



February 18, 2011

SENATE BILL No. 578

DIGEST OF SB 578 (Updated February 17, 2011 11:07 am - DI 110)

Citations Affected: IC 27-18; IC 34-30.

Synopsis: Surplus lines insurance compact. Provides for enactment of a surplus lines insurance compact. Specifies requirements applying to compacting states and contracting states with respect to provision of surplus lines insurance in multiple states. Provides for collection of premium taxes on surplus lines insurance.

Effective: July 1, 2011.

Simpson, Holdman

January 20, 2011, read first time and referred to Committee on Insurance and Financial Institutions.
February 17, 2011, reported favorably — Do Pass.

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SB 578—LS 7050/DI 97+



February 18, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 578



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-18 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 3 2011]:
- 4 **ARTICLE 18. SURPLUS LINES INSURANCE COMPACT**
- 5 **Chapter 1. Definitions**
- 6 **Sec. 1. The definitions in this chapter apply throughout this**
- 7 **article.**
- 8 **Sec. 2. "Affiliate" means, with respect to an insured, an entity**
- 9 **that controls, is controlled by, or is under common control with the**
- 10 **insured.**
- 11 **Sec. 3. "Affiliated group" means a group of affiliates.**
- 12 **Sec. 4. "Allocation formula" means the uniform method**
- 13 **adopted by the commission by which insured risk exposures are**
- 14 **apportioned to each state to calculate premium taxes due.**
- 15 **Sec. 5. "Bylaws" refers to the bylaws governing the commission.**
- 16 **Sec. 6. "Clearinghouse" means the commission's operations**
- 17 **involving the acceptance, processing, and dissemination among:**

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- 1 (1) compacting states;
- 2 (2) contracting states;
- 3 (3) surplus lines licensees;
- 4 (4) insureds; and
- 5 (5) other persons;
- 6 of premium tax and clearinghouse transaction data for
- 7 nonadmitted insurance of multistate risks under this compact.

8 Sec. 7. (a) "Clearinghouse transaction data" means information
 9 regarding nonadmitted insurance of multistate risks that must be
 10 reported, accepted, collected, processed, and disseminated by:

- 11 (1) surplus lines licensees, for surplus lines insurance; and
- 12 (2) insureds, for independently procured insurance;
- 13 under this compact.

14 (b) The term includes information related to single state risks if
 15 a state elects to have the clearinghouse collect taxes for the state on
 16 single state risks.

17 Sec. 8. "Commission" refers to the surplus lines insurance
 18 multistate compliance compact commission established by this
 19 compact.

20 Sec. 9. "Commissioner" refers to the chief insurance regulatory
 21 official of a state or the official's designee.

22 Sec. 10. "Compact" refers to the compact entered into under
 23 this article.

24 Sec. 11. "Compacting state" means a state that:

- 25 (1) has enacted this compact; and
- 26 (2) has not:
 - 27 (A) withdrawn; or
 - 28 (B) been terminated;

29 under IC 27-18-14.

30 Sec. 12. "Contracting state" means a state that:

- 31 (1) has not enacted this compact; and
- 32 (2) has entered into a written contract with the commission to
 33 use the services of and fully participate in the clearinghouse.

34 Sec. 13. "Control" means:

- 35 (1) ownership or power to vote at least twenty-five percent
 36 (25%) of any class of voting securities; or
- 37 (2) power to determine the election of a majority of the
 38 directors or trustees;

39 of an entity.

40 Sec. 14. "Home state" means the following:

- 41 (1) With respect to an insured:
 - 42 (A) the state in which the insured maintains:

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1 (i) the insured's principal place of business; or
 2 (ii) if the insured is an individual, the insured's principal
 3 residence; or
 4 (B) if one hundred percent (100%) of the insured risk is
 5 located outside the state described in clause (A), the state
 6 to which the greatest percentage of the insured's taxable
 7 premium for the insurance contract is allocated.
 8 (2) With respect to an affiliated group, if more than one (1)
 9 insured from the affiliated group is a named insured on a
 10 single nonadmitted insurance contract, the home state
 11 determined under subdivision (1) of the member of the
 12 affiliated group that has the largest percentage of premium
 13 attributed to the member under the insurance contract.
 14 Sec. 15. "Independently procured insurance" means insurance
 15 procured by an insured directly from a surplus lines insurer or
 16 other nonadmitted insurer under the law of the home state.
 17 Sec. 16. "Insurer eligibility requirements" means the criteria,
 18 forms, and procedures that are:
 19 (1) established to qualify as a surplus lines insurer under the
 20 law of the home state; and
 21 (2) consistent with the NRRA.
 22 Sec. 17. "Member" means a person chosen by a compacting
 23 state as the compacting state's representative to the commission.
 24 Sec. 18. "Multistate risk" means a risk with insured exposures
 25 in more than one (1) state.
 26 Sec. 19. "Nonadmitted insurance" means:
 27 (1) surplus lines insurance; or
 28 (2) independently procured insurance;
 29 procured from a nonadmitted insurer.
 30 Sec. 20. "Nonadmitted insurer" means an insurer that is not
 31 authorized to transact the business of insurance under the law of
 32 the home state.
 33 Sec. 21. "Noncompacting state" means a state that has not
 34 adopted this compact.
 35 Sec. 22. "NRRA" refers to the federal Nonadmitted and
 36 Reinsurance Reform Act of 2010 (Subtitle B of Title V of
 37 P.L.111-203).
 38 Sec. 23. "Policyholder notice" means the disclosure notice or
 39 stamp that must be furnished to an applicant or a policyholder in
 40 connection with a surplus lines insurance placement.
 41 Sec. 24. "Premium tax" means, with respect to nonadmitted
 42 insurance, a tax, a fee, an assessment, or another charge imposed

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1 by a government entity based on a payment made as consideration
 2 for the nonadmitted insurance.

3 Sec. 25. "Principal place of business" means, with respect to
 4 determining the home state of an insured, the state where the:
 5 (1) insured maintains the insured's headquarters; and
 6 (2) insured's officers direct, control, and coordinate the
 7 business activities of the insured.

8 Sec. 26. "Purchasing group" means a group that:
 9 (1) is formed under the federal Liability Risk Retention Act of
 10 1986;
 11 (2) has as one (1) of the group's purposes the purchase of
 12 liability insurance on a group basis;
 13 (3) purchases liability insurance only:
 14 (A) for the members of the group; and
 15 (B) to cover the members' similar or related liability
 16 exposure;
 17 (4) is composed of members with similar or related business
 18 or activity liability exposure due to the members' related,
 19 similar, or common:
 20 (A) business;
 21 (B) trade;
 22 (C) product;
 23 (D) services;
 24 (E) premises; or
 25 (F) operations; and
 26 (5) is domiciled in any state.

