Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Financial Institutions & Insurance Committee

HB 2480

Brief Description: Changing the scope of the Washington insurance guarantee association act.

Sponsors: Representatives Simpson, G. and Benson.

Brief Summary of Bill

- Creates a third account within the Washington Insurance Guaranty Association for longshore and harbor workers' compensation act insurance.
- Asseses longshore and harbor worker insurers up to 2 percent of written premiums until the account reaches $500,000.
- Authorizes the association to borrow funds from the longshore and harborworkers' compensation assigned risk plan, the industrial insurance fund of the state of Washington, or other sources approved by the Insurance Commissioner when insurer insolvencies create insufficient funds in the longshore and harbor worker account.

Hearing Date: 1/23/04

Staff: Carrie Tellefson (786-7127).

Background:

Washington Insurance Guaranty Association:
There are two insurance guaranty associations in Washington State: one applicable to life and disability insurance policies and one applicable to casualty insurance policies, with some exceptions. Within the casualty association, there are two accounts: one account is the automobile insurance account and the second is for all other covered insurers. The guaranty associations were created to provide a mechanism for the payment of covered claims when an insurer becomes insolvent and to assess the cost of such protection among insurers.

All insurers who write the types of insurance included in the association and who hold a certificate of authority to sell insurance in Washington must participate in the Washington Insurance Guaranty Association (the association). The association has a board of directors, consisting of between five and nine members selected by member insurers, subject to approval of the Insurance Commissioner.

When a court finds an insurer to be insolvent and orders its liquidation, the association determines the number and cost of unpaid claims and assesses the member insurers a portion of the insolvency based on the insurer's proportionate share of premiums written in Washington. Claims existing at the time of liquidation and 30 days after will be considered covered claims. The association is obligated to pay a claim that is over $100 but less than $300,000 or the value of the policy, whichever is less. A member insurer who has paid an assessment may take a credit against premium taxes equal to one-fifth of the assessed amount for five consecutive years following the assessment.

<u>Longshore and Harbor Workers' Compensation:</u>
Under the federal Longshore and Harbor Workers' Compensation Act, businesses whose employees are employed in maritime employment on or near the navigable waters of the United States are required to purchase longshore and harbor workers' compensation insurance. This includes businesses that provide services on docks, such as electricians and other contractors. This insurance is available from private insurers licensed to write "workers compensation" coverage in the state of Washington.

In the event an employer cannot obtain this insurance coverage through the normal market, the employer can purchase coverage from the longshore and harbor workers' assigned risk plan, created in Washington law. The plan's members include all authorized insurers writing longshore and harbor workers' compensation insurance in this state and the Washington State industrial insurance fund. Any underwriting losses or surpluses incurred by the plan are to be shared by plan participants in accordance with the following ratios: the state industrial insurance fund will pay 50 percent; and authorized insurers writing primary or excess United States longshore and harbor workers' compensation insurance will pay 50 percent.

Under federal law, employers who purchase longshore and harbor workers' compensation insurance from private insurers remain responsible for costs associated with an employee's on the job injury or death even if the insurer becomes insolvent.

Summary of Bill:

<u>Longshore and Harbor Worker Insurance Account:</u>
A third account is created within the Washington Insurance Guaranty Association (Association) for longshore and harbor workers' compensation act insurance. In order to build funds in this new account, all insurers who write longshore and harbor workers' insurance in Washington will be assessed up to two percent of their written premiums until the fund reaches $500,000. This assessment is in excess of approved rate filings and may be passed on to the policyholder. After the fund reaches this amount, insurer insolvencies will be handled the same way as they are in the other two accounts: each member insurer will be assessed their share of the insolvency based on the proportionate amount of premiums written in Washington. In the event of a longshore and harbor worker insurer insolvency, at least one member of the Association board will represent the interests of the longshore and harbor worker insurer.

The account will cover unpaid claims for benefits due to an employee that are within the scope of the underlying insurance policy. The injury must occur: (1) on a work site within this state; (2) on its navigable waters or immediately offshore; or, (3) a work site outside of this state when the employer-business is located in this state. This account will begin paying claims after January 2004.

Authority to borrow from Longshore and Harborworkers Assigned Risk Plan and Industrial Insurance Fund:
If there are insufficient funds in the longshore and harbor workers' account to cover paid claims during an insolvency, the Association may borrow from the longshore and harbor workers' compensation assigned risk plan, the industrial insurance fund, or other sources approved by the Commissioner. The borrowed funds shall be repaid with interest. Longshore and harbor worker insurers will continue to be assessed until all underlying claims are paid and loans are repaid and such assessment will continue until a minimum fund has been reestablished.

Longshore and harbor worker insurers who participate in the initial assessment to build up the account will receive a credit against premium taxes of one-fifth of the assessed amount for five consecutive years following the assessment. However, if the insurer passed on any of the initial assessment to the policyholder, a tax credit is not allowed.

Appropriation: None.

Fiscal Note: Requested on January 19, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.