



General Assembly

January Session, 2011

Raised Bill No. 6363

LCO No. 3428

03428 _____ INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

**AN ACT ADOPTING THE NATIONAL CONFERENCE OF INSURANCE
LEGISLATORS' SURPLUS LINES INSURANCE MULTISTATE
COMPLIANCE COMPACT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (Effective July 1, 2011):

2 PREAMBLE

3 WHEREAS, with regard to nonadmitted insurance policies with risk
4 exposures located in multiple states, the 111th United States Congress,
5 has stipulated in Title V, Subtitle B the Nonadmitted and Reinsurance
6 Reform Act of 2010, of the Dodd-Frank Wall Street Reform and
7 Consumer Protection Act, hereafter, the NRRRA, that:

8 (A) The placement of nonadmitted insurance shall be subject to the
9 statutory and regulatory requirements solely of the insured's home
10 state, and

11 (B) Any law, regulation, provision, or action of any state that applies
12 or purports to apply to nonadmitted insurance sold to, solicited by, or
13 negotiated with an insured whose home state is another state shall be

14 preempted with respect to such application, except that any state law,
15 rule, or regulation that restricts the placement of workers'
16 compensation insurance or excess insurance for self-funded workers'
17 compensation plans with a nonadmitted insurer shall not be
18 preempted;

19 WHEREAS, in compliance with NRRA, no state other than the
20 home state of an insured may require any premium tax payment for
21 nonadmitted insurance, and no state other than an insured's home
22 state may require a surplus lines broker to be licensed in order to sell,
23 solicit, or negotiate nonadmitted insurance with respect to such
24 insured;

25 WHEREAS, the NRRA intends that the states may enter into a
26 compact or otherwise establish procedures to allocate among the states
27 the premium taxes paid to an insured's home state and that each state
28 adopt nationwide uniform requirements, forms, and procedures, such
29 as an interstate compact, that provide for the reporting, payment,
30 collection, and allocation of premium taxes for nonadmitted insurance;

31 WHEREAS, after the expiration of the two-year period beginning on
32 the date of the enactment of the NRRA, a state may not collect any fees
33 relating to licensing of an individual or entity as a surplus lines
34 licensee in the state unless the state has in effect at such time laws or
35 regulations that provide for participation by the state in the national
36 insurance producer database of the National Association of Insurance
37 Commissioners, or any other equivalent uniform national database, for
38 the licensure of surplus lines licensees and the renewal of such
39 licenses;

40 WHEREAS, a need exists for a system of regulation that will
41 provide for surplus lines insurance to be placed with reputable and
42 financially sound nonadmitted insurers, and that will permit orderly
43 access to surplus lines insurance in this state and encourage insurers to
44 make new and innovative types of insurance available to consumers in
45 this state;

46 WHEREAS, protecting the revenue of this state and other
47 compacting states may be accomplished by facilitating the payment
48 and collection of premium tax on nonadmitted insurance and
49 providing for allocation of premium tax for nonadmitted insurance of
50 multistate risks among the states in accordance with uniform
51 allocation formulas;

52 WHEREAS, the efficiency of the surplus lines market may be
53 improved by eliminating duplicative and inconsistent tax and
54 regulatory requirements among the states, and by promoting and
55 protecting the interests of surplus lines licensees who assist such
56 insureds and nonadmitted insurers, thereby ensuring the continued
57 availability of nonadmitted insurance to consumers;

58 WHEREAS, regulatory compliance with respect to nonadmitted
59 insurance placements may be streamlined by providing for exclusive
60 single-state regulatory compliance for nonadmitted insurance of
61 multistate risks, thereby providing certainty regarding such
62 compliance to all persons who have an interest in such transactions,
63 including but not limited to insureds, regulators, surplus lines
64 licensees, other insurance producers, and surplus lines insurers;

65 WHEREAS, coordination of regulatory resources and expertise
66 between state insurance departments and other state agencies, as well
67 as state surplus lines stamping offices, with respect to nonadmitted
68 insurance will be improved;

69 NOW, THEREFORE, in consideration of the foregoing, the state of
70 Connecticut and the various other states do hereby solemnly covenant
71 and agree, each with the other as follows:

72 ARTICLE I

73 Purpose

74 The purposes of this compact are:

- 75 1. To implement the express provisions of the NRRRA;
- 76 2. To protect the premium tax revenues of the compacting states
77 through facilitating the payment and collection of premium tax on
78 nonadmitted insurance and to protect the interests of the compacting
79 states by supporting the continued availability of such insurance to
80 consumers; and to provide for allocation of premium tax for
81 nonadmitted insurance of multistate risks among the states in
82 accordance with uniform allocation formulas to be developed,
83 adopted, and implemented by the Commission;
- 84 3. To streamline and improve the efficiency of the surplus lines
85 market by eliminating duplicative and inconsistent tax and regulatory
86 requirements among the states, and promote and protect the interest of
87 surplus lines licensees who assist such insureds and surplus lines
88 insurers, thereby ensuring the continued availability of surplus lines
89 insurance to consumers;
- 90 4. To streamline regulatory compliance with respect to nonadmitted
91 insurance placements by providing for exclusive single-state
92 regulatory compliance for nonadmitted insurance of multistate risks,
93 in accordance with rules to be adopted by the Commission, thereby
94 providing certainty regarding such compliance to all persons who
95 have an interest in such transactions, including, but not limited to,
96 insureds, regulators, surplus lines licensees, other insurance producers
97 and surplus lines insurers;
- 98 5. To establish a Clearinghouse for receipt and dissemination of
99 premium tax and Clearinghouse transaction data related to
100 nonadmitted insurance of multistate risks, in accordance with rules to
101 be adopted by the Commission;
- 102 6. To improve coordination of regulatory resources and expertise
103 between state insurance departments and other state agencies, as well
104 as state surplus lines stamping offices, with respect to nonadmitted
105 insurance;

106 7. To adopt uniform rules to provide for premium tax payment,
107 reporting, allocation, data collection and dissemination for
108 nonadmitted insurance of multistate risks and single-state risks, in
109 accordance with rules to be adopted by the Commission, thereby
110 promoting the overall efficiency of the nonadmitted insurance market;

111 8. To adopt uniform mandatory rules with respect to regulatory
112 compliance requirements for:

113 (A) Foreign insurer eligibility requirements; and

114 (B) Surplus lines policyholder notices;

115 9. To establish the Commission;

116 10. To coordinate reporting of Clearinghouse transaction data on
117 nonadmitted insurance of multistate risks among compacting states
118 and contracting states;

119 11. To perform these and such other related functions as may be
120 consistent with the purposes of this compact.

