

Bill No. HB 3889, 1st Eng.

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Diaz-Balart moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

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16 and insert:

17 Section 1. Subsection (5) of section 627.7295, Florida
18 Statutes, is amended to read:

19 627.7295 Motor vehicle insurance contracts.--

20 (5)(a) A licensed general lines agent may charge a
21 per-policy fee not to exceed \$10 to cover the administrative
22 costs of the agent associated with selling the motor vehicle
23 insurance policy if the policy covers only personal injury
24 protection coverage as provided by s. 627.736 and property
25 damage liability coverage as provided by s. 627.7275 and if no
26 other insurance is sold or issued in conjunction with or
27 collateral to the policy. The per-policy fee must be a
28 component of the insurer's rate filing and may not be charged
29 by an agent unless the fee is included in the filing. The fee
30 is not considered part of the premium except for purposes of
31 the department's review of expense factors in a filing made

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1 pursuant to s. 627.062.

2 (b) To the extent that a licensed general agent's cost
3 of obtaining motor vehicle reports on applicants for motor
4 vehicle insurance is not otherwise compensated, the agent may,
5 in addition to any other fees authorized by law, charge an
6 applicant for motor vehicle insurance a reasonable,
7 nonrefundable fee to reimburse the agent the actual cost of
8 obtaining the report for each licensed driver when the motor
9 vehicle report is obtained by the agent simultaneously with
10 the preparation of the application for use in the calculation
11 of premium or in the proper placement of the risk. The amount
12 of the fee may not exceed the agent's actual cost in obtaining
13 the report which is not otherwise compensated. Actual cost is
14 the cost of obtaining the report on an individual driver basis
15 when so obtained or the pro rata cost per driver when the
16 report is obtained on more than one driver; however, in no
17 case may actual cost include subscription or access fees
18 associated with obtaining motor vehicle reports on-line though
19 any electronic transmissions program.

20 Section 2. Subsection (5), paragraph (b) of subsection
21 (6), and paragraph (a) of subsection (7) of section 627.736,
22 Florida Statutes, are amended to read:

23 627.736 Required personal injury protection benefits;
24 exclusions; priority.--

25 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

26 (a) Any physician, hospital, clinic, or other person
27 or institution lawfully rendering treatment to an injured
28 person for a bodily injury covered by personal injury
29 protection insurance may charge only a reasonable amount for
30 the products, services, and accommodations rendered, and the
31 insurer providing such coverage may pay for such charges

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1 directly to such person or institution lawfully rendering such
2 treatment, if the insured receiving such treatment or his or
3 her guardian has countersigned the invoice, bill, or claim
4 form approved by the Department of Insurance upon which such
5 charges are to be paid for as having actually been rendered,
6 to the best knowledge of the insured or his or her guardian.
7 In no event, however, may such a charge be in excess of the
8 amount the person or institution customarily charges for like
9 products, services, or accommodations in cases involving no
10 insurance, provided that charges for cephalic thermograms and
11 peripheral thermograms shall not exceed the maximum
12 reimbursement allowance for such procedures as set forth in
13 the applicable fee schedule established pursuant to s. 440.13.

14 (b) With respect to any treatment or service, other
15 than medical services billed by a hospital for services
16 rendered at a hospital-owned facility, the statement of
17 charges must be furnished to the insurer by the provider and
18 may not include, and the insurer is not required to pay,
19 charges for treatment or services rendered more than 30 days
20 before the postmark date of the statement, except for past due
21 amounts previously billed on a timely basis under this
22 paragraph, and except that, if the provider submits to the
23 insurer a notice of initiation of treatment within 21 days
24 after its first examination or treatment of the claimant, the
25 statement may include charges for treatment or services
26 rendered up to, but not more than, 60 days before the postmark
27 date of the statement. The injured party is not liable for,
28 and the provider shall not bill the injured party for, charges
29 that are unpaid because of the provider's failure to comply
30 with this paragraph. Any agreement requiring the injured
31 person or insured to pay for such charges is unenforceable.

