

SENATE BILL REPORT

SB 6095

As Reported By Senate Committee On:
Ways & Means, April 4, 2005

Title: An act relating to debts owed to the department of social and health services for medical assistance and recovery of those debts.

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

Sponsors: Senator Prentice; by request of Office of Financial Management.

Brief History:

Committee Activity: Ways & Means: 4/1/05, 4/4/05 [DPS, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6095 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Kohl-Welles, Parlette, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Pflug, Roach and Schoesler.

Staff: Tim Yowell (786-7435)

Background: The Department of Social and Health Services (DSHS) recovers the cost of publicly-funded long-term care and medical assistance from recipients' estates after their death. Recovery is deferred until the death of a surviving spouse. Recovery is also deferred if there is a surviving child residing in the family home who is under age 21, blind, or disabled. Estate recoveries are projected to total about \$14.5 million this fiscal year.

Under current state and federal law, 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, DSHS often has no way of knowing when such transfers occur.

DSHS places liens on recipients' property following their death. Unlike federal law, state law does not allow the department to impose a lien during the recipients' lifetime.

The property an owner uses as a residence is subject to a \$40,000 homestead exemption from attachment or forced sale for the owner's debts. Judgements against the owner that are greater than \$40,000 become liens on the property's value in excess of this exemption.

DSHS must collect overpayments or other debts due the state within six years after giving notice of the overpayment or debt, or within ten years if it has initiated court action to recover the debt.

Summary of Substitute Bill: DSHS may file a request for notice when real property owned by a public assistance recipient is transferred or encumbered. County auditors must record the request in the property's deed and mortgage records. An individual transferring or encumbering the property must notify DSHS within 30 days of the property's transfer or encumbrance.

DSHS is directed to place property liens prior to a client's death if the client's condition is such that he or she is not reasonably likely to return to the property from a medical institution. DSHS must provide notice and opportunity for a hearing before filing the lien. If there is a judgement ordering a forced sale, debts owed the state for recovery of long-term care and medical assistance costs are not subject to the homestead exemption.

The statute of limitations for collection of an estate recovery debt due to DSHS is changed from changed from six years from the date of notice to 20 years from the date a lien is recorded.

DSHS liens for recovery of long-term care and medical assistance costs are enforceable against a deceased recipient's life estate or joint tenancy interest in real property acquired after June 30, 2005. However, such a lien is not enforceable against someone who purchases the property before the lien or before a request for notice is filed. The value of the life estate subject to the lien is the value of the deceased recipient's interest in the property immediately prior to death. The value of the joint tenancy interest subject to the lien is the fractional interest the recipient would have owned in the property if he or she and the other joint tenants had held title to the property as tenants in common on the date of the recipient's death.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The additional tools provided by this legislation will enable DSHS to increase estate recoveries, which will assist with balancing the state budget. DSHS has been working with the Washington Land Title Association to resolve some concerns they had about the original bill.

Testimony Against: None.

Other: The Washington Land Title Association had concerns with the way in which the request for notice was structured in the original bill, but those have been resolved in the substitute version being heard by the committee. There continue to be some concerns that the original provisions regarding liens on life estates and joint tenancies might result in a situation in which a subsequent purchaser only found out after the fact that there was a lien on the property, but DSHS and the Association are close to agreement on revised language that will resolve this.

Who Testified: PRO: Stan Marshburn, Department of Social and Health Services. OTHER: Dwight Bickel, Washington Land Title Association.