

§ 5. Ratification of Compact. The State of Illinois ratifies and approves the Interstate Insurance Receivership Compact and enters into that Compact with all other jurisdictions legally joining in it in substantially the following form:

INTERSTATE INSURANCE RECEIVERSHIP COMPACT

ARTICLE I. PURPOSES

The purposes of this Compact are, through means of joint and cooperative action among the compacting states:

- (1) to promote, develop and facilitate orderly, efficient, cost-effective, and uniform insurer receivership laws and operations;
- (2) to coordinate interaction between insurer receivership and Guaranty Association operations;
- (3) to create the Interstate Insurance Receivership Commission; and
- (4) to perform these and such other related functions as may be consistent with the state regulation of the business of insurance pursuant to the McCarran-Ferguson Act. [FN1]

ARTICLE II. DEFINITIONS

For the purposes of this Compact:

- (1) “By-laws” means those by-laws prescribed by the Commission for its governance or for directing or controlling the Commission's actions or conduct.
- (2) “Compacting state” means any state which has enacted enabling legislation for this Compact.
- (3) “Commission” means the Interstate Insurance Receivership Commission established by this Compact.
- (4) “Commissioner” means the chief insurance regulatory official of a state.
- (5) “Deputy Receiver” means a person appointed or retained by a Receiver and who is the Receiver's duly authorized representative for administering one or more estates.
- (6) “Domiciliary state” means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry; or in the case of an unauthorized insurer not incorporated, organized, or entered in any state, a state where the insurer is engaged in or doing business.
- (7) “Estate” means the assets and liabilities of any insurer in receivership.

(8) “Guaranty Association” means an insurance guaranty fund or association or any similar entity now or hereafter created by statute in a compacting state, other than a receivership, to pay or assume, in whole or in part, the contractual claim obligations of insolvent insurers.

(9) “Insurer” means any person or entity that has done, purports to do, is doing, or is licensed to do any insurance or reinsurance business, or is or has been subject to the authority of, or to liquidation, rehabilitation, supervision, conservation, or ancillary receivership by, any Commissioner.

(10) “Member” means the Commissioner of a compacting state or his or her designee, who shall be a person officially connected with the Commissioner and who is wholly or principally employed by the Commissioner.

(11) “Non-compacting state” means a state which has not enacted enabling legislation for this Compact.

(12) “Operating procedures” means procedures promulgated by the Commission implementing a rule, an existing law in a compacting state, or a provision of this Compact.

(13) “Publication” means the act of publishing in the official state publication in a compacting state or in such other publication as may be established by the Commission.

(14) “Receiver” means receiver, liquidator, rehabilitator, conservator, or ancillary receiver as the context requires.

(15) “Receivership” means any liquidation, rehabilitation, conservation, or ancillary receivership proceeding as the context requires.

(16) “Rules” means acts of the Commission, duly promulgated pursuant to Article VII of this Compact, substantially affecting interested parties in addition to the Commission, which shall have the force and effect of law in the compacting states.

(17) “State” means any state, district or territory of the United States of America.

ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

(1) The compacting states hereby create and establish an entity known as the Interstate Insurance Receivership Commission.

(2) The Commission is a body corporate of each compacting state.

(3) The Commission is a not-for-profit entity, separate and distinct from the compacting states.

(4) The Commission is solely responsible for its liabilities except as otherwise provided in this Compact.

(5) Except as otherwise specifically provided in state or federal law in the jurisdiction where the Commission's principal office is located or where the Commission is acting as Receiver, venue is proper and judicial proceedings by or against the Commission shall be brought in a court of competent jurisdiction where the Commission's principal office is located.

