

## State Liens on Real Property of Public Assistance Recipients

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### Issue

Provide an overview of the Connecticut law which authorizes the state to place liens on real property to recover public assistance. Identify other states currently allowing this practice, as well as any recently proposed legislation to roll back or mitigate the impact of such liens.

### States with Property Liens on Public Assistance Recipients

OLR identified at least 12 states with laws authorizing or requiring the placement of liens to recover public assistance paid to a property owner with state or federal funds (see Table 1). Connecticut and New York laws appear to cover the broadest range of public assistance programs and to be the only states to place liens on family cash assistance (i.e., Temporary Assistance for Needy Families (TANF)). The other 10 states authorize or require liens to recover from state supplemental programs (aid to the aged, blind, or permanently disabled), often at the county or district level, reflecting a difference in how some states administer these programs.

Several other states, including Alaska, Montana, Nebraska, Ohio, South Dakota, Utah, and Virginia have repealed such provisions from their laws. In addition, Virginia now explicitly prohibits liens in favor of the commonwealth or any of its political subdivisions from being claimed against, levied, or attached to the real or personal property of any applicant for or recipient of public assistance or social services as a condition of eligibility or to recover such aid following his or her death ([Va. Code Ann. § 63.2-409](#)). In California, a constitutional amendment authorized the legislature to release all liens and other encumbrances previously taken for security for old age aid granted to any aged persons ([Cal. Const. Art. 16, § 13](#)).

In order to focus on recoveries of properly paid public assistance specifically through the placing of a lien on a recipient's real property, this report excludes recoveries (1) of improper payments, overpayments, and fraud, (2) from lottery winnings, workers compensation, lawsuit windfalls, and inheritances, and (3) of Medicaid benefits.

The National Conference of State Legislatures (NCSL) also ran a search of its state legislation database to identify any examples of recent legislation that states have considered or enacted intended to roll back or mitigate an existing law on public assistance property liens. Only legislation in Connecticut and New York was identified, as discussed below.

## Connecticut

In Connecticut, the state generally has a claim against any kind of property or property interest acquired by a recipient of certain public assistance programs, or their parents if the recipient was a minor child. One way the state recovers assistance paid is by placing liens on real property. By law, the Department of Administrative Services' (DAS') Collections Recovery Unit is responsible for recovering this assistance from Department of Social Services (DSS) program beneficiaries who receive a financial windfall (e.g., an inheritance) or the estates of these individuals after they die ([CGS §§ 17b-93 to -95](#)). The state generally takes half of windfall proceeds. The state's share of estate recoveries is the entire amount of assistance provided.

DAS recovers assistance from all the DSS-administered cash programs, which are the former Aid to Families with Dependent Children (AFDC); Temporary Assistance for Needy Families (TANF), which replaced AFDC in 1996; State-Administered General Assistance (SAGA); and State Supplement (SS). Although not a focus of this report, the state also recovers certain Medicaid assistance. For those programs receiving federal funding (AFDC/TANF and Medicaid), certain portions of the recoveries are either returned to the federal government or used to offset future federal assistance. The Supplemental Nutrition Assistance Program (SNAP) does not require a lien, however.

State law prohibits any claims or liens against certain assistance payments made, including:

1. housing relocation assistance;
2. condominium relocation conversion payments and reimbursements for moving and other expenses for low-income individuals;
3. settlements or awards in housing, employment, or public accommodation discrimination cases;
4. court-ordered retroactive rent abatements; and

5. any security deposit refund ([CGS § 17b-93\(c\)](#)).

### ***Recent Legislative Changes and Proposals***

A legislative document search for the past five years did not identify any proposed bills to repeal [CGS §§ 17b-93](#) to [-95](#). Recent legislative changes have extended the state's claims in some situations as well as limited them in others. [PA 11-44](#), §§ 70-72 extended the state's recovery authority to parents of TFA and SAGA beneficiaries and patients in state humane institutions. [PA 14-217](#), § 76 exempted HUSKY D Medicaid recipients, except to the extent federal law requires such recovery.

Under [HB 7076](#) (2019), a recorded title or interest in real property is not affected if the public assistance recipient disposed of the property without the commissioner's consent, regardless of when the disposition occurred. The bill also specifies that a previously recorded interest in real property does not lose its priority to an unrecorded or subsequently recorded lien by the state against a person for repayment of state aid, whereas existing law provides priority to the state's claim over all other unsecured claims and unrecorded encumbrances. The bill was favorably reported by the Banking Committee but received no further action. [HB 5048](#) (2020) generally contains similar provisions.

## **New York**

New York law broadly allows public welfare officials to recover public assistance payments from anyone with real or personal property, or such a person's estate, if the person or someone he or she is liable for has received public assistance in the last 10 years ([N.Y. Soc. Serv. Law § 104](#)). The law also allows social services officials to accept a deed of real property or place a lien on real property on behalf of the social services district for public assistance provided to a person owning that property ([N.Y. Soc. Serv. Law § 106](#)).

