

House Study Bill 10

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain penalties for filing false affidavits
2 under the state inheritance tax and increasing the amount of
3 property that may be transferred to minors under certain
4 conditions and including a retroactive applicability date
5 provision.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1077HC 81
8 mg/sh/8

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1 1 Section 1. Section 450.22, subsection 4, Code 2005, is
1 2 amended to read as follows:
1 3 4. If a return is not required to be filed pursuant to
1 4 subsection 3, and if real estate is involved, one of the
1 5 individuals with an interest in, or succeeding to an interest
1 6 in, the real estate shall file an affidavit in the county in
1 7 which the real estate is located setting forth the legal
1 8 description of the real estate and the fact that an
1 9 inheritance tax return is not required pursuant to subsection
1 10 3. ~~If a false affidavit is filed, the affiant and the~~
~~1 11 personal representative shall be jointly and severally liable~~
~~1 12 for any tax, penalty, and interest that may have been due.~~
~~1 13 Any otherwise applicable statute of limitations on the~~
~~1 14 assessment and collection of the tax, penalty, and interest~~
~~1 15 shall not apply.~~
1 16 Sec. 2. Section 450.53, subsection 2, Code 2005, is
1 17 amended to read as follows:
1 18 2. ~~a.~~ A person in possession of assets to be reported for
1 19 purposes of taxation, including a personal representative or
1 20 trustee, who willfully makes a false or fraudulent return, or
1 21 ~~who willfully fails to pay the tax, or who willfully fails to~~
1 22 ~~supply the information, necessary to prepare the return or~~
~~1 23 determine if a return is required, or who willfully fails to~~
1 24 ~~make, sign, or file the required return within the time~~
1 25 ~~required by law, is guilty of a fraudulent practice. This~~
1 26 ~~paragraph subsection does not apply to failure to make, sign,~~
~~1 27 or file a return or failure to pay the tax if a return is not~~
1 28 ~~required to be filed pursuant to subsection 1, paragraph "b".~~
1 29 ~~b. If a false affidavit is filed, the affiant and the~~
~~1 30 personal representative shall be jointly and severally liable~~
~~1 31 for any tax, penalty, and interest that may have been due.~~
~~1 32 Any otherwise applicable statute of limitations on the~~
~~1 33 assessment and collection of the tax, penalty, and interest~~
~~1 34 shall not apply.~~
1 35 Sec. 3. Section 450.58, subsection 2, Code 2005, is
2 1 amended to read as follows:
2 2 2. If an inheritance tax return is not required to be
2 3 filed pursuant to section 450.53, subsection 1, paragraph "b",
2 4 the personal representative's final settlement of account need
2 5 not contain an inheritance tax receipt from the department,
2 6 but shall, instead, contain the personal representative's
2 7 ~~statement, under oath, certification under section 633.35 that~~
2 8 ~~an inheritance tax return is not required to be filed pursuant~~
2 9 ~~to section 450.53, subsection 1, paragraph "b". If a false~~
~~2 10 affidavit is filed, the affiant and the personal~~
~~2 11 representative shall be jointly and severally liable for any~~
~~2 12 tax, penalty, and interest that may have been due. Any~~
~~2 13 otherwise applicable statute of limitations on the assessment~~
~~2 14 and collection of the tax, penalty, and interest shall not~~
~~2 15 apply.~~

2 16 Sec. 4. Section 565B.7, subsection 3, Code 2005, is
2 17 amended to read as follows:

2 18 3. If ~~no~~ a custodian has not been nominated under section
2 19 565B.3, or all persons so nominated as custodian die before
2 20 the transfer or are unable, decline, or are ineligible to
2 21 serve, a transfer under this section may be made to an adult
2 22 member of the minor's family or to a trust company unless the
2 23 property exceeds ~~ten~~ twenty-five thousand dollars in value.

2 24 Sec. 5. RETROACTIVE APPLICABILITY DATE. The sections of
2 25 this Act amending section 450.22, 450.53, and 450.58 apply
2 26 retroactively to July 1, 2004, for estates of decedents dying
2 27 on or after that date.

2 28 EXPLANATION

2 29 Code sections 450.22(4), 450.53(2), and 450.58(2) are
2 30 amended to eliminate the language that provides that if a
2 31 false affidavit is filed, the affiant and personal
2 32 representative are jointly and severally liable for the tax,
2 33 penalty, and interest since Code section 450.5 provides for
2 34 this. These amendments apply retroactively to July 1, 2004,
2 35 for estates of decedents dying on or after that date.

3 1 Code section 565B.7(3) is amended to increase the amount of
3 2 property that may be transferred under the transfers to minors
3 3 law to an adult member of a minor's family or a trust company
3 4 for the benefit of the minor. The amount is increased from
3 5 \$10,000 to \$25,000.

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