

By Senator Holzendorf

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A bill to be entitled
An act relating to insurance; amending s.
627.624, F.S.; revising loss-of-time benefit
requirements; providing definitions of the
terms "earned income" and "overinsurance
provisions"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.624, Florida Statutes, is
amended to read:

(Substantial rewording of section. See
s. 627.624, F.S., for present text.)

627.624 Overinsurance; valid loss of time coverage.--

(1) The contract may include the following
overinsurance provision:

"Overinsurance: After the loss-of-time benefit of this
policy has been payable for 90 days, the benefit will be
adjusted, as provided below, if the total amount of unadjusted
loss-of-time benefits provided in all valid loss-of-time
coverage upon the insured exceeds ...(percent)... of the
insured's earned income. If the information contained in the
application discloses that the total amount of loss-of-time
benefits under this policy and under all other valid
loss-of-time coverage expected to be effective upon the
insured in accordance with the application for this policy
exceeded ...(percent)... of the insured's earned income at the
time of such application, the higher percentage will be used
in place of ...(percent).... The adjusted loss-of-time
benefit under this policy for any month is the proportion of
the loss-of-time benefit otherwise payable under this policy

1 as the product of the insured's earned income and
2 ...(percent)... bears to the total amount of loss-of-time
3 benefits payable for such month under this policy and all
4 other valid loss-of-time coverage on the insured (without
5 giving effect to the overinsurance provision in this or any
6 other coverage) less any amount of loss-of-time benefits
7 payable under other valid loss-of-time coverage that does not
8 contain an overinsurance provision. In making the
9 computation, all benefits and earnings must be converted to a
10 consistent ...(weekly or monthly)... basis. If the numerator
11 of the foregoing ratio is zero or is negative, no benefit is
12 payable under this policy. This provision may not reduce the
13 total combined amount of loss-of-time benefits payable under
14 this policy and all other valid loss-of-time coverage below an
15 amount that is the lesser of \$300 or the total combined amount
16 of loss-of-time benefits determined without giving effect to
17 any overinsurance provision. This provision may not increase
18 the amount of benefits payable under this policy above the
19 amount that would have been paid in the absence of this
20 provision, or take into account or operate to reduce any
21 benefit other than the loss-of-time benefit."

22 (2) For purposes of the overinsurance provision of
23 subsection (1), the term:

24 (a) "Earned income," except where otherwise specified,
25 means the greater of monthly earnings of the insured at the
26 time disability commences or the insured's average monthly
27 earnings for a period of 2 years immediately preceding the
28 commencement of disability. The term does not include any
29 investment income or any other income not derived from the
30 insured's vocational activities.

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1 (b) "Overinsurance provision" means the contract
2 provision authorized in subsection (1) and any other provision
3 with respect to any loss-of-time coverage which may have the
4 effect of reducing an insurer's liability if the total amount
5 of loss-of-time benefits under all coverage exceeds a stated
6 relationship to the insured's earnings.

7 (c) "Department" means the Department of Insurance.

8 (3) The overinsurance provision authorized in
9 subsection (1) may be inserted only in a policy that provides
10 a loss-of-time benefit that may be payable for at least 52
11 weeks, that is issued on the basis of selective underwriting
12 of each individual application, and for which the application
13 includes a question designed to elicit information necessary
14 either to determine the ratio of the total loss-of-time
15 benefits of the insured to the insured's earned income or to
16 determine that such ratio does not exceed the percentage of
17 earnings, not less than 60 percent, selected by the insurer
18 and inserted in lieu of the blank factor in the overinsurance
19 provision. The insurer may require, as part of the proof of
20 claim, the information necessary to administer the provision.
21 If the application indicates that other loss-of-time coverage
22 is to be discontinued, the amount of such other coverage must
23 be excluded in computing the alternative percentage in the
24 overinsurance provision. The policy must define the term
25 "valid loss-of-time coverage" as approved by the department,
26 which definition may include coverage provided by governmental
27 agencies and by organizations subject to regulation by
28 insurance law and by insurance authorities of this or any
29 other state or of any country; coverage provided for such
30 insured pursuant to any disability benefits, workmen's
31 compensation benefits, or employer's liability benefits

1 provided by labor-management trustee plans or union welfare
2 plans; salary continuance or pension programs; or any other
3 coverage the inclusion of which has been approved by the
4 department.

5 (4) If by any application of the overinsurance
6 provision an insurer affects a material reduction of benefits
7 otherwise payable under the policy, the insurer must refund,
8 for the period 2 years preceding the disability for which a
9 claim is made, any premium unearned on the policy by reason of
10 such reduction of coverage, subject to the insurer's right to
11 provide in the policy that no such reduction of benefits or
12 refund will be made unless the unearned premium to be refunded
13 amounts to \$5 or a larger sum specified by the insurer.

14 Section 2. This act shall take effect October 1, 1998.

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17 SENATE SUMMARY

18 Substantially revises s. 627.624, F.S., relating to
19 loss-of-time benefits under loss-of-time insurance
20 coverage. Provides definitions.

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