ARTICLE IV. POWERS OF THE COMMISSION

The Commission shall have all of the following powers:

- (1) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this Compact.
- (2) To promulgate operating procedures which shall be binding in the compacting states to the extent and in the manner provided in this Compact.
- (3) To oversee, supervise, and coordinate the activities of receivers in compacting states.
- (4) To act as Receiver of insurers organized under the laws of, engaged in, or doing the business of insurance in a compacting state upon the request of the Commissioner of such state or when grounds for receivership by the Commission exist under Article IX of this Compact.
- (5) To act as Deputy Receiver of insurers organized under the laws of, engaged in, or doing the business of insurance in a non-compacting state in accordance with Article IX of this Compact.
- (6) To act as ancillary Receiver in a compacting state of an insurer domiciled in a non-compacting state.
- (7) To monitor the activities and functions of Guaranty Associations in the compacting states.
- (8) To delegate its operating authority or functions; provided, that its rulemaking authority under Article VII of this Compact shall not be delegated.
- (9) To bring or prosecute legal proceedings or actions in its name as the Commission, or in the name of the Commission acting as Receiver.
- (10) To bring or prosecute legal proceedings or actions as Receiver on behalf of an estate or its policyholders and creditors; provided, that any Guaranty Association's standing to sue or be sued under applicable law shall not be affected.
- (11) To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.
- (12) To establish and maintain offices.
- (13) To purchase and maintain insurance and bonds.

(14) To borrow, accept, or contract for services of personnel including, but not limited to, members and their staff.

(15) To elect or appoint such officers, attorneys, employees, or agents, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(16) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same.

(17) To lease, purchase, accept gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed.

(18) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(19) To enforce compliance with Commission rules, operating procedures, and by-laws.

(20) To provide for dispute resolution among compacting states and Receivers.

(21) To represent and advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this compact.

(22) To provide advice and training to receivership personnel of compacting states, and to be a resource for compacting states by maintaining a reference library of relevant materials.

(23) To establish a budget and make expenditures.

(24) To borrow money.

(25) To appoint committees including, but not limited to, an industry advisory committee and an executive committee of members.

(26) To provide and receive information relating to receiverships and Guaranty Associations and to cooperate with law enforcement agencies.

(27) To adopt and use a corporate seal.

(28) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact as may be consistent with the state regulation of the business of insurance pursuant to the McCarran-Ferguson Act.

ARTICLE V. ORGANIZATION OF THE COMMISSION

Section A. Membership, voting, and by-laws.

(1) A compacting state shall have and be limited to one member. A member shall be qualified to serve in such capacity under or pursuant to the applicable law of the compacting state. A compacting state retains the discretionary right to determine the due election or appointment and qualification of its own Commissioner, and to fill all vacancies of its member.

(2) A member shall be entitled to one vote.

(3) The Commission shall, by a majority of the members, prescribe by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

(a) establishing the fiscal year of the Commission;

(b) providing reasonable standards and procedures:

(i) for the establishment of committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

(c) providing reasonable procedures for calling and conducting meetings of the Commission and for ensuring reasonable notice of each such meeting;

(d) establishing the titles and responsibilities of the officers of the Commission;

(e) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the Commission; and

(f) providing a mechanism for winding up the operations of the Commission and the equitable return of any surplus funds that may exist after the dissolution of the Compact after the payment or reserving of all of its debts and obligations, or both.

Section B. Officers and personnel.

(1) The Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, a member designated in accordance with the by-laws, shall preside at all meetings of the Commission. The officers so elected shall serve without compensation or remuneration from the Commission; provided, that subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Commission.

(2) The Commission may, by a majority of the members, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission

may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

Section C. Corporate records of the Commission. The Commission shall maintain its corporate books and records in accordance with the by-laws.

Section D. Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, and employees of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person, or to protect the Commission acting as Receiver under Article IX of this Compact.

(2) The Commission shall defend any Commissioner of a compacting state, his or her representatives or employees, or the Commission's representatives or employees in any civil action seeking to impose liability against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

(3) The Commission shall indemnify and hold the Commissioner of a compacting state, his or her representatives or employees, or the Commission's representatives or employees harmless in the amount of any settlement or judgment obtained against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

(4) The costs and expenses of defense and indemnification of the Commission acting as Receiver of an estate shall be paid as administrative expenses from the assets of that estate unless such costs and expenses are covered by insurance maintained by the Commission.

ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

(1) The Commission shall meet and take such actions as are consistent with the provisions of this Compact.

(2) Except as otherwise provided in this Compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the Commission, such act shall have been taken at a meeting of the Commission and shall have received an affirmative vote of a majority of the members.

