

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Burgess offered the following:

Amendment (with title amendment)

Remove lines 475-529 and insert:

Section 5. Section 440.1915, Florida Statutes, is created to read:

440.1915 NOTICE REGARDING PAYMENT OF ATTORNEY FEES.— An injured employee or any other party making a claim for benefits under this chapter through an attorney or other representative shall provide his or her personal signature attesting that he or she has reviewed, understands, and acknowledges the following statement, which must be in 14 point bold font, prior to engaging the services of an attorney or other representative for services related to a petition for benefits under s. 440.192 or s. 440.25: "THE WORKERS' COMPENSATION LAW REQUIRES YOU TO PAY

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17 YOUR OWN ATTORNEY FEES. YOUR EMPLOYER AND/OR THEIR INSURANCE
18 CARRIER ARE NOT REQUIRED TO PAY YOUR ATTORNEY FEES, EXCEPT IN
19 CERTAIN CIRCUMSTANCES. EVEN THEN, YOU MAY BE RESPONSIBLE FOR
20 PAYING ATTORNEY FEES IN ADDITION TO ANY AMOUNT THE EMPLOYER OR
21 THEIR CARRIER MAY BE REQUIRED TO PAY, DEPENDING ON THE DETAILS
22 OF YOUR AGREEMENT WITH YOUR ATTORNEY OR REPRESENTATIVE.
23 CAREFULLY READ AND MAKE SURE YOU UNDERSTAND ANY AGREEMENT OR
24 RETAINER FOR REPRESENTATION BEFORE YOU SIGN IT." If the injured
25 employee or other party does not or refuses to sign the document
26 attesting that he or she has reviewed, understands, and
27 acknowledges the statement, the injured employee or other party
28 making a claim under this chapter shall be prohibited from
29 proceeding with a petition for benefits under s. 440.192 or s.
30 440.25, except pro se, until such signature is obtained.

31 Section 6. Subsections (2), (4), (5), and (7) of section
32 440.192, Florida Statutes, are amended to read:

33 440.192 Procedure for resolving benefit disputes.—

34 (2) Upon receipt, the Office of the Judges of Compensation
35 Claims shall review each petition and shall dismiss each
36 petition or any portion of such a petition that does not on its
37 face meet the requirements of this section and the definition of
38 specificity under s. 440.02, and specifically identify or
39 itemize the following:

40 (a) The name, address, and telephone number,~~and social~~
41 ~~security number~~ of the employee.

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42 (b) The name, address, and telephone number of the
43 employer.

44 (c) A detailed description of the injury and cause of the
45 injury, including the Florida county or, if outside of Florida,
46 the state location of the occurrence and the date or dates of
47 the accident.

48 (d) A detailed description of the employee's job, work
49 responsibilities, and work the employee was performing when the
50 injury occurred.

51 (e) The specific time period for which compensation and
52 the specific classification of compensation were not timely
53 provided.

54 (f) The specific date of maximum medical improvement,
55 character of disability, and specific statement of all benefits
56 or compensation that the employee is seeking. A claim for
57 permanent benefits must include the specific date of maximum
58 medical improvement and the specific date that such permanent
59 benefits are claimed to begin.

60 (g) All specific travel costs to which the employee
61 believes she or he is entitled, including dates of travel and
62 purpose of travel, means of transportation, and mileage and
63 including the date the request for mileage was filed with the
64 carrier and a copy of the request filed with the carrier.

65 (h) A specific listing of all medical charges alleged
66 unpaid, including the name and address of the medical provider,

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67 the amounts due, and the specific dates of treatment.

68 (i) The type or nature of treatment care or attendance
69 sought and the justification for such treatment. If the employee
70 is under the care of a physician for an injury identified under
71 paragraph (c), a copy of the physician's request, authorization,
72 or recommendation for treatment, care, or attendance must
73 accompany the petition.

74 (j) The specific amount of compensation claimed and the
75 methodology used to calculate the average weekly wage, if the
76 average weekly wage calculated by the employer or carrier is
77 disputed; otherwise, the average weekly wage and corresponding
78 compensation calculated by the employer or carrier are presumed
79 to be accurate.

80 (k)-(j) A specific explanation of any other disputed issue
81 that a judge of compensation claims will be called to rule upon.

82 (l) The signed attestation required under s. 440.1915.

83 (m) Evidence of a good faith attempt to resolve the dispute
84 pursuant to subsection (4).

85
86 The dismissal of any petition or portion of such a petition
87 under this subsection ~~section~~ is without prejudice and does not
88 require a hearing.

89 (4) Prior to filing a petition, the claimant or, if the
90 claimant is represented by counsel, the claimant's attorney must
91 make a good faith effort to resolve the dispute. The petition

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92 must include evidence that a certification by the claimant or,
93 if the claimant is represented by counsel, the claimant's
94 attorney, stating that the claimant, or attorney if the claimant
95 is represented by counsel, has made a good faith effort to
96 resolve the dispute and that the claimant or attorney was unable
97 to resolve the dispute with the carrier or employer, if self-
98 insured. If the petition is not dismissed under subsection (2),
99 the judge of compensation claims must review the evidence
100 required under this subsection and determine, in her or his
101 independent discretion, whether a good faith effort to resolve
102 the dispute was made by the claimant or the claimant's attorney.
103 Upon a determination that the claimant or the claimant's
104 attorney has not made a good faith effort to resolve the
105 dispute, the judge of compensation claims must dismiss the
106 petition and may impose sanctions to ensure compliance with this
107 subsection, which may include an order to pay to the other party
108 or parties the amount of the reasonable expenses incurred
109 because of the filing of the petition, including a reasonable
110 attorney's fee.

111 -----
112
113
114 **T I T L E A M E N D M E N T**

115 Remove line 32 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7085 (2017)

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116 | creating s. 440.1915, F.S.; requiring claimants to sign a
117 | specified acknowledgement when retaining an attorney for
118 | representation in a workers' compensation claim; amending s.
119 | 440.192, F.S.; revising conditions under