27 Sec. 27. "Rule" refers to a rule adopted by the commission:
 28 (1) to implement, interpret, or prescribe law or policy; or
 29 (2) describing the organization, procedure, or practice
 30 requirements of the commission;
 31 that has the force and effect of law in the compacting states.

32 Sec. 28. "Single state risk" means a risk with insured exposures
 33 in only one (1) state.

34 Sec. 29. "State" means a state, district, or territory of the United
 35 States.

36 Sec. 30. "State transaction documentation" means information
 37 required under the laws of a home state to be filed by:
 38 (1) a surplus lines licensee to:
 39 (A) report surplus lines insurance; and
 40 (B) verify compliance with surplus lines laws; and
 41 (2) an insured to report independently procured insurance.

42 Sec. 31. (a) "Surplus lines insurance" means insurance procured

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1 by a surplus lines licensee from a surplus lines insurer or other
2 nonadmitted insurer as permitted under the law of the home state.

3 (b) The term includes excess lines insurance (as defined by
4 applicable state law).

5 Sec. 32. (a) "Surplus lines insurer" means a nonadmitted
6 insurer that is eligible under the law of the home state to accept
7 business from a surplus lines licensee.

8 (b) The term includes an insurer that is permitted to write
9 surplus lines insurance under the law of the state where the insurer
10 is domiciled.

11 Sec. 33. "Surplus lines licensee" means an individual, firm, or
12 corporation licensed under the law of the home state to place
13 surplus lines insurance.

14 Chapter 2. Establishment of the Commission and Venue

15 Sec. 1. The compacting states hereby create and establish a joint
16 public agency known as the surplus lines insurance multistate
17 compliance compact commission.

18 Sec. 2. The commission may adopt mandatory rules to establish
19 exclusive home state authority regarding nonadmitted insurance
20 of multistate risks, allocation formulas, clearinghouse transaction
21 data, a clearinghouse for receipt and distribution of allocated
22 premium tax and clearinghouse transaction data, and uniform
23 rulemaking procedures and rules to finance, administer, operate,
24 and enforce compliance with this compact and the bylaws and
25 rules.

26 Sec. 3. The commission may adopt mandatory rules establishing
27 foreign insurer eligibility requirements and a concise and objective
28 policyholder notice regarding the nature of a surplus lines
29 insurance placement.

30 Sec. 4. The commission is a body corporate and politic and an
31 instrumentality of the compacting states.

32 Sec. 5. The commission is solely responsible for the
33 commission's liabilities, except as otherwise specifically provided
34 in this compact.

35 Sec. 6. (a) Venue is proper, and judicial proceedings by or
36 against the commission must be brought solely and exclusively, in
37 a court of competent jurisdiction where the principal office of the
38 commission is located.

39 (b) The commission may waive venue and jurisdictional
40 defenses to the extent the commission adopts or consents to
41 participate in alternative dispute resolution proceedings.

42 Chapter 3. Authority of Commission

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Sec. 1. The commission shall adopt mandatory rules to establish the following:

(1) Allocation formulas for each type of nonadmitted insurance coverage, which must be used by each compacting state and contracting state in acquiring premium tax and clearinghouse transaction data from surplus lines licensees and insureds to report to the clearinghouse. The rules described in this subdivision must be adopted with input from surplus lines licensees and must be based on readily available data, with simplicity and uniformity for the surplus lines licensee as a material consideration.

(2) Uniform clearinghouse transaction data reporting requirements for all information reported to the clearinghouse.

(3) Methods by which compacting states and contracting states will require surplus lines licensees and insureds to pay premium tax and report clearinghouse transaction data to the clearinghouse, including processing clearinghouse transaction data through state stamping and service offices, state insurance departments, or other state designated agencies or entities.

(4) That nonadmitted insurance of multistate risks is subject to all regulatory compliance requirements of the home state exclusively. The regulatory compliance requirements that will be applicable to surplus lines insurance under the rules described in this subdivision include the following:

(A) Licensure requirements for persons to sell, solicit, or negotiate surplus lines insurance.

(B) Insurer eligibility requirements or other approved nonadmitted insurer requirements.

(C) Diligent search requirements.

(D) Providing state transaction documentation and clearinghouse transaction data regarding the payment of premium tax under this compact.

The regulatory compliance requirements that will be applicable to independently procured insurance placements under the rules described in this subdivision include providing state transaction documentation and clearinghouse transaction data regarding the payment of premium tax under this compact.

(5) That each compacting state and each contracting state may charge its own rate of taxation on the premium allocated

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to the compacting state or contracting state based on the applicable allocation formula. However:

- (A) the state shall establish a single rate of taxation applicable to all nonadmitted insurance transactions; and
- (B) no other tax, fee assessment, or other charge by a governmental or quasi-governmental agency is permitted, except that stamping office fees may be charged as a separate, additional cost unless the fees are incorporated into a state's single rate of taxation.

(6) That a change in the rate of taxation by a compacting state or contracting state is restricted to changes made prospectively with at least ninety (90) days advance notice to the commission.

(7) That each compacting state and each contracting state shall require premium tax payments either annually, semiannually, or quarterly, using only one (1) or more of the following dates:

- (A) March 1.
- (B) June 1.
- (C) September 1.
- (D) December 1.

(8) That each compacting state and each contracting state shall prohibit any state agency or political subdivision from requiring surplus lines licensees to provide clearinghouse transaction data and state transaction documentation other than to:

- (A) the insurance department or tax official; or
- (B) a single designated agent of the insurance department or tax official;

of the home state.
(9) The obligation of the home state:

- (A) itself; or
- (B) through a:
 - (i) designated agent; or
 - (ii) surplus lines stamping or service office;

to collect clearinghouse transaction data from surplus lines licensees and from insureds (for independently procured insurance), for reporting to the clearinghouse.

