



THOMAS J. VILSACK  
GOVERNOR

**OFFICE OF THE GOVERNOR**

SALLY J. PEDERSON  
LT. GOVERNOR

March 21, 2005

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
LOCAL


Dear Mr. Secretary:

I hereby transmit:

**House File 281**, an Act relating to certain penalties for filing false affidavits and the time for examining and determining a correct return under the state inheritance tax and increasing the amount of property that may be transferred to minors under certain conditions and including a retroactive applicability date provision.

The above House File is hereby approved this date.

Sincerely,

  
Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House





HOUSE FILE 281

AN ACT

RELATING TO CERTAIN PENALTIES FOR FILING FALSE AFFIDAVITS  
AND THE TIME FOR EXAMINING AND DETERMINING A CORRECT RETURN  
UNDER THE STATE INHERITANCE TAX AND INCREASING THE AMOUNT OF  
PROPERTY THAT MAY BE TRANSFERRED TO MINORS UNDER CERTAIN  
CONDITIONS AND INCLUDING A RETROACTIVE APPLICABILITY DATE  
PROVISION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 450.22, subsection 4, Code 2005, is amended to read as follows:

4. If a return is not required to be filed pursuant to subsection 3, and if real estate is involved, one of the individuals with an interest in, or succeeding to an interest in, the real estate shall file an affidavit in the county in which the real estate is located setting forth the legal description of the real estate and the fact that an inheritance tax return is not required pursuant to subsection 3. ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~ Anyone with or succeeding to an interest in real estate who willfully fails to file such an affidavit, or who willfully files a false affidavit, is guilty of a fraudulent practice.

Sec. 2. Section 450.53, subsection 2, Code 2005, is amended to read as follows:

2. a. A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or who willfully fails to pay the tax, or who willfully fails to supply the information, necessary to prepare the return or determine if a return is required, or who willfully fails to make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice. This paragraph subsection does not apply to failure to make, sign, or file a return or failure to pay the tax if a return is not required to be filed pursuant to subsection 1, paragraph "b".

~~b.---If-a-false-affidavit-is-filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 3. Section 450.58, subsection 2, Code 2005, is amended to read as follows:

2. If an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b", the personal representative's final settlement of account need not contain an inheritance tax receipt from the department, but shall, instead, contain the personal representative's statement, under oath, certification under section 633.35 that an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b". ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due.---Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 4. Section 450.94, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The period for examination and determination of the correct amount of tax to be reported and due under this chapter is unlimited in the case of failure to file a return or the filing of a false or fraudulent return or affidavit.

Sec. 5. Section 565B.7, subsection 3, Code 2005, is amended to read as follows:

3. If ~~no~~ a custodian has not been nominated under section 565B.3, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ~~ten~~ twenty-five thousand dollars in value.

Sec. 6. RETROACTIVE APPLICABILITY DATE. The sections of this Act amending section 450.22, 450.53, and 450.58 apply retroactively to July 1, 2004, for estates of decedents dying on or after that date.



CHRISTOPHER C. RANTS  
Speaker of the House



JEFFREY M. LAMBERTI  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 281, Eighty-first General Assembly.



MARGARET THOMSON  
Chief Clerk of the House

Approved March 21, 2005



THOMAS J. VILSACK  
Governor