
By: **Delegates Mandel, Benson, Bobo, Cadden, V. Clagett, Conroy, Dumais,
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Hubbard, Kaiser, King, Kirk, Lee, Love, Madaleno, McIntosh, Menes,
Montgomery, Parker, Stern, Taylor, and V. Turner**

Introduced and read first time: February 7, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Short-Term Disability for Working Families Act**

3 FOR the purpose of providing the criteria under which a covered employee is eligible
4 to receive short-term disability benefits; providing that certain notice of a
5 covered employee's intention to take short-term disability leave be given to a
6 covered employee's employer under certain circumstances; requiring a covered
7 employee to schedule certain treatment in a certain manner under certain
8 circumstances; prohibiting that the short-term disability benefits under this
9 title are not payable under certain circumstances; providing that certain strikes
10 or lockouts do not disqualify a covered employee from receiving short-term
11 disability benefits under certain circumstances; providing the amount of
12 short-term disability benefits; authorizing the withholding of certain
13 short-term disability benefits under certain circumstances; providing for a
14 penalty under certain circumstances; providing that the Workers' Compensation
15 Commission shall administer this Act; authorizing the creation of a Short-Term
16 Disability for Working Families Fund; establishing the purpose of the Fund;
17 providing for employee and employer contributions to the Fund; providing that
18 benefits are payable under this title only to the extent that moneys are
19 available; providing that the State, Commission, and employers are not liable
20 for payments under certain circumstances; authorizing certain persons to elect
21 coverage under this Act under certain circumstances; requiring employers to
22 maintain certain records under certain circumstances; requiring that premiums
23 be paid at certain times under certain circumstances; requiring the Commission
24 to provide certain information to claimants under certain circumstances;
25 prohibiting certain retaliatory actions against claimants under certain
26 circumstances; authorizing the Commission to adopt certain regulations;
27 providing for the application and construction of this Act; defining certain terms;
28 providing for a delayed effective date; and generally relating to the Short-Term
29 Disability for Working Families Act.

30 BY adding to

31 Article - Labor and Employment

1 Section 9A-101 through 9A-118, inclusive, to be under the new title "Title 9A.
2 Short-Term Disability for Working Families Act"
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2002 Supplement)

5 Preamble

6 WHEREAS, Although family and medical leave laws have assisted employees to
7 balance the demands of the workplace with their family responsibilities, more needs
8 to be done to achieve the goals of workforce stability and economic security; and

9 WHEREAS, All working Americans need to be able to take leave from work, at
10 times, to recover from their own serious illness, to take care of a seriously ill family
11 member, or to care for a newborn or newly adopted child; and

12 WHEREAS, Americans who provide direct care for their family members
13 prevent the worsening of illnesses and promote strong recovery; and

14 WHEREAS, For many workers, the promise of family and medical leave is
15 meaningless because they cannot afford to take leave without pay; and

16 WHEREAS, Seventy-eight percent of eligible employees who needed to but did
17 not take family or medical leave did not take it because they could not afford to; and

18 WHEREAS, One in ten employees who receive less than full pay while on leave
19 are forced onto public assistance; and

20 WHEREAS, Forty-seven percent of women and men working in the private
21 sector lack any access to paid sick leave to help compensate them if they become
22 seriously ill and those who have access to paid sick leave may not be able to use it to
23 receive a paycheck while caring for family members; and

24 WHEREAS, The establishment of benefits through a Short-Term Disability for
25 Working Families Fund will reduce the impact on state income-support programs by
26 increasing the ability of workers to recover from illness or provide care-giving
27 services for family members while maintaining an employment relationship; and

28 WHEREAS, Family and medical leave benefits strengthen and support the
29 business sector through health care savings and increased employee retention and
30 productivity; and

31 WHEREAS, Organizations struggling to weather the current economic
32 downturn will have a bottom line interest in maintaining a stable workforce and
33 retaining experienced employees in whom they have already invested; and

34 WHEREAS, Demographic changes over the past few decades have altered the
35 face and needs of our workforce; and

1 WHEREAS, It is now common for both parents to be in the workforce and many
2 men and women also find themselves as the primary caregiver for an elderly spouse
3 or parent; and

4 WHEREAS, Fifty-five percent of women with children younger than 1 year are
5 part of the workforce while seventy-three percent of women with children 1 year or
6 older are in the workforce; and

7 WHEREAS, Nearly two-thirds of Americans under the age of 60 years expect to
8 be responsible for the care of an elder relative in the next 10 years; now, therefore,

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Labor and Employment**

12 **TITLE 9A. SHORT-TERM DISABILITY FOR WORKING FAMILIES ACT.**

13 9A-101.

