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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

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**PART I**

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

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The legislature also finds that the surplus lines insurance multi-state compliance compact, or SLIMPACT, was drafted to streamline surplus lines insurance taxation and regulation.

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SLIMPACT is an interstate compact that is a direct response to the Dodd-Frank Wall Street Reform and Consumer Protection Act's request for uniformity and simplicity in state surplus line tax collection and allocation.



1 The legislature further finds that SLIMPACT has been  
2 endorsed by the National Conference of Insurance Legislators,  
3 the Council of State Governments, the National Conference of  
4 State Legislatures, and the majority of insurance industry and  
5 producer groups who advocated for federal surplus lines reform.

6 The legislature additionally finds that nine states have  
7 enacted legislation to join SLIMPACT. A tenth state is needed  
8 to effectuate the compact for tax clearinghouse and rulemaking  
9 purposes. It is the intent of the legislature for Hawaii to  
10 become the tenth state to join SLIMPACT and thus streamline  
11 surplus lines taxation and regulation in Hawaii.

12 The purpose of this Act is to:

- 13 (1) Direct the insurance commissioner to join the surplus  
14 lines insurance multi-state compliance compact; and  
15 (2) Enact the surplus lines insurance multi-state  
16 compliance compact.

17 **PART II**

18 SECTION 2. The legislature finds that Act 68, Session Laws  
19 of Hawaii 2011, amended the insurance code to comply with the  
20 Nonadmitted and Reinsurance Reform Act of 2010 relating to  
21 surplus lines insurance. Act 68 also permitted the insurance



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 as  
15 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        ~~[-1-]~~ (A)    Enter into [~~a cooperative agreement, reciprocal~~  
2                                    ~~agreement, or compact with other states]~~ the  
3                                    surplus lines insurance multi-state compliance  
4                                    compact adopted by the National Conference of  
5                                    Insurance Legislators and known as SLIMPACT to  
6                                    facilitate and provide for the collection,  
7                                    allocation, and disbursement of premium taxes  
8                                    attributable to the placement of surplus lines  
9                                    insurance; and

10                                    (B)    Conform to the requirements of the federal  
11                                    Nonadmitted and Reinsurance Reform Act of 2010;  
12                                    and

13                                    (2)    May:

14        ~~[-2-]~~ (A)    Provide for uniform methods of allocation and  
15                                    reporting among surplus lines insurance risk  
16                                    classifications;

17        ~~[-3-]~~    ~~Conform to the requirements of the federal Nonadmitted~~  
18                                    ~~and Reinsurance Reform Act of 2010;~~

19        ~~[-4-]~~ (B)    Share information among states relating to  
20                                    surplus lines insurance premium taxes; and

21        ~~[-5-]~~ (C)    Utilize a method adopted in cooperation with  
22                                    other states to allocate risk and compute the tax



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

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

10 **PART III**

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

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

16 **"PART . SURPLUS LINES INSURANCE MULTI-STATE**  
17 **COMPLIANCE COMPACT**

18 **§431:8-A Enactment of compact.** The surplus lines  
19 insurance multi-state compliance compact is entered into law and  
20 entered into by this State with all other states legally joining  
21 this compact in the form substantially as follows in this part.

22 **§431:8-B Purpose.** The purposes of this compact are to:



- 1 (1) Implement the express provisions of the Nonadmitted  
2 and Reinsurance Reform Act;
- 3 (2) Protect the premium tax revenues of the compacting  
4 states through facilitating the payment and collection  
5 of premium tax on nonadmitted insurance; protect the  
6 interests of the compacting states by supporting the  
7 continued availability of such insurance to consumers;  
8 provide for allocation of premium tax for nonadmitted  
9 insurance of multi-state risks among the states in  
10 accordance with uniform allocation formulas to be  
11 developed, adopted, and implemented by the commission;
- 12 (3) Streamline and improve the efficiency of the surplus  
13 lines market by eliminating duplicative and  
14 inconsistent tax and regulatory requirements among the  
15 states; and promote and protect the interest of  
16 surplus lines licensees who assist insureds and  
17 surplus lines insurers, thereby ensuring the continued  
18 availability of surplus lines insurance to consumers;
- 19 (4) Streamline regulatory compliance with respect to  
20 nonadmitted insurance placements by providing for  
21 exclusive single state regulatory compliance for  
22 nonadmitted insurance of multi-state risks, in



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

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

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

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

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

13 **§431:8-C Definitions.** As used in this compact:

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

19 "Affiliate" means, with respect to an insured, an entity  
20 that controls, is controlled by, or is under common control with  
21 the insured.





1 "Allocation formula" means the uniform methods promulgated  
2 by the commission by which insured risk exposures are  
3 apportioned to each state to calculate premium taxes due.

