

MAR 23 2001

WAYS AND MEANS

HOUSE FILE 699
BY LARSON

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

A BILL FOR

1 An Act relating to taxation of real property containing a
2 conservation easement by allowing a deduction for state
3 individual income tax purposes for certain capital gains
4 relating to conservation easements, providing an exemption
5 from inheritance tax for real property containing a
6 conservation easement, and providing retroactive and other
7 applicability dates.

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

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HF 699

1 Section 1. Section 422.7, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 36. Subtract, to the extent included, the
4 capital gain from the sale or transfer of open space property
5 if the deed transferring fee simple ownership contains
6 restrictions qualifying as a conservation easement acquired as
7 provided in chapter 457A, except that the easement shall be
8 perpetual. This deduction only applies if the open space
9 property is located in or within twelve miles of a
10 metropolitan statistical area, according to the 2000 federal
11 census, and if the selling price of the property is at least
12 thirty percent less than its fair market value because of the
13 conservation easement. For purposes of this subsection, "open
14 space property" means real property that includes significant
15 river, lake, wetland, prairie, and forest areas, other
16 biologically significant areas, land containing significant
17 archaeological, historical, or cultural value, and fish or
18 wildlife habitats, as defined in rules adopted by the
19 department of natural resources or as identified as such in a
20 local comprehensive plan adopted pursuant to chapter 335 or
21 414.

22 SPECIAL PROVISIONS RELATING
23 TO CONSERVATION EASEMENTS

24 Sec. 2. NEW SECTION. 450B.10 DEFINITIONS.

25 As used in this subchapter, unless the context otherwise
26 requires:

27 1. "Qualified heir" means a qualified heir as defined in
28 section 2032A(e)(1) of the Internal Revenue Code and the donor
29 of the conservation easement.

30 2. "Qualified real property" means open space property the
31 deed for which contains restrictions qualifying as a
32 conservation easement as provided in chapter 457A, except that
33 the conservation easement shall be perpetual. The real
34 property must be located in or within twelve miles of a
35 metropolitan statistical area, according to the 2000 federal

1 census. "Open space property" means real property that
2 includes significant river, lake, wetland, prairie, and forest
3 areas, other biologically significant areas, land containing
4 significant archaeological, historical, or cultural value, and
5 fish or wildlife habitats, as defined in rules adopted by the
6 department of natural resources or as identified as such in a
7 local comprehensive plan adopted pursuant to chapter 335 or
8 414.

9 3. "Taxpayer" means a qualified heir liable for the
10 inheritance tax imposed under chapter 450 on qualified real
11 property.

12 Sec. 3. NEW SECTION. 450B.11 ALTERNATE ELECTION OF VALUE
13 FOR QUALIFIED USE.

14 1. Notwithstanding section 450.37, the value of qualified
15 real property for the purpose of the tax imposed under chapter
16 450 may, at the election of the taxpayer, be its value for the
17 use under which it qualifies as defined and prescribed in
18 section 450B.10. A taxpayer may make an election under this
19 section if property for which the election is made is
20 qualified real property.

21 2. The election under this section shall be made by the
22 taxpayer in the manner as the director of revenue and finance
23 may prescribe by rule. The value for the qualified use under
24 this section shall be the value as determined by the director
25 of revenue and finance.

26 3. The director of revenue and finance shall adopt rules
27 setting forth the application of this subchapter in the case
28 of an interest in a partnership, corporation, or trust which,
29 with respect to the decedent, is an interest in a closely held
30 business within the meaning of section 6166(b)(1) of the
31 Internal Revenue Code. Such regulations shall conform as
32 nearly as possible with the regulations promulgated by the
33 United States secretary of treasury in respect to such
34 interests.

35 Sec. 4. NEW SECTION. 450B.12 ADDITIONAL INHERITANCE TAX

1 APPLICABLE.

2 There is imposed upon the qualified heir an additional
3 inheritance tax if, after the decedent's death and before the
4 death of the qualified heir, the qualified heir disposes of
5 any interest in qualified real property for which an election
6 under section 450B.11 was made or removes the conservation
7 easement from the qualified real property before the stated
8 term of years has expired. The additional inheritance tax
9 shall be the amount computed under section 450B.13 and shall
10 be due six months after the date of the disposition of the
11 interest in the qualified real property or removal of the
12 conservation easement. The amount of the additional
13 inheritance tax shall accrue interest at the rate of ten
14 percent per year from nine months after the decedent's death
15 to the due date of the tax. The tax shall be paid to the
16 department of revenue and finance and shall be deposited into
17 the general fund of the state. Taxes not paid within the time
18 prescribed in this section shall draw interest at the rate of
19 ten percent per annum until paid.

