
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The legislature finds that Title V, Subtitle B,
3 of the Dodd-Frank Wall Street Reform and Consumer Protection Act
4 of 2010, known as the Nonadmitted and Reinsurance Reform Act of
5 2010, incorporated language addressing excess and surplus lines
6 insurance. Congress recommended in the Nonadmitted and
7 Reinsurance Reform Act of 2010 that states adopt uniform
8 requirements, forms, and procedures, such as an interstate
9 compact, to facilitate the reporting, payment, collection, and
10 allocation of premium taxes for nonadmitted insurance.

11 The legislature also finds that the surplus lines insurance
12 multi-state compliance compact, or SLIMPACT, was drafted to
13 streamline surplus lines insurance taxation and regulation.
14 SLIMPACT is an interstate compact that is a direct response to
15 the Dodd-Frank Wall Street Reform and Consumer Protection Act's
16 request for uniformity and simplicity in state surplus lines tax
17 collection and allocation.



1 commissioner to participate in a multi-state cooperative to
2 collect surplus lines premium taxes and fees.

3 The legislature finds that clarifying amendments directing
4 the insurance commissioner to join the surplus lines insurance
5 multi-state compliance compact are necessary.

6 The purpose of this part is to amend sections of the
7 insurance code to require participation in the surplus lines
8 insurance multi-state compliance compact.

9 SECTION 3. Section 431:8-302, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) The commissioner [~~is authorized to~~] shall enter into
12 [~~a cooperative agreement or interstate agreement or compact~~] the
13 surplus lines insurance multi-state compliance compact adopted
14 by the National Conference of Insurance Legislators, and known
15 as SLIMPACT, to establish additional and alternative nationwide
16 uniform eligibility requirements that shall be applicable to
17 unauthorized insurers domiciled in another state."

18 SECTION 4. Section 431:8-315, Hawaii Revised Statutes, is
19 amended by amending subsection (e) to read as follows:

20 "(e) The commissioner [~~may~~]:

21 (1) Shall:



1 the tax due on the portion of premium
2 attributable to each risk classification and to
3 each state where properties, risks, or exposures
4 are located.

5 The commissioner shall assess the insured for the cost of
6 the [~~cooperative agreement, reciprocal agreement, or~~] compact to
7 collect and distribute the premium taxes. Upon application of
8 the insured, the commissioner shall refund the insured for
9 excess payments of taxes received by the State that are the
10 result of the statewide tax rate."

11 PART III

12 SECTION 5. The purpose of this part is to enact the
13 surplus lines insurance multi-state compliance compact.

14 SECTION 6. Chapter 431, article 8, Hawaii Revised
15 Statutes, is amended by adding a new part to be appropriately
16 designated and to read as follows:

17 "PART . SURPLUS LINES INSURANCE MULTI-STATE

18 COMPLIANCE COMPACT

19 §431:8-A Enactment of compact. The surplus lines
20 insurance multi-state compliance compact is enacted into law and
21 entered into by this State with all other states legally joining
22 this compact in the form as substantially follows in this part.



1 **§431:8-B Purpose.** The purposes of this compact are to:

2 (1) Implement the express provisions of the Nonadmitted

3 and Reinsurance Reform Act;

4 (2) Protect the premium tax revenues of the compacting

5 states through facilitating the payment and collection

6 of premium tax on nonadmitted insurance; protect the

7 interests of the compacting states by supporting the

8 continued availability of such insurance to consumers;

9 provide for allocation of premium tax for nonadmitted

10 insurance of multi-state risks among the states in

11 accordance with uniform allocation formulas to be

12 developed, adopted, and implemented by the commission;

13 (3) Streamline and improve the efficiency of the surplus

14 lines market by eliminating duplicative and

15 inconsistent tax and regulatory requirements among the

16 states; and promote and protect the interest of

17 surplus lines licensees who assist insureds and

18 surplus lines insurers, thereby ensuring the continued

19 availability of surplus lines insurance to consumers;

20 (4) Streamline regulatory compliance with respect to

21 nonadmitted insurance placements by providing for

22 exclusive single-state regulatory compliance for



1 nonadmitted insurance of multi-state risks, in
2 accordance with rules to be adopted by the commission,
3 thereby providing certainty regarding compliance to
4 all persons who have an interest in these
5 transactions, including but not limited to insureds,
6 regulators, surplus lines licensees, other insurance
7 producers, and surplus lines insurers;

8 (5) Establish a clearinghouse for receipt and
9 dissemination of premium tax and clearinghouse
10 transaction data related to nonadmitted insurance of
11 multi-state risks, in accordance with rules to be
12 adopted by the commission;

13 (6) Improve coordination of regulatory resources and
14 expertise between state insurance departments, other
15 state agencies, and state surplus lines stamping
16 offices, with respect to nonadmitted insurance;

17 (7) Adopt uniform rules to provide for premium tax
18 payment, reporting, allocation, and data collection
19 and dissemination for nonadmitted insurance of multi-
20 state risks and single-state risks, in accordance with
21 rules to be adopted by the commission, thereby



- 1 promoting the overall efficiency of the nonadmitted
2 insurance market;
- 3 (8) Adopt uniform mandatory rules with respect to
4 regulatory compliance requirements for foreign insurer
5 eligibility requirements and surplus lines
6 policyholder notices;
- 7 (9) Establish the surplus lines insurance multi-state
8 compliance compact commission;
- 9 (10) Coordinate reporting of clearinghouse transaction data
10 on nonadmitted insurance of multi-state risks among
11 compacting states and contracting states; and
- 12 (11) Perform these and other related functions as may be
13 consistent with the purposes of the surplus lines
14 insurance multi-state compliance compact.

15 **§431:8-C Definitions.** As used in this compact:

16 "Admitted insurer" means an insurer that is licensed or
17 authorized to transact the business of insurance under the law
18 of the home state; for purposes of this compact, the term shall
19 not include a domestic surplus lines insurer as may be defined
20 by applicable state law.



1 "Affiliate" means, with respect to an insured, an entity
2 that controls, is controlled by, or is under common control with
3 the insured.

4 "Allocation formula" means the uniform methods adopted by
5 the commission by which insured risk exposures are apportioned
6 to each state to calculate premium taxes due.

7 "Bylaws" means the bylaws established by the commission for
8 its governance, or for directing or controlling the commission's
9 actions or conduct.

10 "Clearinghouse" means the commission's operations involving
11 the acceptance, processing, and dissemination among the
12 compacting states, contracting states, surplus lines licensees,
13 insureds, and other persons, of premium tax and clearinghouse
14 transaction data for nonadmitted insurance of multi-state risks,
15 in accordance with this compact and rules to be adopted by the
16 commission.

