

REFERENCE TITLE: family leave insurance

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2306

Introduced by
Representative Patterson

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; RELATING
TO FAMILY LEAVE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10
5 FAMILY LEAVE INSURANCE
6 ARTICLE 1. GENERAL PROVISIONS

7 23-1601. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "APPLICATION YEAR" MEANS THE TWELVE MONTH PERIOD BEGINNING ON THE
10 FIRST DAY OF THE CALENDAR WEEK IN WHICH AN INDIVIDUAL FILES AN APPLICATION
11 FOR FAMILY LEAVE INSURANCE BENEFITS AND, THEREAFTER, THE TWELVE-MONTH PERIOD
12 BEGINNING WITH THE FIRST DAY OF THE CALENDAR WEEK IN WHICH THE INDIVIDUAL
13 NEXT FILES AN APPLICATION FOR FAMILY LEAVE INSURANCE BENEFITS AFTER THE
14 EXPIRATION OF THE INDIVIDUAL'S LAST PRECEDING APPLICATION YEAR.

15 2. "CALENDAR QUARTER" HAS THE SAME MEANING PRESCRIBED IN SECTION
16 23-610.

17 3. "CHILD" MEANS A PERSON WHO IS A BIOLOGICAL, ADOPTED OR FOSTER
18 CHILD, A STEPCHILD, A LEGAL WARD OR A CHILD OF A PERSON STANDING IN LOCO
19 PARENTIS.

20 4. "COVERED INDIVIDUAL" MEANS ANY PERSON WHO SATISFIES ALL OF THE
21 FOLLOWING:

22 (a) HAS FILED A CLAIM FOR BENEFITS AS REQUIRED BY RULES ADOPTED BY THE
23 DIRECTOR.

24 (b) MEETS THE ADMINISTRATIVE REQUIREMENTS PRESCRIBED BY THIS ARTICLE.

25 (c) HAS BEEN EMPLOYED FOR AT LEAST SIX HUNDRED EIGHTY HOURS IN
26 EMPLOYMENT DURING THE INDIVIDUAL'S QUALIFYING YEAR.

27 (d) ESTABLISHES AN APPLICATION YEAR.

28 5. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.

29 6. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC
30 SECURITY.

31 7. "DOMESTIC PARTNER" MEANS AN UNMARRIED PERSON WHO IS AT LEAST
32 EIGHTEEN YEARS OF AGE AND WHO IS A PERSON TO WHOM ALL THE FOLLOWING APPLY:

33 (a) WITH WHOM THE COVERED INDIVIDUAL ENTERED INTO A CLOSE PERSONAL
34 RELATIONSHIP WHEN BOTH PARTIES WERE MENTALLY COMPETENT AND WHO HAS MAINTAINED
35 A CLOSE PERSONAL RELATIONSHIP SOLELY WITH THAT PERSON FOR A MINIMUM OF SIX
36 CONTINUOUS MONTHS.

37 (b) WITH WHOM THE COVERED INDIVIDUAL SHARES A REGULAR AND PERMANENT
38 RESIDENCE.

39 (c) WITH WHOM THE COVERED INDIVIDUAL HAS AGREED TO BE JOINTLY
40 RESPONSIBLE FOR BASIC LIVING EXPENSES INCURRED DURING THE DOMESTIC
41 PARTNERSHIP.

42 (d) TO WHOM THE COVERED INDIVIDUAL IS NOT RELATED BY BLOOD AS WOULD
43 BAR MARRIAGE.

44 8. "EMPLOYER" HAS THE SAME MEANING PRESCRIBED IN SECTION 23-613 AND
45 INCLUDES THIS STATE AND POLITICAL SUBDIVISIONS OF THIS STATE.

- 1 9. "EMPLOYMENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 23-615.
2 10. "FAMILY AND MEDICAL LEAVE ACT" MEANS THE UNITED STATES FAMILY AND
3 MEDICAL LEAVE ACT OF 1993 (P.L. 103-3; 107 STAT. 6; 29 UNITED STATES CODE
4 CHAPTER 28).
5 11. "FAMILY LEAVE" MEANS LEAVE FROM EMPLOYMENT FOR ANY OF THE PURPOSES
6 PRESCRIBED IN SECTION 23-1602, SUBSECTION A.
7 12. "FAMILY LEAVE INSURANCE BENEFITS" MEANS THE BENEFITS PAYABLE
8 PURSUANT TO SECTIONS 23-1605 AND 23-1606.
9 13. "FAMILY MEMBER" MEANS ANY OF THE FOLLOWING OF A COVERED INDIVIDUAL:
10 (a) A CHILD.
11 (b) A PARENT.
12 (c) A SPOUSE OR DOMESTIC PARTNER.
13 (d) A GRANDPARENT OR STEP-GRANDPARENT OR A GRANDPARENT OR STEP
14 GRANDPARENT OF THE COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER.
15 (e) A GRANDCHILD OR STEP-GRANDCHILD OR A GRANDCHILD OR STEP GRANDCHILD
16 OF THE COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER.
17 (f) A BIOLOGICAL, FOSTER OR ADOPTED SIBLING.
18 14. "HEALTH CARE PROVIDER" MEANS:
19 (a) A PERSON WHO IS LICENSED AS A PHYSICIAN UNDER TITLE 32, CHAPTER
20 13.
21 (b) A PERSON WHO IS LICENSED AS AN OSTEOPATHIC PHYSICIAN AND SURGEON
22 UNDER TITLE 32, CHAPTER 17.
23 (c) ANY OTHER PERSON WHO IS DETERMINED BY THE DIRECTOR TO BE CAPABLE
24 OF PROVIDING HEALTH CARE SERVICES.
25 15. "PARENT" MEANS A BIOLOGICAL OR ADOPTIVE PARENT, A STEPPARENT OR AN
26 INDIVIDUAL WHO STOOD IN LOCO PARENTIS TO A COVERED INDIVIDUAL OR A COVERED
27 INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER WHEN THE COVERED INDIVIDUAL OR
28 COVERED INDIVIDUAL'S SPOUSE OR DOMESTIC PARTNER WAS A CHILD.
29 16. "PREMIUM" MEANS PAYMENTS REQUIRED BY THIS CHAPTER TO BE MADE TO THE
30 DEPARTMENT FOR THE FAMILY LEAVE INSURANCE FUND UNDER SECTION 23-1618.
31 17. "QUALIFYING EXIGENCY LEAVE" MEANS LEAVE FOR THE FAMILY MEMBER OF A
32 COVERED INDIVIDUAL FOR ANY OF THE FOLLOWING REASONS:
33 (a) BECAUSE OF SEVEN OR FEWER DAYS' NOTICE OF MILITARY DEPLOYMENT.
34 (b) TO ATTEND MILITARY EVENTS AND RELATED ACTIVITIES.
35 (c) TO ATTEND CHILD CARE AND SCHOOL ACTIVITIES IF THE LEAVE IS REQUIRED
36 DUE, INDIRECTLY OR DIRECTLY, TO THE ACTIVE DUTY CALL OR ACTIVE STATUS OF THE
37 FAMILY MEMBER.
38 (d) TO MAKE FINANCIAL AND LEGAL ARRANGEMENTS FOR THE SERVICE MEMBER'S
39 ABSENCE OR BECAUSE OF THE ABSENCE.
40 (e) TO ATTEND COUNSELING PROVIDED BY SOMEONE OTHER THAN A HEALTH CARE
41 PROVIDER, IF THE NEED FOR COUNSELING ARISES FROM THE ACTIVE DUTY OR CALL TO
42 ACTIVE DUTY STATUS OF A COVERED MILITARY MEMBER.
43 (f) TO SPEND TIME WITH A SERVICE MEMBER WHO IS ON SHORT-TERM, TEMPORARY
44 REST AND RECUPERATION LEAVE DURING DEPLOYMENT.
45 (g) TO ATTEND POST-DEPLOYMENT ACTIVITIES.

