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SENATE FILE 1194
By COMMITTEE ON JUDICIARY

Passed Senate, Date 3-13-72 Passed House, Date 3-24-72
Vote: Ayes 39 Nays 0 Vote: Ayes 82 Nays 0
Approved _____

A BILL FOR

1 An Act relating to the Iowa Probate Code.

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

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1 Section 1. Section six hundred thirty-three point forty
2 (633.40), Code 1971, is amended by adding the following new
3 subsections:

4 4. NOTICE OTHERWISE PROVIDED. In lieu of the foregoing
5 the notice may direct each interested party to appear in the
6 court in which the proceedings are pending, and to file his
7 objections thereto in writing, of any he has, within twenty
8 days after the day such notice is served upon him and that
9 unless he does so appear and file his objections in writing
10 that he will be forever barred from making any objections
11 thereto. Said notice may be served upon each interested party
12 either by ordinary United States mail or personally in com-
13 pliance with the rules of civil procedure. In the event ob-
14 jections thereto are timely filed, the court shall fix the
15 time and place of the hearing for the judicial determination
16 of the issues raised.

17 5. NOTICE BY MAIL. When notice in probate proceedings
18 is served upon an interested party by United States mail,
19 the service is made and completed when the notice being served
20 is enclosed in a sealed envelope with the proper postage
21 thereon addressed to the interested party at his last known
22 post office address and is deposited in a mail receptacle
23 provided by the United States postal service.

24 Sec. 2. Section six hundred thirty-three point two hun-
25 dred eleven (633.211), subsection four (4), Code 1971, is
26 amended to read as follows:

27 4. If the property received by the surviving spouse under
28 subsections 1, 2 and 3 of this section is not equal in value
29 to the sum of fifteen twenty-five thousand dollars, then so
30 much additional of the remaining real and personal property
31 of the decedent that is subject to payment of debts and charges
32 against the decedent's estate, after payment of such debts
33 and charges, even to the extent of the whole of the net estate,
34 as may be necessary to make the amount of fifteen twenty-five
35 thousand dollars.

1 Sec. 3. Section six hundred thirty-three point two hun-
2 dred twelve (633.212), subsections four (4) and five (5),
3 Code 1971, are amended to read as follows:

4 4. If the property received by the surviving spouse under
5 subsections 1 and 3 of this section is not equal in value
6 to the sum of ~~fifteen~~ twenty-five thousand dollars, then so
7 much additional of the nonexempt real and personal property
8 of the decedent remaining after payment of the debts and
9 charges against the estate, as may be necessary (even to the
10 extent of the entire net estate) to make the amount of ~~fifteen~~
11 twenty-five thousand dollars.

12 5. So much additional of the remaining real and personal
13 property belonging to the decedent as is necessary to make
14 the entire share of the surviving spouse, including the prop-
15 erty received under subsections 1, 3 and 4 of this section,
16 equal in value to the aforesaid sum of ~~fifteen~~ twenty-five
17 thousand dollars plus one-half of the net value of the estate
18 over and above the said sum of ~~fifteen~~ twenty-five thousand
19 dollars and the value of the exempt personal property.

20 Sec. 4. Section six hundred thirty-three point two hundred
21 seventy-one (633.271), Code 1971, is amended to read as fol-
22 lows:

23 633.271 EFFECT OF DIVORCE OR DISSOLUTION. If after making
24 a will the testator is divorced or the marriage is dissolved,
25 all provisions in the will in favor of the testator's spouse
26 ~~se-divorced~~ are thereby revoked. In the event the testator
27 and spouse remarry each other, the provisions of the will
28 revoked by the divorce or dissolution of marriage shall be
29 reinstated unless otherwise revoked by the testator.