(10) A method for the clearinghouse to periodically report to compacting states, contracting states, surplus lines licensees, and insureds who independently procure insurance:

- (A) all premium taxes owed to each of the compacting

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- states and contracting states;
 - (B) the dates upon which payment of the premium taxes are due; and
 - (C) a method for paying the premium taxes through the clearinghouse.
 - (11) That each surplus lines licensee is required to be licensed only in the home state of each insured for whom the licensee has procured surplus lines insurance.
 - (12) That:
 - (A) a policy considered to be surplus lines insurance in the insured's home state shall be:
 - (i) considered to be surplus lines insurance in all compacting states and contracting states; and
 - (ii) taxed as a surplus lines transaction in all states to which a portion of the risk is allocated;
 - (B) each compacting state and each contracting state shall require each surplus lines licensee to pay to every other compacting state and contracting state premium taxes on each multistate risk through the clearinghouse at the tax rate charged on surplus lines transactions in the other compacting state or contracting state on the portion of the risk in the compacting state or contracting state, as determined by the applicable uniform allocation formula adopted by the commission;
 - (C) a policy considered to be independently procured insurance in the insured's home state is considered to be independently procured insurance in all compacting states and contracting states; and
 - (D) each compacting state and each contracting state shall require the insured to pay every other compacting state and contracting state the independently procured insurance premium tax on each multistate risk through the clearinghouse, as determined by the uniform allocation formula adopted by the commission.
 - (13) Uniform foreign insurer eligibility requirements, as authorized by the NRRA.
 - (14) A uniform policyholder notice.
 - (15) Uniform treatment of purchasing group surplus lines insurance placements.
- Sec. 2. The commission has the following powers:
- (1) To adopt rules and operating procedures under IC 27-18-8 that:

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1 **(A) have the force and effect of law; and**
 2 **(B) are binding;**
 3 **in the compacting states to the extent and in the manner**
 4 **provided in this compact.**
 5 **(2) To bring and prosecute legal actions in the name of the**
 6 **commission. This subdivision does not affect the standing of**
 7 **a state insurance department to sue or be sued under**
 8 **applicable law.**
 9 **(3) To issue subpoenas requiring the attendance and**
 10 **testimony of witnesses and the production of evidence. This**
 11 **subdivision does not empower the commission to demand or**
 12 **subpoena records or data from nonadmitted insurers.**
 13 **(4) To establish and maintain offices, including the creation of**
 14 **a clearinghouse for the receipt of premium tax and**
 15 **clearinghouse transaction data regarding:**
 16 **(A) nonadmitted insurance of multistate risks;**
 17 **(B) single state risks for states that elect to require surplus**
 18 **lines licensees to pay premium tax on single state risks**
 19 **through the clearinghouse; and**
 20 **(C) tax reporting forms.**
 21 **(5) To purchase and maintain insurance and bonds.**
 22 **(6) To borrow, accept, or contract for services of personnel,**
 23 **including employees of a compacting state or stamping office,**
 24 **under an open, objective, competitive process and procedure**
 25 **adopted by the commission.**
 26 **(7) To:**
 27 **(A) hire employees, professionals, or specialists;**
 28 **(B) elect or appoint officers;**
 29 **(C) fix the compensation of individuals described in clauses**
 30 **(A) and (B);**
 31 **(D) define the duties of individuals described in clauses (A)**
 32 **and (B);**
 33 **(E) give the individuals described in clauses (A) and (B)**
 34 **appropriate authority to carry out the purposes of this**
 35 **compact; and**
 36 **(F) determine the qualifications of individuals described in**
 37 **clauses (A) and (B);**
 38 **under an open, objective, competitive process and procedure**
 39 **adopted by the commission, and to establish the commission's**
 40 **personnel policies and programs relating to conflicts of**
 41 **interest, rates of compensation and qualifications of**
 42 **personnel, and other related personnel matters.**

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- 1 **(8) To:**
- 2 (A) accept;
- 3 (B) receive;
- 4 (C) use; and
- 5 (D) dispose of;
- 6 **appropriate donations and grants of money, equipment,**
- 7 **supplies, materials, and services, avoiding at all times any**
- 8 **appearance of impropriety or conflict of interest.**
- 9 **(9) To:**
- 10 (A) lease;
- 11 (B) purchase;
- 12 (C) accept appropriate gifts or donations of; or
- 13 (D) otherwise own, hold, improve, or use;
- 14 **real, personal, or real and personal property, avoiding at all**
- 15 **times any appearance of impropriety or conflict of interest.**
- 16 **(10) To sell, convey, mortgage, pledge, lease, exchange,**
- 17 **abandon, or otherwise dispose of real, personal, or real and**
- 18 **personal property.**
- 19 **(11) To provide for tax audit rules and procedures for the**
- 20 **compacting states with respect to the allocation of premium**
- 21 **taxes, including the following:**
- 22 (A) Minimum audit standards, including sampling
- 23 methods.
- 24 (B) Review of internal controls.
- 25 (C) Cooperation and sharing of audit responsibilities
- 26 among compacting states.
- 27 (D) Handling of refunds or credits due to overpayments or
- 28 improper allocation of premium taxes.
- 29 (E) Taxpayer records to be reviewed, including a minimum
- 30 retention period.
- 31 (F) Authority of compacting states to review, challenge, or
- 32 re-audit taxpayer records.
- 33 **(12) To enforce compliance by compacting states and**
- 34 **contracting states with rules, and bylaws under the authority**
- 35 **set forth in IC 27-18-9.**
- 36 **(13) To provide for dispute resolution among compacting**
- 37 **states and contracting states.**
- 38 **(14) To advise compacting states and contracting states on tax**
- 39 **issues relating to insurers, insureds, surplus lines licensees,**
- 40 **agents, or brokers domiciled or doing business in**
- 41 **noncompacting states, consistent with the purposes of this**
- 42 **compact.**

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- (15) To:**
 - (A) make available advice and training to personnel in state stamping offices, state insurance departments, or other state departments for record keeping, tax compliance, and tax allocations; and**
 - (B) serve as a resource for state insurance departments and other state departments.**
- (16) To establish a budget and make expenditures.**
- (17) To borrow money.**
- (18) To appoint and oversee committees, including advisory committees comprised of members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and other interested persons designated in this compact and the bylaws.**
- (19) To establish an executive committee under IC 27-18-4-4 that:**
 - (A) is comprised of at least seven (7) and not more than fifteen (15) representatives, including officers elected by the commission and such other representatives as are provided for in this article or determined by the bylaws, who:**
 - (i) serve a one (1) year term; and**
 - (ii) are each entitled to one (1) vote;**
 - (B) has the power to act on behalf of the commission, except for rulemaking, when the commission is not in session;**
 - (C) oversees the day to day activities of the administration of this compact, including the activities of the operations committee created under subdivision (20) and IC 27-18-4-5, and compliance and enforcement of the provisions of this compact and the bylaws and rules; and**
 - (D) has other duties as provided in this article and as considered necessary.**
- (20) To establish an operations committee under IC 27-18-4-5 consisting of at least seven (7) and not more than fifteen (15) representatives to provide analysis, advice, determinations, and recommendations regarding:**
 - (A) technology, software, and systems integration to be acquired by the commission; and**
 - (B) the establishment of mandatory rules to be adopted by the commission.**
- (21) To enter into contracts with contracting states to enable**

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1 contracting states to use the services of and fully participate
2 in the clearinghouse under the terms and conditions set forth
3 in the contracts.