(3) Each member of the Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Commission. A member shall vote in person and shall not delegate his or her vote to another member. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication.

(4) The Commission shall meet at least once during each calendar year. The chairperson of the Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(5) The Commission's rules shall establish conditions and procedures under which the Commission shall make its information and official records available to the public for inspection or copying. The Commission may exempt from disclosure any information or official records to the extent disclosure would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Commission may consider any special circumstances pertaining to insurer insolvencies, but shall be guided by the principles embodied in state and federal freedom of information laws. The Commission may promulgate additional rules under which it may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(6) 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 as otherwise provided in this Compact. The Commission shall promulgate rules consistent with the principles contained in the federal Government in Sunshine Act, 5 U.S.C. Section 552b, as may be amended. The Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(a) relate solely to the Commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by statute;

(c) disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) involve accusing any person of a crime or formally censuring any person;

(e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigatory records compiled for law enforcement purposes;

(g) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated entity;

(i) specifically relate to the Commission's issuance of a subpoena or its participation in a civil action or proceeding.

(7) For every meeting closed pursuant to paragraph (6), the Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

ARTICLE VII. RULEMAKING FUNCTIONS OF THE COMMISSION

(1) The Commission shall promulgate rules and operating procedures in order to effectively and efficiently achieve the purposes of this Compact; provided, that the Commission shall not promulgate any rules: (i) directly relating to Guaranty Associations including, but not limited to, rules governing coverage, funding, or assessment mechanisms, or (ii) (except pursuant to rules promulgated under Article VII(3) of this Compact) altering the statutory priorities for distributing assets out of an estate.

(2) Rulemaking shall occur pursuant to the criteria set forth in this Article and the rules and operating procedures promulgated pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. Section 551 et seq. and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, Section 1 et seq., as may be amended.

(3) Other than the promulgation of such rules as are necessary for the orderly operation of the Commission, the first rule to be considered by the Commission shall be uniform provisions governing insurer receiverships including, but not limited to, provisions requiring compacting states to implement, execute, and administer in a fair, just, effective, and efficient manner rules and operating procedures relating to receiverships. The Commission shall within 3 years of the adoption of this Compact by 2 or more states, promulgate such uniform provisions through the rulemaking process. Such uniform provisions shall become law in all of the compacting states upon legislative enactment in a majority of the compacting states.

(4) All rules and amendments shall become binding as of the date specified in each rule or amendment; provided, that if a compacting state expressly rejects such rule or amendment through legislative enactment as of the expiration of the second full calendar year after such rule

is promulgated, such rule or amendment shall have no further force or effect in the rejecting compacting state. If a majority of compacting states reject a rule, then such rule shall have no further force or effect in any compacting state.

(5) When promulgating a rule or operating procedure, the Commission shall:

(a) effect publication of the proposed rulemaking, stating with particularity the text of the rule or operating procedure which is proposed and the reason for the proposed rule or operating procedure;

(b) allow persons to submit written data, facts, opinions and arguments, which information the Commission shall make publicly available;

(c) provide an opportunity for an informal hearing; and

(d) promulgate a final rule or operating procedure and its effective date, if appropriate, based on the rulemaking record.

(6) Not later than 60 days after a rule or operating procedure is promulgated, any interested person may file a petition in a court of competent jurisdiction where the Commission's principal office is located for judicial review of such rule or operating procedure. If the court finds that the Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

ARTICLE VIII. OVERSIGHT AND DISPUTE RESOLUTION BY THE COMMISSION

Section A. Oversight.

(1) The Commission shall oversee the administration and operations of receiverships in compacting states and shall monitor receiverships being administered in non-compacting states which may significantly affect compacting states.

(2) To aid its monitoring, oversight, and coordination responsibilities, the Commission shall establish operating procedures requiring each member to submit written reports to the Commission as follows:

(a) An initial report to the Commission upon a finding or other official action by the compacting state that grounds exist for receivership of an insurer doing business in more than one state. Thereafter, reports shall be submitted periodically and as otherwise required pursuant to the Commission's operating procedures. The Commission shall be entitled to receive notice of, and shall have standing to appear in, compacting states' receiverships.

