



## 1995 ASSEMBLY BILL 992

March 7, 1996 - Introduced by Representatives LORGE, ALBERS, FREESE, BALDUS, UNDERHEIM, CULLEN, KREIBICH, ROBSON and NOTESTEIN, cosponsored by Senator SCHULTZ. Referred to Committee on Insurance, Securities and Corporate Policy.

1     **AN ACT** *to amend* 15.01 (2); and *to create* 14.83, 20.145 (1) (c), 601.415 (11),  
2           601.59 and 601.595 of the statutes; **relating to:** ratifying the interstate  
3           insurance receivership compact, creating the interstate insurance receivership  
4           commission, granting rule-making authority and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill ratifies the interstate insurance receivership compact (compact). The main purposes of the compact are to promote and develop orderly, efficient, cost-effective and uniform insurer receivership laws and operations and to coordinate interaction between insurer receivership and guaranty fund operations. Any state may join in the compact by ratifying it by statute. The functions under the compact are performed by the interstate insurance receivership commission (commission), which is created by the compact. The commission is composed of members who represent the compacting states. Each compacting state has one member, and one vote, on the commission. The commissioner of insurance, or his or her designee, is the commission member representing this state.

The commission is a body corporate of each compacting state and has the usual corporate powers, such as to elect or appoint officers, employes or attorneys, to borrow money, to accept donations and grants of money, to prescribe bylaws for its operation, to establish a budget and make expenditures, to lease or purchase real or personal property, to sell or mortgage real or personal property, to bring or prosecute legal proceedings, to establish and maintain offices and to purchase insurance and bonds. In addition, the commission has the power to promulgate rules that are binding on the compacting states and to enforce those rules, to oversee, supervise and coordinate the activities of receivers in compacting states, to monitor the activities and functions of guaranty funds in the compacting states, to act as a receiver of insurers, to provide advice and training regarding receiverships in the compacting states and to provide for dispute resolution among compacting states and receivers.

The primary functions of the commission are the oversight of receiverships in the compacting states and the promulgation of rules related to the operation of receiverships. To aid the commission in the first primary function, each compacting state must keep the commission informed of receiverships in the state by providing notice to the commission of those receiverships and by submitting certain reports regarding those receiverships. Receivers in the compacting states must submit to the commission reports and other information requested by the commission. The commission will analyze the information received and may make recommendations to a compacting state for improving the performance of its receivers. The commission may act as receiver of any insurer in a compacting state upon the request of the commissioner of the compacting state or if the commissioner, while acting as receiver, fails to comply with commission rules or operating procedures. With regard to the 2nd primary function, within 3 years after ratification of the compact by at least 2 states, the commission is required to promulgate uniform provisions for the operation of receiverships among the compacting states. The uniform provisions will become law in the compacting states upon legislative enactment in a majority of the compacting states. A compacting state, however, may exempt itself from the application of a uniform provision if the state expressly rejects the provision by legislative enactment.

The expenses of the commission are to be paid through annual assessments against each compacting state and each insurer authorized to do a direct insurance business in a compacting state. Under the bill, this state's portion of the annual assessment will be paid by general purpose revenue. The commissioner of insurance must request the joint committee on finance to supplement the general purpose revenue appropriation if the appropriated amounts are insufficient and may not impose an assessment against insurers to cover the deficiency. The commission is exempt from taxation in the compacting states.

Any compacting state may withdraw from the compact by repealing the state's statute that ratifies the compact. A compacting state may also be terminated from the compact if it defaults on any of its obligations under the compact and fails to cure the default within the time specified by the commission. The entire compact dissolves if membership is at any time reduced to one state.

Current law provides for the grounds, and procedures to be followed, for the rehabilitation and liquidation of insurers doing business in this state, actions in which the insurers are subject to receivership.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **14.83 Interstate insurance receivership commission.** There is created an  
2 interstate insurance receivership commission as specified in s. 601.59 (3). The  
3 member of the commission representing this state shall be the commissioner of  
4 insurance or his or her designated representative. The commission member shall  
5 serve without compensation but shall be reimbursed from the appropriation under  
6 s. 20.145 (1) (g) for actual and necessary expenses incurred in the performance of his  
7 or her duties. The commission has the powers and duties granted and imposed under  
8 s. 601.59.

9           **SECTION 2.** 15.01 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is  
10 amended to read:

11           15.01 (2) "Commission" means a 3-member governing body in charge of a  
12 department or independent agency or of a division or other subunit within a  
13 department, except for the education commission which shall consist of 11 members,  
14 the Wisconsin waterways commission which shall consist of 5 members, the parole  
15 commission which shall consist of 5 members and the Fox river management  
16 commission which shall consist of 7 members. A Wisconsin group created for  
17 participation in a continuing interstate body, or the interstate body itself, shall be  
18 known as a "commission", but is not a commission for purposes of s. 15.06. The parole  
19 commission created under s. 15.145 (1) shall be known as a "commission", but is not  
20 a commission for purposes of s. 15.06.