4 (22) To adopt and use a corporate seal.

5 (23) To perform other functions that are necessary or
6 appropriate to the achievement of the purposes of this
7 compact, consistent with state regulation of the business of
8 insurance.

9 Chapter 4. Organization of the Commission

10 Sec. 1. (a) Each compacting state is represented on the
11 commission by only one (1) member. A member shall be:

12 (1) chosen through a process and according to the
13 qualifications and method of selection determined by the
14 compacting state; or

15 (2) in the absence of provisions described in subdivision (1),
16 appointed by the governor of the compacting state.

17 (b) A member may be removed or suspended from office as
18 provided by the law of the compacting state represented by the
19 member.

20 (c) A vacancy on the commission must be filled in accordance
21 with the law of the compacting state represented by the member
22 whose position has become vacant.

23 Sec. 2. Each member:

24 (1) is entitled to one (1) vote; and

25 (2) has an opportunity to participate in the governance of the
26 commission in accordance with the bylaws.

27 Sec. 3. (a) The commission shall, by a majority vote of the
28 members, prescribe bylaws to govern the commission's conduct as
29 necessary or appropriate to carry out the purposes and exercise the
30 powers of this compact, including bylaws to do the following:

31 (1) Establish the fiscal year of the commission.

32 (2) Provide reasonable procedures for the calling and conduct
33 of meetings of the following:

34 (A) The commission, including the following:

35 (i) Attendance of a majority of members, including
36 members' participation in meetings by telephone or
37 other means of communication.

38 (ii) Ensuring reasonable advance notice of the meeting.

39 (iii) Providing for the right of citizens to attend each
40 meeting with enumerated exceptions designed to protect
41 the public's interest, the privacy of individuals, and
42 insurers' and surplus lines licensees' proprietary

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information, including trade secrets.

(iv) Allowing the commission to meet in camera only after a majority of the entire membership votes to close a meeting in toto or in part.

(v) Requiring that, as soon as practicable following a meeting described in item (iv), the commission publishes a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed, and votes taken during the meeting.

(B) The executive committee.

(C) The operations committee.

(3) Provide reasonable standards and procedures:

(A) for the establishment and meetings of committees not described in subdivision (2); and

(B) governing general or specific delegation of authority or a function of the commission.

(4) Establish:

(A) the titles, duties, and authority; and

(B) reasonable procedures for the election; of the officers of the commission.

(5) Provide reasonable standards and procedures for the establishment of the personnel policies and programs of the commission.

(6) Adopt a code of ethics to address permissible and prohibited activities of members and commission employees.

(7) Provide a mechanism for winding up the operations of the commission and the equitable disposition of surplus funds existing after the:

(A) termination of this compact; and

(B) payment or reservation of the commission's debts and obligations.

(b) Notwithstanding any civil service or other similar laws of a compacting state, the bylaws exclusively govern the personnel policies and programs of the commission.

(c) The commission shall publish the bylaws in a convenient form and file a copy of the bylaws and any amendment to the bylaws with the appropriate agency or officer in each of the compacting states.

Sec. 4. (a) The commission shall establish an executive committee.

(b) All actions of the executive committee, including compliance and enforcement actions, are subject to the review and ratification

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- 1 of the commission as provided in the bylaws.
- 2 (c) The executive committee shall consist of not more than
- 3 fifteen (15) representatives, or one (1) representative for each state
- 4 if there are less than fifteen (15) compacting states, who are
- 5 appointed and serve for a term in accordance with the bylaws.
- 6 (d) The executive committee has the authority and duties set
- 7 forth in the bylaws, which must include the following:
- 8 (1) Managing the affairs of the commission in a manner
- 9 consistent with the bylaws and purposes of the commission.
- 10 (2) Establishing and overseeing:
- 11 (A) an organizational structure within; and
- 12 (B) appropriate procedures for the commission to provide
- 13 for the creation of;
- 14 rules and operating procedures.
- 15 (3) Overseeing the offices of the commission.
- 16 (4) Planning, implementing, and coordinating
- 17 communications and activities with other state, federal, and
- 18 local government organizations to advance the goals of the
- 19 commission.
- 20 (e) The executive committee shall annually elect a chairperson
- 21 from the membership of the executive committee. The chairperson
- 22 has the authority and duties specified in the bylaws.
- 23 (f) The executive committee may:
- 24 (1) subject to the approval of the commission; and
- 25 (2) according to terms and conditions, and for compensation,
- 26 that the commission determines to be appropriate;
- 27 appoint or retain an executive director.
- 28 (g) The executive director:
- 29 (1) shall serve as secretary to the commission;
- 30 (2) shall not serve as a member of the commission; and
- 31 (3) shall hire and supervise other persons as authorized by the
- 32 commission.
- 33 (h) All representatives of the executive committee must be
- 34 individuals who have extensive experience or employment in the
- 35 surplus lines insurance business, including executives and attorneys
- 36 employed by:
- 37 (1) surplus lines insurers;
- 38 (2) surplus lines licensees;
- 39 (3) law firms;
- 40 (4) state insurance departments; or
- 41 (5) state stamping offices.
- 42 Sec. 5. (a) The commission shall establish an operations

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committee.

(b) All actions of the operations committee are subject to the review and oversight of the commission and the executive committee, and must be approved by the commission.

(c) The executive committee shall accept the determinations and recommendations of the operations committee unless good cause is shown why those determinations and recommendations should not be approved. Disputes as to whether good cause exists to reject a determination or recommendation of the operations committee must be resolved by a majority vote of the commission.

(d) The operations committee consists of not more than fifteen (15) representatives (or one (1) representative for each state if there are less than fifteen (15) compacting states) who are appointed and serve for a term according to the bylaws.

