

1 A bill to be entitled
 2 An act relating to demand letters for personal injury
 3 protection benefits; amending s. 627.736, F.S.;
 4 requiring written notice of an intent to initiate
 5 litigation for relief related to personal injury
 6 protection benefits; revising the requirements for the
 7 notice of an intent to initiate litigation for
 8 personal injury protection benefits and related
 9 relief; prohibiting the notice from triggering
 10 insurers' obligations under certain circumstances;
 11 prohibiting actions by claimants and prosecutions on
 12 behalf of claimants unless certain requirements are
 13 met; authorizing the recovery of specified attorney
 14 fees, costs, and disbursements under certain
 15 circumstances; providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Subsection (10) of section 627.736, Florida
 20 Statutes, is amended to read:

21 627.736 Required personal injury protection benefits;
 22 exclusions; priority; claims.—

23 (10) DEMAND LETTER.—

24 (a) As a condition precedent to filing any action for
 25 benefits or related relief under this section, written notice of

26 | an intent to initiate litigation must be provided to the
 27 | insurer. Such notice may not be sent until the claim is overdue,
 28 | including any additional time the insurer has to pay the claim
 29 | pursuant to paragraph (4) (b).

30 | (b) The notice must state that it is a "demand letter
 31 | under s. 627.736" and state the following with specificity:

32 | 1. The name of the insured on whose behalf ~~upon which~~ such
 33 | benefits are being sought and, if the claimant is not the
 34 | insured, the notice must include, ~~including~~ a copy of the
 35 | assignment signed by the insured before the provision of any
 36 | treatment, service, or accommodation and giving rights to the
 37 | claimant to seek any benefit ~~if the claimant is not the insured.~~

38 | 2. The claim number and ~~or~~ policy number upon which such
 39 | claim was originally submitted to the insurer by either the
 40 | claimant or the insured.

41 | 3. Where ~~To the extent~~ applicable, the name of any medical
 42 | provider who rendered to the ~~an~~ insured the treatment, services,
 43 | accommodations, or supplies that form the basis of such claim
 44 | against the insurer. The notice must be accompanied by; ~~and~~ an
 45 | itemized statement identifying each treatment, service, or
 46 | accommodation provided to the insured and must specify, for each
 47 | treatment, service, or accommodation, on a line-item basis, as
 48 | previously billed to the insurer ~~specifying each exact amount,~~
 49 | the date of each treatment, service, or accommodation; the CPT
 50 | code; the amount charged; ~~;~~ and the amount paid ~~type of benefit~~

51 ~~claimed to be due.~~ A completed form satisfying the requirements
52 of paragraph (5)(d) or the lost-wage statement previously
53 submitted, as applicable, must be included with ~~may be used as~~
54 the itemized statement. To the extent that the demand involves
55 an insurer's withdrawal of payment under paragraph (7)(a) for
56 future treatment not yet rendered, the claimant shall attach a
57 copy of the insurer's notice withdrawing such payment and an
58 itemized statement of the type, frequency, and duration of
59 future treatment claimed to be reasonable and medically
60 necessary.

61 4. The identification of all line items that the claimant
62 contends to be in dispute because of an insurer's nonpayment or
63 underpayment; the legal or factual basis for the claimant's
64 position that the insurer's nonpayment or underpayment is
65 incorrect; the CPT code; and the amount that the claimant
66 contends that the insurer is required to pay to fully resolve
67 the dispute, including the specific amount of the postal costs,
68 interest, and penalty to be paid pursuant to paragraphs (d) and
69 (e).

70 5. To the extent that an insurer has denied a claim on the
71 basis that benefits are exhausted, the notice must specify any
72 treatment, service, or accommodation that the claimant contends
73 to have been improperly paid, the amount of the asserted
74 improper payment, and the amount that the insurer is required to
75 pay to the claimant to resolve the dispute.

76 (c) If the claimant contends that the insured had an
77 emergency medical condition, the notice must be accompanied by
78 documentation demonstrating that the insured to whom the
79 treatment, service, or accommodation was provided sustained an
80 emergency medical condition. The documentation must be from a
81 provider identified in subparagraph (1)(a)1. or subparagraph
82 (1)(a)2.

83 (d)(e) Each notice required by this subsection must comply
84 with the requirements of paragraphs (b) and (c) and must be
85 delivered to the insurer by United States certified or
86 registered mail, return receipt requested. A notice that does
87 not comply with the requirements of paragraphs (b) and (c) may
88 not trigger an insurer's obligations under paragraph (e). The
89 ~~Such~~ postal costs shall be reimbursed by the insurer if
90 requested by the claimant in the notice, when the insurer pays
91 the claim. Such notice must be sent to the person and address
92 specified by the insurer for the purposes of receiving notices
93 under this subsection. Each licensed insurer, whether domestic,
94 foreign, or alien, shall file with the office the name and
95 address of the designated person to whom notices must be sent
96 which the office shall make available on its Internet website.
97 The name and address on file with the office pursuant to s.
98 624.422 is deemed the authorized representative to accept notice
99 pursuant to this subsection if no other designation has been
100 made.

101 (e)~~(d)~~ If, within 30 days after receipt of notice by the
102 insurer, the overdue claim specified in a ~~the~~ notice that
103 complies with paragraphs (b) and (c) is paid by the insurer
104 together with applicable interest and a penalty of 10 percent of
105 the overdue amount paid by the insurer, subject to a maximum
106 penalty of \$250, no action may be brought against the insurer.
107 If the demand involves an insurer's withdrawal of payment under
108 paragraph (7) (a) for future treatment not yet rendered, no
109 action may be brought against the insurer if, within 30 days
110 after its receipt of the notice, the insurer mails to the person
111 filing the notice a written statement of the insurer's agreement
112 to pay for such treatment in accordance with the notice and to
113 pay a penalty of 10 percent, subject to a maximum penalty of
114 \$250, when it pays for such future treatment in accordance with
115 the requirements of this section. To the extent the insurer
116 determines not to pay any amount demanded, the penalty is not
117 payable in any subsequent action. For purposes of this
118 subsection, payment or the insurer's agreement shall be treated
119 as being made on the date a draft or other valid instrument that
120 is equivalent to payment, or the insurer's written statement of
121 agreement, is placed in the United States mail in a properly
122 addressed, postpaid envelope, or if not so posted, on the date
123 of delivery. The insurer is not obligated to pay any attorney
124 fees if the insurer pays the claim or mails its agreement to pay
125 for future treatment within the time prescribed by this

126 subsection.

127 (f)~~(e)~~ The applicable statute of limitation for an action
128 under this section shall be tolled for 30 business days by the
129 mailing of a ~~the~~ notice required by this subsection.

130 (g) An action may not be filed by or prosecuted on behalf
131 of a claimant seeking benefits or related relief against an
132 insurer if:

133 1. A notice of the violation has not been sent to the
134 insurer;

135 2. The insurer has issued full payment to the claimant in
136 response to the notice within the timeframe prescribed by
137 paragraph (e); or

138 3. The claimant asserts a claim of nonpayment or
139 underpayment of benefits which is not identified in the notice.

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141 Any action filed by or prosecuted on behalf of a claimant
142 seeking benefits or related relief under this section in
143 violation of this paragraph shall entitle an insurer to recover
144 its reasonable attorney fees, costs, and disbursements related
145 to the defense of any such action against the claimant and the
146 claimant's attorney.

147 Section 2. This act shall take effect July 1, 2021.