

HB0746



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0746

Introduced 2/6/2009, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-13

from Ch. 23, par. 5-13

Amends the Illinois Public Aid Code. In connection with provisions for a State claim against the estate of medical assistance recipients, deletes a provision that the amount expended (1) for a person of any age who is an inpatient in a nursing facility, an intermediate care facility for the mentally retarded, or other medical institution, or (2) for a person aged 55 or more, shall be a claim against the estate of the person's spouse. Effective immediately.

LRB096 04731 DRJ 14794 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;
20 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.