1 (h) TO ADDRESS ISSUES THAT ARISE OUT OF ACTIVE DUTY OR A CALL TO ACTIVE
2 DUTY THAT AN EMPLOYER AND EMPLOYEE AGREE SHOULD BE COVERED.

3 18. "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE COMPLETED
4 CALENDAR QUARTERS OR THE LAST FOUR COMPLETED CALENDAR QUARTERS IMMEDIATELY
5 PRECEDING THE FIRST DAY OF THE INDIVIDUAL'S APPLICATION YEAR.

6 19. "REGULARLY WORKING" MEANS THE AVERAGE NUMBER OF HOURS PER WORK WEEK
7 THAT AN INDIVIDUAL WORKED IN THE TWO QUARTERS OF THE INDIVIDUAL'S QUALIFYING
8 YEAR IN WHICH TOTAL WAGES WERE HIGHEST.

9 20. "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY, IMPAIRMENT OR
10 PHYSICAL OR MENTAL CONDITION THAT INVOLVES EITHER:

11 (a) A PERIOD OF INCAPACITY OR TREATMENT CONNECTED WITH INPATIENT CARE,
12 SUCH AS AN OVERNIGHT STAY, IN A HOSPITAL OR A HOSPICE OR RESIDENTIAL MEDICAL
13 CARE FACILITY AND A PERIOD OF INCAPACITY OR SUBSEQUENT TREATMENT OR RECOVERY
14 IN CONNECTION WITH THE INPATIENT CARE.

15 (b) CONTINUING TREATMENT BY OR UNDER THE SUPERVISION OF A HEALTH CARE
16 PROVIDER OR A PROVIDER OF HEALTH CARE SERVICES AND INCLUDES A PERIOD OF
17 INCAPACITY, SUCH AS AN INABILITY TO WORK, ATTEND SCHOOL OR PERFORM OTHER
18 REGULAR DAILY ACTIVITIES.

19 23-1602. Family leave insurance program; claim procedure;
20 outreach information

21 A. THE DEPARTMENT SHALL ESTABLISH AND ADMINISTER A FAMILY LEAVE
22 INSURANCE PROGRAM. BEGINNING JANUARY 1, 2013, THE DEPARTMENT SHALL PAY
23 FAMILY LEAVE INSURANCE BENEFITS TO A COVERED INDIVIDUAL WHO MEETS ONE OF THE
24 FOLLOWING:

25 1. BECAUSE OF BIRTH, ADOPTION OR PLACEMENT THROUGH FOSTER CARE IS
26 CARING FOR A NEW CHILD DURING THE FIRST YEAR AFTER THE BIRTH, ADOPTION OR
27 PLACEMENT.

28 2. IS CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH CONDITION.

29 3. HAS A SERIOUS HEALTH CONDITION THAT MAKES THE COVERED INDIVIDUAL
30 UNABLE TO PERFORM THE FUNCTIONS OF THE COVERED INDIVIDUAL'S EMPLOYMENT.

31 4. IS CARING FOR A QUALIFYING SERVICE MEMBER WHO IS A FAMILY MEMBER OF
32 THE COVERED INDIVIDUAL.

33 5. HAS A QUALIFYING EXIGENCY ARISING OUT OF THE DEPLOYMENT OF A FAMILY
34 MEMBER OF THE COVERED INDIVIDUAL.

35 B. THE DEPARTMENT SHALL ESTABLISH PROCEDURES AND FORMS FOR FILING
36 CLAIMS FOR BENEFITS UNDER THIS CHAPTER. THE DEPARTMENT SHALL NOTIFY THE
37 EMPLOYER WITHIN FIVE BUSINESS DAYS AFTER A CLAIM IS FILED UNDER SECTION
38 23-1603.

39 C. THE DEPARTMENT MAY REQUIRE THAT A CLAIM FOR BENEFITS UNDER THIS
40 CHAPTER BE SUPPORTED BY A CERTIFICATION THAT IS ISSUED BY A HEALTH CARE
41 PROVIDER PROVIDING HEALTH CARE TO THE INDIVIDUAL OR INDIVIDUAL'S FAMILY
42 MEMBER, AS APPLICABLE.

43 D. THE DEPARTMENT SHALL USE INFORMATION SHARING AND INTEGRATION
44 TECHNOLOGY TO FACILITATE THE DISCLOSURE OF RELEVANT INFORMATION OR RECORDS BY
45 THE DEPARTMENT IF AN INDIVIDUAL CONSENTS TO THE DISCLOSURE.