121 **ARTICLE II**

122 **Definitions**

123 For purposes of this compact the following definitions shall apply:

124 1. "Admitted insurer" means an insurer that is licensed, or
125 authorized, to transact the business of insurance under the law of the
126 home state for purposes of this compact. "Admitted insurer" shall not
127 include a domestic surplus lines insurer as may be defined by
128 applicable state law;

129 2. "Affiliate" means, with respect to an insured, any entity that
130 controls, is controlled by, or is under common control with the
131 insured;

132 3. "Allocation formula" means the uniform methods promulgated by
133 the Commission by which insured risk exposures will be apportioned
134 to each state for the purpose of calculating premium taxes due;

135 4. "Bylaws" means those bylaws established by the Commission for
136 its governance, or for directing or controlling the Commission's actions
137 or conduct;

138 5. "Clearinghouse" means the Commission's operations involving
139 the acceptance, processing, and dissemination, among the compacting
140 states, contracting states, surplus lines licensees, insureds and other
141 persons, of premium tax and Clearinghouse transaction data for
142 nonadmitted insurance of multistate risks, in accordance with this
143 compact and rules to be adopted by the Commission;

144 6. "Clearinghouse transaction data" means the information
145 regarding nonadmitted insurance of multistate risks, required to be
146 reported, accepted, collected, processed, and disseminated by surplus
147 lines licensees for surplus lines insurance and insureds for
148 independently procured insurance under this compact and rules to be
149 adopted by the Commission. Clearinghouse transaction data includes
150 information related to single-state risks if a state elects to have the
151 Clearinghouse collect taxes on single-state risks for such state;

152 7. "Compacting state" means any state which has enacted this
153 compact legislation and which has not withdrawn pursuant to section
154 1 of Article XIV of this compact or been terminated pursuant to section
155 2 of Article XIV of this compact;

156 8. "Commission" means the Surplus Lines Insurance Multistate
157 Compliance Compact Commission established by this compact;

158 9. "Commissioner" means the chief insurance regulatory official of a
159 state including, but not limited to commissioner, superintendent,
160 director or administrator or their designees;

161 10. "Contracting state" means any state which has not enacted this

162 compact legislation but has entered into a written contract with the
163 Commission to utilize the services of and fully participate in the
164 Clearinghouse;

165 11. "Control": An entity has control over another entity if:

166 (A) The entity directly or indirectly or acting through one or more
167 other persons owns, controls or has the power to vote twenty-five per
168 cent or more of any class of voting securities of the other entity; or

169 (B) The entity controls in any manner the election of a majority of
170 the directors or trustees of the other entity;

171 12. "Home state":

172 (A) IN GENERAL. Except as provided in subparagraph (B) of this
173 subdivision, "home state" means, with respect to an insured:

174 (i) The state in which an insured maintains its principal place of
175 business or, in the case of an individual, the individual's principal
176 residence; or

177 (ii) If one hundred per cent of the insured risk is located out of the
178 state referred to in subparagraph (A)(i) of this subdivision, the state to
179 which the greatest percentage of the insured's taxable premium for
180 that insurance contract is allocated;

181 (B) AFFILIATED GROUPS. If more than one insured from an
182 affiliated group are named insureds on a single nonadmitted insurance
183 contract, "home state" means the home state, as determined pursuant
184 to subparagraph (A) of this subdivision, of the member of the affiliated
185 group that has the largest percentage of premium attributed to it under
186 such insurance contract;

187 13. "Independently procured insurance" means insurance procured
188 by an insured directly from a surplus lines insurer or other
189 nonadmitted insurer as permitted by the laws of the home state;

190 14. "Insurer eligibility requirements" means the criteria, forms and
191 procedures established to qualify as a surplus lines insurer under the
192 law of the home state, provided that such criteria, forms and
193 procedures are consistent with the express provisions of the NRRA on
194 and after July 21, 2011;

195 15. "Member" means the person or persons chosen by a compacting
196 state as its representative or representatives to the Commission
197 provided that each compacting state shall be limited to one vote;

198 16. "Multistate risk" means a risk with insured exposures in more
199 than one state;

200 17. "Noncompacting state" means any state which has not adopted
201 this compact;

202 18. "Nonadmitted insurance" means surplus lines insurance and
203 independently procured insurance;

204 19. "Nonadmitted insurer" means an insurer that is not authorized
205 or admitted to transact the business of insurance under the law of the
206 home state;

207 20. "NRRA" means the Nonadmitted and Reinsurance Reform Act of
208 2010, which is Title V, Subtitle B of the Dodd-Frank Wall Street Reform
209 and Consumer Protection Act;

210 21. "Policyholder notice" means the disclosure notice or stamp that
211 is required to be furnished to the applicant or policyholder in
212 connection with a surplus lines insurance placement;

213 22. "Premium tax" means, with respect to nonadmitted insurance,
214 any tax, fee, assessment, or other charge imposed by a government
215 entity directly or indirectly based on any payment made as
216 consideration for such insurance, including premium deposits,
217 assessments, registration fees, and any other compensation given in
218 consideration for a contract of insurance;

219 23. "Principal place of business" means, with respect to determining
220 the home state of the insured, the state where the insured maintains its
221 headquarters and where the insured's high-level officers direct, control
222 and coordinate the business activities of the insured;

223 24. "Purchasing group" means any group formed pursuant to the
224 Liability Risk Retention Act which has as one of its purposes the
225 purchase of liability insurance on a group basis, purchases such
226 insurance only for its group members and only to cover their similar or
227 related liability exposure and is composed of members whose
228 businesses or activities are similar or related with respect to the
229 liability to which members are exposed by virtue of any related,
230 similar or common business, trade, product, services, premises or
231 operations, and is domiciled in any state;

232 25. "Rule" means a statement of general or particular applicability
233 and future effect promulgated by the Commission designed to
234 implement, interpret, or prescribe law or policy or describing the
235 organization, procedure or practice requirements of the Commission
236 which shall have the force and effect of law in the compacting states;

237 26. "Single-state risk" means a risk with insured exposures in only
238 one state;

239 27. "State" means any state, district or territory of the United States
240 of America;

241 28. "State transaction documentation" means the information
242 required under the laws of the home state to be filed by surplus lines
243 licensees in order to report surplus lines insurance and verify
244 compliance with surplus lines laws, and by insureds in order to report
245 independently procured insurance;

246 29. "Surplus lines insurance" means insurance procured by a surplus
247 lines licensee from a surplus lines insurer or other nonadmitted insurer
248 as permitted under the law of the home state. For purposes of this

249 compact, "surplus lines insurance" shall also mean excess lines
250 insurance as may be defined by applicable state law;

251 30. "Surplus lines insurer" means a nonadmitted insurer eligible
252 under the law of the home state to accept business from a surplus lines
253 licensee. For purposes of this compact, "surplus lines insurer" also
254 means an insurer which is permitted to write surplus lines insurance
255 under the laws of the state where such insurer is domiciled;

256 31. "Surplus lines licensee" means an individual, firm or corporation
257 licensed under the law of the home state to place surplus lines
258 insurance.