(b) An initial report of the status of an insurer within a reasonable time after the initiation of a receivership.

(3) The Commission shall promulgate operating procedures requiring Receivers to submit to the Commission periodic written reports and such additional information and documentation as the Commission may reasonably request. Each compacting state's Receivers shall establish the capability to obtain and provide all such records, data, and information required by the Commission in accordance with the Commission's operating procedures.

(4) Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state Commissioner of the responsibility to disclose any relevant records, data, or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that the Commission shall be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to all such records, data, and information in its possession.

(5) The courts and executive agencies in each compacting state shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any receivership or other judicial or administrative proceeding in a compacting state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission, the Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the receivership or proceeding for all purposes.

(6) The Commission shall analyze and correlate records, data, information, and reports received from Receivers and Guaranty Associations and shall make recommendations for improving their performance to the compacting states. The Commission shall include summary information and data regarding its oversight functions in its annual report.

Section B. Dispute resolution.

(1) The Commission shall attempt, upon the request of a member, to resolve any disputes or other issues which are subject to this Compact and which may arise among compacting states and non-compacting states.

(2) The compacting states shall report to the Commission on issues or activities of concern to them and cooperate with and support the Commission in the discharge of its duties and responsibilities.

(3) The Commission shall promulgate an operating procedure providing for binding dispute resolution for disputes among Receivers.

(4) The Commission shall facilitate voluntary dispute resolution for disputes among Guaranty Associations and Receivers.

ARTICLE IX. RECEIVERSHIP FUNCTIONS OF THE COMMISSION

(1) The Commission has authority to act as Receiver of any insurer domiciled, engaged in, or doing business in a compacting state upon the request of the Commissioner of such compacting state or as otherwise provided in this Compact.

(a) The Commission as Receiver shall have all powers and duties pursuant to the receivership laws of the domiciliary state.

(b) The Commission shall maintain accounts of receipts and disbursements of the estates for which it is acting as Receiver, consistent with the accounting practices and procedures set forth in the by-laws.

(c) The Commission shall cause an annual audit of each estate for which it is acting as Receiver, to be conducted by an independent certified public accountant. The costs and expenses of such audit shall be paid as administrative expenses from the assets of the estate. The Commission shall not cause an audit to be conducted of any estate that lacks sufficient assets to conduct such audit.

(d) The Commission as Receiver is authorized to delegate its receivership duties and functions and to effectuate such delegation through contracts with others.

(2) The Commission shall act as Receiver of any insurer domiciled or doing business in a compacting state in the event that the member acting as Receiver in that compacting state fails to comply with duly promulgated Commission rules or operating procedures. The Commission shall notify such member in writing of noncompliance with Commission rules or operating procedures. If the member acting as Receiver fails to remedy such noncompliance within 10 days after receipt of such notification, the Commission may petition the supervising court before which such receivership is pending for an order substituting and appointing the Commission as Receiver of the estate.

(3) The Commission shall not act as Receiver of an estate which appears to lack sufficient assets to fund such receivership unless the compacting state makes provisions for the payment of the estate's administrative expenses satisfactory to the Commission.

(4) The Commission may act as Deputy Receiver for any insurer domiciled or doing business in a non-compacting state in accordance with such state's laws upon request of that non-compacting state's Commissioner and approval of the Commission.

(5) With respect to receiverships pending in a compacting state on the effective date of the enactment of this Compact by the compacting state:

(a) the Commission may act as Receiver of an insurer upon the request of that compacting state's member and approval of the Commission; and

(b) the Commission shall oversee, monitor, and coordinate the activities of all receiverships pending in that compacting state regardless whether the Commission is acting as Receiver of estates in such state.

ARTICLE X. FINANCE

(1) The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization.

(2) Except as otherwise provided in this Compact or by act of the Commission, the costs and expenses of each compacting state shall be the sole and exclusive responsibility of the respective compacting state. The Commission may pay or provide for actual and necessary costs and expenses for attendance of its members at official meetings of the Commission or its designated committees.