1 E. INFORMATION CONTAINED IN THE FILES AND RECORDS PERTAINING TO AN
2 INDIVIDUAL UNDER THIS CHAPTER IS CONFIDENTIAL AND NOT OPEN TO PUBLIC
3 INSPECTION EXCEPT TO PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL
4 DUTIES. THE INDIVIDUAL OR AN AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL MAY
5 REVIEW THE RECORDS OR RECEIVE SPECIFIC INFORMATION FROM THE RECORDS ON THE
6 PRESENTATION OF THE SIGNED AUTHORIZATION OF THE INDIVIDUAL. AN EMPLOYER OR
7 THE EMPLOYER'S DULY AUTHORIZED REPRESENTATIVE MAY REVIEW THE RECORDS OF AN
8 INDIVIDUAL EMPLOYED BY THE EMPLOYER IN CONNECTION WITH A PENDING CLAIM. AT
9 THE DEPARTMENT'S DISCRETION, OTHER PERSONS MAY REVIEW RECORDS IF THE PERSONS
10 ARE RENDERING ASSISTANCE TO THE DEPARTMENT AT ANY STAGE OF THE PROCEEDINGS ON
11 ANY MATTER PERTAINING TO THE ADMINISTRATION OF THIS CHAPTER.

12 F. THE DEPARTMENT SHALL DEVELOP OUTREACH INFORMATION TO ENSURE THAT
13 INDIVIDUALS WHO MAY BE ELIGIBLE TO RECEIVE FAMILY LEAVE INSURANCE BENEFITS
14 UNDER THIS CHAPTER ARE MADE AWARE OF THESE BENEFITS. OUTREACH INFORMATION
15 SHALL EXPLAIN, IN AN EASY TO UNDERSTAND FORMAT, ELIGIBILITY REQUIREMENTS, THE
16 CLAIMS PROCESS, WEEKLY BENEFIT AMOUNTS, MAXIMUM BENEFITS PAYABLE, NOTICE AND
17 MEDICAL CERTIFICATION REQUIREMENTS, REINSTATEMENT AND NONDISCRIMINATION
18 RIGHTS, CONFIDENTIALITY AND THE RELATIONSHIP BETWEEN BENEFITS UNDER THIS
19 CHAPTER AND OTHER LEAVE RIGHTS AND BENEFITS. OUTREACH INFORMATION SHALL BE
20 AVAILABLE IN ENGLISH AND OTHER PRIMARY LANGUAGES.

21 G. FAMILY LEAVE INSURANCE BENEFITS ARE PAYABLE TO AN INDIVIDUAL WHO IS
22 NOT CURRENTLY EMPLOYED, BUT WAS EMPLOYED AT THE BEGINNING OF THE APPLICATION
23 YEAR AND WHO IS A COVERED INDIVIDUAL WHO MEETS ONE OF THE REQUIREMENTS OF
24 SUBSECTION A OF THIS SECTION.

25 H. A COVERED INDIVIDUAL WHO TAKES QUALIFYING EXIGENCY LEAVE, AS
26 DESCRIBED IN SECTION 23-1601, PARAGRAPH 17, SUBDIVISION (h), MAY TAKE UP TO
27 FIVE DAYS LEAVE FOR EACH INSTANCE OF REST AND RECUPERATION.

28 23-1603. Payment of benefits; filing; procedures

29 A PERSON WHO APPLIES FOR FAMILY LEAVE INSURANCE BENEFITS MUST DO ALL OF
30 THE FOLLOWING:

31 1. CONSENT TO THE DISCLOSURE OF INFORMATION OR RECORDS DEEMED PRIVATE
32 AND CONFIDENTIAL UNDER SECTION 23-722. INITIAL DISCLOSURE OF THIS
33 INFORMATION AND THESE RECORDS BY THE DEPARTMENT IS SOLELY FOR PURPOSES
34 RELATED TO THE ADMINISTRATION OF THIS CHAPTER. FURTHER DISCLOSURE OF THIS
35 INFORMATION OR THESE RECORDS IS SUBJECT TO SECTIONS 23-1602 AND 23-1612.

36 2. DISCLOSE WHETHER THE INDIVIDUAL IS LIABLE FOR CHILD SUPPORT
37 OBLIGATIONS.

38 3. DOCUMENT THAT THE INDIVIDUAL HAS PROVIDED THE EMPLOYER FROM WHOM
39 FAMILY LEAVE IS TO BE TAKEN WITH WRITTEN NOTICE OF THE INDIVIDUAL'S INTENTION
40 TO TAKE FAMILY LEAVE AS FOLLOWS:

41 (a) IF THE NECESSITY FOR FAMILY LEAVE AS DESCRIBED IN SECTION 23-1602,
42 SUBSECTION A, PARAGRAPH 1 WAS FORESEEABLE BASED ON AN EXPECTED BIRTH OR
43 PLACEMENT, NOTICE WAS GIVEN AT LEAST THIRTY DAYS BEFORE THE FAMILY LEAVE WAS
44 TO BEGIN STATING THE ANTICIPATED STARTING DATE AND ENDING DATE OF THE FAMILY
45 LEAVE, OR IF THE DATE OF BIRTH OR PLACEMENT REQUIRED FAMILY LEAVE TO BEGIN IN

1 LESS THAN THIRTY DAYS OR IF THE DATE OF BIRTH OR PLACEMENT REQUIRED FAMILY
2 LEAVE TO BE CHANGED OR EXTENDED, AS MUCH NOTICE AS PRACTICABLE WAS GIVEN.

3 (b) IF THE NECESSITY FOR FAMILY LEAVE WAS BASED ON PLANNED MEDICAL
4 TREATMENT, THE INDIVIDUAL MADE REASONABLE EFFORTS TO SCHEDULE THE TREATMENT
5 SO AS NOT TO DISRUPT UNDULY THE OPERATIONS OF THE EMPLOYER, SUBJECT TO THE
6 APPROVAL OF THE HEALTH CARE PROVIDER OF THE INDIVIDUAL OR FAMILY MEMBER, AS
7 APPLICABLE.

8 4. CERTIFY THAT THE PERSON IS NOT RECEIVING BENEFITS UNDER THE
9 UNEMPLOYMENT COMPENSATION, INDUSTRIAL INSURANCE, CRIME VICTIMS' COMPENSATION
10 OR DISABILITY INSURANCE LAWS OF THIS STATE, ANY OTHER STATE OR THE UNITED
11 STATES.

12 23-1604. Disqualification of family leave insurance benefits

13 AN INDIVIDUAL IS DISQUALIFIED FROM FAMILY LEAVE INSURANCE BENEFITS
14 BEGINNING WITH THE FIRST DAY OF THE CALENDAR WEEK AND CONTINUING FOR THE NEXT
15 FIFTY-TWO CONSECUTIVE WEEKS IN WHICH THE INDIVIDUAL:

16 1. WILFULLY MADE A FALSE STATEMENT OR MISREPRESENTATION REGARDING A
17 MATERIAL FACT OR WILFULLY FAILED TO REPORT A MATERIAL FACT TO OBTAIN BENEFITS
18 UNDER THIS CHAPTER.