259 **ARTICLE III**

260 **Establishment of the Commission and Venue**

261 1. The compacting states hereby create and establish a joint public
262 agency known as the Surplus Lines Insurance Multistate Compliance
263 Compact Commission.

264 2. Pursuant to Article IV of this compact, the Commission will have
265 the power to adopt mandatory rules which establish exclusive home
266 state authority regarding nonadmitted insurance of multistate risks,
267 allocation formulas, Clearinghouse transaction data, a Clearinghouse
268 for receipt and distribution of allocated premium tax and
269 Clearinghouse transaction data and uniform rulemaking procedures
270 and rules for the purpose of financing, administering, operating and
271 enforcing compliance with the provisions of this compact, its bylaws
272 and rules.

273 3. Pursuant to Article IV of this compact, the Commission will have
274 the power to adopt mandatory rules establishing foreign insurer
275 eligibility requirements and a concise and objective policyholder notice
276 regarding the nature of a surplus lines placement.

277 4. The Commission is a body corporate and politic, and an

278 instrumentality of the compacting states.

279 5. The Commission is solely responsible for its liabilities, except as
280 otherwise specifically provided in this compact.

281 6. Venue is proper and judicial proceedings by or against the
282 Commission shall be brought solely and exclusively in a court of
283 competent jurisdiction where the principal office of the Commission is
284 located. The Commission may waive venue and jurisdictional defenses
285 to the extent it adopts or consents to participate in alternative dispute
286 resolution proceedings.

287 **ARTICLE IV**

288 **Authority to Establish Mandatory Rules**

289 The Commission shall adopt mandatory rules which establish:

290 1. Allocation formulas for each type of nonadmitted insurance
291 coverage, which allocating formulas must be used by each compacting
292 state and contracting state in acquiring premium tax and
293 Clearinghouse transaction data from surplus lines licensees and
294 insureds for reporting to the Clearinghouse created by the compact
295 Commission. Such allocation formulas will be established with input
296 from surplus lines licensees and shall be based upon readily available
297 data with simplicity and uniformity for the surplus line licensee as a
298 material consideration;

299 2. Uniform Clearinghouse transaction data reporting requirements
300 for all information reported to the Clearinghouse;

301 3. Methods by which compacting states and contracting states
302 require surplus lines licensees and insureds to pay premium tax and to
303 report Clearinghouse transaction data to the Clearinghouse, including,
304 but not limited to, processing Clearinghouse transaction data through
305 state stamping and service offices, state insurance departments or
306 other state-designated agencies or entities;

307 4. That nonadmitted insurance of multistate risks shall be subject to
308 all of the regulatory compliance requirements of the home state
309 exclusively.

310 (A) Home state regulatory compliance requirements applicable to
311 surplus lines insurance shall include, but not be limited to, (i) person
312 or persons required to be licensed to sell, solicit, or negotiate surplus
313 lines insurance, (ii) insurer eligibility requirements or other approved
314 nonadmitted insurer requirements, (iii) diligent search, (iv) state
315 transaction documentation and Clearinghouse transaction data
316 regarding the payment of premium tax as set forth in this compact and
317 rules to be adopted by the Commission;

318 (B) Home state regulatory compliance requirements applicable to
319 independently procured insurance placements shall include, but not be
320 limited to, providing state transaction documentation and
321 Clearinghouse transaction data regarding the payment of premium tax
322 as set forth in this compact and rules to be adopted by the
323 Commission;

324 5. That each compacting state and contracting state may charge its
325 own rate of taxation on the premium allocated to such state based on
326 the applicable allocation formula, provided that the state establishes
327 one single rate of taxation applicable to all nonadmitted insurance
328 transactions and no other tax, fee assessment or other charge by any
329 governmental or quasi governmental agency shall be permitted.
330 Notwithstanding the foregoing, stamping office fees may be charged
331 as a separate, additional cost unless such fees are incorporated into a
332 state's single rate of taxation;

333 6. That any change in the rate of taxation by any compacting state or
334 contracting state shall be restricted to changes made prospectively on
335 not less than ninety days' advance notice to the Commission;

336 7. That each compacting state and contracting state shall require
337 premium tax payments either annually, semi-annually or quarterly

338 utilizing one or more of the following dates only: March 1, June 1,
339 September 1, and December 1;

340 8. That each compacting state and contracting state shall prohibit
341 any other state agency or political subdivision from requiring surplus
342 lines licensees to provide state transaction documentation or
343 Clearinghouse transaction data other than to the insurance department
344 or tax officials of the home state or one single designated agent thereof;

345 9. The obligation of the home state by itself, through a designated
346 agent, surplus lines stamping or service office, to collect Clearinghouse
347 transaction data from surplus line licensees and from insureds for
348 independently procured insurance, where applicable, for reporting to
349 the Clearinghouse;

350 10. A method for the Clearinghouse to periodically report to
351 compacting states, contracting states, surplus lines licensees and
352 insureds who independently procure insurance, all premium taxes
353 owed to each of the compacting states and contracting states, the dates
354 upon which payment of such premium taxes are due and a method to
355 pay them through the Clearinghouse;

356 11. That each surplus line licensee is required to be licensed in the
357 home state of each insured for whom surplus lines insurance has been
358 procured;

359 12. That a policy considered to be surplus lines insurance in the
360 insured's home state shall be considered surplus lines insurance in all
361 compacting states and contracting states, and taxed as a surplus lines
362 transaction in all states to which a portion of the risk is allocated. Each
363 compacting state and contracting state shall require each surplus lines
364 licensee to pay to every other compacting state and contracting state
365 premium taxes on each multistate risk through the Clearinghouse at
366 such tax rate charged on surplus lines transactions in such other
367 compacting states and contracting states on the portion of the risk in
368 each such compacting state and contracting state, as determined by the

369 applicable uniform allocation formula adopted by the Commission.
370 Independently procured insurance in the insured's home state shall be
371 considered independently procured insurance in all compacting states
372 and contracting states. Each compacting state and contracting state
373 shall require the insured to pay every other compacting state and
374 contracting state the independently procured insurance premium tax
375 on each multistate risk through the Clearinghouse pursuant to the
376 uniform allocation formula adopted by the Commission;

377 13. Uniform foreign insurer eligibility requirements as authorized
378 by the NRRRA;

379 14. A uniform policyholder notice;

380 15. Uniform treatment of purchasing group surplus lines insurance
381 placements.

