

104TH CONGRESS  
2D SESSION

# H. R. 2883

To amend title XIX to the Social Security Act to eliminate the requirement for States to seek recovery of medical assistance properly paid and to restrict the use of liens and such recovery in any MediGrant program and any other future medical assistance programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1996

Mr. BRYANT of Texas introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend title XIX to the Social Security Act to eliminate the requirement for States to seek recovery of medical assistance properly paid and to restrict the use of liens and such recovery in any MediGrant program and any other future medical assistance programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Farm and  
5 Home Protection Act”.

1 **SEC. 2. REVISION OF STATE AUTHORITY IN IMPOSING**  
2 **LIENS AND RECOVERING FOR MEDICAL AS-**  
3 **SISTANCE PROPERLY MADE.**

4 (a) **ELIMINATING MEDICAID MANDATE FOR STATE**  
5 **RECOVERIES.**—Subsection (b)(1) of section 1917 of the  
6 Social Security Act (42 U.S.C. 1396p) is amended by  
7 striking “except that” and all that follows and inserting  
8 the following: “except—

9 “(A) in the case of an individual described in  
10 subsection (a)(1)(B), from the individual’s estate or  
11 upon sale of the property, subject to a lien imposed  
12 on account of medical assistance paid on behalf of  
13 such individual, and

14 “(B) in the case of any other individual who is  
15 65 years of age or older, when the individual re-  
16 ceived such assistance, from the individual’s estate.”.

17 (b) **REVISION OF DEFINITION OF ESTATE.**—Section  
18 1917(b)(4) of such Act (42 U.S.C. 1396p(b)(4)) is amend-  
19 ed—

20 (1) by striking “deceased individual” and all  
21 that follows through “(A) shall” and inserting “de-  
22 ceased individual shall”, and

23 (2) by striking subparagraph (B).

24 (c) **EFFECTIVE DATE.**—The amendment made by  
25 subsection (a) shall apply to medical assistance furnished  
26 on or after the date of the enactment of this Act and the

1 amendments made by subsection (b) shall apply to individ-  
2 uals dying on or after such date of enactment.

3 **SEC. 3. RESTRICTING RECOVERY OF MEDICAL ASSISTANCE**

4 **PROPERLY PAID IN OTHER FEDERALLY AS-**  
5 **SISTED MEDICAL ASSISTANCE PROGRAMS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law, no Federal funds shall be paid to a State  
8 under a State medical assistance program (as defined in  
9 subsection (d)) unless the conditions of subsections (b)  
10 and (c) are met.

11 (b) LIMITATION ON IMPOSITION OF LIENS.—

12 (1) IN GENERAL.—No lien may be imposed  
13 against the property of any individual prior to his  
14 death on account of medical assistance paid or to be  
15 paid on his behalf under the State medical assist-  
16 ance program, except—

17 (A) pursuant to the judgment of a court  
18 on account of benefits incorrectly paid on behalf  
19 of such individual, or

20 (B) in the case of the real property of an  
21 individual—

22 (i) who is an inpatient in a nursing  
23 facility, intermediate care facility for the  
24 mentally retarded, or other medical institu-  
25 tion, if such individual is required, as a

1 condition of receiving services in such insti-  
2 tution under the State program, to spend  
3 for costs of medical care all but a minimal  
4 amount of his income required for personal  
5 needs, and

6 (ii) with respect to whom the State  
7 determines, after notice and opportunity  
8 for a hearing (in accordance with proce-  
9 dures established by the State), that he  
10 cannot reasonably be expected to be dis-  
11 charged from the medical institution and  
12 to return home,

13 except as provided in paragraph (2).

14 (2) ADDITIONAL LIMITATION.—No lien may be  
15 imposed under paragraph (1)(B) on such individ-  
16 ual's home if—

17 (A) the spouse of such individual,

18 (B) such individual's child who is under  
19 age 21 and is blind or disabled as defined in  
20 section 1614 of the Social Security Act, or

21 (C) a sibling of such individual (who has  
22 an equity interest in such home and who was  
23 residing in such individual's home for a period  
24 of at least one year immediately before the date

1 of the individual's admission to the medical in-  
2 stitution),

3 is lawfully residing in such home.

4 (3) DISSOLUTION OF LIENS.—Any lien imposed  
5 with respect to an individual pursuant to paragraph  
6 (1)(B) shall dissolve upon that individual's discharge  
7 from the medical institution and return home.

8 (c) LIMITATION ON ADJUSTMENT OR RECOVERY.—

9 (1) IN GENERAL.—No adjustment or recovery  
10 of any medical assistance correctly paid on behalf of  
11 an individual under the State medical assistance  
12 program may be made, except—

13 (A) in the case of an individual described  
14 in subsection (b)(1)(B), from the individual's  
15 estate or upon sale of the property, subject to  
16 a lien imposed on account of medical assistance  
17 paid on behalf of such individual, and

18 (B) in the case of any other individual who  
19 is 65 years of age or older, when the individual  
20 received such assistance, from the individual's  
21 estate.

22 (2) LIMITATION.—Any adjustment or recovery  
23 under paragraph (1) may be made only after the  
24 death of the individual's surviving spouse, if any,  
25 and only at a time—

1 (A) when he has no surviving child who is  
2 under age 21, or (with respect to States eligible  
3 to participate in the State program established  
4 under title XVI of the Social Security Act) is  
5 blind or permanently and totally disabled, or  
6 (with respect to States which are not eligible to  
7 participate in such program) is blind or dis-  
8 abled as defined in section 1614 of such Act;  
9 and

10 (B) in the case of a lien on an individual's  
11 home under subsection (b)(1)(B), when—

12 (i) no sibling of the individual (who  
13 was residing in the individual's home for a  
14 period of at least one year immediately be-  
15 fore the date of the individual's admission  
16 to the medical institution), and

17 (ii) no son or daughter of the individ-  
18 ual (who was residing in the individual's  
19 home for a period of at least two years im-  
20 mediately before the date of the individ-  
21 ual's admission to the medical institution,  
22 and who establishes to the satisfaction of  
23 the State that he or she provided care to  
24 such individual which permitted such indi-

1           vidual to reside at home rather than in an  
2           institution),  
3           is lawfully residing in such home and has law-  
4           fully resided in such home on a continuous  
5           basis since the date of the individual's admis-  
6           sion to the medical institution.

7           (3) PROCEDURES.—The State agency respon-  
8           sible for administration of the State medical assist-  
9           ance program shall establish procedures (in accord-  
10          ance with standards specified by the Secretary of  
11          Health and Human Services) under which the agen-  
12          cy shall waive the application of this subsection  
13          (other than paragraph (1)(C)) if such application  
14          would work an undue hardship as determined on the  
15          basis of criteria established by the Secretary.

16          (4) ESTATE DEFINED.—For purposes of this  
17          subsection, the term “estate”, with respect to a de-  
18          ceased individual, shall include all real and personal  
19          property and other assets included within the indi-  
20          vidual's estate, as defined for purposes of State pro-  
21          bate law.

22          (d) DEFINITIONS.—In this section:

23                  (1) STATE.—The term “State” includes the  
24          District of Columbia, Puerto Rico, the Virgin Is-

1 lands, Guam, American Samoa, and the Northern  
2 Mariana Islands.

3 (2) STATE MEDICAL ASSISTANCE PROGRAM.—

4 The term “State medical assistance program”  
5 means the MediGrant program (under title XXI of  
6 the Social Security Act) or other program of Federal  
7 assistance to States for medical assistance expendi-  
8 tures.

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