20 Sec. 5. NEW SECTION. 450B.13 RATIO OF APPLICABLE TAX.

21 The amount of the additional inheritance tax imposed by
22 section 450B.12 is the excess of what the tax imposed by
23 chapter 450 would have been had the election to use the
24 valuation under section 450B.11 not been made over the tax
25 paid on the real property based on the valuation under section
26 450B.11. However, the additional inheritance tax shall not be
27 computed on a value greater than the fair market value of the
28 qualified real property at the time the disposition of the
29 interest in the qualified real property or removal of the
30 conservation easement occurs.

31 Sec. 6. NEW SECTION. 450B.14 LIEN OF TAX.

32 A lien is created in favor of the state for the additional
33 inheritance tax which may be imposed by section 450B.12 on the
34 qualified real property for which an election has been made
35 under section 450B.11. The lien created by this section shall

1 continue until the tax has been paid or ten years after the
2 tax is due, whichever date occurs first. However, the lien
3 shall expire ten years after the decedent's death if the
4 qualified heir has not disposed of the interest in the
5 qualified real property or removed the conservation easement
6 from the qualified real property which would result in
7 imposition of the tax under section 450B.12. The department
8 of revenue and finance may release the lien prior to the
9 payment of the tax due, if any, if adequate security for
10 payment of the tax is given.

11 Unless the lien has been perfected by recording in the
12 office of the recorder in the county where the qualified real
13 property is probated, a transfer of the qualified real
14 property to a bona fide purchaser for value shall divest the
15 qualified real property of the lien. If the lien is perfected
16 by recording, the rights of the state under the lien have
17 priority over all subsequent mortgagees, purchasers, or
18 judgment creditors. The lien may be foreclosed by the
19 director of revenue and finance in the same manner as is
20 prescribed for the foreclosure of real estate mortgages and
21 upon judgment, execution shall be issued to sell as much of
22 the qualified real property necessary to satisfy the tax,
23 interest, and costs due.

24 Sec. 7. NEW SECTION. 450B.15 OTHER INHERITANCE TAX LAWS
25 APPLICABLE.

26 All the provisions of chapter 450 with respect to the
27 payment, collection, and administration of the inheritance tax
28 imposed under that chapter, including the confidentiality of
29 the tax return, are applicable to the provisions of this
30 subchapter to the extent the provisions are consistent. The
31 director of revenue and finance shall adopt rules necessary
32 for the enforcement and administration of this subchapter.

33 Sec. 8. CODIFICATION. The Code editor shall codify the
34 amendments to chapter 450B in this Act as subchapter II of
35 chapter 450B and shall make other changes necessary in chapter

1 450B to divide the chapter into two subchapters.

2 Sec. 9. RETROACTIVE AND OTHER APPLICABILITY DATES.

3 Section 1 of this Act applies retroactively to January 1,
4 2001, for tax years beginning on or after that date. Sections
5 2 through 7 of this Act apply to estates of decedents dying on
6 or after July 1, 2001.

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EXPLANATION

8 This bill allows a deduction when computing net income for
9 purposes of state individual income taxation for capital gains
10 realized from the sale or transfer of open space property when
11 the deed transferring the property contains a conservation
12 easement. The open space property must be designated as such
13 by definition of the department of natural resources or by
14 designation as open space property in a local comprehensive
15 plan adopted pursuant to a zoning ordinance, the property must
16 be located in or within 12 miles of a metropolitan statistical
17 area, and the conservation easement must be perpetual. This
18 portion of the bill applies retroactively to January 1, 2001,
19 for tax years beginning on or after that date.

20 The bill also exempts the value of such property from
21 inheritance tax liability. That portion of the bill applies
22 to estates of decedents dying on or after July 1, 2001.

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