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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1280** Session of  
1987

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INTRODUCED BY DeLUCA, KASUNIC, MARKOSEK, HAGARTY, TIGUE, BOYES,  
LaGROTTA, HASAY, COY, BOOK, NOYE, SALOOM, HALUSKA, MAYERNIK,  
RUDY, ANGSTADT, J. L. WRIGHT, McCALL, BIRMELIN, FISCHER,  
CIMINI, LUCYK, BLACK, DISTLER, STEVENS, PERZEL, WILSON,  
GRUPPO, BELARDI, PRESTON, PETRONE AND DALEY, MAY 4, 1987

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REFERRED TO COMMITTEE ON INSURANCE, MAY 4, 1987

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, eliminating the Catastrophic Loss Trust Fund.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Subchapter F of Chapter 17 and section 1787(d) of  
6 Title 75 of the Pennsylvania Consolidated Statutes are repealed.

7 Section 2. Sections 1796(a) and 1798 of Title 75 are amended  
8 to read:

9 § 1796. Mental or physical examination of person.

10 (a) General rule.--Whenever the mental or physical condition  
11 of a person is material to any claim for medical[, ] or income  
12 loss [or catastrophic loss] benefits, a court of competent  
13 jurisdiction [or the administrator of the Catastrophic Loss  
14 Trust Fund for catastrophic loss claims] may order the person to  
15 submit to a mental or physical examination by a physician. The  
16 order may only be made upon motion for good cause shown. The

1 order shall give the person to be examined adequate notice of  
2 the time and date of the examination and shall state the manner,  
3 conditions and scope of the examination and the physician by  
4 whom it is to be performed. If a person fails to comply with an  
5 order to be examined, the court or the administrator may order  
6 that the person be denied benefits until compliance.

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8 § 1798. Attorney fees and costs.

9 (a) Basis for reasonable fee.--No attorney's fee for  
10 representing a claimant in connection with a claim for first  
11 party benefits provided under Subchapter B (relating to motor  
12 vehicle liability insurance first party benefits) [or a claim  
13 for catastrophic loss benefits under Subchapter F (relating to  
14 Catastrophic Loss Trust Fund)] shall be calculated, determined  
15 or paid on a contingent fee basis, nor shall any attorney's fees  
16 be deducted from the benefits enumerated in this subsection  
17 which are otherwise due such claimant. An attorney may charge a  
18 claimant a reasonable fee based upon actual time expended.

19 (b) Unreasonable refusal to pay benefits.--In the event an  
20 insurer is found to have acted with no reasonable foundation in  
21 refusing to pay the benefits enumerated in subsection (a) when  
22 due, the insurer shall pay, in addition to the benefits owed and  
23 the interest thereon, a reasonable attorney fee based upon  
24 actual time expended.

25 [(c) Payment by fund.--The Catastrophic Loss Trust Fund may  
26 award the claimant's attorney a reasonable fee based upon actual  
27 time expended because a claimant is unable to otherwise pay the  
28 fees and costs.]

29 (d) Fraudulent or excessive claims.--If, in any action by a  
30 claimant to recover benefits under this chapter, the court

1 determines that the claim, or a significant part thereof, is  
2 fraudulent or so excessive as to have no reasonable foundation,  
3 the court may award the insurer's attorney a reasonable fee  
4 based upon actual time expended. The court, in such case, may  
5 direct that the fee shall be paid by the claimant or that the  
6 fee may be treated in whole or in part as an offset against any  
7 benefits due or to become due the claimant.

8       Section 3. This act shall take effect in 60 days.