382 ARTICLE V

383 Powers of the Commission

384 The Commission shall have the following powers:

385 1. To promulgate rules and operating procedures, pursuant to
386 Article VIII of this compact, which shall have the force and effect of
387 law and shall be binding in the compacting states to the extent and in
388 the manner provided in this compact;

389 2. To bring and prosecute legal proceedings or actions in the name
390 of the Commission, provided that the standing of any state insurance
391 department to sue or be sued under applicable law shall not be
392 affected;

393 3. To issue subpoenas requiring the attendance and testimony of
394 witnesses and the production of evidence, provided, however, the
395 Commission is not empowered to demand or subpoena records or data
396 from nonadmitted insurers;

397 4. To establish and maintain offices, including the creation of a
398 Clearinghouse, for the receipt of premium tax and Clearinghouse
399 transaction data regarding nonadmitted insurance of multistate risks,
400 single-state risks for states which elect to require surplus lines licensees
401 to pay premium tax on single-state risks through the Clearinghouse
402 and tax reporting forms;

403 5. To purchase and maintain insurance and bonds;

404 6. To borrow, accept or contract for services of personnel, including,
405 but not limited to, employees of a compacting state or stamping office,
406 pursuant to an open, transparent, objective competitive process and
407 procedure adopted by the Commission;

408 7. To hire employees, professionals or specialists, and elect or
409 appoint officers, and to fix their compensation, define their duties and
410 give them appropriate authority to carry out the purposes of the
411 compact, and determine their qualifications, pursuant to an open,
412 transparent, objective competitive process and procedure adopted by
413 the Commission; and to establish the Commission's personnel policies
414 and programs relating to conflicts of interest, rates of compensation
415 and qualifications of personnel, and other related personnel matters;

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

420 9. To lease, purchase, accept appropriate gifts or donations of, or
421 otherwise to own, hold, improve or use, any property, real, personal or
422 mixed, provided that at all times the Commission shall avoid any
423 appearance of impropriety or conflict of interest;

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

426 11. To provide for tax audit rules and procedures for the compacting

- 427 states with respect to the allocation of premium taxes including:
- 428 (A) Minimum audit standards, including sampling methods;
- 429 (B) Review of internal controls;
- 430 (C) Cooperation and sharing of audit responsibilities between
431 compacting states;
- 432 (D) Handling of refunds or credits due to overpayments or
433 improper allocation of premium taxes;
- 434 (E) Taxpayer records to be reviewed including a minimum retention
435 period; and
- 436 (F) Authority of compacting states to review, challenge, or reaudit
437 taxpayer records;
- 438 12. To enforce compliance by compacting states and contracting
439 states with rules and bylaws pursuant to the authority set forth in
440 Article XIV of this compact;
- 441 13. To provide for dispute resolution among compacting states and
442 contracting states;
- 443 14. To advise compacting states and contracting states on tax-related
444 issues relating to insurers, insureds, surplus lines licensees, agents or
445 brokers domiciled or doing business in noncompacting states,
446 consistent with the purposes of this compact;
- 447 15. To make available advice and training to those personnel in state
448 stamping offices, state insurance departments or other state
449 departments for record-keeping, tax compliance, and tax allocations;
450 and to be a resource for state insurance departments and other state
451 departments;
- 452 16. To establish a budget and make expenditures;

453 17. To borrow money;

454 18. To appoint and oversee committees, including advisory
455 committees comprised of members, state insurance regulators, state
456 legislators or their representatives, insurance industry and consumer
457 representatives, and such other interested persons as may be
458 designated in this compact and the bylaws;

459 19. To establish an Executive Committee of not less than seven nor
460 more than fifteen representatives, which shall include officers elected
461 by the Commission and such other representatives as provided for
462 herein and determined by the bylaws. Representatives of the Executive
463 Committee shall serve a one-year term. Representatives of the
464 Executive Committee shall be entitled to one vote each. The Executive
465 Committee shall have the power to act on behalf of the Commission,
466 with the exception of rulemaking, during periods when the
467 Commission is not in session. The Executive Committee shall oversee
468 the day-to-day activities of the administration of the compact,
469 including the activities of the Operations Committee created under this
470 Article and compliance and enforcement of the provisions of the
471 compact, its bylaws and rules and such other duties as provided herein
472 and as deemed necessary;

473 20. To establish an Operations Committee of not less than seven and
474 not more than fifteen representatives to provide analysis, advice,
475 determinations and recommendations regarding technology, software,
476 and systems integration to be acquired by the Commission and to
477 provide analysis, advice, determinations and recommendations
478 regarding the establishment of mandatory rules to be adopted by the
479 Commission;

480 21. To enter into contracts with contracting states so that contracting
481 states can utilize the services of and fully participate in the
482 Clearinghouse subject to the terms and conditions set forth in such
483 contracts;

484 22. To adopt and use a corporate seal;

485 23. To perform such other functions as may be necessary or
486 appropriate to achieve the purposes of this compact consistent with the
487 state regulation of the business of insurance.

488 ARTICLE VI

489 Organization of the Commission

490 1. Membership, Voting and Bylaws

491 (A) Each compacting state shall have and be limited to one member.
492 Each state shall determine the qualifications and the method by which
493 it selects a member and set forth the selection process in the enabling
494 provision of the legislation which enacts this compact. In the absence
495 of such a provision, the member shall be appointed by the governor of
496 such compacting state. Any member may be removed or suspended
497 from office as provided by the law of the state from which he or she
498 shall be appointed. Any vacancy occurring in the Commission shall be
499 filled in accordance with the laws of the compacting state wherein the
500 vacancy exists.

501 (B) Each member shall be entitled to one vote and shall otherwise
502 have an opportunity to participate in the governance of the
503 Commission in accordance with the bylaws.

504 (C) The Commission shall, by a majority vote of the members,
505 prescribe bylaws to govern its conduct as may be necessary or
506 appropriate to carry out the purposes and exercise the powers of the
507 compact, including, but not limited to:

508 (i) Establishing the fiscal year of the Commission;

509 (ii) Providing reasonable procedures for holding meetings of the
510 Commission, the Executive Committee, and the Operations
511 Committee;

512 (iii) Providing reasonable standards and procedures (I) for the
513 establishment and meetings of committees, and (II) governing any
514 general or specific delegation of any authority or function of the
515 Commission;

516 (iv) Providing reasonable procedures for calling and conducting
517 meetings of the Commission that consist of a majority of Commission
518 members, ensuring reasonable advance notice of each such meeting
519 and providing for the right of citizens to attend each such meeting
520 with enumerated exceptions designed to protect the public's interest,
521 the privacy of individuals and insurers' and surplus lines licensees'
522 proprietary information, including trade secrets. The Commission may
523 meet in camera only after a majority of the entire membership votes to
524 close a meeting in toto or in part. As soon as is practicable, the
525 Commission must make public: (I) A copy of the vote to close the
526 meeting revealing the vote of each member, with no proxy votes
527 allowed, and (II) votes taken during such meeting;

528 (v) Establishing the titles, duties and authority and reasonable
529 procedures for the election of the officers of the Commission;

530 (vi) Providing reasonable standards and procedures for the
531 establishment of the personnel policies and programs of the
532 Commission. Notwithstanding any civil service or other similar laws
533 of any compacting state, the bylaws shall exclusively govern the
534 personnel policies and programs of the Commission;

535 (vii) Promulgating a code of ethics to address permissible and
536 prohibited activities of Commission members and employees;

537 (viii) Providing a mechanism for winding up the operations of the
538 Commission and the equitable disposition of any surplus funds that
539 may exist after the termination of the compact and the payment and
540 reserving of all of its debts and obligations.

