



Human Services Committee

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09500HB4574ham001

LRB095 15595 DRJ 46716 a

1 AMENDMENT TO HOUSE BILL 4574

2 AMENDMENT NO. _____. Amend House Bill 4574 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-13 as follows:

6 (305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

7 Sec. 5-13. Claim against estate of recipients. To the
8 extent permitted under the federal Social Security Act, the
9 amount expended under this Article (1) for a person of any age
10 who is an inpatient in a nursing facility, an intermediate care
11 facility for the mentally retarded, or other medical
12 institution, or (2) for a person aged 55 or more, shall be a
13 claim against the person's estate ~~or a claim against the estate~~
14 ~~of the person's spouse, regardless of the order of death,~~ but
15 no recovery may be had thereon until after the death of the
16 surviving spouse, if any, and then only at such time when there

1 is no surviving child who is under age 21, or blind, or
2 permanently and totally disabled. This Section, however, shall
3 not bar recovery at the death of the person of amounts of
4 medical assistance paid to or in his behalf to which he was not
5 entitled; provided that such recovery shall not be enforced
6 against any real estate while it is occupied as a homestead by
7 the surviving spouse or other dependent, if no claims by other
8 creditors have been filed against the estate, or if such claims
9 have been filed, they remain dormant for failure of prosecution
10 or failure of the claimant to compel administration of the
11 estate for the purpose of payment. The term "estate", as used
12 in this Section, with respect to a deceased person, means all
13 real and personal property and other assets included within the
14 person's estate, as that term is used in the Probate Act of
15 1975; however, in the case of a deceased person who has
16 received (or is entitled to receive) benefits under a long-term
17 care insurance policy in connection with which assets or
18 resources are disregarded to the extent that payments are made
19 or because the deceased person received (or was entitled to
20 receive) benefits under a long-term care insurance policy,
21 "estate" also includes any other real and personal property and
22 other assets in which the deceased person had any legal title
23 or interest at the time of his or her death (to the extent of
24 that interest), including assets conveyed to a survivor, heir,
25 or assignee of the deceased person through joint tenancy,
26 tenancy in common, survivorship, life estate, living trust, or

1 other arrangement. The term "homestead", as used in this
2 Section, means the dwelling house and contiguous real estate
3 occupied by a surviving spouse or relative, as defined by the
4 rules and regulations of the Illinois Department, regardless of
5 the value of the property.

6 A claim arising under this Section against assets conveyed
7 to a survivor, heir, or assignee of the deceased person through
8 joint tenancy, tenancy in common, survivorship, life estate,
9 living trust, or other arrangement is not effective until the
10 claim is recorded or filed in the manner provided for a notice
11 of lien in Section 3-10.2. The claim is subject to the same
12 requirements and conditions to which liens on real property
13 interests are subject under Sections 3-10.1 through 3-10.10. A
14 claim arising under this Section attaches to interests owned or
15 subsequently acquired by the estate of a recipient or the
16 estate of a recipient's surviving spouse. The transfer or
17 conveyance of any real or personal property of the estate as
18 defined in this Section shall be subject to the fraudulent
19 transfer conditions that apply to real property in Section 3-11
20 of this Code.

21 The provisions of this Section shall not affect the
22 validity of claims against estates for medical assistance
23 provided prior to January 1, 1966 to aged, blind, or disabled
24 persons receiving aid under Articles V, VII and VII-A of the
25 1949 Code.

26 Notwithstanding any other rulemaking authority that may

1 exist, neither the Governor nor any agency or agency head under
2 the jurisdiction of the Governor has any authority to make or
3 promulgate rules to implement or enforce the provisions of this
4 amendatory Act of the 95th General Assembly. If, however, the
5 Governor believes that rules are necessary to implement or
6 enforce the provisions of this amendatory Act of the 95th
7 General Assembly, the Governor may suggest rules to the General
8 Assembly by filing them with the Clerk of the House and
9 Secretary of the Senate and by requesting that the General
10 Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;
25 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".