



1997 ASSEMBLY BILL 618

November 19, 1997 - Introduced by Representative JENSEN. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to amend** 20.927 (2) (a), 20.927 (2) (b), 20.9275 (2) (a) (intro.), 71.83 (1)
2 (d) 2., 77.21 (1), 77.51 (4) (c) 6., 77.52 (2) (a) 1. and 77.54 (30) (d); and **to create**
3 20.927 (2m) and (2r) and 707.46 (3) of the statutes; **relating to:** restrictions on
4 payment for abortions with public funds; changing the prohibition on use of
5 federal, state or local funds for abortion-related activities by a pregnancy
6 program, project or service; exempting the sales of flex-time time-share
7 property from the sales tax and imposing the real estate transfer fee on all sales
8 of time-share property; and the penalty provision for premature sales or
9 transfers of business assets or assets used in farming that were received from
10 family members.

Analysis by the Legislative Reference Bureau

Currently, with certain exceptions, abortions may not be authorized or paid for with federal funds passing through the state treasury or with state, county, city, village or town funds. The exceptions are for abortions that are directly and medically necessary to save the life of or to prevent grave, long-lasting physical damage to the woman, or in a case of sexual assault or incest that has been reported

ASSEMBLY BILL 618

to law enforcement authorities. These abortions may be paid for with public funds if, before performing the abortion, the physician signs a certification attesting to the direct medical necessity of the abortion or attesting to his or her belief that sexual assault or incest occurred. The certification must be affixed to the claim form or invoice that is submitted to any state agency or fiscal intermediary for payment.

This bill requires that the physician's certification also be affixed when submitted by an individual health care provider to a health care coverage provider for payment or for submittal to any agency or fiscal intermediary of the state for payment. In addition, the bill requires that the health care coverage provider submit a quarterly report to the public agency that contracted for the provider's services, specifying the number of, reason for and total cost of any permitted abortions provided under public funds in the previous quarter. The agency must forward a copy of each report to the department of health and family services, which must annually publish a summary of this information.

Under current law, as affected by 1997 Wisconsin Act 27 (the biennial budget act), state agencies and local governmental units may not authorize payment of federal, state or local funds that involve pregnancy programs, projects or services if the program, project or service engages in abortion-related activities using the federal, state or local funds or is funded from another source that requires performance of the abortion-related activities. The prohibited activities are providing abortions, promoting, encouraging or counseling in favor of abortions or making abortion referrals. If these prohibitions are violated, the grant or other funding of federal, state or local money is terminated, the grantee is required to return any money received and the grantee may not receive the federal, state or local moneys for 2 years. A "pregnancy program, project or service" is defined as a program, project or service of an organization that provides services for pregnancy prevention, family planning, pregnancy testing, pregnancy counseling, prenatal care, pregnancy services and reproductive health care services that are related to pregnancy.

This bill changes the prohibition on use of federal, state or local funds for abortion-related activities to apply the prohibition to a pregnancy program, project or service that uses state, local or federal funds and that engages in the prohibited activities.

Time shares in property are sold on either a fixed-time basis (the time of occupancy and the unit are specified at the time of the sale) or a flex-time basis (the time of occupancy and the unit are subject to availability and to making a reservation). Fixed-time transactions, like conveyances of real property, are exempt from the sales tax. Flex-time transactions, like rentals of hotel and motel rooms, are subject to the sales tax. This bill exempts flex-time transactions from the sales tax. By requiring that all contracts for the sale of time shares must be recorded, the bill also subjects all sales of time shares to the real estate transfer fee.

Generally, under current law, starting with taxable years that begin on January 1, 1999, 100% of the the gain realized on the sale or transfer of business assets or assets used in farming to persons who are related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship is exempt from taxation. Also

ASSEMBLY BILL 618

under current law, if the person who purchases or receives such business assets or assets used in farming sells or otherwise disposes of the assets within 2 years after the person purchases or receives the assets, the person is liable for a penalty. The penalty is equal to the amount of the capital gains exclusion received by the seller or transferor when the person purchased or received the assets, prorated based on the number of months the person held the assets. For example, a person who held the assets for 18 months of the 2-year period during which the penalty applies would be liable for 25% of the amount of the capital gains exclusion received by the seller or transferor.

Under this bill, the penalty on the sale or disposal of such assets within 2 years after the person purchases or receives the assets is equal to the amount of income tax on the capital gains the original seller or transferor of the assets would have been liable for if the exemption for sales or transfers to a person who is related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship did not exist. The proration provision of the current law penalty provision is not changed under the bill.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.927 (2) (a) of the statutes is amended to read:
2 20.927 (2) (a) This section does not apply to the performance by a physician of
3 an abortion which is directly and medically necessary to save the life of the woman
4 or in a case of sexual assault or incest, provided that prior thereto the physician signs
5 a certification which so states, and provided that, in the case of sexual assault or
6 incest the crime has been reported to the law enforcement authorities. The
7 certification shall be affixed to the claim form or invoice when submitted to any
8 agency or fiscal intermediary of the state for payment, or when submitted by an
9 individual health care provider to a health care coverage provider for payment or for
10 submittal to any agency or fiscal intermediary of the state for payment, and shall
11 specify and attest to the direct medical necessity of such abortion upon the best

ASSEMBLY BILL 618**SECTION 1**

1 clinical judgment of the physician or attest to his or her belief that sexual assault or
2 incest has occurred.