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1 For emergency services and care as defined in s. 395.002
2 rendered in a hospital emergency department or for transport
3 and treatment rendered by an ambulance provider licensed
4 pursuant to part III of chapter 401, the provider is not
5 required to furnish the statement of charges within the time
6 periods established by this paragraph; and the insurer shall
7 not be considered to have been furnished with notice of the
8 amount of covered loss for purposes of paragraph (4)(b) until
9 it receives a statement complying with paragraph (5)(d), or
10 copy thereof, which specifically identifies the place of
11 service to be a hospital emergency department or an ambulance
12 in accordance with billing standards recognized by the Health
13 Care Finance Administration. Each notice of insured's rights
14 under s. 627.7401 must include the following statement in type
15 no smaller than 12 points:

16 BILLING REQUIREMENTS.--Florida Statutes provide
17 that with respect to any treatment or services,
18 other than certain hospital and emergency
19 services, the statement of charges furnished to
20 the insurer by the provider may not include,
21 and the insurer and the injured party are not
22 required to pay, charges for treatment or
23 services rendered more than 30 days before the
24 postmark date of the statement, except for past
25 due amounts previously billed on a timely
26 basis, and except that, if the provider submits
27 to the insurer a notice of initiation of
28 treatment within 21 days after its first
29 examination or treatment of the claimant, the
30 statement may include charges for treatment or
31 services rendered up to, but not more than, 60

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1 days before the postmark date of the statement.

2 (c) Every insurer shall include a provision in its
3 policy for personal injury protection benefits for binding
4 arbitration of any claims dispute involving medical benefits
5 arising between the insurer and any person providing medical
6 services or supplies if that person has agreed to accept
7 assignment of personal injury protection benefits. The
8 provision shall specify that the provisions of chapter 682
9 relating to arbitration shall apply. The prevailing party
10 shall be entitled to attorney's fees and costs. For purposes
11 of the award of attorney's fees and costs, the prevailing
12 party shall be determined as follows:

13 1. When the amount of personal injury protection
14 benefits determined by arbitration exceeds the sum of the
15 amount offered by the insurer at arbitration plus 50 percent
16 of the difference between the amount of the claim asserted by
17 the claimant at arbitration and the amount offered by the
18 insurer at arbitration, the claimant is the prevailing party.

19 2. When the amount of personal injury protection
20 benefits determined by arbitration is less than the sum of the
21 amount offered by the insurer at arbitration plus 50 percent
22 of the difference between the amount of the claim asserted by
23 the claimant at arbitration and the amount offered by the
24 insurer at arbitration, the insurer is the prevailing party.

25 3. When neither subparagraph 1. nor subparagraph 2.
26 applies, there is no prevailing party. For purposes of this
27 paragraph, the amount of the offer or claim at arbitration is
28 the amount of the last written offer or claim made at least 30
29 days prior to the arbitration.

30 4. In the demand for arbitration, the party requesting
31 arbitration must include a statement specifically identifying

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1 the issues for arbitration for each examination or treatment
 2 in dispute. The other party must subsequently issue a
 3 statement specifying any other examinations or treatment and
 4 any other issues that it intends to raise in the arbitration.
 5 The parties may amend their statements up to 30 days prior to
 6 arbitration, provided that arbitration shall be limited to
 7 those identified issues and neither party may add additional
 8 issues during arbitration.

9 (d) All statements and bills for medical services
 10 rendered by any physician, hospital, clinic, or other person
 11 or institution shall be submitted to the insurer on an Health
 12 Care Finance Administration 1500 form, UB 92 forms, or any
 13 other standard form approved by the department for purposes of
 14 this paragraph. All billings for such services shall, to the
 15 extent applicable, follow the Physicians' Current Procedural
 16 Terminology (CPT) in the year in which services are rendered.
 17 No statement of medical services may include charges for
 18 medical services of a person or entity that performed such
 19 services without possessing the valid licenses required to
 20 perform such services. For purposes of paragraph (4)(b), an
 21 insurer shall not be considered to have been furnished with
 22 notice of the amount of covered loss or medical bills due
 23 unless the statements or bills comply with this paragraph.

