

Bill No. CS for CS for SB 374

Amendment No.      Barcode 840922

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Rossin moved the following amendment:

**Senate Amendment (with title amendment)**

On page 8, between lines 12 and 13,

insert:

Section 7. Section 744.387, Florida Statutes, is amended to read:

744.387 Settlement of claims.--

(1) When a settlement of any claim by or against the guardian, whether arising as a result of personal injury or otherwise, and whether arising before or after appointment of a guardian, is proposed, but before an action to enforce it is begun, on petition by the guardian of the property stating the facts of the claim, question, or dispute and the proposed settlement, and on any evidence that is introduced, the court may enter an order authorizing the settlement if satisfied that the settlement will be for the best interest of the ward. The order shall relieve the guardian from any further responsibility in connection with the claim or dispute when the settlement has been made in accordance with the order.

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1 The order authorizing the settlement may also determine  
2 whether an additional bond is required and, if so, shall fix  
3 the amount of it.

4 (2) In the same manner as provided in subsection (1)  
5 or as authorized by s. 744.301, the natural guardians or  
6 guardian of a minor may settle any claim by or on behalf of a  
7 minor that does not exceed \$15,000~~\$5,000~~ without bond. A  
8 legal guardianship shall be required when the amount of the  
9 net settlement to the ward exceeds \$15,000~~\$5,000~~.

10 (3)(a) No settlement after an action has been  
11 commenced by or on behalf of a ward shall be effective unless  
12 approved by the court having jurisdiction of the action.

13 (b) In the event of settlement or judgment in favor of  
14 the ward or minor, the court may authorize the natural  
15 guardians or guardian, or a guardian of the property appointed  
16 by a court of competent jurisdiction, to collect the amount of  
17 the settlement or judgment and to execute a release or  
18 satisfaction. When the amount of net settlement to the ward  
19 or judgment exceeds \$15,000~~\$5,000~~ and no guardian has been  
20 appointed, the court shall require the appointment of a  
21 guardian for the property.

22 (4) In making a settlement under court order as  
23 provided in this section, the guardian is authorized to  
24 execute any instrument that may be necessary to effect the  
25 settlement. When executed, the instrument shall be a complete  
26 release of the person making the settlement.

27 Section 8. Subsections (2) and (4) of section 744.301,  
28 Florida Statutes, are amended to read:

29 744.301 Natural guardians.--

30 (2) The natural guardian or guardians are authorized,  
31 on behalf of any of their minor children, to settle and

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1 consummate a settlement of any claim or cause of action  
2 accruing to any of their minor children for damages to the  
3 person or property of any of said minor children and to  
4 collect, receive, manage, and dispose of the proceeds of any  
5 such settlement and of any other real or personal property  
6 distributed from an estate or trust or proceeds from a life  
7 insurance policy to, or otherwise accruing to the benefit of,  
8 the child during minority, when the amount involved in any  
9 instance does not exceed \$15,000~~\$5,000~~, without appointment,  
10 authority, or bond.

11 (4)(a) In any case where a minor has a claim for  
12 personal injury, property damage, or wrongful death in which  
13 the gross settlement for the claim of the minor ~~equals or~~  
14 exceeds \$15,000~~\$10,000~~, the court may, prior to the approval  
15 of the settlement of the minor's claim, appoint a guardian ad  
16 litem to represent the minor's interests. In any case in  
17 which the gross settlement involving a minor equals or exceeds  
18 \$25,000, the court shall, prior to the approval of the  
19 settlement of the minor's claim, appoint a guardian ad litem  
20 to represent the minor's interests. The appointment of the  
21 guardian ad litem must be without the necessity of bond or a  
22 notice. The duty of the guardian ad litem is to protect the  
23 minor's interests. The procedure for carrying out that duty  
24 is as prescribed in the Florida Probate Rules. If a legal  
25 guardian of the minor has previously been appointed and has no  
26 potential adverse interest to the minor, the court may not  
27 appoint a guardian ad litem to represent the minor's  
28 interests, unless the court determines that the appointment is  
29 otherwise necessary.

30 (b) Unless waived, the court shall award reasonable  
31 fees and costs to the guardian ad litem to be paid out of the

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1 gross proceeds of the settlement.

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3 (Redesignate subsequent sections.)

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 1, line 25, after the semicolon,

9

10 insert:

11 amending s. 744.387, F.S.; raising the amount  
12 of a claim that may be settled by a natural  
13 guardian of a minor without the necessity of  
14 appointment of a legal guardian; amending s.  
15 744.301, F.S.; raising the amount of a claim  
16 that may be settled by a natural guardian of a  
17 minor without the necessity of appointment of a  
18 guardian ad litem;

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