

By: Eissler

H.B. No. 251

Substitute the following for H.B. No. 251:

By: Taylor

C.S.H.B. No. 251

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the release of certain information regarding a workers'
3 compensation claim.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 402.084, Labor Code, is amended by
6 amending Subsections (b) and (d) and adding Subsections (c-1)-(c-7)
7 and (e) to read as follows:

8 (b) Information on a claim may be released as provided by
9 Subsection (a) to:

- 10 (1) the employee or the employee's legal beneficiary;
- 11 (2) the employee's or the legal beneficiary's
12 representative;
- 13 (3) the employer at the time of injury;
- 14 (4) the insurance carrier;
- 15 (5) the Texas Certified Self-Insurer Guaranty
16 Association established under Subchapter G, Chapter 407, if that
17 association has assumed the obligations of an impaired employer;
- 18 (6) the Texas Property and Casualty Insurance Guaranty
19 Association, if that association has assumed the obligations of an
20 impaired insurance company;
- 21 (7) a third-party litigant in a lawsuit in which the
22 cause of action arises from the incident that gave rise to the
23 injury; or
- 24 (8) with regard to information described by Subsection

1 (c-3), [~~a subclaimant under Section 409.009 that is~~] an insurance
2 carrier that has adopted an antifraud plan under Subchapter B,
3 Chapter 704 [~~Article 3.97-3~~], Insurance Code, or the authorized
4 representative of such an insurance carrier [~~a subclaimant~~].

5 (c-1) For purposes of this section only, "insurance
6 carrier" means:

7 (1) a certified self-insurer; or

8 (2) an entity authorized under the Insurance Code or
9 another insurance law of this state that provides health insurance
10 coverage or health benefits in this state, including:

11 (A) an insurance company, including an insurance
12 company that holds a certificate of authority issued by the
13 commissioner of insurance to engage in the business of workers'
14 compensation insurance in this state;

15 (B) a group hospital service corporation under
16 Chapter 842, Insurance Code;

17 (C) a health maintenance organization under
18 Chapter 843, Insurance Code;

19 (D) a stipulated premium company under Chapter
20 884, Insurance Code;

21 (E) a fully self-insured plan, as described by
22 the Employee Retirement Income Security Act of 1974 (29 U.S.C.
23 Section 1001 et seq.);

24 (F) a governmental plan, as defined by Section
25 3(32), Employee Retirement Income Security Act of 1974 (29 U.S.C.
26 Section 1002(32));

27 (G) an employee welfare benefit plan, as defined

1 by Section 3(1), Employee Retirement Income Security Act of 1974
2 (29 U.S.C. Section 1002(1)); and

3 (H) an insurer authorized by the Texas Department
4 of Insurance to offer disability insurance in this state.

5 (c-2) An insurance carrier is not required to demonstrate
6 that a subclaim exists in order to obtain information under
7 Subsection (b)(8).

8 (c-3) An insurance carrier described by Subsection (b)(8)
9 or an authorized representative of the insurance carrier may submit
10 to the commission on a monthly basis a written request for claims
11 information. The request must contain a list of the names of
12 persons about whom claims information is requested. The insurance
13 carrier must certify in the carrier's request that each person
14 listed is, or has been, an insured under the carrier's insurance
15 program. The commission shall examine the commission's records to
16 identify all claims related to the listed persons. If a claims
17 record exists for a listed person, the commission promptly shall
18 provide information on each workers' compensation claim filed by
19 that person to the carrier or the carrier's representative in an
20 electronic format. The information provided under this subsection
21 must include, if available:

22 (1) the full name of the workers' compensation
23 claimant;

24 (2) the social security number of the workers'
25 compensation claimant;

26 (3) the date of birth of the workers' compensation
27 claimant;

1 (4) the name of the employer of the workers'
2 compensation claimant;

3 (5) the date of the injury;

4 (6) a description of the type of injury or the body
5 part affected, including the workers' compensation claimant's
6 description of how the injury occurred;

7 (7) the name of the treating doctor;

8 (8) the name, address, and claim number of the
9 insurance carrier handling the claim;

10 (9) the name of the insurance adjustor handling the
11 claim; and

12 (10) the identifying number assigned to the claim by
13 the commission and the commission field office handling the claim.

14 (c-4) A potential subclaim identified by an insurance
15 carrier described by Subsection (b)(8) or an authorized
16 representative of the insurance carrier may form the basis for the
17 identification and filing of a subclaim against an insurance
18 carrier under this subtitle.

19 (c-5) Information received under this section by an
20 insurance carrier described by Subsection (b)(8) or an authorized
21 representative of the insurance carrier remains subject to
22 confidentiality requirements of this subtitle while in the
23 possession of the insurance carrier or representative. However,
24 the following laws do not prohibit the commission from disclosing
25 full information regarding a claim as necessary to determine if a
26 valid subclaim exists:

27 (1) Chapter 552, Government Code;

1 (2) Chapter 159, Occupations Code; or
2 (3) any other analogous law restricting disclosure of
3 health care information.

4 (c-6) The commission may not redact claims records produced
5 in an electronic data format under a request made under this
6 section.

7 (c-7) An insurance carrier and its authorized
8 representative may request full claims data under Subsection
9 (b)(8), and the records shall be produced once each month. For
10 purposes of this subsection, "full claims data" means an electronic
11 download or tape in an electronic data format of the information
12 listed in Subsection (c-3) on all cases relating to the workers'
13 compensation claimants listed as insureds of the requesting
14 insurance carrier.

15 ~~(d) [Information on a claim relating to a subclaimant under~~
16 ~~Subsection (b)(8) may include information, in an electronic data~~
17 ~~format, on all workers' compensation claims necessary to determine~~
18 ~~if a subclaim exists. The information on a claim remains subject to~~
19 ~~confidentiality requirements while in the possession of a~~
20 ~~subclaimant or representative.]~~ The commission by rule may
21 establish a reasonable fee, not to exceed five cents for each
22 claimant listed in an information request, for all information
23 requested by an insurance carrier described by Subsection (b)(8) or
24 an authorized representative of the insurance carrier ~~[under this~~
25 ~~subsection]~~ in an electronic data format ~~[by subclaimants or~~
26 ~~authorized representatives of subclaimants]~~. The commission shall
27 adopt rules under Section 401.024(d) to establish:

1 (1) reasonable security parameters for all transfers
2 of information requested under this section [~~subsection~~] in
3 electronic data format; and

4 (2) requirements regarding the maintenance of
5 electronic data in the possession of an insurance carrier described
6 by Subsection (b)(8) or an authorized representative of the
7 insurance carrier [~~a subclaimant or the subclaimant's~~
8 ~~representative~~].

9 (e) The insurance carrier or the carrier's authorized
10 representative must execute a written agreement with the commission
11 before submitting the carrier's first request under Subsection
12 (c-3). The agreement must contain a provision by which the carrier
13 and the representative agree to comply with the commission's rules
14 governing security parameters applicable to the transfer of
15 information under Subsection (d)(1) and the maintenance of
16 electronic data under Subsection (d)(2).

17 SECTION 2. The change in law made by this Act applies only
18 to a claim for workers' compensation benefits based on a
19 compensable injury that occurred on or after September 1, 2002. A
20 claim based on a compensable injury that occurred before that date
21 is governed by the law in effect on the date the compensable injury
22 occurred, and the former law is continued in effect for that
23 purpose.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2005.