19 2. WITH RESPECT TO FAMILY LEAVE AS DESCRIBED IN SECTION 23-1602,
20 SUBSECTION A, PARAGRAPH 3, IS SUFFERING FROM A SERIOUS HEALTH CONDITION
21 RESULTING FROM THE INDIVIDUAL'S PERPETRATION OF A CLASS 1 MISDEMEANOR OR ANY
22 FELONY.

23 23-1605. Extent of payable benefits

24 A. THE MAXIMUM NUMBER OF WEEKS DURING WHICH FAMILY LEAVE INSURANCE
25 BENEFITS ARE PAYABLE IN AN APPLICATION YEAR IS FIVE WEEKS. BENEFITS ARE NOT
26 PAYABLE DURING A WAITING PERIOD CONSISTING OF THE FIRST FIVE WORK DAYS OF
27 FAMILY LEAVE TAKEN IN AN APPLICATION YEAR WITH RESPECT TO A PARTICULAR TYPE
28 OF FAMILY LEAVE, WHETHER THE FIRST FIVE WORK DAYS OF FAMILY LEAVE ARE
29 EMPLOYER PAID OR UNPAID.

30 B. THE FIRST PAYMENT OF BENEFITS MUST BE MADE TO AN INDIVIDUAL WITHIN
31 TWO WEEKS AFTER THE CLAIM IS FILED OR THE FAMILY LEAVE BEGAN, WHICHEVER IS
32 LATER, AND SUBSEQUENT PAYMENTS MUST BE MADE SEMIMONTHLY AFTER THE FIRST
33 PAYMENT.

34 C. THE PAYMENT OF FAMILY LEAVE INSURANCE BENEFITS IS NOT A BINDING
35 DETERMINATION OF THE OBLIGATIONS OF THE DEPARTMENT UNDER THIS CHAPTER. THE
36 ACCEPTANCE OF COMPENSATION BY THE INDIVIDUAL IS NOT CONSIDERED A BINDING
37 DETERMINATION OF THE INDIVIDUAL'S RIGHTS UNDER THIS CHAPTER. IF ANY PAYMENT
38 OF BENEFITS UNDER THIS CHAPTER HAS BEEN MADE AND A TIMELY APPEAL HAS BEEN
39 MADE IN WHICH THE FINAL DECISION IS THAT THE PAYMENT WAS IMPROPER, THE
40 INDIVIDUAL SHALL REPAY THE BENEFIT AND RECOUPMENT MAY BE MADE FROM ANY FUTURE
41 PAYMENT DUE TO THE INDIVIDUAL ON ANY CLAIM UNDER THIS CHAPTER. THE DIRECTOR
42 MAY WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY SUCH PAYMENTS IN WHICH THE
43 RECOVERY WOULD BE AGAINST EQUITY AND GOOD CONSCIENCE.

44 D. BENEFITS ARE NOT PAYABLE AND WAITING PERIOD CREDITS ARE NOT EARNED
45 UNDER THIS CHAPTER FOR ANY WEEKS IN WHICH COMPENSATION IS PAID OR PAYABLE TO

1 THE INDIVIDUAL UNDER CHAPTER 4 OF THIS TITLE OR A SIMILAR LAW OF ANOTHER
2 STATE OR THE UNITED STATES OR UNDER CHAPTER 6 OF THIS TITLE OR ANOTHER STATE
3 OR FEDERAL WORKERS' COMPENSATION LAW.

4 23-1606. Benefit amount; deductions; withholdings

5 A. THE AMOUNT OF FAMILY LEAVE INSURANCE BENEFITS SHALL BE DETERMINED
6 AS FOLLOWS:

7 1. FOR WEEKS OF FAMILY LEAVE BEGINNING BEFORE JULY 1, 2013, THE WEEKLY
8 BENEFIT SHALL BE TWO HUNDRED FIFTY DOLLARS PER WEEK FOR AN INDIVIDUAL WHO AT
9 THE TIME OF BEGINNING FAMILY LEAVE WAS REGULARLY WORKING FORTY HOURS OR MORE
10 PER WEEK. ON OR BEFORE JUNE 30, 2013, AND ON OR BEFORE EACH SUBSEQUENT
11 JUNE 30, THE DEPARTMENT SHALL CALCULATE TO THE NEAREST DOLLAR AN ADJUSTED
12 MAXIMUM WEEKLY BENEFIT TO ACCOUNT FOR INFLATION USING THE CONSUMER PRICE
13 INDEX FOR ALL URBAN CONSUMERS FOR THE TWELVE COMPLETED CALENDAR MONTHS BEFORE
14 EACH JUNE 30, WHICH IS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR
15 BUREAU OF LABOR STATISTICS. THE ADJUSTED MAXIMUM WEEKLY BENEFIT TAKES EFFECT
16 FOR WEEKS OF FAMILY LEAVE BEGINNING AFTER THE RELEVANT JUNE 30.

17 2. IF AN INDIVIDUAL WHO AT THE TIME OF BEGINNING FAMILY LEAVE WAS
18 REGULARLY WORKING FORTY HOURS OR MORE PER WEEK AND IS ON FAMILY LEAVE FOR
19 LESS THAN FORTY HOURS BUT AT LEAST EIGHT HOURS IN A WEEK, THE INDIVIDUAL'S
20 WEEKLY BENEFIT IS .025 TIMES THE MAXIMUM WEEKLY BENEFIT TIMES THE NUMBER OF
21 HOURS OF FAMILY LEAVE TAKEN IN THE WEEK. BENEFITS ARE NOT PAYABLE FOR LESS
22 THAN EIGHT HOURS OF FAMILY LEAVE TAKEN IN A WEEK.

