Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Financial Institutions & Insurance Committee

HB 1196

Brief Description: Including the longshore and harbor workers' compensation account within the Washington insurance guaranty association.

Sponsors: Representatives Kirby, Roach, Simpson and Chase; by request of Insurance Commissioner.

Brief Summary of Bill

- A new account for United States longshore and harbor workers claims is created in the Washington insurance guaranty association.
- USL&H insurers are assessed beginning July 1, 2005, to establish the fund. They continue to be assessed if there is an insolvency.

Hearing Date: 1/27/05

Staff: Jon Hedegard (786-7127).

Background:

United States Longshore and Harbor Workers' Compensation Insurance
Under the United States Longshore and Harbor Workers' (USL&H) Compensation Act, businesses whose employees are employed in maritime employment on or near the navigable waters of the United States are required to purchase USL&H workers' compensation insurance. This includes businesses that provide services on docks, such as electricians and other contractors. This insurance is available from private insurers authorized to write coverage in the state of Washington. If an employer cannot obtain this insurance coverage through the private market, the employer can purchase coverage from the USL&H assigned risk plan.

Guaranty Associations
The purpose of a guaranty association is to provide a mechanism for payment of covered claims when an insurer becomes insolvent. The association spreads the cost by assessments on member insurers. Under the existing guaranty associations, an insurer is allowed to credit one-fifth of an assessment against the premium tax owed by the insurer for five consecutive years.

There are two insurance guaranty associations in Washington. One covers life and disability insurance policies. The second, the Washington insurance guaranty association (WIGA), covers most property and casualty insurance policies but does not cover any private workers' compensation coverages. WIGA currently has two accounts, one account for automobile insurance and one account for all other insurances.

USL&H is a type of insurance that is not allowed to participate in WIGA. If an insurer selling USL&H coverage becomes insolvent, the employer who purchased the coverage is liable costs associated with an employee's on the job injury or death if the insurer becomes insolvent.

Summary of Bill:

<u>Administration of the USL&H account</u>
A third account is created in WIGA, the account is for USL&H insurance. WIGA will not use funds from any other account to pay for USL&H claims. After an insolvency of a USL&H insurer, WIGA's board must have at least one member that represents the interest of USL&H insurers. The member shall be added at the next annual meeting following the insolvency.

<u>Coverage of existing troubled employers</u>
WIGA is obligated to cover USL&H claims involving an insolvency that occurs after the effective date of the bill. The bill defines "insolvent insurer" as insurers that (1) were authorized to write USL&H insurance at the time of the contract and (2) are determined to be insolvent by a court after the bill's effective date.

<u>Pre-insolvency assessment</u>
Beginning in July 1, 2005, insurers who write USL&H insurance will be assessed to create a pool of money in the new account. The annual rate will be determined by WIGA but will not exceed three percent of the insurer's net direct written premium for the previous calendar year. Assessments will continue until the fund equals four percent of the direct written premium of all insurers in the preceding calendar year.

<u>Post-insolvency assessments</u>
After an insolvency, insurers will be assessed to create a pool of money in the new account. The annual rate will be determined by WIGA but will not exceed three percent of the insurer's net direct written premium for the previous calendar year. Assessments will continue until WIGA determines that the fund can meet all claim and loan obligations of the fund. At no time may the fund exceed four percent of the direct written premium of all insurers in the preceding calendar year.

<u>Premium tax credit</u>
The insurers are allowed to credit the one-fifth of an assessment against their premium tax owed for five consecutive years.

Appropriation: None.

Fiscal Note: Not requested.

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