DOMICILED.
28 (EE) "SURPLUS LINES LICENSEE" MEANS AN INDIVIDUAL, FIRM OR CORPORATION
29 LICENSED UNDER THE LAW OF THE HOME STATE TO PLACE SURPLUS LINES INSUR-
30 ANCE.
31 S 2904. ESTABLISHMENT OF THE COMMISSION AND VENUE. (A) THE COMPACTING
32 STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE
33 "SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT COMMISSION."
34 (B) PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED FIVE OF THIS ARTI-
35 CLE, THE COMMISSION WILL HAVE THE POWER TO ADOPT MANDATORY RULES WHICH
36 ESTABLISH EXCLUSIVE HOME STATE AUTHORITY REGARDING NON-ADMITTED INSUR-
37 ANCE OF MULTI-STATE RISKS, ALLOCATION FORMULAS, CLEARINGHOUSE TRANS-
38 ACTION DATA, A CLEARINGHOUSE FOR RECEIPT AND DISTRIBUTION OF ALLOCATED
39 PREMIUM TAX AND CLEARINGHOUSE TRANSACTION DATA AND UNIFORM RULEMAKING
40 PROCEDURES AND RULES FOR THE PURPOSE OF FINANCING, ADMINISTERING, OPER-
41 ATING AND ENFORCING COMPLIANCE WITH THE PROVISIONS OF THIS COMPACT, ITS
42 BYLAWS AND RULES.
43 (C) PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED FIVE OF THIS ARTI-
44 CLE, THE COMMISSION WILL HAVE THE POWER TO ADOPT MANDATORY RULES ESTAB-
45 LISHING FOREIGN INSURER ELIGIBILITY REQUIREMENTS AND A CONCISE AND
46 OBJECTIVE POLICYHOLDER NOTICE REGARDING THE NATURE OF A SURPLUS LINES
47 PLACEMENT.
48 (D) THE COMMISSION IS A BODY CORPORATE AND POLITIC AND AN INSTRUMEN-
49 TALITY OF THE COMPACTING STATES.
50 (E) THE COMMISSION IS SOLELY RESPONSIBLE FOR ITS LIABILITIES, EXCEPT
51 AS OTHERWISE SPECIFICALLY PROVIDED IN THIS COMPACT.
52 (F) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMIS-
53 SION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT
54 JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED.
55 THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES TO THE EXTENT

1 IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION
2 PROCEEDINGS.

3 S 2905. AUTHORITY TO ESTABLISH MANDATORY RULES. THE COMMISSION SHALL
4 ADOPT MANDATORY RULES WHICH ESTABLISH:

5 (A) ALLOCATION FORMULAS FOR EACH TYPE OF NON-ADMITTED INSURANCE COVER-
6 AGE, WHICH ALLOCATION FORMULAS MUST BE USED BY EACH COMPACTING STATE AND
7 CONTRACTING STATE IN ACQUIRING PREMIUM TAX AND CLEARINGHOUSE TRANSACTION
8 DATA FROM SURPLUS LINES LICENSEES AND INSURED FOR REPORTING TO THE
9 CLEARINGHOUSE CREATED BY THE COMPACT COMMISSION. SUCH ALLOCATION FORMU-
10 LAS WILL BE ESTABLISHED WITH INPUT FROM SURPLUS LINES LICENSEES AND BE
11 BASED UPON READILY AVAILABLE DATA WITH SIMPLICITY AND UNIFORMITY FOR THE
12 SURPLUS LINES LICENSEE AS A MATERIAL CONSIDERATION.

13 (B) UNIFORM CLEARINGHOUSE TRANSACTION DATA REPORTING REQUIREMENTS FOR
14 ALL INFORMATION REPORTED TO THE CLEARINGHOUSE.

15 (C) METHODS BY WHICH COMPACTING STATES AND CONTRACTING STATES REQUIRE
16 SURPLUS LINES LICENSEES AND INSURED TO PAY PREMIUM TAX AND TO REPORT
17 CLEARINGHOUSE TRANSACTION DATA TO THE CLEARINGHOUSE, INCLUDING BUT NOT
18 LIMITED TO PROCESSING CLEARINGHOUSE TRANSACTION DATA THROUGH STATE
19 STAMPING AND SERVICE OFFICES, STATE INSURANCE DEPARTMENTS, OR OTHER
20 STATE-DESIGNATED AGENCIES OR ENTITIES.

21 (D) THAT NON-ADMITTED INSURANCE OF MULTI-STATE RISKS SHALL BE SUBJECT
22 TO ALL OF THE REGULATORY COMPLIANCE REQUIREMENTS OF THE HOME STATE
23 EXCLUSIVELY. HOME STATE REGULATORY COMPLIANCE REQUIREMENTS APPLICABLE TO
24 SURPLUS LINES INSURANCE SHALL INCLUDE, BUT NOT BE LIMITED TO:

25 (1) PERSONS REQUIRED TO BE LICENSED TO SELL, SOLICIT OR NEGOTIATE
26 SURPLUS LINES INSURANCE;

27 (2) INSURER ELIGIBILITY REQUIREMENTS OR OTHER APPROVED NON-ADMITTED
28 INSURER REQUIREMENTS;

29 (3) DILIGENT SEARCH; AND

30 (4) STATE TRANSACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA
31 REGARDING THE PAYMENT OF PREMIUM TAX AS SET FORTH IN THIS COMPACT AND
32 RULES TO BE ADOPTED BY THE COMMISSION. HOME STATE REGULATORY COMPLIANCE
33 REQUIREMENTS APPLICABLE TO INDEPENDENTLY PROCURED INSURANCE PLACEMENTS
34 SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVIDING STATE TRANSACTION
35 DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA REGARDING THE PAYMENT
36 OF PREMIUM TAX AS SET FORTH IN THIS COMPACT AND RULES TO BE ADOPTED BY
37 THE COMMISSION.

38 (E) THAT EACH COMPACTING STATE AND CONTRACTING STATE MAY CHARGE ITS
39 OWN RATE OF TAXATION ON THE PREMIUM ALLOCATED TO SUCH STATE BASED ON THE
40 APPLICABLE ALLOCATION FORMULA PROVIDED THAT THE STATE ESTABLISHES ONE
41 SINGLE RATE OF TAXATION APPLICABLE TO ALL NON-ADMITTED INSURANCE TRANS-
42 ACTIONS AND NO OTHER TAX, FEE ASSESSMENT OR OTHER CHARGE BY ANY GOVERN-
43 MENTAL OR QUASI-GOVERNMENTAL AGENCY BE PERMITTED. NOTWITHSTANDING THE
44 FOREGOING, STAMPING OFFICE FEES MAY BE CHARGED AS A SEPARATE, ADDITIONAL
45 COST UNLESS SUCH FEES ARE INCORPORATED INTO A STATE'S SINGLE RATE OF
46 TAXATION.

47 (F) THAT ANY CHANGE IN THE RATE OF TAXATION BY ANY COMPACTING STATE OR
48 CONTRACTING STATE BE RESTRICTED TO CHANGES MADE PROSPECTIVELY ON NOT
49 LESS THAN NINETY DAYS ADVANCE NOTICE TO THE COMPACT COMMISSION.

50 (G) THAT EACH COMPACTING STATE AND CONTRACTING STATE SHALL REQUIRE
51 PREMIUM TAX PAYMENTS EITHER ANNUALLY, SEMI-ANNUALLY OR QUARTERLY UTILIZ-
52 ING ONE OR MORE OF THE FOLLOWING DATES ONLY: MARCH FIRST, JUNE FIRST,
53 SEPTEMBER FIRST AND DECEMBER FIRST.

54 (H) THAT EACH COMPACTING STATE AND CONTRACTING STATE PROHIBIT ANY
55 OTHER STATE AGENCY OR POLITICAL SUBDIVISION FROM REQUIRING SURPLUS LINES
56 LICENSEES TO PROVIDE CLEARINGHOUSE TRANSACTION DATA AND STATE TRANS-

1 ACTION DOCUMENTATION OTHER THAN TO THE INSURANCE DEPARTMENT OR TAX OFFI-
2 CIALS OF THE HOME STATE OR ONE SINGLE DESIGNATED AGENT THEREOF.

3 (I) THE OBLIGATION OF THE HOME STATE BY ITSELF, THROUGH A DESIGNATED
4 AGENT, SURPLUS LINES STAMPING OR SERVICE OFFICE, TO COLLECT CLEARING-
5 HOUSE TRANSACTION DATA FROM SURPLUS LINES LICENSEES AND FROM INSURED
6 FOR INDEPENDENTLY PROCURED INSURANCE, WHERE APPLICABLE, FOR REPORTING TO
7 THE CLEARINGHOUSE.