14 (A) THIS LAW IS ENACTED TO ESTABLISH THE SHORT-TERM DISABILITY FOR
15 WORKING FAMILIES ACT TO PROVIDE LIMITED INCOME SUPPORT FOR A
16 REASONABLE TIME WHILE A COVERED EMPLOYEE IS AWAY FROM WORK ON
17 SHORT-TERM DISABILITY LEAVE.

18 (B) THE GENERAL ASSEMBLY FINDS THAT THIS ACT PROTECTS THE HEALTH
19 AND SAFETY OF MARYLAND RESIDENTS AND STRENGTHENS MARYLAND'S ECONOMY.
20 9A-102.

21 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 (B) "APPLICATION YEAR" MEANS THE 12-MONTH PERIOD BEGINNING:

23 (1) ON THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED
24 EMPLOYEE FILES AN APPLICATION FOR SHORT-TERM DISABILITY BENEFITS; OR

25 (2) WITH THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A
26 COVERED EMPLOYEE FILES A SUBSEQUENT APPLICATION FOR SHORT-TERM
27 DISABILITY LEAVE BENEFITS AFTER THE EXPIRATION OF THE COVERED
28 EMPLOYEE'S LAST PRECEDING APPLICATION YEAR.

29 (C) "CHILD" MEANS AN INDIVIDUAL:

30 (1) UNDER THE AGE OF 18 YEARS WHO IS LEGALLY SUBJECT TO
31 PARENTAL, GUARDIANSHIP, OR SIMILAR CONTROL; OR

32 (2) AT LEAST 18 YEARS OLD WHO IS DEPENDENT ON A PARENT BECAUSE
33 OF MENTAL OR PHYSICAL INFIRMITY.

1 (D) "COMMISSION" MEANS THE WORKERS' COMPENSATION COMMISSION.

2 (E) (1) "COVERED EMPLOYEE" MEANS AN INDIVIDUAL, INCLUDING A
3 MINOR, IN THE SERVICE OF AN EMPLOYER UNDER AN EXPRESS OR IMPLIED
4 CONTRACT OF APPRENTICESHIP OR HIRE.

5 (2) "COVERED EMPLOYEE" MAY INCLUDE A MINOR EVEN IF THE MINOR
6 IS EMPLOYED UNLAWFULLY.

7 (F) (1) "EMPLOYER" MEANS:

8 (I) AN EMPLOYER WITH AT LEAST ONE COVERED EMPLOYEE; AND

9 (II) EACH GOVERNMENTAL UNIT OR QUASI-PUBLIC CORPORATION
10 THAT HAS AT LEAST ONE COVERED EMPLOYEE.

11 (2) "EMPLOYER" INCLUDES A TEMPORARY HELP COMPANY.

12 (G) "FAMILY MEMBER" MEANS A CHILD, SPOUSE, PRIMARY CAREGIVER, OR
13 PARENT OF THE COVERED EMPLOYEE OR SPOUSE OF THE COVERED EMPLOYEE.

14 (H) "FUND" MEANS THE SHORT-TERM DISABILITY FOR WORKING FAMILIES
15 FUND.

16 (I) "MAXIMUM WEEKLY BENEFIT AMOUNT" MEANS TWO-THIRDS OF THE
17 STATE AVERAGE WEEKLY WAGE SET BY THE DEPARTMENT OF LABOR, LICENSING,
18 AND REGULATION.

19 (J) "PHYSICIAN" MEANS A PERSON LICENSED TO PRACTICE MEDICINE IN THE
20 STATE.

21 (K) "PREMIUM RATE" MEANS THE RATE, SET BY THE COMMISSIONER, THAT
22 EACH COVERED EMPLOYEE MUST PAY INTO THE SHORT-TERM DISABILITY FOR
23 WORKING FAMILIES FUND.

24 (L) "QUALIFYING YEAR" MEANS:

25 (1) THE FIRST FOUR OF THE LAST FIVE COMPLETED CALENDAR
26 QUARTERS; OR

27 (2) THE LAST FOUR COMPLETED CALENDAR QUARTERS IMMEDIATELY
28 PRECEDING THE FIRST DAY OF THE EMPLOYEE'S APPLICATION YEAR.

29 (M) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY,
30 IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT REQUIRES INPATIENT
31 CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL MEDICAL CARE FACILITY OR
32 CONTINUING TREATMENT BY A PHYSICIAN.