21           **SECTION 3.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
22 the following amounts for the purposes indicated:

**1995-96      1996-97**

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**20.145 Insurance, office of the commissioner of**

(1) SUPERVISION OF THE INSURANCE INDUSTRY

(c) Interstate insurance receivership

commission assessment	GPR	A	25,000	25,000
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**SECTION 4.** 20.145 (1) (c) of the statutes is created to read:

20.145 (1) (c) *Interstate insurance receivership commission assessment.* The amounts in the schedule to pay all or \$25,000 of this state’s portion of the annual assessment levied by the interstate insurance receivership commission under s. 601.59 (10) (c), whichever is less.

**SECTION 5.** 601.415 (11) of the statutes is created to read:

601.415 (11) INTERSTATE INSURANCE RECEIVERSHIP COMMISSION. The commissioner or a designated representative shall serve as a member of the interstate insurance receivership commission under ss. 14.83 and 601.59 (3).

**SECTION 6.** 601.59 of the statutes is created to read:

**601.59 Interstate insurance receivership compact.** The interstate insurance receivership compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein, in the form substantially as follows:

(1) ARTICLE I — PURPOSES. Through means of joint and cooperative action among the compacting states, the purposes of this compact include all of the following:

(a) To promote, develop and facilitate orderly, efficient, cost-effective and uniform insurer receivership laws and operations.

1 (b) To coordinate interaction between insurer receivership and guaranty  
2 association operations.

3 (c) To create the interstate insurance receivership commission.

4 (d) To perform these and such other related functions as may be consistent with  
5 the state regulation of the business of insurance pursuant to the  
6 McCarran-Ferguson act.

7 **(2) ARTICLE II — DEFINITIONS.** In this compact:

8 (a) “Bylaws” means those bylaws prescribed by the commission for its  
9 governance, or for directing or controlling the commission’s actions or conduct.

10 (b) “Compacting state” means any state which has enacted enabling legislation  
11 for this compact.

12 (c) “Commission” means the interstate insurance receivership commission  
13 created by this compact.

14 (d) “Commissioner” means the chief insurance regulatory official of a state.

15 (e) “Deputy receiver” means any person appointed or retained by a receiver and  
16 who is the receiver’s duly authorized representative for administering one or more  
17 estates.

18 (f) “Domiciliary state” means the state in which an insurer is incorporated or  
19 organized; or, in the case of an alien insurer, its state of entry; or, in the case of an  
20 unauthorized insurer not incorporated, organized, or entered in any state, a state  
21 where the insurer is engaged in or doing business.

22 (g) “Estate” means the assets and liabilities of any insurer in receivership.

23 (h) “Guaranty association” means an insurance guaranty fund or association  
24 or any similar entity now or hereafter created by statute in a compacting state, other

1 than a receivership, to pay or assume, in whole or in part, the contractual claim  
2 obligations of insolvent insurers.

3 (i) "Insurer" means any person or entity that has done, purports to do, is doing  
4 or is licensed to do any insurance or reinsurance business, or that is or has been  
5 subject to the authority of, or to liquidation, rehabilitation, supervision, conservation  
6 or ancillary receivership by, any commissioner.

7 (j) "Member" means the commissioner of a compacting state or his or her  
8 designee, who shall be a person officially connected with the commissioner and who  
9 is wholly or principally employed by the commissioner.

10 (k) "Noncompacting state" means any state which has not enacted enabling  
11 legislation for this compact.

12 (L) "Operating procedures" means those procedures promulgated by the  
13 commission implementing a rule, an existing law in a compacting state or a provision  
14 of this compact.

15 (m) "Publication" means the act of publishing in the official state publication  
16 in a compacting state or in such other publication as may be established by the  
17 commission.

18 (n) "Receiver" means receiver, liquidator, rehabilitator, conservator or ancillary  
19 receiver as the context requires.

20 (o) "Receivership" means any liquidation, rehabilitation, conservation or  
21 ancillary receivership proceeding as the context requires.

22 (p) "Rules" means acts of the commission, duly promulgated pursuant to sub.  
23 (7), substantially affecting interested parties in addition to the commission, which  
24 shall have the force and effect of law in the compacting states.

25 (q) "State" means any state, district or territory of the United States of America.

1           **(3) ARTICLE III — ESTABLISHMENT OF THE COMMISSION AND VENUE.** The  
2 compacting states hereby create the interstate insurance receivership commission.  
3 The commission is a body corporate of each compacting state. The commission is a  
4 not-for-profit entity, separate and distinct from the compacting states. The  
5 commission is solely responsible for its liabilities except as otherwise provided in this  
6 compact. Except as otherwise specifically provided in state or federal law in the  
7 jurisdiction where the commission's principal office is located or where the  
8 commission is acting as receiver, venue is proper, and judicial proceedings by or  
9 against the commission shall be brought, in a court of competent jurisdiction where  
10 the commission's principal office is located.