8 (J) A METHOD FOR THE CLEARINGHOUSE TO PERIODICALLY REPORT TO COMPACT-
9 ING STATES, CONTRACTING STATES, SURPLUS LINES LICENSEES AND INSURED
10 INDEPENDENTLY PROCURE INSURANCE ALL PREMIUM TAXES OWED TO EACH OF THE
11 COMPACTING STATES AND CONTRACTING STATES, THE DATES UPON WHICH PAYMENT
12 OF SUCH PREMIUM TAXES ARE DUE AND A METHOD TO PAY THEM THROUGH THE
13 CLEARINGHOUSE.

14 (K) THAT EACH SURPLUS LINES LICENSEE IS REQUIRED TO BE LICENSED ONLY
15 IN THE HOME STATE OF EACH INSURED FOR WHOM SURPLUS LINES INSURANCE HAS
16 BEEN PROCURED.

17 (L) THAT A POLICY CONSIDERED TO BE SURPLUS LINES INSURANCE IN THE
18 INSURED'S HOME STATE SHALL BE CONSIDERED SURPLUS LINES INSURANCE IN ALL
19 COMPACTING STATES AND CONTRACTING STATES AND TAXED AS A SURPLUS LINES
20 TRANSACTION IN ALL STATES TO WHICH A PORTION OF THE RISK IS ALLOCATED.
21 EACH COMPACTING STATE AND CONTRACTING STATE SHALL REQUIRE EACH SURPLUS
22 LINES LICENSEE TO PAY TO EVERY OTHER COMPACTING STATE AND CONTRACTING
23 STATE PREMIUM TAXES ON EACH MULTI-STATE RISK THROUGH THE CLEARINGHOUSE
24 AT SUCH TAX RATE CHARGED ON SURPLUS LINES TRANSACTIONS IN SUCH OTHER
25 COMPACTING STATES AND CONTRACTING STATES ON THE PORTION OF THE RISK IN
26 EACH SUCH COMPACTING STATE AND CONTRACTING STATE AS DETERMINED BY THE
27 APPLICABLE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION. A POLI-
28 CY CONSIDERED TO BE INDEPENDENTLY PROCURED INSURANCE IN THE INSURED'S
29 HOME STATE SHALL BE CONSIDERED INDEPENDENTLY PROCURED INSURANCE IN ALL
30 COMPACTING STATES AND CONTRACTING STATES. EACH COMPACTING STATE AND
31 CONTRACTING STATE SHALL REQUIRE THE INSURED TO PAY EVERY OTHER COMPACT-
32 ING STATE AND CONTRACTING STATE THE INDEPENDENTLY PROCURED INSURANCE
33 PREMIUM TAX ON EACH MULTI-STATE RISK THROUGH THE CLEARINGHOUSE PURSUANT
34 TO THE UNIFORM ALLOCATION FORMULA ADOPTED BY THE COMMISSION.

35 (M) UNIFORM FOREIGN INSURER ELIGIBILITY REQUIREMENTS AS AUTHORIZED BY
36 THE NRR.

37 (N) A UNIFORM POLICYHOLDER NOTICE.

38 (O) UNIFORM TREATMENT OF PURCHASING GROUP SURPLUS LINES INSURANCE
39 PLACEMENTS.

40 S 2906. POWERS OF THE COMMISSION. THE COMMISSION SHALL HAVE THE
41 FOLLOWING POWERS:

42 (A) TO PROMULGATE RULES AND OPERATING PROCEDURES, PURSUANT TO SECTION
43 TWO THOUSAND NINE HUNDRED NINE OF THIS ARTICLE, WHICH SHALL HAVE THE
44 FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO
45 THE EXTENT AND IN THE MANNER PROVIDED IN THIS ARTICLE;

46 (B) TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF
47 THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE INSURANCE
48 DEPARTMENT TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

49 (C) TO ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND TESTIMONY OF
50 WITNESSES AND THE PRODUCTION OF EVIDENCE, PROVIDED HOWEVER, THE COMMIS-
51 SION IS NOT EMPOWERED TO DEMAND OR SUBPOENA RECORDS OR DATA FROM NON-AD-
52 MITTED INSURERS;

53 (D) TO ESTABLISH AND MAINTAIN OFFICES, INCLUDING THE CREATION OF A
54 CLEARINGHOUSE FOR THE RECEIPT OF PREMIUM TAX AND CLEARINGHOUSE TRANS-
55 ACTION DATA REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE RISKS,
56 SINGLE-STATE RISKS FOR STATES WHICH ELECT TO REQUIRE SURPLUS LINES

1 LICENSEES TO PAY PREMIUM TAX ON SINGLE-STATE RISKS THROUGH THE CLEARING-
2 HOUSE AND TAX REPORTING FORMS;
3 (E) TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;
4 (F) TO BORROW, ACCEPT OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUD-
5 ING, BUT NOT LIMITED TO, EMPLOYEES OF A COMPACTING STATE OR STAMPING
6 OFFICE, PURSUANT TO AN OPEN, TRANSPARENT, OBJECTIVE COMPETITIVE PROCESS
7 AND PROCEDURE ADOPTED BY THE COMMISSION;
8 (G) TO HIRE EMPLOYEES, PROFESSIONALS OR SPECIALISTS AND ELECT OR
9 APPOINT OFFICERS AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND
10 GIVE THEM APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT
11 AND DETERMINE THEIR QUALIFICATIONS, PURSUANT TO AN OPEN, TRANSPARENT,
12 OBJECTIVE COMPETITIVE PROCESS AND PROCEDURE ADOPTED BY THE COMMISSION;
13 AND TO ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELAT-
14 ING TO CONFLICTS OF INTEREST, RATES OF COMPENSATION AND QUALIFICATIONS
15 OF PERSONNEL AND OTHER RELATED PERSONNEL MATTERS;
16 (H) TO ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY,
17 EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES AND TO RECEIVE, UTILIZE AND
18 DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL
19 AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;
20 (I) TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR
21 OTHERWISE TO OWN, HOLD, IMPROVE OR USE ANY PROPERTY, REAL, PERSONAL OR
22 MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEAR-
23 ANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;
24 (J) TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON OR
25 OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED;
26 (K) TO PROVIDE FOR TAX AUDIT RULES AND PROCEDURES FOR THE COMPACTING
27 STATES WITH RESPECT TO THE ALLOCATION OF PREMIUM TAXES, INCLUDING:
28 (1) MINIMUM AUDIT STANDARDS, INCLUDING SAMPLING METHODS;
29 (2) REVIEW OF INTERNAL CONTROLS;
30 (3) COOPERATION AND SHARING OF AUDIT RESPONSIBILITIES BETWEEN COMPACT-
31 ING STATES;
32 (4) HANDLING OF REFUNDS OR CREDITS DUE TO OVERPAYMENTS OR IMPROPER
33 ALLOCATION OF PREMIUM TAXES;
34 (5) TAXPAYER RECORDS TO BE REVIEWED INCLUDING A MINIMUM RETENTION
35 PERIOD; AND
36 (6) AUTHORITY OF COMPACTING STATES TO REVIEW, CHALLENGE OR RE-AUDIT
37 TAXPAYER RECORDS.
38 (L) TO ENFORCE COMPLIANCE BY COMPACTING STATES AND CONTRACTING STATES
39 WITH RULES AND BYLAWS PURSUANT TO THE AUTHORITY SET FORTH IN SECTION TWO
40 THOUSAND NINE HUNDRED SEVENTEEN OF THIS ARTICLE;
41 (M) TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING STATES AND
42 CONTRACTING STATES;
43 (N) TO ADVISE COMPACTING STATES AND CONTRACTING STATES ON TAX-RELATED
44 ISSUES RELATING TO INSURERS, INSURED, SURPLUS LINES LICENSEES, AGENTS
45 OR BROKERS DOMICILED OR DOING BUSINESS IN NON-COMPACTING STATES,
46 CONSISTENT WITH THE PURPOSES OF THIS COMPACT;
47 (O) TO MAKE AVAILABLE ADVICE AND TRAINING TO THOSE PERSONNEL IN STATE
48 STAMPING OFFICES, STATE INSURANCE DEPARTMENTS OR OTHER STATE DEPARTMENTS
49 FOR RECORD KEEPING, TAX COMPLIANCE AND TAX ALLOCATIONS; AND TO BE A
50 RESOURCE FOR STATE INSURANCE DEPARTMENTS AND OTHER STATE DEPARTMENTS;
51 (P) TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;
52 (Q) TO BORROW MONEY;
53 (R) TO APPOINT AND OVERSEE COMMITTEES, INCLUDING ADVISORY COMMITTEES
54 COMPRISED OF MEMBERS, STATE INSURANCE REGULATORS, STATE LEGISLATORS OR
55 THEIR REPRESENTATIVES, INSURANCE INDUSTRY AND CONSUMER REPRESENTATIVES