(e) The operations committee shall have responsibility for the following:

(1) Evaluating technology requirements for the clearinghouse, assessing existing systems used by state regulatory agencies and state stamping offices:

(A) to maximize the efficiency and successful integration of the clearinghouse technology systems with state and state stamping office technology platforms; and

(B) to minimize costs to the states, the state stamping offices, and the clearinghouse.

(2) Making recommendations to the executive committee based on the operations committee's analysis and determination of the clearinghouse technology requirements and compatibility with existing state and state stamping office systems.

(3) Evaluating the most suitable proposals for adoption as mandatory rules, assessing the proposals for ease of integration by states and likelihood of successful implementation, and reporting to the executive committee the operations committee's determinations and recommendations.

(4) Other duties and responsibilities delegated to the operations committee by the bylaws, the executive committee, or the commission.

(f) All representatives of the operations committee must be individuals who have extensive experience or employment in the surplus lines insurance business, including executives and attorneys employed by:

(1) surplus lines insurers;

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(2) surplus lines licensees;
 (3) law firms;
 (4) state insurance departments; or
 (5) state stamping offices.

(g) Operations committee representatives from compacting states that use the services of a state stamping office shall appoint the chief operating officer or a senior manager of the state stamping office to the operations committee.

Sec. 6. (a) A legislative committee comprised of state legislators or state legislators' designees shall be established to monitor the operations of and make recommendations to the commission, including the executive committee.

(b) The bylaws must determine the manner of selecting the members of the legislative committee and the term of office of the legislative committee members.

(c) Before the commission adopts any:

(1) uniform standard;
 (2) revision to the bylaws;
 (3) annual budget; or
 (4) other significant matter as provided in the bylaws;

the executive committee shall consult with and report to the legislative committee.

Sec. 7. The commission may establish additional advisory committees, as the bylaws provide, for carrying out the commission's functions.

Chapter 5. Corporate Records of the Commission

Sec. 1. The commission shall maintain the commission's corporate books and records in accordance with the bylaws.

Chapter 6. Qualified Immunity, Defense, and Indemnification

Sec. 1. (a) The members, officers, executive director, employees, and representatives of the commission, members of the executive committee, and members of any other committee of the commission are, personally and in their official capacity, immune from suit and liability for a claim for damage to or loss of property, personal injury, or other civil liability caused by or arising out of an actual or alleged act, error, or omission:

(1) that occurs; or
 (2) that the person against whom the claim is made has a reasonable basis for believing to have occurred;

within the scope of commission employment, duties, or responsibilities.

(b) This section does not protect a person described in

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1 subsection (a) from suit or liability for damage, loss, injury, or
2 liability caused by the intentional or willful or wanton misconduct
3 of the person.

4 Sec. 2. (a) The commission shall defend a member, officer,
5 executive director, employee, or representative of the commission,
6 the executive committee, or any other committee of the commission
7 in a civil action seeking to impose liability arising out of an actual
8 or alleged act, error, or omission:

- 9 (1) that occurs; or
- 10 (2) that the person against whom the claim is made has a
11 reasonable basis for believing to have occurred;
12 within the scope of commission employment, duties, or
13 responsibilities if the actual or alleged act, error, or omission did
14 not result from the person's intentional or willful or wanton
15 misconduct.

16 (b) This section does not prohibit a person described in
17 subsection (a) from retaining the person's own counsel.

18 Sec. 3. The commission shall indemnify and hold harmless a
19 member, officer, executive director, employee, or representative of
20 the commission, executive committee, or other committee of the
21 commission for the amount of a settlement or judgment obtained
22 against the person arising out of an actual or alleged act, error, or
23 omission:

- 24 (1) that occurs; or
- 25 (2) that the person against whom the claim is made has a
26 reasonable basis for believing to have occurred;
27 within the scope of commission employment, duties, or
28 responsibilities if the actual or alleged act, error, or omission did
29 not result from the person's intentional or willful or wanton
30 misconduct.

31 Chapter 7. Meetings and Acts of the Commission

32 Sec. 1. The commission shall meet and take action consistent
33 with this compact and the bylaws.

34 Sec. 2. (a) Each member of the commission has the right and
35 power to:

- 36 (1) cast a vote to which the compacting state represented by
37 the member is entitled; and
- 38 (2) participate in the business and affairs of the commission.

39 (b) A member shall vote in person or by other means provided
40 in the bylaws.

41 Sec. 2. The commission:

- 42 (1) shall meet at least once during each calendar year; and

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(2) shall hold additional meetings according to the bylaws.

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

Sec. 4. The commission shall adopt rules concerning the commission's meetings consistent with the principles contained in 5 U.S.C. 552(b).

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

- (1) Relate solely to the commission's internal personnel practices and procedures.**
- (2) Disclose matters specifically exempted from disclosure by federal and state statute.**
- (3) Disclose trade secrets or commercial or financial information that is privileged or confidential.**
- (4) Involve:**
 - (A) the accusation of a person of a crime; or**
 - (B) the formal censure of a person.**
- (5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.**
- (6) Disclose investigative records compiled for law enforcement purposes.**
- (7) Specifically relate to the commission's issuance of a subpoena or the commission's participation in a civil action or other legal proceeding.**

Sec. 6. (a) For a meeting or part of a meeting that is closed under section 5 of this chapter, the commission's legal counsel or the counsel's designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision.

(b) The commission shall keep minutes of each meeting that fully and clearly describe all matters discussed in the meeting and provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of any roll call vote.

(c) All documents considered in connection with an action by the commission must be identified in the minutes.

(d) All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.