4 "Bylaws" means the bylaws established by the commission for  
5 its governance, or for directing or controlling the commission's  
6 actions or conduct.

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

14 "Clearinghouse transaction data" means information  
15 regarding nonadmitted insurance of multi-state risks required to  
16 be reported, accepted, collected, processed, and disseminated by  
17 surplus lines licensees for surplus lines insurance and insureds  
18 for independently procured insurance under this compact and  
19 rules to be adopted by the commission. The term includes  
20 information related to single state risks if a state elects to  
21 have the clearinghouse collect taxes for the state on single  
22 state risks.



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

3 "Commissioner" means the chief insurance regulatory  
4 official of a State.

5 "Compacting state" means a state that has enacted this  
6 compact legislation and has not withdrawn pursuant to section  
7 431:8-0(a), or been terminated pursuant to section 431:8-0(b).

8 "Contracting state" means a state that has not enacted this  
9 compact legislation but has entered a written contract with the  
10 commission to utilize the services of and fully participate in  
11 the clearinghouse.

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

18 "Home state" means with respect to an insured, the state in  
19 which an insured maintains the insured's principal place of  
20 business or, in the case of an individual, the state in which  
21 the individual maintains the individual's principal residence;  
22 provided that if one hundred per cent of the insured risk is



1 located out of the state where the insured maintains the  
2 insured's principal place of business or the state where the  
3 individual maintains the principal residence, the home state  
4 shall be the state where the greatest percentage of the  
5 insured's taxable premium for that insurance contract is  
6 allocated.

7 "Home state of affiliated group" means the home state of  
8 the member of the affiliated group that has the largest  
9 percentage of premium attributed to it under an insurance  
10 contract that has more than one insured from the affiliated  
11 group listed as named insureds on a single nonadmitted insurance  
12 contract.

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

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



1 "Member" means a person or persons chosen by a compacting  
2 state as the compacting state's representative or  
3 representatives to the commission; provided that each compacting  
4 state is limited to one vote.

5 "Multi-state risk" means a risk with insured exposures in  
6 more than one state.

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

11 "Nonadmitted insurance" means surplus lines insurance and  
12 independently procured insurance.

13 "Nonadmitted insurer" means an insurer that is not  
14 authorized or admitted to transact the business of insurance  
15 under the law of the home state.

16 "Noncompacting state" means a state that has not adopted  
17 this compact.

18 "Policyholder notice" means the disclosure notice or stamp  
19 that is required to be furnished to an applicant or a  
20 policyholder in connection with a surplus lines insurance  
21 placement.



1 "Premium tax" means, with respect to nonadmitted insurance,  
2 a tax, fee, assessment, or other charge imposed by a government  
3 entity directly or indirectly based on a payment made as  
4 consideration for the nonadmitted insurance, including premium  
5 deposits, assessments, registration fees, and other compensation  
6 given in consideration for a contract of insurance.

7 "Principal place of business" means, with respect to  
8 determining the home state of the insured, the state where the  
9 insured maintains the insured's headquarters and where the  
10 insured's high-level officers direct, control, and coordinate  
11 the business activities of the insured.

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

21 "Rule" means a statement of general or particular  
22 applicability and future effect promulgated by the commission



1 designed to implement, interpret, or prescribe law or policy, or  
2 describing the organization, procedure, or practice requirements  
3 of the commission that shall have the force and effect of law in  
4 the compacting states.

5 "Single state risk" means a risk with insured exposures in  
6 only one state.

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

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

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

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



1 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 will 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 and service offices, state insurance  
12          departments, or other state designated agencies or  
13          entities;

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



1 documentation and clearinghouse transaction data  
2 regarding the payment of premium tax under this  
3 compact and in rules to be adopted by the commission.  
4 Home state regulatory compliance requirements  
5 applicable to independently procured insurance  
6 placements shall include providing state transaction  
7 documentation and clearinghouse transaction data  
8 regarding the payment of premium tax under this  
9 compact and in rules to be adopted by the commission;  
10 (5) That each compacting state and contracting state may  
11 charge its own rate of taxation on the premium  
12 allocated to the compacting state or contracting state  
13 based on the applicable allocation formula; provided  
14 that the state shall establish a single rate of  
15 taxation applicable to all nonadmitted insurance  
16 transactions and no other tax, fee assessment, or  
17 other charge by a governmental or quasi-governmental  
18 agency is permitted. Notwithstanding the foregoing,  
19 stamping office fees may be charged as a separate,  
20 additional cost unless such fees are incorporated into  
21 a state's single rate of taxation;