23 3. FOR AN INDIVIDUAL WHO AT THE TIME OF BEGINNING FAMILY LEAVE WAS
24 REGULARLY WORKING LESS THAN FORTY HOURS PER WEEK, THE DEPARTMENT SHALL
25 CALCULATE A PRORATED SCHEDULE FOR A WEEKLY BENEFIT AMOUNT AND A MINIMUM
26 NUMBER OF HOURS OF FAMILY LEAVE THAT MUST BE TAKEN IN A WEEK FOR BENEFITS TO
27 BE PAYABLE, WITH THE PRORATED SCHEDULE BASED ON THE AMOUNTS AND THE
28 CALCULATIONS PRESCRIBED UNDER PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

29 B. IF AN INDIVIDUAL DISCLOSES THAT THE INDIVIDUAL OWES CHILD SUPPORT
30 OBLIGATIONS AND THE DEPARTMENT DETERMINES THAT THE INDIVIDUAL IS ELIGIBLE FOR
31 BENEFITS, THE DEPARTMENT SHALL NOTIFY THE APPLICABLE STATE CHILD SUPPORT
32 ENFORCEMENT AGENCY AND DEDUCT AND WITHHOLD AN AMOUNT FROM BENEFITS IN A
33 MANNER CONSISTENT WITH SECTION 23-789.

34 C. IF THE INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY LEAVE
35 INSURANCE BENEFITS UNDER THIS CHAPTER ARE SUBJECT TO FEDERAL INCOME TAX AND
36 AN INDIVIDUAL ELECTS TO HAVE FEDERAL INCOME TAX DEDUCTED AND WITHHELD FROM
37 BENEFITS, THE DEPARTMENT SHALL DEDUCT AND WITHHOLD THE AMOUNT SPECIFIED IN
38 THE FEDERAL INTERNAL REVENUE CODE IN A MANNER CONSISTENT WITH SECTION
39 23-1607.

40 23-1607. Deduction for taxes; notification

41 A. IF THE INTERNAL REVENUE SERVICE DETERMINES THAT FAMILY LEAVE
42 INSURANCE BENEFITS UNDER THIS CHAPTER ARE SUBJECT TO FEDERAL INCOME TAX, THE
43 DEPARTMENT SHALL ADVISE AN INDIVIDUAL FILING A NEW CLAIM FOR FAMILY LEAVE
44 INSURANCE BENEFITS AT THE TIME OF FILING THE CLAIM THAT:

1 1. THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT BENEFITS ARE
2 SUBJECT TO FEDERAL INCOME TAX.
3 2. REQUIREMENTS EXIST PERTAINING TO ESTIMATED TAX PAYMENTS.
4 3. THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX DEDUCTED AND
5 WITHHELD FROM THE INDIVIDUAL'S PAYMENT OF BENEFITS AT THE AMOUNT PRESCRIBED
6 IN THE FEDERAL INTERNAL REVENUE CODE.
7 4. THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY ELECTED
8 WITHHOLDING STATUS.
9 B. AMOUNTS DEDUCTED AND WITHHELD FROM BENEFITS PURSUANT TO THIS
10 SECTION REMAIN IN THE FAMILY LEAVE INSURANCE FUND ESTABLISHED BY SECTION
11 23-1619 UNTIL TRANSFERRED TO THE FEDERAL TAXING AUTHORITY AS A PAYMENT OF
12 INCOME TAX.
13 C. THE DIRECTOR SHALL FOLLOW ALL PROCEDURES PRESCRIBED BY THE FEDERAL
14 INTERNAL REVENUE SERVICE PERTAINING TO THE DEDUCTING AND WITHHOLDING OF
15 INCOME TAX.
16 23-1608. Erroneous benefit payments
17 IF FAMILY LEAVE INSURANCE BENEFITS ARE PAID ERRONEOUSLY OR AS A RESULT
18 OF WILFUL MISREPRESENTATION OR IF A CLAIM FOR FAMILY LEAVE BENEFITS IS
19 REJECTED AFTER BENEFITS ARE PAID, APPEALS ARE GOVERNED BY TITLE 41, CHAPTER
20 14, ARTICLE 3, PENALTIES SHALL BE DEPOSITED IN THE FAMILY LEAVE INSURANCE
21 FUND ESTABLISHED BY SECTION 23-1619 AND THE DEPARTMENT SHALL SEEK REPAYMENT
22 OF BENEFITS FROM THE RECIPIENT.
23 23-1609. Reinstatement by employer after family leave
24 A. DURING A PERIOD IN WHICH AN INDIVIDUAL RECEIVES FAMILY LEAVE
25 INSURANCE BENEFITS, THE INDIVIDUAL IS ENTITLED TO FAMILY LEAVE AND, AT THE
26 ESTABLISHED ENDING DATE OF LEAVE, TO BE REINSTATED IN THE INDIVIDUAL'S
27 POSITION WITH THE EMPLOYER FROM WHOM LEAVE WAS TAKEN SUBJECT TO THE
28 FOLLOWING:
29 1. AN EMPLOYER MAY REQUIRE THAT FAMILY LEAVE FOR WHICH AN INDIVIDUAL
30 IS RECEIVING OR RECEIVED FAMILY LEAVE INSURANCE BENEFITS UNDER THIS CHAPTER
31 BE TAKEN CONCURRENTLY WITH LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT,
32 EXCEPT THAT:
33 (a) FAMILY LEAVE TAKEN FOR SICKNESS OR TEMPORARY DISABILITY BECAUSE OF
34 PREGNANCY OR CHILDBIRTH IS IN ADDITION TO LEAVE UNDER THE FAMILY AND MEDICAL
35 LEAVE ACT.
36 (b) FAMILY LEAVE DURING WHICH THE INDIVIDUAL IS RECEIVING OR RECEIVED
37 FAMILY LEAVE INSURANCE BENEFITS UNDER THIS CHAPTER IS IN ADDITION TO LEAVE
38 FROM EMPLOYMENT DURING WHICH BENEFITS ARE PAID OR ARE PAYABLE UNDER CHAPTER 6
39 OF THIS TITLE OR ANOTHER STATE OR FEDERAL WORKERS' COMPENSATION LAW AND THAT
40 IS DESIGNATED AS LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT.
41 2. IF AN EMPLOYER REQUIRES THAT FAMILY LEAVE FOR WHICH AN INDIVIDUAL
42 IS RECEIVING OR RECEIVED BENEFITS UNDER THIS CHAPTER BE TAKEN CONCURRENTLY
43 WITH LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT, THE EMPLOYER SHALL GIVE
44 ALL INDIVIDUALS IN ITS EMPLOY WRITTEN NOTICE OF THE REQUIREMENT.

1 B. IF THE INDIVIDUAL IS ENTITLED, ON RETURN FROM FAMILY LEAVE UNDER
2 THIS CHAPTER, TO REINSTATEMENT UNDER THE FAMILY AND MEDICAL LEAVE ACT OR
3 OTHER APPLICABLE FEDERAL OR STATE LAW OTHER THAN THIS CHAPTER, REINSTATEMENT
4 IS REQUIRED AS PROVIDED UNDER THE APPLICABLE LAW MOST FAVORABLE TO THE
5 INDIVIDUAL.

