

HB 609 -- WORKERS' COMPENSATION LARGE DEDUCTIBLE POLICIES

SPONSOR: Gosen

This bill requires all large deductible claims as specified in the bill that are also covered claims as defined by the applicable guaranty association law to be turned over to the responsible guaranty association for handling. To the extent the insured funds or pays a deductible claim pursuant to an agreement, the funding or payment will extinguish the obligations, if any, of the receiver or any guaranty association to pay the claim. A charge of any kind cannot be made against the receiver or a guaranty association on the basis of an insured's funding or payment of a deductible claim. To the extent a guaranty association pays any deductible claim for which the insurer would have been entitled to reimbursement from the insured, a guaranty association must be entitled to the full amount of the reimbursement to the extent necessary to reimburse the guaranty association. If the guaranty association is not reimbursed, it must be entitled to assert a claim for the amount owed in the delinquency proceeding.

The receiver must have the obligation to collect reimbursements owed for deductible claims taking all commercially reasonable actions to collect the reimbursements and must promptly bill the insured for the reimbursement. Insolvency of the insurer or its inability to perform its obligations under the policy must not be a defense to the insured's reimbursement obligation. Except for gross negligence, an allegation of improper handling or payment of a deductible claim by the insurer, the receiver, or any guaranty association cannot be a defense to the insured's reimbursement obligations.

A receiver is required to utilize collateral, when available, to secure the insured's obligations to fund or reimburse deductible claims or other secured or other payment obligations.