- 1           (6) That a change in the rate of taxation by a compacting  
2           state or contracting state is restricted to changes  
3           made prospectively with at least ninety days advance  
4           notice to the commission;
- 5           (7) That each compacting state and each contracting state  
6           shall require premium tax payments either annually,  
7           semiannually, or quarterly, using only one or more of  
8           the following dates: March 1, June 1, September 1,  
9           and December 1;
- 10          (8) That each compacting state and contracting state shall  
11          prohibit any other state agency or political  
12          subdivision from requiring surplus lines licensees to  
13          provide clearinghouse transaction data and state  
14          transaction documentation other than to the insurance  
15          department or tax officials of the home state or a  
16          single designated agent of the insurance department or  
17          tax officials of the home state;
- 18          (9) The obligation of the home state itself, through a  
19          designated agent, or surplus lines stamping or service  
20          office, to collect clearinghouse transaction data from  
21          surplus lines licensees and from insureds for



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



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

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

19 (14) A uniform policyholder notice; and

20 (15) Uniform treatment of purchasing group surplus lines  
21 insurance placements.



1           **§431:8-F Powers of the commission.** The commission shall  
2 have the power to:

3           (1) Promulgate rules and operating procedures, pursuant to  
4 section 431:8-I of this compact, which shall have the  
5 force and effect of law and shall be binding in the  
6 compacting states to the extent and in the manner  
7 provided in this compact;

8           (2) Bring and prosecute legal proceedings or actions in  
9 the name of the commission; provided that the standing  
10 of a state insurance department to sue or be sued  
11 under applicable law shall not be affected;

12           (3) Issue subpoenas requiring the attendance and testimony  
13 of witnesses and the production of evidence; provided  
14 that the commission is not empowered to demand or  
15 subpoena records or data from nonadmitted insurers;

16           (4) Establish and maintain offices, including the creation  
17 of a clearinghouse for the receipt of premium tax and  
18 clearinghouse transaction data regarding nonadmitted  
19 insurance of multi-state risks, single state risks for  
20 states that elect to require surplus lines licensees  
21 to pay premium tax on single state risks through the  
22 clearinghouse, and tax reporting forms;



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



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





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



1 regulators, state legislators or their  
2 representatives, insurance industry and consumer  
3 representatives, and other interested persons as  
4 designated in this compact and the bylaws;

5 (19) Establish an executive committee of at least seven and  
6 not more than fifteen representatives, including  
7 officers elected by the commission and other  
8 representatives as provided for herein and determined  
9 by the bylaws. Representatives of the executive  
10 committee shall serve a one-year term and shall be  
11 entitled to one vote each. The executive committee  
12 shall have the power to act on behalf of the  
13 commission, except for rulemaking, when the commission  
14 is not in session. The executive committee shall  
15 oversee the day to day activities of the  
16 administration of the compact, including the  
17 activities of the operations committee created under  
18 paragraph (20) and section 431:8-G(c) and compliance  
19 and enforcement of the provisions of the compact, the  
20 bylaws and rules, and other duties as provided in this  
21 compact and as deemed necessary;



- 1           (20) Establish an operations committee of at least seven  
2                   and not more than fifteen representatives to provide  
3                   analysis, advice, determinations, and recommendations  
4                   regarding technology, software, and systems  
5                   integration to be acquired by the commission and to  
6                   provide analysis, advice, determinations, and  
7                   recommendations regarding the establishment of  
8                   mandatory rules to be adopted by the commission;
- 9           (21) Enter into contracts with contracting states to enable  
10                   contracting states to use the services of and fully  
11                   participate in the clearinghouse under the terms and  
12                   conditions set forth in the contracts;
- 13           (22) Adopt and use a corporate seal; and
- 14           (23) Perform other functions that are necessary or  
15                   appropriate to achieve the purposes of this compact  
16                   consistent with state regulation of the business of  
17                   insurance.

18           **§431:8-G Organization of the commission.** (a) The  
19 following provisions shall govern commission membership, voting,  
20 and bylaws:

- 21           (1) Each compacting state shall have and is limited to one  
22                   member. A member shall be chosen through a process



1 and according to the qualifications and method of  
2 selection determined by the compacting state. In the  
3 absence of a selection provision, the member shall be  
4 appointed by the governor of the compacting state. A  
5 member may be removed or suspended from office as  
6 provided by the law of the compacting state  
7 represented by the member. A vacancy occurring in the  
8 commission shall be filled in accordance with the laws  
9 of the compacting state represented by the member  
10 whose position has become vacant;

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

14 (3) The commission, by a majority vote of the members,  
15 shall prescribe bylaws to govern its conduct as  
16 necessary or appropriate to carry out the purposes and  
17 exercise the powers of the compact, including but not  
18 limited to:

