

By the Committee on Banking and Insurance; and 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"; requiring disclosure for  
overinsurance provision; authorizing the  
Department of Insurance to adopt rules;  
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) A disability income insurance policy 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

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

25 (2) For purposes of the overinsurance provision of  
26 subsection (1), the term:

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

1 investment income or any other income not derived from the  
2 insured's vocational activities.

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

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

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

1 insured pursuant to any disability benefits, workers'  
2 compensation benefits, or employer's liability benefits  
3 provided by labor-management trustee plans or union welfare  
4 plans; salary continuance or pension programs; or any other  
5 coverage the inclusion of which has been approved by the  
6 department.

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

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

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

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

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1774

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 of \$5 or more.

Requires an application for a policy containing such an overinsurance provision 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.

Authorizes the Department of Insurance to adopt rules prescribing definitions, forms, and procedures necessary to administer the provisions of the bill.