Chapter 8. Rules and Operating Procedures

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1 **Sec. 1. (a) The commission shall adopt reasonable rules to**
2 **effectively and efficiently achieve the purposes of this compact.**

3 **(b) If the commission exercises its rulemaking authority in a**
4 **manner that is beyond the scope of the purposes of this compact,**
5 **or the powers granted by this compact, the action by the**
6 **commission is invalid and has no force or effect.**

7 **Sec. 2. Rules adopted under this chapter must be made under a**
8 **rulemaking process that substantially conforms to the Model State**
9 **Administrative Procedure Act of 1981, Uniform Laws Annotated,**
10 **Vol. 15, p.1 (2000), as appropriate for the operations of the**
11 **commission.**

12 **Sec. 3. A rule, operating procedure, or amendment to a rule is**
13 **effective on the date specified in the rule, operating procedure, or**
14 **amendment.**

15 **Sec. 4. (a) Not later than thirty (30) days after a rule is adopted,**
16 **any person may file a petition for judicial review of the rule.**

17 **(b) The filing under subsection (a) of a petition for judicial**
18 **review of a rule does not stay or otherwise prevent the rule from**
19 **becoming effective unless the court finds that the petitioner has a**
20 **substantial likelihood of success.**

21 **(c) The court shall give deference to the actions of the**
22 **commission consistent with applicable law and shall not find a rule**
23 **that is the subject of a petition under this section to be unlawful if**
24 **the rule represents a reasonable exercise of the commission's**
25 **authority.**

26 **Chapter 9. Commission Records and Enforcement**

27 **Sec. 1. (a) The commission shall adopt rules establishing**
28 **conditions and procedures for public inspection and copying of the**
29 **commission's information and official records, not including**
30 **information and records involving the privacy of individuals,**
31 **insurers, or insureds, or surplus lines licensee trade secrets.**

32 **(b) State transaction documentation and clearinghouse**
33 **transaction data collected by the clearinghouse may be used only**
34 **for purposes expressed in or reasonably implied under the**
35 **provisions of this compact, and the commission shall afford the**
36 **state transaction documentation and clearinghouse transaction**
37 **data the broadest protections as permitted by applicable law for**
38 **proprietary information, trade secrets, or personal data.**

39 **(c) The commission may adopt additional rules under which the**
40 **commission may:**

41 **(1) make available to federal and state agencies, including law**
42 **enforcement agencies, records and information otherwise**

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exempt from disclosure; and
(2) enter into agreements with agencies described in subdivision (1) to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Sec. 2. (a) Except for privileged records, data, and information, the laws of a compacting state pertaining to confidentiality or nondisclosure do not relieve a compacting state member of the duty to disclose any relevant records, data, or information to the commission.

(b) Disclosure to the commission as described in subsection (a) does not waive or otherwise affect a confidentiality requirement.

(c) Except as otherwise expressly provided in this compact, the commission is not subject to the laws of a compacting state described in subsection (a) with respect to records, data, and information in the commission's possession.

(d) Confidential information of the commission remains confidential after the information is provided to a member.

(e) The commission shall maintain the confidentiality of information provided by a member if that information is confidential under the member's state's law.

Sec. 3. (a) The commission shall monitor compacting states for compliance with the bylaws and rules.

(b) The commission shall provide written notice of noncompliance to a compacting state that does not comply with the bylaws and rules.

(c) If a compacting state that receives a notice of noncompliance under subsection (b) fails to remedy the noncompliance within the time specified in the notice of noncompliance, the compacting state is considered to be in default under IC 27-18-14.

Chapter 10. Dispute Resolution

Sec. 1. (a) The commission shall attempt, upon the request of a member, to resolve disputes or other issues that:

- (1) are subject to this compact; and
- (2) may arise between two (2) or more compacting states, contracting states, or noncompacting states.

A member may not bring an action in a court with jurisdiction alleging a violation of a provision, standard, or requirement of this compact unless the commission, at the member's request, has attempted to resolve the dispute concerning the alleged violation.

(b) The commission shall adopt a rule providing alternative dispute resolution procedures for disputes described in subsection (a).

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1 **Sec. 2. The commission shall provide alternative dispute**
 2 **resolution procedures to resolve any disputes between insureds or**
 3 **surplus lines licensees concerning tax calculation or allocation or**
 4 **related issues that are the subject of this compact.**

5 **Sec. 3. Alternative dispute resolution procedures provided**
 6 **under this chapter must be used in circumstances where a dispute**
 7 **arises as to which state constitutes the home state.**

8 **Chapter 11. Review of Commission Decisions**

9 **Sec. 1. Except as necessary in adopting rules to fulfill the**
 10 **purposes of this compact, the commission does not have authority**
 11 **to regulate insurance in the compacting states.**

12 **Sec. 2. (a) Not later than thirty (30) days after the commission**
 13 **has given notice of a rule or allocation formula, a third party filer**
 14 **or compacting state may appeal the commission's determination to**
 15 **a review panel appointed by the commission.**

16 **(b) The commission shall adopt rules to establish procedures for**
 17 **the appointment of a review panel to consider an appeal described**
 18 **in subsection (a) and to provide for notice and hearing in the**
 19 **appeal.**

20 **(c) An allegation that the commission, in making a compliance**
 21 **or tax determination, acted arbitrarily, capriciously, or in a**
 22 **manner that is an abuse of discretion or otherwise not in**
 23 **accordance with the law is subject to judicial review in accordance**
 24 **with IC 27-18-2-6.**

25 **Sec. 3. (a) The commission may monitor and review commission**
 26 **decisions, and may reconsider commission decisions upon a finding**
 27 **that the determinations or allocations do not meet the relevant**
 28 **rule.**

29 **(b) The commission may withdraw or modify a determination**
 30 **or allocation described in subsection (a) after proper notice and**
 31 **hearing, subject to appeal under section 2 of this chapter.**

32 **Chapter 12. Finance**

33 **Sec. 1. (a) The commission shall pay or provide for the payment**
 34 **of the reasonable expenses of the commission's establishment and**
 35 **organization.**

36 **(b) To fund the cost of the commission's initial operations, the**
 37 **commission may accept contributions, grants, and other forms of**
 38 **funding from state stamping offices, compacting states, and other**
 39 **sources.**

40 **Sec. 2. (a) The commission shall collect a fee, payable by the**
 41 **insured directly or through a surplus lines licensee, on each**
 42 **transaction processed through the compact clearinghouse, to cover**

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1 the cost of the operations and activities of the commission and the
2 commission's staff.

3 (b) The revenue from the fee collected under subsection (a) must
4 be sufficient to cover the commission's annual budget.

5 Sec. 3. The commission's budget for a fiscal year shall not be
6 approved until the budget has been subject to notice and comment
7 as provided in IC 27-18-8.

8 Sec. 4. (a) The commission shall be regarded as performing
9 essential governmental functions in:

- 10 (1) exercising the commission's powers and functions; and
- 11 (2) carrying out the provisions of:
 - 12 (A) this compact; and
 - 13 (B) any law relating to this compact.

14 (b) The commission is not required to pay a tax or assessment
15 of any kind levied by a state or political subdivision upon:

- 16 (1) property used by the commission for; or
 - 17 (2) income or revenue resulting from;
- 18 purposes described in subsection (a), including any profit from a
19 sale or an exchange.