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

20 (B) Providing reasonable procedures for holding  
21 meetings of the commission, the executive  
22 committee, and the operations committee;



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



- 1 (E) Establishing the titles, duties, authority, and  
2 reasonable procedures for the election of the  
3 officers of the commission;
- 4 (F) Providing reasonable standards and procedures for  
5 the establishment of the personnel policies and  
6 programs of the commission. Notwithstanding any  
7 civil service or other similar laws of a  
8 compacting state, the bylaws shall exclusively  
9 govern the personnel policies and programs of the  
10 commission;
- 11 (G) Promulgating a code of ethics to address  
12 permissible and prohibited activities of  
13 commission members and employees; and
- 14 (H) Providing a mechanism for winding up the  
15 operations of the commission and the equitable  
16 disposition of surplus funds that exist after the  
17 termination of the compact after the payment or  
18 reservation or both of the commission's debts and  
19 obligations; and
- 20 (4) The commission shall publish its bylaws in a  
21 convenient form and file a copy of the bylaws and any



1 amendments to the bylaws with the appropriate agency  
2 or officer in each of the compacting states.

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

5 (1) An executive committee of the commission is  
6 established. All actions of the executive committee,  
7 including compliance and enforcement, are subject to  
8 the review and ratification of the commission as  
9 provided in the bylaws. The executive committee shall  
10 have no more than fifteen representatives, or one  
11 representative for each state if there are less than  
12 fifteen compacting states, who are appointed and shall  
13 serve for a term in accordance with the bylaws;

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

16 (A) Managing the affairs of the commission in a  
17 manner consistent with the bylaws and purposes of  
18 the commission;

19 (B) Establishing and overseeing an organizational  
20 structure within, and appropriate procedures for  
21 the commission to provide for the creation of  
22 rules and operating procedures;



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

2 (D) Planning, implementing, and coordinating  
3 communications and activities with other state,  
4 federal, and local government organizations to  
5 advance the goals of the commission;

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

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

18 (c) The following provisions shall govern the commission's  
19 operations committee:

20 (1) An operations committee is established. All actions  
21 of the operations committee are subject to the review  
22 and oversight of the commission and the executive





1 committee, and shall be approved by the commission.  
2 The executive committee shall accept the  
3 determinations and recommendations of the operations  
4 committee unless good cause is shown why those  
5 determinations and recommendations should not be  
6 approved. Disputes as to whether good cause exists to  
7 reject a determination or recommendation of the  
8 operations committee shall be resolved by the majority  
9 vote of the commission. The operations committee  
10 shall have no more than fifteen representatives or one  
11 representative for each state if there are fewer than  
12 fifteen compacting states, who are appointed and shall  
13 serve for a term in accordance with the bylaws. The  
14 operations committee shall have responsibility for:  
15 (A) Evaluating technology requirements for the  
16 clearinghouse, assessing existing systems used by  
17 state regulatory agencies and state stamping  
18 offices to maximize the efficiency and successful  
19 integration of the clearinghouse technology  
20 systems with state and state stamping office  
21 technology platforms, and to minimize costs to



- 1           the states, state stamping offices, and the  
2           clearinghouse;
- 3           (B) Making recommendations to the executive committee  
4           based on the operations committee's analysis and  
5           determination of the clearinghouse technology  
6           requirements and compatibility with existing  
7           state and state stamping office systems;
- 8           (C) Evaluating the most suitable proposals for  
9           adoption as mandatory rules, assessing the  
10          proposals for ease of integration by states and  
11          likelihood of successful implementation, and  
12          reporting to the executive committee the  
13          operations committee's determinations and  
14          recommendations; and
- 15          (D) Other duties and responsibilities delegated to  
16          the operations committee by the bylaws, the  
17          executive committee, or the commission; and
- 18          (2) All representatives of the operations committee shall  
19          be individuals who have extensive experience or  
20          employment or both in the surplus lines insurance  
21          business, including executives and attorneys employed  
22          by surplus lines insurers, surplus lines licensees,



1 law firms, state insurance departments, or state  
2 stamping offices, or any combination of these  
3 entities. Operations committee representatives from  
4 compacting states that utilize the services of a state  
5 stamping office shall appoint the chief operating  
6 officer or a senior manager of the state stamping  
7 office to the operations committee.