11           **(4) ARTICLE IV — POWERS OF THE COMMISSION.** The commission shall have all  
12 of the following powers:

13           (a) To promulgate rules which shall have the force and effect of statutory law  
14 and shall be binding in the compacting states to the extent and in the manner  
15 provided in this compact.

16           (b) To promulgate operating procedures which shall be binding in the  
17 compacting states to the extent and in the manner provided in this compact.

18           (c) To oversee, supervise and coordinate the activities of receivers in  
19 compacting states.

20           (d) To act as receiver of insurers organized under the laws of, engaged in or  
21 doing the business of insurance in, a compacting state upon the request of the  
22 commissioner of such state or when grounds for receivership by the commission exist  
23 under sub. (9).

1 (e) To act as deputy receiver of insurers organized under the laws of, engaged  
2 in or doing the business of insurance in, a noncompacting state in accordance with  
3 sub. (9).

4 (f) To act as ancillary receiver in a compacting state of an insurer domiciled in  
5 a noncompacting state.

6 (g) To monitor the activities and functions of guaranty associations in the  
7 compacting states.

8 (h) To delegate its operating authority or functions; provided, that its  
9 rule-making authority under sub. (7) shall not be delegated.

10 (i) To bring or prosecute legal proceedings or actions in its name as the  
11 commission, or in the name of the commission acting as receiver.

12 (j) To bring or prosecute legal proceedings or actions as receiver on behalf of an  
13 estate or its policyholders and creditors; provided, that any guaranty association's  
14 standing to sue or be sued under applicable law shall not be affected.

15 (jm) To issue subpoenas requiring the attendance and testimony of witnesses  
16 and the production of evidence.

17 (k) To establish and maintain offices.

18 (L) To purchase and maintain insurance and bonds.

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

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

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

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

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

7           (q) To enforce compliance with commission rules, operating procedures and  
8 bylaws.

9           (r) To provide for dispute resolution among compacting states and receivers.

10          (s) To represent and advise compacting states on issues relating to insurers  
11 domiciled or doing business in noncompacting jurisdictions, consistent with the  
12 purposes of this compact.

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

16          (u) To establish a budget and make expenditures.

17          (v) To borrow money.

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

20          (x) To provide and receive information relating to receiverships and guaranty  
21 associations, and to cooperate with law enforcement agencies.

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

23          (z) To perform such other functions as may be necessary or appropriate to  
24 achieve the purposes of this compact as may be consistent with the state regulation  
25 of the business of insurance pursuant to the McCarran-Ferguson act.

1           **(5) ARTICLE V — ORGANIZATION OF THE COMMISSION.** (a) Each compacting state  
2 shall have one member. Each member shall be qualified to serve in such capacity  
3 under the applicable law of the compacting state. Each compacting state retains the  
4 discretionary right to determine the due election or appointment and qualification  
5 of its own commissioner, and to fill all vacancies of its member. Each member shall  
6 be entitled to one vote.

7           (b) The commission shall, by a majority of the members, prescribe bylaws to  
8 govern its conduct as may be necessary or appropriate to carry out the purposes of  
9 the compact, including, but not limited to, all of the following:

10           1. Establishing the fiscal year of the commission.

11           2. Providing reasonable standards and procedures for the establishment of  
12 committees and governing any general or specific delegation of any authority or  
13 function of the commission.

14           3. Providing reasonable procedures for calling and conducting meetings of the  
15 commission, and ensuring reasonable notice of each such meeting.

16           4. Establishing the titles and responsibilities of the officers of the commission.

17           5. Providing reasonable standards and procedures for the establishment of the  
18 personnel policies and programs of the commission. Notwithstanding any civil  
19 service or other similar laws of any compacting state, the bylaws shall exclusively  
20 govern the personnel policies and programs of the commission.

21           6. Providing a mechanism for winding up the operations of the commission and  
22 the equitable return of any surplus funds that may exist after the dissolution of the  
23 compact after the payment or reserving of all of its debts and obligations.

24           (c) The commission shall, by a majority of the members, elect annually from  
25 among its members a chairperson and a vice chairperson, each of whom shall have

1 such authorities and duties as may be specified in the bylaws. The chairperson or,  
2 in his or her absence or disability, a member designated in accordance with the  
3 bylaws, shall preside at all meetings of the commission. The officers so elected shall  
4 serve without compensation or remuneration from the commission; provided that,  
5 subject to the availability of budgeted funds, the officers shall be reimbursed for any  
6 actual and necessary costs and expenses incurred by them in the performance of  
7 their duties and responsibilities as officers of the commission.

