

1 AN ACT relating to settlements involving minors and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED  
4 TO READ AS FOLLOWS:

5 *(1) A person having legal custody of a minor may settle or compromise and enter*  
6 *into a settlement agreement with a person against whom the minor has a claim or*  
7 *from whom the minor is to receive proceeds from the sale of real estate, for the*  
8 *settlement of any estate, or from any other source if:*

9 *(a) A guardian or conservator has not been appointed for the minor;*

10 *(b) The total amount of the settlement, not including reimbursement of medical*  
11 *expenses, liens, reasonable attorney fees and costs, is twenty-five thousand*  
12 *dollars (\$25,000) or less if paid in cash, by draft or check, by direct deposit,*  
13 *or by the purchase of a premium for an annuity;*

14 *(c) The moneys payable under the settlement agreement will be paid as*  
15 *provided in subsections (3) and (4) of this section; and*

16 *(d) The person entering into the settlement agreement on behalf of the minor*  
17 *completes an affidavit or verified statement that attests that the person has*  
18 *made a reasonable inquiry and that:*

19 *1. To the best of the person's knowledge, the minor will be fully*  
20 *compensated by the settlement; or*

21 *2. There is no practical way to obtain additional amounts from the party*  
22 *or parties entering into the settlement agreement with the minor.*

23 *(2) The attorney representing the person entering into the settlement agreement on*  
24 *behalf of the minor, if any, shall maintain the affidavit or verified statement*  
25 *completed under subsection (1)(d) of this section in the attorney's file for two (2)*  
26 *years after the minor attains the age of majority.*

27 *(3) The moneys payable under the settlement agreement shall be paid as follows:*

1        (a) If the minor or person entering into the settlement agreement on behalf of  
2        the minor is represented by an attorney and the settlement is paid in cash,  
3        by draft or check, or by direct deposit into the attorney's trust account  
4        maintained under Rule 3.830 of the Supreme Court of Kentucky to be held  
5        for the benefit of the minor, the attorney shall:

6        1. Timely deposit the moneys received on behalf of the minor directly  
7        into a federally insured restricted savings account that earns interest  
8        in the sole name of the minor; and

9        2. Provide notice of the deposit to the minor and the person entering into  
10       the settlement agreement on behalf of the minor, which shall be  
11       delivered by personal service or first-class mail;

12       (b) If the minor or person entering into the settlement agreement on behalf of  
13       the minor is not represented by an attorney and the settlement is paid:

14       1. In cash or by draft or check, the moneys shall be deposited by the  
15       person entering into the settlement agreement on behalf of the minor  
16       directly into a federally insured restricted savings account that earns  
17       interest in the sole name of the minor, and notice of the deposit to the  
18       minor shall be delivered by personal service or first-class mail;

19       2. By direct deposit, the minor or person entering into the settlement  
20       agreement on behalf of the minor shall provide the person or entity  
21       with whom the minor has settled the claim with the information  
22       sufficient to complete an electronic transfer of settlement funds within  
23       ten (10) business days of the settlement, into a federally insured  
24       restricted savings account that earns interest in the sole name of the  
25       minor. The notice to the minor of the electronic transfer of funds shall  
26       be delivered by personal service or first-class mail to the minor and  
27       person entering into the settlement agreement on behalf of the minor,

1 by the person or entity against whom a minor has a claim that settles  
2 the claim with the minor; or

3 3. By purchase of an annuity, direct payment shall be made to the issuer  
4 of the annuity with the minor designated as the sole beneficiary of the  
5 annuity; and

6 (c) If the minor is under the care, custody, and control of the Commonwealth,  
7 the Cabinet for Health and Family Services shall establish a federally  
8 insured restricted trust account, or subaccount of a trust account, that earns  
9 interest for the benefit of the minor, for the purpose of receiving moneys  
10 payable to the minor under the settlement agreement, and:

