

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB1103

Hearing Date: Wednesday February 03, 2016
Committee On: Judiciary
Introducer: Schumacher
One Liner: Change provisions relating to medicaid reimbursements, provide for a lien, and change estate procedures

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 5 Senators Chambers, Ebke, Krist, Morfeld, Pansing Brooks
Nay:
Absent:
Present Not Voting: 3 Senators Coash, Seiler, Williams

Verbal Testimony:

Proponents:
SEN. PAUL SCHUMACHER

Representing:
INTRODUCER

Opponents:
FRANK HEINISCH
CHRISTIN LOVEGROVE

Representing:
SELF
SELF

Neutral:
RAMZI HYNEK
JENNIFER STRAND
WILLIAM LINDSAY
ROBERT HALLSTROM

Representing:
NE STATE BAR
NEBRASKA LAND TITLE ASSOCIATION
NE STATE BAR
NE BANKERS ASSOCIATION

Summary of purpose and/or changes:

LB1103 provides several provisions for attempting to recover medical assistance (Medicaid) debt.

Section 1 would amend section 30-2483 to require that notice to the Department of Health and Human Services of a decedent over 55 years of age be provided in a manner designated by DHHS.

Section 2 would delete a subsection in section 33-109 that was due to take effect on January 1, 2018 that would have reduced fees charged by county clerks and registers of deeds. This section would also provide that no fees could be collected for recording documents for DHHS pursuant to Section 5.

Section 4 would require an applicant for medical assistance to disclose all interests in real estate, trusts, corporations, LLCs or any other entity. This disclosure shall include the income derived from these sources. A failure to make the disclosure would result in a determination that benefits were unlawfully obtained. DHHS would be required to determine if any leases are commercially reasonable.

Section 5 would create a lien in favor of the State of Nebraska for reimbursement for medical assistance benefits on any

property transferred for less than full consideration and subject to rights retained by the transferor. This section would require the transferor to send a copy of the deed or instrument to DHHS and record a copy of the deed or instrument with the register of deeds within fifteen days. DHHS would then be required to file a notice of lien with the register of deeds. The grantee may also avoid the lien if an affidavit by the grantor is contemporaneously filed with the deed or instrument stating that the grantee is not subject to the provisions of this section.

Section 6 would provide that interests of a decedent with an obligation to repay medical assistance do not transfer upon death and are retained by the estate to repay the medical assistance debt.

Section 7 would amend 77-2018.02 to require that notice of an action to determine inheritance tax be provided to DHHS in the manner designated by DHHS.

Section 8 would require the office of vital records to determine before issuing a death certificate if any unresolved issues related to decedent's estate exist.

Section 9 is a severability clause in the event of a challenge to the validity or constitutionality of LB1103.

Explanation of amendments:

AM2394 replaces the original bill.

Section 12 would create a procedure for DHHS to file a notice of lien on real property for the recovery of Medicaid reimbursement. The lien would be available prospectively on any property that is transferred for less than full consideration and subject to rights of the transferor.

Section 13 would provide that an asset that transfers upon death would not transfer until a debt for Medicaid reimbursement has been paid.

Les Seiler, Chairperson