8 (d) The commission may, by a majority of the members, appoint or retain an  
9 executive director for such period, upon such terms and conditions and for such  
10 compensation as the commission determines appropriate. The executive director  
11 shall serve as secretary to the commission, but shall not be a member of the  
12 commission. The executive director shall hire and supervise such other staff as may  
13 be authorized by the commission.

14 (e) The commission shall maintain its corporate books and records in  
15 accordance with the bylaws.

16 (f) The members, officers, executive director and employes of the commission  
17 shall be immune from suit and liability, either personally or in their official capacity,  
18 for any claim for damage to or loss of property or personal injury or other civil liability  
19 caused or arising out of or relating to any actual or alleged act, error or omission that  
20 occurred, or that such person had a reasonable basis for believing occurred within  
21 the scope of commission employment, duties or responsibilities; provided, that  
22 nothing in this paragraph shall be construed to protect any such person from suit or  
23 liability for any damage, loss, injury or liability caused by the intentional or wilful  
24 and wanton misconduct of any such person, or to protect the commission acting as  
25 receiver under sub. (9).

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

9           (h) The commission shall indemnify and hold the commissioner of a compacting  
10 state, or his or her representatives or employes, or the commission's representatives  
11 or employes, harmless in the amount of any settlement or judgment obtained against  
12 such person arising out of or relating to any actual or alleged act, error or omission  
13 that occurred within the scope of commission employment, duties or responsibilities,  
14 or that such person had a reasonable basis for believing occurred within the scope  
15 of commission employment, duties or responsibilities; provided, that the actual or  
16 alleged act, error or omission did not result from gross negligence or intentional  
17 wrongdoing on the part of such person.

18           (i) The costs and expenses of defense and indemnification of the commission  
19 acting as receiver of an estate shall be paid as administrative expenses from the  
20 assets of that estate unless such costs and expenses are covered by insurance  
21 maintained by the commission.

22           **(6) ARTICLE VI — MEETINGS AND ACTS OF THE COMMISSION.** (a) The commission  
23 shall meet and take such actions as are consistent with the provisions of this  
24 compact.

1           (b) Except as otherwise provided in this compact and unless a greater  
2           percentage is required by the bylaws, in order to constitute an act of the commission,  
3           such act shall have been taken at a meeting of the commission and shall have  
4           received an affirmative vote of a majority of the members.

5           (c) Each member of the commission shall have the right and power to cast a vote  
6           to which that compacting state is entitled and to participate in the business and  
7           affairs of the commission. A member shall vote in person and may not delegate his  
8           or her vote to another member. The bylaws may provide for members' participation  
9           in meetings by telephone or other means of telecommunication.

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

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

1 (f) Public notice shall be given of all meetings and all meetings shall be open  
2 to the public, except as set forth in the rules or as otherwise provided in this compact.  
3 The commission shall promulgate rules consistent with the principles contained in  
4 the government in sunshine act, 5 USC 552b. The commission and any of its  
5 committees may close a meeting to the public if it determines by two-thirds vote that  
6 an open meeting would likely do any of the following:

7 1. Relate solely to the commission's internal personnel practices and  
8 procedures.

9 2. Disclose matters specifically exempted from disclosure by statute.

10 3. Disclose trade secrets or commercial or financial information which is  
11 privileged or confidential.

12 4. Involve accusing any person of a crime or formally censuring any person.

13 5. Disclose information of a personal nature where disclosure would constitute  
14 a clearly unwarranted invasion of personal privacy.

15 6. Disclose investigatory records compiled for law enforcement purposes.

16 7. Disclose information contained in or related to examination, operating or  
17 condition reports prepared by, or on behalf or for the use of, the commission with  
18 respect to a regulated entity for the purpose of regulation or supervision of such  
19 entity.

20 8. Disclose information, the premature disclosure of which would significantly  
21 endanger the stability of a regulated entity.

22 9. Specifically relate to the commission's issuance of a subpoena or its  
23 participation in a civil action or proceeding.

24 (g) For every meeting closed under par. (f), the commission's chief legal officer  
25 shall publicly certify that, in his or her opinion, the meeting may be closed to the

1 public, and shall reference each relevant exemptive provision. The commission shall  
2 keep minutes which shall fully and clearly describe all matters discussed in any  
3 meeting and shall provide a full and accurate summary of any actions taken, and the  
4 reasons therefor, including a description of each of the views expressed on any item  
5 and the record of any rollcall vote, reflected in the vote of each member on the  
6 question. All documents considered in connection with any action shall be identified  
7 in the minutes.

