

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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  
17 is no surviving child who is under age 21, or blind, or  
18 permanently and totally disabled. This Section, however, shall  
19 not bar recovery at the death of the person of amounts of  
20 medical assistance paid to or in his behalf to which he was not  
21 entitled; provided that such recovery shall not be enforced  
22 against any real estate while it is occupied as a homestead by  
23 the surviving spouse or other dependent, if no claims by other

1 creditors have been filed against the estate, or if such claims  
2 have been filed, they remain dormant for failure of prosecution  
3 or failure of the claimant to compel administration of the  
4 estate for the purpose of payment. The term "estate", as used  
5 in this Section, with respect to a deceased person, means all  
6 real and personal property and other assets included within the  
7 person's estate, as that term is used in the Probate Act of  
8 1975; however, in the case of a deceased person who has  
9 received (or is entitled to receive) benefits under a long-term  
10 care insurance policy in connection with which assets or  
11 resources are disregarded to the extent that payments are made  
12 or because the deceased person received (or was entitled to  
13 receive) benefits under a long-term care insurance policy,  
14 "estate" also includes any other real and personal property and  
15 other assets in which the deceased person had any legal title  
16 or interest at the time of his or her death (to the extent of  
17 that interest), including assets conveyed to a survivor, heir,  
18 or assignee of the deceased person through joint tenancy,  
19 tenancy in common, survivorship, life estate, living trust, or  
20 other arrangement. The term "homestead", as used in this  
21 Section, means the dwelling house and contiguous real estate  
22 occupied by a surviving spouse or relative, as defined by the  
23 rules and regulations of the Illinois Department, regardless of  
24 the value of the property.

25 A claim arising under this Section against assets conveyed  
26 to a survivor, heir, or assignee of the deceased person through

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

14 The provisions of this Section shall not affect the  
15 validity of claims against estates for medical assistance  
16 provided prior to January 1, 1966 to aged, blind, or disabled  
17 persons receiving aid under Articles V, VII and VII-A of the  
18 1949 Code.

19 Notwithstanding any other rulemaking authority that may  
20 exist, neither the Governor nor any agency or agency head under  
21 the jurisdiction of the Governor has any authority to make or  
22 promulgate rules to implement or enforce the provisions of this  
23 amendatory Act of the 95th General Assembly. If, however, the  
24 Governor believes that rules are necessary to implement or  
25 enforce the provisions of this amendatory Act of the 95th  
26 General Assembly, the Governor may suggest rules to the General

1 Assembly by filing them with the Clerk of the House and  
2 Secretary of the Senate and by requesting that the General  
3 Assembly authorize such rulemaking by law, enact those  
4 suggested rules into law, or take any other appropriate action  
5 in the General Assembly's discretion. Nothing contained in this  
6 amendatory Act of the 95th General Assembly shall be  
7 interpreted to grant rulemaking authority under any other  
8 Illinois statute where such authority is not otherwise  
9 explicitly given. For the purposes of this amendatory Act of  
10 the 95th General Assembly, "rules" is given the meaning  
11 contained in Section 1-70 of the Illinois Administrative  
12 Procedure Act, and "agency" and "agency head" are given the  
13 meanings contained in Sections 1-20 and 1-25 of the Illinois  
14 Administrative Procedure Act to the extent that such  
15 definitions apply to agencies or agency heads under the  
16 jurisdiction of the Governor.

17 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;  
18 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.