33 (N) "SHORT-TERM DISABILITY BENEFITS" MEANS ANY BENEFITS PAID TO A
34 COVERED EMPLOYEE UNDER THIS TITLE.

1 (O) "SHORT-TERM DISABILITY LEAVE" MEANS LEAVE TAKEN BY A COVERED
2 EMPLOYEE WHO IS TEMPORARILY DISABLED AND UNAVAILABLE TO WORK BECAUSE:

3 (1) THE COVERED EMPLOYEE MUST CARE FOR A NEWBORN, FOSTER, OR
4 NEWLY ADOPTED CHILD WITHIN 12 MONTHS AFTER:

5 (I) THE BIRTH OF THE CHILD;

6 (II) THE PLACEMENT OF THE CHILD FOR FOSTER CARE; OR

7 (III) THE PLACEMENT OF THE CHILD AFTER ADOPTION;

8 (2) THE COVERED EMPLOYEE MUST CARE FOR A FAMILY MEMBER WHO
9 HAS A SERIOUS HEALTH CONDITION; OR

10 (3) OF THE COVERED EMPLOYEE'S OWN SERIOUS HEALTH CONDITION.

11 (P) "TAXABLE WAGE CEILING" IS THE AMOUNT EQUAL TO 1.4 TIMES THE
12 MAXIMUM WEEKLY BENEFIT AMOUNT, THE SUM OF WHICH IS MULTIPLIED BY 13
13 WITH THE RESULTING TOTAL DIVIDED BY 55%.

14 9A-103.

15 THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS
16 OF THIS TITLE.

17 9A-104.

18 (A) AN APPLICATION YEAR MAY NOT BE ESTABLISHED IF THE QUALIFYING
19 YEAR INCLUDES HOURS WORKED BEFORE ESTABLISHMENT OF A PREVIOUS
20 APPLICATION YEAR.

21 (B) SHORT-TERM DISABILITY BENEFITS ARE PAYABLE TO A COVERED
22 EMPLOYEE WHEN THE COVERED EMPLOYEE IS ON SHORT-TERM DISABILITY LEAVE
23 IF THE EMPLOYEE:

24 (1) FILES A CLAIM FOR BENEFITS AS REQUIRED BY THE COMMISSION;

25 (2) HAS BEEN EMPLOYED FOR AT LEAST 520 HOURS DURING THE
26 EMPLOYEE'S QUALIFYING YEAR;

27 (3) ESTABLISHES AN APPLICATION YEAR;

28 (4) DOCUMENTS THAT THE COVERED EMPLOYEE HAS PROVIDED THE
29 COVERED EMPLOYEE'S EMPLOYER WITH WRITTEN NOTICE OF THE COVERED
30 EMPLOYEE'S INTENTION TO TAKE SHORT-TERM DISABILITY LEAVE IN ACCORDANCE
31 WITH SUBSECTION (C) OF THIS SECTION; AND

32 (5) DISCLOSES IF THE COVERED EMPLOYEE HAS CHILD SUPPORT
33 OBLIGATIONS.

1 (C) WRITTEN NOTICE SHALL BE GIVEN TO THE COVERED EMPLOYEE'S
2 EMPLOYER:

3 (1) IF THE SHORT-TERM DISABILITY LEAVE IS FORESEEABLE BASED ON
4 AN EXPECTED BIRTH OF A CHILD, PLACEMENT OF A CHILD, OR SERIOUS HEALTH
5 CONDITION OF THE COVERED EMPLOYEE OR FAMILY MEMBER OF THE COVERED
6 EMPLOYEE, AT LEAST 30 DAYS PRIOR TO THE FIRST DAY OF SHORT-TERM DISABILITY
7 LEAVE;

8 (2) IF THE SHORT-TERM DISABILITY LEAVE IS UNFORESEEABLE DUE TO
9 AN UNEXPECTED EARLY BIRTH OF A CHILD, EARLY PLACEMENT OF A CHILD, OR
10 UNEXPECTED SERIOUS HEALTH CONDITION, AS MUCH NOTICE AS REASONABLY
11 PRACTICABLE.

12 (D) IF THE COVERED EMPLOYEE REQUIRES MEDICAL TREATMENT FOR A
13 SERIOUS HEALTH CONDITION, THE COVERED EMPLOYEE MUST MAKE REASONABLE
14 EFFORTS TO SCHEDULE THE TREATMENT SO AS NOT TO UNDULY DISRUPT THE
15 OPERATIONS OF THE EMPLOYER, SUBJECT TO APPROVAL OF THE COVERED
16 EMPLOYEE'S PHYSICIAN OR THE PHYSICIAN OF THE COVERED EMPLOYEE'S FAMILY
17 MEMBER.

