

1995 SESSION

HOUSE SUBSTITUTE

LD3466813

HOUSE BILL NO. 2346

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 2, 1995)

(Patron Prior to Substitute—Delegate Cantor)

A BILL to amend and reenact § 63.1-133.1 of the Code of Virginia, relating to liens on property of medical assistance recipients.

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-133.1 of the Code of Virginia is amended and reenacted as follows:

§ 63.1-133.1. No lien to attach to property of applicant or recipient; exceptions; release of existing unforeclosed liens.

A. No lien in favor of the Commonwealth or any of its political subdivisions shall be claimed against, levied or attached to the real or personal property of any applicant for or recipient of public welfare assistance and services as a condition of eligibility therefor or to recover such aid following the death of such applicant or recipient except applicants for or recipients of long-term care nursing facility benefits paid for by the Department of Medical Assistance Services.

B. *To the extent permitted by applicable federal law and regulation, including Title XIX of the Social Security Act, and pursuant to the state plan for medical assistance services, the Department of Medical Assistance Services shall have a lien upon the real property of residents of long-term-care nursing facilities for the total amount paid by the Department for long-term-care nursing facility benefits. The lien shall be effective upon the filing of a memorandum of lien in the office of the clerk of the circuit court of any county or city in which the resident owns real estate. The clerk shall record the lien in the judgment docket book, and it shall have the effect of a judgment in favor of the Commonwealth.*

C. However, this section shall not be construed to bar any action by the Commonwealth or a local department of welfare or social services which seeks reimbursement for part or all of the costs incurred by the Commonwealth or local department of welfare or social services for care and maintenance provided to an applicant of the Federal Supplemental Security Income program during the application period when such applicant becomes eligible for the program retroactive to the date of application. In addition, this section shall not be construed to bar any action by the Commonwealth or a local department of welfare or social services which seeks reimbursement for public assistance paid through the Aid to Families with Dependent Children or refugee programs while the family attempts to dispose of real property which together with other resources causes its total resources to be in excess of the state's allowable reserve.

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