

~~1. THE LIABILITY OF THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES OR INTERSTATE COMMISSION REPRESENTATIVES, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. THE INTERSTATE COMMISSION IS CONSIDERED TO BE AN INSTRUMENTALITY OF THE STATES FOR THE PURPOSES OF ANY SUCH ACTION. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT SUCH PERSON FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.~~

~~2. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR AND ITS EMPLOYEES AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OR OTHER APPROPRIATE LEGAL COUNSEL OF THE MEMBER STATE REPRESENTED BY AN INTERSTATE COMMISSION REPRESENTATIVE, SHALL DEFEND SUCH INTERSTATE COMMISSION REPRESENTATIVE IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.~~

~~3. TO THE EXTENT NOT COVERED BY THE STATE INVOLVED, MEMBER STATE, OR THE INTERSTATE COMMISSION, THE REPRESENTATIVES OR EMPLOYEES OF THE INTERSTATE COMMISSION SHALL BE HELD HARMLESS IN THE AMOUNT OF A SETTLEMENT OR JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS, OBTAINED AGAINST SUCH PERSONS ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.~~

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

~~A. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN~~