(3) The Commission shall levy on and collect an annual assessment from each compacting state and each insurer authorized to do business in a compacting state, and writing direct insurance, to cover the cost of the internal operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

(a) The aggregate annual assessment amount shall be allocated 75% to insurers, hereinafter referred to as the "insurers' portion", and 25% to compacting states, hereinafter referred to as the "compacting states' portion". The insurer portion shall be allocated to each insurer by the percentage derived from a fraction, the numerator of which shall be the gross direct written premium received on that insurer's business in all compacting states and the denominator of which shall be the gross direct written premium received by all insurers on business in all compacting states. The compacting states' portion shall be allocated to each compacting state by the percentage derived from a fraction, the numerator of which shall be the gross direct written premium received by all insurers on business in that compacting state and the denominator shall be the gross direct written premium received on all insurers on business in all compacting states. A compacting state's portion shall be funded as designated by that state's legislature. In no event shall an insurer's assessment be less than \$50 or more than \$25,000; provided, that affiliated insurers' combined assessments shall not exceed \$50,000. Upon the request of an insurer, the Commission may exempt or defer the assessment of any insurer if such assessment would cause the insurer's financial impairment.

(b) These assessments shall not be used to pay any costs or expenses incurred by the Commission and its staff acting as Receiver of estates. Such costs and expenses shall be paid as administrative expenses from the assets of the estates as provided by law, except as otherwise provided in this Compact.

(c) An insurer authorized to do business in a compacting state shall timely pay assessments to the Commission. Failure to pay such assessments shall not be grounds for the revocation, suspension, or denial of an insurer's authority to do business, but shall subject the insurer to suit by the Commission for recovery of any assessment due, attorneys' fees, and costs, together with interest from the date the assessment is due at a rate of 10% per annum, and to civil forfeiture in an amount to be determined by the Commissioner of that compacting state in which the insurer received the greatest premium in the year next preceding the first year for which the insurer shall be delinquent in payment of assessments.

(4) The Commission shall be reimbursed in the following manner for the costs and expenses incurred by the Commission and its staff acting as Receiver of estates to the extent that an insurer's assets may be insufficient for the effective administration of its estate:

(a) if the insurer is domiciled in a compacting state, the estate shall be closed unless that compacting state makes provisions for reimbursing the Commission; and

(b) if the insurer is unauthorized to do business in a compacting state or if the insurer is domiciled in a non-compacting state and subject to ancillary receivership, then the Commission and such state shall make provisions for reimbursing the Commission prior to the Commission becoming Receiver of such insurer.

(5) To fund the cost of the initial operations of the Commission until its first annual budget is adopted and related assessments have been made, contributions from compacting states and others may be accepted and a one time assessment on insurers doing a direct insurance business in the compacting states may be made not to exceed \$450 per insurer.

(6) The Commission's adopted budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact. The budget shall determine the amount of the annual assessment. The Commission may accumulate a net worth not to exceed 30% of its then annual cost of operation to provide for contingencies and events not contemplated. These accumulated funds shall be held separately and shall not be used for any other purpose. The Commission's budget may include a provision for a contribution to the Commission's net worth.

(7) The Commission shall be exempt from all taxation in and by the compacting states.

(8) The Commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

(9) The Commission shall keep complete and accurate accounts of all its internal receipts (including grants and donations) and disbursements of all funds, other than receivership assets, under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its by-laws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every 3 years, the review of such independent auditor shall include a management and performance audit of the Commission. The report of such independent audit shall be made available to the public and shall be included in and become part of the annual report of the Commission to the Governors and legislatures of the compacting states. The Commission's internal accounts, any workpapers related to any internal audit, and any workpapers related to the independent audit, shall be confidential; provided, that such materials shall be made available: (i) in compliance with the order of any court of competent jurisdiction; (ii) pursuant to such reasonable rules as the Commission shall promulgate; and (iii) to any Commissioner, Governor of a compacting state, or their duly authorized representatives.

(10) No compacting state shall have any claim to or ownership of any property held by or vested in the Commission or the Commission acting as Receiver or to any other Commission funds held pursuant to the provisions of this Compact.