17 "Clearinghouse transaction data" means information
18 regarding nonadmitted insurance of multi-state risks required to
19 be reported, accepted, collected, processed, and disseminated by
20 surplus lines licensees for surplus lines insurance and insureds
21 for independently procured insurance under this compact and
22 rules to be adopted by the commission. The term includes



1 information related to single-state risks if a state elects to
2 have the clearinghouse collect taxes for the state on single-
3 state risks.

4 "Commission" means the surplus lines insurance multi-state
5 compliance compact commission established by this compact.

6 "Commissioner" means the chief insurance regulatory
7 official of a state.

8 "Compacting state" means a state that has enacted this
9 compact legislation and has not withdrawn pursuant to section
10 431:8-0(a) or been terminated pursuant to section 431:8-0(b).

11 "Contracting state" means a state that has not enacted this
12 compact legislation but has entered into a written contract with
13 the commission to use the services of and fully participate in
14 the clearinghouse.

15 "Control", an entity has "control" over another entity if
16 the entity directly or indirectly or acting through one or more
17 persons owns, controls, or has the power to vote twenty-five per
18 cent or more of any class of voting securities of the other
19 entity; or the entity controls in any manner the election of a
20 majority of the directors or trustees of the other entity.

21 "Home state" means with respect to an insured, the state in
22 which an insured maintains the insured's principal place of



1 business or, in the case of an individual, the state in which
2 the individual maintains the individual's principal residence;
3 provided that if one hundred per cent of the insured risk is
4 located out of the state where the insured maintains the
5 insured's principal place of business or the state where the
6 individual maintains the principal residence, the home state
7 shall be the state where the greatest percentage of the
8 insured's taxable premium for that insurance contract is
9 allocated.

10 "Independently procured insurance" means insurance procured
11 by an insured directly from a surplus lines insurer or other
12 nonadmitted insurer under the laws of the home state.

13 "Insurer eligibility requirements" means the criteria,
14 forms, and procedures established to qualify as a surplus lines
15 insurer under the law of the home state; provided that the
16 criteria, forms, and procedures are consistent with the express
17 provisions of the Nonadmitted and Reinsurance Reform Act on and
18 after July 21, 2011.

19 "Member" means a person chosen by a compacting state as the
20 compacting state's representative to the commission; provided
21 that each compacting state is limited to one vote.



1 "Multi-state risk" means a risk with insured exposures in
2 more than one state.

3 "Nonadmitted and Reinsurance Reform Act" means the
4 Nonadmitted and Reinsurance Reform Act of 2010, 15 United States
5 Code 8201 et seq., which is subtitle B of title V of the Dodd-
6 Frank Wall Street Reform and Consumer Protection Act.

7 "Nonadmitted insurance" means surplus lines insurance and
8 independently procured insurance.

9 "Nonadmitted insurer" means an insurer that is not
10 authorized or admitted to transact the business of insurance
11 under the law of the home state.

12 "Noncompacting state" means a state that has not adopted
13 this compact.

14 "Policyholder notice" means the disclosure notice or stamp
15 that is required to be furnished to an applicant or a
16 policyholder in connection with a surplus lines insurance
17 placement.

18 "Premium tax" means, with respect to nonadmitted insurance,
19 a tax, fee, assessment, or other charge imposed by a government
20 entity directly or indirectly based on a payment made as
21 consideration for the nonadmitted insurance, including premium
22 deposits, assessments, registration fees, and other



1 compensation, given in consideration for a contract of
2 insurance.

3 "Principal place of business" means, with respect to
4 determining the home state of the insured, the state where the
5 insured maintains the insured's headquarters and where the
6 insured's high-level officers direct, control, and coordinate
7 the business activities of the insured.

8 "Purchasing group" means a group formed pursuant to the
9 Liability Risk Retention Act of 1986, which has, as one of the
10 group's purposes, the purchase of liability insurance on a group
11 basis, and purchases liability insurance only for its group
12 members and only to cover the members' similar or related
13 liability exposure, and is composed of members with similar or
14 related business or activity liability exposure due to the
15 members' related, similar, or common business, trade, product,
16 services, premises, or operations and is domiciled in any state.

17 "Rule" means a statement of general or particular
18 applicability and future effect adopted by the commission
19 designed to implement, interpret, or prescribe law or policy, or
20 describing the organization, procedure, or practice requirements
21 of the commission that shall have the force and effect of law in
22 the compacting states.



1 "Single-state risk" means a risk with insured exposures in
2 only one state.

3 "Stamping office" means the insurance division of the
4 department of commerce and consumer affairs or a similar entity
5 of another state.

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

8 "State transaction documentation" means information
9 required under the laws of the home state to be filed by surplus
10 lines licensees to report surplus lines insurance and verify
11 compliance with surplus lines laws, and by insureds to report
12 independently procured insurance.

13 "Surplus lines insurance" means insurance procured by a
14 surplus lines licensee from a surplus lines insurer or other
15 nonadmitted insurer as permitted under the law of the home
16 state. For purposes of this compact, the term also means excess
17 lines insurance as may be defined by applicable state law.

18 "Surplus lines insurer" means a nonadmitted insurer
19 eligible under the law of the home state to accept business from
20 a surplus lines licensee. For purposes of this compact, the
21 term also means an insurer that is permitted to write surplus



1 lines insurance under the laws of the state where the insurer is
2 domiciled.

3 "Surplus lines licensee" means an individual, firm, or
4 corporation licensed under the law of the home state to place
5 surplus lines insurance.

6 **§431:8-D Establishment of the commission and venue. (a)**

7 The compacting states hereby create and establish a joint public
8 agency known as the surplus lines insurance multi-state
9 compliance compact commission.

10 (b) Pursuant to section 431:8-E, the commission may adopt
11 mandatory rules to establish exclusive home state authority
12 regarding nonadmitted insurance of multi-state risks, allocation
13 formulas, clearinghouse transaction data, a clearinghouse for
14 receipt and distribution of allocated premium tax and
15 clearinghouse transaction data, and uniform rulemaking
16 procedures and rules to finance, administer, operate, and
17 enforce compliance with the provisions of this compact and the
18 bylaws and rules.

19 (c) Pursuant to section 431:8-E, the commission may adopt
20 mandatory rules establishing foreign insurer eligibility
21 requirements and a concise and objective policyholder notice
22 regarding the nature of a surplus lines placement.



1 (d) The commission is a body corporate and politic, and an
2 instrumentality of the compacting states.

3 (e) The commission is solely responsible for the
4 commission's liabilities, except as otherwise specifically
5 provided in this compact.

