SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 20, 1998 Revised: ________ ________ ________ ________

Subject: Overinsurance/Loss-of-time Benefit

	Analyst	Staff Director	Reference	Action
1.	Johnson	Deffenbaugh	BI	Favorable/CS
2.			WM	
3.				
4.				
5.				

I. Summary:

The bill provides for a coordination of benefits or overinsurance provision for disability insurance policies that would reduce or limit the insured's benefits (at the time of the claim) based on a ratio of pre-disability income to total benefits payable from other coverage.

The bill also provides for an initial 90 days of unreduced benefits and a refund of unearned premiums, if the application of the overinsurance provision results in a material reduction of benefits otherwise payable. An insurer is authorized to provide in the policy that no such reduction in benefits or refund will be made unless the unearned premium to be refunded amounts to $5.

An application for a policy containing the overinsurance provision authorized by this bill is required to include a statement disclosing that the benefits payable under the policy may be reduced, if the total loss-of-time coverage in effect exceeds a stated percent of the applicant's income.

The Department of Insurance may by rule prescribe definitions, forms, and procedures necessary to administer the provisions of the bill.

This bill substantially amends section 627.624, Florida Statutes.

II. Present Situation:

Health insurance is defined under s. 624.603, F.S., to include disability insurance (often referred to as disability income insurance). Generally, disability coverage is provided through individual and group policies and governmental programs. A disability policy pays a periodic income to the policyholder in the event the policyholder is unable to return to work due to a disabling accident or illness. A short-term disability policy generally pays for a limited number of weeks and a long-term policy will provide benefits on a monthly basis for a longer duration of time. The policy generally begins making payments after a specified waiting period has elapsed, and will not pay more than a certain percentage of the policyholder's total income before the disability, or up to a maximum amount.

In order to minimize the opportunity for individuals from profiting from the occurrence of a disabling event, insurers provide certain limitations on the benefits provided through a disability policy. Typically, disability policies limit the maximum amount of coverage to 50 - 80 percent of the pretax income of the insured prior to the disabling event.

The relation of insurance to earnings is a common provision that is used in disability insurance policies. In the event an insured has disability insurance with other companies, some policies provide for a proportionate reduction of benefits payable, or coordination of benefits, subject to the limitation of 627.624, F.S.

Section 627.624, F.S., provides for a relation of earnings to insurance clause to allow for a reduction in benefits. Generally, if the total monthly amount of loss-of-time benefits promised for the same loss under all valid loss-of-time coverage upon the insured exceeds the monthly earnings of the insured at the time of the disability, the insurer is only liable for such proportionate amount of such benefits under a particular policy as the amount of such monthly earnings bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time of the disability. The insurer is also required to refund such part of the premiums paid during the 2 years that exceed the pro rata amount of the premiums for the benefits actually paid, with limitations. Also, this reduction in benefits may only be used in policies that are renewable to age 50 or 5 years, whichever results in the higher age.

This provision provides that in the event the total disability income exceeds the insured's prior monthly income, the policy benefit is reduced to its proportionate share of the prior income amount. For example, if an individual had two policies paying $300 and $400 per month, but the earnings were only $600, only $600 of the $700 would be payable in such a situation.

Presently, there is no provision in the Florida Statutes that would allow an insurer to reduce a proportionate share of the benefit payable in the event an insured total amount of benefits exceed any percentage that is less than 100 percent of the insured's earned income.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.624, F.S., relating to overinsurance and loss-of-time coverage, to authorize the insurer to adjust the amount of the benefit, if the total amount of the unadjusted loss-of-time benefits provided in all valid loss-of-time coverage exceeds a certain percentage of the insured's earned income which percentage may not be less than 60 percent. This provision would be applicable to individual disability policies only.

If the total amount of the loss-of-time benefits under a particular policy and under all other valid loss-of-time coverage is expected to be effective upon the insured (in accordance with the application for the particular policy) exceeds a stated percent of the insured's earned income at the time of application, the higher percentage will be used in place of the stated percentage. The adjusted loss-of-time benefit under such policy for any month is the proportion of the loss-of-time benefit otherwise payable under that particular policy, as the product of the insured's earned income and that stated percent bears to the total amount of loss-of-time benefits payable for such month under this policy and all other valid loss-of-time coverage on the insured (without giving effect to the overinsurance provision in this or any other coverage) less any amount of loss-of-time benefits payable under other valid loss-of-time coverage that does not contain an overinsurance clause.

As an example, if a) the overinsurance amount set in the policy is 65 percent; b) the monthly income immediately prior to disability is $5,000; c) all other valid loss of time coverage is $2,000 per month; d) all other valid loss-of-time coverage that does not have an overinsurance provision is $0; and e) the unadjusted policy benefit is $2,250, the adjusted benefit would be determined to be:

$$\frac{(65\% \times \$5{,}000) - 0}{(\$2{,}000 + \$2{,}250) - 0} \times \$2{,}250 = \$1{,}720 \text{ per month benefit}$$

This provision may not reduce the total combined amount of loss-of-time coverage below an amount that is the lessor of $300 or the total combined amount of loss-of-time benefits determined without considering any overinsurance clause. The provision may not increase the amount of benefit payable under the policy above the amount that would have been paid in the absence of this provision or take into account or operate to reduce any benefit other than loss-of-time benefit.

Earned income is defined to mean the greater of monthly earnings of the insured at the time of the disability or the insured's average monthly earnings for a period of 2 years preceding the commencement of the disability.

The overinsurance provision is applicable only in a policy that is payable for at least 52 weeks, is issued on the basis of selective underwriting, and meets certain other criteria. The policy must define the term, "valid loss-of-time coverage" as approved by the Department of Insurance, which definition may include coverage provided by governmental agencies, disability benefits, workers' compensation, or employer's liability benefits provided by labor-management trustee plans or union welfare plans; salary continuance or pension programs; or any other coverage the inclusion of which has been approved by the department.

If the application of the overinsurance provision affects a material reduction of benefits otherwise payable under the policy, the insurer is required to refund for the period of 2 years preceding the disability for which a claim is made, any premium unearned on the policy by reason of such reduction of coverage. The insurer is authorized to provide in the policy that no such reduction in benefits or refund will be made unless the unearned premium to be refunded amounts to $5.

An application for a policy containing the overinsurance provision authorized by this bill is required to include a statement disclosing that the benefits payable under the policy may be reduced, if the total loss-of-time coverage in effect exceeds a stated percent of the applicant's income.

The Department of Insurance may be rule prescribe definitions, forms, and procedures necessary to administer the provisions of the bill.

Section 2. This act shall take effect October 1, 1998, and shall apply to policies issued on or after October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unclear how premiums would be adjusted when an insured has paid premiums based on no intended coordination of benefits.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.