### ***Recent Legislative Changes and Proposals***

A 2014 law amended the way New York county social service districts pursue recoveries and included provisions that:

1. explicitly prohibit this type of recovery for SNAP benefits, child care services, emergency assistance to adults, or the Home Energy Assistance Program;
2. prohibit recovery unless the public assistance applicant signed a statement acknowledging the types of benefits not subject to recovery and the applicant's option to decline to provide the lien or mortgage and remain eligible for benefits for children in the household; and

3. require social service districts to mail biennial accounting statements to public assistance recipients that include a list of all public assistance incurred by the property owner, current recoverable public assistance under the deed or mortgage, and the amount of any credits against public assistance (e.g., child support) (2014 Sess. Law News of N.Y. Ch. 56 (S. 6356-D)).

Current proposed legislation, [S05731/A02167](#), referred to the Ways and Means and Social Services Committees on January 8, 2020, would repeal the mortgage provisions in the current law, so that social service districts could no longer require an applicant to execute a mortgage in favor of the district as a condition of eligibility for public assistance.

## Other States

We identified at least 10 additional states and the District of Columbia as having laws authorizing or requiring the placement of liens on the property of certain public assistance recipients (see Table 1). A number of these other states authorize these liens at the county or district level, reflecting a difference in how such programs are being administered.

Except in cases of fraud, these statutes generally prohibit foreclosure proceedings on property occupied as a homestead by the recipient, a surviving spouse, or a dependent relative of the recipient as defined by the rules and regulations. As a result, liens are typically executed upon the recipient’s death or the sale of the property.

**Table 1: Other States Using Property Liens to Recover From Certain Public Assistance Recipients**

State	Public Assistance Program: Brief Summary of Recovery Option
<b>California</b>  <a href="#">Cal. Welf. &amp; Inst. Code §§ 17109 &amp; 17403</a>	<p>§ 17109            Authorizes a county’s board of supervisors to require, as a condition to the granting or continuation of aid to an indigent, that the applicant transfer or grant to it his or her property or property interest as security for the expended moneys</p> <p>Requires the board to manage such property and apply the net income to the reimbursement of the county for the aid granted, with any surplus to be paid to the indigent</p> <p>§ 17403            Establishes a claim by the county against a recipient of public assistance if he or she acquires property up to the amount of a reasonable charge for moneys so expended</p> <p>The claim must be enforced by action by the county’s district attorney on the request of the board of supervisors</p>

**Table 1 (continued)**

State	Public Assistance Program: Brief Summary of Recovery Option
<p><b>District of Columbia</b></p> <p><a href="#">D.C. Code § 4-214.01</a></p>	<p>Upon the death of any person who has received Old Age Assistance or Aid to the Disabled, establishes a preferred claim for the district equal to any such public assistance against the deceased recipient's estate</p> <p>Allows the mayor to file a lien in favor of the district against the real and personal property of a person equal to the public assistance granted</p> <p>Prohibits the application of any statute of limitations as a defense to the claim</p> <p>Allows the mayor to waive a claim or release a lien when he or she deems it appropriate</p>
<p><b>Illinois</b></p> <p><a href="#">305 Ill. Comp. Stat. Ann. 5/3-10 et. seq.</a></p> <p><a href="#">Illinois Department of Healthcare and Family Services website</a></p>	<p>Applicable to all recipients of state supplemental programs (aid to the aged, blind, and permanently disabled)</p> <p>The lien is enforceable for five years from the date of recording or filing of the lien notice</p> <p>The lien may be extended for additional five-year periods upon the filing or recording of a new notice prior to the expiration of the current enforcement period</p> <p>A claim may not be filed against an estate if recovery would cause an heir or beneficiary undue hardship. To waive recovery, the heir or beneficiary must show that the recovery would cause them to become or remain eligible for programs such as Supplemental Security Income (SSI), TANF or Food Stamps</p>
<p><b>Indiana</b></p> <p><a href="#">Ind. Code § 12-14-16-1 et. seq.</a></p>	<p>Applicable to all recipients of state supplemental programs (aid to the aged, blind, and permanently disabled)</p> <p>Allows the division and county office to bring a foreclosure proceeding on the lien or to make arbitration of the lien amount if it protects a public interest</p>
<p><b>Iowa</b></p> <p><a href="#">Iowa Code Ann. §§ 252.13 &amp; 252.14</a></p>	<p>Allows any county to recover the money it expended for the assistance or support of a poor person (defined as individuals without property or ability to work):</p> <ol style="list-style-type: none"> <li>1. If the recipient is living, from him or her if the person becomes able, by action brought within two years after the person becomes able; or</li> <li>2. If the person is deceased, from his or her estate, by filing a claim</li> </ol>
<p><b>Minnesota</b></p> <p><a href="#">Minn. Stat. Ann. § 256.25</a></p>	<p>On the death of any person who received any old age assistance or the surviving spouse, either or both of whom received Old Age Assistance (OAA), allows the total amount of assistance paid without interest to be claimed against the estate of such persons</p> <p>Exempts these claims from the 6-year statute of limitations</p>
<p><b>New Hampshire</b></p> <p><a href="#">N.H. Rev. Stat. Ann. § 167:13 et. seq.</a></p> <p><a href="#">NH Department of Health and Human Services brochure</a></p> <p><a href="#">N.H. Stat. § 165:28</a></p>	<p>Requires all recipients of state supplemental programs (Old Age Assistance (OAA), Aid to the Needy Blind (ANB), and Aid to the Permanently and Totally Disabled (APTD)) cash assistance to repay the state for the benefits they receive via (1) liens against real property and/or (2) estate claims after a recipient dies</p> <p>By law, the amount of general assistance spent by a town or city to support a person must be made as a lien against any real estate owned by him or her</p> <p>Unless waived by a majority vote of the town selectmen/city council, 6% annual interest must be charged on the lien beginning one year after the filing date</p>