1 AND SUCH OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THIS COMPACT
2 AND THE BYLAWS;

3 (S) TO ESTABLISH AN EXECUTIVE COMMITTEE OF NOT LESS THAN SEVEN NOR
4 MORE THAN FIFTEEN REPRESENTATIVES, WHICH SHALL INCLUDE OFFICERS ELECTED
5 BY THE COMMISSION AND SUCH OTHER REPRESENTATIVES AS PROVIDED FOR HEREIN
6 AND DETERMINED BY THE BYLAWS. REPRESENTATIVES OF THE EXECUTIVE COMMIT-
7 TEE SHALL SERVE A ONE YEAR TERM. REPRESENTATIVES OF THE EXECUTIVE
8 COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE
9 SHALL HAVE THE POWER TO ACT ON BEHALF OF THE COMMISSION, WITH THE EXCEP-
10 TION OF RULEMAKING, DURING PERIODS WHEN THE COMMISSION IS NOT IN
11 SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY TO DAY ACTIVITIES
12 OF THE ADMINISTRATION OF THE COMPACT, INCLUDING THE ACTIVITIES OF THE
13 OPERATIONS COMMITTEE CREATED UNDER THIS ARTICLE AND COMPLIANCE AND
14 ENFORCEMENT OF THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES AND
15 SUCH OTHER DUTIES AS PROVIDED HEREIN AND AS DEEMED NECESSARY;

16 (T) TO ESTABLISH AN OPERATIONS COMMITTEE OF NOT LESS THAN SEVEN AND
17 NOT MORE THAN FIFTEEN REPRESENTATIVES TO PROVIDE ANALYSIS, ADVICE,
18 DETERMINATIONS AND RECOMMENDATIONS REGARDING TECHNOLOGY, SOFTWARE AND
19 SYSTEMS INTEGRATION TO BE ACQUIRED BY THE COMMISSION AND TO PROVIDE
20 ANALYSIS, ADVICE, DETERMINATIONS AND RECOMMENDATIONS REGARDING THE
21 ESTABLISHMENT OF MANDATORY RULES TO BE ADOPTED BY THE COMMISSION;

22 (U) TO ENTER INTO CONTRACTS WITH CONTRACTING STATES SO THAT CONTRACT-
23 ING STATES CAN UTILIZE THE SERVICES OF AND FULLY PARTICIPATE IN THE
24 CLEARINGHOUSE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH
25 CONTRACTS;

26 (V) TO ADOPT AND USE A CORPORATE SEAL; AND

27 (W) TO PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE
28 TO ACHIEVE THE PURPOSES OF THIS COMPACT CONSISTENT WITH THE STATE REGU-
29 LATION OF THE BUSINESS OF INSURANCE.

30 S 2907. ORGANIZATION OF THE COMMISSION. (A) (1) EACH COMPACTING STATE
31 SHALL HAVE AND BE LIMITED TO ONE MEMBER. EACH STATE SHALL DETERMINE THE
32 QUALIFICATIONS AND THE METHOD BY WHICH IT SELECTS A MEMBER AND SET FORTH
33 THE SELECTION PROCESS IN THE ENABLING PROVISION OF THE LEGISLATION WHICH
34 ENACTS THIS COMPACT. IN THE ABSENCE OF SUCH A PROVISION THE MEMBER SHALL
35 BE APPOINTED BY THE GOVERNOR OF SUCH COMPACTING STATE. ANY MEMBER MAY BE
36 REMOVED OR SUSPENDED FROM OFFICE AS PROVIDED BY THE LAW OF THE STATE
37 FROM WHICH HE OR SHE SHALL BE APPOINTED. ANY VACANCY OCCURRING IN THE
38 COMMISSION SHALL BE FILLED IN ACCORDANCE WITH THE LAWS OF THE COMPACTING
39 STATE WHEREIN THE VACANCY EXISTS.

40 (2) EACH MEMBER SHALL BE ENTITLED TO ONE VOTE AND SHALL OTHERWISE HAVE
41 AN OPPORTUNITY TO PARTICIPATE IN THE GOVERNANCE OF THE COMMISSION IN
42 ACCORDANCE WITH THE BYLAWS.

43 (3) THE COMMISSION SHALL, BY A MAJORITY VOTE OF THE MEMBERS, PRESCRIBE
44 BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY
45 OUT THE PURPOSES AND EXERCISE THE POWERS OF THE COMPACT INCLUDING, BUT
46 NOT LIMITED TO:

47 (A) ESTABLISHING THE FISCAL YEAR OF THE COMMISSION;

48 (B) PROVIDING REASONABLE PROCEDURES FOR HOLDING MEETINGS OF THE
49 COMMISSION, THE EXECUTIVE COMMITTEE, AND THE OPERATIONS COMMITTEE;

50 (C) PROVIDING REASONABLE STANDARDS AND PROCEDURES:

51 (I) FOR THE ESTABLISHMENT AND MEETINGS OF COMMITTEES, AND

52 (II) GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR
53 FUNCTION OF THE COMMISSION;

54 (D) PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEET-
55 INGS OF THE COMMISSION THAT CONSIST OF A MAJORITY OF COMMISSION MEMBERS,
56 ENSURING REASONABLE ADVANCE NOTICE OF EACH SUCH MEETING AND PROVIDING

FOR THE RIGHT OF CITIZENS TO ATTEND EACH SUCH MEETING WITH ENUMERATED EXCEPTIONS DESIGNED TO PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS AND INSURERS' AND SURPLUS LINES LICENSEES' PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN CAMERA ONLY AFTER A MAJORITY OF THE ENTIRE MEMBERSHIP VOTES TO CLOSE A MEETING IN TOTO OR IN PART. AS SOON AS PRACTICABLE, THE COMMISSION MUST MAKE PUBLIC:

(I) A COPY OF THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE OF EACH MEMBER WITH NO PROXY VOTES ALLOWED, AND

(II) VOTES TAKEN DURING SUCH MEETING;

(E) ESTABLISHING THE TITLES, DUTIES AND AUTHORITY AND REASONABLE PROCEDURES FOR THE ELECTION OF THE OFFICERS OF THE COMMISSION;

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

(G) PROMULGATING A CODE OF ETHICS TO ADDRESS PERMISSIBLE AND PROHIBITED ACTIVITIES OF COMMISSION MEMBERS AND EMPLOYEES; AND

(H) PROVIDING A MECHANISM FOR WINDING UP THE OPERATIONS OF THE COMMISSION AND THE EQUITABLE DISPOSITION OF ANY EXCESS FUNDS THAT MAY EXIST AFTER THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND/OR RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS;

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

(B) (1) AN EXECUTIVE COMMITTEE OF THE COMMISSION ("EXECUTIVE COMMITTEE") SHALL BE ESTABLISHED. ALL ACTIONS OF THE EXECUTIVE COMMITTEE, INCLUDING COMPLIANCE AND ENFORCEMENT ARE SUBJECT TO THE REVIEW AND RATIFICATION OF THE COMMISSION AS PROVIDED IN THE BYLAWS. THE EXECUTIVE COMMITTEE SHALL HAVE NO MORE THAN FIFTEEN REPRESENTATIVES OR ONE FOR EACH STATE IF THERE ARE LESS THAN FIFTEEN COMPACTING STATES, WHO SHALL SERVE FOR A TERM AND BE ESTABLISHED IN ACCORDANCE WITH THE BYLAWS.

(2) THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:

(A) MANAGING THE AFFAIRS OF THE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE COMMISSION;

(B) ESTABLISHING AND OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN AND APPROPRIATE PROCEDURES FOR THE COMMISSION TO PROVIDE FOR THE CREATION OF RULES AND OPERATING PROCEDURES;

(C) OVERSEEING THE OFFICES OF THE COMMISSION; AND

(D) PLANNING, IMPLEMENTING AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE COMMISSION.