ARTICLE XI. COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

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

(2) The Compact shall become effective and binding upon legislative enactment of the Compact into law by 2 compacting states. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the Compact into law by that state.

(3) Amendments to the Compact may be proposed by the Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII. WITHDRAWAL, DEFAULT, AND TERMINATION

Section A. Withdrawal.

(1) Once effective, the Compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the Compact (“withdrawing state”) by enacting a statute specifically repealing the statute which enacted the Compact into law.

(2) The effective date of withdrawal is the effective date of the repeal; provided, that the repeal shall not apply to any receiverships, for which the Commission is acting as Receiver, pending on the date of the repeal except by mutual agreement of the Commission and the withdrawing state.

(3) The withdrawing state shall immediately notify the Chairperson of the Commission in writing upon the introduction of legislation repealing this Compact in the withdrawing state.

(4) The Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(5) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the withdrawing state. Notwithstanding the foregoing, the withdrawing state is responsible for the costs and expenses of its estates subject to this Compact pending on the date of repeal; the Commission and the other estates subject to this Compact shall not bear any costs and expenses related to the withdrawing state's estates unless otherwise mutually agreed upon between the Commission and the withdrawing state.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Commission.

Section B. Default.

(1) If the Commission determines that any compacting state has at any time defaulted (“defaulting state”) in the performance of any of its obligations or responsibilities under this Compact, the by-laws, or duly promulgated rules, all rights, privileges, and benefits conferred by this Compact and any agreements entered into pursuant to this Compact shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities and any other grounds designated in Commission rules. The Commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Commission, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this Compact shall be terminated from the effective date of termination.

(2) Within 60 days of the effective date of termination of a defaulting state, the Commission shall notify the Governor and the Majority and Minority Leaders of the defaulting state's legislature of such termination.

(3) The termination of a defaulting state shall apply to all receiverships, for which the Commission is acting as Receiver, pending on the effective date of termination except by mutual agreement of the Commission and the defaulting state.

(4) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination and is responsible for the costs and expenses relating to its estates subject to this Compact pending on the date of the termination. The Commission and the other estates subject to this Compact shall not bear any costs or expenses relating the defaulting state's estates unless otherwise mutually agreed upon between the Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Commission pursuant to the rules.

Section C. Dissolution of Compact.

(1) The Compact dissolves effective upon the date of the withdrawal or the termination by default of the compacting state which reduces membership in the Compact to one compacting state.

(2) Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XIII. SEVERABILITY AND CONSTRUCTION

(1) The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(2) The provisions of this Compact shall be liberally construed to effectuate its purposes.

ARTICLE XIV. BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other laws.

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this Compact.

(2) All compacting states' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding effect of this Compact.

(1) All lawful actions of the Commission, including all rules and operating procedures promulgated by the Commission, are binding upon the compacting states.

(2) All agreements between the Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Commission actions, and upon a majority vote of the compacting states, the Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

CREDIT(S)

P.A. 89-247, § 5, eff. Jan. 1, 1996. Amended by P.A. 95-331, § 440, eff. Aug. 21, 2007.

[FN1] 15 U.S.C.A. § 1011 et seq.

HISTORICAL AND STATUTORY NOTES

P.A. 95-331, the First 2007 General Revisory Act, amended various Acts to delete obsolete text, to correct patent and technical errors, to revise cross references, to resolve multiple actions in the 92nd, 93rd, and 94th General Assemblies and to make certain technical corrections in P.A. 92-520 through P.A. 94-1068.

CROSS REFERENCES

Interstate Insurance Receivership Commission, internal costs and expenses, annual financial regulation fee, see 215 ILCS 5/408.

LIBRARY REFERENCES

Insurance ¶¶ 1402, 1405, 1470, 1471.

States ¶ 6.

Westlaw Topic Nos. 217, 360.

C.J.S. Insurance §§ 144, 146, 157 to 160, 175.

C.J.S. States §§ 13, 67 to 71, 257.

45 I.L.C.S. 160/5, IL ST CH 45 § 160/5

Current through 97-17, with the exception of P.A. 97-6, P.A. 97-14, and P.A. 97-15, of the 2011 Reg. Sess.

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