8 (7) ARTICLE VII — RULE-MAKING FUNCTIONS OF THE COMMISSION. (a) The  
9 commission shall promulgate rules and operating procedures in order to effectively  
10 and efficiently achieve the purposes of this compact; provided, that the commission  
11 shall not promulgate any rules that do any of the following:

12 1. Alter the statutory priorities for distributing assets out of an estate, except  
13 pursuant to rules promulgated under par. (c).

14 2. Directly relate to guaranty associations, including but not limited to rules  
15 governing coverage, funding or assessment mechanisms. It is the intent of this  
16 compact that the commission not promulgate any rules that regulate, restrict or  
17 otherwise affect the operations of guaranty associations.

18 (b) Rule making shall occur according to the criteria set forth in this subsection  
19 and the rules and operating procedures promulgated pursuant thereto. Such rule  
20 making shall substantially conform to the principles of the federal administrative  
21 procedure act, 5 USCS 551, et seq., and the federal advisory committee act, 5 USCS  
22 app. 2, section 1, et seq.

23 (c) Other than the promulgation of such rules as are necessary for the orderly  
24 operation of the commission, the first rule to be considered by the commission shall  
25 be uniform provisions governing insurer receiverships including, but not limited to,

1 provisions requiring compacting states to implement, execute and administer in a  
2 fair, just, effective and efficient manner rules and operating procedures relating to  
3 receiverships. The commission shall, within 3 years after the adoption of this  
4 compact by 2 or more states, promulgate such uniform provisions through the  
5 rule-making process. Such uniform provisions shall become law in all of the  
6 compacting states upon legislative enactment in a majority of the compacting states.

7 (d) All rules and amendments shall become binding as of the date specified in  
8 the rule or amendment; provided, that if a compacting state expressly rejects a rule  
9 or amendment through legislative enactment as of the expiration of the 2nd full  
10 calendar year after the rule is promulgated, the rule or amendment shall have no  
11 further force or effect in the rejecting compacting state. If a majority of compacting  
12 states reject a rule, then the rule shall have no further force or effect in any  
13 compacting state.

14 (e) When promulgating a rule or operating procedure, the commission shall do  
15 all of the following:

16 1. Publish the proposed rule or operating procedure, stating with particularity  
17 the text of the rule or operating procedure which is proposed and the reason for the  
18 proposed rule or operating procedure.

19 2. Allow persons to submit written data, facts, opinions and arguments, which  
20 information the commission shall make publicly available.

21 3. Provide an opportunity for an informal hearing.

22 4. Promulgate a final rule or operating procedure and its effective date, if  
23 appropriate, based on the rule-making record.

24 (f) Not later than 60 days after a rule or operating procedure is promulgated,  
25 any interested person may file a petition in a court of competent jurisdiction where

1 the commission's principal office is located for judicial review of the rule or operating  
2 procedure. If the court finds that the commission's action is not supported by  
3 substantial evidence in the rule-making record, the court shall hold the rule  
4 unlawful and set it aside.

5 **(8) ARTICLE VIII — OVERSIGHT AND DISPUTE RESOLUTION BY THE COMMISSION.** (a)

6 The commission shall oversee the administration and operations of receiverships in  
7 compacting states, and shall monitor receiverships being administered in  
8 noncompacting states which may significantly affect compacting states.

9 (b) To aid its monitoring, oversight and coordination responsibilities, the  
10 commission shall establish operating procedures requiring each member to submit  
11 to the commission the following written reports:

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

18 2. An initial report of the status of an insurer within a reasonable time after  
19 the initiation of a receivership.

20 (c) The commission shall promulgate operating procedures requiring receivers  
21 to submit to the commission periodic written reports and such additional  
22 information and documentation as the commission may reasonably request. Each  
23 compacting state's receivers shall establish the capability to obtain and provide all  
24 records, data and information required by the commission in accordance with the  
25 commission's operating procedures.

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

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

17           (f) The commission shall analyze and correlate records, data, information and  
18 reports received from receivers and guaranty associations, and shall make  
19 recommendations for improving their performance to the compacting states. The  
20 commission shall include summary information and data regarding its oversight  
21 functions in its annual report.

22           (g) The commission shall attempt, upon the request of a member, to resolve any  
23 disputes or other issues which are subject to this compact and which may arise  
24 among compacting states and noncompacting states.

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

4 (i) The commission shall promulgate an operating procedure providing for  
5 binding dispute resolution for disputes among receivers.

6 (j) The commission shall facilitate voluntary dispute resolution for disputes  
7 among guaranty associations and receivers.