6 C. IF THE INDIVIDUAL IS NOT ENTITLED TO REINSTATEMENT ON RETURN FROM
7 FAMILY LEAVE UNDER SUBSECTION B OF THIS SECTION, THE INDIVIDUAL IS ENTITLED,
8 ON RETURN FROM LEAVE UNDER THIS CHAPTER, TO BE REINSTATED:

9 1. IN THE SAME POSITION HELD BY THE INDIVIDUAL WHEN THE LEAVE BEGAN.

10 2. IN A POSITION WITH EQUIVALENT BENEFITS AND PAY AT A WORKPLACE
11 WITHIN TWENTY MILES OF THE INDIVIDUAL'S WORKPLACE WHEN LEAVE BEGAN.

12 3. IF THE EMPLOYER'S CIRCUMSTANCES HAVE SO CHANGED THAT THE INDIVIDUAL
13 CANNOT BE REINSTATED IN THE SAME POSITION OR A POSITION OF EQUIVALENT PAY AND
14 BENEFITS, IN ANY OTHER POSITION THAT IS VACANT AND FOR WHICH THE INDIVIDUAL
15 IS QUALIFIED.

16 D. THE ENTITLEMENT UNDER SUBSECTION C OF THIS SECTION IS SUBJECT TO
17 BONA FIDE CHANGES IN COMPENSATION OR WORK DUTIES AND DOES NOT APPLY IF:

18 1. THE INDIVIDUAL'S POSITION IS ELIMINATED BY A BONA FIDE
19 RESTRUCTURING OR REDUCTION IN FORCE.

20 2. THE INDIVIDUAL'S WORKPLACE IS PERMANENTLY OR TEMPORARILY SHUT DOWN
21 FOR AT LEAST THIRTY DAYS.

22 3. THE INDIVIDUAL'S WORKPLACE IS MOVED TO A LOCATION AT LEAST SIXTY
23 MILES FROM THE LOCATION OF THE WORKPLACE WHEN LEAVE BEGAN.

24 4. THE INDIVIDUAL ON FAMILY LEAVE TAKES ANOTHER JOB.

25 5. THE INDIVIDUAL FAILS TO RETURN ON THE ESTABLISHED ENDING DATE OF
26 LEAVE.

27 E. AN INDIVIDUAL WHO HAS BEEN ON FAMILY LEAVE WHILE RECEIVING FAMILY
28 LEAVE INSURANCE BENEFITS UNDER THIS CHAPTER SHALL NOT LOSE ANY EMPLOYMENT
29 BENEFIT, INCLUDING SENIORITY OR PENSION RIGHTS, THAT ACCRUED BEFORE THE DATE
30 FAMILY LEAVE BEGAN. THIS CHAPTER DOES NOT ENTITLE AN INDIVIDUAL TO ACCRUE
31 EMPLOYMENT BENEFITS DURING A PERIOD OF FAMILY LEAVE OR TO A RIGHT, BENEFIT OR
32 POSITION OF EMPLOYMENT OTHER THAN A RIGHT, BENEFIT OR POSITION TO WHICH THE
33 INDIVIDUAL WOULD HAVE BEEN ENTITLED HAD THE INDIVIDUAL NOT TAKEN FAMILY
34 LEAVE.

35 23-1610. Alternative paid family leave; availability

36 A. THIS CHAPTER DOES NOT LIMIT AN INDIVIDUAL'S RIGHT TO LEAVE FROM
37 EMPLOYMENT UNDER OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS OR EMPLOYER
38 POLICY, AS APPLICABLE, EXCEPT AS PROVIDED IN THIS CHAPTER.

39 B. IF AN EMPLOYER PROVIDES PAID FAMILY LEAVE THROUGH DISABILITY
40 INSURANCE OR ANY OTHER MEANS, THE INDIVIDUAL MAY ELECT WHETHER FIRST TO USE
41 THE PAID FAMILY LEAVE OR TO RECEIVE FAMILY LEAVE INSURANCE BENEFITS UNDER
42 THIS CHAPTER. AN INDIVIDUAL MAY NOT BE REQUIRED TO USE THE INDIVIDUAL'S PAID
43 FAMILY LEAVE TO WHICH THE INDIVIDUAL IS OTHERWISE ENTITLED BEFORE RECEIVING
44 BENEFITS UNDER THIS CHAPTER.

1 C. THE DEPARTMENT MAY CANCEL ELECTIVE COVERAGE IF THE EMPLOYER OR
2 SELF-EMPLOYED PERSON FAILS TO MAKE REQUIRED PAYMENTS OR REPORTS. THE
3 DEPARTMENT MAY COLLECT DUE AND UNPAID PREMIUMS AND MAY LEVY AN ADDITIONAL
4 PREMIUM FOR THE REMAINDER OF THE PERIOD OF COVERAGE. THE CANCELLATION IS
5 EFFECTIVE NO LATER THAN THIRTY DAYS FROM THE DATE OF THE NOTICE IN WRITING
6 ADVISING THE EMPLOYER OR SELF-EMPLOYED PERSON OF THE CANCELLATION. WITHIN
7 FORTY-FIVE DAYS AFTER RECEIVING WRITTEN NOTICE OF THE CANCELLATION FROM THE
8 DIRECTOR, AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE OF THE CANCELLATION TO ALL
9 INDIVIDUALS IN THE EMPLOYER'S EMPLOY.

10 23-1611. Noncovered employers; self-employed; election of
11 coverage

12 A. AN EMPLOYER OF INDIVIDUALS NOT COVERED BY THIS CHAPTER OR A
13 SELF-EMPLOYED PERSON, INCLUDING A SOLE PROPRIETOR, PARTNER OR JOINT VENTURER,
14 MAY ELECT COVERAGE UNDER THIS CHAPTER FOR ALL INDIVIDUALS IN ITS EMPLOY FOR
15 AN INITIAL PERIOD OF AT LEAST THREE YEARS OR A SUBSEQUENT PERIOD OF AT LEAST
16 ONE YEAR IMMEDIATELY FOLLOWING ANOTHER PERIOD OF COVERAGE. THE EMPLOYER OR
17 SELF-EMPLOYED PERSON SHALL FILE A NOTICE OF ELECTION IN WRITING WITH THE
18 DIRECTOR, AS REQUIRED BY THE DEPARTMENT. THE ELECTION BECOMES EFFECTIVE ON
19 THE DATE OF FILING THE NOTICE.