6 (f) Venue is proper and judicial proceedings by or against
7 the commission shall be brought solely and exclusively in a
8 court of competent jurisdiction where the principal office of
9 the commission is located. The commission may waive venue and
10 jurisdictional defenses to the extent the commission adopts or
11 consents to participate in alternative dispute resolution
12 proceedings.

13 **§431:8-E Authority to establish mandatory rules.** The
14 commission shall adopt mandatory rules that establish:

15 (1) Allocation formulas for each type of nonadmitted
16 insurance coverage, which shall be used by each
17 compacting state and contracting state in acquiring
18 premium tax and clearinghouse transaction data from
19 surplus lines licensees and insureds to report to the
20 clearinghouse. The allocation formulas shall be
21 established with input from surplus lines licensees
22 and shall be based upon readily available data with



1 simplicity and uniformity for the surplus lines
2 licensee as a material consideration;

3 (2) Uniform clearinghouse transaction data reporting
4 requirements for all information reported to the
5 clearinghouse;

6 (3) Methods by which compacting states and contracting
7 states shall require surplus lines licensees and
8 insureds to pay premium tax and report clearinghouse
9 transaction data to the clearinghouse, including
10 processing clearinghouse transaction data through
11 state stamping offices, state insurance departments,
12 or other state-designated agencies or entities;

13 (4) That nonadmitted insurance of multi-state risks shall
14 be subject to all regulatory compliance requirements
15 of the home state exclusively. Home state regulatory
16 compliance requirements applicable to surplus lines
17 insurance shall include licensure requirements for
18 persons to sell, solicit, or negotiate surplus lines
19 insurance; insurer eligibility requirements or other
20 approved nonadmitted insurer requirements, diligent
21 search requirements, and state transaction
22 documentation and clearinghouse transaction data



1 regarding the payment of premium tax under this
2 compact and in rules to be adopted by the commission.
3 Home state regulatory compliance requirements
4 applicable to independently procured insurance
5 placements shall include providing state transaction
6 documentation and clearinghouse transaction data
7 regarding the payment of premium tax under this
8 compact and in rules to be adopted by the commission;

9 (5) That each compacting state and contracting state may
10 charge its own rate of taxation on the premium
11 allocated to the compacting state or contracting state
12 based on the applicable allocation formula; provided
13 that the state shall establish a single rate of
14 taxation applicable to all nonadmitted insurance
15 transactions and no other tax, fee assessment, or
16 other charge by a governmental or quasi-governmental
17 agency shall be permitted. Notwithstanding the
18 foregoing, stamping office fees may be charged as a
19 separate, additional cost, unless such fees are
20 incorporated into a state's single rate of taxation;

21 (6) That a change in the rate of taxation by a compacting
22 state or contracting state is restricted to changes



1 made prospectively with at least ninety days advance
2 notice to the commission;

3 (7) That each compacting state and each contracting state
4 shall require premium tax payments either annually,
5 semiannually, or quarterly, using only one or more of
6 the following dates: March 1, June 1, September 1,
7 and December 1;

8 (8) That each compacting state and contracting state shall
9 prohibit any other state agency or political
10 subdivision from requiring surplus lines licensees to
11 provide clearinghouse transaction data and state
12 transaction documentation other than to the insurance
13 department or tax officials of the home state or a
14 single designated agent of the insurance department or
15 tax officials of the home state;

16 (9) The obligation of the home state itself, through a
17 designated agent, or surplus lines stamping or service
18 office, to collect clearinghouse transaction data from
19 surplus lines licensees and from insureds for
20 independently procured insurance, where applicable,
21 for reporting to the clearinghouse;



- 1 (10) A method for the clearinghouse to periodically report
2 to compacting states, contracting states, surplus
3 lines licensees, and insureds who independently
4 procure insurance all premium taxes owed to each of
5 the compacting states and contracting states, the
6 dates upon which payment of such premium taxes is due,
7 and a method to pay them through the clearinghouse;
- 8 (11) That each surplus lines licensee is required to be
9 licensed only in the home state of each insured for
10 whom surplus lines insurance has been procured;
- 11 (12) That a policy considered to be surplus lines insurance
12 in the insured's home state shall be considered
13 surplus lines insurance in all compacting states and
14 contracting states, and taxed as a surplus lines
15 transaction in all states to which a portion of the
16 risk is allocated. Each compacting state and
17 contracting state shall require each surplus lines
18 licensee to pay to every other compacting state and
19 contracting state premium taxes on each multi-state
20 risk through the clearinghouse at the tax rate charged
21 on surplus lines transactions in the other compacting
22 states and contracting states on the portion of the



1 risk in the compacting state or contracting state, as
2 determined by the applicable uniform allocation
3 formula adopted by the commission. A policy
4 considered to be independently procured insurance in
5 the insured's home state shall be considered
6 independently procured insurance in all compacting
7 states and contracting states. Each compacting state
8 and each contracting state shall require the insured
9 to pay every other compacting state and contracting
10 state the independently procured insurance premium tax
11 on each multi-state risk through the clearinghouse
12 pursuant to the uniform allocation formula adopted by
13 the commission;

14 (13) Uniform foreign insurer eligibility requirements as
15 authorized by the Nonadmitted and Reinsurance Reform
16 Act;

17 (14) A uniform policyholder notice; and

18 (15) Uniform treatment of purchasing group surplus lines
19 insurance placements.

20 **§431:8-F Powers of the commission.** The commission shall
21 have the power to:



- 1 (1) Adopt rules and operating procedures, pursuant to
2 section 431:8-I of this compact, which shall have the
3 force and effect of law and shall be binding in the
4 compacting states to the extent and in the manner
5 provided in this compact;
- 6 (2) Bring and prosecute legal proceedings or actions in
7 the name of the commission; provided that the standing
8 of a state insurance department to sue or be sued
9 under applicable law shall not be affected;
- 10 (3) Issue subpoenas requiring the attendance and testimony
11 of witnesses and the production of evidence; provided
12 that the commission shall not be empowered to demand
13 or subpoena records or data from nonadmitted insurers;
- 14 (4) Establish and maintain offices, including a
15 clearinghouse for the receipt of premium tax and
16 clearinghouse transaction data regarding nonadmitted
17 insurance of multi-state risks, single-state risks for
18 states that elect to require surplus lines licensees
19 to pay premium tax on single-state risks through the
20 clearinghouse, and tax reporting forms;
- 21 (5) Purchase and maintain insurance and bonds;



