

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:*

19 *1. Has made a reasonable inquiry and that to the best of the person's*
20 *knowledge:*

21 *a. The minor will be fully compensated by the settlement; or*

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

25 *2. Understands and acknowledges that he or she is obligated by law to*
26 *deposit the settlement directly into a restricted savings or other*
27 *restricted investment account, or purchase an annuity, as provided in*

1 subsection (3) of this section.

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

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

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

12 1. Timely deposit the moneys received on behalf of the minor directly
13 into a restricted savings or other restricted investment account that
14 only allows withdrawals from the account under any of the
15 circumstances set forth in subsection (4) of this section; or

16 2. Purchase an annuity by direct payment to the issuer of the annuity
17 with the minor designated as the sole beneficiary of the annuity;

18 (b) If the minor or person entering into the settlement agreement on behalf of
19 the minor is not represented by an attorney and the settlement is paid by
20 check, draft, or direct deposit, the minor or person entering into the
21 settlement agreement on behalf of the minor shall provide the person or
22 entity with whom the minor has settled the claim with the information
23 sufficient to draw a check or draft made payable, or complete an electronic
24 transfer of settlement funds:

25 1. Into a restricted savings or other restricted investment account that
26 only allows withdrawals from the account under any of the
27 circumstances set forth in subsection (4) of this section; or

- 1 2. To purchase an annuity by direct payment to the issuer of the annuity
2 with the minor designated as the sole beneficiary of the annuity; and
- 3 (c) If the minor is under the care, custody, and control of the Commonwealth,
4 the Cabinet for Health and Family Services shall establish a restricted trust
5 account, or subaccount of a trust account, that earns interest for the benefit
6 of the minor, for the purpose of receiving moneys payable to the minor
7 under the settlement agreement. If the settlement is paid:
- 8 1. In cash or by draft or check, the moneys received on behalf of the
9 minor shall be timely deposited into the account established under this
10 paragraph, and notice of the deposit to the minor and the person
11 entering into the settlement agreement on behalf of the minor shall be
12 delivered by personal service or first-class mail;
- 13 2. By direct deposit, the minor, the person entering into the settlement on
14 behalf of the minor, or the cabinet shall provide the person or entity
15 with whom the minor has settled the claim with the information
16 sufficient to complete an electronic transfer of settlement funds into
17 the account established under this paragraph, and notice of the
18 deposit to the minor and the person entering into the settlement
19 agreement on behalf of the minor shall be delivered by personal
20 service or first-class mail; or
- 21 3. Through the purchase of an annuity, direct payment shall be made to
22 the issuer of the annuity with the minor designated as the sole
23 beneficiary of the annuity.
- 24 (4) The moneys in the minor's restricted savings or other restricted investment
25 account, trust account, or trust subaccount established under subsection (3) of
26 this section may not be withdrawn, removed, paid out, or transferred to any
27 person, including the minor, except as follows:

1 (a) Pursuant to court order;

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

4 (c) Upon the minor's death.

5 (5) A signed settlement agreement entered into on behalf of the minor in compliance
6 with subsection (1) of this section is binding on the minor without the need for
7 court approval or review, has the same force and effect as if the minor were a
8 competent adult entering into the settlement agreement, shall serve to fully
9 release all claims of the minor encompassed by the settlement agreement, and
10 may be relied on by a financial institution or other entity, in lieu of a court order,
11 when opening a restricted savings or other restricted investment account, or
12 purchasing an annuity, on behalf of a minor pursuant to this section.

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

16 (b) An insurer who in good faith transfers funds at the direction of the settling
17 minor or the minor's representatives into a restricted savings or other
18 restricted investment account, or to purchase an annuity, shall not be liable
19 to the minor or the minor's representatives for any claims arising from the
20 use of those funds after the transfer is completed.

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

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

26 (1) When a [~~minor or other~~] person under disability who has reached the age of
27 eighteen (18), having no guardian or conservator, is entitled to receive a sum not

1 exceeding ten thousand dollars (\$10,000), exclusive of interest, in any action in
 2 which real estate has been sold, or in the settlement of any estate, or from any other
 3 source, the person having custody of the ~~the~~ ~~minor or other~~ person under disability
 4 may settle or compromise the dollar amount when in the interest of the ~~the~~ ~~minor or~~
 5 ~~other~~ person under disability.

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

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

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

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