8 **(9) ARTICLE IX — RECEIVERSHIP FUNCTIONS OF THE COMMISSION.** (a) The  
9 commission has authority to act as receiver of any insurer domiciled, engaged in or  
10 doing business in a compacting state upon the request of the commissioner of such  
11 compacting state, or as otherwise provided in this compact. As receiver, the  
12 commission shall have all powers and duties pursuant to the receivership laws of the  
13 domiciliary state. The commission shall maintain accounts of receipts and  
14 disbursements of the estates for which it is acting as receiver, consistent with the  
15 accounting practices and procedures set forth in the bylaws. The commission shall  
16 cause an annual audit of each estate for which it is acting as receiver to be conducted  
17 by an independent certified public accountant. The costs and expenses of such audit  
18 shall be paid as administrative expenses from the assets of the estate. The  
19 commission may not cause an annual audit to be conducted of any estate which lacks  
20 sufficient assets to pay the costs and expenses of such audit. The commission as  
21 receiver may delegate its receivership duties and functions, and may contract with  
22 others for that purpose.

23 (b) The commission shall act as receiver of any insurer domiciled or doing  
24 business in a compacting state in the event that the member acting as receiver in that  
25 compacting state fails to comply with duly promulgated commission rules or

1 operating procedures. The commission shall notify the member in writing of his or  
2 her noncompliance with commission rules or operating procedures. If the member  
3 acting as receiver fails to remedy the noncompliance within 10 days after receipt of  
4 the notification, the commission may petition the supervising court before which the  
5 receivership is pending for an order substituting and appointing the commission as  
6 receiver of the estate.

7 (c) The commission may not act as receiver of an estate that appears to lack  
8 sufficient assets to fund such receivership unless the compacting state makes  
9 provisions for the payment of the estate's administrative expenses satisfactory to the  
10 commission.

11 (d) The commission may act as deputy receiver for any insurer domiciled or  
12 doing business in a noncompacting state in accordance with that state's laws, upon  
13 request of that noncompacting state's commissioner and approval of the commission.

14 (e) With respect to receiverships pending in a compacting state on the effective  
15 date of this paragraph ... [revisor inserts date], all of the following apply:

16 1. The commission may act as receiver of an insurer upon the request of that  
17 compacting state's member and approval of the commission.

18 2. The commission shall oversee, monitor and coordinate the activities of all  
19 receiverships pending in that compacting state regardless of whether the  
20 commission is acting as receiver of estates in that state.

21 **(10) ARTICLE X — FINANCE.** (a) The commission shall pay or provide for the  
22 payment of the reasonable expenses of its establishment and organization.

23 (b) Except as otherwise provided in this compact or by act of the commission,  
24 the costs and expenses of each compacting state shall be the sole and exclusive  
25 responsibility of the respective compacting state. The commission may pay or

1 provide for actual and necessary costs and expenses for attendance of its members  
2 at official meetings of the commission or its designated committees.

3 (c) The commission shall levy on and collect an annual assessment from each  
4 compacting state and each insurer authorized to do business in a compacting state  
5 and writing direct insurance to cover the cost of the internal operations and activities  
6 of the commission and its staff in a total amount sufficient to cover the commission's  
7 annual budget. With respect to the assessments, all of the following apply:

8 1. The aggregate annual assessment amount shall be allocated 75% to insurers  
9 and 25% to compacting states. The insurers' portion shall be allocated to each  
10 insurer by the percentage derived from a fraction, the numerator of which shall be  
11 the gross direct written premium received on that insurer's business in all  
12 compacting states and the denominator of which shall be the gross direct written  
13 premium received by all insurers on business in all compacting states. The  
14 compacting states' portion shall be allocated to each compacting state by the  
15 percentage derived from a fraction, the numerator of which shall be the gross direct  
16 written premium received by all insurers on business in that compacting state and  
17 the denominator shall be the gross direct written premium received on all insurers  
18 on business in all compacting states. Each compacting state's portion shall be funded  
19 as designated by that state's legislature. In no event shall an insurer's assessment  
20 be less than \$50 or more than \$25,000; provided, that affiliated insurers' combined  
21 assessments shall not exceed \$50,000. Upon the request of an insurer, the  
22 commission may exempt or defer the assessment of any insurer, if such assessment  
23 would cause the insurer's financial impairment.

24 2. These assessments may not be used to pay any costs or expenses incurred  
25 by the commission and its staff acting as receiver of estates. Such costs and expenses

1 shall be paid as administrative expenses from the assets of the estates as provided  
2 by law, except as otherwise provided in this compact.

3 3. Each insurer authorized to do business in a compacting state shall timely pay  
4 assessments to the commission. Failure to pay such assessments shall not be  
5 grounds for the revocation, suspension or denial of an insurer's authority to do  
6 business, but shall subject the insurer to suit by the commission for recovery of any  
7 assessment due, attorneys fees and costs, together with interest from the date the  
8 assessment is due at a rate of 10% per year, and to civil forfeiture in an amount to  
9 be determined by the commissioner of that compacting state in which the insurer  
10 received the greatest premium in the year next preceding the first year for which the  
11 insurer is delinquent in payment of assessments.

