

HOUSE BILL ANALYSIS

HB 2103

Brief Description: Excluding beneficiaries of irrevocable trusts from industrial insurance coverage.

Sponsors: Representatives Koster, McMorris, L. Thomas, and Boldt

Hearing: March 3, 1997

BACKGROUND:

Industrial insurance covers all persons, corporate or otherwise, whose trade or business engages in work covered by the industrial insurance law or contracts with workers for personal labor. All employment in Washington must be insured, except employment specifically exempted by statute. Among the exemptions are sole proprietors, partners, and certain corporate officers. The exemption statute does not mention business trusts.

A trust is an arrangement in which one party (the trustee) holds property interests (the trust estate) for the benefit of another party (the beneficiary). A trust may be revocable or irrevocable.

An example of a business trust is the Massachusetts trust regulated by Washington statute. These trusts are unincorporated business associations created to hold property for the benefit and profit of persons who are holders of transferable certificates evidencing beneficial interests in the trust estate. These certificate holders are entitled to the same personal liability limitation as stockholders in private corporations.

To do business in Washington, a Massachusetts trust must file its trust instrument with the Secretary of State, listing its assumed business name and the names and addresses of its trustees. The trust is subject to Washington taxes, the law that applies to corporations with respect to issuance of securities, filing of required reports, service of process, the right to sue and be sued and deal in property, and other laws in a manner similar to the laws applicable to corporations.

SUMMARY OF BILL:

Beneficiaries of irrevocable profit-sharing business trusts are added as employment exempt from mandatory industrial insurance coverage. To be exempt, the trust beneficiary must

hold a transferable certificate evidencing a minimum of a 5 percent beneficial interest in the trust estate and must receive all of his or her compensation from the trust in the form of distributions of profits to beneficiaries.

A beneficiary is defined as the holder of a trust certificate which is valid until the death of the beneficiary unless: (1) the certificate is voluntarily transferred; (2) the beneficiary fails, without notice, to contact the trust for at least 180 days; (3) the beneficiary initiates a frivolous law suit against the trust; or (4) the beneficiary engages in criminal behavior that harms the trust.

RULES AUTHORITY: The bill does not contain provisions addressing the rule-making powers of an agency.

FISCAL NOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment of session in which bill is passed.