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HOUSE BILL 1985

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State of Washington

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By Representatives Mielke, Zellinsky, Dyer, R. Johnson, Kremen, Anderson, Dorn, Peery, R. Meyers, Kessler, Grant, Reams, Appelwick, Schmidt and Tate

Read first time 02/19/93. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to liquidators' rights to collect premiums; and  
2 adding a new section to chapter 48.31 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.31 RCW  
5 to read as follows:

6 (1)(a) An agent, broker, premium finance company, or any other  
7 person, other than the policy owner or the insured, responsible for the  
8 payment of a premium is obligated to pay any unpaid premium for the  
9 full policy term due the insurer at the time of the declaration of  
10 insolvency, whether earned or unearned, as shown on the records of the  
11 insurer. The liquidator also has the right to recover from the person  
12 a part of an unearned premium that represents commission of the person.  
13 Credits or setoffs or both may not be allowed to an agent, broker, or  
14 premium finance company for amounts advanced to the insurer by the  
15 agent, broker, or premium finance company on behalf of, but in the  
16 absence of a payment by, the policy owner or the insured.

17 (b) Notwithstanding (a) of this subsection, the agent, broker,  
18 premium finance company, or other person is not liable for uncollected  
19 unearned premium of the insurer. A presumption exists that the premium

1 as shown on the books of the insurer is collected, and the burden is  
2 upon the agent, broker, premium finance company, or other person to  
3 demonstrate by a preponderance of the evidence that the unearned  
4 premium was not actually collected. For purposes of this subsection,  
5 "unearned premium" means that portion of an insurance premium covering  
6 the unexpired term of the policy or the unexpired period of the policy  
7 period.

8 (c) An insured is obligated to pay any unpaid earned premium due  
9 the insurer at the time of the declaration of insolvency, as shown on  
10 the records of the insurer.

11 (2) Upon a violation of this section, the commissioner may pursue  
12 either one or both of the following courses of action:

13 (a) Suspend or revoke or refuse to renew the licenses of the  
14 offending party or parties;

15 (b) Impose a penalty of not more than one thousand dollars for each  
16 violation.

17 (3) Before the commissioner may take an action as set forth in  
18 subsection (2) of this section, he or she shall give written notice to  
19 the person accused of violating the law, stating specifically the  
20 nature of the alleged violation, and fixing a time and place, at least  
21 ten days thereafter, when a hearing on the matter shall be held. After  
22 the hearing, or upon failure of the accused to appear at the hearing,  
23 the commissioner, if he or she finds a violation, shall impose those  
24 penalties under subsection (2) of this section that he or she deems  
25 advisable.

26 (4) When the commissioner takes action in any or all of the ways  
27 set out in subsection (2) of this section, the party aggrieved has the  
28 rights granted under the Administrative Procedure Act, chapter 34.05  
29 RCW.

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