30 Sec. 5. Section six hundred thirty-three point four hun-
31 dred fifteen (633.415), unnumbered paragraph one (1), Code
32 1971, is amended to read as follows:

33 633.415 COMMENCEMENT OR CONTINUANCE OF SEPARATE ACTION.
34 Any action pending against the decedent at the time of his
35 death that survives, shall also be considered a claim filed

1 against the estate if notice of substitution is served upon
2 the personal representative as defendant within the time
3 provided for filing claims in section 633.410; however, this
4 provision shall not bar parties entitled to equitable relief
5 due to peculiar circumstances. A copy of the proof of service
6 of notice of such proceedings shall be filed in the probate
7 proceedings but shall not be jurisdictional.

8 Sec. 6. Section six hundred thirty-three point five hun-
9 dred fifty-two (633.552), Code 1971, is amended by striking
10 subsection two (2) and inserting in lieu thereof the follow-
11 ing:

12 2. That the proposed ward is a minor or is incapable of
13 caring for his own person.

14 Sec. 7. Section six hundred thirty-three point five hun-
15 dred fifty-seven (633.557), Code 1971, is amended by striking
16 the section and inserting in lieu thereof the following:

17 633.557 APPOINTMENT OF GUARDIAN ON VOLUNTARY PETITION.
18 A guardian may also be appointed by the court upon the veri-
19 fied petition of the proposed ward, without further notice,
20 if he is other than a minor under the age of fourteen years,
21 provided the court determines that such an appointment will
22 inure to the best interest of the applicant. However, if
23 an involuntary petition is pending, the court shall be gov-
24 erned by section six hundred thirty-three point six hundred
25 thirty-five (633.635) of the Code.

26 Sec. 8. Section six hundred thirty-three point five hun-
27 dred sixty-six (633.566), Code 1971, is amended by striking
28 subsection two (2) and inserting in lieu thereof the follow-
29 ing:

30 2. That the proposed ward is a minor or is incapable of
31 managing his property.

32 Sec. 9. Section six hundred thirty-three point five hun-
33 dred seventy-two (633.572), Code 1971, is amended by striking
34 the section and inserting in lieu thereof the following:

35 633.572 APPOINTMENT OF CONSERVATOR ON VOLUNTARY PETITION.

1 A conservator may also be appointed by the court upon the
2 verified petition of the proposed ward, without further notice,
3 if he is other than a minor under the age of fourteen years,
4 provided the court determines that such an appointment will
5 inure to the best interest of the applicant. However, if
6 an involuntary petition is pending, the court shall be governed
7 by section six hundred thirty-three point six hundred thirty-
8 five (633.635) of the Code.

9 Sec. 10. Section six hundred thirty-three point six hun-
10 dred four (633.604), Code 1971, is amended to read as follows:

11 633.604 APPLICATION. The application for appointment
12 of a foreign conservator or guardian as conservator in this
13 state shall include the name and address of the nonresident
14 ward, and of the nonresident conservator or guardian, and
15 the name and address of the resident conservator to be
16 appointed. It shall be accompanied by ~~an-exemplified~~ a
17 certified copy of the original letters or other authority
18 conferring the power upon the foreign conservator or guardian
19 to act as such. The application shall also state the cause
20 for the appointment of the foreign conservator to act as sole
21 conservator, if such be the case.

22 Sec. 11. Chapter six hundred thirty-three (633), Code
23 1971, as amended by chapter two hundred eighteen (218), sec-
24 tions eleven (11) and twelve (12), Acts of the Sixty-fourth
25 General Assembly, First Session, is amended by adding the
26 following new division and section:

27 DIVISION XVI

28 DISCLAIMER OF SUCCESSION TO REAL AND PERSONAL PROPERTY

29 633.704 RIGHT TO DISCLAIM SUCCESSION.

30 1. RIGHT OF DISTRIBUTE. No person shall be required
31 to take as a distributee, or otherwise, under the laws of
32 Iowa, and any person may disclaim in whole or in part, the
33 succession to any property, real or personal, or interest
34 therein, including a power of appointment, by filing a written
35 instrument within the time and at the place hereinafter

1 provided. The instrument shall:

2 a. Describe the property or part thereof or interest
3 therein disclaimed,

4 b. Declare the disclaimer and the extent thereof and

5 c. Be signed and acknowledged by the disclaimant.