12 (d) The commission shall be reimbursed in the following manner for the costs  
13 and expenses incurred by the commission and its staff acting as receiver of estates  
14 to the extent that an insurer's assets may be insufficient for the effective  
15 administration of its estate:

16 1. If the insurer is domiciled in a compacting state, the estate shall be closed  
17 unless that compacting state makes provisions for reimbursing the commission.

18 2. If the insurer is unauthorized to do business in a compacting state or if the  
19 insurer is domiciled in a noncompacting state and subject to ancillary receivership,  
20 the commission and such state shall make provisions for reimbursing the  
21 commission prior to the commission becoming receiver of such insurer.

22 (e) To fund the cost of the initial operations of the commission until its first  
23 annual budget is adopted and related assessments have been made, contributions  
24 from compacting states and others may be accepted and a one-time assessment on

1 insurers doing a direct insurance business in the compacting states may be made not  
2 to exceed \$450 per insurer.

3 (f) The commission's adopted budget for a fiscal year may not be approved until  
4 it has been subject to notice and comment as set forth for rules and operating  
5 procedures in sub. (7) (e). The budget shall determine the amount of the annual  
6 assessment. The commission may accumulate a net worth not to exceed 30% of its  
7 then annual cost of operation to provide for contingencies and events not  
8 contemplated. These accumulated funds shall be held separately and may not be  
9 used for any other purpose. The commission's budget may include a provision for a  
10 contribution to the commission's net worth.

11 (g) The commission shall be exempt from all taxation in and by the compacting  
12 states.

13 (h) The commission may not pledge the credit of any compacting state, except  
14 by and with the appropriate legal authority of that compacting state.

15 (i) The commission shall keep complete and accurate accounts of all its internal  
16 receipts, including grants and donations, and disbursements of all funds, other than  
17 receivership assets, under its control. The internal financial accounts of the  
18 commission shall be subject to the accounting procedures established under its  
19 bylaws. The financial accounts and reports including the system of internal controls  
20 and procedures of the commission shall be audited annually by an independent  
21 certified public accountant. Upon the determination of the commission, but no less  
22 frequently than every 3 years, the review of such independent auditor shall include  
23 a management and performance audit of the commission. The report of such  
24 independent audit shall be made available to the public and shall be included in and  
25 become part of the annual report of the commission to the governors and legislatures

1 of the compacting states. The commission's internal accounts, any workpapers  
2 related to any internal audit and any workpapers related to the independent audit,  
3 shall be confidential; provided, that such materials shall be made available in  
4 compliance with the order of any court of competent jurisdiction, pursuant to such  
5 reasonable rules as the commission shall promulgate and to any commissioner or  
6 governor of a compacting state, or their duly authorized representatives.

7 (j) No compacting state shall have any claim to or ownership of any property  
8 held by or vested in the commission or the commission acting as receiver or to any  
9 other commission funds held pursuant to the provisions of this compact.

10 **(11) ARTICLE XI — COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.** (a) Any  
11 state is eligible to become a compacting state.

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

16 (c) Amendments to the compact may be proposed by the commission for  
17 enactment by the compacting states. No amendment shall become effective and  
18 binding upon the commission and the compacting states unless and until it is enacted  
19 into law by unanimous consent of the compacting states.

20 **(12) ARTICLE XII — WITHDRAWAL, DEFAULT AND TERMINATION.** (a) Once effective,  
21 the compact shall continue in force and remain binding upon each and every  
22 compacting state; provided, that a compacting state may withdraw from the compact  
23 by repealing the statute which enacted the compact into law.

24 (b) The effective date of withdrawal is the effective date of the repeal; provided,  
25 that the repeal shall not apply to any receiverships for which the commission is

1 acting as receiver that are pending on the date of the repeal except by mutual  
2 agreement of the commission and the withdrawing state.

3 (c) The withdrawing state shall immediately notify the chairperson of the  
4 commission in writing upon the introduction of legislation repealing this compact in  
5 the withdrawing state.

6 (d) The commission shall notify the other compacting states of the withdrawing  
7 state's intention to withdraw within 60 days after its receipt of the notice under par.  
8 (c).

9 (e) The withdrawing state is responsible for all assessments, obligations and  
10 liabilities incurred through the effective date of withdrawal, including any  
11 obligations, the performance of which extend beyond the effective date of  
12 withdrawal, except to the extent those obligations may have been released or  
13 relinquished by mutual agreement of the commission and the withdrawing state.  
14 Notwithstanding the foregoing, the withdrawing state is responsible for the costs  
15 and expenses of its estates subject to this compact that are pending on the date of  
16 repeal; the commission and the other estates subject to this compact shall not bear  
17 any costs or expenses related to the withdrawing state's estates unless otherwise  
18 mutually agreed upon between the commission and the withdrawing state.

