

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 970

H.P. 730

House of Representatives, March 2, 2007

An Act To Eliminate the Estate Recovery Delayed Claims Exemption

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WEBSTER of Freeport.
Cosponsored by Senator MARTIN of Aroostook.

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

2 **Sec. 1. 22 MRSA §14, sub-§2-I, ¶C-1**, as enacted by PL 2005, c. 12, Pt. DDD,
3 §9 and affected by §17, is amended to read:

4 C-1. If a claim under this subsection is delayed pursuant to paragraph C, the
5 provisions of this paragraph apply to any recovery under paragraph C.

6 ~~(1) The following assets are exempt from recovery:~~

7 ~~(a) The first \$100,000 in value of the estate; and~~

8 ~~(b) The value of any asset of the recipient, including the value of the~~
9 ~~primary residence, that passed to the surviving spouse and was later~~
10 ~~transferred by the spouse for the sole benefit of a child who is blind or~~
11 ~~permanently and totally disabled as defined in 42 United States Code,~~
12 ~~Section 1382c.~~

13 (2) The amount of MaineCare benefits paid and recoverable under this
14 subsection is a claim against the estate of the spouse or the estate of the child if
15 that person received any asset for less than fair market value from the recipient
16 while the recipient was receiving MaineCare benefits or from the estate of the
17 recipient.

18 (3) A claim under this paragraph is enforceable as to the value of the asset on
19 the date the asset was received by the spouse or child, less any value actually
20 transferred to the recipient. The amount of the claim is not decreased by the fact
21 that the asset has been lost, diminished, sold, encumbered, transferred or the title
22 otherwise adversely affected after the date of receipt by the spouse or child.

23 **SUMMARY**

24 This bill eliminates the current exemption for estate recovery of MaineCare
25 expenditures for the surviving spouses, children or disabled children over the age of 21.
26 The federal Department of Health and Human Services, Centers for Medicare and
27 Medicaid Services has informed the Department of Health and Human Services, Office of
28 MaineCare Services that this provision is in violation of the Deficit Reduction Act of
29 2005.