6 2. TIME AND PLACE OF FILING. The disclaimer instrument
7 shall be filed within six months after the date of the sec-
8 ond publication of the notice to creditors, or within six
9 months after the death of the donee of the power, as the case
10 may be, or if the taker of the property or interest is not
11 then finally ascertained or his interest has not become in-
12 defeasibly fixed both in quality and in quantity, then not
13 later than two months after the event when the taker has be-
14 come finally ascertained and his interest has become in-
15 defeasibly fixed both in quality and in quantity. The instru-
16 ment shall be filed with the clerk in the county where the
17 administration proceedings are pending. A copy of the instru-
18 ment shall also be mailed to the personal representative of
19 the decedent, if any. The instrument shall be irrevocable
20 upon filing.

21 3. EFFECTIVE DISCLAIMER. Unless the decedent or donee
22 of the power has otherwise provided, the property or part
23 thereof or interest therein disclaimed, and any future inter-
24 est which is to take effect in possession or enjoyment at
25 or after the termination of the interest disclaimed, shall
26 descend or be distributed as if the disclaimant has prede-
27 ceased the decedent, or if the disclaimant is one designated
28 to take pursuant to a power of appointment, exercised by
29 testamentary instrument, then as if the disclaimant has
30 predeceased the donee of the power. In every case, the dis-
31 claimer shall relate back for all purposes to the date of
32 the death of the decedent or the donee, as the case may be.
33 A person who has a present and a future interest in property
34 and disclaims his present interest in whole or in part, shall
35 be deemed to have disclaimed his future interest to the same

1 extent. In the event of death of the disclaimant within the
2 time allowed for the filing of a disclaimer, the right to
3 disclaim shall terminate. In the event of disability of a
4 person entitled to disclaim, the court may authorize or direct
5 a conservator or guardian to exercise the right to disclaim
6 on behalf of the person under disability when it is in his
7 interest that it be done.

8 4. WAIVER AND BAR. Any assignment, conveyance, encum-
9 brance, pledge or transfer of property or any interest therein
10 or any contract therefore, or any written waiver of the right
11 to disclaim or any acceptance of property or interest therein
12 by an heir, next of kin, devisee, legatee, donee, person
13 succeeding to a disclaimed interest, beneficiary or person
14 designated to take pursuant to a power of appointment ex-
15 ercised by testamentary instrument, and any sale of property
16 by execution, made before the expiration of the period in
17 which a person may disclaim as provided in this section, bars
18 the right to disclaim the property. The right to disclaim
19 granted by this section shall exist irrespective of any limita-
20 tion on the interest of the disclaimant in the nature of a
21 spendthrift provision or similar restriction. A disclaimer,
22 when filed and recorded as provided in this section or a writ-
23 ten waiver of the right to disclaim, shall be binding upon
24 the disclaimant or person waiving and all parties claiming
25 by, through or under him. The right to disclaim shall fol-
26 low the proceeds of a disposition of property by a fiduciary,
27 and shall not affect the disposition.

28

EXPLANATION

29 This bill provides for service of notice without a prior
30 court order and defines notice by mail.

31 The bill increases the value of the property a surviving
32 spouse may take from 15 to 25 thousand dollars.

33 The bill provides that upon remarriage of a couple who
34 were divorced or had their marriage dissolved a prior will
35 is reinstated.

1 The bill provides equitable relief in the event a separate
2 action is commenced rather than filed as a claim against the
3 estate.

4 The bill provides for appointment of a guardian or con-
5 servator for a person who is incapable of caring for himself
6 or his property.

7 The bill provides for disclaimer in intestate estates as
8 in testate estates patterned after the Uniform Disclaimer
9 Act of the National Commissioners on Uniform State Laws.

