

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1257, L.D. 1825, Bill, "An Act to Amend the Laws Relating to the Collection of Debts by the Department of Human Services"

Amend the bill by striking out everything after the title and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 1991, chapter 9 deappropriated funds to the Department of Human Services based upon an anticipated collection of debts owed the department; and

Whereas, this legislation is needed to facilitate the collection of those debts; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1714-A, sub-§§2 and 3, as enacted by PL 1991, c. 9, Pt. G, §4, are amended to read:

2. Establishment of debt. A debt is established by the department when it notifies a provider of debt, or when the Maine Health Care Finance Commission notifies a hospital that the hospital owes the department pursuant to a final reconciliation decision and order. A debt is collectible by the department 31 days after exhaustion of all administrative appeals and any judicial review available under Title 5, chapter 375.

COMMITTEE AMENDMENT "A" to H.P. 1257, L.D. 1825

2 3. Notice of debt. Any notice of debt issued to a provider
by the department, must include the following:

4 A. A statement of the debt accrued;

6 B. A statement of the time period during which the debt
accrued;

8 C. The basis for the debt;

10 D. The debtor's right to request a fair hearing within 30
12 days of receipt of the notice; and

14 E. A statement that after a debt is established, the
department may proceed to collect that debt through
16 administrative offset, lien and foreclosure, or other
collection action.

18 Sec. 2. 22 MRSA §1714-A, sub-§4, ¶¶C and E, as enacted by PL
20 1991, c. 9, Pt. G, §4, are amended to read:

22 C. The department shall provide written notice of the
requirements of this law section to the transferee in a
24 letter acknowledging receipt of a request for a certificate
of need or waiver of the certificate of need for a nursing
26 home or hospital transfer or in response to a request for an
application for a license to operate a boarding home.

28 E. Nothing in this subsection may limit the liability of
30 the former provider to the department for any debts whether
or ~~are~~ not they are identified at the time of sale. In
32 addition, a transferee has a cause of action against a
former provider to the extent that debts of the former
34 provider are paid by the transferee, unless the transferee
has waived the right to sue the former provider for those
36 debts.

38 Sec. 3. 22 MRSA §1714-A, sub-§4, ¶F is enacted to read:

40 F. The commissioner may waive all or part of a transferee's
42 liability under this subsection if the commissioner finds
that a waiver of liability is in the public interest.

44 Sec. 4. 22 MRSA §1714-A, sub-§§5 to 8 are enacted to read:

46 5. Department may offset. The department may offset
48 against current reimbursement owed to a provider or any entity
related by ownership or control to that provider any debt it is
owed by that provider after the debt becomes collectible.

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6. Liens. Collection by lien is as follows.

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A. After a debt is collectible, the amount stated in the notice of debt or overpayment is a lien in favor of the department against all real or personal property of the provider or any entity related by ownership or control to the provider.

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B. The lien attaches to all real and personal property of the responsible party when the department files in the registry of deeds of any county, or with any office appropriate for a notice with respect to personal property, a certificate that states the name of the responsible party, that party's address, the amount of debt accrued, the date of the underlying audit or decision and the name and address of the authorized agent of the department who issues the lien.

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C. When a lien has been filed and the person having notice of the lien possesses any property that may be subject to the lien, that property may not be paid over, released, sold, transferred, encumbered or conveyed unless:

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(1) A release or waiver signed by the commissioner has been delivered to the person in possession of the property; or

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(2) A court has ordered the release of the lien. A court may order a release only when alternative security has been provided for the debt owed the department.

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D. The commissioner may hold title to real or personal property for the purpose of foreclosure on filed liens. Foreclosure must proceed as follows.

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(1) Actions to foreclose liens on real property filed under this subsection may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 713, subchapter VI. For purposes of foreclosure by civil action as described in Title 14, chapter 713, subchapter VI, a lien filed in accordance with this subsection constitutes a mortgage claim of the department on any real property owned by the debtor. Failure to pay the debt owed the department constitutes a breach of condition in the mortgage.

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(2) Actions to foreclose liens on personal property filed under this subsection may be brought, pursuant to Title 14, chapter 509, subchapter III, in the county where the lien is filed.

2 7. Other collection actions. In addition to the other
3 remedies provided in this section, the department may seek
4 collection of any debt established under subsection 2 pursuant to
5 Title 14, chapter 502.

6 8. Rulemaking. The department may adopt or amend any rule
7 as necessary to implement this section.

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10 **Sec. 5. Appropriation.** The following funds are appropriated
11 from the General Fund to carry out the purposes of this Act.

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	1991-92	1992-93
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14 **HUMAN SERVICES, DEPARTMENT OF**

16 **Medical Care - Payments to Providers**

18	All Other	(\$200,000)	(\$200,000)
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20 Provides for the
21 deappropriation of funds from
22 the anticipated collection of
23 unpaid debts owed to the
24 department from health care
25 providers.

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27 **Sec. 6. Allocation.** The following funds are allocated from
28 Other Special Revenue to carry out the purposes of this Act.

	1991-92	1992-93
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32 **HUMAN SERVICES, DEPARTMENT OF**

34 **Medical Care - Payments to Providers**

36	All Other	\$200,000	\$200,000
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38 Provides for the allocation
39 of funds received from
40 collection of unpaid debts
41 owed to the department from
42 health care providers.

44 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act takes effect when approved.
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