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

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



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

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

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

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



1 loss, injury, or liability caused by the intentional  
2 or wilful or wanton misconduct of that person;

3 (2) The commission shall defend a member, officer,  
4 executive director, employee, or representative of the  
5 commission, the executive committee, or any other  
6 committee of the commission in any civil action  
7 seeking to impose liability arising out of an actual  
8 or alleged act, error, or omission that occurred, or  
9 that the person against whom the claim is made had a  
10 reasonable basis for believing occurred, within the  
11 scope of commission employment, duties, or  
12 responsibilities; provided that the actual or alleged  
13 act, error, or omission did not result from that  
14 person's intentional or wilful or wanton misconduct.

15 Nothing in this paragraph may be construed to prohibit  
16 the person from retaining the person's own counsel;  
17 and

18 (3) The commission shall indemnify and hold harmless a  
19 member, officer, executive director, employee, or  
20 representative of the commission, executive committee,  
21 or other committee of the commission for the amount of  
22 a settlement or judgment obtained against the person



1 arising out of an actual or alleged act, error, or  
2 omission that occurred, or that the person had a  
3 reasonable basis for believing occurred, within the  
4 scope of commission employment, duties, or  
5 responsibilities; provided that the actual or alleged  
6 act, error, or omission did not result from the  
7 intentional or wilful or wanton misconduct of that  
8 person.

9 **§431:8-H Meetings and acts of the commission.** (a) The

10 commission shall meet and take actions that are consistent with  
11 the provisions of this compact and the bylaws.

12 (b) Each member of the commission shall have the right and  
13 power to cast a vote to which the compacting state represented  
14 by the member is entitled, and to participate in the business  
15 and affairs of the commission. A member shall vote in person or  
16 by other means provided in the bylaws. The bylaws may provide  
17 for members' participation in meetings by telephone or other  
18 means of communication.

19 (c) The commission shall meet at least once during each  
20 calendar year and shall hold additional meetings according to  
21 the bylaws.



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

4 (e) The commission shall promulgate rules concerning the  
5 meetings consistent with the principles contained in the  
6 Government in the Sunshine Act, 5 United States Code 552b, as  
7 may be amended.

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

- 12 (1) Relate solely to the commission's internal personnel  
13 practices and procedures;
- 14 (2) Disclose matters specifically exempted from disclosure  
15 by federal and state statute;
- 16 (3) Disclose trade secrets or commercial or financial  
17 information that is privileged or confidential;
- 18 (4) Involve accusing a person of a crime, or formally  
19 censuring a person;
- 20 (5) Disclose information of a personal nature where  
21 disclosure would constitute a clearly unwarranted  
22 invasion of personal privacy;



1 (6) Disclose investigative records compiled for law  
2 enforcement purposes; or

3 (7) Specifically relate to the commission's issuance of a  
4 subpoena or the commission's participation in a civil  
5 action or other legal proceeding.

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

18 **§431:8-I Rules and operating procedures; rulemaking**  
19 **functions of the commission.** (a) The commission shall  
20 promulgate reasonable rules to effectively and efficiently  
21 achieve the purposes of this compact. If the commission  
22 exercises its rulemaking authority in a manner that is beyond





1 the scope of the purposes of this compact, or the powers granted  
2 by this compact, the action by the commission shall be invalid  
3 and shall have no force or effect.

4 (b) Rules shall be made pursuant to a rulemaking process  
5 that substantially conforms to the Model State Administrative  
6 Procedure Act of 1981, Uniform Laws Annotated, vol. 15, p. 1  
7 (2000) as amended, as appropriate for the operations of the  
8 commission.

9 (c) A rule, operating procedure, or amendment to a rule is  
10 effective on the date specified in the rule, operating  
11 procedure, or amendment.

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



1           **§431:8-J Commission records and enforcement.** (a) The  
2 commission shall promulgate rules establishing conditions and  
3 procedures for public inspection and copying of the commission's  
4 information and official records, not including information and  
5 records involving the privacy of individuals, insurers, or  
6 insureds, or surplus lines licensee trade secrets. State  
7 transaction documentation and clearinghouse transaction data  
8 collected by the clearinghouse shall be used for only those  
9 purposes expressed in or reasonably implied under the provisions  
10 of this compact, and the commission shall afford the state  
11 transaction documentation and clearinghouse transaction data the  
12 broadest protections as permitted by applicable law for  
13 proprietary information, trade secrets, or personal data. The  
14 commission may adopt additional rules under which the commission  
15 may make available to federal and state agencies, including law  
16 enforcement agencies, records and information otherwise exempt  
17 from disclosure, and may enter agreements with the agencies to  
18 receive or exchange information or records subject to  
19 nondisclosure and confidentiality provisions.

20           (b) Except for privileged records, data, and information,  
21 the laws of a compacting state pertaining to confidentiality or  
22 nondisclosure shall not relieve a compacting state member of the



1 duty to disclose any relevant records, data, or information to  
2 the commission; provided that disclosure to the commission shall  
3 not waive or otherwise affect a confidentiality requirement.