20 Sec. 5. (a) The commission shall keep complete and accurate
21 accounts of all of the commission's:

- 22 (1) internal receipts, including grants and donations; and
- 23 (2) disbursements;

24 for all funds under the commission's control.

25 (b) The internal financial accounts of the commission are
26 subject to the accounting procedures established under the bylaws.

27 (c) The financial accounts and reports of the commission,
28 including the system of internal controls and procedures of the
29 commission, must be audited annually by an independent certified
30 public accountant.

31 (d) Upon the determination of the commission, but not less than
32 every three (3) years, the annual audit conducted by the
33 independent auditor under subsection (c) must include a
34 management and performance audit of the commission.

35 (e) The commission shall make an annual report to the
36 governors and legislatures of the compacting states, including a
37 report of the independent audit conducted under subsection (c).

38 (f) Subject to subsection (g), the commission's internal accounts
39 are not confidential and may be shared with the commissioner,
40 controller, or stamping office of a compacting state upon request.

41 (g) The commission shall maintain the confidentiality of the
42 following:

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- 1 (1) Work papers related to an internal or independent audit.
- 2 (2) Information regarding the privacy of individuals.
- 3 (3) Licensees' and insurers' proprietary information,
- 4 including trade secrets.

5 Sec. 6. A compacting state does not have a claim to or ownership
6 of:

- 7 (1) property held by or vested in the commission; or
- 8 (2) commission funds held under this compact.

9 Sec. 7. (a) The commission shall not make political contributions
10 to candidates for elected office, elected officials, political parties, or
11 political action committees.

12 (b) The commission shall not engage in lobbying, except with
13 respect to changes to this compact.

14 Chapter 13. Compacting States, Effective Date, and Amendment

15 Sec. 1. Any state is eligible to become a compacting state.

16 Sec. 2. (a) Subject to subsection (b), this compact becomes
17 effective and binding upon legislative enactment of the compact
18 into law by two (2) compacting states.

19 (b) The commission established by this compact becomes
20 effective for purposes of adopting rules and creating the
21 clearinghouse when:

- 22 (1) there is a total of ten (10) compacting states and
- 23 contracting states; or
- 24 (2) there are compacting states and contracting states
- 25 representing more than forty percent (40%) of the total
- 26 surplus lines insurance premium volume, based on the
- 27 following apportionment of the total surplus lines insurance
- 28 premium volume among the states:

29	Alabama	1.47%
30	Alaska	0.29%
31	Arizona	2.18%
32	Arkansas	0.66%
33	California	18.49%
34	Colorado	1.79%
35	Connecticut	1.08%
36	Delaware	0.31%
37	Florida	8.75%
38	Georgia	2.95%
39	Hawaii	0.77%
40	Idaho	0.24%
41	Illinois	3.34%
42	Indiana	1.36%

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1	Iowa	0.44%
2	Kansas	0.53%
3	Kentucky	0.55%
4	Louisiana	2.81%
5	Maine	0.20%
6	Maryland	1.43%
7	Massachusetts	2.33%
8	Michigan	2.31%
9	Minnesota	1.29%
10	Mississippi	0.87%
11	Missouri	1.33%
12	Montana	0.21%
13	Nebraska	0.30%
14	Nevada	1.17%
15	New Hampshire	0.34%
16	New Jersey	3.58%
17	New Mexico	0.22%
18	New York	9.11%
19	North Carolina	1.69%
20	North Dakota	0.12%
21	Ohio	1.12%
22	Oklahoma	1.05%
23	Oregon	1.03%
24	Pennsylvania	2.57%
25	Rhode Island	0.24%
26	South Carolina	1.36%
27	South Dakota	0.13%
28	Tennessee	1.49%
29	Texas	10.06%
30	Utah	0.47%
31	Vermont	0.14%
32	Virginia	2.01%
33	Washington	2.43%
34	West Virginia	0.43%
35	Wisconsin	0.82%
36	Wyoming	0.13%

37 (c) After the commission becomes effective under subsection (b),
38 the compact becomes effective and binding as to any other
39 compacting state upon the enactment of the compact into law by
40 that state.

41 (d) The clearinghouse operations and the duty to report
42 clearinghouse transaction data begin on the first January 1 or July

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1 following the first anniversary of the commission's effective date under subsection (b).

(e) The commission shall:

(1) set a date for the reporting of clearinghouse transaction data by states that become compacting states after the commission's effective date under subsection (b); and

(2) provide notice of the date set under subdivision (1) to surplus lines licensees and all other interested parties at least ninety (90) days before the date set under subdivision (1).

Sec. 3. (a) Amendments to this compact may be proposed by the commission for enactment by the compacting states.

(b) An amendment to this compact is not effective and binding upon the commission and the compacting states until all compacting states enact the amendment into law.

Chapter 14. Withdrawal, Default, and Termination

Sec. 1. (a) Subject to subsection (b), after this compact becomes effective, the compact continues in force and remains binding upon every compacting state.

(b) A compacting state may withdraw from this compact by enacting a statute specifically repealing the statute that enacted this compact into law.

Sec. 2. (a) The effective date of a compacting state's withdrawal under section 1 of this chapter is the effective date of the statute repealing the statute that enacted this compact.

(b) Except by mutual agreement of the commission and the withdrawing state, a withdrawal under subsection (a) does not apply to a tax or compliance determination that has already been approved on the date the repealing statute becomes effective, unless:

(1) the compacting state and commission mutually agree that the withdrawal applies to the tax or compliance determination; or

(2) the approval of the tax or compliance determination is rescinded by the commission.

Sec. 3. (a) The member representing a compacting state shall immediately notify the executive committee of the commission in writing upon the introduction in the state's legislature of legislation to repeal this compact in the state.

(b) Not more than ten (10) days after receiving notice under subsection (a) of the legislation under which a state would withdraw from this compact, the commission shall notify the other compacting states of the introduction of the legislation.

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1 (c) A withdrawing state is responsible for all obligations, duties,
2 and liabilities incurred through the effective date of the state's
3 withdrawal, including obligations the performance of which
4 extends beyond the effective date of withdrawal.

5 (d) To the extent that obligations described in subsection (c)
6 have been released or relinquished by mutual agreement of the
7 commission and the withdrawing state, the commission's
8 determinations before the effective date of the state's withdrawal
9 continue to be effective and shall be given full force and effect in
10 the withdrawing state, unless formally rescinded by the
11 commission.

