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RELATING TO MEDICAL ASSISTANCE RECOVERIES

3 SECTION 1. Chapter 34-4 of the General Laws entitled "Estates in Real Property" is 4 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 holder(s) 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 holder(s) of the remainder interest without the necessity of any additional conveyance by any such holder(s) of the remainder interest.

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

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

(b) An applicant for or a recipient of medical assistance provided by executive office of health and human services and/or the department pursuant to this chapter or chapter 8 of this title or 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 any other person for whom he or she may legally assign rights to any medical support or any other medical care, shall be deemed, without the necessity of signing any document for purposes of reimbursement, to have made an assignment and given a right of subrogation to executive office of health and human services and/or the department of human services of any and all rights and interests that he, she, or such other person may have: (1) to payment for any medical support; and (2) to any payment for any medical care from any third party that has a legal liability to pay for care and services available and provided to the applicant or recipient. The executive office of health and human services and/or the department of human services shall, in accordance with this section and all applicable state and federal laws, be entitled to any payments by a third party to recover costs from the full amount of an applicant's or recipient's liability settlement(s). For this purpose, the executive office of health and human services may place a lien against an applicant's or recipient's liability settlement(s).

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

(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 and
22	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. – When an applicant or recipient of
26	Medicaid owns a life estate in property that is his or her principal place of residence with the
27	reserved power and authority, during his or her lifetime, to sell, convey, mortgage, or otherwise
28	dispose of the real property without the consent or joinder by the holder(s) of the remainder
29	interest, said principal place of residence shall not be regarded as an excluded resource for the
30	purpose of Medicaid eligibility, unless the applicant or recipient individually or through his or her
31	guardian, conservator or attorney in fact, conveys all outstanding remainder interest to him or
32	<u>herself.</u>
33	An applicant or recipient who, by a deed created, executed and recorded on or before
34	June 30, 2014, has reserved a life estate in property that is his or her principal place of residence

1	with the reserved power and authority, during his or her lifetime, to sell, convey, mortgage, or
2	otherwise dispose of the real property without the consent or joinder by the holder(s) of the
3	remainder interest, shall not be ineligible for Medicaid on the basis of such deed, regardless of
4	whether the transferee of such remainder interest is a person or persons, trust or entity.
5	SECTION 4. Section 2 of this article shall take effect as of October 1, 2016. The
5	remainder of this article shall take effect upon passage.

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