

CHAPTER 2023-149

Committee Substitute for Committee Substitute for House Bill No. 721

An act relating to paid family leave insurance; amending s. 624.406, F.S.; authorizing life insurers to transact paid family leave insurance; creating s. 624.6086, F.S.; defining terms; providing circumstances under which paid family leave insurance may be issued and purchased under group disability income policies and group insurance policies; creating s. 627.445, F.S.; defining terms; providing circumstances under which family leave insurance benefits may be provided; requiring that paid family leave insurance policies specify details and requirements relating to covered circumstances, benefit periods, waiting periods, benefit amounts, certain offsets, and payment of benefits; providing that eligibility for family leave insurance benefits may be limited, excluded, or reduced, but any such limitation, exclusion, or reduction must be specified in the policy; providing circumstances under which limitations, exclusions, and reductions are permissible; providing applicable provisions for calculating rates; providing that paid family leave insurance policy forms and riders are subject to review by the Office of Insurance Regulation; specifying the means by which a policy must offer family leave insurance benefits; authorizing the Financial Services Commission to adopt rules; providing an effective date.

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

Section 1. Subsection (1) of section 624.406, Florida Statutes, is amended to read:

624.406 Combinations of insuring powers, one insurer.—An insurer which otherwise qualifies therefor may be authorized to transact any one kind or combination of kinds of insurance as defined in part V except:

(1) A life insurer may also grant annuities, but shall not be authorized to transact any other kind of insurance except health insurance, disability income insurance, paid family leave insurance, excess coverage for health maintenance organizations, or excess insurance, specific and aggregate, for self-insurers of a plan of health insurance and multiple-employer welfare arrangements.

Section 2. Section 624.6086, Florida Statutes, is created to read:

624.6086 “Paid family leave insurance” defined; paid family leave insurance issuance and purchase.—

(1) As used in this section, the term “paid family leave insurance” means insurance issued to an employer which is related to a benefit program

provided to an employee to pay for a percentage or portion of the employee's income loss due to:

- (a) The birth of a child or the adoption of a child by the employee;
- (b) Placement of a child with the employee for foster care;
- (c) Care of the employee's family member who has a serious health condition; or
- (d) Circumstances arising out of the fact that the employee's family member who is a servicemember is on active duty or has been notified of an impending call or order to active duty.

As used in this subsection, the terms "child," "family leave," and "family member" have the same meanings as in s. 627.445(1).

(2) Paid family leave insurance may be issued to and purchased by an employer as an amendment or a rider to a group disability income policy, included in a group disability income policy, or issued as a separate group insurance policy.

Section 3. Section 627.445, Florida Statutes, is created to read:

627.445 Paid family leave insurance.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Armed Forces of the United States" means an officer or enlisted member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard of the United States, the Florida National Guard, or the United States Reserve Forces.

(b) "Child" means a person who is:

1. Under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or a physical disability; and

2. A biological, an adopted, or a foster son or daughter; a stepson or a stepdaughter; a legal ward; or a son or a daughter of a person to whom the employee stands in loco parentis.

(c) "Family leave" means any leave taken by an employee from work for any of the circumstances specified in subsection (2).

(d) "Family member" means a child, a spouse, a parent, or any other person defined as a family member of the employee in the policy.

(e) "Health care provider" means a hospital licensed under chapter 395, a health care institution licensed under chapter 400 or chapter 429, or an individual licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or chapter 466.

(f) “Parent” means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or other person who stood in loco parentis to the employee when the employee was a child.

(g) “Serious health condition” means an illness, an injury, an impairment, or a physical or mental condition, including, but not limited to, a pregnancy complication that threatens the life of the mother or unborn child; transplantation preparation and recovery from surgery related to organ or tissue donation which involve inpatient care in a hospital, hospice, or residential health care facility; continuing treatment; or continuing supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective and during which the family member need not be receiving active treatment by a health care provider.

