

# Surplus Lines Insurance Multi-State Compliance Compact Statement

In July 2010 President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act. As part of the agreement, Congress incorporated the Nonadmitted Insurance and Reinsurance Reform Act (NRRA) as Title V, Subtitle B, Part I. In NRRA Congress insisted that states adopt uniform requirements, forms, and procedures to facilitate the reporting, payment, collection, and allocation of premium taxes for the surplus lines insurance industry. Currently, there are two competing models states can consider to do this. One is the National Association of Insurance Commissioners' (NAIC) Non-Admitted Insurance Multi-state Agreement (NIMA). The other is the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT), which was developed by The Council of State Governments (CSG) National Center for Interstate Compacts (NCIC), the National Conference of Insurance Legislators (NCOIL), and a variety of industry stakeholders.

NIMA is a model state law. Actions taken under NIMA's authority are advisory in nature, serving primarily as recommendations. These actions are not binding on the member states, meaning the uniformity insisted upon by Congress in the Dodd Frank reform bill is lost. NIMA language does not allow the joining states to form a joint regulatory body with the authority to promulgate rules, establish uniform payment methods and reporting requirements, and establish formulas governing the allocation of surplus lines premiums. NIMA allows an Executive Branch official (e.g., a state insurance commissioner) to join a state to the agreement without legislative consent or approval. There are no terms pre-empting conflicting legislation or regulation in the member states and state enactment is not conditioned upon the adoption of the statute by other member states. These factors could allow a state to unilaterally repeal or amend that law without limitation or recourse of the other member states.

SLIMPACT authorizes member states to form a governing commission to establish allocation formulas, uniform payment methods and reporting requirements, insurer eligibility standards and a single policyholder notice to replace the various forms currently in use across the country. The compact streamlines the taxation process and ensures each member state receives its fair share of tax premiums. It allows member states to create a single tax rate for surplus lines insurance, charge their own rates on multi-state risks, and choose among uniform payment dates. SLIMPACT is sustainable and enforceable over time, and provides sufficient flexibility to ensure member states are able to keep up with changes to insurance markets without having to amend the legislation.

The compact language requires 10 states enact it for it to activate. The NCIC reports that nine states had enacted SLIMPACT as of December 2011: Alabama, Indiana, Kansas, Kentucky, New Mexico, North Dakota, Rhode Island, Tennessee, and Vermont.

Kentucky [HB 167](#):

- Protects the premium tax revenues of the compacting states through facilitating the payment and collection of premium tax on non-admitted insurance;
- Protects the interests of the compacting states by supporting the continued availability of such insurance to consumers;
- Provides for allocation of premium tax for non-admitted insurance of multi-state risks among the states in accordance with uniform allocation formulas to be developed, adopted, and implemented by the compact's administrative commission;
- Streamlines and improves the efficiency of the surplus lines market by eliminating duplicative and inconsistent tax and regulatory requirements among the states;

- Promotes and protects the interest of surplus lines licensees who assist such insured's and surplus lines insurers, thereby ensuring the continued availability of surplus lines insurance to consumers;
- Streamlines regulatory compliance with respect to non-admitted insurance placements by providing for exclusive single-state regulatory compliance for non-admitted insurance of multi-state risks, in accordance with rules to be adopted by the commission, thereby providing certainty regarding such compliance to all persons who have an interest in such transactions, including but not limited to insured's, regulators, surplus lines licensees, other insurance producers, and surplus lines insurers;
- Establishes a clearinghouse to receive and disseminate premium tax and clearinghouse transaction data related to non-admitted insurance of multi-state risks, in accordance with rules to be adopted by the commission;
- Improves coordination of regulatory resources and expertise between state insurance departments and other state agencies, as well as state surplus lines stamping offices, with respect to non-admitted insurance;
- Adopts uniform rules to provide for premium tax payment, reporting, allocation, data collection and dissemination for non-admitted insurance of multi-state risks and single-state risks, in accordance with rules to be adopted by the commission, thereby promoting the overall efficiency of the non-admitted insurance market;
- Adopts uniform mandatory rules with respect to regulatory compliance requirements for foreign insurer eligibility requirements and surplus lines policyholder notices;
- Creates a surplus lines insurance multi-state compliance compact commission, and
- Coordinates reporting clearinghouse transaction data.

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Submitted as:

Kentucky

[HB 167](#)

Status: Enacted into law in 2011.