4 Except as otherwise expressly provided for in this compact, the  
5 commission shall not be subject to the compacting state's laws  
6 pertaining to confidentiality and nondisclosure with respect to  
7 records, data, and information in the commission's possession.  
8 Confidential information of the commission shall remain  
9 confidential after the information is provided to a member. The  
10 commission shall maintain the confidentiality of information  
11 provided by a member if that information is confidential under  
12 the member's state's law.

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

21 **§431:8-K Dispute resolution.** (a) The commission shall  
22 attempt, upon the request of a member, to resolve disputes or



1 other issues that are subject to this compact and which may  
2 arise between two or more compacting states, contracting states,  
3 or noncompacting states. A member may not bring an action in a  
4 court with competent jurisdiction alleging a violation of a  
5 provision, standard, or requirement of this compact unless the  
6 commission, at the member's request, has attempted to resolve  
7 the dispute concerning the alleged violation.

8 (b) The commission shall provide alternative dispute  
9 resolution procedures to resolve any disputes between insureds  
10 or surplus lines licensees concerning tax calculation or  
11 allocation or related issues that are the subject of this  
12 compact.

13 (c) Alternative dispute resolution procedures provided  
14 under this section shall be utilized in circumstances where a  
15 dispute arises as to which state constitutes the home state.

16 **§431:8-L Review of commission decisions.** (a) Except as  
17 necessary for adopting rules to fulfill the purposes of this  
18 compact, the commission shall not otherwise regulate insurance  
19 in the compacting states.

20 (b) No later than thirty days after the commission has  
21 given notice of a rule or allocation formula, a third party  
22 filer or compacting state may appeal the determination to a



1 review panel appointed by the commission. The commission shall  
2 adopt rules to establish procedures for the appointment of  
3 review panels and to provide for notice and hearing in the  
4 appeal. An allegation that the commission, in making a  
5 compliance or tax determination, acted arbitrarily,  
6 capriciously, or in a manner that is an abuse of discretion or  
7 otherwise not in accordance with the law, is subject to judicial  
8 review in accordance with section 431:8-D(f).

9 (c) The commission shall have the authority to monitor,  
10 review, and reconsider commission decisions upon a finding that  
11 the determinations or allocations do not meet the relevant rule.  
12 Where appropriate, the commission may withdraw or modify a  
13 determination or allocation after proper notice and hearing,  
14 subject to the appeal process in subsection (b).

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

21 (b) The commission shall collect a fee, payable by the  
22 insured directly or through a surplus lines licensee, on each



1 transaction processed through the compact clearinghouse, to  
2 cover the cost of the operations and activities of the  
3 commission and the commission's staff. The revenue from the fee  
4 shall be sufficient to cover the commission's annual budget.

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

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

17 (e) The commission shall keep complete and accurate  
18 accounts of all the commission's internal receipts, including  
19 grants and donations, and disbursements for all funds under its  
20 control. The internal financial accounts of the commission  
21 shall be subject to the accounting procedures established under  
22 the bylaws. The financial accounts and reports of the



1 commission, including the system of internal controls and  
2 procedures of the commission, shall be audited annually by an  
3 independent certified public accountant. Upon the determination  
4 of the commission, but not less than every three years, the  
5 review of the independent auditor shall include a management and  
6 performance audit of the commission. The commission shall make  
7 an annual report to the governors and legislatures of the  
8 compacting states, including a report of the independent audit.  
9 The commission's internal accounts shall not be confidential and  
10 the materials shall be shared with the commissioner, the  
11 controller, or the stamping office of a compacting state upon  
12 request; provided that work papers related to an internal or  
13 independent audit and any information regarding the privacy of  
14 individuals, and licensees' and insurers' proprietary  
15 information, including trade secrets, shall remain confidential.

16 (f) A compacting state shall not have a claim to or  
17 ownership of property held by or vested in the commission or to  
18 commission funds held pursuant to this compact.

19 (g) The commission shall not make political contributions  
20 to candidates for elected office, elected officials, political  
21 parties, or political action committees. The commission shall



1 not engage in lobbying, except with respect to changes to this  
2 compact.