19 (f) Reinstatement following withdrawal of any compacting state shall occur  
20 upon the withdrawing state reenacting the compact or upon a later date determined  
21 by the commission.

22 (g) If the commission determines that any compacting state has at any time  
23 defaulted in the performance of any of its obligations or responsibilities under this  
24 compact, the bylaws or duly promulgated rules, all rights, privileges and benefits  
25 conferred by this compact and any agreements entered into pursuant to this compact

1 shall be suspended from the effective date of default as fixed by the commission. The  
2 grounds for default include, but are not limited to, failure of a compacting state to  
3 perform such obligations or responsibilities and any other grounds designated in  
4 commission rules. The commission shall immediately notify the defaulting state in  
5 writing of the defaulting state's suspension pending a cure of the default. The  
6 commission shall stipulate the conditions and the time period within which the  
7 defaulting state must cure its default. If the defaulting state fails to cure the default  
8 within the time period specified by the commission, the defaulting state shall be  
9 terminated from the compact upon an affirmative vote of a majority of the  
10 compacting states and all rights, privileges and benefits conferred by this compact  
11 shall be terminated from the effective date of termination.

12 (h) Within 60 days after the effective date of termination of a defaulting state,  
13 the commission shall notify the governor and the majority and minority leaders of  
14 the defaulting state's legislature of such termination.

15 (i) The termination of a defaulting state shall apply to all receiverships for  
16 which the commission is acting as receiver that are pending on the effective date of  
17 termination except by mutual agreement of the commission and the defaulting state.

18 (j) The defaulting state is responsible for all assessments, obligations and  
19 liabilities incurred through the effective date of termination, and is responsible for  
20 the costs and expenses relating to its estates subject to this compact that are pending  
21 on the date of the termination. The commission and the other estates subject to this  
22 compact shall not bear any costs or expenses relating to the defaulting state's estates  
23 unless otherwise mutually agreed upon between the commission and the defaulting  
24 state.

1           (k) Reinstatement following termination of any compacting state requires both  
2 a reenactment of the compact by the defaulting state and the approval of the  
3 commission pursuant to the rules.

4           (L) The compact dissolves effective upon the date of the withdrawal or the  
5 termination by default of the compacting state which reduces membership in the  
6 compact to one compacting state.

7           (m) Upon the dissolution of this compact, the compact becomes null and void  
8 and shall be of no further force or effect, and the business and affairs of the  
9 commission shall be wound up and any surplus funds shall be distributed in  
10 accordance with the bylaws.

11           **(13) ARTICLE XIII — SEVERABILITY AND CONSTRUCTION.** (a) The provisions of this  
12 compact shall be severable, and if any phrase, clause, sentence or provision is  
13 declared unenforceable by a court of competent jurisdiction, the remaining  
14 provisions of the compact shall be enforceable.

15           (b) The provisions of this compact shall be liberally construed to effectuate its  
16 purposes.

17           **(14) ARTICLE XIV — BINDING EFFECT OF COMPACT AND OTHER LAWS.** (a) Nothing  
18 herein prevents the enforcement of any other law of a compacting state that is not  
19 inconsistent with this compact. All compacting states' laws conflicting with this  
20 compact are superseded to the extent of the conflict.

21           (b) All lawful actions of the commission, including all rules and operating  
22 procedures promulgated by the commission, are binding upon the compacting states.  
23 All agreements between the commission and the compacting states are binding in  
24 accordance with their terms. Upon the request of a party to a conflict over meaning  
25 or interpretation of commission actions, and upon a majority vote of the compacting

1 states, the commission may issue advisory opinions regarding such meaning or  
2 interpretation.

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

10 **SECTION 5.** 601.595 of the statutes is created to read:

11 **601.595 Funding for interstate insurance receivership commission**  
12 **annual assessment.** From the appropriation under s. 20.145 (1) (c), the  
13 commissioner shall pay the annual assessment levied on this state by the interstate  
14 insurance receivership commission under s. 601.59 (10) (c). If the amounts  
15 appropriated under s. 20.145 (1) (c) are insufficient to cover this state's entire portion  
16 of the annual assessment under s. 601.59 (10) (c), the commissioner may not impose  
17 an assessment on insurers to cover the insufficiency but shall request additional  
18 funding under s. 13.101 to supplement the appropriation under s. 20.145 (1) (c).  
19 Notwithstanding s. 13.101 (3) (a) 1. and (4), the joint committee on finance shall,  
20 upon request, supplement the appropriation under s. 20.145 (1) (c) from the  
21 appropriation under s. 20.865 (4), may not transfer between appropriations to the  
22 office for the purpose of supplementing the appropriation under s. 20.145 (1) (c) and  
23 is not required to find that an emergency exists.

24

(END)