



2005 ASSEMBLY BILL 423

May 12, 2005 – Introduced by Representatives BERCEAU, ALBERS, HAHN, BLACK and LEHMAN, cosponsored by Senator LASSA. Referred to Committee on Financial Institutions.

1 **AN ACT** *to renumber and amend* 77.21 (1) and 77.22 (1); and *to create* 77.21
2 (1) (b), 77.22 (1) (c), 77.25 (1m) and 77.26 (9) of the statutes; **relating to:**
3 conveying real property for real estate transfer fee purposes and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who conveys real property to another must pay a real estate transfer fee at the rate of 30 cents for each \$100 of the property's value. The person pays the fee to the register of deeds for the county in which the property is located and files a return with the register of deeds which indicates, in part, the value of the ownership interest transferred by the conveyance. Under current law, a conveyance that occurs pursuant to a merger of corporations is exempt from the real estate transfer fee. For purposes of imposing the real estate transfer fee, a "conveyance" includes deeds and other instruments used to pass an ownership interest in real property.

Under this bill, for the purpose of submitting a real estate transfer fee return, a "conveyance" also includes a change of 50 percent or more in the ownership interest, not including a merger, of a general partnership, limited liability partnership, limited partnership, limited liability company, corporation, tax-option corporation, nonprofit or nonstock corporation, or other association, if any such entity has assets consisting of real estate. However, a conveyance as described in this paragraph is exempt from the imposition of the real estate transfer fee.

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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.** 77.21 (1) of the statutes is renumbered 77.21 (1) (intro.) and
2 amended to read:

3 77.21 (1) (intro.) “Conveyance” includes deeds all of the following:

4 (a) Deeds and other instruments for the passage of ownership interests in real
5 estate, including contracts and assignments of a vendee’s interest therein, including
6 instruments that are evidence of a sale of time-share property, as defined in s. 707.02
7 (32), and including leases for at least 99 years but excluding leases for less than 99
8 years, easements and wills.

9 **SECTION 2.** 77.21 (1) (b) of the statutes is created to read:

10 77.21 (1) (b) A change of 50 percent or more within any 12-month period in the
11 ownership interest, not including a merger, of a general partnership, limited liability
12 partnership, limited partnership, limited liability company, corporation, tax-option
13 corporation, nonprofit or nonstock corporation, or other association, if any such
14 entity has assets consisting of real estate.

15 **SECTION 3.** 77.22 (1) of the statutes is renumbered 77.22 (1) (a) and amended
16 to read:

17 77.22 (1) (a) There is imposed on the grantor of real estate a real estate transfer
18 fee at the rate of 30 cents for each \$100 of value or fraction thereof on every
19 conveyance not exempted or excluded under this subchapter. In regard to land
20 contracts the value is the total principal amount that the buyer agrees to pay the

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1 seller for the real estate. This fee All conveyances shall be recorded with the register
2 as provided under this subsection.

3 (b) For a conveyance, as defined in s. 77.21 (1) (a), the fee imposed under par.
4 (a) shall be collected by the register at the time the instrument of conveyance is
5 submitted for recording. Except as provided in s. 77.255, at the time of submission
6 the grantee or his or her duly authorized agent or other person acquiring an
7 ownership interest under the instrument, or the clerk of court in the case of a
8 foreclosure under s. 846.16 (1), shall execute a return, signed by both grantor and
9 grantee, on the form prescribed under sub. (2). The register shall enter the fee paid
10 on the face of the deed or other instrument of conveyance before recording, and,
11 except as provided in s. 77.255, submission of a completed real estate transfer return
12 and collection by the register of the fee shall be prerequisites to acceptance of the
13 conveyance for recording. The register shall have no duty to determine either the
14 correct value of the real estate transferred or the validity of any exemption or
15 exclusion claimed. If the transfer is not subject to a fee as provided in this
16 subchapter, the reason for exemption shall be stated on the face of the conveyance
17 to be recorded by reference to the proper subsection under s. 77.25.

18 **SECTION 4.** 77.22 (1) (c) of the statutes is created to read:

19 77.22 (1) (c) For a conveyance, as defined in s. 77.21 (1) (b), the instrument of
20 conveyance shall be submitted to the register for recording. At the time of
21 submission, the grantee or his or her duly authorized agent or other person acquiring
22 an ownership interest under the instrument shall execute a return, signed by both
23 grantor and grantee, on the form prescribed under sub. (2). Submission of a
24 completed real estate transfer return shall be a prerequisite to acceptance of the
25 conveyance for recording. A return submitted under this paragraph shall identify

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1 the county and municipality in which each parcel of real property that is the subject
2 of the conveyance is located and shall state separately the value of each such parcel.

3 **SECTION 5.** 77.25 (1m) of the statutes is created to read:

4 77.25 (1m) As defined under s. 77.21 (1) (b).

5 **SECTION 6.** 77.26 (9) of the statutes is created to read:

6 77.26 (9) Any person who fails to record a conveyance under s. 77.22 (1) (c)
7 within 90 days from the date of the transition that brings the total change of
8 ownership interest to at least 50 percent may, for each offense, be fined an amount
9 equal to 10 percent of the value of the conveyance, but not less than \$1,000 nor more
10 than \$10,000, or imprisoned in the county jail not more than one year, or both.

11 **SECTION 7. Initial applicability.**

12 (1) This act first applies to a conveyance of real property occurring on the
13 effective date of this subsection.

14 (END)