541 (D) The Commission shall publish its bylaws in a convenient form

542 and file a copy thereof and a copy of any amendment thereto, with the
543 appropriate agency or officer in each of the compacting states.

544 2. Executive Committee, Personnel and Chairperson

545 (A) An Executive Committee of the Commission shall be
546 established. All actions of the Executive Committee, including
547 compliance and enforcement, are subject to the review and ratification
548 of the Commission as provided in the bylaws. The Executive
549 Committee shall have no more than fifteen representatives, or one for
550 each state if there are less than fifteen compacting states, who shall
551 serve for a term and be established in accordance with the bylaws.

552 (B) The Executive Committee shall have such authority and duties
553 as may be set forth in the bylaws, including but not limited to:

554 (i) Managing the affairs of the Commission in a manner consistent
555 with the bylaws and purposes of the Commission;

556 (ii) Establishing and overseeing an organizational structure within,
557 and appropriate procedures for, the Commission to provide for the
558 creation of rules and operating procedures;

559 (iii) Overseeing the offices of the Commission;

560 (iv) Planning, implementing, and coordinating communications and
561 activities with other state, federal and local government organizations
562 in order to advance the goals of the Commission.

563 (C) The Commission shall annually elect officers from the Executive
564 Committee, with each having such authority and duties, as may be
565 specified in the bylaws.

566 (D) The Executive Committee may, subject to the approval of the
567 Commission, appoint or retain an executive director for such period,
568 upon such terms and conditions and for such compensation as the
569 Commission may deem appropriate. The executive director shall serve

570 as secretary to the Commission but shall not be a member of the
571 Commission. The executive director shall hire and supervise such
572 other persons as may be authorized by the Commission.

573 3. Operations Committee

574 (A) (i) An Operations Committee shall be established. All actions of
575 the Operations Committee are subject to the review and oversight of
576 the Commission and the Executive Committee and must be approved
577 by the Commission. The Executive Committee will accept the
578 determinations and recommendations of the Operations Committee
579 unless good cause is shown why such determinations and
580 recommendations should not be approved. Any disputes as to whether
581 good cause exists to reject any determination or recommendation of
582 the Operations Committee shall be resolved by the majority vote of the
583 Commission.

584 (ii) The Operations Committee shall have no more than fifteen
585 representatives or one for each state if there are less than fifteen
586 compacting states, who shall serve for a term as set forth in the bylaws.

587 (iii) The Operations Committee shall have responsibility for:

588 (I) Evaluating technology requirements for the Clearinghouse,
589 assessing existing systems used by state regulatory agencies and state
590 stamping offices to maximize the efficiency and successful integration
591 of the Clearinghouse technology systems with state and state stamping
592 office technology platforms and to minimize costs to the states, state
593 stamping offices and the Clearinghouse;

594 (II) Making recommendations to the Executive Committee based on
595 its analysis and determination of the Clearinghouse technology
596 requirements and compatibility with existing state and state stamping
597 office systems;

598 (III) Evaluating the most suitable proposals for adoption as
599 mandatory rules, assessing such proposals for ease of integration by

600 states, and likelihood of successful implementation and to report to the
601 Executive Committee its determinations and recommendations;

602 (IV) Such other duties and responsibilities as are delegated to it by
603 the bylaws, the Executive Committee or the Commission.

604 (B) All representatives of the Operations Committee shall be
605 individuals who have extensive experience or employment in the
606 surplus lines insurance business, including, but not limited to,
607 executives and attorneys employed by surplus line insurers, surplus
608 line licensees, law firms, state insurance departments or state stamping
609 offices. Operations Committee representatives from compacting states
610 which utilize the services of a state stamping office must appoint the
611 Chief Operating Officer or a senior manager of the state stamping
612 office to the Operations Committee.

613 4. Legislative and Advisory Committees

614 (A) A legislative committee comprised of state legislators or their
615 designees shall be established to monitor the operations of and make
616 recommendations to, the Commission, including the Executive
617 Committee, provided that the manner of selection and term of any
618 legislative committee member shall be as set forth in the bylaws. Prior
619 to the adoption by the Commission of any uniform standard, revision
620 to the bylaws, annual budget or other significant matter as may be
621 provided in the bylaws, the Executive Committee shall consult with
622 and report to the legislative committee.

623 (B) The Commission may establish additional advisory committees
624 as its bylaws may provide for the carrying out of its functions.

625 5. Corporate Records of the Commission

626 The Commission shall maintain its corporate books and records in
627 accordance with the bylaws.

628 6. Qualified Immunity, Defense and Indemnification

629 (A) The members, officers, executive director, employees and
630 representatives of the Commission, the Executive Committee and any
631 other committee of the Commission shall be immune from suit and
632 liability, either personally or in their official capacity, for any claim for
633 damage to or loss of property or personal injury or other civil liability
634 caused by or arising out of any actual or alleged act, error or omission
635 that occurred, or that the person against whom the claim is made had a
636 reasonable basis for believing occurred within the scope of
637 Commission employment, duties or responsibilities; provided that
638 nothing in this subparagraph shall be construed to protect any such
639 person from suit or liability for any damage, loss, injury or liability
640 caused by the intentional or wilful or wanton misconduct of that
641 person.

642 (B) The Commission shall defend any member, officer, executive
643 director, employee or representative of the Commission, the Executive
644 Committee or any other committee of the Commission in any civil
645 action seeking to impose liability arising out of any actual or alleged
646 act, error or omission that occurred within the scope of Commission
647 employment, duties or responsibilities, or that the person against
648 whom the claim is made had a reasonable basis for believing occurred
649 within the scope of Commission employment, duties or
650 responsibilities; provided that nothing herein shall be construed to
651 prohibit that person from retaining his or her own counsel; and
652 provided further, that the actual or alleged act, error or omission did
653 not result from that person's intentional or wilful or wanton
654 misconduct.

655 (C) The Commission shall indemnify and hold harmless any
656 member, officer, executive director, employee or representative of the
657 Commission, Executive Committee or any other committee of the
658 Commission for the amount of any settlement or judgment obtained
659 against that person arising out of any actual or alleged act, error or
660 omission that occurred within the scope of Commission employment,
661 duties or responsibilities, or that such person had a reasonable basis

662 for believing occurred within the scope of Commission employment,
663 duties or responsibilities, provided that the actual or alleged act, error
664 or omission did not result from the intentional or wilful or wanton
665 misconduct of that person.