(3) THE COMMISSION SHALL ANNUALLY ELECT OFFICERS FROM THE EXECUTIVE COMMITTEE, WITH EACH HAVING SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS.

(4) THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION AS THE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE COMMISSION BUT SHALL NOT BE A MEMBER OF THE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE COMMISSION.

(C) (1) AN OPERATIONS COMMITTEE SHALL BE ESTABLISHED. ALL ACTIONS OF THE OPERATIONS COMMITTEE ARE SUBJECT TO THE REVIEW AND OVERSIGHT OF THE

1 COMMISSION AND THE EXECUTIVE COMMITTEE AND MUST BE APPROVED BY THE
2 COMMISSION. THE EXECUTIVE COMMITTEE WILL ACCEPT THE DETERMINATIONS AND
3 RECOMMENDATIONS OF THE OPERATIONS COMMITTEE UNLESS GOOD CAUSE IS SHOWN
4 WHY SUCH DETERMINATIONS AND RECOMMENDATIONS SHOULD NOT BE APPROVED. ANY
5 DISPUTES AS TO WHETHER GOOD CAUSE EXISTS TO REJECT ANY DETERMINATION OR
6 RECOMMENDATION OF THE OPERATIONS COMMITTEE SHALL BE RESOLVED BY THE
7 MAJORITY VOTE OF THE COMMISSION. THE OPERATIONS COMMITTEE SHALL HAVE NO
8 MORE THAN FIFTEEN REPRESENTATIVES OR ONE FOR EACH STATE IF THERE ARE
9 LESS THAN FIFTEEN COMPACTING STATES, WHO SHALL SERVE FOR A TERM AND
10 SHALL BE ESTABLISHED AS SET FORTH IN THE BYLAWS. THE OPERATIONS COMMIT-
11 TEE SHALL HAVE RESPONSIBILITY FOR:

12 (A) EVALUATING TECHNOLOGY REQUIREMENTS FOR THE CLEARINGHOUSE, ASSESS-
13 ING EXISTING SYSTEMS USED BY STATE REGULATORY AGENCIES AND STATE STAMP-
14 ING OFFICES TO MAXIMIZE THE EFFICIENCY AND SUCCESSFUL INTEGRATION OF THE
15 CLEARINGHOUSE TECHNOLOGY SYSTEMS WITH STATE AND STATE STAMPING OFFICE
16 TECHNOLOGY PLATFORMS AND TO MINIMIZE COSTS TO THE STATES, STATE STAMPING
17 OFFICES AND THE CLEARINGHOUSE;

18 (B) MAKING RECOMMENDATIONS TO THE EXECUTIVE COMMITTEE BASED ON ITS
19 ANALYSIS AND DETERMINATION OF THE CLEARINGHOUSE TECHNOLOGY REQUIREMENTS
20 AND COMPATIBILITY WITH EXISTING STATE AND STATE STAMPING OFFICE SYSTEMS;

21 (C) EVALUATING THE MOST SUITABLE PROPOSALS FOR ADOPTION AS MANDATORY
22 RULES, ASSESSING SUCH PROPOSALS FOR EASE OF INTEGRATION BY STATES AND
23 LIKELIHOOD OF SUCCESSFUL IMPLEMENTATION AND TO REPORT TO THE EXECUTIVE
24 COMMITTEE ITS DETERMINATIONS AND RECOMMENDATIONS; AND

25 (D) SUCH OTHER DUTIES AND RESPONSIBILITIES AS ARE DELEGATED TO IT BY
26 THE BYLAWS, THE EXECUTIVE COMMITTEE OR THE COMMISSION.

27 (2) ALL REPRESENTATIVES OF THE OPERATIONS COMMITTEE SHALL BE INDIVID-
28 UALS WHO HAVE EXTENSIVE EXPERIENCE AND/OR EMPLOYMENT IN THE SURPLUS
29 LINES INSURANCE BUSINESS, INCLUDING, BUT NOT LIMITED TO, EXECUTIVES AND
30 ATTORNEYS EMPLOYED BY SURPLUS LINES INSURERS, SURPLUS LINES LICENSEES,
31 LAW FIRMS, STATE INSURANCE DEPARTMENTS AND/OR STATE STAMPING OFFICES.
32 OPERATIONS COMMITTEE REPRESENTATIVES FROM COMPACTING STATES WHICH
33 UTILIZE THE SERVICES OF A STATE STAMPING OFFICE MUST APPOINT THE CHIEF
34 OPERATING OFFICER OR A SENIOR MANAGER OF THE STATE STAMPING OFFICE TO
35 THE OPERATIONS COMMITTEE.

36 (D) (1) A LEGISLATIVE COMMITTEE COMPRISED OF STATE LEGISLATORS OR
37 THEIR DESIGNEES SHALL BE ESTABLISHED TO MONITOR THE OPERATIONS OF AND
38 MAKE RECOMMENDATIONS TO THE COMMISSION, INCLUDING THE EXECUTIVE COMMIT-
39 TEE; PROVIDED THAT THE MANNER OF SELECTION AND TERM OF ANY LEGISLATIVE
40 COMMITTEE MEMBER SHALL BE AS SET FORTH IN THE BYLAWS. PRIOR TO THE
41 ADOPTION BY THE COMMISSION OF ANY UNIFORM STANDARD, REVISION TO THE
42 BYLAWS, ANNUAL BUDGET OR OTHER SIGNIFICANT MATTER AS MAY BE PROVIDED IN
43 THE BYLAWS, THE EXECUTIVE COMMITTEE SHALL CONSULT WITH AND REPORT TO THE
44 LEGISLATIVE COMMITTEE.

45 (2) THE COMMISSION MAY ESTABLISH ADDITIONAL ADVISORY COMMITTEES AS ITS
46 BYLAWS MAY PROVIDE FOR THE CARRYING OUT OF ITS FUNCTIONS.

47 (E) THE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND RECORDS IN
48 ACCORDANCE WITH THE BYLAWS.

49 (F) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES AND
50 REPRESENTATIVES OF THE COMMISSION, THE EXECUTIVE COMMITTEE AND ANY OTHER
51 COMMITTEE OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY,
52 EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR
53 DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABIL-
54 ITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR
55 OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS
56 MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED, WITHIN THE SCOPE OF

1 COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT NOTHING
2 IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM
3 SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY OR LIABILITY CAUSED
4 BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

5 (2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIREC-
6 TOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION, THE EXECUTIVE COMMIT-
7 TEE OR ANY OTHER COMMITTEE OF THE COMMISSION IN ANY CIVIL ACTION SEEKING
8 TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR
9 OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES
10 OR RESPONSIBILITIES OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE
11 HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF
12 COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT NOTHING
13 HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR
14 HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT,
15 ERROR OR OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILL-
16 FUL OR WANTON MISCONDUCT.

17 (3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFI-
18 CER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION,
19 EXECUTIVE COMMITTEE OR ANY OTHER COMMITTEE OF THE COMMISSION FOR THE
20 AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARIS-
21 ING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED
22 WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES OR
23 THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN
24 THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES, PROVIDED
25 THAT THE ACTUAL OR ALLEGED ACT, ERROR OR OMISSION DID NOT RESULT FROM
26 THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

27 S 2908. MEETINGS AND ACTS OF THE COMMISSION. (A) THE COMMISSION SHALL
28 MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS
29 COMPACT AND THE BYLAWS.

30 (B) EACH MEMBER OF THE COMMISSION SHALL HAVE THE RIGHT AND POWER TO
31 CAST A VOTE TO WHICH THAT COMPACTING STATE IS ENTITLED AND TO PARTIC-
32 IPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION. A MEMBER SHALL VOTE
33 IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS
34 MAY PROVIDE FOR MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER
35 MEANS OF COMMUNICATION.

36 (C) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR.
37 ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

38 (D) PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL MEETINGS
39 SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR OTHER-
40 WISE PROVIDED IN THE COMPACT.

41 (E) THE COMMISSION SHALL PROMULGATE RULES CONCERNING ITS MEETINGS
42 CONSISTENT WITH THE PRINCIPLES CONTAINED IN THE GOVERNMENT IN THE
43 SUNSHINE ACT, 5 U.S.C. S 552B, AS MAY BE AMENDED.

