



SPONSOR: Rep. Kowalko & Sen. Walsh
Reps. Collins, Morrison, Osienski, Wilson-Anton

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 74

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF FUNDS RECEIVED BY THE STATE OR A STATE AGENCY FROM SETTLEMENTS OR OTHER FINAL ORDERS OR JUDGMENTS OF A COURT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 25, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2512A. Disposition of funds received by the State or a State agency from a settlement or other final order or
4 judgment of a court.

5 (a) For purposes of this section:

6 (1) "Person" means an individual; corporation; business trust; estate trust; partnership; limited liability
7 company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public
8 corporation; or any other legal or commercial entity.

9 (2) "Settlement" means an agreement entered into by the State or a State agency, with or without a court's
10 participation, that ends a dispute, lawsuit, or part of the dispute or lawsuit; or ends the involvement of the State or a
11 State agency in the dispute, lawsuit, or part of the dispute or lawsuit. "Settlement" includes settlement agreements,
12 stipulation agreements, consent judgments, and consent decrees.

13 (3) "State agency" means any authority, department, instrumentality, commission, officer, board, or
14 regulatory, administrative, advisory, executive, appointive, or legislative body of the State.

15 (b) All of the following restrictions apply to settlements:

16 (1) Funds received by the State or a State agency from a settlement or other final order or judgment of a court
17 must be deposited to the General Fund, may not be transferred or expended, and must remain unexpended until the
18 funds are appropriated by the General Assembly. Nothing in this subsection may be construed to prohibit the
19 expenditure of funds to any of the following:

20 a. A party, other than the State or a State agency, to the dispute or lawsuit.

21 b. A consumer entitled to a refund, the recovery of damages, or a monetary award.

c. An attorney awarded attorneys' fees for representing a party or a consumer under this paragraph (b)(1) of this section.

(2) The Attorney General, any subordinate who has been delegated the authority to negotiate or approve a settlement, and any private counsel retained to represent a State agency may not include or agree to terms or conditions in any settlement that authorizes the expenditure, transfer, or award of funds to any person other than any of the following:

a. A party, other than the State or a State agency, to the dispute or lawsuit.

b. A consumer entitled to a refund, the recovery of damages, or a monetary award.

c. An attorney awarded attorneys' fees for representing a party or a consumer under this paragraph (b)(2) of this section.

(c) Subsections (b), (e), and (f) of this section do not apply to receipts and moneys otherwise provided for by a provision of this Code, including any of the following:

(1) Receipts and moneys received from sources other than settlements and specifically excluded from the General Fund by § 6102 of this title.

(2) All money received by the State under § 2527 of Title 6.

(3) All money received by the State under § 137 of Title 16.

(d) The Attorney General may provide a nonbinding written recommendation to the co-chairs of the Joint Finance Committee of the General Assembly for their consideration as to what purpose the funds subject to the prohibition in subsection (b) of this section should be appropriated.

(e) In addition to any other report or filing that may be required by law, and unless the settlement is sealed under a written order of a court, the Attorney General shall submit to the Controller General a copy of any settlement or other final order or judgment of a court in which the State or a State agency receives funds in excess of \$75,000. The Attorney General shall submit a copy of the settlement or other final order or judgment of a court within 60 days of the date the settlement or a final order or judgment of a court is entered. The Attorney General shall redact any information deemed confidential by State or federal law from the copy of the settlement or other final order or judgment of a court before submitting it to the Controller General.

(f) Not less than 30 days before the disbursement of funds received by the State or a State agency under a settlement agreement or other final order or judgment of a court where the amount of funds received exceeds \$75,000, the Attorney General shall file a written report with the Joint Finance Committee of the General Assembly on the payments

51 received by the State or a State agency. The Attorney General shall also report on the terms or conditions of payment and of
52 any disbursements set forth in the settlement agreement or other final order or judgment of a court.

53 (g) This section applies only to executed settlement agreements or final orders or judgments of a court and does
54 not affect the authority of the Attorney General to negotiate the settlement of cases in which the State or a State agency is a
55 party.

SYNOPSIS

This Act reaffirms the Constitutional requirement that the General Assembly appropriate money belonging to the General Fund by making clear that funds received by the State or a State agency from settlements or other final orders or judgments, other than those funds awarded specifically to a party or consumer or as attorneys' fees, or explicitly directed otherwise by law, are to be deposited to the General Fund and may not be transferred or expended until the funds are appropriated by the General Assembly. Included in the exclusion, are all funds that exist in the Delaware Code where the law provides for the money that must go to the specific fund and how the money in that fund may be spent.