

Bill No. CS/HB 393, 1st Eng.

Amendment No. Barcode 755260

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Geller moved the following amendment:

Senate Amendment (with title amendment)

On page 5, line 14, through
page 8, line 2, delete those lines

and insert:

Section 4. Subsection (6) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.--

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

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under ss. 627.730-627.7405 against whom a claim has been made, furnish forthwith, in a form approved by the department, a sworn statement of the earnings, since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) ~~Every physician, hospital, clinic, or other~~

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1 ~~medical institution providing, before or after bodily injury~~
2 ~~upon which a claim for personal injury protection insurance~~
3 ~~benefits is based, any products, services, or accommodations~~
4 ~~in relation to that or any other injury, or in relation to a~~
5 ~~condition claimed to be connected with that or any other~~
6 ~~injury, shall, if requested to do so by the insurer against~~
7 ~~whom the claim has been made, furnish forthwith a written~~
8 ~~report of the history, condition, treatment, dates, and costs~~
9 ~~of such treatment of the injured person and why the items~~
10 ~~identified by the insurer were reasonable in amount and~~
11 ~~medically necessary, together with a sworn statement that the~~
12 ~~treatment or services rendered were reasonable and necessary~~
13 ~~with respect to the bodily injury sustained and identifying~~
14 ~~which portion of the expenses for such treatment or services~~
15 ~~was incurred as a result of such bodily injury, and produce~~
16 ~~forthwith, and permit the inspection and copying of, his or~~
17 ~~her or its records regarding such history, condition,~~
18 ~~treatment, dates, and costs of treatment; provided that this~~
19 ~~shall not limit the introduction of evidence at trial. Such~~
20 ~~sworn statement shall read as follows: "Under penalty of~~
21 ~~perjury, I declare that I have read the foregoing, and the~~
22 ~~facts alleged are true, to the best of my knowledge and~~
23 ~~belief."No cause of action for violation of the~~
24 ~~physician-patient privilege or invasion of the right of~~
25 ~~privacy shall be permitted against any physician, hospital,~~
26 ~~clinic, or other medical institution complying with the~~
27 ~~provisions of this section. The person requesting such records~~
28 ~~and such sworn statement shall pay all reasonable costs~~
29 ~~connected therewith. If an insurer makes a written request for~~
30 ~~documentation or information under this paragraph within 30~~
31 ~~days after having received notice of the amount of a covered~~

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1 loss under paragraph (4)(a), the amount or the partial amount
2 which is the subject of the insurer's inquiry shall become
3 overdue if the insurer does not pay in accordance with
4 paragraph (4)(b) or within 10 days after the insurer's receipt
5 of the requested documentation or information, whichever
6 occurs later. For purposes of this paragraph, the term
7 "receipt" includes, but is not limited to, inspection and
8 copying pursuant to this paragraph. Any insurer that requests
9 documentation or information pertaining to reasonableness of
10 charges or medical necessity under this paragraph without a
11 reasonable basis for such requests as a general business
12 practice is engaging in an unfair trade practice under the
13 insurance code.

14 (c) In the event of any dispute regarding an insurer's
15 right to discovery of facts about an injured person's earnings
16 or about his or her history, condition, or treatment, or the
17 dates and costs of such treatment, the insurer may petition a
18 court of competent jurisdiction to enter an order permitting
19 such discovery. The order may be made only on motion for good
20 cause shown and upon notice to all persons having an interest,
21 and it shall specify the time, place, manner, conditions, and
22 scope of the discovery. Such court may, in order to protect
23 against annoyance, embarrassment, or oppression, as justice
24 requires, enter an order refusing discovery or specifying
25 conditions of discovery and may order payments of costs and
26 expenses of the proceeding, including reasonable fees for the
27 appearance of attorneys at the proceedings, as justice
28 requires.

29 (d) The injured person shall be furnished, upon
30 request, a copy of all information obtained by the insurer
31 under the provisions of this section, and shall pay a

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1 reasonable charge, if required by the insurer.

2 (e) Notice to an insurer of the existence of a claim
3 shall not be unreasonably withheld by an insured.

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

7 And the title is amended as follows:

8 On page 1, lines 11-13, delete those lines

9

10 and insert:

11 F.S.; revising provisions governing discovery;
12 providing an effective date.

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