44 (F) THE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION
45 THEREOF, WHERE IT DETERMINES BY MAJORITY VOTE THAT AN OPEN MEETING WOULD
46 BE LIKELY TO:

47 (1) RELATE SOLELY TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND
48 PROCEDURES;

49 (2) DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL
50 AND STATE STATUTE;

51 (3) DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION
52 WHICH IS PRIVILEGED OR CONFIDENTIAL;

53 (4) INVOLVE ACCUSING A PERSON OF A CRIME, OR FORMALLY CENSURING A
54 PERSON;

55 (5) DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD
56 CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

1 (6) DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT
2 PURPOSES; OR

3 (7) SPECIFICALLY RELATE TO THE COMMISSION'S ISSUANCE OF A SUBPOENA OR
4 ITS PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

5 (G) FOR A MEETING, OR PORTION OF A MEETING, CLOSED PURSUANT TO
6 SUBSECTION (F) OF THIS SECTION, THE COMMISSION'S LEGAL COUNSEL OR DESIG-
7 NEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE
8 EACH RELEVANT EXEMPTIVE PROVISION. THE COMMISSION SHALL KEEP MINUTES
9 WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEET-
10 ING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN AND
11 THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED
12 AND THE RECORD OF A ROLL CALL VOTE. ALL DOCUMENTS CONSIDERED IN
13 CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL
14 MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL,
15 SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE COMMISSION.

16 S 2909. RULEMAKING FUNCTIONS OF THE COMMISSION. (A) THE COMMISSION
17 SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENT-
18 LY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING,
19 IN THE EVENT THE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN A
20 MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ARTICLE OR THE
21 POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE COMMISSION SHALL BE
22 INVALID AND HAVE NO FORCE OR EFFECT.

23 (B) RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTAN-
24 Tially CONFORMS TO THE MODEL STATE ADMINISTRATIVE PROCEDURE ACT OF 1981,
25 FOUND IN VOLUME FIFTEEN OF THE UNIFORM LAWS ANNOTATED, AS AMENDED, AS
26 MAY BE APPROPRIATE TO THE OPERATIONS OF THE COMMISSION.

27 (C) ALL RULES AND AMENDMENTS THERETO SHALL BECOME EFFECTIVE AS OF THE
28 DATE SPECIFIED IN EACH RULE, OPERATING PROCEDURE OR AMENDMENT.

29 (D) NOT LATER THAN THIRTY DAYS AFTER A RULE IS PROMULGATED, ANY PERSON
30 MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE; PROVIDED THAT THE
31 FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE
32 FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A
33 SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE
34 ACTIONS OF THE COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT
35 FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXER-
36 CISE OF THE COMMISSION'S AUTHORITY.

37 S 2910. COMMISSION RECORDS AND ENFORCEMENT. (A) THE COMMISSION SHALL
38 PROMULGATE RULES ESTABLISHING CONDITIONS AND PROCEDURES FOR PUBLIC
39 INSPECTION AND COPYING OF ITS INFORMATION AND OFFICIAL RECORDS, EXCEPT
40 SUCH INFORMATION AND RECORDS INVOLVING THE PRIVACY OF INDIVIDUALS,
41 INSURERS, INSUREDS OR SURPLUS LINES LICENSEE TRADE SECRETS. STATE TRANS-
42 ACTION DOCUMENTATION AND CLEARINGHOUSE TRANSACTION DATA COLLECTED BY THE
43 CLEARINGHOUSE SHALL BE USED FOR ONLY THOSE PURPOSES EXPRESSED IN OR
44 REASONABLY IMPLIED UNDER THE PROVISIONS OF THIS COMPACT AND THE COMMIS-
45 SION SHALL AFFORD THIS DATA THE BROADEST PROTECTIONS AS PERMITTED BY ANY
46 APPLICABLE LAW FOR PROPRIETARY INFORMATION, TRADE SECRETS OR PERSONAL
47 DATA. THE COMMISSION MAY PROMULGATE ADDITIONAL RULES UNDER WHICH IT MAY
48 MAKE AVAILABLE TO FEDERAL AND STATE AGENCIES, INCLUDING LAW ENFORCEMENT
49 AGENCIES, RECORDS AND INFORMATION OTHERWISE EXEMPT FROM DISCLOSURE AND
50 MAY ENTER INTO AGREEMENTS WITH SUCH AGENCIES TO RECEIVE OR EXCHANGE
51 INFORMATION OR RECORDS SUBJECT TO NONDISCLOSURE AND CONFIDENTIALITY
52 PROVISIONS.

53 (B) EXCEPT AS TO PRIVILEGED RECORDS, DATA AND INFORMATION, THE LAWS OF
54 ANY COMPACTING STATE PERTAINING TO CONFIDENTIALITY OR NONDISCLOSURE
55 SHALL NOT RELIEVE ANY COMPACTING STATE MEMBER OF THE DUTY TO DISCLOSE
56 ANY RELEVANT RECORDS, DATA OR INFORMATION TO THE COMMISSION; PROVIDED

1 THAT DISCLOSURE TO THE COMMISSION SHALL NOT BE DEEMED TO WAIVE OR OTHER-
2 WISE AFFECT ANY CONFIDENTIALITY REQUIREMENT AND FURTHER PROVIDED THAT,
3 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE, THE COMMISSION
4 SHALL NOT BE SUBJECT TO THE COMPACTING STATE'S LAWS PERTAINING TO CONFIDENTIALITY
5 AND NONDISCLOSURE WITH RESPECT TO RECORDS, DATA AND INFORMATION IN ITS POSSESSION.
6 CONFIDENTIAL INFORMATION OF THE COMMISSION SHALL REMAIN CONFIDENTIAL
7 AFTER SUCH INFORMATION IS PROVIDED TO ANY MEMBER, AND THE COMMISSION SHALL MAINTAIN
8 THE CONFIDENTIALITY OF ANY INFORMATION PROVIDED BY A MEMBER THAT IS
9 CONFIDENTIAL UNDER THAT MEMBER'S STATE LAW.

11 (C) THE COMMISSION SHALL MONITOR COMPACTING STATES FOR COMPLIANCE WITH
12 DULY ADOPTED BYLAWS AND RULES. THE COMMISSION SHALL NOTIFY ANY NON-COM-
13 PLYING COMPACTING STATE IN WRITING OF ITS NONCOMPLIANCE WITH COMMISSION
14 BYLAWS OR RULES. IF A NON-COMPLYING COMPACTING STATE FAILS TO REMEDY
15 ITS NONCOMPLIANCE WITHIN THE TIME SPECIFIED IN THE NOTICE OF NONCOMPLI-
16 ANCE, THE COMPACTING STATE SHALL BE DEEMED TO BE IN DEFAULT AS SET FORTH
17 IN SECTION TWO THOUSAND NINE HUNDRED FIFTEEN OF THIS ARTICLE.

18 S 2911. DISPUTE RESOLUTION. (A) BEFORE A MEMBER MAY BRING AN ACTION IN
19 A COURT OF COMPETENT JURISDICTION FOR VIOLATION OF ANY PROVISION, STAND-
20 ARD OR REQUIREMENT OF THE COMPACT, THE COMMISSION SHALL ATTEMPT, UPON
21 THE REQUEST OF A MEMBER, TO RESOLVE ANY DISPUTES OR OTHER ISSUES THAT
22 ARE SUBJECT TO THIS COMPACT AND WHICH MAY ARISE BETWEEN TWO OR MORE
23 COMPACTING STATES, CONTRACTING STATES OR NON-COMPACTING STATES AND THE
24 COMMISSION SHALL PROMULGATE A RULE PROVIDING ALTERNATIVE DISPUTE RESOL-
25 UTION PROCEDURES FOR SUCH DISPUTES.

26 (B) THE COMMISSION SHALL ALSO PROVIDE ALTERNATIVE DISPUTE RESOLUTION
27 PROCEDURES TO RESOLVE ANY DISPUTES BETWEEN INSURED OR SURPLUS LINES
28 LICENSEES CONCERNING A TAX CALCULATION OR ALLOCATION OR RELATED ISSUES
29 WHICH ARE THE SUBJECT OF THIS COMPACT.

30 (C) ANY ALTERNATIVE DISPUTE RESOLUTION PROCEDURES SHALL BE UTILIZED IN
31 CIRCUMSTANCES WHERE A DISPUTE ARISES AS TO WHICH STATE CONSTITUTES THE
32 HOME STATE.

33 S 2912. REVIEW OF COMMISSION DECISIONS. REGARDING COMMISSION DECISIONS:

35 (A) EXCEPT AS NECESSARY FOR PROMULGATING RULES TO FULFILL THE PURPOSES
36 OF THIS COMPACT, THE COMMISSION SHALL NOT HAVE AUTHORITY TO OTHERWISE
37 REGULATE INSURANCE IN THE COMPACTING STATES.

