

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB72

Hearing Date: Wednesday January 21, 2015
Committee On: Judiciary
Introducer: Schumacher
One Liner: Change and provide provisions relating to trustees, liens for medicaid reimbursement, and inheritance tax petitions

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

Vote Results:

Aye:	7	Senators Chambers, Coash, Ebke, Krist, Pansing Brooks, Seiler, Williams
Nay:		
Absent:	1	Senator Morfeld
Present Not Voting:		

Verbal Testimony:

Proponents:
SEN. PAUL SCHUMACHER

Representing:
INTRODUCER

Opponents:
BOB HALLSTROM

Representing:
NEBRASKA BANKERS ASSOCIATION

Neutral:
JAMES BUSSE

Representing:
NEBRASKA LAND TITLE ASSOCIATION

Summary of purpose and/or changes:

LB 72 would provide certain procedures for satisfaction of claims for Medicaid reimbursement upon death of the recipient.

Section 1 adds subsection (c) to Section 30-3880 which would prohibit a trustee from transferring trust property to a beneficiary prior to satisfaction of all claims for Medicaid reimbursement. Section 2 amends Section 30-3881 and Section 3 amends Section 3-8882 to similar effect. All three sections allow the Department of Health and Human Services to waive the restrictions in the event that there are no claims for Medicaid reimbursement or insufficient assets to satisfy the claims.

In the event that property is transferred for less than full consideration or subject to certain rights of the transferor, Section 5 creates a lien in favor of the State of Nebraska for Medicaid reimbursement covering all medical assistance provided before, at the same time as or after the transfer. A lien does not attach if the grantor records an affidavit that the grantee is not a transferee as defined by this section. Transferees are defined as close relatives, business organizations controlled by relatives and nonrevocable trusts with a relative as beneficiary. The Department can discharge the lien if the transferee agrees to indemnify the department for Medicaid reimbursement. The indemnity will be released and the lien discharged if the Department is notified of the death of the transferor and records a release or fails to take action within one year.

Section 6 requires that in the event a petition is filed to determine inheritance tax, notice of the hearing shall be sent to the Department of Health and Human Services with the decedent's social security number if the decedent was fifty-five years of age or older or resided in a medical institution that would potentially subject them to a debt for medical assistance under Section 68-919.

Explanation of amendments:

AM604 would replace Section 5 in the original bill with two new sections. The new Section 5 would amend 33-109 to prohibit a county register of deeds or county clerk from collecting fees from the Department of Health and Human Services for recording instruments pursuant to Section 6.

Section 6 would provide for a lien in favor of the State of Nebraska for Medicaid reimbursement when property is transferred for less than full consideration or subject to rights retained by the transferor. The transferor would be required to send a copy of the deed or other instrument transferring the interest with a notice of the names and relationship between the parties and to the Department of Health and Human Services and file a copy of the notice with the register of deeds.

The lien would not attach if the grantor makes a recital under oath that the grantee is not a transferee for purposes of this section.

Les Seiler, Chairperson