HOUSE BILL REPORT
HB 1475

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to premiums on policies issued through the Washington longshore and harbor workers' compensation act insurance assigned risk plan.

Brief Description: Addressing premiums on policies issued through the Washington longshore and harbor workers' compensation act insurance assigned risk plan.

Sponsors: Representatives Kirby and Vick.

Brief History:
Committee Activity:
Business & Financial Services: 2/3/15, 2/11/15 [DPS].

Brief Summary of Substitute Bill

- Excludes premiums on policies issued on behalf of the Washington Assigned Risk Plan (Risk Plan) from any assessment by the Washington Insurance Guaranty Association (WIGA).
- Provides that the WIGA is not required to cover claims pursuant to policies issued on behalf of the Risk Plan.
- Provides that the Risk Plan must fund claims pursuant to policies issued on behalf of the Risk Plan.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kirby, Chair; Ryu, Vice Chair; Blake, Hurst, Santos and Stanford.

Minority Report: Do not pass. Signed by 4 members: Representatives Vick, Ranking Minority Member; G. Hunt, Kochmar and McCabe.

Staff: Linda Merelle (786-7092).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

United States Longshore and Harbor Workers' Compensation Act.

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. Workers' compensation insurance offered through the Department of Labor and Industries (L&I) does not cover maritime employees and others covered under the USL&H Compensation Act. Insurance is available from private insurers authorized to write coverage in Washington. If an employer cannot obtain this insurance coverage through the private market, the employer can purchase coverage from the Washington Assigned Risk Plan (Risk Plan).

Washington Assigned Risk Plan.

The Risk Plan was initially adopted on a temporary basis in 1992. It was extended in 1993 and it was made permanent in 1995. Its purpose is to provide workers' compensation insurance coverage for employers unable to obtain insurance through the private market. Under the plan, all insurers writing USL&H compensation insurance and the L&I participate in underwriting the losses for this coverage. The losses are split equally between the L&I and the private insurers.

The Risk Plan is not an insurer. Instead, a servicing carrier, an authorized insurer designated by the Risk Plan and approved by the Office of the Insurance Commissioner and the United States Department of Labor, issues policies on behalf of the Risk Plan.

Washington Insurance Guaranty Association.

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 through assessments on member insurers. 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. Since 2005 the WIGA has covered insurers who write USL&H insurance policies. The WIGA currently has three accounts: one account for automobile insurance; one account for USL&H Compensation Act insurance; and one account for all other insurances.

Assessments.

The WIGA must assess member insurers separately for each account for the amounts necessary to pay its obligations. A member insurer is any entity that writes a policy within the covered categories of insurance and that holds a certificate of authority to transact insurance in Washington. Member insurers include those who write USL&H policies. For member insurers, the assessments of each member must be based upon the proportion of the net direct written premiums of that member compared to the net direct written premiums for all members. The net direct written premiums are the total premiums received by insurance companies on policies written in Washington. They do not, however, include premiums on contracts between insurers or reinsurers.

For insurers who write policies pursuant to the USL&H Compensation Act, the assessment must be at a rate determined by the WIGA, but not more than an annual rate of 3 percent of the net direct written premiums for the previous year.

Summary of Substitute Bill:

Under this bill, the definition of "net direct written premiums" is modified to exclude premiums on policies issued on behalf of the Risk Plan by its servicing carrier. The WIGA is not obligated to cover claims pursuant to these policies should the servicing carrier for the Risk Plan become insolvent. The Risk Plan is responsible for funding any claims pursuant to policies issued on its behalf.

Substitute Bill Compared to Original Bill:

Provisions were added to expressly provide that WIGA is not obligated to cover claims pursuant to the policies written on behalf of the Risk Plan, should the servicing carrier become insolvent and that the Risk Plan is responsible for funding those claims.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is an esoteric subject that goes back 22 years when the Risk Plan was first established. The bill helps small-business policy holders. The Risk Plan was created in 1992. Prior to 1992 there was an independently maintained USL&H insurance plan, and it collapsed, which created a huge problem. The market was going away for small businesses. The L&I stepped up to be a player and the Office of the Insurance Commissioner stepped behind it. By any measure the plan has been successful. There were early concerns that the plan would create huge losses. It has turned out that the plan has been self-funded since it first started. There are over 600 businesses that get their USL&H coverage through the Risk Plan. They have to attest to the fact that they cannot get coverage elsewhere. These businesses would be without coverage but for the Risk Plan. The Risk Plan is not an insurance company, but it contracts with a service carrier to issue policies and handle claims. The insurance companies accept the small businesses because the Risk Plan agrees to reimburse them 100 percent for the claim costs. The Risk Plan also reimburses them for direct expenses, including premium taxes and assessments charged against the premiums.

The contract with the service carrier would survive its bankruptcy. Two years ago, a servicing carrier for the Risk Plan filed bankruptcy and the contract, signed about 10 years ago, survived. The Risk Plan paid the claims, and the financial liability did not go to the WIGA. The Risk Plan does not impose any financial burden on the WIGA. At the same time, the Risk Plan is part of the WIGA's premium base. The Risk Plan is both funding the claims and being assessed for those same claims. The purpose of this bill is to remedy that overlap.

(With concerns) Among the highest responsibilities of insurance regulation is to regulate for solvency so that insurers can make good on their promises. The structure of the WIGA is to deal with the fall-out from an insolvency. At the root of WIGA is the requirement that healthy companies must pay the obligations of their competitors if they become insolvent. There is great concern regarding the potential responsibility for failures that would occur through the USL&H lines. If the assessment is decreased for one insurer, the assessment obligations on the remaining members will increase, and the increase may be substantial. If the system designed to address insolvent insurers becomes unstable, there is concern about the impact. It is important to figure out whether taking one of the payers out of the WIGA pool will increase the costs or impose longer-term payments.

(Opposed) None.

Persons Testifying: (In support) Representative Kirby, prime sponsor; and Gordon Baxter, Gary Purdom, and Stewart Sawyer, Washington United States Longshore and Harbor Workers' Assigned Risk Plan.

(With concerns) Mel Sorensen, Property Casualty Insurers Association of America; Jean Leonard, National Association of Mutual Insurance Companies; and Cliff Webster, American Insurance Association.

Persons Signed In To Testify But Not Testifying: None.