38 (B) NOT LATER THAN THIRTY DAYS AFTER THE COMMISSION HAS GIVEN NOTICE
39 OF ANY RULE OR ALLOCATION FORMULA, ANY THIRD PARTY FILER OR COMPACTING
40 STATE MAY APPEAL THE DETERMINATION TO A REVIEW PANEL APPOINTED BY THE
41 COMMISSION. THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH PROCE-
42 DURES FOR APPOINTING SUCH REVIEW PANELS AND PROVIDE FOR NOTICE AND HEAR-
43 ING. AN ALLEGATION THAT THE COMMISSION, IN MAKING COMPLIANCE OR TAX
44 DETERMINATIONS ACTED ARBITRARILY, CAPRICIOUSLY OR IN A MANNER THAT IS AN
45 ABUSE OF DISCRETION OR OTHERWISE NOT IN ACCORDANCE WITH THE LAW, IS
46 SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SUBSECTION (F) OF SECTION
47 TWO THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE.

48 (C) THE COMMISSION SHALL HAVE AUTHORITY TO MONITOR, REVIEW AND RECON-
49 sider COMMISSION DECISIONS UPON A FINDING THAT THE DETERMINATIONS OR
50 ALLOCATIONS DO NOT MEET THE RELEVANT RULE. WHERE APPROPRIATE, THE
51 COMMISSION MAY WITHDRAW OR MODIFY ITS DETERMINATION OR ALLOCATION AFTER
52 PROPER NOTICE AND HEARING, SUBJECT TO THE APPEAL PROCESS SET FORTH IN
53 SUBSECTION (B) OF THIS SECTION.

54 S 2913. FINANCE. (A) THE COMMISSION SHALL PAY OR PROVIDE FOR THE
55 PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT AND ORGANIZA-
56 TION. TO FUND THE COST OF ITS INITIAL OPERATIONS THE COMMISSION MAY

1 ACCEPT CONTRIBUTIONS, GRANTS AND OTHER FORMS OF FUNDING FROM THE STATE
2 STAMPING OFFICES, COMPACTING STATES AND OTHER SOURCES.

3 (B) THE COMMISSION SHALL COLLECT A FEE PAYABLE BY THE INSURED DIRECTLY
4 OR THROUGH A SURPLUS LINES LICENSEE ON EACH TRANSACTION PROCESSED
5 THROUGH THE COMPACT CLEARINGHOUSE TO COVER THE COST OF THE OPERATIONS
6 AND ACTIVITIES OF THE COMMISSION AND ITS STAFF IN A TOTAL AMOUNT SUFFI-
7 CIENT TO COVER THE COMMISSION'S ANNUAL BUDGET.

8 (C) THE COMMISSION'S BUDGET FOR A FISCAL YEAR SHALL NOT BE APPROVED
9 UNTIL IT HAS BEEN SUBJECT TO NOTICE AND COMMENT AS SET FORTH IN SECTION
10 TWO THOUSAND NINE HUNDRED NINE OF THIS ARTICLE.

11 (D) THE COMMISSION SHALL BE REGARDED AS PERFORMING ESSENTIAL GOVERN-
12 MENTAL FUNCTIONS IN EXERCISING SUCH POWERS AND FUNCTIONS AND IN CARRYING
13 OUT THE PROVISIONS OF THIS COMPACT AND OF ANY LAW RELATING THERETO AND
14 SHALL NOT BE REQUIRED TO PAY ANY TAXES OR ASSESSMENTS OF ANY CHARACTER
15 LEVIED BY ANY STATE OR POLITICAL SUBDIVISION THEREOF UPON ANY OF THE
16 PROPERTY USED BY IT FOR SUCH PURPOSES OR ANY INCOME OR REVENUE THERE-
17 FROM, INCLUDING ANY PROFIT FROM A SALE OR EXCHANGE.

18 (E) THE COMMISSION SHALL KEEP COMPLETE AND ACCURATE ACCOUNTS OF ALL
19 ITS INTERNAL RECEIPTS, INCLUDING GRANTS AND DONATIONS AND DISBURSEMENTS
20 FOR ALL FUNDS UNDER ITS CONTROL. THE INTERNAL FINANCIAL ACCOUNTS OF THE
21 COMMISSION SHALL BE SUBJECT TO THE ACCOUNTING PROCEDURES ESTABLISHED
22 UNDER ITS BYLAWS. THE FINANCIAL ACCOUNTS AND REPORTS INCLUDING THE
23 SYSTEM OF INTERNAL CONTROLS AND PROCEDURES OF THE COMMISSION SHALL BE
24 AUDITED ANNUALLY BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UPON THE
25 DETERMINATION OF THE COMMISSION, BUT NOT LESS FREQUENTLY THAN EVERY
26 THREE YEARS, THE REVIEW OF THE INDEPENDENT AUDITOR SHALL INCLUDE A
27 MANAGEMENT AND PERFORMANCE AUDIT OF THE COMMISSION. THE COMMISSION SHALL
28 MAKE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE OF THE COMPACTING
29 STATES, WHICH SHALL INCLUDE A REPORT OF THE INDEPENDENT AUDIT. THE
30 COMMISSION'S INTERNAL ACCOUNTS SHALL NOT BE CONFIDENTIAL AND SUCH MATE-
31 RIALS MAY BE SHARED WITH THE COMMISSIONER, THE CONTROLLER OR THE STAMP-
32 ING OFFICE OF ANY COMPACTING STATE UPON REQUEST; PROVIDED, HOWEVER, THAT
33 ANY WORK PAPERS RELATED TO ANY INTERNAL OR INDEPENDENT AUDIT AND ANY
34 INFORMATION REGARDING THE PRIVACY OF INDIVIDUALS AND LICENSEES' AND
35 INSURERS' PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS, SHALL REMAIN
36 CONFIDENTIAL.

37 (F) NO COMPACTING STATE SHALL HAVE ANY CLAIM TO OR OWNERSHIP OF ANY
38 PROPERTY HELD BY OR VESTED IN THE COMMISSION OR TO ANY COMMISSION FUNDS
39 HELD PURSUANT TO THE PROVISIONS OF THIS COMPACT.

40 (G) THE COMMISSION SHALL NOT MAKE ANY POLITICAL CONTRIBUTIONS TO
41 CANDIDATES FOR ELECTED OFFICE, ELECTED OFFICIALS, POLITICAL PARTIES OR
42 POLITICAL ACTION COMMITTEES. THE COMMISSION SHALL NOT ENGAGE IN LOBBYING
43 EXCEPT WITH RESPECT TO CHANGES TO THIS COMPACT.

44 S 2914. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT. (A) ANY STATE
45 IS ELIGIBLE TO BECOME A COMPACTING STATE.

46 (B) THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE
47 ENACTMENT OF THE COMPACT INTO LAW BY TWO COMPACTING STATES; PROVIDED,
48 THE COMMISSION SHALL BECOME EFFECTIVE FOR PURPOSES OF ADOPTING RULES AND
49 CREATING THE CLEARINGHOUSE WHEN THERE ARE A TOTAL OF TEN COMPACTING
50 STATES AND CONTRACTING STATES OR, ALTERNATIVELY, WHEN THERE ARE COMPACT-
51 ING STATES AND CONTRACTING STATES REPRESENTING GREATER THAN FORTY
52 PERCENT OF THE SURPLUS LINES INSURANCE PREMIUM VOLUME BASED ON RECORDS
53 OF THE PERCENTAGE OF SURPLUS LINES INSURANCE PREMIUM SET FORTH IN APPEN-
54 DIX A OF SECTION TWO THOUSAND NINE HUNDRED SEVENTEEN OF THIS ARTICLE.
55 THEREAFTER, IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER
56 COMPACTING STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE.

1 NOTWITHSTANDING THE FOREGOING, THE CLEARINGHOUSE OPERATIONS AND THE DUTY
2 TO REPORT CLEARINGHOUSE TRANSACTION DATA SHALL BEGIN ON THE FIRST OF
3 JANUARY OR THE FIRST OF JULY NEXT FOLLOWING THE FIRST ANNIVERSARY OF THE
4 COMMISSION'S EFFECTIVE DATE. FOR STATES WHICH JOIN THE COMPACT SUBSE-
5 QUENT TO THE EFFECTIVE DATE, A START DATE FOR REPORTING CLEARINGHOUSE
6 TRANSACTION DATA SHALL BE SET BY THE COMMISSION PROVIDED SURPLUS LINES
7 LICENSEES AND ALL OTHER INTERESTED PARTIES RECEIVE NOT LESS THAN NINETY
8 DAYS ADVANCE NOTICE.

