

House Bill 1108

By: Representatives Burchett of the 176th, Fleming of the 121st, Efstration of the 104th, Kelley of the 16th, and Scoggins of the 14th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 29 of the Official Code of Georgia Annotated,
2 relating to property, so as to clarify and revise procedures and requirements for the payment
3 of certain settlements involving minors' claims; to revise and provide for definitions; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 3 of Title 29 of the Official Code of Georgia Annotated, relating to
8 property, is amended by revising Code Section 29-3-3, relating to "gross settlement" defined,
9 compromise of claim, and finality of settlement, as follows:

10 "29-3-3.

11 (a) For purposes of this Code section, the term:

12 (1) 'Gross settlement' means the present value of all amounts paid or to be paid in
13 settlement of the claim, including cash, medical expenses, expenses of litigation,
14 attorney's fees, and any amounts paid to purchase an annuity or other similar financial
15 arrangement. Such term shall include the total amount paid or to be paid on behalf of all
16 settling parties.

17 (2) 'Net settlement' means the gross settlement reduced by:

18 (A) Attorney's fees, expenses of litigation, and medical expenses which are to be paid
19 from the settlement proceeds; and

20 (B) The present value of amounts to be received by the minor after reaching the age
21 of majority.

22 (b) If the minor has a conservator, the only person who can compromise a minor's claim
23 is the conservator.

24 (c) ~~Whether or not legal action has been initiated, if the~~ The proposed gross settlement of
25 a minor's claim is \$15,000.00 or less, the natural guardian of the minor may compromise
26 the claim without becoming the conservator of the minor and without any court approval.

27 The natural guardian must qualify as the conservator of the minor in order to receive
 28 payment of the settlement if necessary to comply with Code Section 29-3-1.

29 (d) ~~If no~~ Notwithstanding whether a legal action has been initiated, if and the proposed
 30 gross settlement of a minor's claim is more than \$15,000.00, the settlement must be
 31 submitted for approval to the probate court.

32 (e) If legal action has been initiated and the proposed gross settlement of a minor's claim
 33 is more than \$15,000.00, the settlement must be ~~submitted for approval to~~ approved by the
 34 court in which the action is pending. Probate court approval is not required. ~~The natural~~
 35 ~~guardian or conservator shall not be permitted to dismiss the action and present the~~
 36 ~~settlement to the court for approval without the approval of the court in which the action~~
 37 ~~is pending.~~

38 (f) If legal action has been initiated and the proposed gross settlement of a minor's claim
 39 is more than \$15,000.00, but the gross net settlement reduced by:

40 (1) ~~Attorney's fees, expenses of litigation, and medical expenses which shall be paid~~
 41 ~~from the settlement proceeds; and~~

42 (2) ~~The present value of amounts to be received by the minor after reaching the age of~~
 43 ~~majority~~

44 is \$15,000.00 or less, the settlement must be approved by natural guardian may seek
 45 approval of the proposed settlement from the appropriate court in which the action is
 46 pending, but no ~~without becoming the conservator of the minor or approval of the probate~~
 47 court is required. The natural guardian must qualify as the conservator of the minor in
 48 order to receive payment of the settlement if necessary to comply with Code
 49 Section 29-3-1.

50 (g) If legal action has been initiated and the proposed gross settlement of a minor's claim
 51 is more than \$15,000.00 and the ~~the proposed gross net~~ settlement of a minor's claim is
 52 ~~more than \$15,000.00, but such gross settlement reduced by:~~

53 (1) ~~Attorney's fees, expenses of litigation, and medical expenses which shall be paid~~
 54 ~~from the settlement proceeds; and~~

55 (2) ~~The present value of amounts to be received by the minor after reaching the age of~~
 56 ~~majority~~

57 is also more than \$15,000.00, the ~~natural guardian may not seek approval of the proposed~~
 58 ~~settlement settlement must be approved~~ from the appropriate court in which the action is
 59 pending and a ~~without becoming the conservator of the minor~~ must be appointed.

60 (h) If an order of approval is obtained from the probate court, or a court in which the
 61 action is pending, based upon the best interest of the minor, the natural guardian or
 62 conservator shall be authorized to compromise any contested or doubtful claim in favor of
 63 the minor without receiving consideration for such compromise as a lump sum. Without

64 limiting the foregoing, the compromise may be in exchange for an arrangement that defers
65 receipt of part, not to exceed a total distribution of \$15,000.00 prior to a minor reaching the
66 age of majority, or all of the consideration for the compromise until after the minor reaches
67 the age of majority and may involve a structured settlement or creation of a trust on terms
68 which the court approves.

69 (i) Any settlement entered consistent with the provisions of this Code section shall be final
70 and binding upon all parties, including the minor.

71 (j) It shall be within the discretion of the court in which the action is pending to hold a
72 hearing on compliance with the requirements of this Code section; provided, however, that
73 a hearing shall not be required if compliance with such requirements is evident from the
74 record."

75 **SECTION 2.**

76 All laws and parts of laws in conflict with this Act are repealed.