

The House Committee on Industrial Relations offers the following substitute to
HB 971:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to
2 workers' compensation, so as to change certain provisions relating to settlement agreements
3 between parties; to change certain provisions relating to statistical data submitted by
4 insurance companies to rating organizations, verification by employer, and issuance of
5 experience modification worksheets to insureds; to change certain provisions relating to
6 compensation for medical care, artificial members, and other treatment and supplies, effect
7 of employee's refusal of treatment, and employer's liability for temporary care; to change
8 certain provisions relating to the appointment of a conservator for a minor or an incompetent
9 claimant; to revise certain provisions relating to compensation for loss of hearing caused by
10 harmful noise; to provide for related matters; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
15 compensation, is amended by revising subsection (c) of Code Section 34-9-15, relating to
16 procedure for settlement between parties generally, approval by the board, finality of
17 settlement, and lump sum settlement, as follows:

18 ~~"(c) The parties by agreement and with the approval of the board may enter into a~~
19 ~~compromise lump sum settlement resolving all issues~~ The board or any party to the
20 settlement agreement may require that the settlement documents contain language which
21 prorates the lump sum settlement over the life expectancy of the injured worker. When
22 such an agreement has been approved, neither the weekly compensation rate paid
23 throughout the case nor the maximum statutory weekly rate applicable to the injury shall
24 apply. No compensation rate shall exceed the maximum statutory weekly rate as of the
25 date of injury. Instead, the prorated rate set forth in the approved settlement documents

shall control and become the rate for that case. This subsection shall be retroactive in effect."

SECTION 2.

Said title is further amended by revising Code Section 34-9-136, relating to statistical data submitted by insurance company to rating organization, verification by employer, and issuance of experience modification worksheets to insured, as follows:

"34-9-136.

(a) ~~Before an insurance company is authorized to submit statistical data on an employer to any licensed rating organization for purposes of determining the employer's experience modification factor, the insurance company must verify with the employer the accuracy of the data. In so verifying, the insurance company shall provide to the employer: (1) the data to be submitted; and (2) a statement in boldface type, to be signed by an authorized representative of the employer, and submitted by the insurance company to the licensed rating organization along with the statistical data. Said statement shall indicate that the statistical data to be submitted have been reviewed by the authorized representative of the employer; that said data are accurate; and that an insurance company representative has explained to the employer's representative that the statistical data to be submitted may affect the employer's premium for workers' compensation insurance coverage. Within 30 days of receipt of a written request directly from the employer or agent of record, the insurance company shall provide the employer or agent of record with the statistical data submitted to the statistical agent for purposes of determining the employer's experience modification factor.~~

(b) When a licensed rating organization issues an insured's experience modification worksheet to the insured's workers' compensation insurance company, the licensed rating organization shall ~~submit~~ make available a copy of the worksheet to the insured."

SECTION 3.

Said title is further amended by revising subsection (f) of Code Section 34-9-221, relating to procedure, payment controverted by employer, delinquency charge, and enforcement, as follows:

"(f) If income benefits payable under the terms of an award are not paid within 20 days after becoming due, there shall be added to the accrued income benefits an amount equal to 20 percent thereof, which shall be paid at the same time as, but in addition to, the accrued benefits unless review of the award is granted by the board or unless this nonpayment is excused by the board after a showing by the employer that due to conditions

beyond the control of the employer the income benefits could not be paid within the period prescribed."

SECTION 4.

Said chapter is further amended by revising Code Section 34-9-226, relating to the appointment of a guardian for a minor or an incompetent claimant, as follows:

"34-9-226.

(a) Except as provided in this Code section, the only person capable of representing a minor or legally incompetent claimant entitled to workers' compensation benefits shall be (1) a conservator duly appointed and qualified by the probate court of the county of residence of such minor or legally incompetent person or by any court of competent jurisdiction within this state, or (2) a conservator or the equivalent thereof duly appointed by a court of competent jurisdiction outside the State of Georgia. ~~Said~~ Such conservator shall be required to file with the board a copy of the conservatorship returns filed annually with the probate court or with a court of competent jurisdiction outside the State of Georgia and give notice to all parties within 30 days of any change in status.