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SENATE FILE 1194

1 Amend Senate File 1194, as passed by the Senate,
2 as follows:

3 1. Page 7, by inserting after line 27, the
4 following new sections:

5 Sec. ____ . Section four hundred fifty point seven
6 (450.7), Code 1971, as amended by chapter two hundred
7 eighteen (218), section one (1), Acts of the Sixty-
8 fourth General Assembly, First Session, is amended
9 by amending subsection three (3) and by adding
10 subsection four (4), to read as follows:

11 450.7 LIEN OF TAX.

12 3. The sale, exchange, mortgage, or pledge of
13 property by the personal representative pursuant
14 to a testamentary direction or power, the powers
15 provided under the Iowa Probate Code, or under order
16 of court, divests the property from the lien of the
17 tax. The proceeds from such a sale, exchange,
18 mortgage, or pledge shall be held by the personal
19 representative subject to the same priorities for
20 the payment of the tax as existed with respect to
21 the property before the transaction, and the personal
22 representative is personally liable for payment of
23 the tax to the extent of the proceeds. Whenever
24 ~~there-is-a-change-in-the-status,-type,-or-nature,~~
25 ~~of-the-assets-reported-in-the-preliminary-inventory,~~
26 ~~the-change-shall-be-reported-on-or-before-the-filing~~
27 ~~of-the-final-report-when-required-by-the-department~~
28 ~~of-revenue.~~

29 4. The lien of the tax against real property
30 may be foreclosed by the department of revenue in
31 the same manner as provided for foreclosure of real
32 estate mortgages. The lien of the tax against
33 personal property may be collected in the same manner
34 as provided for enforcement of a security interest
35 by the Uniform Commercial Code.

36 Sec. ____ . Section four hundred fifty point twelve
37 (450.12), Code 1971, unnumbered paragraph one (1)
38 and subsection one (1), are amended to read as
39 follows:

40 450.12 DEDUCTION OF DEBTS. There shall be
41 deducted from the gross value of the estate as fixed-
42 ~~by-the-inheritance-tax-appraisers-appointed-under~~
43 ~~the-provisions-of-this-chapter,-or-as-fixed-by-the~~
44 ~~court,~~ the debts defined as follows:

45 1. From the estate of such decedent who at the
46 time of his death was domiciled within this state,
47 there shall be deducted the debts owing by the
48 decedent at the time of his death, the local and
49 state taxes due from the estate in January of the
50 year of his death, and federal taxes owing by the

51 decedent or paid from the estate on Iowa property,
52 a reasonable sum for funeral expenses, temporary
53 allowance for the ~~widow-and-children-under-fifteen~~
54 ~~years-of-age spouse, minor children and dependents~~
55 as granted by the probate court or judge thereof,
56 court costs, the costs of appraisement made for the
57 purpose of assessing the inheritance tax, the fee
58 of executors, administrators, or trustees as allowed
59 by order of court, the amount paid by the executor
60 or administrator for a bond, the attorney fee in
61 a reasonable amount to be approved by the court for
62 the probate proceedings in said estate, and no other
63 sum; provided, however, that the debt of such decedent
64 owing for or secured by property outside of this
65 state, shall not be deducted before estimating the
66 tax, except when the property for which the debt
67 is owing or by which it is secured is subject to
68 the tax imposed by this chapter, or when the foreign
69 debt exceeds the value of the property securing it
70 or for which it was contracted, when the excess may
71 be deducted, provided that satisfactory proof of
72 the value of the foreign property and the amount
73 of such debt is furnished to the director of revenue.

74 Said debts shall not be deducted unless the same
75 are approved and allowed by the court within eighteen
76 months from the death of the decedent, unless
77 otherwise ordered by the judge or court of the proper
78 county.

