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**HOUSE BILL NO. 2372**

Offered January 23, 2015

A *BILL to amend the Code of Virginia by adding a section numbered 32.1-325.001, relating to medical assistance; asset verification; financial institutions to provide certain records.*

Patrons—Sickles and LeMunyon

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 32.1-325.001 as follows:**

**§ 32.1-325.001. Asset verification for applicants and recipients of medical assistance; financial institutions to disclose certain records.**

A. As used in this section,

"Electronic asset verification program" means a financial record matching program to be operated by the Department, or an agent thereof, for the purpose of verifying assets of applicants, recipients, and other individuals with respect to eligibility for medical assistance services.

"Financial institution" shall have the same meaning as set forth in § 6.2-100.

"Financial record" means an original or copy of a record held by a financial institution pertaining to a customer's relationship with the financial institution or information known to have been derived from such record.

B. The Department shall establish an electronic asset verification program for the purpose of verifying the assets of applicants for and recipients of medical assistance who are applying for or receiving medical assistance as aged, blind, or disabled individuals or for whom a resource test is required to determine eligibility for medical assistance, in accordance with the requirements of 42 U.S.C. § 1396w. Such asset verification program shall consist of electronic financial record matching with financial institutions in the Commonwealth. Every financial institution doing business in the Commonwealth shall provide to the Department any financial records of applicants for and recipients of medical assistance described in subsection A and of all individuals other than the applicant or recipient the resources of which individuals are required to be considered in determining whether an applicant or recipient is eligible for medical assistance upon request whenever the Department determines that such financial record is required in connection with a determination or redetermination of eligibility for medical assistance or the amount of medical assistance.

C. Every applicant for medical assistance shall provide the Department with authorization to verify assets in accordance with this section as part of the application process. Such authorization shall be deemed to meet the requirements of the Right to Financial Privacy Act for purposes of § 1103(a) (12 U.S.C. § 3403(a)) of such Act, and, notwithstanding the requirements of § 1104(a) of the Right to Financial Privacy Act (12 U.S.C. § 3404(a)), the Department shall not be required to furnish a copy of such authorization to a financial institution from which the Department is seeking financial records pursuant to this section. Certification requirements set forth in § 1103(a) of the Right to Financial Privacy Act (12 U.S.C. § 3413(a)) shall not apply to requests for financial records made by the Department for which the Department has obtained an authorization pursuant to this subsection. A request for financial records made by the Department in accordance with an authorization obtained in accordance with this subsection shall be deemed to meet the requirements of §§ 1102 and 1104(a)(3) of the Right to Financial Privacy Act (12 U.S.C. §§ 3402 and 3404(a)(3)), relating to a reasonable description of financial records.

D. Notwithstanding the requirements of § 1104(a)(1) of the Right to Financial Privacy Act (12 U.S.C. § 3404(a)(1)), such authorization shall remain effective until the earliest of:

1. The rendering of a final adverse decision regarding the applicant's eligibility for medical assistance under the state plan;

2. Such time as the recipient becomes ineligible for medical assistance under the state plan; or

3. The express revocation of the authorization by the applicant, recipient, or individual other than the applicant or recipient whose resources are required to be considered in determining whether the applicant or recipient is eligible for medical assistance, made in writing and submitted to the Department.

E. Failure or refusal of an applicant for or recipient of medical assistance or any individual other than the applicant or recipient whose resources are required to be considered in determining whether the applicant or recipient is eligible for medical assistance to provide an authorization pursuant to subsection C, or revocation of an authorization provided pursuant to subsection B by an applicant for

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59 *or recipient of medical assistance or any individual other than the applicant or recipient whose*  
60 *resources are required to be considered in determining whether the applicant or recipient is eligible for*  
61 *medical assistance, may constitute grounds for denial or revocation of eligibility for medical assistance*  
62 *under the state plan.*

63 *F. Electronic asset verification pursuant to this section shall be subject to the cost reimbursement*  
64 *requirements of the Right to Financial Privacy Act (12 U.S.C. § 3415) and shall be performed at no*  
65 *cost to the applicant for or recipient of medical assistance. The Department shall reimburse financial*  
66 *institutions in an amount not to exceed actual costs incurred by the financial institution when complying*  
67 *with the requirements of this section.*

68 *G. The Department or its agent shall enter into an agreement with a financial institution doing*  
69 *business in the Commonwealth to participate in an electronic financial record matching program to*  
70 *identify the assets of an applicant for or recipient of medical assistance or an individual other than the*  
71 *applicant or recipient whose resources are required to be considered in determining whether the*  
72 *applicant or recipient is eligible for medical assistance that:*

73 *1. Uses electronic data exchanges, not to include facsimile transmissions;*

74 *2. Enables the Department to receive historical account information up to 60 months retrospectively*  
75 *from the date of the application for or redetermination of eligibility for medical assistance; and*

76 *3. Requires financial institutions to respond to requests for information within a reasonable time, not*  
77 *to exceed three business days for requests for current account information and 30 calendar days for*  
78 *request for historical account information.*

79 *H. No financial institution that discloses financial records to the Department pursuant to this section*  
80 *shall be subject to civil or criminal liability for such disclosures or for any other action taken in good*  
81 *faith in accordance with the provisions of this section, in accordance with federal law and regulations.*