FINAL BILL REPORT
SHB 1196

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Synopsis as Enacted

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

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Roach, Simpson and Chase; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce, Research & Development

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 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. The WIGA has two accounts, one account for automobile insurance and one account for all other insurances.

The 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 for costs associated with an employee's on the job injury or death if the insurer becomes insolvent.

Insurance Commissioner study.
Engrossed Senate Bill 6158 in 2004 required the Insurance Commissioner to study the impact and effectiveness of covering USL&H insurance under the Washington guarantee association

and make recommendations to the Legislature. The results of the study and recommendations were included in a report submitted by Insurance Commissioner prior to the 2005 session.

Summary:

Administration of the USL&H Account
A third account is created in WIGA, for USL&H insurance. The WIGA may 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 may be added at the next annual meeting following the insolvency.

Coverage of Existing Troubled Employers
The WIGA is obligated to cover USL&H claims involving an insolvency that occurs after the effective date of the act. "Insolvent insurer" as an insurer that (1) was authorized to write USL&H insurance at the time of the contract, and (2) is determined to be insolvent by a court after the act's effective date.

Pre-insolvency Assessment
Beginning on 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 3 percent of the insurer's net direct written premium for the previous calendar year. Assessments will continue until the fund equals 4 percent of the direct written premium of all insurers in the preceding calendar year.

Post-insolvency Assessments
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 3 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 4 percent of the direct written premium of all insurers in the preceding calendar year.

Premium Tax Credit
The insurers are allowed to credit one-fifth of an assessment against their premium tax owed for five consecutive years.

Loans
If funds are needed for the USL&H account, WIGA may seek a loan from the USL&H Assigned Risk Plan or other parties.

Votes on Final Passage:

House	93	2
Senate	48	0

Effective: April 20, 2005