(b) The board shall have authority in and shall establish procedures for appointing ~~temporary~~ conservators for purposes of administering workers' compensation rights and benefits without such conservator becoming the legally qualified conservator of any other property, without such conservator's actions being approved by a court of record, and without the posting of a bond, in only the following circumstances:

(1) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of a minor or legally incompetent person to receive and administer weekly income benefits on behalf of and for the benefit of said minor or legally incompetent person ~~for a period not to exceed 52 weeks unless renewed or extended by order of the board;~~

(2) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of a minor or legally incompetent person to compromise and terminate any claim and receive any sum paid in settlement for the benefits and use of said minor or legally incompetent person where the net settlement amount approved by the board is less than ~~\$50,000.00~~ \$100,000.00; however, where the natural parent is the guardian of a minor and the settlement amount is less than \$15,000.00, no board appointed conservator shall be necessary. After settlement, the board shall retain the authority to resolve disputes regarding continuing representation of a board appointed conservator of a minor or legally incompetent person; and

(3) If a minor or legally incompetent person does not have a duly appointed representative or conservator, the board may, in its discretion, appoint a guardian ad litem to bring or defend an action under this chapter in the name of and for the benefit of said

minor or legally incompetent person ~~to serve for a period not to exceed 52 weeks, unless renewed or extended by order of the board.~~ However, no guardian ad litem appointed pursuant to this Code section shall be permitted to receive the proceeds from any such action except as provided in this Code section and the board shall have the authority to determine compensation, if any, for any guardian ad litem appointed pursuant to this Code section."

SECTION 5.

Said chapter is further amended by revising paragraphs (1) and (2) of subsection (b) of Code Section 34-9-264, relating to compensation for loss of hearing caused by harmful noise under workers' compensation, as follows:

"(1) In the evaluation of occupational hearing loss, only the hearing levels at the frequencies of 500, 1,000, ~~and 2,000, and 3,000~~ cycles per second shall be considered. Hearing losses for frequencies below 500 and above ~~2,000~~ 3,000 cycles per second are not to be considered as constituting compensable hearing disability. No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid. The board may order the employer to provide the employee with an original hearing aid if it will materially improve the employee's ability to hear;

(2) The percentage of hearing loss shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, ~~and 2,000, and 3,000~~ cycles per second. Pure tone air conduction audiometric instruments, properly calibrated according to accepted national standards such as ~~American Standards Association, Inc. (ASA);~~ International Standards Organization (ISO); or American National Standards Institute, Inc. (ANSI), shall be used for measuring hearing loss. If more than one audiogram is taken, the audiogram having the lowest threshold will be used to calculate occupational hearing loss. If the losses of hearing average ~~15~~ 25 decibels (~~26 db if ANSI or ISO~~) or less in the ~~three~~ four frequencies, such losses of hearing shall not constitute any compensable hearing disability. If the losses of hearing average ~~82~~ 92 decibels (~~93 db if ANSI or ISO~~) or more in the ~~three~~ four frequencies, then the same shall constitute and be total or 100 percent compensable hearing loss. In measuring hearing impairment, the lowest measured losses in each of the ~~three~~ four frequencies shall be added together and divided by ~~three~~ four to determine the average decibel loss. For each decibel of loss exceeding ~~15~~ 25 decibels (~~26 db if ANSI or ISO~~) an allowance of 1 1/2 percent shall be made up to the maximum of 100 percent which is reached at ~~82~~ 92 decibels (~~93 db if ANSI or ISO~~). In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be

132 added to the percentage of impairment in the poorer ear, and the sum of the two divided
133 by six. The final percentage shall represent the binaural hearing impairment;"

134 **SECTION 6.**

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