666 ARTICLE VII

667 Meetings and Acts of the Commission

668 1. The Commission shall meet and take such actions as are
669 consistent with the provisions of this compact and the bylaws.

670 2. Each member of the Commission shall have the right and power
671 to cast a vote to which that compacting state is entitled and to
672 participate in the business and affairs of the Commission. A member
673 shall vote in person or by such other means as provided in the bylaws.
674 The bylaws may provide for members' participation in meetings by
675 telephone or other means of communication.

676 3. The Commission shall meet at least once during each calendar
677 year. Additional meetings shall be held as set forth in the bylaws.

678 4. Public notice shall be given of all meetings and all meetings shall
679 be open to the public, except as set forth in the rules or otherwise
680 provided in the compact.

681 5. The Commission shall promulgate rules concerning its meetings
682 consistent with the principles contained in the Government in the
683 Sunshine Act, 5 USC 552b, as may be amended.

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

687 (A) Relate solely to the Commission's internal personnel practices
688 and procedures;

689 (B) Disclose matters specifically exempted from disclosure by

690 federal and state statute;

691 (C) Disclose trade secrets or commercial or financial information
692 which is privileged or confidential;

693 (D) Involve accusing a person of a crime, or formally censuring a
694 person;

695 (E) Disclose information of a personal nature where disclosure
696 would constitute a clearly unwarranted invasion of personal privacy;

697 (F) Disclose investigative records compiled for law enforcement
698 purposes;

699 (G) Specifically relate to the Commission's issuance of a subpoena,
700 or its participation in a civil action or other legal proceeding.

701 7. For a meeting, or portion of a meeting closed pursuant to this
702 subdivision, the Commission's legal counsel or designee shall certify
703 that the meeting may be closed and shall reference each relevant
704 exemptive provision. The Commission shall keep minutes which shall
705 fully and clearly describe all matters discussed in the meeting and
706 shall provide a full and accurate summary of actions taken, and the
707 reasons therefor, including a description of the views expressed and
708 the record of a roll call vote. All documents considered in connection
709 with an action shall be identified in such minutes. All minutes and
710 documents of a closed meeting shall remain under seal, subject to
711 release by a majority vote of the Commission.

712 **ARTICLE VIII**

713 **Rules and Operating Procedures:**

714 **Rulemaking Functions of the Commission**

715 1. Rulemaking Authority. The Commission shall promulgate
716 reasonable rules in order to effectively and efficiently achieve the
717 purposes of this compact. Notwithstanding the foregoing, in the event

718 the Commission exercises its rulemaking authority in a manner that is
719 beyond the scope of the purposes of this Act or the powers granted
720 hereunder, then such an action by the Commission shall be invalid and
721 have no force or effect.

722 2. Rulemaking Procedure. Rules shall be made pursuant to a
723 rulemaking process that substantially conforms to the Model State
724 Administrative Procedure Act of 1981, Uniform Laws Annotated,
725 volume 15, page 1 (2000), as amended, as may be appropriate to the
726 operations of the Commission.

727 3. Effective Date. All rules and amendments, thereto, shall become
728 effective as of the date specified in each rule, operating procedure or
729 amendment.

730 4. Not later than thirty days after a rule is promulgated, any person
731 may file a petition for judicial review of the rule; provided the filing of
732 such a petition shall not stay or otherwise prevent the rule from
733 becoming effective unless the court finds that the petitioner has a
734 substantial likelihood of success. The court shall give deference to the
735 actions of the Commission consistent with applicable law and shall not
736 find the rule to be unlawful if the rule represents a reasonable exercise
737 of the Commission's authority.

738 **ARTICLE IX**

739 **Commission Records and Enforcement**

740 1. The Commission shall promulgate rules establishing conditions
741 and procedures for public inspection and copying of its information
742 and official records, except such information and records involving the
743 privacy of individuals, insurers, insureds or surplus lines licensee
744 trade secrets. State transaction documentation and Clearinghouse
745 transaction data collected by the Clearinghouse shall be used for only
746 those purposes expressed in or reasonably implied under the
747 provisions of this compact and the Commission shall afford this data

748 the broadest protections as permitted by any applicable law for
749 proprietary information, trade secrets or personal data. The
750 Commission may promulgate additional rules under which it may
751 make available to federal and state agencies, including law
752 enforcement agencies, records and information otherwise exempt from
753 disclosure, and may enter into agreements with such agencies to
754 receive or exchange information or records subject to nondisclosure
755 and confidentiality provisions.

756 2. Except as to privileged records, data and information, the laws of
757 any compacting state pertaining to confidentiality or nondisclosure
758 shall not relieve any compacting state member of the duty to disclose
759 any relevant records, data or information to the Commission; provided
760 that disclosure to the Commission shall not be deemed to waive or
761 otherwise affect any confidentiality requirement, and further provided
762 that, except as otherwise expressly provided in this Act, the
763 Commission shall not be subject to the compacting state's laws
764 pertaining to confidentiality and nondisclosure with respect to records,
765 data and information in its possession. Confidential information of the
766 Commission shall remain confidential after such information is
767 provided to any member and the Commission shall maintain the
768 confidentiality of any information provided by a member that is
769 confidential under that member's state law.

770 3. The Commission shall monitor compacting states for compliance
771 with duly adopted bylaws and rules. The Commission shall notify any
772 noncomplying compacting state in writing of its noncompliance with
773 Commission bylaws or rules. If a noncomplying compacting state fails
774 to remedy its noncompliance within the time specified in the notice of
775 noncompliance, the compacting state shall be deemed to be in default
776 as set forth in Article XIV of this compact.

777

ARTICLE X

778

Dispute Resolution

779 1. Before a member may bring an action in a court of competent
780 jurisdiction for violation of any provision, standard or requirement of
781 the compact, the Commission shall attempt, upon the request of a
782 member, to resolve any disputes or other issues that are subject to this
783 compact and which may arise between two or more compacting states,
784 contracting states or noncompacting states, and the Commission shall
785 promulgate a rule providing alternative dispute resolution procedures
786 for such disputes.

787 2. The Commission shall also provide alternative dispute resolution
788 procedures to resolve any disputes between insureds or surplus lines
789 licensees concerning a tax calculation or allocation or related issues
790 which are the subject of this compact.

791 3. Any alternative dispute resolution procedures shall be utilized in
792 circumstances where a dispute arises as to which state constitutes the
793 home state.

794 ARTICLE XI

795 Review of Commission Decisions

796 Regarding Commission decisions:

797 1. Except as necessary for promulgating rules to fulfill the purposes
798 of this compact, the Commission shall not have authority to otherwise
799 regulate insurance in the compacting states.