3 **§431:8-N Compacting states; effective date; amendment.**

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

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

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

16	Premiums based	Share of total
17 State	on taxes paid	premiums
18 Alabama	\$445,746,000	1.47%
19 Alaska	\$89,453,519	0.29%
20 Arizona	\$663,703,267	2.18%
21 Arkansas	\$201,859,750	0.66%
22 California	\$5,622,450,467	18.49%





1	Colorado	\$543,781,333	1.79%
2	Connecticut	\$329,358,800	1.08%
3	Delaware	\$92,835,950	0.31%
4	Florida	\$2,660,908,760	8.75%
5	Georgia	\$895,643,150	2.95%
6	Hawaii	\$232,951,489	0.77%
7	Idaho	\$74,202,255	0.24%
8	Illinois	\$1,016,504,629	3.34%
9	Indiana	\$412,265,320	1.36%
10	Iowa	\$135,130,933	0.44%
11	Kansas	\$160,279,300	0.53%
12	Kentucky	\$167,996,133	0.55%
13	Louisiana	\$853,173,280	2.81%
14	Maine	\$60,111,200	0.20%
15	Maryland	\$434,887,600	1.43%
16	Massachusetts	\$708,640,225	2.33%
17	Michigan	\$703,357,040	2.31%
18	Minnesota	\$393,128,400	1.29%
19	Mississippi	\$263,313,175	0.87%
20	Missouri	\$404,489,860	1.33%
21	Montana	\$64,692,873	0.21%
22	Nebraska	\$92,141,167	0.30%



1	Nevada	\$354,271,514	1.17%
2	New Hampshire	\$102,946,250	0.34%
3	New Jersey	\$1,087,994,033	3.58%
4	New Mexico	\$67,608,458	0.22%
5	New York	\$2,768,618,083	9.11%
6	North Carolina	\$514,965,060	1.69%
7	North Dakota	\$36,223,943	0.12%
8	Ohio	\$342,000,000	1.12%
9	Oklahoma	\$319,526,400	1.05%
10	Oregon	\$312,702,150	1.03%
11	Pennsylvania	\$780,666,667	2.57%
12	Rhode Island	\$71,794,067	0.24%
13	South Carolina	\$412,489,825	1.36%
14	South Dakota	\$38,702,120	0.13%
15	Tennessee	\$451,775,240	1.49%
16	Texas	\$3,059,170,454	10.06%
17	Utah	\$142,593,412	0.47%
18	Vermont	\$41,919,433	0.14%
19	Virginia	\$611,530,667	2.01%
20	Washington	\$739,932,050	2.43%
21	West Virginia	\$130,476,250	0.43%
22	Wisconsin	\$248,758,333	0.82%



1	Wyoming	\$40,526,967	0.13%
2	Total	\$30,400,197,251	100.00%

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

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

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



- 1           **§431:8-0 Withdrawal; default; termination.** (a) The  
2 following provisions shall govern withdrawal from the compact:
- 3           (1) Once effective, the compact shall continue in force  
4           and remain binding upon every compacting state;  
5           provided that a compacting state may withdraw from the  
6           compact by enacting a statute specifically repealing  
7           the statute that enacted the compact into law;
- 8           (2) The effective date of a compacting state's withdrawal  
9           under paragraph (1) is the effective date of the  
10           repealing statute; provided that the withdrawal under  
11           paragraph (1) shall not apply to a tax or compliance  
12           determination that has already been approved on the  
13           date the repealing statute becomes effective, except  
14           by mutual agreement of the commission and the  
15           withdrawing state unless the approval of the tax or  
16           compliance determination is rescinded by the  
17           commission;
- 18           (3) The member of the withdrawing state shall immediately  
19           notify the executive committee of the commission in  
20           writing upon the introduction of legislation repealing  
21           this compact in the withdrawing state;



1 (4) The commission shall notify the other compacting  
2 states of the introduction of the legislation within  
3 ten days after the commission's receipt of notice  
4 under paragraph (3);

5 (5) A withdrawing state is responsible for all  
6 obligations, duties, and liabilities incurred through  
7 the effective date of the state's withdrawal,  
8 including obligations the performance of which extend  
9 beyond the effective date of withdrawal. To the  
10 extent those obligations may have been released or  
11 relinquished by mutual agreement of the commission and  
12 the withdrawing state, the commission's determinations  
13 prior to the effective date of the state's withdrawal  
14 continue to be effective and shall be given full force  
15 and effect in the withdrawing state, unless formally  
16 rescinded by the commission; and

17 (6) Reinstatement following withdrawal of any compacting  
18 state shall occur upon the effective date of the  
19 withdrawing state's legislature reenacting the  
20 compact.

21 (b) The following provisions shall govern default by a  
22 compacting state:



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



1           this compact shall be terminated on the effective date  
2           of the state's termination from this compact;

3           (2) Decisions of the commission that have already been  
4           issued on the effective date of a state's termination  
5           shall remain in force in the defaulting state in the  
6           same manner as if the defaulting state had withdrawn  
7           voluntarily pursuant to subsection (a); and

8           (3) Reinstatement following termination of a compacting  
9           state requires a legislative reenactment of the  
10          compact.

