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CS/CS/HB 721

2023 Legislature

1
 2 An act relating to paid family leave insurance;
 3 amending s. 624.406, F.S.; authorizing life insurers
 4 to transact paid family leave insurance; creating s.
 5 624.6086, F.S.; defining terms; providing
 6 circumstances under which paid family leave insurance
 7 may be issued and purchased under group disability
 8 income policies and group insurance policies; creating
 9 s. 627.445, F.S.; defining terms; providing
 10 circumstances under which family leave insurance
 11 benefits may be provided; requiring that paid family
 12 leave insurance policies specify details and
 13 requirements relating to covered circumstances,
 14 benefit periods, waiting periods, benefit amounts,
 15 certain offsets, and payment of benefits; providing
 16 that eligibility for family leave insurance benefits
 17 may be limited, excluded, or reduced, but any such
 18 limitation, exclusion, or reduction must be specified
 19 in the policy; providing circumstances under which
 20 limitations, exclusions, and reductions are
 21 permissible; providing applicable provisions for
 22 calculating rates; providing that paid family leave
 23 insurance policy forms and riders are subject to
 24 review by the Office of Insurance Regulation;
 25 specifying the means by which a policy must offer

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26 family leave insurance benefits; authorizing the
 27 Financial Services Commission to adopt rules;
 28 providing an effective date.

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

31
 32 Section 1. Subsection (1) of section 624.406, Florida
 33 Statutes, is amended to read:

34 624.406 Combinations of insuring powers, one insurer.—An
 35 insurer which otherwise qualifies therefor may be authorized to
 36 transact any one kind or combination of kinds of insurance as
 37 defined in part V except:

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

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

47 624.6086 "Paid family leave insurance" defined; paid
 48 family leave insurance issuance and purchase.—

49 (1) As used in this section, the term "paid family leave
 50 insurance" means insurance issued to an employer which is

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51 related to a benefit program provided to an employee to pay for
 52 a percentage or portion of the employee's income loss due to:

53 (a) The birth of a child or the adoption of a child by the
 54 employee;

55 (b) Placement of a child with the employee for foster
 56 care;

57 (c) Care of the employee's family member who has a serious
 58 health condition; or

59 (d) Circumstances arising out of the fact that the
 60 employee's family member who is a servicemember is on active
 61 duty or has been notified of an impending call or order to
 62 active duty.

63
 64 As used in this subsection, the terms "child," "family leave,"
 65 and "family member" have the same meanings as in s. 627.445(1).

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

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

72 627.445 Paid family leave insurance.—

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

74 (a) "Armed Forces of the United States" means an officer
 75 or enlisted member of the Army, Navy, Air Force, Marine Corps,

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76 Space Force, or Coast Guard of the United States, the Florida
 77 National Guard, or the United States Reserve Forces.

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

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

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

86 (c) "Family leave" means any leave taken by an employee
 87 from work for any of the circumstances specified in subsection
 88 (2).

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

92 (e) "Health care provider" means a hospital licensed under
 93 chapter 395, a health care institution licensed under chapter
 94 400 or chapter 429, or an individual licensed under chapter 458,
 95 chapter 459, chapter 460, chapter 461, chapter 464, or chapter
 96 466.

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

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

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

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

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

125 (c) Addressing a qualifying exigency as interpreted under

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126 the Family and Medical Leave Act of 1993, 29 U.S.C. s.
 127 2612(a)(1)(E) and 29 C.F.R. s. 825.126(a)(1)-(8), arising out of
 128 the fact that the spouse, child, or parent of the employee is on
 129 active duty or has been notified of an impending call or order
 130 to active duty in the Armed Forces of the United States;

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

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

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

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

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

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

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

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

150 3. The period must be met only once per benefit year or

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151 must be met for each separate claim for benefits; and
 152 4. The employee may work or receive paid time off or other
 153 compensation during the period.
 154 (d) The amount of benefits that will be paid for covered
 155 circumstances specified in subsection (2).
 156 (e) The definition of the wages or other income upon which
 157 the amount of benefits will be issued.
 158 (f) The method by which such wages or other income will be
 159 calculated.
 160 (g) If the family leave insurance benefits are subject to
 161 offsets for wages or other income received or for which the
 162 insured may be eligible, all such wages or other income that may
 163 be set off and the circumstances under which the family leave
 164 insurance benefits may be offset.
 165 (h) The frequency of payments due for covered benefits.
 166 (4) CALCULATION OF 52 CONSECUTIVE CALENDAR WEEKS.—For
 167 purposes of this section, 52 consecutive calendar weeks may be
 168 calculated by:
 169 (a) A calendar year;
 170 (b) Any fixed period starting on a particular date, such
 171 as the effective date or anniversary date of the policy;
 172 (c) The employee's hiring date or anniversary of hiring
 173 date;
 174 (d) The period measured forward from the employee's first
 175 day of family leave;

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176 (e) A rolling period measured by looking back from the
 177 employee's first day of family leave; or
 178 (f) Any other method specified in the policy.
 179 (5) PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS.—
 180 Eligibility for family leave insurance benefits under this
 181 section may be limited, excluded, or reduced, but any
 182 limitation, exclusion, or reduction must be specified in the
 183 policy and not conflict with the Florida Insurance Code.
 184 Limitations, exclusions, or reductions are permissible for any
 185 of the following circumstances:
 186 (a) For any period during which the required notice and
 187 medical certification as prescribed in the policy have not been
 188 provided;
 189 (b) For any leave period related to a serious health
 190 condition or other harm to a family member brought about by a
 191 willful act by the employee;
 192 (c) For any period during which the employee performed
 193 work for remuneration or profit;
 194 (d) For any period for which the employee is eligible to
 195 receive remuneration or maintenance from her or his employer, or
 196 from a fund to which the employer has contributed;
 197 (e) For any period during which the employee is eligible
 198 to receive benefits under any other statutory program or
 199 employer-sponsored program, including, but not limited to,
 200 unemployment insurance benefits, workers' compensation benefits,

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201 or any paid time off or employer's paid leave policy;
 202 (f) For any period commencing before the employee becomes
 203 eligible for family leave insurance benefits under the policy;
 204 (g) For any period during which more than one person seeks
 205 family leave for the same family member under the same policy,
 206 unless the policy specifies otherwise; or
 207 (h) For any other reasons specified in the policy.
 208 (6) PAYMENT OF FAMILY LEAVE INSURANCE BENEFITS.—Family
 209 leave insurance benefits provided under a policy that complies
 210 with this section must be paid periodically and promptly, as
 211 specified in the policy, except as to a contested period of
 212 family leave and subject to any of the limitations, exclusions,
 213 or reductions permitted under subsection (5).
 214 (7) INSURANCE POLICY.—
 215 (a) Rates for policies or riders providing paid family
 216 leave insurance benefits must be calculated in accordance with
 217 the rate standards provided in s. 627.062.
 218 (b) Forms for policies or riders providing paid family
 219 leave insurance benefits are subject to review by the office
 220 under s. 627.410.
 221 (c) A policy issued under this section must meet the
 222 requirements of s. 624.6086(2).
 223 (8) RULEMAKING.—The commission may adopt rules to
 224 administer this section.
 225 Section 4. This act shall take effect upon becoming a law.