

By Senator Holzendorf

2-842A-99

1 A bill to be entitled
2 An act relating to insurance; creating s.
3 627.6245, F.S.; revising loss-of-time benefit
4 requirements; providing definitions to be
5 included in policy; requiring an insurer to
6 refund premiums under specified conditions;
7 requiring disclosure for overinsurance
8 provision; authorizing the Department of
9 Insurance to adopt rules; providing an
10 effective date.

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

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14 Section 1. Section 627.6245, Florida Statutes, is
15 created to read:

16 627.6245 Overinsurance; valid loss-of-time coverage.--

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

19 "Overinsurance: After the loss-of-time benefit
20 of this policy has been payable for 90 days,
21 the benefit will be adjusted if the total
22 amount of unadjusted loss-of-time benefits
23 provided in all valid loss-of-time coverage
24 exceeds the earnings replacement percent of the
25 insured's earned income. The adjusted
26 loss-of-time benefit under this policy for any
27 month shall be determined by multiplying the
28 unadjusted benefit by a factor determined by
29 multiplying the earnings replacement percent by
30 earned income divided by all unadjusted valid
31 loss-of-time coverage, including the unadjusted

1 benefit under this policy. In making the
2 computation, all benefits and earnings must be
3 converted to a consistent ...(weekly or
4 monthly)... basis. In no event shall this
5 provision operate to reduce the total combined
6 amount of loss-of-time benefits for the month
7 payable under this policy and all other valid
8 loss-of-time coverage below the lesser of \$300
9 or the total combined amount of loss-of-time
10 benefits determined without giving effect to
11 any overinsurance provision; to increase the
12 amount of benefits payable under this policy
13 above the amount that would have been paid in
14 the absence of this provision; to take into
15 account or operate to reduce any benefit other
16 than the loss-of-time benefit; or to reduce the
17 unadjusted loss-of-time benefit if the insured
18 has suffered a catastrophic disability.

19 (2) For purposes of the overinsurance provision, the
20 policy shall include the following definitions:

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

28 (b) "Earnings replacement percent" means the greater
29 of:

30 1. Sixty percent; or
31

1 2. The total amount of loss-of-time benefits under
2 this policy and all other valid loss-of-time coverage that the
3 insured possesses and that is expected to be effective at time
4 of claim divided by the insured's earned income at the time of
5 application. This percent is shown on the policy schedule.

6 (c) "Catastrophic disability" means that the insured
7 has a total and permanent loss of speech, loss of hearing in
8 both ears, loss of sight of both eyes, loss of the use of both
9 legs, loss of the use of both arms, or loss of the use of one
10 arm and one leg.

11 (d) "Valid loss-of-time coverage" means coverage
12 approved as to form by the commissioner, which may include
13 coverage on the insured which is provided by governmental
14 agencies and by organizations subject to regulation under the
15 insurance law and by insurance authorities of this or any
16 other state or of any other country or subdivision thereof;
17 coverage provided for the insured pursuant to any disability
18 benefits statute or any workers' compensation or employer's
19 liability statute; benefits provided by labor-management
20 trustee plans or union welfare plans or by salary continuance
21 or pension programs; and any other coverage the inclusion of
22 which is approved by the commissioner.

23 (3) The overinsurance provision authorized in
24 subsection (1) may be inserted only in a policy that provides
25 a loss-of-time benefit that may be payable for at least 52
26 weeks and which the insured has the right to continue in
27 force, subject to its terms by the timely payment of premiums
28 until at least age 50, or in the case of a policy issued after
29 age 44, for at least 5 years after its date of issue. Such
30 policy must be issued on the basis of selective underwriting
31 of each individual application, and for which the application

1 includes a question designed to elicit information needed to
2 determine the earnings replacement percent as defined in
3 paragraph (2)(b). Such percent must be inserted in the policy.
4 If the application indicates that other loss-of-time coverage
5 is to be discontinued, the amount of that other coverage must
6 be excluded in computing the earnings replacement percent for
7 the overinsurance provision. The insurer may require, as part
8 of the proof of the claim, the information necessary to
9 administer this provision.

10 (4) If the overinsurance provision results in a
11 material reduction of benefits otherwise payable to an insured
12 under the policy, the insurer shall refund to the insured, for
13 the period 2 years preceding the disability for which a claim
14 is made, any premium unearned on the policy by reason of such
15 reduction of coverage. A material reduction of benefits is a
16 reduction that results in unearned premium of \$5 or more as
17 specified by the insurer.

18 (5) The application for a policy containing the
19 overinsurance provision authorized by this section shall
20 include the following disclosure:

21 "The benefit payable under this policy may be
22 reduced if the total loss-of-time coverage in
23 effect exceeds ...(percent)... of your income."

24 (6) The department may by rule prescribe definitions,
25 forms, and procedures necessary to administer this section.

26 Section 2. This act shall take effect October 1, 1999,
27 and apply to policies issued on or after that date.

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SENATE SUMMARY

Revises the loss-of-time benefit requirements for a disability insurance policy. Provides definitions. Requires an insurer to refund premiums if an overinsurance provision results in a material reduction of benefits. Requires an application for such a policy to include a statement disclosing that the benefits payable may be reduced if the total loss-of-time coverage in effect exceeds a stated percent of the applicant's income. Authorizes the Department of Insurance to adopt rules.