18 9A-105.

19 A COVERED EMPLOYEE IS DISQUALIFIED FROM SHORT-TERM DISABILITY
20 LEAVE BENEFITS BEGINNING WITH THE FIRST DAY OF THE CALENDAR WEEK, AND
21 CONTINUING FOR THE NEXT 52 CONSECUTIVE WEEKS IF THE COVERED EMPLOYEE:

22 (1) INTENTIONALLY MAKES A FALSE STATEMENT OR
23 MISREPRESENTATION REGARDING A MATERIAL FACT IN ORDER TO OBTAIN
24 SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE;

25 (2) WILLFULLY FAILS TO REPORT A MATERIAL FACT IN ORDER TO
26 OBTAIN SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE;

27 (3) SEEKS SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE
28 BASED ON THE INTENTIONAL SELF-INFLICTION OF INJURY THAT RESULTS IN A
29 SERIOUS HEALTH CONDITION; OR

30 (4) HAS A SERIOUS HEALTH CONDITION THAT IS A RESULT OF THE
31 COVERED EMPLOYEE'S COMMISSION OF A FELONY.

32 9A-106.

33 (A) SHORT-TERM DISABILITY LEAVE BENEFITS ARE NOT PAYABLE FOR ANY
34 WEEK WHEN COMPENSATION IS PAYABLE TO THE COVERED EMPLOYEE UNDER:

35 (1) TITLE 9 OF THIS ARTICLE; OR

36 (2) A FEDERAL WORKERS' COMPENSATION PROGRAM.

1 (B) A COVERED EMPLOYEE IS NOT DISQUALIFIED FROM RECEIVING
2 SHORT-TERM DISABILITY BENEFITS DURING ANY WEEK WHEN THERE IS A STRIKE
3 OR LOCKOUT AT THE COVERED EMPLOYEE'S PLACE OF EMPLOYMENT.

4 9A-107.

5 (A) SHORT-TERM DISABILITY BENEFITS ARE PAYABLE FOR A MAXIMUM OF 12
6 WEEKS DURING AN APPLICATION YEAR.

7 (B) THE FIRST PAYMENT OF SHORT-TERM DISABILITY BENEFITS SHALL BE
8 MADE TO A COVERED EMPLOYEE WITHIN 2 WEEKS AFTER A CLAIM IS FILED OR THE
9 SHORT-TERM DISABILITY LEAVE BEGAN, WHICHEVER IS LATER.

10 (C) SHORT-TERM DISABILITY BENEFIT PAYMENTS SHALL BE MADE TWICE A
11 MONTH AFTER THE FIRST PAYMENT.

12 (D) THE SHORT-TERM DISABILITY BENEFIT AMOUNT SHALL BE:

13 (1) FOR SHORT-TERM DISABILITY LEAVE COMMENCING BEFORE
14 JANUARY 1, 2005, 55% OF A COVERED EMPLOYEE'S SALARY PER WEEK, NOT TO
15 EXCEED \$336; AND

16 (2) FOR SHORT-TERM DISABILITY LEAVE COMMENCING ON OR AFTER
17 JANUARY 1, 2005, 55% OF A COVERED EMPLOYEE'S SALARY PER WEEK, NOT TO
18 EXCEED THE MAXIMUM WEEKLY BENEFIT AMOUNT.

19 (E) (1) IF A COVERED EMPLOYEE DISCLOSES THAT THE COVERED
20 EMPLOYEE HAS A CHILD SUPPORT OBLIGATION AND THE COMMISSION DETERMINES
21 THAT THE COVERED EMPLOYEE IS ELIGIBLE FOR SHORT-TERM DISABILITY
22 BENEFITS, THE COMMISSION SHALL NOTIFY THE APPROPRIATE CHILD SUPPORT
23 ENFORCEMENT AGENCY AND DEDUCT AND WITHHOLD AN AMOUNT FROM THE
24 COVERED EMPLOYEE'S SHORT-TERM DISABILITY BENEFITS IN ACCORDANCE WITH
25 THE TERMS OF ANY ORDER FOR CHILD SUPPORT.

26 (2) ANY AMOUNT DEDUCTED AND WITHHELD BY THE COMMISSION FOR
27 A CHILD SUPPORT OBLIGATION SHALL BE PAID TO THE PERSON DESIGNATED TO
28 RECEIVE CHILD SUPPORT PAYMENTS IN ACCORDANCE WITH THE ORDER FOR CHILD
29 SUPPORT.

