

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1977

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ENROLLED

HOUSE BILL No. 107

(By Mr. Tompkins)

— ● —

PASSED May 5, 1977

In Effect ninty days from Passage

ENROLLED

H. B. 107

(By MR. TOMPKINS)

[Passed May 5, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compromise of actions and suits in behalf of infants and insane persons and distribution of funds arising therefrom; and increasing to ten thousand dollars the maximum amount of such compromises which may be excepted from reference to a commissioner of accounts.

Be it enacted by the Legislature of West Virginia:

That section four, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. MISCELLANEOUS PROVISIONS RELATING TO PROCEDURE.

§56-10-4. Compromise of actions and suits in behalf of infants and insane persons and disbursement of funds arising therefrom.

1 In any action or suit wherein an infant or insane person is
2 a party, the court in which the same is pending, or the judge
3 thereof in vacation, shall have the power to approve and con-
4 firm a compromise of the matters in controversy on behalf of
5 such infant or insane person, if such compromise shall be
6 deemed to be to the best interest of the infant or insane per-
7 son. Such approval or confirmation shall never be granted
8 except upon written application therefor by the guardian, com-
9 mittee, curator, or next friend of the infant or insane person,
10 setting forth under oath all the facts of the case and the

11 reasons why such compromise is deemed to be for the best
12 interest of the infant or insane person. And the court or judge,
13 before approving such compromise, shall, in order to determine
14 whether to approve or disapprove the compromise, hear the
15 testimony of witnesses relating to the subject matter of the
16 compromise and cause said testimony to be reduced to writing
17 and filed with the papers in the case. The court or judge, upon
18 approving and confirming such compromise, shall enter judgment
19 or decree accordingly. Such judgment or decree shall
20 bind the respective parties thereto, including such infant or
21 insane person, with like force and effect, and shall be subject
22 to review, modification or reversal to the same extent only, as
23 if it were a consent judgment or decree, entered under similar
24 circumstances, in a case in which all the parties were adults
25 and sane. In any such compromise wherein the amount paid to
26 the guardian or committee does not exceed the sum of ten
27 thousand dollars, the court or judge approving and confirming
28 the compromise and entering judgment or decree thereon
29 may, in its or his discretion, dispense with or withdraw a
30 reference to a commissioner of accounts as to said compromise,
31 authorize the disbursement of the fund so created by the compromise
32 and may discharge the guardian or committee and the surety on his bond
33 as to the proceeding then pending in the circuit court, and in all such cases
34 a certified copy of the order of the court or judge, as the case may be,
35 shall be recorded in the office of the clerk of the county commission
36 wherein the guardian or committee was appointed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Florence C. Christensen
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Willan, Jr.
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. J. Duthart
President of the Senate

Donald L. Stopp
Speaker House of Delegates

The within *is approved* this the *16*
day of *May*, 1977.

John D. Raley
Governor

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MAY 11 11 50 AM '77
OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date May 16, 1977
Time 2:45 p.m.

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OFFICE
SECY. OF STATE