

By Representative Patterson

1 A bill to be entitled
2 An act relating to overinsurance; creating s.
3 627.6245, F.S.; authorizing inclusion of
4 overinsurance provisions in insurance policies;
5 specifying contents; specifying required
6 definitions; providing requirements and
7 limitations; requiring a refund of certain
8 unearned premium under certain circumstances;
9 requiring an application for a policy
10 containing an overinsurance provision to
11 contain certain disclosures; authorizing the
12 Department of Insurance to adopt rules;
13 providing an effective date.

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

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17 Section 1. Section 627.6245, Florida Statutes, is
18 created to read:

19 627.6245 Overinsurance; valid loss-of-time coverage.--
20 (1) The contract may include the following provision:

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

1 including the unadjusted benefit under this policy. In making
2 the computation, all benefits and earnings shall be converted
3 to a consistent weekly basis, if the loss-of-time benefit of
4 this policy is payable weekly, or to a monthly basis, if the
5 loss-of-time benefit of this policy is payable monthly. In no
6 event shall this provision operate:

7 To reduce the total combined amount of loss-of-time
8 benefits for the month payable under this policy and all other
9 valid loss-of-time coverage below the lesser of \$300 or the
10 total combined amount of loss-of-time benefits determined
11 without giving effect to any overinsurance provision;

12 To increase the amount of benefits payable under this
13 policy above the amount which would have been paid in the
14 absence of the overinsurance provision;

15 To take into account or operate to reduce any benefit
16 other than the loss-of-time benefit; or

17 To reduce the unadjusted loss-of-time benefit if the
18 insured has suffered a catastrophic disability."

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20 (2)(a) The overinsurance provision shall also include
21 the following definitions:

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

30 'Earnings replacement percent' means the greater of 60
31 percent or the total amount of loss-of-time benefits under

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

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

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11 (b) The overinsurance provision shall also include a
12 definition of valid loss-of-time coverage approved as to form
13 by the commissioner, which definition may include coverage on
14 the insured provided by governmental agencies and by
15 organizations subject to regulation by insurance law and by
16 insurance authorities of this or any other state of the United
17 States or of any other country or subdivision of such country,
18 coverage provided for the insured pursuant to any disability
19 benefits law or any workers' compensation or employer's
20 liability law, benefits provided by any labor-management
21 trustee plan or union welfare plan or by any salary
22 continuance or pension program, and any other coverage the
23 inclusion of which may be approved by the commissioner.

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

1 basis of selective underwriting of each individual application
2 and for which the application includes a question designed to
3 obtain information needed to determine the earnings
4 replacement percent. Such percentage must be included in the
5 policy. If the application indicates that other loss-of-time
6 coverage is to be discontinued, the amount of such other
7 coverage shall be excluded in computing the earnings
8 replacement percent for the overinsurance provision. The
9 insurer may require, as part of the proof of the claim, the
10 insured to provide the information necessary to administer
11 this provision.

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

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

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

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

30 Section 2. This act shall take effect October 1, 1999.

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HOUSE SUMMARY

Provides for including an overinsurance provision in insurance contracts and specifies contents, definitions, requirements, and limitations of such provision. See bill for details.