20 B. AN EMPLOYER OR SELF-EMPLOYED PERSON WHO HAS ELECTED COVERAGE MAY
21 WITHDRAW FROM COVERAGE WITHIN THIRTY DAYS AFTER THE END OF THE THREE YEAR
22 PERIOD OF COVERAGE, OR AT OTHER TIMES AS THE DIRECTOR PRESCRIBES BY RULE, BY
23 FILING WRITTEN NOTICE WITH THE DIRECTOR. THE WITHDRAWAL SHALL TAKE EFFECT AT
24 LEAST THIRTY DAYS AFTER FILING THE NOTICE. WITHIN FIVE DAYS AFTER FILING
25 WRITTEN NOTICE OF THE WITHDRAWAL WITH THE DIRECTOR, AN EMPLOYER SHALL PROVIDE
26 WRITTEN NOTICE OF THE WITHDRAWAL TO ALL INDIVIDUALS IN THE EMPLOYER'S EMPLOY.

27 C. THE DEPARTMENT MAY CANCEL ELECTIVE COVERAGE IF THE EMPLOYER OR
28 SELF-EMPLOYED PERSON FAILS TO MAKE REQUIRED PAYMENTS OR REPORTS. THE
29 DEPARTMENT MAY COLLECT DUE AND UNPAID PREMIUMS AND MAY LEVY AN ADDITIONAL
30 PREMIUM FOR THE REMAINDER OF THE PERIOD OF COVERAGE. THE CANCELLATION IS
31 EFFECTIVE NO LATER THAN THIRTY DAYS FROM THE DATE OF THE NOTICE IN WRITING
32 ADVISING THE EMPLOYER OR SELF-EMPLOYED PERSON OF THE CANCELLATION. WITHIN
33 FIVE DAYS AFTER RECEIVING WRITTEN NOTICE OF THE CANCELLATION FROM THE
34 DIRECTOR, AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE OF THE CANCELLATION TO ALL
35 INDIVIDUALS IN THE EMPLOYER'S EMPLOY.

36 23-1612. Reports; confidentiality

37 A. IN THE FORM AND AT THE TIMES SPECIFIED BY THE DIRECTOR, AN EMPLOYER
38 SHALL MAKE REPORTS, FURNISH INFORMATION AND REMIT PREMIUMS AS REQUIRED BY
39 SECTION 23-1618 TO THE DEPARTMENT. IF THE EMPLOYER IS A TEMPORARY HELP
40 COMPANY THAT PROVIDES EMPLOYEES ON A TEMPORARY BASIS TO ITS CUSTOMERS, THE
41 TEMPORARY HELP COMPANY IS CONSIDERED THE EMPLOYER FOR PURPOSES OF THIS
42 SECTION. IF THE TEMPORARY HELP COMPANY FAILS TO REMIT THE REQUIRED PREMIUMS,
43 THE CUSTOMER TO WHOM THE EMPLOYEES WERE PROVIDED IS LIABLE FOR PAYING THE
44 PREMIUMS.

1 B. AN EMPLOYER SHALL KEEP AT THE EMPLOYER'S PLACE OF BUSINESS A RECORD
2 OF EMPLOYMENT FROM WHICH THE INFORMATION NEEDED BY THE DEPARTMENT FOR
3 PURPOSES OF THIS CHAPTER MAY BE OBTAINED. THIS RECORD SHALL AT ALL TIMES BE
4 OPEN TO THE INSPECTION OF THE DIRECTOR OR DEPARTMENT EMPLOYEES DESIGNATED BY
5 THE DIRECTOR.

6 C. INFORMATION OBTAINED FROM EMPLOYER RECORDS UNDER THIS CHAPTER IS
7 CONFIDENTIAL AND NOT OPEN TO PUBLIC INSPECTION, OTHER THAN TO PUBLIC
8 EMPLOYEES IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. AN INTERESTED PARTY
9 SHALL BE SUPPLIED WITH INFORMATION FROM EMPLOYER RECORDS TO THE EXTENT
10 NECESSARY FOR THE PROPER PRESENTATION OF THE CASE IN QUESTION. AN EMPLOYER
11 MAY AUTHORIZE INSPECTION OF ITS RECORDS BY WRITTEN CONSENT.

12 D. THE REQUIREMENTS RELATING TO THE ASSESSMENT AND COLLECTION OF
13 FAMILY LEAVE INSURANCE PREMIUMS ARE THE SAME AS THE REQUIREMENTS RELATING TO
14 THE ASSESSMENT AND COLLECTION OF WORKERS' COMPENSATION PREMIUMS UNDER CHAPTER
15 6 OF THIS TITLE, INCLUDING PENALTIES, INTEREST AND DEPARTMENT LIEN RIGHTS AND
16 COLLECTION REMEDIES. THESE REQUIREMENTS APPLY TO:

17 1. AN EMPLOYER THAT FAILS UNDER THIS CHAPTER TO MAKE THE REQUIRED
18 REPORTS OR FAILS TO REMIT THE FULL AMOUNT OF THE PREMIUMS WHEN DUE.

19 2. AN EMPLOYER THAT WILFULLY MAKES A FALSE STATEMENT OR
20 MISREPRESENTATION REGARDING A MATERIAL FACT, OR WILFULLY FAILS TO REPORT A
21 MATERIAL FACT, TO AVOID MAKING THE REQUIRED REPORTS OR REMITTING THE FULL
22 AMOUNT OF THE PREMIUMS WHEN DUE UNDER THIS CHAPTER.

23 3. AN OFFICER, MEMBER, MANAGER OR OTHER PERSON HAVING CONTROL OR
24 SUPERVISION OF PAYMENT OR REPORTING OF FAMILY LEAVE INSURANCE.

25 23-1613. Appeals

26 A PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT UNDER THIS CHAPTER
27 MAY FILE A NOTICE OF APPEAL WITH THE DIRECTOR, BY MAIL OR PERSONALLY, WITHIN
28 THIRTY DAYS AFTER THE DATE ON WHICH A COPY OF THE DEPARTMENT'S DECISION WAS
29 COMMUNICATED TO THE PERSON. APPEALS ARE GOVERNED BY TITLE 41, CHAPTER 14,
30 ARTICLE 3.

