

House Bill 971 (COMMITTEE SUBSTITUTE)

By: Representative Hembree of the 67th

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 style="text-align:center">**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

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

28 **SECTION 2.**

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

32 "34-9-136.

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

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

51 **SECTION 3.**

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

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

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

62 **SECTION 4.**

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

65 "34-9-226.

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

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

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

84 (2) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of
 85 a minor or legally incompetent person to compromise and terminate any claim and
 86 receive any sum paid in settlement for the benefits and use of said minor or legally
 87 incompetent person where the net settlement amount approved by the board is less than
 88 ~~\$50,000.00~~ \$100,000.00; however, where the natural parent is the guardian of a minor
 89 and the settlement amount is less than \$15,000.00, no board appointed conservator shall
 90 be necessary. After settlement, the board shall retain the authority to resolve disputes
 91 regarding continuing representation of a board appointed conservator of a minor or
 92 legally incompetent person; and

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

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

102 SECTION 5.

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

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

114 (2) The percentage of hearing loss shall be calculated as the average, in decibels, of the
 115 thresholds of hearing for the frequencies of 500, 1,000, ~~and 2,000, and 3,000~~ and 3,000 cycles per
 116 second. Pure tone air conduction audiometric instruments, properly calibrated according
 117 to accepted national standards such as ~~American Standards Association, Inc. (ASA);~~
 118 International Standards Organization (ISO); or American National Standards Institute,
 119 Inc. (ANSI), shall be used for measuring hearing loss. If more than one audiogram is
 120 taken, the audiogram having the lowest threshold will be used to calculate occupational
 121 hearing loss. If the losses of hearing average ~~15~~ 25 decibels (~~26 db if ANSI or ISO~~) or
 122 less in the ~~three~~ four frequencies, such losses of hearing shall not constitute any
 123 compensable hearing disability. If the losses of hearing average ~~82~~ 92 decibels (~~93 db~~
 124 ~~if ANSI or ISO~~) or more in the ~~three~~ four frequencies, then the same shall constitute and
 125 be total or 100 percent compensable hearing loss. In measuring hearing impairment, the
 126 lowest measured losses in each of the ~~three~~ four frequencies shall be added together and
 127 divided by ~~three~~ four to determine the average decibel loss. For each decibel of loss
 128 exceeding ~~15~~ 25 decibels (~~26 db if ANSI or ISO~~) an allowance of 1 1/2 percent shall be
 129 made up to the maximum of 100 percent which is reached at ~~82~~ 92 decibels (~~93 db if~~
 130 ~~ANSI or ISO~~). In determining the binaural percentage of loss, the percentage of
 131 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.