

Bill No. CS for SB 268

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Holzendorf moved the following amendment:

**Senate Amendment (with title amendment)**

On page 7, between lines 16 and 17,

insert:

Section 9. 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

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

29 (2) For purposes of the overinsurance provision of  
30 subsection (1), the term:

31 (a) "Earned income," except where otherwise specified,

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1 means the greater of monthly earnings of the insured at the  
2 time disability commences or the insured's average monthly  
3 earnings for a period of 2 years immediately preceding the  
4 commencement of disability. The term does not include any  
5 investment income or any other income not derived from the  
6 insured's vocational activities.

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

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

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

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1 which definition may include coverage provided by governmental  
2 agencies and by organizations subject to regulation by  
3 insurance law and by insurance authorities of this or any  
4 other state or of any country; coverage provided for such  
5 insured pursuant to any disability benefits, workers'  
6 compensation benefits, or employer's liability benefits  
7 provided by labor-management trustee plans or union welfare  
8 plans; salary continuance or pension programs; or any other  
9 coverage the inclusion of which has been approved by the  
10 department.

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

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

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

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

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29 (Redesignate subsequent sections.)

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1 ===== T I T L E   A M E N D M E N T =====

2 And the title is amended as follows:

3           On page 1, line 27, after the semicolon,

4

5 insert:

6           amending s. 627.624, F.S.; revising  
7           loss-of-time benefit requirements; providing  
8           definitions of the terms "earned income" and  
9           "overinsurance provisions"; requiring  
10          disclosure for overinsurance provision;  
11          authorizing the Department of Insurance to  
12          adopt rules;

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