11          (c) The following provisions shall govern termination of  
12          the compact:

13          (1) The compact dissolves effective on the date of the  
14          withdrawal or termination for default of the  
15          compacting state whose withdrawal or termination  
16          reduces membership in the compact to one compacting  
17          state; and

18          (2) Upon the dissolution of this compact, the compact  
19          becomes null and void and shall have no further force  
20          or effect, and the business and affairs of the  
21          commission shall be wound up and any surplus funds



1 shall be distributed in accordance with the bylaws and  
2 rules.

3 **§431:8-P Severability and construction.** (a) The  
4 provisions of this compact are severable and if any phrase,  
5 clause, sentence, or provision of this compact is deemed  
6 unenforceable, the remaining provisions of the compact shall be  
7 enforceable.

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

10 (c) Throughout this compact the use of the singular  
11 includes the plural and vice versa.

12 (d) Any headings and captions of sections and subsections  
13 used in this compact are for convenience only and shall be  
14 ignored in construing the substantive provisions of this  
15 compact.

16 **§431:8-Q Binding effect of compact and other laws.** (a)  
17 The following provisions shall govern the effect of the compact  
18 on other laws:

19 (1) Except as provided in paragraph (2), nothing in this  
20 part prevents the enforcement of any other law of a  
21 compacting state;





- 1           (2) Decisions of the commission, and rules and other  
2 requirements of the commission shall constitute the  
3 exclusive rule or determination applicable to the  
4 compacting states. A law or regulation regarding  
5 nonadmitted insurance of multi-state risks that is  
6 contrary to rules of the commission is preempted with  
7 respect to the following:
- 8           (A) Clearinghouse transaction data reporting  
9 requirements;
  - 10          (B) Allocation formula;
  - 11          (C) Clearinghouse transaction data collection  
12 requirements;
  - 13          (D) Premium tax payment time frames and rules  
14 concerning dissemination of data among the  
15 compacting states for nonadmitted insurance of  
16 multi-state risks and single state risks;
  - 17          (E) Exclusive compliance with surplus lines law of  
18 the home state of the insured;
  - 19          (F) Rules for reporting to a clearinghouse for  
20 receipt and distribution of clearinghouse  
21 transaction data related to nonadmitted insurance  
22 of multi-state risks;



1 (G) Uniform foreign insurers eligibility  
2 requirements;  
3 (H) Uniform policyholder notice; and  
4 (I) Uniform treatment of purchasing groups procuring  
5 nonadmitted insurance; and  
6 (3) Except as provided in paragraph (2), a rule, uniform  
7 standard, or other requirement of the commission  
8 constitutes the exclusive provision that a  
9 commissioner may apply to compliance or tax  
10 determinations. Notwithstanding the foregoing, an  
11 action taken by the commission shall not abrogate or  
12 restrict: the access of any person to state courts;  
13 the availability of alternative dispute resolution  
14 under section 431:8-K; remedies available under state  
15 law related to breach of contract, tort, or other laws  
16 not specifically directed to compliance or tax  
17 determinations; state law relating to the construction  
18 of insurance contracts; or the authority of the  
19 attorney general of the state, including maintaining  
20 any actions or proceedings, as authorized by law.  
21 (b) The following provisions shall govern the binding  
22 effect of this compact:



- 1           (1) Except as provided in this subsection, lawful actions  
2           of the commission, including rules promulgated by the  
3           commission, are binding upon the compacting states;
- 4           (2) Agreements between the commission and the compacting  
5           states are binding in accordance with the terms of the  
6           agreements;
- 7           (3) Upon the request of a party to a conflict over the  
8           meaning or interpretation of a commission action, and  
9           upon a majority vote of the compacting states, the  
10          commission may issue advisory opinions regarding the  
11          meaning or interpretation in dispute. This paragraph  
12          may be implemented by rule at the discretion of the  
13          commission; and
- 14          (4) If a provision of this compact exceeds the  
15          constitutional limits imposed on the legislature of a  
16          compacting state, the conferral upon the commission of  
17          obligations, duties, powers, and jurisdiction through  
18          this compact is ineffective as to the compacting  
19          state; and the obligations, duties, powers, and  
20          jurisdiction shall remain in the compacting state and  
21          shall be exercised by the agency of the compacting  
22          state to which the obligations, duties, powers, or



1 jurisdiction are delegated by law in effect at the  
2 time this compact becomes effective."

3 **PART IV**

4 SECTION 7. In codifying the new sections added by section  
5 6 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 the new sections in this Act.

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

10 SECTION 9. This Act shall take effect on July 1, 2050.



**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. Effective  
07/01/2050. (SD1)

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