30 (F) A COVERED EMPLOYEE MAY ELECT TO HAVE FEDERAL INCOME TAX
31 DEDUCTED AND WITHHELD FROM SHORT-TERM DISABILITY BENEFITS RECEIVED
32 UNDER THIS TITLE.

33 9A-108.

34 (A) (1) IF THE COMMISSION FINDS THAT ANY PERSON FALSELY CERTIFIES
35 A COVERED EMPLOYEE'S MEDICAL CONDITION IN ORDER TO OBTAIN SHORT-TERM
36 DISABILITY BENEFITS WITH THE INTENT TO DEFRAUD, THE COMMISSION SHALL
37 ASSESS A PENALTY AGAINST THE PERSON IN THE AMOUNT OF 25% OF THE
38 SHORT-TERM DISABILITY BENEFITS PAID.

1 (2) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE PAID
2 INTO THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND.

3 (B) THE COMMISSION SHALL SEEK REPAYMENT OF SHORT-TERM DISABILITY
4 BENEFITS FROM THE RECIPIENT IF:

5 (1) SHORT-TERM DISABILITY BENEFITS ARE ERRONEOUSLY PAID;

6 (2) SHORT-TERM DISABILITY BENEFITS ARE PAID AS A RESULT OF
7 FRAUD; OR

8 (3) A CLAIM FOR SHORT-TERM DISABILITY BENEFITS IS REJECTED
9 AFTER BENEFITS ARE PAID.

10 (C) (1) IF A COVERED EMPLOYEE DIES BEFORE RECEIVING PAYMENT OF
11 SHORT-TERM DISABILITY BENEFITS, THE PAYMENT SHALL BE MADE TO THE
12 COVERED EMPLOYEE'S SURVIVING SPOUSE OR, IF THERE IS NO SURVIVING SPOUSE,
13 TO THE COVERED EMPLOYEE'S CHILD OR CHILDREN.

14 (2) IF THE COVERED EMPLOYEE HAS NO SURVIVING HEIRS, THE
15 PAYMENT SHALL BE MADE TO THE COVERED EMPLOYEE'S ESTATE.

16 9A-109.

17 (A) (1) EACH COVERED EMPLOYEE SHALL PAY TO THE COMMISSION
18 PREMIUM RATES AT A RATE DETERMINED BY THE COMMISSIONER PURSUANT TO
19 THIS SECTION.

20 (2) ON OR BEFORE OCTOBER 31 OF EACH CALENDAR YEAR THE
21 COMMISSIONER SHALL PREPARE A STATEMENT, WHICH SHALL BE A PUBLIC
22 RECORD, DECLARING THE RATE OF COVERED EMPLOYEE PREMIUMS FOR THE
23 CALENDAR YEAR AND PROMPTLY SHALL NOTIFY ALL EMPLOYERS OF THE RATE.

24 (3) (I) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR
25 CALENDAR YEAR 2004 SHALL BE 1.81% OF A COVERED EMPLOYEE'S TAXABLE WAGES.

26 (II) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR
27 CALENDAR YEAR 2005 SHALL BE THE TAXABLE WAGE CEILING FOR CALENDAR YEAR
28 2005.

29 (III) THE AMOUNT OF A COVERED EMPLOYEE'S PREMIUM RATE FOR
30 EACH SUBSEQUENT YEAR AFTER 2005 SHALL BE 1.4 TIMES THE AMOUNT DISBURSED
31 BY THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND DURING THE
32 12-MONTH PERIOD ENDING SEPTEMBER 30 AND IMMEDIATELY PRECEDING THE
33 CALENDAR YEAR FOR WHICH THE PREMIUM IS TO BE EFFECTIVE, LESS THE AMOUNT
34 IN THE SHORT-TERM DISABILITY FOR WORKING FAMILIES FUND ON THAT
35 SEPTEMBER 30 WITH THE RESULTING FIGURE DIVIDED BY TOTAL BENEFITS PAID
36 PURSUANT TO THIS TITLE DURING THE SAME 12-MONTH PERIOD, AND THEN
37 ROUNDED TO THE NEAREST ONE-TENTH OF 1%.

1 (B) EACH EMPLOYER SHALL MATCH THE AMOUNT PAID BY EACH OF ITS
2 COVERED EMPLOYEES UNDER THIS SECTION AND PAY THAT AMOUNT TO THE
3 COMMISSION.

4 9A-110.

5 (A) (1) THERE IS A SHORT-TERM DISABILITY FOR WORKING FAMILIES
6 FUND.