31 23-1614. Discrimination or retaliation prohibited

32 AN EMPLOYER, TEMPORARY HELP COMPANY, EMPLOYMENT AGENCY, EMPLOYEE
33 ORGANIZATION OR OTHER PERSON MAY NOT DISCHARGE, EXPEL OR OTHERWISE
34 DISCRIMINATE AGAINST A PERSON BECAUSE THE PERSON HAS FILED OR COMMUNICATED TO
35 THE EMPLOYER AN INTENT TO FILE A CLAIM, A COMPLAINT OR AN APPEAL OR HAS
36 TESTIFIED OR IS ABOUT TO TESTIFY OR HAS ASSISTED IN ANY PROCEEDING UNDER THIS
37 CHAPTER AT ANY TIME, INCLUDING DURING THE WAITING PERIOD DESCRIBED IN SECTION
38 23-1605 AND THE PERIOD IN WHICH THE PERSON RECEIVES FAMILY LEAVE INSURANCE
39 BENEFITS UNDER THIS CHAPTER.

40 23-1615. Additional family leave benefits allowed; benefits not
41 to be diminished

42 A. THIS CHAPTER IS NOT INTENDED TO DISCOURAGE EMPLOYERS FROM ADOPTING
43 OR RETAINING POLICIES THAT PROVIDE ADDITIONAL BENEFITS TO INDIVIDUALS TO
44 ADDRESS FAMILY LEAVE NEEDS.

1 B. THIS CHAPTER IS NOT TO BE CONSTRUED TO DIMINISH AN EMPLOYER'S
2 OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT
3 BENEFIT PROGRAM OR PLAN THAT PROVIDES GREATER BENEFITS TO INDIVIDUALS THAN
4 THE FAMILY LEAVE INSURANCE BENEFITS PROVIDED UNDER THIS CHAPTER.

5 C. AN AGREEMENT BY AN INDIVIDUAL TO WAIVE THE INDIVIDUAL'S RIGHTS
6 UNDER THIS CHAPTER IS VOID AS AGAINST PUBLIC POLICY.

7 D. THE BENEFITS PROVIDED TO INDIVIDUALS UNDER THIS CHAPTER MAY NOT BE
8 DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT
9 PROGRAM OR PLAN ENTERED INTO OR RENEWED AFTER THE EFFECTIVE DATE OF THIS
10 CHAPTER.

11 23-1616. Reservation to legislature

12 THIS CHAPTER DOES NOT CREATE A CONTINUING ENTITLEMENT OR CONTRACTUAL
13 RIGHT. THE LEGISLATURE RESERVES THE RIGHT TO AMEND OR REPEAL ALL OR PART OF
14 THIS CHAPTER AT ANY TIME, AND A BENEFIT OR OTHER RIGHT GRANTED UNDER THIS
15 CHAPTER EXISTS SUBJECT TO THE LEGISLATURE'S POWER TO AMEND OR REPEAL THIS
16 CHAPTER. THERE IS NO VESTED PRIVATE RIGHT OF ANY KIND AGAINST THE AMENDMENT
17 OR REPEAL.

18 23-1617. Rules

19 THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS CHAPTER.
20 IN ADOPTING RULES, THE DIRECTOR SHALL MAINTAIN CONSISTENCY WITH THE RULES
21 ADOPTED TO IMPLEMENT THE FAMILY AND MEDICAL LEAVE ACT TO THE EXTENT THOSE
22 RULES ARE NOT IN CONFLICT WITH THIS CHAPTER.

23 23-1618. Premiums

24 A. BEGINNING JULY 1, 2012, FOR EACH INDIVIDUAL, EACH EMPLOYER SHALL
25 SUBMIT A PREMIUM OF TWO CENTS PER HOUR WORKED, UP TO A MAXIMUM OF FORTY HOURS
26 PER WEEK, TO THE DEPARTMENT IN THE MANNER AND AT SUCH INTERVALS AS THE
27 DEPARTMENT DIRECTS FOR DEPOSIT IN THE FAMILY LEAVE INSURANCE FUND ESTABLISHED
28 BY SECTION 23-1619. IN THE PAYMENT OF PREMIUMS, A FRACTIONAL PART OF A CENT
29 SHALL BE DISREGARDED UNLESS IT AMOUNTS TO ONE-HALF CENT OR MORE, IN WHICH
30 CASE IT SHALL BE INCREASED TO ONE CENT.

31 B. THE DIRECTOR SHALL ADJUST THE AMOUNT OF THE PREMIUM FROM TIME TO
32 TIME TO ENSURE THAT THE AMOUNT IS THE LOWEST RATE NECESSARY TO PAY FAMILY
33 LEAVE INSURANCE BENEFITS AND ADMINISTRATIVE COSTS, AND MAINTAIN ACTUARIAL
34 SOLVENCY IN ACCORDANCE WITH RECOGNIZED INSURANCE PRINCIPLES, OF THE FAMILY
35 LEAVE INSURANCE PROGRAM ON A CURRENT BASIS.

36 C. ONE-HALF OF THE AMOUNTS ASSESSED FOR THE FAMILY LEAVE INSURANCE
37 ACCOUNT MAY BE RETAINED FROM THE EARNINGS OF EACH INDIVIDUAL.

38 23-1619. Family leave insurance fund

39 A. THE FAMILY LEAVE INSURANCE FUND IS ESTABLISHED CONSISTING OF MONIES
40 FROM THE PREMIUM IMPOSED PURSUANT TO SECTION 23-1618 AND THE PENALTIES
41 IMPOSED PURSUANT TO SECTION 23-1612. THE DIRECTOR SHALL DEPOSIT THE MONIES
42 IN THE FUND PURSUANT TO SECTIONS 35-146 AND 35-147. THE DEPARTMENT SHALL
43 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND
44 MAY BE USED ONLY FOR THE PURPOSES OF THE FAMILY LEAVE INSURANCE PROGRAM.

1 B. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND
2 DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED
3 FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

4 23-1620. Program termination

5 THE PROGRAM ESTABLISHED BY THIS CHAPTER ENDS ON JULY 1, 2022 PURSUANT
6 TO SECTION 41-3102.

7 Sec. 2. Requirements for enactment; two-thirds vote

8 Pursuant to article IX, section 22, Constitution of Arizona, this act
9 is effective only on the affirmative vote of at least two-thirds of the
10 members of each house of the legislature and is effective immediately on the
11 signature of the governor or, if the governor vetoes this act, on the
12 subsequent affirmative vote of at least three-fourths of the members of each
13 house of the legislature.