(2) COVERED FAMILY LEAVE INSURANCE BENEFITS.—Family leave insurance benefits provided in a paid family leave insurance policy may be provided for any leave taken by an employee from work for any of the following circumstances:

(a) Participation in providing care, including physical or psychological care, for a family member made necessary by a serious health condition of the family member;

(b) Bonding with the employee’s child during the first 12 months after the child’s birth or the first 12 months after the placement of the child for adoption by or foster care with the employee;

(c) Addressing a qualifying exigency as interpreted under the Family and Medical Leave Act of 1993, 29 U.S.C. s. 2612(a)(1)(E) and 29 C.F.R. s. 825.126(a)(1)-(8), arising out of the fact that the spouse, child, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces of the United States;

(d) Caring for a family member who was injured in the line of duty while serving in the Armed Forces of the United States; or

(e) Caring for a family member or other leave as specified in the policy.

(3) REQUIRED POLICY SPECIFICITY.—A paid family leave insurance policy must specify all of the following:

(a) Details and requirements with regard to each of the covered circumstances specified in subsection (2).

(b) The length of family leave insurance benefits available for each covered circumstance, which may not be less than 2 weeks during a period of 52 consecutive calendar weeks.

(c) Whether there is an uncovered waiting period and, if so, the terms and conditions of the uncovered waiting period, which may include, but are not limited to, whether:

1. The period runs over a consecutive calendar-day period;

2. The period is counted toward the annual allotment of covered family leave insurance benefits or is in addition to the annual allotment of covered family leave insurance benefits;

3. The period must be met only once per benefit year or must be met for each separate claim for benefits; and

4. The employee may work or receive paid time off or other compensation during the period.

(d) The amount of benefits that will be paid for covered circumstances specified in subsection (2).

(e) The definition of the wages or other income upon which the amount of benefits will be issued.

(f) The method by which such wages or other income will be calculated.

(g) If the family leave insurance benefits are subject to offsets for wages or other income received or for which the insured may be eligible, all such wages or other income that may be set off and the circumstances under which the family leave insurance benefits may be offset.

(h) The frequency of payments due for covered benefits.

(4) CALCULATION OF 52 CONSECUTIVE CALENDAR WEEKS.—For purposes of this section, 52 consecutive calendar weeks may be calculated by:

(a) A calendar year;

(b) Any fixed period starting on a particular date, such as the effective date or anniversary date of the policy;

(c) The employee’s hiring date or anniversary of hiring date;

(d) The period measured forward from the employee’s first day of family leave;

(e) A rolling period measured by looking back from the employee’s first day of family leave; or

(f) Any other method specified in the policy.

(5) PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS. Eligibility for family leave insurance benefits under this section may be

limited, excluded, or reduced, but any limitation, exclusion, or reduction must be specified in the policy and not conflict with the Florida Insurance Code. Limitations, exclusions, or reductions are permissible for any of the following circumstances:

(a) For any period during which the required notice and medical certification as prescribed in the policy have not been provided;

(b) For any leave period related to a serious health condition or other harm to a family member brought about by a willful act by the employee;

(c) For any period during which the employee performed work for remuneration or profit;

(d) For any period for which the employee is eligible to receive remuneration or maintenance from her or his employer, or from a fund to which the employer has contributed;

(e) For any period during which the employee is eligible to receive benefits under any other statutory program or employer-sponsored program, including, but not limited to, unemployment insurance benefits, workers' compensation benefits, or any paid time off or employer's paid leave policy;

(f) For any period commencing before the employee becomes eligible for family leave insurance benefits under the policy;

(g) For any period during which more than one person seeks family leave for the same family member under the same policy, unless the policy specifies otherwise; or

(h) For any other reasons specified in the policy.

(6) PAYMENT OF FAMILY LEAVE INSURANCE BENEFITS.—Family leave insurance benefits provided under a policy that complies with this section must be paid periodically and promptly, as specified in the policy, except as to a contested period of family leave and subject to any of the limitations, exclusions, or reductions permitted under subsection (5).

(7) INSURANCE POLICY.—

(a) Rates for policies or riders providing paid family leave insurance benefits must be calculated in accordance with the rate standards provided in s. 627.062.

(b) Forms for policies or riders providing paid family leave insurance benefits are subject to review by the office under s. 627.410.

(c) A policy issued under this section must meet the requirements of s. 624.6086(2).

(8) RULEMAKING.—The commission may adopt rules to administer this section.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 25, 2023.

Filed in Office Secretary of State May 25, 2023.