7 (2) THE COMMISSION SHALL PAY EACH PREMIUM COLLECTED UNDER
8 THIS TITLE TO THE COMPTROLLER WHO SHALL DISTRIBUTE THE MONEY TO THE
9 FUND.

10 (3) (I) THE FUND SHALL BE USED TO PROVIDE INCOME SUPPORT TO
11 COVERED EMPLOYEES IN ACCORDANCE WITH THIS TITLE.

12 (II) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT
13 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

14 (III) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR
15 BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN
16 THE FUND TO BE USED FOR THE PURPOSE SPECIFIED IN SUBSECTION (A)(3)(I) OF
17 THIS SECTION.

18 (IV) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE
19 FUND.

20 (4) (I) THE COMMISSION SHALL ADMINISTER THE FUND.

21 (II) MONEYS IN THE FUND MAY ONLY BE EXPENDED FOR THE
22 PURPOSE STATED IN SUBSECTION (A)(3)(I) OF THIS SECTION.

23 (5) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
24 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
25 ARTICLE.

26 9A-111.

27 (A) SHORT-TERM DISABILITY BENEFITS ARE PAYABLE UNDER THIS TITLE
28 ONLY TO THE EXTENT THAT MONEYS ARE AVAILABLE IN THE FUND.

29 (B) THE STATE, COMMISSION, AND EMPLOYER ARE NOT LIABLE FOR ANY
30 AMOUNT IN EXCESS OF THE LIMITS IN THE FUND.

31 (C) THIS TITLE DOES NOT CREATE A CONTINUING ENTITLEMENT OR
32 CONTRACTUAL RIGHT.

33 9A-112.

34 (A) AN EMPLOYER NOT COVERED BY THIS TITLE OR A SELF-EMPLOYED
35 INDIVIDUAL MAY ELECT COVERAGE UNDER THIS TITLE FOR AN INITIAL PERIOD OF

1 NOT LESS THAN 3 YEARS OR A SUBSEQUENT PERIOD OF NOT LESS THAN 1 YEAR
2 IMMEDIATELY FOLLOWING A PERIOD OF COVERAGE.

3 (B) (1) AN EMPLOYER OR A SELF-EMPLOYED INDIVIDUAL WHO ELECTS
4 COVERAGE UNDER THIS SECTION MUST FILE A WRITTEN NOTICE OF ELECTION WITH
5 THE COMMISSION.

6 (2) AN ELECTION UNDER THIS SECTION IS EFFECTIVE ON THE DATE OF
7 FILING.

8 (3) AN EMPLOYER OR A SELF-EMPLOYED INDIVIDUAL WHO ELECTS
9 COVERAGE UNDER THIS TITLE MAY WITHDRAW FROM COVERAGE BY FILING
10 WRITTEN NOTICE TO THE COMMISSION:

11 (I) WITHIN 30 DAYS AFTER THE END OF THE 3-YEAR PERIOD OF
12 COVERAGE; OR

13 (II) AS OTHERWISE PRESCRIBED BY THE COMMISSION.

14 (4) WITHDRAWAL UNDER THIS SUBSECTION IS EFFECTIVE NOT SOONER
15 THAN 30 DAYS AFTER FILING.

16 (C) (1) THE COMMISSION MAY CANCEL ELECTIVE COVERAGE OF AN
17 EMPLOYER OR SELF-EMPLOYED INDIVIDUAL UNDER THIS SECTION:

18 (I) IF THE EMPLOYER OR SELF-EMPLOYED INDIVIDUAL FAILS TO
19 PROVIDE PREMIUMS OR REPORTS AS REQUIRED BY THIS TITLE; AND

20 (II) THE COMMISSION SENDS WRITTEN NOTICE OF THE
21 CANCELLATION TO THE SELF-EMPLOYED INDIVIDUAL.

22 (2) THE COMMISSION MAY:

23 (I) COLLECT PREMIUMS DUE TO THE FUND; OR

24 (II) LEVY ADDITIONAL PREMIUMS FOR THE REMAINDER OF A
25 PERIOD OF COVERAGE.

26 (3) CANCELLATION UNDER THIS SUBSECTION IS EFFECTIVE NOT LATER
27 THAN 30 DAYS FROM THE DATE THE COMMISSION SENDS NOTICE.

28 9A-113.

29 (A) (1) AN EMPLOYER SHALL MAKE REPORTS, FURNISH INFORMATION, AND
30 REMIT PREMIUMS AS REQUIRED BY THE COMMISSIONER.