- 1 (6) Borrow, accept, or contract for services of personnel,
2 including employees of a compacting state or stamping
3 office, under an open, transparent, objective,
4 competitive process and procedure adopted by the
5 commission;
- 6 (7) Hire employees, professionals, or specialists; elect
7 or appoint officers; fix their compensation; define
8 their duties and give them appropriate authority to
9 carry out the purposes of the compact, and determine
10 their qualifications, under an open, transparent,
11 objective, competitive process and procedure adopted
12 by the commission; and establish the commission's
13 personnel policies and programs relating to conflicts
14 of interest, rates of compensation, qualifications of
15 personnel, and other related personnel matters;
- 16 (8) Accept, receive, use, and dispose of any appropriate
17 donations and grants of money, equipment, supplies,
18 materials, and services; provided that the commission
19 shall avoid at all times any appearance of impropriety
20 or conflict of interest;
- 21 (9) Lease, purchase, accept appropriate gifts or donations
22 of, or otherwise own, hold, improve, or use any real,



- 1 personal, or mixed property; provided that the
2 commission shall avoid at all times any appearance of
3 impropriety or conflict of interest;
- 4 (10) Sell, convey, mortgage, pledge, lease, exchange,
5 abandon, or otherwise dispose of any real, personal,
6 or mixed property;
- 7 (11) Provide for tax audit rules and procedures for the
8 compacting states with respect to the allocation of
9 premium taxes, including:
- 10 (A) Minimum audit standards, including sampling
11 methods;
- 12 (B) Review of internal controls;
- 13 (C) Cooperation and sharing of audit responsibilities
14 between compacting states;
- 15 (D) Handling of refunds or credits due to
16 overpayments or improper allocation of premium
17 taxes;
- 18 (E) Taxpayer records to be reviewed, including a
19 minimum retention period; and
- 20 (F) Authority of compacting states to review,
21 challenge, or reaudit taxpayer records;



- 1 (12) Enforce compliance by compacting states and
- 2 contracting states with rules and bylaws pursuant to
- 3 section 431:8-0;
- 4 (13) Provide for dispute resolution among compacting states
- 5 and contracting states;
- 6 (14) Advise compacting states and contracting states on tax
- 7 issues relating to insurers, insureds, surplus lines
- 8 licensees, agents, or brokers domiciled or doing
- 9 business in noncompacting states, consistent with the
- 10 purposes of this compact;
- 11 (15) Make available advice and training to those personnel
- 12 in state stamping offices, state insurance
- 13 departments, or other state departments for record
- 14 keeping, tax compliance, and tax allocations; and be a
- 15 resource for state insurance departments and other
- 16 state departments;
- 17 (16) Establish a budget and make expenditures;
- 18 (17) Borrow money;
- 19 (18) Appoint and oversee committees, including advisory
- 20 committees composed of members, state insurance
- 21 regulators, state legislators or their
- 22 representatives, insurance industry and consumer



1 representatives, and other interested persons as
2 designated in this compact and the bylaws;

3 (19) Establish an executive committee of not more than
4 fifteen representatives, including officers elected by
5 the commission and other representatives as provided
6 for herein and determined by the bylaws.

7 Representatives of the executive committee shall serve
8 a one-year term and shall be entitled to one vote
9 each. The executive committee shall have the power to
10 act on behalf of the commission, except for
11 rulemaking, when the commission is not in session.

12 The executive committee shall oversee the day-to-day
13 activities of the administration of the compact,
14 including the activities of the operations committee
15 created under paragraph (20) and section 431:8-G(c)
16 and compliance and enforcement of the provisions of
17 the compact, the bylaws and rules, and other duties as
18 provided in this compact and as deemed necessary;

19 (20) Establish an operations committee of not more than
20 fifteen representatives to provide analysis, advice,
21 determinations, and recommendations regarding
22 technology, software, and systems integration to be



1 acquired by the commission and to provide analysis,
2 advice, determinations, and recommendations regarding
3 the establishment of mandatory rules to be adopted by
4 the commission;

5 (21) Enter into contracts with contracting states to enable
6 contracting states to use the services of and fully
7 participate in the clearinghouse under the terms and
8 conditions set forth in the contracts;

9 (22) Adopt and use a corporate seal; and

10 (23) Perform other functions that are necessary or
11 appropriate to achieve the purposes of this compact
12 consistent with state regulation of the business of
13 insurance.

14 **§431:8-G Organization of the commission.** (a) The
15 following provisions shall govern commission membership, voting,
16 and bylaws:

17 (1) Each compacting state shall have and is limited to one
18 member. A member shall be chosen through a process
19 and according to the qualifications and method of
20 selection determined by the compacting state. In the
21 absence of a selection provision, the member shall be
22 appointed by the governor of the compacting state. A



1 member may be removed or suspended from office as
2 provided by the law of the compacting state
3 represented by the member. A vacancy occurring in the
4 commission shall be filled in accordance with the laws
5 of the compacting state represented by the member
6 whose position has become vacant;

7 (2) Each member is entitled to one vote and shall have an
8 opportunity to participate in the governance of the
9 commission in accordance with the bylaws;

10 (3) The commission, by a majority vote of the members,
11 shall prescribe bylaws to govern its conduct as
12 necessary or appropriate to carry out the purposes and
13 exercise the powers of the compact, including:

14 (A) Establishing the fiscal year of the commission;

15 (B) Providing reasonable procedures for holding
16 meetings of the commission, the executive
17 committee, and the operations committee;

18 (C) Providing reasonable standards and procedures for
19 the establishment and meetings of committees and
20 governing any general or specific delegation of
21 any authority or function of the commission;



- 1 (D) Providing reasonable procedures for calling and
2 conducting meetings of the commission that
3 consist of a majority of commission members,
4 ensuring reasonable advance notice of each
5 meeting and providing for the right of citizens
6 to attend each meeting with enumerated exceptions
7 designed to protect the public's interest, the
8 privacy of individuals, and insurers' and surplus
9 lines licensees' proprietary information,
10 including trade secrets. The commission may meet
11 in camera only after a majority of the entire
12 membership votes to close a meeting in toto or in
13 part. As soon as practicable, the commission
14 shall make public a copy of the vote to close the
15 meeting revealing the vote of each member with no
16 proxy votes allowed, and votes taken during the
17 meeting;
- 18 (E) Establishing the titles, duties, authority, and
19 reasonable procedures for the election of the
20 officers of the commission;
- 21 (F) Providing reasonable standards and procedures for
22 the establishment of the personnel policies and



1 programs of the commission. Notwithstanding any
2 civil service or other similar laws of a
3 compacting state, the bylaws shall exclusively
4 govern the personnel policies and programs of the
5 commission;

6 (G) Adopting a code of ethics to address permissible
7 and prohibited activities of commission members
8 and employees; and

9 (H) Providing a mechanism for winding up the
10 operations of the commission and the equitable
11 disposition of surplus funds that exist after the
12 termination of the compact after the payment or
13 reservation or both of the commission's debts and
14 obligations; and

15 (4) The commission shall publish its bylaws in a
16 convenient form and file a copy of the bylaws and any
17 amendments to the bylaws with the appropriate agency
18 or officer in each of the compacting states.