79 Sec. ____ . Section four hundred fifty point
80 thirteen (450.13), Code 1971, is amended by striking
81 the section and inserting in lieu thereof the
82 following:

83 450.13 INHERITANCE TAX AND LIEN BOOK. The clerk
84 of the district court in and for each county shall
85 provide and keep a suitable book to be known as the
86 inheritance tax and lien book so as to show:

- 87 1. A complete copy of the inventory and any
88 amendments thereto;
- 89 2. A complete copy of the appraisal, if any;
- 90 3. A record of waiver, release, or payment of
91 the tax, the date and amount.

92 Sec. ____ . Section four hundred fifty point fifteen
93 (450.15), Code 1971, is amended to read as follows:

94 450.15 EXAMINATION BY COURT--COPY FOR DEPARTMENT
95 OF REVENUE. Upon the filing of such report the
96 ~~district court shall examine the same together with~~
97 ~~the papers and files in the case, and if it finds~~
98 ~~that such estate, in whole or in part, is subject~~
99 ~~to an inheritance tax it shall endorse its finding~~
100 ~~thereon, and clerk shall immediately forward a true~~

101 copy of such report and findings and supplements
102 thereto to the department of revenue with the clerks
103 identification thereon.

104 Sec. ____ . Section four hundred fifty point
105 nineteen (450.19), subsection five (5), Code 1971,
106 is amended to read as follows:

107 5. The appraised value of the property, or the
108 value of any taxable pecuniary legacy.

109 Sec. ____ . Section four hundred fifty point
110 nineteen (450.19), Code 1971, is amended by striking
111 subsection eight (8).

112 Sec. ____ . Section four hundred fifty point twenty-
113 seven (450.27), Code 1971, as amended by chapter
114 two hundred eighteen (218), section four (4), Acts
115 of the Sixty-fourth General Assembly, First Session,
116 is amended to read as follows:

117 450.27 COMMISSION TO APPRAISERS. When an
118 appraisal of any part of an estate is requested by
119 the department of revenue, as provided in section
120 450.39, or is otherwise required by this chapter
121 or is requested by an interested party, unless the
122 values can be established by a bona fide sale within
123 one year or otherwise, the clerk shall issue a
124 commission to the appraisers, who shall fix a time
125 and place for appraisement, except that if the only
126 interest that is subject to tax is a remainder or
127 deferred interest upon which the tax is not payable
128 until the determination of a prior estate or interest
129 for life or term of years, he shall not issue the
130 commission until the determination of the prior
131 estate, except at the request of parties in interest
132 who desire to remove an inheritance tax lien.

133 Sec. ____ . Section four hundred fifty point twenty-
134 eight (450.28), Code 1971, is amended to read as
135 follows:

136 450.28 NOTICE OF APPRAISEMENT. It shall be the
137 duty of all appraisers appointed under the provisions
138 of this chapter, upon receiving a commission as
139 herein provided, to forthwith give notice to the
140 director of revenue unless waived, and other persons
141 known to be interested in the property to be
142 appraised, of the time and place at which they will
143 appraise such property, which time shall not be less
144 than ten days from the date of such notice. The
145 notice shall be served ~~in-the-same-manner-as-is~~
146 ~~prescribed-for-the-commencement-of-civil-actions~~
147 by ordinary mail with an affidavit of mailing same
148 to be filed in the estate proceedings, or in such
149 other manner as the court in his discretion, may
150 prescribe upon application of any appraiser or any

151 interested party.

152 Sec. _____. Section four hundred fifty point thirty-
153 five (450.35), Code 1971, is amended to read as
154 follows:

155 450.35 CANCELLATION OF LIEN. If upon the hearing
156 of objections to the appraisement the court finds
157 that the property is not subject to the tax, the
158 court shall upon expiration of time for appeal, when
159 no appeal has been taken, order the clerk to enter
160 upon the lien book a cancellation of any claim or
161 lien for taxes. If at the end of twenty forty-five
162 days from the filing of the appraisement with the
163 clerk, no objections are filed, the appraisement
164 shall stand approved.

