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5 Councilmember Elissa Silverman
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7 A BILL
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12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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17 To amend, on an emergency basis, the Universal Paid Leave Amendment Act of 2016 to prohibit
18 insurers, other than self-insured employers and insurers acting as third-party
19 administrators for self-insured employers, from reducing short-term disability benefits
20 based on actual or estimated paid leave benefits, and to authorize administrative and civil
21 enforcement against insurers, other than self-insured employers and insurers acting as
22 third-party administrators for self-insured employers, that violate the prohibition; and to
23 amend Title I of the Insurance Trade and Economic Development Amendment Act of
24 2000 to make offsetting or reducing benefits under a short-term disability insurance
25 policy based on estimated or actual benefits received under the Universal Paid Leave
26 Amendment Act of 2016 enforceable under that law..
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28 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
29 act may be cited as the “Short-term Disability Insurance Benefit Protection Congressional
30 Review Emergency Amendment Act of 2021”.

31 Sec. 2. The Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C.
32 Law 21-264; D.C. Official Code § 32-541.01 et seq.), is amended as follows:

33 (a) Section 101 (D.C. Official Code § 32-541.01) is amended as follows:

34 (1) A new paragraph (8A) is added to read as follows:

35 “(8A) “Insurer” shall have the same meaning as provided in section 101(7) of the
36 Insurance Trade and Economic Development Amendment Act of 2000, effective April 2, 2001
37 (D.C. Law 13-265; D.C. Official Code § 31-2231.01(7)).”

38 (2) A new paragraph (19A) is added to read as follows:

39 “(19A) “Self-insured employer” means an employer that uses its own resources, rather
40 than providing benefits directly through an insurance contract with a third-party insurer, to pay
41 its employees’ family, medical, short-term disability, or related leave benefits (“leave benefits”)
42 and includes an employer that contracts with a third-party insurer to administer its leave benefits
43 program.”

44 (b) Section 107 (D.C. Official Code § 32-541.07) is amended by adding a new subsection
45 (j) to read as follows:

46 “(j)(1) An insurer may not offset or reduce benefits or income available to an eligible
47 individual under a temporary or short-term disability insurance policy or contract provided by an
48 insurer based on estimated or actual payment of benefits under this act.

49 “(2) Paragraph (1) of this subsection shall not apply to the actions of a self-
50 insured employer or to the actions of an insurer to the extent the insurer is acting on behalf of a
51 self-insured employer as a third-party administrator for the self-insured employer.”

52 (c) Section 108(e) (D.C. Official Code § 32-541.08(e)) is amended by striking the period
53 and inserting the phrase “; except, that complaints arising from a violation of section 107(j) shall
54 be filed with the Department of Insurance, Securities, and Banking for resolution pursuant to
55 Title I of the Insurance Trade and Economic Development Amendment Act of 2000, effective
56 April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.01 et seq.)” in its place.

57 (d) Section 112(a) (D.C. Official Code § 32-541.12(a)) is amended to read as follows:

58 “(a) Subject to the provisions in subsection (b) of this section, an eligible individual, the
59 Attorney General for the District of Columbia, or the Mayor may bring a civil action against an
60 employer to enforce the provisions of this act in a court of competent jurisdiction; except, that a
61 civil action for a violation of section 107(j) may only be brought against an insurer and may not
62 be brought against an employer or self-insured employer.”

63 Sec. 3. Title I of the Insurance Trade and Economic Development Amendment Act of
64 2000, effective April 2, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.01 et seq.), is
65 amended by adding a new section 120a to read as follows:

66 “Sec. 120a. Prohibition on offsetting short-term disability benefits.

67 “(a) No insurer may offset or reduce benefits or income available to an individual under a
68 temporary or short-term disability insurance policy based on estimated or actual benefits the
69 individual may or does receive under the Universal Paid Leave Amendment Act of 2016,
70 effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 et seq.).”

71 “(b) Subsection (a) of this section shall not apply to the actions of a self-insured employer
72 or to the actions of an insurer to the extent the insurer is acting on behalf of a self-insured
73 employer as a third-party administrator for the self-insured employer.

74 “(c) For the purposes of this section, the term “self-insured employer” shall have the
75 same meaning as provided in section 101(19A) of the Universal Paid Leave Amendment Act of
76 2016 effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 et seq.).”

77 Sec. 4. Fiscal impact.

78 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
79 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
80 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

81 Sec. 5. Effective date.

82 This act shall take effect following approval by the Mayor (or in the event of veto by the
83 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
84 90 days, as provided for emergency acts of the Council of the District of Columbia in section
85 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
86 D.C. Official Code § 1-204.12(a)).