19 (b) The following provisions shall govern the commission's
20 executive committee, personnel, and chairperson:

21 (1) An executive committee of the commission is
22 established. All actions of the executive committee,



1 including compliance and enforcement, are subject to
2 the review and ratification of the commission as
3 provided in the bylaws. The executive committee shall
4 have no more than fifteen representatives, or one
5 representative for each state if there are fewer than
6 fifteen compacting states, who are appointed and shall
7 serve for a term in accordance with the bylaws;

8 (2) The executive committee shall have the authority and
9 duties as set forth in the bylaws, including:

10 (A) Managing the affairs of the commission in a
11 manner consistent with the bylaws and purposes of
12 the commission;

13 (B) Establishing and overseeing an organizational
14 structure within, and appropriate procedures for,
15 the commission to provide for the creation of
16 rules and operating procedures;

17 (C) Overseeing the offices of the commission; and

18 (D) Planning, implementing, and coordinating
19 communications and activities with other state,
20 federal, and local government organizations to
21 advance the goals of the commission;



1 (3) The commission shall annually elect officers from the
2 executive committee, with the officers having the
3 authority and duties as specified in the bylaws; and

4 (4) The executive committee may, subject to the approval
5 of the commission and according to terms and
6 conditions, and for a period and compensation that the
7 commission determines to be appropriate, appoint or
8 retain an executive director. The executive director
9 shall serve as secretary to the commission but shall
10 not serve as a member of the commission. The
11 executive director shall hire and supervise other
12 persons as authorized by the commission.

13 (c) The following provisions shall govern the commission's
14 operations committee:

15 (1) An operations committee is established. All actions
16 of the operations committee are subject to the review
17 and oversight of the commission and the executive
18 committee, and shall be approved by the commission.
19 The executive committee shall accept the
20 determinations and recommendations of the operations
21 committee, unless good cause is shown why those
22 determinations and recommendations should not be



1 approved. Disputes as to whether good cause exists to
2 reject a determination or recommendation of the
3 operations committee shall be resolved by the majority
4 vote of the commission. The operations committee
5 shall have no more than fifteen representatives or one
6 representative for each state if there are fewer than
7 fifteen compacting states, who are appointed and shall
8 serve for a term in accordance with the bylaws. The
9 operations committee shall have responsibility for:

10 (A) Evaluating technology requirements for the
11 clearinghouse, assessing existing systems used by
12 state regulatory agencies and state stamping
13 offices to maximize the efficiency and successful
14 integration of the clearinghouse technology
15 systems with state and state stamping office
16 technology platforms, and to minimize costs to
17 the states, state stamping offices, and the
18 clearinghouse;

19 (B) Making recommendations to the executive committee
20 based on the operations committee's analysis and
21 determination of the clearinghouse technology



1 requirements and compatibility with existing
2 state and state stamping office systems;
3 (C) Evaluating the most suitable proposals for
4 adoption as mandatory rules, assessing the
5 proposals for ease of integration by states and
6 likelihood of successful implementation, and
7 reporting to the executive committee the
8 operations committee's determinations and
9 recommendations; and
10 (D) Other duties and responsibilities delegated to
11 the operations committee by the bylaws, the
12 executive committee, or the commission; and
13 (2) All representatives of the operations committee shall
14 be individuals who have extensive experience or
15 employment in the surplus lines insurance business,
16 including executives and attorneys employed by surplus
17 lines insurers, surplus lines licensees, law firms,
18 state insurance departments, or state stamping
19 offices, or any combination of these entities;
20 provided, however, that the representative from a
21 compacting state that uses the services of a state



1 stamping office shall be the chief operating officer
2 or a senior manager of the state stamping office.

3 (d) The following provisions shall govern the commission's
4 legislative and advisory committees:

5 (1) A legislative committee composed of state legislators
6 or their designees is established to monitor the
7 operations of and make recommendations to the
8 commission, including the executive committee;
9 provided that the bylaws shall determine the manner of
10 selecting the members of the legislative committee and
11 the term of office of the legislative committee
12 members. Before the commission adopts any uniform
13 standard, revision to the bylaws, annual budget, or
14 other significant matter as provided in the bylaws,
15 the executive committee shall consult with and report
16 to the legislative committee; and

17 (2) The commission may establish additional advisory
18 committees as the bylaws provide, for carrying out the
19 commission's functions.

20 (e) The commission shall maintain the commission's
21 corporate books and records in accordance with the bylaws.



1 (f) The following provisions shall govern the commission's
2 qualified immunity, defense, and indemnification:

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

20 (2) The commission shall defend a member, officer,
21 executive director, employee, or representative of the
22 commission, the executive committee, or any other



1 committee of the commission in any civil action
2 seeking to impose liability arising out of an actual
3 or alleged act, error, or omission that occurred, or
4 that the person against whom the claim is made had a
5 reasonable basis for believing occurred, within the
6 scope of commission employment, duties, or
7 responsibilities; provided that the actual or alleged
8 act, error, or omission did not result from that
9 person's intentional or wilful or wanton misconduct.
10 Nothing in this paragraph shall be construed to
11 prohibit the person from retaining the person's own
12 counsel; and

- 13 (3) The commission shall indemnify and hold harmless a
14 member, officer, executive director, employee, or
15 representative of the commission, executive committee,
16 or other committee of the commission for the amount of
17 a settlement or judgment obtained against the person
18 arising out of an actual or alleged act, error, or
19 omission that occurred, or that the person had a
20 reasonable basis for believing occurred, within the
21 scope of commission employment, duties, or
22 responsibilities; provided that the actual or alleged



1 act, error, or omission did not result from the
2 intentional or wilful or wanton misconduct of that
3 person.

4 **§431:8-H Meetings and acts of the commission.** (a) The
5 commission shall meet and take actions that are consistent with
6 the provisions of this compact and the bylaws.

7 (b) Each member of the commission may cast the vote to
8 which the compacting state represented by the member is entitled
9 and may participate in the business and affairs of the
10 commission. A member shall vote in person or by other means
11 provided in the bylaws. The bylaws may provide for members'
12 participation in meetings by telephone or other means of
13 communication.

14 (c) The commission shall meet at least once during each
15 calendar year and shall hold additional meetings according to
16 the bylaws.

17 (d) Public notice shall be given of all meetings, and all
18 meetings shall be open to the public, except as set forth in the
19 rules or in this compact.