12 (e) A state that has withdrawn from this compact shall be
13 reinstated upon the effective date of the state's legislature's
14 reenactment of this compact.

15 **Sec. 4. (a) If the commission determines that a compacting state**
16 **has defaulted in the performance of any of the compacting state's**
17 **obligations or responsibilities under this compact or under the**
18 **bylaws or rules, the commission shall, after notice and hearing**
19 **under the bylaws, suspend all rights, privileges, and benefits**
20 **conferred by this compact on the defaulting state, effective on the**
21 **effective date of default as fixed by the commission.**

22 (b) The grounds for the suspension of a compacting state for
23 default under subsection (a) include:

- 24 (1) the failure of the compacting state to perform its
25 obligations or responsibilities; and
26 (2) other grounds designated in commission rules.

27 (c) Upon making a determination under subsection (a), the
28 commission shall immediately notify the defaulting state in writing
29 of:

- 30 (1) the defaulting state's suspension, pending resolution of the
31 default;
32 (2) the conditions for resolution of the default; and
33 (3) the period within which the defaulting state must resolve
34 the default.

35 (d) If a defaulting state notified under subsection (c) fails to
36 resolve the default within the period specified by the commission
37 under subsection (c)(3):

- 38 (1) the defaulting state shall be terminated from this compact;
39 and
40 (2) all rights, privileges, and benefits conferred on the state by
41 this compact are terminated on the effective date of the state's
42 termination from this compact.

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1 (e) Decisions of the commission that have already been issued on
 2 the effective date of a state's termination under subsection (d)
 3 remain in force in the defaulting state in the same manner as they
 4 would under sections 2(b) and 3 of this chapter if the defaulting
 5 state had withdrawn voluntarily under section 1 of this chapter.

6 (f) Reinstatement following termination of a compacting state
 7 requires legislative reenactment of the compact in the state.

8 Sec. 5. (a) This compact dissolves effective on the date of the
 9 withdrawal or termination for default of the compacting state
 10 whose withdrawal or termination reduces membership in the
 11 compact to one (1) compacting state.

12 (b) Upon the dissolution of this compact:

13 (1) this compact becomes void and has no further force or
 14 effect; and

15 (2) the business and affairs of the commission shall be wound
 16 up and any surplus funds shall be distributed in accordance
 17 with the bylaws and rules.

18 Chapter 15. Severability and Construction

19 Sec. 1. The provisions of this compact are severable in the
 20 manner provided in IC 1-1-1-8(b) and if any phrase, clause,
 21 sentence, or provision of this compact is considered unenforceable,
 22 the remaining provisions of this compact are enforceable.

23 Sec. 2. The provisions of this compact shall be liberally
 24 construed to effectuate this compact's purposes.

25 Chapter 16. Binding Effect of Compact and Other Laws

26 Sec. 1. Except as provided in section 2 of this chapter, this
 27 article does not prevent the enforcement of any other law of a
 28 compacting state.

29 Sec. 2. (a) Decisions of the commission and rules and other
 30 requirements of the commission constitute the exclusive rule or
 31 determination applicable to the compacting states.

32 (b) A law or regulation regarding nonadmitted insurance of
 33 multistate risks that is contrary to rules of the commission is
 34 preempted with respect to the following:

35 (1) Clearinghouse transaction data reporting requirements.

36 (2) Allocation formula.

37 (3) Clearinghouse transaction data collection requirements.

38 (4) Premium tax payment time frames and rules concerning
 39 dissemination of data among the compacting states for
 40 nonadmitted insurance of multistate risks and single state
 41 risks.

42 (5) Exclusive compliance with the surplus lines law of the

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- 1 home state of the insured.
- 2 (6) Rules for reporting to a clearinghouse for receipt and
- 3 distribution of clearinghouse transaction data related to
- 4 nonadmitted insurance of multistate risks.
- 5 (7) Uniform foreign insurers eligibility requirements.
- 6 (8) Uniform policyholder notice.
- 7 (9) Uniform treatment of purchasing groups procuring
- 8 nonadmitted insurance.
- 9 (c) Except as provided in subsection (b), a rule, uniform
- 10 standard, or other requirement of the commission constitutes the
- 11 exclusive provision that a commissioner may apply to compliance
- 12 or tax determinations. However, an action taken by the commission
- 13 does not abrogate or restrict:
 - 14 (1) the access of a person to state courts;
 - 15 (2) the availability of alternative dispute resolution under
 - 16 IC 27-18-10;
 - 17 (3) remedies available under state law related to breach of
 - 18 contract or torts, or other laws not specifically directed to
 - 19 compliance or tax determinations;
 - 20 (4) state law relating to the construction of insurance
 - 21 contracts; or
 - 22 (5) the authority of the attorney general of the state, including
 - 23 the authority to maintain any actions or proceedings, as
 - 24 authorized by law.
- 25 Sec. 3. (a) Except as provided in this section, lawful actions of
- 26 the commission, including rules adopted by the commission, are
- 27 binding upon the compacting states.
- 28 (b) Agreements between the commission and the compacting
- 29 states are binding in accordance with the terms of the agreements.
- 30 (c) Upon:
 - 31 (1) the request of a party to a conflict over the meaning or
 - 32 interpretation of a commission action; and
 - 33 (2) the affirmative vote of a majority of the compacting states;
 the commission may issue advisory opinions regarding the meaning

34 or interpretation in dispute. This subsection may be implemented

35 by rule at the discretion of the commission.

36
 - 37 (d) If a provision of this compact exceeds the constitutional
 - 38 limits imposed on the legislature of a compacting state:
 - 39 (1) the conferral upon the commission of obligations, duties,
 - 40 powers, and jurisdiction through this compact is ineffective as
 - 41 to the compacting state; and
 - 42 (2) the obligations, duties, powers, and jurisdiction:

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1 **(A) remain in the compacting state; and**
2 **(B) shall be exercised by the agency of the compacting state**
3 **to which the obligations, duties, powers, or jurisdiction are**
4 **delegated by law in effect at the time this compact becomes**
5 **effective.**
6 SECTION 2. IC 34-30-2-119.8 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2011]: **Sec. 119.8. IC 27-18-6-1(a)**
9 **(Concerning:**
10 **(1) the members, officers, executive director, employees, and**
11 **representatives; and**
12 **(2) the members of the executive committee and of any other**
13 **committee;**
14 **of the surplus lines insurance multistate compliance compact**
15 **commission).**

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 578, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 578 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 6, Nays 3.

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