800 2. Not later than thirty days after the Commission has given notice
801 of any rule or allocation formula, any third party filer or compacting
802 state may appeal the determination to a review panel appointed by the
803 Commission. The Commission shall promulgate rules to establish
804 procedures for appointing such review panels and provide for notice
805 and hearing. An allegation that the Commission, in making
806 compliance or tax determinations acted arbitrarily, capriciously, or in a
807 manner that is an abuse of discretion or otherwise not in accordance
808 with the law, is subject to judicial review in accordance with

809 subdivision 6 of Article III of this compact.

810 3. The Commission shall have authority to monitor, review and
811 reconsider Commission decisions upon a finding that the
812 determinations or allocations do not meet the relevant rule. Where
813 appropriate, the Commission may withdraw or modify its
814 determination or allocation after proper notice and hearing, subject to
815 the appeal process in subdivision 2 of this Article.

816 **ARTICLE XII**

817 **Finance**

818 1. The Commission shall pay or provide for the payment of the
819 reasonable expenses of its establishment and organization. To fund the
820 cost of its initial operations the Commission may accept contributions,
821 grants and other forms of funding from the state stamping offices,
822 compacting states and other sources.

823 2. The Commission shall collect a fee payable by the insured directly
824 or through a surplus lines licensee on each transaction processed
825 through the Clearinghouse, to cover the cost of the operations and
826 activities of the Commission and its staff in a total amount sufficient to
827 cover the Commission's annual budget.

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

831 4. The Commission shall be regarded as performing essential
832 governmental functions in exercising such powers and functions and
833 in carrying out the provisions of this compact and of any law relating
834 thereto, and shall not be required to pay any taxes or assessments of
835 any character levied by any state or political subdivision thereof upon
836 any of the property used by it for such purposes or any income or
837 revenue therefrom, including any profit from a sale or exchange.

838 5. The Commission shall keep complete and accurate accounts of all
839 its internal receipts, including grants and donations, and
840 disbursements for all funds under its control. The internal financial
841 accounts of the Commission shall be subject to the accounting
842 procedures established under its bylaws. The financial accounts and
843 reports including the system of internal controls and procedures of the
844 Commission shall be audited annually by an independent certified
845 public accountant. Upon the determination of the Commission, but not
846 less frequently than every three years, the review of the independent
847 auditor shall include a management and performance audit of the
848 Commission. The Commission shall make an annual report to the
849 Governor and legislature of the compacting states, which shall include
850 a report of the independent audit. The Commission's internal accounts
851 shall not be confidential and such materials may be shared with the
852 commissioner, the Comptroller, or the stamping office of any
853 compacting state upon request provided, however, that any work
854 papers related to any internal or independent audit and any
855 information regarding the privacy of individuals, and licensees' and
856 insurers' proprietary information, including trade secrets, shall remain
857 confidential.

858 6. No compacting state shall have any claim to or ownership of any
859 property held by or vested in the Commission or to any Commission
860 funds held pursuant to the provisions of this compact.

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

865 **ARTICLE XIII**

866 **Compacting States, Effective Date and Amendment**

867 1. Any state is eligible to become a compacting state.

868 2. The Compact shall become effective and binding upon legislative
869 enactment of the compact into law by two compacting states, provided
870 the Commission shall become effective for purposes of adopting rules,
871 and creating the Clearinghouse when there are a total of ten
872 compacting states and contracting states or, alternatively, when there
873 are compacting states and contracting states representing greater than
874 forty per cent of the surplus lines insurance premium volume based on
875 records of the percentage of surplus lines insurance premiums set forth
876 in Appendix A hereto. Thereafter, it shall become effective and binding
877 as to any other compacting state upon enactment of the compact into
878 law by that state. Notwithstanding the foregoing, the Clearinghouse
879 operations and the duty to report Clearinghouse transaction data shall
880 begin on the first January first or July first following the first
881 anniversary of the Commission effective date. For states which join the
882 compact subsequent to the effective date, a start date for reporting
883 Clearinghouse transaction data shall be set by the Commission
884 provided surplus lines licensees and all other interested parties receive
885 not less than ninety days' advance notice.

886 3. Amendments to the compact may be proposed by the
887 Commission for enactment by the compacting states. No amendment
888 shall become effective and binding upon the Commission and the
889 compacting states unless and until all compacting states enact the
890 amendment into law.

891 **ARTICLE XIV**

892 **Withdrawal, Default and Termination**

893 **1. Withdrawal**

894 (A) Once effective, the compact shall continue in force and remain
895 binding upon each and every compacting state, provided that a
896 compacting state may withdraw from the compact ("withdrawing
897 state") by enacting a statute specifically repealing the statute which
898 enacted the compact into law.

899 (B) The effective date of withdrawal is the effective date of the
900 repealing statute. However, the withdrawal shall not apply to any tax
901 or compliance determinations approved on the date the repealing
902 statute becomes effective, except by mutual agreement of the
903 Commission and the withdrawing state, unless the approval is
904 rescinded by the Commission.

905 (C) The member of the withdrawing state shall immediately notify
906 the Executive Committee of the Commission in writing upon the
907 introduction of legislation repealing this compact in the withdrawing
908 state.

909 (D) The Commission shall notify the other compacting states of the
910 introduction of such legislation within ten days after its receipt of
911 notice thereof.

912 (E) The withdrawing state is responsible for all obligations, duties
913 and liabilities incurred through the effective date of withdrawal,
914 including any obligations, the performance of which extend beyond
915 the effective date of withdrawal. To the extent those obligations may
916 have been released or relinquished by mutual agreement of the
917 Commission and the withdrawing state, the Commission's
918 determinations prior to the effective date of withdrawal shall continue
919 to be effective and be given full force and effect in the withdrawing
920 state, unless formally rescinded by the Commission.

921 (F) Reinstatement following withdrawal of any compacting state
922 shall occur upon the effective date of the withdrawing state reenacting
923 the compact.

924 2. Default

925 (A) If the Commission determines that any compacting state has at
926 any time defaulted ("defaulting state") in the performance of any of its
927 obligations or responsibilities under this compact, the bylaws or duly
928 promulgated rules, then after notice and hearing as set forth in the

929 bylaws, all rights, privileges and benefits conferred by this compact on
930 the defaulting state shall be suspended from the effective date of
931 default as fixed by the Commission. The grounds for default include,
932 but are not limited to, failure of a compacting state to perform its
933 obligations or responsibilities, and any other grounds designated in
934 Commission rules. The Commission shall immediately notify the
935 defaulting state in writing of the defaulting state's suspension pending
936 a cure of the default. The Commission shall stipulate the conditions
937 and the time period within which the defaulting state must cure its
938 default. If the defaulting state fails to cure the default within the time
939 period specified by the Commission, the defaulting state shall be
940 terminated from the compact and all rights, privileges and benefits
941 conferred by this compact shall be terminated from the effective date
942 of termination.

943 (B) Decisions of the Commission that are issued on the effective date
944 of termination shall remain in force in the defaulting state in the same
945 manner as if the defaulting state had withdrawn voluntarily pursuant
946 to subdivision 1 of this Article.