20 (e) The commission shall adopt rules concerning the
21 meetings consistent with the principles contained in the

1 Government in the Sunshine Act, 5 United States Code 552b, as
2 amended.

3 (f) The commission and the commission's committees may
4 close a meeting, or a part of a meeting, upon a determination by
5 the commission by majority vote that an open meeting would be
6 likely to do any of the following:

7 (1) Relate solely to the commission's internal personnel
8 practices and procedures;

9 (2) Disclose matters specifically exempted from disclosure
10 by federal or state statute;

11 (3) Disclose trade secrets or commercial or financial
12 information that is privileged or confidential;

13 (4) Involve accusing a person of a crime, or formally
14 censuring a person;

15 (5) Disclose information of a personal nature where
16 disclosure would constitute a clearly unwarranted
17 invasion of personal privacy;

18 (6) Disclose investigative records compiled for law
19 enforcement purposes; or

20 (7) Specifically relate to the commission's issuance of a
21 subpoena or the commission's participation in a civil
22 action or other legal proceeding.



1 (g) For a meeting or part of a meeting that is closed
2 pursuant to subsection (f), the commission's legal counsel or
3 the counsel's designee shall certify that the meeting may be
4 closed and shall reference each relevant exemptive provision.
5 The commission shall keep minutes that fully and clearly
6 describe all matters discussed in the meeting and shall provide
7 a full and accurate summary of actions taken and the reasons for
8 the actions, including a description of the views expressed and
9 the record of a roll call vote. All documents considered in
10 connection with an action shall be identified in the minutes.
11 All minutes and documents of a closed meeting shall remain under
12 seal, subject to release by a majority vote of the commission.

13 **§431:8-I Rules and operating procedures; rulemaking**
14 **functions of the commission.** (a) The commission shall adopt
15 reasonable rules to effectively and efficiently achieve the
16 purposes of this compact. If the commission exercises its
17 rulemaking authority in a manner that is beyond the scope of the
18 purposes of this compact, or the powers granted by this compact,
19 the action by the commission shall be invalid and shall have no
20 force or effect.

21 (b) Rules shall be made pursuant to a rulemaking process
22 that substantially conforms to the Model State Administrative



1 Procedure Act of 1981, Uniform Laws Annotated, vol. 15, p. 1
2 (2000) as amended, as appropriate for the operations of the
3 commission.

4 (c) A rule, operating procedure, or amendment to a rule
5 shall be effective on the date specified in the rule, operating
6 procedure, or amendment.

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

16 **§431:8-J Commission records and enforcement.** (a) The
17 commission shall adopt rules establishing conditions and
18 procedures for public inspection and copying of the commission's
19 information and official records; provided that information and
20 records involving the privacy of individuals, insurers, or
21 insureds, or surplus lines licensee trade secrets, shall not be
22 subject to public inspection and copying. State transaction



1 documentation and clearinghouse transaction data collected by
2 the clearinghouse shall be used for only those purposes
3 expressed in or reasonably implied under the provisions of this
4 compact, and the commission shall afford the state transaction
5 documentation and clearinghouse transaction data the broadest
6 protections as permitted by applicable law for proprietary
7 information, trade secrets, or personal data. The commission
8 may adopt additional rules under which the commission may make
9 available to federal and state agencies, including law
10 enforcement agencies, records and information otherwise exempt
11 from disclosure, and may enter agreements with the agencies to
12 receive or exchange information or records subject to
13 nondisclosure and confidentiality provisions.

14 (b) Except for privileged records, data, and information,
15 the laws of a compacting state pertaining to confidentiality or
16 nondisclosure shall not relieve a compacting state member of the
17 duty to disclose any relevant records, data, or information to
18 the commission; provided that disclosure to the commission shall
19 not waive or otherwise affect a confidentiality requirement.
20 Except as otherwise expressly provided for in this compact, the
21 commission shall not be subject to the compacting state's laws
22 pertaining to confidentiality and nondisclosure with respect to



1 records, data, and information in the commission's possession.
2 Confidential information of the commission shall remain
3 confidential after the information is provided to a member. The
4 commission shall maintain the confidentiality of information
5 provided by a member if that information is confidential under
6 the member's state's law.

7 (c) The commission shall monitor compacting states for
8 compliance with the bylaws and rules. The commission shall
9 provide written notice of noncompliance to a compacting state
10 that does not comply with the bylaws and rules. If a compacting
11 state that receives a notice of noncompliance fails to remedy
12 the noncompliance within the time specified in the notice of
13 noncompliance, the compacting state shall be considered in
14 default as set forth in section 431:8-0(b).

15 **§431:8-K Dispute resolution.** (a) The commission shall
16 attempt, upon the request of a member, to resolve disputes or
17 other issues that are subject to this compact and that may arise
18 between two or more compacting states, contracting states, or
19 noncompacting states. A member may not bring an action in a
20 court with competent jurisdiction alleging a violation of a
21 provision, standard, or requirement of this compact, unless the



1 commission, at the member's request, has attempted to resolve
2 the dispute concerning the alleged violation.

3 (b) The commission shall provide alternative dispute
4 resolution procedures to resolve any disputes between insureds
5 or surplus lines licensees concerning tax calculation or
6 allocation or related issues that are the subject of this
7 compact.

8 (c) Alternative dispute resolution procedures provided
9 under this section shall be used in circumstances where a
10 dispute arises as to which state constitutes the home state.

11 **§431:8-L Review of commission decisions.** (a) Except as
12 necessary for adopting rules to fulfill the purposes of this
13 compact, the commission shall not otherwise regulate insurance
14 in the compacting states.

15 (b) No later than thirty days after the commission has
16 given notice of a rule or allocation formula, a third-party
17 filer or compacting state may appeal the determination to a
18 review panel appointed by the commission. The commission shall
19 adopt rules to establish procedures for the appointment of
20 review panels and to provide for notice and hearing in the
21 appeal. An allegation that the commission, in making a
22 compliance or tax determination, acted arbitrarily,



1 capriciously, or in a manner that is an abuse of discretion or
2 otherwise not in accordance with the law, is subject to judicial
3 review in accordance with section 431:8-D(f).

4 (c) The commission may monitor, review, and reconsider
5 commission decisions upon a finding that the determinations or
6 allocations do not meet the relevant rule. Where appropriate,
7 the commission may withdraw or modify a determination or
8 allocation after proper notice and hearing, subject to the
9 appeal process in subsection (b).

10 **§431:8-M Finance.** (a) The commission shall pay or
11 provide for the payment of the reasonable expenses of the
12 commission's establishment and organization. To fund the cost
13 of the commission's initial operations, the commission may
14 accept contributions, grants, and other forms of funding from
15 state stamping offices, compacting states, and other sources.

