

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1883 Session of  
2013

INTRODUCED BY WATERS, CALTAGIRONE AND V. BROWN, DECEMBER 9, 2013

REFERRED TO COMMITTEE ON HEALTH, DECEMBER 9, 2013

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," further providing for  
4 treatment of life estates, annuities and other contracts in  
5 determining eligibility for medical assistance.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 441.6 of the act of June 13, 1967  
9 (P.L.31, No.21), known as the Public Welfare Code, added July 7,  
10 2005 (P.L.177, No.42), is amended to read:

11 Section 441.6. Treatment of Life Estates, Annuities and  
12 Other Contracts in Determining Medical Assistance Eligibility.--

13 (a) As a condition of eligibility for medical assistance, every  
14 applicant or recipient who owns a life estate in property with  
15 retained rights to revoke, amend or redesignate the remainderman  
16 must exercise those rights as directed by the department. The  
17 acceptance of medical assistance shall be an assignment by  
18 operation of law to the department of any right to revoke, amend  
19 or redesignate the remainderman of a life estate in property.

20 (b) Any provision in any annuity or other contract for the

1 payment of money owned by an applicant or recipient of medical  
2 assistance, or owned by a spouse or other legally responsible  
3 relative of such applicant or recipient, that has the effect of  
4 limiting the right of such owner to sell, transfer or assign the  
5 right to receive payments thereunder or restricts the right to  
6 change the designated beneficiary thereunder is void.

7 (c) In determining eligibility for medical assistance, there  
8 shall be a rebuttable presumption that any annuity or contract  
9 to receive money is marketable without undue hardship.

10 (d) Upon approval by the Federal Government of any required  
11 State plan amendment implementing this subsection and  
12 notwithstanding subsections (b) and (c), a commercial annuity or  
13 contract purchased by or for an individual using that  
14 individual's assets will not be considered an available resource  
15 if the annuity meets all of the following conditions:

16 (1) Is an irrevocable guaranteed annuity.

17 (2) Guarantees to pay out principal and interest in equal  
18 monthly installments with no balloon payment to the individual  
19 so that payments are paid out over the actuarial life expectancy  
20 of the annuitant, as set forth in life expectancy tables  
21 approved by the department.

22 (3) Names the department as the residual beneficiary of any  
23 funds remaining due under the annuity at time of death of the  
24 annuitant, not to exceed the amount of medical assistance  
25 expended on the individual during his or her lifetime.

26 (4) Is issued by an insurance company licensed and approved  
27 to do business in this Commonwealth.

28 (e) This section applies to all annuity, life insurance and  
29 other contracts entered into on or after the effective date of  
30 this section and to life estates owned by any individual who

1 applies or reapplies for medical assistance on or after the  
2 effective date of this section. Notwithstanding the foregoing, a  
3 life insurance policy with a total face value of not more than  
4 ten thousand dollars (\$10,000) shall not be included as a  
5 countable resource for the purpose of determining the insured  
6 person's eligibility for medical assistance.

7 Section 2. This act shall take effect in 60 days.