



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4545/P2
TJD:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 49.453 (4c) (am) and 49.453 (4c) (b) 2.; and **to renumber** 49.453
2 (4c) (b) 1. of the statutes; **relating to:** evaluation of promissory notes for
3 divestment (suggested as remedial legislation by the Department of Health
4 Services).

Analysis by the Legislative Reference Bureau

Certain individuals who are eligible for Medical Assistance benefits are subject to an asset test to determine eligibility for those benefits, and this eligibility determination considers whether assets have been transferred before the date on which eligibility is determined. Current law specifies the circumstances under which a transfer of assets constitutes an impermissible divestment, and the transfer of assets for less than fair market value is one of these impermissible divestments. An impermissible divestment results in a period of ineligibility for Medical Assistance. Currently, the purchase of a promissory note is a transfer of assets for less than fair market value unless all of the following are satisfied: 1) the repayment term for the note is actuarially sound, 2) the payments for the note are to be made in equal amounts during the loan's terms, 3) it is prohibited to cancel the balance of the loan upon the death of the lender, and 4) the note is negotiable, assignable, enforceable, and does not contain any terms making it unmarketable.

The Medical Assistance program is a jointly funded federal and state program. The federal law relating to divestment and periods of ineligibility for Medical Assistance includes as an asset for which transfer is an impermissible divestment a promissory note, unless the note meets the first three criteria specified under