16 (b) The commission shall collect a fee, payable by the
17 insured directly or through a surplus lines licensee, on each
18 transaction processed through the compact clearinghouse, to
19 cover the cost of the operations and activities of the
20 commission and the commission's staff. The revenue from the fee
21 shall be sufficient to cover the commission's annual budget.



1 (c) The commission's budget for a fiscal year shall not be
2 approved until it has been subject to notice and comment, as
3 provided in section 431:8-I.

4 (d) The commission shall be regarded as performing
5 essential governmental functions in exercising the commission's
6 powers and functions and carrying out the provisions of this
7 compact and any law relating to this compact. The commission
8 shall not be required to pay a tax or assessment of any kind
9 levied by a state or political subdivision upon property used by
10 the commission for, or income or revenue resulting from, the
11 purposes described in this subsection, including any profit from
12 a sale or exchange.

13 (e) The commission shall keep complete and accurate
14 accounts of all of the commission's internal receipts, including
15 grants, donations, and disbursements for all funds under its
16 control. The internal financial accounts of the commission
17 shall be subject to the accounting procedures established under
18 the bylaws. The financial accounts and reports of the
19 commission, including the system of internal controls and
20 procedures of the commission, shall be audited annually by an
21 independent certified public accountant. Upon the determination
22 of the commission, but not less than every three years, the



1 review of the independent auditor shall include a management and
2 performance audit of the commission. The commission shall make
3 an annual report to the governors and legislatures of the
4 compacting states, including a report of the independent audit.
5 The commission's internal accounts shall not be confidential,
6 and the materials shall be shared with the commissioner, the
7 controller, or the stamping office of a compacting state upon
8 request; provided that work papers related to an internal or
9 independent audit and any information regarding the privacy of
10 individuals, or licensees' and insurers' proprietary
11 information, including trade secrets, shall remain confidential.

12 (f) A compacting state shall not have a claim to, or
13 ownership of, property held by or vested in the commission or to
14 commission funds held pursuant to this compact.

15 (g) The commission shall not make political contributions
16 to candidates for elected office, elected officials, political
17 parties, or political action committees. The commission shall
18 not engage in lobbying, except with respect to changes to this
19 compact.

20 **§431:8-N Compacting states; effective date; amendment.**

21 (a) Any state is eligible to become a compacting state.



1 (b) The compact shall become effective and binding upon
 2 legislative enactment of the compact into law by two compacting
 3 states. The commission established by this compact shall become
 4 effective for purposes of adopting rules and creating the
 5 clearinghouse when there are a total of ten compacting states
 6 and contracting states or, when there are compacting states and
 7 contracting states representing more than forty per cent of the
 8 surplus lines insurance premium volume based on records of the
 9 percentage of surplus lines insurance premium set forth in the
 10 following table:

11 **Surplus Line Insurance Premiums by State (Appendix A)**

12	Premiums based	Share of total
13 State	on taxes paid	premiums
14 Alabama	\$445,746,000	1.47%
15 Alaska	\$89,453,519	0.29%
16 Arizona	\$663,703,267	2.18%
17 Arkansas	\$201,859,750	0.66%
18 California	\$5,622,450,467	18.49%
19 Colorado	\$543,781,333	1.79%
20 Connecticut	\$329,358,800	1.08%
21 Delaware	\$92,835,950	0.31%
22 Florida	\$2,660,908,760	8.75%



1	Georgia	\$895,643,150	2.95%
2	Hawaii	\$232,951,489	0.77%
3	Idaho	\$74,202,255	0.24%
4	Illinois	\$1,016,504,629	3.34%
5	Indiana	\$412,265,320	1.36%
6	Iowa	\$135,130,933	0.44%
7	Kansas	\$160,279,300	0.53%
8	Kentucky	\$167,996,133	0.55%
9	Louisiana	\$853,173,280	2.81%
10	Maine	\$60,111,200	0.20%
11	Maryland	\$434,887,600	1.43%
12	Massachusetts	\$708,640,225	2.33%
13	Michigan	\$703,357,040	2.31%
14	Minnesota	\$393,128,400	1.29%
15	Mississippi	\$263,313,175	0.87%
16	Missouri	\$404,489,860	1.33%
17	Montana	\$64,692,873	0.21%
18	Nebraska	\$92,141,167	0.30%
19	Nevada	\$354,271,514	1.17%
20	New Hampshire	\$102,946,250	0.34%
21	New Jersey	\$1,087,994,033	3.58%
22	New Mexico	\$67,608,458	0.22%



1	New York	\$2,768,618,083	9.11%
2	North Carolina	\$514,965,060	1.69%
3	North Dakota	\$36,223,943	0.12%
4	Ohio	\$342,000,000	1.12%
5	Oklahoma	\$319,526,400	1.05%
6	Oregon	\$312,702,150	1.03%
7	Pennsylvania	\$780,666,667	2.57%
8	Rhode Island	\$71,794,067	0.24%
9	South Carolina	\$412,489,825	1.36%
10	South Dakota	\$38,702,120	0.13%
11	Tennessee	\$451,775,240	1.49%
12	Texas	\$3,059,170,454	10.06%
13	Utah	\$142,593,412	0.47%
14	Vermont	\$41,919,433	0.14%
15	Virginia	\$611,530,667	2.01%
16	Washington	\$739,932,050	2.43%
17	West Virginia	\$130,476,250	0.43%
18	Wisconsin	\$248,758,333	0.82%
19	Wyoming	\$40,526,967	0.13%
20	Total	\$30,400,197,251	100.00%

21 This data is data from calendar year 2005, excerpted from a
22 study dated February 27, 2007, by Mackin & Company.



1 Thereafter, it shall become effective and binding as to any
2 other compacting state upon the enactment of the compact into
3 law by that state. Notwithstanding the foregoing, the
4 clearinghouse operations and the duty to report clearinghouse
5 transaction data shall begin on the first January 1 or July 1
6 following the first anniversary of the commission's effective
7 date. The commission shall set a date for the reporting of
8 clearinghouse transaction data by states that become compacting
9 states after the commission's effective date and shall provide
10 at least ninety days' advance notice of the date for the
11 reporting of clearinghouse data to surplus lines licensees and
12 all other interested parties.

13 (c) Amendments to this compact may be proposed by the
14 commission for enactment by the compacting states. An amendment
15 to this compact is not effective and binding upon the commission
16 and the compacting states unless and until all compacting states
17 enact the amendment into law.

