

House Bill 971 (AS PASSED HOUSE AND SENATE)

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 compensation for medical care,
4 artificial members, and other treatment and supplies, effect of employee's refusal of
5 treatment, and employer's liability for temporary care; to change certain provisions relating
6 to the appointment of a conservator for a minor or an incompetent claimant; to revise certain
7 provisions relating to compensation for loss of hearing caused by harmful noise; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

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

25 **SECTION 2.**

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

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

36 **SECTION 3.**

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

39 "34-9-226.

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

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

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

58 (2) The board may, in its discretion, authorize and appoint a ~~temporary~~ conservator of
 59 a minor or legally incompetent person to compromise and terminate any claim and
 60 receive any sum paid in settlement for the benefits and use of said minor or legally

61 incompetent person where the net settlement amount approved by the board is less than
 62 ~~\$50,000.00~~ \$100,000.00; however, where the natural parent is the guardian of a minor
 63 and the settlement amount is less than \$15,000.00, no board appointed conservator shall
 64 be necessary. After settlement, the board shall retain the authority to resolve disputes
 65 regarding continuing representation of a board appointed conservator of a minor or
 66 legally incompetent person; and

67 (3) If a minor or legally incompetent person does not have a duly appointed
 68 representative or conservator, the board may, in its discretion, appoint a guardian ad litem
 69 to bring or defend an action under this chapter in the name of and for the benefit of said
 70 minor or legally incompetent person ~~to serve for a period not to exceed 52 weeks, unless~~
 71 ~~renewed or extended by order of the board.~~ However, no guardian ad litem appointed
 72 pursuant to this Code section shall be permitted to receive the proceeds from any such
 73 action except as provided in this Code section and the board shall have the authority to
 74 determine compensation, if any, for any guardian ad litem appointed pursuant to this
 75 Code section."

76 SECTION 4.

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

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

88 (2) The percentage of hearing loss shall be calculated as the average, in decibels, of the
 89 thresholds of hearing for the frequencies of 500, 1,000, ~~and 2,000,~~ and 3,000 cycles per
 90 second. Pure tone air conduction audiometric instruments, properly calibrated according
 91 to accepted national standards such as ~~American Standards Association, Inc. (ASA);~~
 92 International Standards Organization (ISO); or American National Standards Institute,
 93 Inc. (ANSI), shall be used for measuring hearing loss. If more than one audiogram is
 94 taken, the audiogram having the lowest threshold will be used to calculate occupational
 95 hearing loss. If the losses of hearing average ~~±5~~ 25 decibels ~~(26 db if ANSI or ISO)~~ or
 96 less in the ~~three~~ four frequencies, such losses of hearing shall not constitute any

97 compensable hearing disability. If the losses of hearing average ~~82~~ 92 decibels (~~93 db~~
 98 ~~if ANSI or ISO~~) or more in the ~~three~~ four frequencies, then the same shall constitute and
 99 be total or 100 percent compensable hearing loss. In measuring hearing impairment, the
 100 lowest measured losses in each of the ~~three~~ four frequencies shall be added together and
 101 divided by ~~three~~ four to determine the average decibel loss. For each decibel of loss
 102 exceeding ~~15~~ 25 decibels (~~26 db if ANSI or ISO~~) an allowance of 1 1/2 percent shall be
 103 made up to the maximum of 100 percent which is reached at ~~82~~ 92 decibels (~~93 db if~~
 104 ~~ANSI or ISO~~). In determining the binaural percentage of loss, the percentage of
 105 impairment in the better ear shall be multiplied by five. The resulting figure shall be
 106 added to the percentage of impairment in the poorer ear, and the sum of the two divided
 107 by six. The final percentage shall represent the binaural hearing impairment;"

108

SECTION 5.

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