

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 proceeds due to the minor, after*
11 *reduction from the total settlement amount of all medical expenses, medical*
12 *liens, all other liens, and reasonable attorney fees and costs, is twenty-five*
13 *thousand dollars (\$25,000) or less if paid in cash, by draft or check, by*
14 *direct deposit, or by the purchase of a premium for an annuity;*

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

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

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

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

24 *(2) The attorney representing the person entering into the settlement agreement on*
25 *behalf of the minor, if any, shall maintain the affidavit or verified statement*
26 *completed under subsection (1)(d) of this section in the attorney's file for a period*
27 *of five (5) years.*

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

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

- 7 1. Timely deposit the moneys received on behalf of the minor directly
8 into a restricted savings or other restricted investment account that
9 only allows withdrawals from the account pursuant to court order; or
10 2. Purchase an annuity by direct payment to the issuer of the annuity
11 with the minor designated as the sole beneficiary of the annuity;

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 restricted savings or other restricted investment account
17 that only allows withdrawals from the account pursuant to court
18 order;
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 restricted savings or
24 other restricted investment account that only allows withdrawals from
25 the account pursuant to court order; or
26 3. By purchase of an annuity, direct payment shall be made to the issuer
27 of the annuity with the minor designated as the sole beneficiary of the

1 annuity; and

2 (c) If the minor is under the care, custody, and control of the Commonwealth,
3 the Cabinet for Health and Family Services shall establish a restricted trust
4 account, or subaccount of a trust account, that earns interest for the benefit
5 of the minor, for the purpose of receiving moneys payable to the minor
6 under the settlement agreement, and if the settlement is paid:

7 1. In cash or by draft or check, the moneys received on behalf of the
8 minor shall be timely deposited into the account established under this
9 paragraph, and notice of the deposit to the minor and the person
10 entering into the settlement agreement on behalf of the minor shall be
11 delivered by personal service or first-class mail;

12 2. By direct deposit, the minor, the person entering into the settlement on
13 behalf of the minor, or the cabinet shall provide the person or entity
14 with whom the minor has settled the claim with the information
15 sufficient to complete an electronic transfer of settlement funds within
16 ten (10) business days of the settlement into the account established
17 under this paragraph, and notice of the deposit to the minor and the
18 person entering into the settlement agreement on behalf of the minor
19 shall be delivered by personal service or first-class mail; or

20 3. Through the purchase of an annuity, direct payment shall be made to
21 the issuer of the annuity with the minor designated as the sole
22 beneficiary of the annuity.

23 (4) The moneys in the minor's restricted savings account, trust account, or trust
24 subaccount established under subsection (3) of this section may not be
25 withdrawn, removed, paid out, or transferred to any person, including the minor,
26 except as follows:

27 (a) Pursuant to court order;

1 (b) Upon the minor attaining the age of majority or being otherwise
 2 emancipated; or

3 (c) Upon the minor's death.

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

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

12 (7) Nothing in this section shall prevent anyone acting on behalf of the minor from
 13 filing for guardianship, limited guardianship, or conservatorship in the District
 14 Court and requesting the District Court to approve the settlement on behalf of the
 15 minor and oversee the settlement proceeds.

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

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

24 (2) The court in which the action is pending, or, if the sum does not derive from the
 25 action, the District Court, may order the sum to be paid to the person having
 26 custody of the ~~minor or other~~ person under disability. Before entering the order,
 27 the court shall approve any settlement or compromise and shall be satisfied by

1 affidavit or oral testimony that the ~~the~~ ~~minor or other~~ person under disability is in the
2 custody of the person to whom it is proposed to pay the money and the latter, upon
3 withdrawal of the money, shall be under obligation as trustee to expend it, for the
4 support, maintenance, or education of the ~~the~~ ~~minor or other~~ person under disability.

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

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

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