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ARTICLE 27

RELATING TO MEDICAL ASSISTANCE RECOVERIES

SECTION 1. Chapter 34-4 of the General Laws entitled "Estates in Real Property" is hereby amended by adding thereto the following section:

34-4-2.1. Reservation of Life Estate with enhanced powers. -- A grantor may convey title to real estate and reserve a life estate therein, coupled with the reserved power and authority, during his or her lifetime, to sell, convey, mortgage, or otherwise dispose of the real property without the consent or joinder by the holders of the remainder interest. A duly-executed conveyance by the life tenant exercising such reserved powers shall, upon recording, vest good title to the interest conveyed in the grantee thereof, free and clear of any right, title and interest of the holders of the remainder interest without the necessity of any additional conveyance by any such remaindermen.

SECTION 2. Section 40-6-9 of the General Laws in Chapter 40-6 entitled "Public Assistance Act" is hereby amended to read as follows:

40-6-9. Assignment and subrogation for recovery of child, spousal and medical support rights. -- (a) An applicant for or recipient of public assistance under this chapter or under title XIX of the federal Social Security Act, 42 U.S.C. § 1396 et seq., for and on behalf of himself or herself and for and on behalf of a child or children, shall be deemed, without the necessity of signing any document for purposes of recovery, to have made an assignment and given a right of subrogation to the executive office of health and human services and/or the department of human services, as applicable, of any and all rights and interests in any cause of action, past, present, or future, that the applicant or recipient may have against any person failing to or obligated to provide for the support, maintenance, and medical care of the applicant, recipient, and/or minor child or children, for the period of time that assistance is being paid by the executive office of health and human services and/or the department. The executive office of health and human services and/or the department shall be subrogated to any and all rights, title, and interest the applicant or recipient may have against any and all property belonging to the obligated or non-supporting person in the enforcement of any claim for child, spousal, and medical support, whether liquidated through court order or not. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the executive

1 office of health and human services and/or the department of human services as his or her true
2 and lawful attorney in fact to act in his or her name, place, and stead to perform the specific act of
3 instituting suit to establish paternity or secure support and medical care, collecting any and all
4 amounts due and owing for child, spousal, and medical support, endorsing any and all drafts,
5 checks, money orders, or other negotiable instruments representing support payments which are
6 received by executive office of health and human services and/or the department, and retaining
7 any portion thereof permitted under federal and state statutes as reimbursement for financial, ~~and~~
8 medical and any other assistance previously paid to or for the recipient, child, or children.

9 (b) An applicant for or a recipient of medical assistance provided by executive office of
10 health and human services and/or the department pursuant to this chapter or chapter 8 of this title
11 or title XIX of the federal Social Security Act, 42 U.S.C. § 1396 et seq., for and on behalf of
12 himself or herself, and for and on behalf of any other person for whom he or she may legally
13 assign rights to any medical support or any other medical care, shall be deemed, without the
14 necessity of signing any document for purposes of reimbursement, to have made an assignment
15 and given a right of subrogation to executive office of health and human services and/or the
16 department of human services of any and all rights and interests that he, she, or such other person
17 may have: (1) to payment for any medical support; and (2) to any payment ~~for any medical care~~
18 from any third party that has a legal liability to pay for care and services available and provided to
19 the applicant or recipient. The executive office of health and human services and/or the
20 department of human services shall, in accordance with this section and all applicable state and
21 federal laws, be entitled to any payments by a third party to recover costs from the full amount of
22 an applicant's or recipient's liability settlement(s). For this purpose, the executive office of health
23 and human services may place a lien against an applicant's or recipient's liability settlement(s).

24 (c) In addition to the assignments and subrogation rights provided in subsections (a) and
25 (b) of this section, an applicant for or a recipient of financial assistance provided by the executive
26 office of health and human services and/or department pursuant to this chapter, whenever the
27 assistance is necessary by reason of accident, injury, or illness for which a third party may be
28 liable, for and on behalf of himself or herself, and for and on behalf of any other person for whom
29 he or she may legally act, shall be deemed, without the necessity of signing any document, to
30 have assigned and subrogated to the executive office of health and human services and/or the
31 department of human services, from amounts recovered or recoverable from any third party, an
32 amount of money equal to the amount of financial assistance provided as a result of the accident,
33 illness, or injury.

34 (d) With respect to an assignment and subrogation rights established pursuant to this

1 section, an applicant or recipient shall provide to the executive office of health and human
2 services and/or the department of human services all relevant information regarding the assigned
3 and subrogated rights, and shall execute any documents relating thereto, in accordance with rules
4 and regulations to be adopted by the executive office of health and human services and/or the
5 department.

6 (e) With respect to any assignment and subrogation rights for medical or financial
7 support or other recoveries under this section, the executive office of health and human services
8 and/or the department of human services shall be considered to have acquired the rights of such
9 individual to payment by any third party for such medical care and support, ~~and~~ financial support
10 and other recoveries.

11 (f) An applicant for or a recipient of medical assistance provided by the executive office
12 of health and human services in accordance with chapter 40-8 shall also be subject to the
13 provisions of chapter 27-57.1. Funds available to be paid for the payment of child support shall
14 supersede any payment made pursuant to this chapter and chapter 27-57.1.

15 (g) The executive office of health and human services and/or the department of human
16 services shall, in accordance with this section and all applicable state and federal laws, be entitled
17 to any payments by a third party to recover costs from the full amount of an applicant's or
18 recipient's liability settlement(s). For this purpose, the executive office of health and human
19 services may place a lien against an applicant's or recipient's liability settlement(s). Nothing in
20 these sections shall limit the executive office of health and human services and/or the department
21 of human services from recovery, to the extent of the distribution, in accordance" with all state
22 and federal laws.

23 SECTION 3. Chapter 40-8 of the General Laws entitled "Medical Assistance" is hereby
24 amended by adding thereto the following section:

25 **40-8-3.1. Life Estate in Property- Retained Powers. --** (a) Every applicant or recipient
26 of medical assistance who owns a life estate in property that is his or her primary residence, with
27 a retained right to revoke, amend or redesignate the remainderman, will not be eligible for
28 medical assistance, unless the applicant or recipient conveys all outstanding remainder interest to
29 him or herself, in accordance with rules and regulations promulgated by the executive office of
30 health and human services.

31 (b) An applicant or recipient who has reserved a life estate with retained rights to revoke,
32 amend or redesignate the remainderman by a deed created, executed and recorded prior to the
33 effective date of this section, shall not be ineligible for medical assistance on the basis of such
34 deed, regardless of whether the remainderman is a person or persons, a trust or entity.

1 SECTION 4. Section 2 of this article shall take effect as of October 1, 2014. The
2 remainder of this article shall take effect upon passage.