18 **§431:8-0 Withdrawal; default; termination.** (a) The
19 following provisions shall govern withdrawal from the compact:

20 (1) Once effective, the compact shall continue in force
21 and remain binding upon every compacting state;
22 provided that a compacting state may withdraw from the



- 1 compact by enacting a statute specifically repealing
2 the statute that enacted the compact into law;
- 3 (2) The effective date of a compacting state's withdrawal
4 under paragraph (1) shall be the effective date of the
5 repealing statute; provided that the withdrawal under
6 paragraph (1) shall not apply to a tax or compliance
7 determination that has already been approved on the
8 date the repealing statute becomes effective, except
9 by mutual agreement of the commission and the
10 withdrawing state, unless the approval of the tax or
11 compliance determination is rescinded by the
12 commission;
- 13 (3) The member of the withdrawing state shall immediately
14 notify the executive committee of the commission in
15 writing upon the introduction of legislation repealing
16 this compact in the withdrawing state;
- 17 (4) The commission shall notify the other compacting
18 states of the introduction of the legislation within
19 ten days after the commission's receipt of notice
20 under paragraph (3);
- 21 (5) A withdrawing state is responsible for all
22 obligations, duties, and liabilities incurred through



1 the effective date of the state's withdrawal,
2 including obligations the performance of which extend
3 beyond the effective date of withdrawal. To the
4 extent those obligations may have been released or
5 relinquished by mutual agreement of the commission and
6 the withdrawing state, the commission's determinations
7 prior to the effective date of the state's withdrawal
8 continue to be effective and shall be given full force
9 and effect in the withdrawing state, unless formally
10 rescinded by the commission; and

11 (6) Reinstatement following withdrawal of any compacting
12 state shall occur upon the effective date of the
13 withdrawing state's legislature reenacting the
14 compact.

15 (b) The following provisions shall govern default by a
16 compacting state:

17 (1) If the commission determines that a compacting state
18 has defaulted in the performance of any of the
19 compacting state's obligations or responsibilities
20 under this compact or under the bylaws or rules, the
21 commission shall, after notice and hearing under the
22 bylaws, suspend all rights, privileges, and benefits



1 conferred by this compact on the defaulting state,
2 effective on the effective date of default as fixed by
3 the commission. The grounds for the suspension of a
4 compacting state for default include failure of a
5 compacting state to perform its obligations or
6 responsibilities and any other grounds designated in
7 commission rules. The commission shall immediately
8 notify the defaulting state in writing of the
9 defaulting state's suspension, pending a cure of the
10 default. The commission shall stipulate the
11 conditions and the time period within which the
12 defaulting state shall cure its default. If the
13 defaulting state fails to cure the default within the
14 time period specified by the commission, the
15 defaulting state shall be terminated from this
16 compact, and all rights, privileges, and benefits
17 conferred by this compact shall be terminated on the
18 effective date of the state's termination from this
19 compact;

- 20 (2) Decisions of the commission that have already been
21 issued on the effective date of a state's termination
22 shall remain in force in the defaulting state in the



1 same manner as if the defaulting state had withdrawn
2 voluntarily pursuant to subsection (a); and

3 (3) Reinstatement following termination of a compacting
4 state requires a legislative reenactment of the
5 compact.

6 (c) The following provisions shall govern termination of
7 the compact:

8 (1) The compact shall dissolve effective on the date of
9 the withdrawal or termination for default of the
10 compacting state whose withdrawal or termination
11 reduces membership in the compact to one compacting
12 state; and

13 (2) Upon the dissolution of this compact, the compact
14 becomes void and shall have no further force or
15 effect, and the business and affairs of the commission
16 shall be wound up and any surplus funds shall be
17 distributed in accordance with the bylaws and rules.

18 **§431:8-P Severability and construction.** (a) The
19 provisions of this compact are severable, and if any phrase,
20 clause, sentence, or provision of this compact is deemed
21 unenforceable, the remaining provisions of the compact shall be
22 enforceable.



1 (b) The provisions of this compact shall be liberally
2 construed to effectuate the compact's purposes.

3 (c) Any headings and captions of sections and subsections
4 used in this compact are for convenience only and shall be
5 ignored in construing the substantive provisions of this
6 compact.

7 **§431:8-Q Binding effect of compact and other laws. (a)**

8 The following provisions shall govern the effect of the compact
9 on other laws:

10 (1) Except as provided in paragraph (2), nothing in this
11 compact shall prevent the enforcement of any other law
12 of a compacting state;

13 (2) Decisions of the commission and rules and other
14 requirements of the commission shall constitute the
15 exclusive rule or determination applicable to the
16 compacting states. A law or regulation regarding
17 nonadmitted insurance of multi-state risks that is
18 contrary to rules of the commission shall be preempted
19 with respect to the following:

20 (A) Clearinghouse transaction data reporting
21 requirements;

22 (B) Allocation formula;



- 1 (C) Clearinghouse transaction data collection
- 2 requirements;
- 3 (D) Premium tax payment time frames and rules
- 4 concerning dissemination of data among the
- 5 compacting states for nonadmitted insurance of
- 6 multi-state risks and single-state risks;
- 7 (E) Exclusive compliance with surplus lines law of
- 8 the home state of the insured;
- 9 (F) Rules for reporting to a clearinghouse for
- 10 receipt and distribution of clearinghouse
- 11 transaction data related to nonadmitted insurance
- 12 of multi-state risks;
- 13 (G) Uniform foreign insurers eligibility
- 14 requirements;
- 15 (H) Uniform policyholder notice; and
- 16 (I) Uniform treatment of purchasing groups procuring
- 17 nonadmitted insurance; and
- 18 (3) Except as provided in paragraph (2), a rule, uniform
- 19 standard, or other requirement of the commission
- 20 constitutes the exclusive provision that a
- 21 commissioner may apply to compliance or tax



1 determinations; provided that an action taken by the
2 commission shall not abrogate or restrict:

- 3 (A) The access of any person to state courts;
- 4 (B) The availability of alternative dispute
5 resolution under section 431:8-K;
- 6 (C) Remedies available under state law related to
7 breach of contract, tort, or other laws not
8 specifically directed to compliance or tax
9 determinations;
- 10 (D) State law relating to the construction of
11 insurance contracts; or
- 12 (E) The authority of the attorney general of the
13 state, including maintaining any actions or
14 proceedings, as authorized by law.

15 (b) The following provisions shall govern the binding
16 effect of this compact:

- 17 (1) Except as provided in this subsection, lawful actions
18 of the commission, including rules adopted by the
19 commission, are binding upon the compacting states;
- 20 (2) Agreements between the commission and the compacting
21 states are binding in accordance with the terms of the
22 agreements;



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Surplus Lines Insurance; Surplus Lines Insurance Multi-State Compliance Compact

Description:

Directs the insurance commissioner to join the surplus lines insurance multi-state compliance compact. Enacts the surplus lines insurance multi-state compliance compact. (SB2168 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

