

SENATE JOINT RESOLUTION NO. 490

Memorializing the Congress of the United States to establish a limited pilot program which exempts the Commonwealth of Virginia from the provisions of § 13612 (a) (C) of the Omnibus Reconciliation Act of 1993 requiring states to make recovery from the estates of persons who had enjoyed enhanced Medicaid asset protection.

Agreed to by the Senate, February 4, 1999
Agreed to by the House of Delegates, February 25, 1999

WHEREAS, prior to 1993, federal Medicaid regulations allowed states flexibility in the treatment of assets in determining eligibility; and

WHEREAS, Connecticut, New York, Indiana, and California were able to establish public/private long-term care partnerships to provide incentives for the purchase of long-term care insurance; and

WHEREAS, under these partnership programs, if a policyholder requires long-term care and eventually exhausts his private insurance benefits, the policyholder is permitted to keep more of his assets while still qualifying for Medicaid coverage; and

WHEREAS, the Omnibus Budget Reconciliation Act of 1993 included a provision, § 13612 (a) (C), that discourages additional states from implementing such partnerships; and

WHEREAS, this provision requires states to make recovery from the estates of persons who had enjoyed enhanced Medicaid asset protection, thereby making the asset protection provided by the public/private partnerships only temporary; and

WHEREAS, the General Assembly, pursuant to Senate Joint Resolution No. 365 (1997), urged Congress to repeal § 13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993; and

WHEREAS, the Governor has requested that Congress remove § 13612 (a) (C) and allow additional states to establish asset protection programs for individuals who purchase qualified long-term care insurance policies without requiring that states recover such assets upon a beneficiary's death; and

WHEREAS, the removal of § 13612 (a) (C) would make such partnerships much more attractive to potential participants, especially if they are motivated by a desire to pass some of their assets on to their children; and

WHEREAS, having long-term care insurance reduces the possibility that individuals will spend down to Medicaid eligibility levels; and

WHEREAS, long-term care insurance, by reducing the Medicaid expenditures for policyholders, helps states control Medicaid costs; and

WHEREAS, Congress has not yet acted to repeal § 13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to establish a limited pilot program which exempts the Commonwealth of Virginia from the provisions of § 13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993 requiring states to make recovery from the estates of persons who had enjoyed enhanced Medicaid asset protection; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives, and the Congressional Delegation of Virginia in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.

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