§ 2106. Proceeding for compromise of controversies between claimants to property or estates where interests of persons under disability or not in being are affected

1. Where the interests of persons under disability or not in being are or may be affected

(a) A fiduciary may petition for authorization to compromise any controversy between different claimants to the estate or property or portions thereof under administration in accordance with an agreement to which all parties in being claiming an interest in the estate affected by the agreement shall be parties in person or by guardian or committee.

(b) The proponent or any party to a probate proceeding may petition to adjust by compromise any controversy existing or which may arise between the persons claiming under any will alleged to have been made by the decedent and any persons claiming as distributees of decedent or claiming to be entitled to a right of election or claiming pursuant to an agreement with the decedent or otherwise, in accordance with an agreement to which all such persons as are interested shall be parties, provided that persons named as executors to whom letters have not issued and persons whose interests are not affected by the proposed compromise are not required to be made parties.

2. A person under disability or a person not in being who has a future contingent interest is a necessary party and shall be represented by a guardian ad litem unless in the case of a person under disability his guardian, committee or conservator shall appear in his behalf. The guardian, committee or conservator so appearing or the guardian ad litem may execute in behalf of the person for whom he appears all proper instruments necessary to effect any compromise approved by the court.

3. If by the terms of the compromise money or property is directed to be held for the benefit of a person under disability or a person not in being it may in a proper case be deposited in court subject to the order of the court.

4. An agreement of compromise made as herein provided if found by the court to be just and reasonable shall be valid and binding upon the

interests of persons under disability, persons not in being and all parties to the agreement.

5. An application for the approval of a compromise hereunder must be made by verified petition or, if made in a pending proceeding, by verified supplemental petition, which shall show the provisions of any instruments or documents under which claim is made to the property or estate in controversy, all facts concerning the identity and claims of the parties to the controversy, the possible contingent interests of persons not in being and the necessity for the approval of the compromise.

6. The court may entertain the application prior to the execution of the proposed compromise agreement by all the parties required to execute it and may permit its execution after the commencement of the proceeding by any person interested.

7. The court shall inquire into the facts and make such order or decree as justice shall require in any proceeding.