

By: Williams

S.B. No. 266

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 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 an entity authorized under the Insurance Code or  
7 another insurance law of this state that provides health insurance  
8 coverage or health benefits in this state. The term includes:

9 (1) an insurance company;

10 (2) a group hospital service corporation under Chapter  
11 842, Insurance Code;

12 (3) a health maintenance organization under Chapter  
13 843, Insurance Code;

14 (4) a stipulated premium company under Chapter 884,  
15 Insurance Code;

16 (5) a fully self-insured plan, as described by the  
17 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section  
18 1001 et seq.);

19 (6) a governmental plan, as defined by Section 3(32),  
20 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section  
21 1002(32));

22 (7) an employee welfare benefit plan, as defined by  
23 Section 3(1), Employee Retirement Income Security Act of 1974 (29  
24 U.S.C. Section 1002(1)); and

25 (8) an insurer authorized by the Texas Department of  
26 Insurance to offer disability insurance in this state.

27 (c-2) An insurance carrier is not required to demonstrate

1 that a subclaim exists in order to obtain information under  
2 Subsection (b)(8).

3 (c-3) An insurance carrier described by Subsection (b)(8)  
4 or an authorized representative of the insurance carrier may submit  
5 to the commission on a monthly basis a written request for claims  
6 information. The commission shall provide the claims information  
7 on a monthly basis in an electronic format to the insurance carrier  
8 or representative. The information provided under this subsection  
9 must include:

10 (1) the full name of the workers' compensation  
11 claimant;

12 (2) the social security number of the workers'  
13 compensation claimant;

14 (3) the date of birth of the workers' compensation  
15 claimant;

16 (4) the name of the employer of the workers'  
17 compensation claimant;

18 (5) the date of the injury;

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

22 (7) the name of the treating doctor;

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

25 (9) the name of the insurance adjustor handling the  
26 claim; and

27 (10) the identifying number assigned to the claim by

1 the commission and the commission field office handling the claim.

2 (c-4) A potential subclaim identified by an insurance  
3 carrier described by Subsection (b)(8) or an authorized  
4 representative of the insurance carrier may form the basis for the  
5 identification and prosecution of a subclaim under this subtitle.

6 (c-5) Information received under this section by an  
7 insurance carrier described by Subsection (b)(8) or an authorized  
8 representative of the insurance carrier remains subject to  
9 confidentiality requirements of this subtitle while in the  
10 possession of the insurance carrier or representative. However,  
11 the following laws do not prohibit the commission from disclosing  
12 full information regarding a claim as necessary to determine if a  
13 valid subclaim exists:

14 (1) Chapter 552, Government Code;

15 (2) Chapter 159, Occupations Code; or

16 (3) any other analogous law restricting disclosure of  
17 health care information.

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

21 (c-7) An insurance carrier and its authorized  
22 representative may request full claims data under Subsection  
23 (b)(8), and the records shall be produced once each month. For  
24 purposes of this subsection, "full claims data" means an electronic  
25 download or tape in an electronic data format of the information  
26 listed in Subsection (c-3) on all active claims before the  
27 commission.

1           (d) ~~[Information on a claim relating to a subclaimant under~~  
2 ~~Subsection (b)(8) may include information, in an electronic data~~  
3 ~~format, on all workers' compensation claims necessary to determine~~  
4 ~~if a subclaim exists. The information on a claim remains subject to~~  
5 ~~confidentiality requirements while in the possession of a~~  
6 ~~subclaimant or representative.]~~ The commission by rule may  
7 establish a reasonable fee for all information requested by an  
8 insurance carrier described by Subsection (b)(8) or an authorized  
9 representative of the insurance carrier ~~[under this subsection]~~ in  
10 an electronic data format ~~[by subclaimants or authorized~~  
11 ~~representatives of subclaimants]~~. The commission shall adopt rules  
12 under Section 401.024(d) to establish:

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

16           (2) requirements regarding the maintenance of  
17 electronic data in the possession of an insurance carrier described  
18 by Subsection (b)(8) or an authorized representative of the  
19 insurance carrier ~~[a subclaimant or the subclaimant's~~  
20 ~~representative]~~.

21           SECTION 2. The change in law made by this Act applies only  
22 to a claim for workers' compensation benefits based on a  
23 compensable injury that occurred on or after September 1, 2004. A  
24 claim based on a compensable injury that occurred before that date  
25 is governed by the law in effect on the date that the compensable  
26 injury occurred, and the former law is continued in effect for that  
27 purpose.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2005.