

FILED FEB 17 2005

SENATE FILE 175  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1004)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to certain penalties for filing false affidavits  
2 and the time for examining and determining a correct return  
3 under the state inheritance tax and increasing the amount of  
4 property that may be transferred to minors under certain  
5 conditions and including a retroactive applicability date  
6 provision.

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

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SF 175

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

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

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

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

32 ~~b.--If a false affidavit is filed, the affiant and the~~  
33 ~~personal representative shall be jointly and severally liable~~  
34 ~~for any tax, penalty, and interest that may have been due.~~  
35 ~~Any otherwise applicable statute of limitations on the~~

1 ~~assessment-and-collection-of-the-tax, penalty, and interest~~  
2 ~~shall not apply.~~

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

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

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

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

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

28 3. If ~~no~~ a custodian has not been nominated under section  
29 565B.3, or all persons so nominated as custodian die before  
30 the transfer or are unable, decline, or are ineligible to  
31 serve, a transfer under this section may be made to an adult  
32 member of the minor's family or to a trust company unless the  
33 property exceeds ten twenty-five thousand dollars in value.

34 Sec. 6. RETROACTIVE APPLICABILITY DATE. The sections of  
35 this Act amending section 450.22, 450.53, and 450.58 apply

1 retroactively to July 1, 2004, for estates of decedents dying  
2 on or after that date.

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EXPLANATION

4 Code sections 450.22(4), 450.53(2), and 450.58(2) are  
5 amended to eliminate the language that provides that if a  
6 false affidavit is filed, the affiant and personal  
7 representative are jointly and severally liable for the tax,  
8 penalty, and interest since Code section 450.5 provides for  
9 this. Code section 450.22(4) is also amended to provide that  
10 anyone with or succeeding to an interest in real estate who  
11 willfully fails to file an affidavit or files a false  
12 affidavit in regard to a return not required to be filed is  
13 guilty of a fraudulent practice. These amendments apply  
14 retroactively to July 1, 2004, for estates of decedents dying  
15 on or after that date.

16 Code section 450.94(5) is amended to provide that the  
17 statute of limitations for the examination of a return or  
18 determination of correct amount of tax is unlimited if a false  
19 return is filed or no return is filed.

20 Code section 565B.7(3) is amended to increase the amount of  
21 property that may be transferred under the transfers to minors  
22 law to an adult member of a minor's family or a trust company  
23 for the benefit of the minor. The amount is increased from  
24 \$10,000 to \$25,000.

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McKibben  
Kreiman  
Hancock  
Boettger

Succeeded By SSB# 1004  
⑨/HF 175 Judiciary

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CO-CHAIRPERSON KREIMAN)

Passed Senate, Date \_\_\_\_\_ Passed House, 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  
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28 required to be filed pursuant to subsection 1, paragraph "b".

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35 Sec. 3. Section 450.58, subsection 2, Code 2005, is

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

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

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

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

28 EXPLANATION

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

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Code section 565B.7(3) is amended to increase the amount of  
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HOUSE FILE 175

AN ACT  
RELATING TO THE NAMES OF BUSINESS ENTITIES.

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

Section 1. Section 488.108, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. This chapter does not control the use of fictitious names. However, a limited partnership which uses a fictitious name in this state shall deliver to the secretary of state for filing a copy of the resolution of the limited partnership certified by its general partners, adopting the fictitious name.

Sec. 2. Section 547.1, Code 2005, is amended to read as follows:

547.1 USE OF TRADE NAME -- VERIFIED STATEMENT REQUIRED.

A person ~~or-copartnership~~ shall not engage in or conduct a business under a trade name, or an assumed name of a character other than the true surname of each person owning or having an interest in the business, unless the person first records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post office address, and residence address of each person owning or having an interest in the business, and the address where the business is to be conducted. However, this provision does not apply to any person organized or incorporated in this state as a domestic entity or authorized to do business in this state as a foreign entity, if the person is a limited partnership under chapter 487 or 488, a corporation under or-limited liability-company-incorporated-or-organized-in-this-state-or any-foreign-corporation-or-foreign-limited-liability-company

~~authorized-to-do-business-in-this-state-or-doing-business pursuant-to-an-exemption-in chapter 490; or a limited liability company under chapter 490A; a professional corporation under chapter 496C; a cooperative or cooperative association under chapter 497, 498, 499, or 501; or a nonprofit corporation under chapter 504 or 504A.~~

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 175, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2005

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THOMAS J. VILSACK  
Governor