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HOUSE BILL NO. 1090

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 2, 2012)

(Patron Prior to Substitute—Delegate O'Bannon)

A *BILL to amend and reenact § 32.1-325.02 of the Code of Virginia, relating to Medicaid eligibility; determination of assets.*

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325.02 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325.02. Determinations of assets; disclaimers of interests to be considered uncompensated transfers of assets for Medicaid eligibility purposes under certain circumstances.

A. When determining eligibility for medical assistance services, "assets" means, in regard to an individual, all income and resources of the individual and the individual's spouse, including, but not limited to, any income or resources which the individual or such individual's spouse is or becomes entitled to, but does not receive, because of any action by such individual or such individual's spouse, or by a person, including a court or administrative body, with legal authority to act in the place of or on behalf of the individual or such individual's spouse, or by any person, including any court or administrative body, acting at the direction of or upon the request of the individual or such individual's spouse.

B. For the sole purpose of determining eligibility for medical assistance services as provided in this title, Chapter 5 (§ 63.2-500 et seq.) of Title 63.2, and the regulations of the Department of Medical Assistance Services, any disclaimer of succession pursuant to Chapter 8.1 (§ 64.1-196.1 et seq.) of Title 64.1 shall be considered an uncompensated transfer of assets equal to the value of any interest disclaimed by any person who would, by reason of the disclaimer of succession, retain Medicaid eligibility or become eligible for medical assistance within (i) 36 months of the date that the disclaimer instrument is filed with a court of competent jurisdiction when the disclaimer instrument relates to any property other than property passed through a trust or (ii) 60 months of the date that the disclaimer instrument is filed with a court of competent jurisdiction when the disclaimer instrument relates to payments from a trust or portions of a trust.

C. For the sole purpose of determining eligibility for medical assistance services as provided in this title, Chapter 5 (§ 63.2-500 et seq.) of Title 63.2, and the regulations of the Department of Medical Assistance Services, the sale or transfer of real property at a price that is lower than the assessed value of the real property for purposes of local real estate taxation shall be considered an uncompensated transfer of assets equal to the amount of the difference between the assessed value of the property and the amount received from the sale or transfer of the property. However, the sale or transfer of real property at a price that is lower than the assessed value of the real property shall not be considered an uncompensated transfer of assets when (i) the amount received from the sale or transfer of the property is equal to or greater than the value of the property as determined by a certified appraisal of the real property, (ii) the property is sold or transferred at a price obtained in an arm's-length transaction after listing the property on a multiple listing service, (iii) the property is sold or transferred pursuant to a court order, or (iv) the sale or transfer is made for reasons exclusive of becoming or remaining eligible for medical assistance for long-term care services.

HOUSE SUBSTITUTE

HB1090H1