3 **SECTION 2.** 20.927 (2) (b) of the statutes is amended to read:

4 20.927 (2) (b) This section does not apply to the performance by a physician of
5 an abortion if, due to a medical condition existing prior to the abortion, the physician
6 determines that the abortion is directly and medically necessary to prevent grave,
7 long-lasting physical health damage to the woman, provided that prior thereto the
8 physician signs a certification which so states. The certification shall be affixed to
9 the claim form or invoice when submitted to any agency or fiscal intermediary of the
10 state for payment, or when submitted by an individual health care provider to a
11 health care coverage provider for payment or for submittal to any agency or fiscal
12 intermediary of the state for payment, and shall specify and attest to the direct
13 medical necessity of such abortion upon the best clinical judgment of the physician.

14 **SECTION 3.** 20.927 (2m) and (2r) of the statutes are created to read:

15 20.927 (2m) Quarterly, following any annual quarter in which health care
16 services have been provided under coverage that is affected by sub. (1), the health
17 care coverage provider shall submit a written report to the agency which contracted
18 for the services of the provider. The report shall specify the number of abortions, if
19 any, provided in the previous quarter by the provider to individuals who have
20 coverage for abortions, as permitted under sub. (2) (a) or (b), the reason for each
21 abortion, and the total cost of each abortion.

22 (2r) A copy of each report submitted under sub. (2m) shall be forwarded to the
23 department of health and family services, which shall review the data for compliance
24 with this section and annually publish a summary of the information obtained under
25 this subsection.

ASSEMBLY BILL 618

1 **SECTION 4.** 20.9275 (2) (a) (intro.) of the statutes, as created by 1997 Wisconsin
2 Act 27, is amended to read:

3 20.9275 (2) (a) (intro.) The pregnancy program, project or service using the
4 state, local or federal funds does any of the following ~~using the state, local or federal~~
5 ~~funds~~:

6 **SECTION 5.** 71.83 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act 27,
7 is amended to read:

8 71.83 (1) (d) 2. The penalty described under subd. 1. shall be the amount of ~~the~~
9 ~~capital gains exclusion received by the transferor under s. 71.05 (6) (b) 25. income tax~~
10 that would have been imposed under s. 71.02 on the capital gains received by the
11 transferor in the transaction described in subd. 1. if the exemption under s. 71.05 (6)
12 (b) 25. did not apply to the transaction multiplied by a fraction, the denominator of
13 which is 24 and the numerator of which is the difference between 24 and the number
14 of months between the date on which the person who is liable for the penalty
15 purchased or otherwise received the assets described in subd. 1. and the month in
16 which the person sells or otherwise disposes of the assets.

17 **SECTION 6.** 77.21 (1) of the statutes is amended to read:

18 77.21 (1) "Conveyance" includes deeds and other instruments for the passage
19 of ownership interests in real estate, including contracts and assignments of a
20 vendee's interest therein, including instruments that are evidence of a sale of
21 time-share property, as defined in s. 707.02 (32), and including leases for at least 99
22 years but excluding leases for less than 99 years, easements and wills.

23 **SECTION 7.** 77.51 (4) (c) 6. of the statutes is amended to read:

24 77.51 (4) (c) 6. Charges associated with time-share property that is taxable
25 under s. 77.52 (2) (a) ~~1.~~ or 2.

ASSEMBLY BILL 618**SECTION 8**

1 **SECTION 8.** 77.52 (2) (a) 1. of the statutes is amended to read:

2 77.52 **(2)** (a) 1. The furnishing of rooms or lodging to transients by hotelkeepers,
3 motel operators and other persons furnishing accommodations that are available to
4 the public, irrespective of whether membership is required for use of the
5 accommodations, not including the furnishing of rooms or lodging through the sale
6 of a time-share property, as defined in s. 707.02 (32), ~~if the use of the rooms or lodging~~
7 ~~is not fixed at the time of sale as to the starting day or the lodging unit.~~ In this
8 subdivision, "transient" means any person residing for a continuous period of less
9 than one month in a hotel, motel or other furnished accommodations available to the
10 public. In this subdivision, "hotel" or "motel" means a building or group of buildings
11 in which the public may obtain accommodations for a consideration, including,
12 without limitation, such establishments as inns, motels, tourist homes, tourist
13 houses or courts, lodging houses, rooming houses, summer camps, apartment hotels,
14 resort lodges and cabins and any other building or group of buildings in which
15 accommodations are available to the public, except accommodations, including
16 mobile homes as defined in s. 66.058 (1) (d), rented for a continuous period of more
17 than one month and accommodations furnished by any hospitals, sanatoriums, or
18 nursing homes, or by corporations or associations organized and operated
19 exclusively for religious, charitable or educational purposes provided that no part of
20 the net earnings of such corporations and associations inures to the benefit of any
21 private shareholder or individual.

22 **SECTION 9.** 77.54 (30) (d) of the statutes is amended to read:

23 77.54 **(30)** (d) In this subsection "residential use" means use in a structure or
24 portion of a structure which is a person's permanent residence, but does not include
25 use in transient accommodations, as specified in s. 77.52 (2) (a) 1.; time-share

ASSEMBLY BILL 618

1 property, as defined in s. 707.02 (32); motor homes; or travel trailers or other
2 recreational vehicles.

3 **SECTION 10.** 707.46 (3) of the statutes is created to read:

4 707.46 (3) RECORDING. A contract for the purchase of a time share and any other
5 instrument that is evidence of a purchase of a time share is valid only if it is recorded.

6 **SECTION 9343. Initial applicability; revenue.**

7 (1) The treatment of sections 77.21 (1), 77.51 (4) (c) 6., 77.52 (2) (a) 1., 77.54 (30)
8 (d) and 707.46 (3) of the statutes first applies to sales that occur on the first day of
9 the 2nd month beginning after publication.

10 (END)