

STATEMENT OF PURPOSE

RS18661

When a person applies for and receives medical assistance (Medicaid) to provide for long-term-care services such as nursing home care, they are restricted in their ability to give away their property without receiving fair market value. Sometimes, after qualifying for medical assistance, an individual or his representative, through a power of attorney or other authority will sell the real property without using the proceeds to pay for the individual's ongoing care or to repay Medicaid as required by law. This may happen innocently, because of ignorance of legal requirements, because of misunderstanding, or may be an attempt to avoid Medicaid recovery laws. This legislation permits the Department of Health and Welfare to record a "request for notice" relating to the real property of a Medicaid recipient to assure that the Department receives notice if the real property is being sold or encumbered. This will permit the Department to be aware of the transfer and advise the seller of the potential consequences of the transaction, or to prevent the seller from diverting the proceeds of the sale in a manner contrary to Medicaid recovery laws. It is not, itself, a lien or encumbrance on the real property, but only provides for notice to the Department. The legislation also provides for a termination of such request for notice.

FISCAL NOTE

This bill will have no negative fiscal impact. It should have a positive fiscal effect by preventing improper asset transfers, thereby reducing the cost to the Department for recovery efforts where property is incorrectly transferred, either intentionally or ignorantly. It should also allow recovery in cases where the proceeds would otherwise be dissipated and no practical recovery could be made.

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