11 1. If the settlement is paid in cash or by draft or check, the moneys  
12 received on behalf of the minor shall be timely deposited into the  
13 account established under this paragraph, and notice of the deposit to  
14 the minor and the person entering into the settlement agreement on  
15 behalf of the minor shall be delivered by personal service or first-class  
16 mail; or

17 2. If the settlement is paid by direct deposit, the minor, the person  
18 entering into the settlement on behalf of the minor, or the cabinet  
19 shall provide the person or entity with whom the minor has settled the  
20 claim with the information sufficient to complete an electronic  
21 transfer of settlement funds within ten (10) business days of the  
22 settlement into the account established under this paragraph, and  
23 notice of the deposit to the minor and the person entering into the  
24 settlement agreement on behalf of the minor shall be delivered by  
25 personal service or first-class mail.

26 (4) The moneys in the minor's federally insured restricted savings account, trust  
27 account, or trust subaccount established under subsection (3) of this section may

1 not be withdrawn, removed, paid out, or transferred to any person, including the  
 2 minor, except as follows:

3 (a) Pursuant to court order;

4 (b) Upon the minor attaining the age of majority or being otherwise  
 5 emancipated; or

6 (c) Upon the minor's death.

7 (5) A signed settlement agreement entered into on behalf of the minor in compliance  
 8 with subsection (1) of this section is binding on the minor without the need for  
 9 court approval or review, has the same force and effect as if the minor were a  
 10 competent adult entering into the settlement agreement, and shall serve to fully  
 11 release all claims of the minor encompassed by the settlement agreement.

12 (6) A person acting in good faith on behalf of a minor under this section is not liable  
 13 to the minor for the moneys paid in settlement or for any other claim arising out  
 14 of the settlement.

15 (7) Any person or entity against whom a minor has a claim that settles the claim with  
 16 a minor in good faith under this section shall not be liable to the minor for any  
 17 claims arising from the settlement of the claim.

18 (8) Any person that transfers funds or other property under this section shall not be  
 19 responsible for its proper application.

20 ➔Section 2. KRS 387.280 is amended to read as follows:

21 (1) When a ~~minor or other~~ person under disability who has reached the age of  
 22 eighteen (18), having no guardian or conservator, is entitled to receive a sum not  
 23 exceeding ten thousand dollars (\$10,000), exclusive of interest, in any action in  
 24 which real estate has been sold, or in the settlement of any estate, or from any other  
 25 source, the person having custody of the ~~minor or other~~ person under disability  
 26 may settle or compromise the dollar amount when in the interest of the ~~minor or~~  
 27 ~~other~~ person under disability.

1    (2) The court in which the action is pending, or, if the sum does not derive from the  
2    action, the District Court, may order the sum to be paid to the person having  
3    custody of the ~~the~~ ~~minor or other~~ person under disability. Before entering the order,  
4    the court shall approve any settlement or compromise and shall be satisfied by  
5    affidavit or oral testimony that the ~~the~~ ~~minor or other~~ person under disability is in the  
6    custody of the person to whom it is proposed to pay the money and the latter, upon  
7    withdrawal of the money, shall be under obligation as trustee to expend it, for the  
8    support, maintenance, or education of the ~~the~~ ~~minor or other~~ person under disability.

9    (3) When the order is made, no bond shall be required of the person having custody of  
10   the ~~the~~ ~~minor or other~~ person under disability. **If the sum due to the person under**  
11   **disability is from the sale of real property,** ~~and~~ the purchaser of the real property  
12   may pay the share of the ~~the~~ ~~minor or other~~ person under disability into court, and no  
13   lien shall remain on the property therefor. ~~and~~ The money may be withdrawn by  
14   the person mentioned in the order without that person giving bond.

15   (4) A release executed by the person to whom the court has ordered the sum paid shall  
16   have the same effect as a release by a duly appointed guardian.

17    ➔Section 3. Whereas it is critically important in uncertain times that minors  
18   receive settlement funds due them without unnecessary delay, an emergency is declared  
19   to exist and this Act takes effect upon its passage and approval by the Governor or upon  
20   its otherwise becoming a law.