165 Sec. _____. Section four hundred fifty point thirty-
166 six (450.36), Code 1971, is amended to read as
167 follows:

168 450.36 APPRAISAL OF OTHER PROPERTY. If there
169 be an estate or property subject to said tax wherein
170 the records in the clerk's office do not disclose
171 that there may be a tax due under the provisions
172 of this chapter, the person or persons interested
173 in the property shall report the matter to the clerk
174 with an application that the property be appraised
175 who shall forward a copy thereof to the department
176 of revenue.

177 Sec. _____. Section four hundred fifty point thirty-
178 nine (450.39), Code 1971, as amended by chapter two
179 hundred eighteen (218), section six (6), Acts of
180 the Sixty-fourth General Assembly, First Session,
181 is amended to read as follows:

182 450.39 APPRAISAL.

183 1. An appraisal is not required for an item of
184 property in an estate if the item is listed on an
185 inventory or report filed in the estate or an
186 amendment thereto, unless the department of revenue
187 requests appraisal by filing a written request with
188 the clerk where the inventory or report is filed,
189 within sixty ninety days after the filing. When
190 a request is filed, the clerk shall notify the
191 personal representative and his attorney of the
192 request. The department of revenue may waive an
193 appraisal which has been previously requested.

194 2. If appraisal of an item of property is not
195 required or is waived, the personal representatives,
196 trustee, or the persons entitled to or claiming the
197 item of property shall be charged, for the purpose
198 of computing the tax, with the full value of the
199 item as reported in the inventory or report, or
200 amendment thereto.

201 3. The time for appraisal may be extended by
202 agreement of parties.

203 Sec. ____ . Section four hundred fifty point fifty
204 (450.50), Code 1971, is amended to read as follows:

205 450.50 REMOVAL OF PROPERTY FROM STATE--BOND.

206 It shall be unlawful for any person to remove from
207 this state any property, or the proceeds thereof,
208 that may be subject to the tax imposed by this
209 chapter, without paying the said tax to the department
210 of revenue. Any person violating the provisions
211 of this section shall be guilty of ~~a felony and upon~~
212 ~~conviction shall be fined~~ an indictable misdemeanor
213 as provided by law, and punishable as provided
214 therefor, and in addition, shall be liable to an
215 amount equal to twice the amount of tax, interest,
216 and costs for which the estate may be liable, but
217 ~~in no case less than two hundred dollars, and~~
218 ~~imprisoned as the court shall direct, until the fine~~
219 ~~is paid;~~ provided, however, that the penalty hereby
220 imposed shall not be enforced if, prior to the removal
221 of such property or the proceeds thereof, the person
222 desiring to effect such removal files with the clerk
223 a bond conditioned upon the payment of the tax,
224 interest, and costs, as is provided in section 450.49
225 hereof.

226 Sec. ____ . Section four hundred fifty point sixty-
227 two (450.62), Code 1971, is amended to read as
228 follows:

229 450.62 LEGACIES CHARGED UPON REAL ESTATE.

230 Whenever any legacies subject to said tax are charged
231 upon or payable out of any real estate, the heir
232 or devisee, before paying the same, shall deduct
233 said tax therefrom and pay it to the executor,
234 administrator, trustee, or department of revenue,
235 and the same shall remain a charge against and be
236 a lien upon said real estate until it is paid or
237 otherwise discharged; and payment thereof shall be
238 enforced by the executor, administrator, trustee,
239 or director of revenue as herein provided.

240 Sec. ____ . Section four hundred fifty point eighty-
241 six (450.86), Code 1971, as amended by chapter two
242 hundred eighteen (218), section ten (10), Acts of
243 the Sixty-fourth General Assembly, First Session,
244 is amended to read follows:

245 450.86 SECURITIES AND ASSETS HELD BY BANK, ETC.