31 (2) IF AN EMPLOYER IS A TEMPORARY HELP COMPANY AND THE
32 TEMPORARY HELP COMPANY FAILS TO REMIT THE REQUIRED PREMIUMS TO THE
33 COMMISSION, THE CUSTOMER TO WHOM A COVERED EMPLOYEE WAS PROVIDED IS
34 RESPONSIBLE FOR REMITTING PAYMENT.

1 (B) (1) AN EMPLOYER MUST MAINTAIN, AT THE EMPLOYER'S PRINCIPAL
2 PLACE OF BUSINESS, A RECORD OF EMPLOYMENT FOR EACH COVERED EMPLOYEE
3 SPECIFYING INFORMATION REQUIRED BY THE COMMISSIONER.

4 (2) AN EMPLOYER'S RECORDS OF EMPLOYMENT SHALL BE OPEN TO
5 INSPECTION BY THE COMMISSION AT ANY TIME DURING REGULAR BUSINESS HOURS.

6 (C) (1) INFORMATION MAINTAINED IN EMPLOYMENT RECORDS IS
7 CONFIDENTIAL AND NOT OPEN TO INSPECTION, OTHER THAN TO PUBLIC
8 EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

9 (2) AN INTERESTED PARTY SHALL BE SUPPLIED WITH INFORMATION
10 FROM EMPLOYMENT RECORDS TO THE EXTENT NECESSARY FOR THE PROPER
11 PRESENTATION OF THE CASE IN QUESTION.

12 (3) A COVERED EMPLOYEE MAY AUTHORIZE INSPECTION OF THE
13 COVERED EMPLOYEE'S EMPLOYMENT RECORD BY WRITTEN CONSENT.

14 9A-114.

15 (A) WHEN AN EMPLOYER QUILTS, SELLS, EXCHANGES, OR OTHERWISE
16 DISPOSES OF A BUSINESS, ANY PREMIUM PAYABLE UNDER THIS TITLE IS
17 IMMEDIATELY DUE AND PAYABLE.

18 (B) AN EMPLOYER MUST, WITHIN 10 DAYS AFTER THE EMPLOYER QUILTS,
19 SELLS, EXCHANGES, OR OTHERWISE DISPOSES OF A BUSINESS, MAKE THE
20 APPROPRIATE FILINGS AND REMIT THE APPROPRIATE PREMIUM PAYMENTS TO THE
21 COMMISSIONER.

22 (C) A PERSON WHO BECOMES A SUCCESSOR TO A BUSINESS IS LIABLE FOR
23 THE FULL AMOUNT OF THE PREMIUMS DUE FROM THE PREVIOUS OWNER AND MUST
24 REMIT TO THE COMMISSION THE PREMIUMS DUE WITHIN 10 DAYS AFTER THE
25 PURCHASE OR ACQUISITION OF THE BUSINESS.

26 (D) THE SUCCESSOR TO A BUSINESS SHALL WITHHOLD FROM THE PURCHASE
27 PRICE A SUM SUFFICIENT TO PAY ANY PREMIUMS DUE FROM THE PREVIOUS OWNER
28 UNTIL THE PREVIOUS OWNER PRODUCES A RECEIPT FROM THE COMMISSION
29 INDICATING PAYMENT IN FULL OF ANY PREMIUMS DUE OR A CERTIFICATE
30 INDICATING THAT NO PREMIUMS ARE DUE.

31 (E) (1) IF THE SUCCESSOR TO A BUSINESS REMITS PAYMENT OF PREMIUMS
32 DUE FROM THE PREVIOUS OWNER, THE SUCCESSOR'S PAYMENT IS A PAYMENT UPON
33 THE PURCHASE PRICE.

34 (2) IF THE PAYMENT OF PREMIUMS IS GREATER IN AMOUNT THAN THE
35 PURCHASE PRICE, THE AMOUNT OF THE DIFFERENCE IS A DEBT DUE TO THE
36 SUCCESSOR FROM THE PREVIOUS OWNER.

37 (F) A SUCCESSOR IS NOT LIABLE FOR ANY PREMIUMS DUE UNDER THIS
38 SECTION IF THE SUCCESSOR GIVES WRITTEN NOTICE TO THE COMMISSION

1 REGARDING THE PURCHASE OR ACQUISITION OF THE BUSINESS AND THE
2 COMMISSION FAILS TO NOTIFY THE SUCCESSOR OF THE PREVIOUS OWNER'S
3 OBLIGATIONS UNDER THIS SECTION WITHIN 180 DAYS OF RECEIPT OF THE NOTICE.

4 9A-115.