**Table 1 (continued)**

State	<i>Public Assistance Program: Brief Summary of Recovery Option</i>
<p><b>New Jersey</b></p> <p><a href="#">N.J. Stat. §§ 44:7-14, 44:7-15 &amp; 44:1-30.2</a></p>	<p>§ 44:7-14 County welfare boards must require, as a condition to granting old age assistance, that all or any part of the applicant's personal or real property be pledged as a guaranty for the reimbursement of the assistance funds granted</p> <p>Upon granting old age assistance, requires the welfare board to file a notice of the agreement to reimburse with the county clerk or register of deeds and mortgages, which has the same effect as a lien by court judgment and priority over all unrecorded encumbrances</p> <p>§ 44:7-15 At any time the county welfare agency may execute and file with the county clerk or register of deeds and mortgages, a certificate showing the amount of assistance advanced to said person, which shall be a legal claim against both the recipient and his spouse for 20 years, with priority over all unsecured claims except burial and funeral expenses not to exceed \$255.00</p> <p>Authorizes the county welfare agency to accept voluntary conveyance of real or personal property in lieu of issuance of execution. Allows all real property acquired by execution sale or voluntary conveyance to be disposed of at public sale, or by sale on sealed bids in the discretion of the county welfare agency; after required public advertisement and approvals</p> <p>§ 44:1-30.2 County welfare boards must require, as a condition to admission to the county welfare-house, that all or any part of the applicant's personal or real property either presently owned or subsequently acquired, be pledged as a guaranty for the reimbursement of the cost of care and maintenance at the welfare-house</p>
<p><b>Pennsylvania</b></p> <p><a href="#">23 Pa. Cons. Stat. Ann. §§ 4604 &amp; 4605</a></p>	<p>Allows a public body or public agency that is caring for or furnishing assistance to sue the recipient and recover any sum of money which is due to the person</p> <p>Proof that the person to whom the money is due became a public charge or was publicly assisted is conclusive proof of the right to recover whatever may be legally due the person</p> <p>If a person becomes self-supporting or supported by a relative or friend, any money recovered and not expended in the care or assistance of the person shall belong to the person</p>
<p><b>Vermont</b></p> <p><a href="#">Vt. Stat. Ann. tit. 33, § 2113</a></p>	<p>Allows the Department for Children and Families to recover the amount the department has expended for general assistance furnished to an individual or his or her family when the individual owns or acquires real or personal property or an interest therein or becomes employed</p> <p>If the person is deceased, the amount expended by the department must be allowed as a claim by the state against his or her estate</p>
<p><b>Wisconsin</b></p> <p><a href="#">Wis. Stat. Ann. §§ 49.195 &amp; 49.08</a></p>	<p>§ 49.195 Allows the county or Wisconsin works agency granting aid or benefits under AFDC or a benefit under Wisconsin Works (i.e., the state's primary TANF program) or Wisconsin Shares (i.e., child care subsidy program) to sue the recipient parent to recover the value of the aid or benefit if the parent subsequently acquires property by gift, inheritance, asset sale, court judgment or settlement of any damage claim, or by winning a lottery or prize</p>

**Table 1 (continued)**

<b>State</b>	<b>Public Assistance Program: Brief Summary of Recovery Option</b>
	<p>The value of the aid or benefit liable for recovery cannot include the value of work performed by a family member in a community work experience program</p> <p>During the life of the parent, allows the 10-year statute of limitations to be raised in defense against any suit for recovery</p> <p>§ 49.08 Allows a county or municipal institution to sue a person or his or her estate for the value of the relief or other assistance provided to the person if he or she is the owner of property at the time of receiving general relief or thereafter becomes self-supporting. Also applies to relief funded by a block grant</p> <p>Same limitations apply as outlined above (10-year statute of limitations, etc.)</p>

Sources: Westlaw research to update state-by-state information from: *Welfare as a Loan: An Empirical Study of The Recovery of Public Assistance Payments in the United States*, Appendix B, Stanford Law Review, 25 Stan. L. Rev. 234 (1973).

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