246 No safe deposit company, trust company, bank, or
247 other institution, person or persons holding
248 securities or assets, exclusive of life insurance
249 policies payable to named beneficiaries, which
250 securities or other assets are located in a safety

251 deposit box or other security enclosure of the
252 decedent after receiving knowledge of the death shall
253 deliver or transfer the same to the transferee, joint
254 owner, or beneficiary of the decedent unless the
255 tax for which the securities or assets are liable
256 under this chapter is first paid, or the payment
257 thereof is secured by bond as herein provided. How-
258 ever, all the contents shall be reported in writing
259 to the department of revenue, and thereafter may
260 be delivered to the executor, administrator, ~~ex-legal~~
261 representative surviving spouse, or children of the
262 decedent. It is lawful for and the duty of the
263 director of revenue personally, or by any person
264 by him duly authorized, to examine the securities
265 or assets at the time of any proposed delivery or
266 transfer. Failure to give written notice of the
267 contents of the safety deposit box or other security
268 enclosure to the department of revenue at-the-time
269 of-or-prior-to-the-delivery-of-the-securities-or
270 assets-to-the-executor,-administrator,-or-legal
271 representative-or-transferee,-joint-owner,-or
272 beneficiary or to permit examination thereof, or
273 the release thereof contrary to the provisions of
274 this section shall render the safe deposit company,
275 trust company, bank, or other institution, person
276 or persons liable for the payment of the tax upon
277 the securities or assets as provided in this chapter.

278 Sec. ____ . Section four hundred fifty point ninety-
279 two (450.92), Code 1971, is amended to read as
280 follows:

281 450.92 COMPROMISE SETTLEMENT. Whenever an estate
282 charged or sought to be charged with the inheritance
283 tax is of such a nature, or is so disposed, that
284 the liability of the estate is doubtful, or the value
285 thereof cannot with reasonable certainty be
286 ascertained under the provisions of law, the di-
287 ~~rector of revenue may, with the written approval~~
288 ~~of the attorney-general, which approval shall set~~
289 ~~forth the reasons therefor, compromise with the~~
290 ~~beneficiaries or representatives of such estates,~~
291 ~~and compound the tax thereon; but said settlement~~
292 ~~must be approved by the district court or judge of~~
293 ~~the proper court, and after such approval the payment~~
294 ~~of the amount of the taxes so agreed upon shall dis-~~
295 ~~charge the lien against the property of the estate.~~

296 Sec. ____ . Section four hundred fifty point ninety-
297 three (450.93), Code 1971, is amended to read as
298 follows:

299 450.93 UNKNOWN HEIRS. Whenever the heirs of
300 persons entitled to any estate or any interest therein

301 are unknown or their place of residence cannot with
302 reasonable certainty be ascertained, a tax of five
303 ten percent shall be paid to the department of revenue
304 upon all such estates or interests, subject to refund
305 as provided herein in other cases; provided, however,
306 that if it be afterwards determined that any estate
307 or interest passes to aliens, there shall be paid
308 within sixty days after such determination and before
309 delivery of such estate or property, an amount equal
310 to the difference between five ten percent, the
311 amount paid, and the amount which such person should
312 pay under the provisions of this chapter.

313 Sec. _____. Section four hundred fifty point ninety-
314 four (450.94), Code 1971, is amended to read as
315 follows:

316 450.94 REFUND OF TAX IMPROPERLY PAID. When,
317 within five years after the payment of the tax, the
318 director of revenue or a court of competent
319 jurisdiction may determine that property upon which
320 an inheritance tax has been paid is not subject to
321 or liable for the payment of such tax, or that the
322 amount of tax paid was excessive, so much of such
323 tax as has been overpaid to the department of revenue
324 shall be returned or refunded to the executor or
325 administrator of such estate, or to those entitled
326 thereto. When a certified copy of the record of
327 such court showing the fact of nonliability of such
328 property to the payment of such tax has been filed
329 with the department of revenue, the director of
330 revenue shall, if the case has been finally
331 determined, issue an order to the state comptroller
332 directing him to issue a warrant upon the treasurer
333 of state to refund such tax. Such order of court
334 shall not be given until fifteen days' notice of
335 the application therefor shall have been given to
336 the director of revenue of the time and place of
337 the hearing of such application, which notice shall
338 be served in the same manner as provided for original
339 notices.