9 (C) AMENDMENTS TO THE COMPACT MAY BE PROPOSED BY THE COMMISSION FOR
10 ENACTMENT BY THE COMPACTING STATES. NO AMENDMENT SHALL BECOME EFFECTIVE
11 AND BINDING UPON THE COMMISSION AND THE COMPACTING STATES UNLESS AND
12 UNTIL ALL COMPACTING STATES ENACT THE AMENDMENT INTO LAW.

13 S 2915. WITHDRAWAL, DEFAULT AND TERMINATION. (A) (1) ONCE EFFECTIVE,
14 THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND
15 EVERY COMPACTING STATE, PROVIDED THAT A COMPACTING STATE MAY WITHDRAW
16 FROM THE COMPACT ("WITHDRAWING STATE") BY ENACTING A STATUTE SPECIF-
17 ICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

18 (2) THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE
19 REPEALING STATUTE. HOWEVER, THE WITHDRAWAL SHALL NOT APPLY TO ANY TAX
20 OR COMPLIANCE DETERMINATIONS APPROVED ON THE DATE THE REPEALING STATUTE
21 BECOMES EFFECTIVE, EXCEPT BY MUTUAL AGREEMENT OF THE COMMISSION AND THE
22 WITHDRAWING STATE UNLESS THE APPROVAL IS RESCINDED BY THE COMMISSION.

23 (3) THE MEMBER OF THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE
24 EXECUTIVE COMMITTEE OF THE COMMISSION IN WRITING UPON THE INTRODUCTION
25 OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE.

26 (4) THE COMMISSION SHALL NOTIFY THE OTHER COMPACTING STATES OF THE
27 INTRODUCTION OF SUCH LEGISLATION WITHIN TEN DAYS AFTER ITS RECEIPT OF
28 NOTICE THEREOF.

29 (5) THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL OBLIGATIONS, DUTIES
30 AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL,
31 INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND THE
32 EFFECTIVE DATE OF WITHDRAWAL. TO THE EXTENT THOSE OBLIGATIONS MAY HAVE
33 BEEN RELEASED OR RELINQUISHED BY MUTUAL AGREEMENT OF THE COMMISSION AND
34 THE WITHDRAWING STATE, THE COMMISSION'S DETERMINATIONS PRIOR TO THE
35 EFFECTIVE DATE OF WITHDRAWAL SHALL CONTINUE TO BE EFFECTIVE AND BE GIVEN
36 FULL FORCE AND EFFECT IN THE WITHDRAWING STATE, UNLESS FORMALLY RESCIND-
37 ED BY THE COMMISSION.

38 (6) REINSTATEMENT FOLLOWING WITHDRAWAL OF ANY COMPACTING STATE SHALL
39 OCCUR UPON THE EFFECTIVE DATE OF THE WITHDRAWING STATE REENACTING THE
40 COMPACT.

41 (B) (1) IF THE COMMISSION DETERMINES THAT ANY COMPACTING STATE HAS AT
42 ANY TIME DEFAULTED ("DEFAULTING STATE") IN THE PERFORMANCE OF ANY OF ITS
43 OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT, THE BYLAWS OR DULY
44 PROMULGATED RULES, THEN AFTER NOTICE AND HEARING AS SET FORTH IN THE
45 BYLAWS, ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT ON
46 THE DEFAULTING STATE SHALL BE SUSPENDED FROM THE EFFECTIVE DATE OF
47 DEFAULT AS FIXED BY THE COMMISSION. THE GROUNDS FOR DEFAULT INCLUDE, BUT
48 ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM ITS OBLI-
49 GATIONS OR RESPONSIBILITIES AND ANY OTHER GROUNDS DESIGNATED IN COMMIS-
50 SION RULES. THE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE
51 IN WRITING OF THE DEFAULTING STATE'S SUSPENSION PENDING A CURE OF THE
52 DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME
53 PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF THE
54 DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECI-
55 FIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM

1 THE COMPACT AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS
2 COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION.

3 (2) DECISIONS OF THE COMMISSION THAT ARE ISSUED ON THE EFFECTIVE DATE
4 OF TERMINATION SHALL REMAIN IN FORCE IN THE DEFAULTING STATE IN THE SAME
5 MANNER AS IF THE DEFAULTING STATE HAD WITHDRAWN VOLUNTARILY PURSUANT TO
6 SUBSECTION (A) OF THIS SECTION.

7 (3) REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE
8 REQUIRES A REENACTMENT OF THE COMPACT.

9 (C) (1) THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE OF THE WITH-
10 DRAWAL OR DEFAULT OF THE COMPACTING STATE WHICH REDUCES MEMBERSHIP IN
11 THE COMPACT TO ONE COMPACTING STATE.

12 (2) UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND
13 VOID AND SHALL HAVE NO FURTHER FORCE OR EFFECT AND THE BUSINESS AND
14 AFFAIRS OF THE COMMISSION SHALL BE WOUND UP AND ANY EXCESS FUNDS SHALL
15 BE DISTRIBUTED IN ACCORDANCE WITH THE RULES AND BYLAWS.

16 S 2916. SEVERABILITY AND CONSTRUCTION. (A) THE PROVISIONS OF THIS
17 COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR
18 PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE
19 COMPACT SHALL BE ENFORCEABLE.

20 (B) THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO
21 EFFECTUATE ITS PURPOSES.

22 (C) THROUGHOUT THIS COMPACT THE USE OF THE SINGULAR SHALL INCLUDE THE
23 PLURAL AND VICE-VERSA.

24 (D) THE HEADINGS AND CAPTIONS OF ARTICLES, SECTIONS AND SUBSECTIONS
25 USED IN THIS COMPACT ARE FOR CONVENIENCE ONLY AND SHALL BE IGNORED IN
26 CONSTRUING THE SUBSTANTIVE PROVISIONS OF THIS COMPACT.

27 S 2917. BINDING EFFECT OF COMPACT AND OTHER LAWS. (A) (1) NOTHING
28 HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A COMPACTING STATE,
29 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

30 (2) DECISIONS OF THE COMMISSION AND ANY RULES AND ANY OTHER REQUIRE-
31 MENTS OF THE COMMISSION SHALL CONSTITUTE THE EXCLUSIVE RULE OR DETERMI-
32 NATION APPLICABLE TO THE COMPACTING STATES. ANY LAW OR REGULATION
33 REGARDING NON-ADMITTED INSURANCE OF MULTI-STATE RISKS THAT IS CONTRARY
34 TO RULES OF THE COMMISSION IS PREEMPTED WITH RESPECT TO THE FOLLOWING:

35 (A) CLEARINGHOUSE TRANSACTION DATA REPORTING REQUIREMENTS;

36 (B) ALLOCATION FORMULA;

37 (C) CLEARINGHOUSE TRANSACTION DATA COLLECTION REQUIREMENTS;

38 (D) PREMIUM TAX PAYMENT TIME FRAMES AND RULES CONCERNING DISSEMINATION
39 OF DATA AMONG THE COMPACTING STATES FOR NON-ADMITTED INSURANCE OF
40 MULTI-STATE RISKS AND SINGLE-STATE RISKS;

41 (E) EXCLUSIVE COMPLIANCE WITH SURPLUS LINES LAW OF THE HOME STATE OF
42 THE INSURED;

43 (F) RULES FOR REPORTING TO A CLEARINGHOUSE FOR RECEIPT AND DISTRIB-
44 UTION OF CLEARINGHOUSE TRANSACTION DATA RELATED TO NON-ADMITTED INSUR-
45 ANCE OF MULTI-STATE RISKS;

46 (G) UNIFORM FOREIGN INSURERS ELIGIBILITY REQUIREMENTS;

47 (H) UNIFORM POLICYHOLDER NOTICE; AND

48 (I) UNIFORM TREATMENT OF PURCHASING GROUPS PROCURING NON-ADMITTED
49 INSURANCE.