24 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;
 25 DISPUTES.--

26 (b) Every physician, hospital, clinic, or other
 27 medical institution providing, before or after bodily injury
 28 upon which a claim for personal injury protection insurance
 29 benefits is based, any products, services, or accommodations
 30 in relation to that or any other injury, or in relation to a
 31 condition claimed to be connected with that or any other

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1 injury, shall, if requested to do so by the insurer against
2 whom the claim has been made, furnish forthwith a written
3 report of the history, condition, treatment, dates, and costs
4 of such treatment of the injured person, together with a sworn
5 statement that the treatment or services rendered were
6 reasonable and necessary with respect to the bodily injury
7 sustained and identifying which portion of the expenses for
8 such treatment or services was incurred as a result of such
9 bodily injury, and produce forthwith, and permit the
10 inspection and copying of, his or her or its records regarding
11 such history, condition, treatment, dates, and costs of
12 treatment. Such sworn statement shall read as follows: "Under
13 penalty of perjury, I declare that I have read the foregoing,
14 and the facts alleged are true, to the best of my knowledge
15 and belief." No cause of action for violation of the
16 physician-patient privilege or invasion of the right of
17 privacy shall be permitted against any physician, hospital,
18 clinic, or other medical institution complying with the
19 provisions of this section. The person requesting such records
20 and such sworn statement shall pay all reasonable costs
21 connected therewith. If an insurer makes a written request for
22 documentation under this paragraph within 20 days after having
23 received notice of the amount of a covered loss under s.
24 627.736(4)(a), the insurer shall pay the amount or partial
25 amount of covered loss to which such documentation relates in
26 accordance with s. 627.736(4)(b) or within 10 days after the
27 insurer's receipt of the requested documentation, whichever
28 occurs later. For purposes of this paragraph, the term
29 "receipt" includes, but is not limited to, inspection and
30 copying pursuant to this paragraph.

31 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;

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1 REPORTS.--

2 (a) Whenever the mental or physical condition of an
3 injured person covered by personal injury protection is
4 material to any claim that has been or may be made for past or
5 future personal injury protection insurance benefits, such
6 person shall, upon the request of an insurer, submit to mental
7 or physical examination by a physician or physicians. The
8 costs of any examinations requested by an insurer shall be
9 borne entirely by the insurer. Such examination shall be
10 conducted ~~within the municipality of residence of the insured~~
11 ~~or in~~ the municipality where the insured is receiving
12 treatment, or in a location reasonably accessible to the
13 insured, which, for purposes of this paragraph, means any
14 location within the municipality in which the insured resides,
15 or any location within 10 miles by road of the insured's
16 residence, provided such location is within the county in
17 which the insured resides. If the examination is to be
18 conducted in a location reasonably accessible to the insured,
19 ~~within the municipality of residence of the insured~~ and if
20 there is no qualified physician to conduct the examination in
21 a location reasonably accessible to the insured ~~within such~~
22 ~~municipality~~, then such examination shall be conducted in an
23 area of the closest proximity to the insured's residence.
24 Personal protection insurers are authorized to include
25 reasonable provisions in personal injury protection insurance
26 policies for mental and physical examination of those claiming
27 personal injury protection insurance benefits. An insurer may
28 not withdraw payment of a treating physician without the
29 consent of the injured person covered by the personal injury
30 protection, unless the insurer first obtains a report by a
31 physician licensed under the same chapter as the treating

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1 physician whose treatment authorization is sought to be
2 withdrawn, stating that treatment was not reasonable, related,
3 or necessary.

4 Section 3. (1) Paragraph (5)(c) of s. 627.736,
5 Florida Statutes, as amended by section 2 of this act, shall
6 apply to arbitrations commenced on or after the effective date
7 of this act.

8 (2) Paragraph (7)(a) of s. 627.736, Florida Statutes,
9 as amended by section 2 of this act, shall apply to new and
10 renewal policies with an effective date on or after the
11 effective date of this act.

12 (3) All other provisions of section 2 of this act
13 shall apply to accidents occurring on or after the effective
14 date of this act.

15 Section 4. This act shall take effect October 1, 1998.

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, lines 2-13, delete those lines

21
22 and insert:

23 amending s. 627.7295, F.S.; authorizing certain
24 fees to be collected by general lines agents;
25 amending s. 627.736, F.S.; prohibiting a
26 provider's statement of charges from including
27 certain charges for services covered by
28 personal injury protection benefits; specifying
29 which party is the prevailing party in
30 arbitration of disputes relating to personal
31 injury protection claims; specifying

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requirements for arbitration; prescribing forms
for submission of medical services; specifying
payment time limitations; specifying where an
independent medical examination of a claimant
may be conducted; specifying applicability of
amendments made by this act; providing an
effective date.