947 (C) Reinstatement following termination of any compacting state
948 requires a reenactment of the compact.

949 3. Dissolution of Compact

950 (A) The compact dissolves effective upon the date of the withdrawal
951 or default of the compacting state which reduces membership in the
952 compact to one compacting state.

953 (B) Upon the dissolution of this compact, the compact becomes null
954 and void and shall have no further force or effect, and the business and
955 affairs of the Commission shall be wound up and any surplus funds
956 shall be distributed in accordance with the rules and bylaws.

957 ARTICLE XV

958 Severability and Construction

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

962 2. The provisions of this compact shall be liberally construed to
963 effectuate its purposes.

964 3. Throughout this compact the use of the singular shall include the
965 plural and vice-versa.

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

969 ARTICLE XVI

970 Binding Effect of Compact and Other Laws

971 1. Other Laws

972 (A) Nothing herein prevents the enforcement of any other law of a
973 compacting state except as provided in subparagraph (B) of this
974 subdivision.

975 (B) Decisions of the Commission, any rules and any other
976 requirements of the Commission shall constitute the exclusive rule, or
977 determination applicable to the compacting states. Any law or
978 regulation regarding nonadmitted insurance of multistate risks with
979 respect to the following that is contrary to rules of the Commission is
980 preempted:

981 (i) Clearinghouse transaction data reporting requirements;

982 (ii) Allocation formulas;

983 (iii) Clearinghouse transaction data collection requirements;

984 (iv) Premium tax payment time frames and rules concerning

985 dissemination of data among the compacting states for nonadmitted
986 insurance of multistate risks and single-state risks;

987 (v) Exclusive compliance with surplus lines law of the home state of
988 the insured;

989 (vi) Rules for reporting to a Clearinghouse for receipt and
990 distribution of Clearinghouse transaction data related to nonadmitted
991 insurance of multistate risks;

992 (vii) Uniform foreign insurers eligibility requirements;

993 (viii) Uniform policyholder notices; and

994 (ix) Uniform treatment of purchasing groups procuring
995 nonadmitted insurance.

996 (C) Except as stated in subparagraph (B) of this subdivision, any
997 rule, uniform standard or other requirement of the Commission shall
998 constitute the exclusive provision that a Commissioner may apply to
999 compliance or tax determinations. Notwithstanding the foregoing, no
1000 action taken by the Commission shall abrogate or restrict: (i) The
1001 access of any person to state courts; (ii) the availability of alternative
1002 dispute resolution under Article X of this Compact; (iii) remedies
1003 available under state law related to breach of contract, tort, or other
1004 laws not specifically directed to compliance or tax determinations; (iv)
1005 state law relating to the construction of insurance contracts; or (v) the
1006 authority of the attorney general of the state, including, but not limited
1007 to, maintaining any actions or proceedings, as authorized by law.

1008 2. Binding Effect of This Compact

1009 (A) All lawful actions of the Commission, including all rules
1010 promulgated by the Commission, are binding upon the compacting
1011 states, except as provided herein.

1012 (B) All agreements between the Commission and the compacting

1013 states are binding in accordance with their terms.

1014 (C) Upon the request of a party to a conflict over the meaning or
 1015 interpretation of Commission actions, and upon a majority vote of the
 1016 compacting states, the Commission may issue advisory opinions
 1017 regarding the meaning or interpretation in dispute. This provision may
 1018 be implemented by rule at the discretion of the Commission.

1019 (D) In the event any provision of this compact exceeds the
 1020 constitutional limits imposed on the legislature of any compacting
 1021 state, the obligations, duties, powers or jurisdiction sought to be
 1022 conferred by that provision upon the Commission shall be ineffective
 1023 as to that state and those obligations, duties, powers or jurisdiction
 1024 shall remain in the compacting state and shall be exercised by the
 1025 agency thereof to which those obligations, duties, powers or
 1026 jurisdiction are delegated by law in effect at the time this compact
 1027 becomes effective.

1028 APPENDIX A

1029 Surplus Line Insurance Premiums by State

T1	State	Premiums based	Share of Total
T2		on taxes paid	Premiums
T3	Alabama	445,746,000	1.47%
T4	Alaska	89,453,519	0.29%
T5	Arizona	663,703,267	2.18%
T6	Arkansas	201,859,750	0.66%
T7	California	5,622,450,467	18.49%
T8	Colorado	543,781,333	1.79%
T9	Connecticut	329,358,800	1.08%
T10	Delaware	92,835,950	0.31%
T11	Florida	2,660,908,760	8.75%
T12	Georgia	895,643,150	2.95%
T13	Hawaii	232,951,489	0.77%

T14	Idaho	74,202,255	0.24%
T15	Illinois	1,016,504,629	3.34%
T16	Indiana	412,265,320	1.36%
T17	Iowa	135,130,933	0.44%
T18	Kansas	160,279,300	0.53%
T19	Kentucky	167,996,133	0.55%
T20	Louisiana	853,173,280	2.81%
T21	Maine	60,111,200	0.20%
T22	Maryland	434,887,600	1.43%
T23	Massachusetts	708,640,225	2.33%
T24	Michigan	703,357,040	2.31%
T25	Minnesota	393,128,400	1.29%
T26	Mississippi	263,313,175	0.87%
T27	Missouri	404,489,860	1.33%
T28	Montana	64,692,873	0.21%
T29	Nebraska	92,141,167	0.30%
T30	Nevada	354,271,514	1.17%
T31	New Hampshire	102,946,250	0.34%
T32	New Jersey	1,087,994,033	3.58%
T33	New Mexico	67,608,458	0.22%
T34	New York	2,768,618,083	9.11%
T35	North Carolina	514,965,060	1.69%
T36	North Dakota	36,223,943	0.12%
T37	Ohio	342,000,000	1.12%
T38	Oklahoma	319,526,400	1.05%
T39	Oregon	312,702,150	1.03%
T40	Pennsylvania	780,666,667	2.57%
T41	Rhode Island	71,794,067	0.24%
T42	South Carolina	412,489,825	1.36%
T43	South Dakota	38,702,120	0.13%
T44	Tennessee	451,775,240	1.49%
T45	Texas	3,059,170,454	10.06%
T46	Utah	142,593,412	0.47%
T47	Vermont	41,919,433	0.14%

T48	Virginia	611,530,667	2.01%
T49	Washington	739,932,050	2.43%
T50	West Virginia	130,476,250	0.43%
T51	Wisconsin	248,758,333	0.82%
T52	Wyoming	40,526,967	0.13%
T53			
T54	Total	30,400,197,251	100.00%

1030 This Data is 2005 Calendar Year Data excerpted from a study dated
1031 February 27, 2007 by Mackin & Company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	New section

Statement of Purpose:

To enter into the Surplus Lines Insurance Multistate Compliance Compact.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]