

FINAL BILL REPORT

SHB 2304

C 292 L 05

Synopsis as Enacted

Brief Description: Recovering debts owed to the state for medical assistance.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Sommers, McCoy and Williams; by request of Office of Financial Management).

House Committee on Appropriations

Background:

The Department of Social and Health Services (DSHS) recovers the cost of publicly-funded long-term care and medical assistance expenses from the estates of deceased clients who received such services. In accordance with state and federal law, the DSHS is directed to seek estate recovery from persons who received medical assistance after age 55. Recovery may include placing liens on the property of a deceased recipient following the recipient's death. In limited circumstances, federal law permits the DSHS to place liens against a recipient's property prior to the recipient's death. However, state law does not allow the DSHS to impose a lien during the recipient's lifetime. Additionally, federal law requires deferral of recovery until the death of a surviving spouse and while there is a surviving child who is under age 21, blind, or disabled residing in the home.

If a recipient sells or transfers property within three years of receiving Medicaid-funded services, the value of the sold or transferred property is treated as client income. However, the DSHS often has no way of knowing when such transfers occur.

A homestead, which is the property an owner uses as a residence, is exempted from attachment, execution, and forced sale for the owner's debts up to \$40,000. Judgments against a homestead owner that are greater than \$40,000 become liens on the value of the homestead in excess of the homestead exemption.

The DSHS cannot collect overpayments or other debts due to the DSHS six years after the DSHS gives notice of such overpayments or debts. The DSHS may collect such debts within 10 years if it has initiated court action to recover such debts.

Summary:

When an individual who holds a title to real property receives medical assistance, the DSHS may file with the county auditor a request for a notice of transfer or encumbrance of the real property. Title insurance companies or agents that discover such a request when performing a title search must disclose the request in a report preliminary to, or commitment to offer, a certificate of title insurance for the property. A person who transfers or encumbers the affected property must notify the DSHS.

Consistent with federal law, the DSHS is directed to place liens on the property of a medical assistance recipient prior to the recipient's death if the recipient is unlikely to be discharged from a medical institution or return home.

A homestead exemption will not be available against an execution or forced sale to satisfy a judgment obtained on debts owed to the state for the recovery of medical assistance costs.

The statute of limitations for enforcement of liens filed by the DSHS to recover medical assistance costs is changed from six years to twenty years, and this time period begins to run from the date the DSHS lien was recorded. The DSHS is directed to adopt rules providing notice and hearing rights for the property owner when it files liens or requests for notice of transfer or encumbrance.

The DSHS liens for recovery of medical assistance costs will be enforceable against a decedent's life estate or joint tenancy interest in real property immediately prior to the decedent's death. The value of the life estate subject to the lien will be the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death. The value of the joint tenancy interest subject to the lien will be the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property had the recipient and the surviving joint tenants held title to the property as tenants in common on the date of the recipient's death.

For liens against life estates or joint tenancy interests, the DSHS may not enforce the lien against either a bona fide purchaser who obtains an interest in the property after the recipient died but before the DSHS filed a lien or a property right that vested before July 1, 2005.

Votes on Final Passage:

House	56	41	
Senate	40	9	(Senate amended)
House	54	42	(House concurred)

Effective: July 24, 2005