50 (3) EXCEPT AS SET FORTH IN SUBSECTION (B) OF THIS SECTION, ANY RULE,
51 UNIFORM STANDARD OR OTHER REQUIREMENT OF THE COMMISSION SHALL CONSTITUTE
52 THE EXCLUSIVE PROVISION THAT A COMMISSIONER MAY APPLY TO COMPLIANCE OR
53 TAX DETERMINATIONS. NOTWITHSTANDING THE FOREGOING, NO ACTION TAKEN BY
54 THE COMMISSION SHALL ABROGATE OR RESTRICT:

55 (A) THE ACCESS OF ANY PERSON TO STATE COURTS;

(B) THE AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION UNDER SECTION TWO THOUSAND NINE HUNDRED ELEVEN OF THIS ARTICLE;

(C) REMEDIES AVAILABLE UNDER STATE LAW RELATED TO BREACH OF CONTRACT, TORT OR OTHER LAWS NOT SPECIFICALLY DIRECTED TO COMPLIANCE OR TAX DETERMINATIONS;

(D) STATE LAW RELATING TO THE CONSTRUCTION OF INSURANCE CONTRACTS; OR

(E) THE AUTHORITY OF THE ATTORNEY GENERAL OF THE STATE, INCLUDING BUT NOT LIMITED TO MAINTAINING ANY ACTIONS OR PROCEEDINGS, AS AUTHORIZED BY LAW.

(B) (1) ALL LAWFUL ACTIONS OF THE COMMISSION, INCLUDING ALL RULES PROMULGATED BY THE COMMISSION, ARE BINDING UPON THE COMPACTING STATES, EXCEPT AS PROVIDED HEREIN.

(2) ALL AGREEMENTS BETWEEN THE COMMISSION AND THE COMPACTING STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

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

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

APPENDIX A

SURPLUS LINE INSURANCE PREMIUMS BY STATE

STATE	PREMIUMS BASED ON TAXES PAID	SHARE OF TOTAL PREMIUMS
ALABAMA	445,746,000	1.47%
ALASKA	89,453,519	0.29%
ARIZONA	663,703,267	2.18%
ARKANSAS	201,859,750	0.66%
CALIFORNIA	5,622,450,467	18.49%
COLORADO	543,781,333	1.79%
CONNECTICUT	329,358,800	1.08%
DELAWARE	92,835,950	0.31%
FLORIDA	2,660,908,760	8.75%
GEORGIA	895,643,150	2.95%
HAWAII	232,951,489	0.77%
IDAHO	74,202,255	0.24%
ILLINOIS	1,016,504,629	3.34%
INDIANA	412,265,320	1.36%
IOWA	135,130,933	0.44%
KANSAS	160,279,300	0.53%
KENTUCKY	167,996,133	0.55%
LOUISIANA	853,173,280	2.81%
MAINE	60,111,200	0.20%
MARYLAND	434,887,600	1.43%
MASSACHUSETTS	708,640,225	2.33%
MICHIGAN	703,357,040	2.31%
MINNESOTA	393,128,400	1.29%
MISSISSIPPI	263,313,175	0.87%
MISSOURI	404,489,860	1.33%

1	MONTANA	64,692,873	0.21%
2	NEBRASKA	92,141,167	0.30%
3	NEVADA	354,271,514	1.17%
4	NEW HAMPSHIRE	102,946,250	0.34%
5	NEW JERSEY	1,087,994,033	3.58%
6	NEW MEXICO	67,608,458	0.22%
7	NEW YORK	2,768,618,083	9.11%
8	NORTH CAROLINA	514,965,060	1.69%
9	NORTH DAKOTA	36,223,943	0.12%
10	OHIO	342,000,000	1.12%
11	OKLAHOMA	319,526,400	1.05%
12	OREGON	312,702,150	1.03%
13	PENNSYLVANIA	780,666,667	2.57%
14	RHODE ISLAND	71,794,067	0.24%
15	SOUTH CAROLINA	412,489,825	1.36%
16	SOUTH DAKOTA	38,702,120	0.13%
17	TENNESSEE	451,775,240	1.49%
18	TEXAS	3,059,170,454	10.06%
19	UTAH	142,593,412	0.47%
20	VERMONT	41,919,433	0.14%
21	VIRGINIA	611,530,667	2.01%
22	WASHINGTON	739,932,050	2.43%
23	WEST VIRGINIA	130,476,250	0.43%
24	WISCONSIN	248,758,333	0.82%
25	WYOMING	40,526,967	0.13%

26 TOTAL 30,400,197,251 100.00%

27 S 3. Subsection (d) of section 2118 of the insurance law is amended by
 28 adding a new paragraph 4 to read as follows:

29 (4) IN THE EVENT THAT THE SURPLUS LINES INSURANCE MULTISTATE COMPLI-
 30 ANCE COMPACT ("SLIMPACT") IS ENACTED BY THIS STATE AND THE COMMISSION
 31 CREATED THEREUNDER BECOMES ACTIVE PURSUANT TO THE PROVISION OF SLIMPACT,
 32 THEN THIS STATE, WHEN IT IS THE HOME STATE OF THE INSURED, WILL REQUIRE
 33 THE PAYMENT OF TAXES BE ALLOCATED BASED UPON SLIMPACT'S PROVISIONS TO
 34 ALL OTHER STATES WHICH HAVE ADOPTED SLIMPACT; PROVIDED, HOWEVER, THAT
 35 THIS STATE WILL APPLY ITS STATE TAX TO THE PREMIUM FOR ALL RISK EXPO-
 36 SURES ALLOCATED TO THIS STATE AND TO RISK EXPOSURES LOCATED IN ANY
 37 STATES WHICH HAVE NOT ENACTED SLIMPACT.

38 S 4. Section 9102 of the insurance law, as amended by section 14 of
 39 part I of chapter 61 of the laws of 2011, is amended to read as follows:

40 S 9102. Allocation of premiums. In determining the amount of direct
 41 premiums taxable in this state, all such premiums written, procured, or
 42 received in this state shall be deemed written on property or risks
 43 located or resident in this state except such premiums properly allo-
 44 cated and reported as taxable premiums of any other state or states. IN
 45 THE EVENT THAT THE SURPLUS LINES INSURANCE MULTISTATE COMPLIANCE COMPACT
 46 ("SLIMPACT") IS ENACTED BY THIS STATE AND THE COMMISSION CREATED THERE-
 47 UNDER BECOMES ACTIVE PURSUANT TO THE PROVISIONS OF SLIMPACT, THEN THIS
 48 STATE, WHEN IT IS THE HOME STATE OF THE INSURED, WILL REQUIRE THE
 49 PAYMENT OF TAXES BE ALLOCATED BASED UPON SLIMPACT'S PROVISIONS TO ALL
 50 OTHER STATES WHICH HAVE ADOPTED SLIMPACT; PROVIDED, HOWEVER, THAT THIS
 51 STATE WILL APPLY ITS STATE TAX TO THE PREMIUM FOR ALL RISK EXPOSURES
 52 ALLOCATED TO THIS STATE AND TO RISK EXPOSURES LOCATED IN ANY STATES
 53 WHICH HAVE NOT ENACTED SLIMPACT.

54 S 5. Section 1552 of the tax law, as amended by section 18 of part I
 55 of chapter 61 of the laws of 2011, is amended to read as follows:

1 S 1552. Allocation. Where the taxable insurance contract covers risks
2 located or resident both within and without this state and the taxpay-
3 er's home state is New York, one hundred percent of premiums shall be
4 allocable to this state. IN THE EVENT THAT THE SURPLUS LINES INSURANCE
5 MULTISTATE COMPLIANCE COMPACT ("SLIMPACT") IS ENACTED BY THIS STATE AND
6 THE COMMISSION CREATED THEREUNDER BECOMES ACTIVE PURSUANT TO THE
7 PROVISIONS OF SLIMPACT, THEN THIS STATE, WHEN IT IS THE HOME STATE OF
8 THE INSURED, WILL REQUIRE THE PAYMENT OF TAXES BE ALLOCATED BASED UPON
9 SLIMPACT'S PROVISIONS TO ALL OTHER STATES WHICH HAVE ADOPTED SLIMPACT;
10 PROVIDED, HOWEVER, THAT THIS STATE WILL APPLY ITS STATE TAX TO THE
11 PREMIUM FOR ALL RISK EXPOSURES ALLOCATED TO THIS STATE AND TO RISK EXPO-
12 SURES LOCATED IN ANY STATES WHICH HAVE NOT ENACTED SLIMPACT.

13 S 6. This act shall take effect October 19, 2011; provided, however,
14 that if the amendments to section 9102 of the insurance law and section
15 1552 of the tax law made by sections 14 and 18 of Part I of chapter 61
16 of the laws of 2011, respectively, shall not have taken effect on or
17 before such date, then sections four and five of this act shall take
18 effect on the same date and in the same manner as such sections take
19 effect pursuant to section 19 of Part I of chapter 61 of the laws of
20 2011, takes effect.