5 (A) NOTHING IN THIS TITLE SHALL LIMIT A COVERED EMPLOYEE'S RIGHT TO
6 LEAVE EMPLOYMENT UNDER OTHER LAWS OR THE COVERED EMPLOYEE'S
7 EMPLOYER POLICY.

8 (B) AN EMPLOYER MAY FIRST REQUIRE A COVERED EMPLOYEE TO UTILIZE UP
9 TO 2 WEEKS OF EARNED BUT UNUSED VACATION LEAVE PRIOR TO THE COVERED
10 EMPLOYEE'S RECEIPT OF SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE.

11 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER
12 MAY REQUIRE THAT SHORT-TERM DISABILITY LEAVE FOR WHICH AN EMPLOYEE IS
13 RECEIVING SHORT-TERM DISABILITY BENEFITS BE TAKEN CONCURRENTLY WITH
14 LEAVE UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993 OR OTHER
15 APPLICABLE FEDERAL, STATE, OR LOCAL LAW.

16 (2) IF AN EMPLOYER REQUIRES THAT SHORT-TERM DISABILITY LEAVE
17 FOR WHICH AN EMPLOYEE IS RECEIVING SHORT-TERM DISABILITY BENEFITS BE
18 TAKEN CONCURRENTLY WITH LEAVE UNDER THE FEDERAL FAMILY MEDICAL LEAVE
19 ACT OF 1993 OR OTHER APPLICABLE FEDERAL, STATE, OR LOCAL LAW, THE
20 EMPLOYER MUST PROVIDE WRITTEN NOTICE OF THE REQUIREMENT TO COVERED
21 EMPLOYEES.

22 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED
23 EMPLOYEE WHO RECEIVES SHORT-TERM DISABILITY BENEFITS UNDER THIS TITLE
24 MAY NOT LOSE ANY EMPLOYMENT BENEFIT, INCLUDING SENIORITY OR PENSION
25 RIGHTS ACCRUED BEFORE THE DATE THAT SHORT-TERM DISABILITY LEAVE
26 COMMENCED.

27 (2) THIS SUBSECTION DOES NOT ENTITLE A COVERED EMPLOYEE TO
28 ACCRUE EMPLOYMENT BENEFITS DURING A PERIOD OF SHORT-TERM DISABILITY
29 LEAVE OR TO A RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT OTHER THAN A
30 RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT TO WHICH THE COVERED
31 EMPLOYEE WOULD HAVE BEEN ENTITLED HAD THE COVERED EMPLOYEE NOT
32 TAKEN THE SHORT-TERM DISABILITY LEAVE.

33 (F) THIS TITLE DOES NOT DIMINISH AN EMPLOYER'S OBLIGATION TO COMPLY
34 WITH A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT BENEFIT
35 PROGRAM THAT PROVIDES GREATER BENEFITS TO COVERED EMPLOYEES THAN
36 SHORT-TERM DISABILITY BENEFITS PROVIDED UNDER THIS TITLE.

37 (G) SHORT-TERM DISABILITY BENEFITS PROVIDED UNDER THIS TITLE MAY
38 NOT BE DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT
39 BENEFIT PROGRAM THAT IS ENTERED INTO AFTER THE EFFECTIVE DATE OF THIS
40 TITLE.

1 (H) AN AGREEMENT BY A COVERED EMPLOYEE TO WAIVE THE COVERED
2 EMPLOYEE'S RIGHTS UNDER THIS TITLE IS VOID AS AGAINST PUBLIC POLICY.

3 9A-116.

4 THE COMMISSION SHALL ADVISE A COVERED EMPLOYEE FILING A NEW CLAIM
5 UNDER THIS TITLE THAT SHORT-TERM DISABILITY BENEFITS RECEIVED UNDER
6 THIS TITLE ARE A PRE-TAX BENEFIT NOT SUBJECT TO THE FEDERAL INCOME TAX.

7 9A-117.

8 AN EMPLOYER, TEMPORARY SERVICES AGENCY, EMPLOYMENT AGENCY,
9 EMPLOYEE ORGANIZATION, OR OTHER PERSON MAY NOT DISCHARGE, EXPEL, OR
10 OTHERWISE DISCRIMINATE AGAINST AN INDIVIDUAL BECAUSE THE INDIVIDUAL
11 HAS FILED, OR COMMUNICATED TO THE EMPLOYER AN INTENT TO FILE, A CLAIM
12 UNDER THIS TITLE.

13 9A-118.

14 THIS TITLE IS THE SHORT-TERM DISABILITY FOR WORKING FAMILIES ACT.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 January 1, 2004.