340 Sec. _____. Section four hundred fifty point ninety-
341 seven (450.97), Code 1971, is amended to read as
342 follows:

343 450.97 JOINT OWNERS OF BANK ACCOUNTS--DUTY TO
344 NOTIFY DEPARTMENT OF REVENUE. No Except as otherwise
345 provided in this section, no person, bank, credit
346 union, or savings and loan association shall permit
347 the withdrawal of funds from a joint account by a
348 surviving joint owner without first notifying the
349 department of revenue of the balance in such account
350 at the date of decedent's death and the name, re-

351 relationship, and address of the surviving joint owner.
352 Such notification may be accomplished by mailing
353 the required information by ordinary mail to the
354 department of revenue. ~~and withdrawal~~ Withdrawal
355 or payment of such funds may be made immediately
356 thereafter ~~as long as such mailing is accomplished~~
357 ~~by ordinary mail no later than the date of with-~~
358 ~~drawal or earlier if knowledge of the decedent's~~
359 ~~death is known by the depository to the executor,~~
360 ~~administrator, surviving spouse, or children of the~~
361 ~~decedent. No withdrawal or payment of funds shall~~
362 ~~be made to other persons unless secured by bond for~~
363 ~~any taxes that may be due, by release by the~~
364 ~~department of revenue, or by a receipt or certified~~
365 ~~copy of a receipt issued by the department of revenue~~
366 ~~and filed with the clerk of the district court showing~~
367 ~~payment of inheritance taxes or that none are due,~~
368 ~~or that the estate or joint owners are otherwise~~
369 ~~relieved of inheritance taxes. A person, bank,~~
370 ~~credit union, or savings and loan association shall~~
371 ~~only be liable for any inheritance tax due by the~~
372 ~~surviving joint owner for willful failure to report~~
373 ~~to the department of revenue or for release of funds~~
374 ~~except as herein provided.~~

375 Sec. ____. Section six hundred thirty-three point
376 four hundred eighty-one (633.481), Code 1971, as
377 amended by chapter two hundred eighteen (218), section
378 twelve (12), Acts of the Sixty-fourth General
379 Assembly, First Session, is amended to read as
380 follows:

381 633.481 CERTIFICATE TO COUNTY AUDITOR FOR TAX
382 PURPOSES WITHOUT ADMINISTRATION. Whenever an
383 inventory or report is filed under the provisions
384 of section 450.22, without administration of the
385 estate of a decedent, the clerk shall issue and
386 deliver to the county auditor of the county in which
387 the real estate is situated a like certificate
388 pertaining to each parcel of real estate described
389 in the inventory or report. Any fees for certificates
390 required by this section or section 633.480 shall
391 be assessed as court costs of administration, but
392 ~~the certificates shall be filed whether fees are~~
393 ~~paid or not.~~

394 Sec. ____. Section four hundred fifty point
395 seventeen (450.17), four hundred fifty point fifty-
396 four (450.54), four hundred fifty point seventy-two
397 (450.72), four hundred fifty point seventy-six
398 (450.76), four hundred fifty point seventy-seven
399 (450.77), four hundred fifty point seventy-eight
400 (450.78), four hundred fifty point seventy-nine

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401 (450.79), four hundred fifty point eight (450.80),
402 four hundred fifty point eighty-one (450.81), four
403 hundred fifty point eighty-two (450.82), four hundred
404 fifty point eighty-three (450.83) and four hundred
405 fifty point eighty-eight (450.88), Code 1971, are
406 repealed.
407 2. Amend the title, page 1, line 1, by inserting
408 after the word "Code" the words "and inheritance
409 taxes".

Filed *w. l. 3/23/72 (1410)*
March 22, 1972

By PELTON of Clinton