Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

ESSB 5998

Brief Description: Establishing a graduated real estate excise tax.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nguyen, Lovelett, Hasegawa, Salomon and Hunt).

Brief Summary of Engrossed Substitute Bill

- Modifies the state real estate excise tax rate structure.

Hearing Date: 4/27/19

Staff: Richelle Geiger (786-7139).

Background:

Real estate excise tax (REET) is due on the sale of real estate and transfer of controlling interest in an entity that owns real property in the state. The tax base is the selling price of real estate, including the amount of any liens, mortgages, and other debts. In the case of the transfer of controlling interest, the tax base is the true and fair value, or selling price, of the real property transferred. The tax is typically paid by the seller of the property, although the buyer is liable for the tax if it is not paid.

The state REET rate is 1.28 percent.

The state REET revenue are distributed as follows:

- 2 percent to the Public Works Assistance Account (PWAA) through June 30, 2023. After that date, 6.1 percent to the PWAA;
- 4.1 percent to the Education Legacy Trust Account (ELTA) through June 30, 2023. After that date, no revenue distribution to the ELTA;
- 1.6 percent to the City-County Assistance Account; and
- the remainder to the State General Fund.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Any penalties assessed for delinquent REET payments are deposited into the Housing Trust Fund.

Counties collect the state REET on behalf of the state and retain 1.3 percent of the collections to offset administrative costs.

Summary of Bill:

The state REET rate structure is modified. Beginning on January 1, 2020, through June 30, 2022, the rate is:
- 1.1 percent on the portion of the selling price equal to or less than $500,000;
- 1.28 percent on the portion of the selling price that is greater than $500,000 and equal to or less than $1.5 million;
- 2.75 percent on the portion of the selling price that is greater than $1.5 million but equal to or less than $3 million; and
- 3 percent on the portion of the selling price that is greater than $3 million.

The new rate structure does not apply to timberland and agricultural land. The rate for these types of property would continue to be 1.28 percent, the same rate under current law.

Beginning on January 1, 2023, and every four years thereafter the selling price thresholds are adjusted to reflect the lesser of the growth in the Consumer Price Index for Shelter (CPI-Shelter) over the past four years or 5 percent.

The Department of Revenue (DOR) is directed to:
- calculate the updated thresholds on July 1, immediately prior to the effective date of the new thresholds;
- publish the updated thresholds on September 1, immediately prior to the effective date of the new thresholds; and
- report the updated thresholds to the fiscal committees of the Legislature within six months of the effective date of the new thresholds.

If the growth in CPI-Shelter is less than 0 percent, the current selling price thresholds will continue to apply.

The state REET revenue distribution is modified:
- 1.7 percent to the PWWA through June 30, 2023. After that date, 5.2 percent to the PWAA;
- 1.4 percent to the City-County Assistance Account;
- 79.4 percent to the State General Fund; and
- the remainder to the ELTA.

The term "sale," for the purpose to determine if the REET applies, is modified so the REET applies to the transfer or acquisition within any 36-month period, rather than a 12-month period, of a controlling interest in any entity with an interest in real property in the state. The definition of "controlling interest" applies to any corporation.

The DOR is authorized to disregard transactions it deems were structured to avoid tax liability and instead determine and apply the proper tax treatment. The authority includes treating multiple sales as a single sale to prevent parties from reducing tax liability when it appears that the parties have engaged in a concerted plan intended from the outset to achieve a reduced effective tax rate, than had the parties collapsed the separate sales into a single sale at the outset. The DOR is encouraged to provide guidance to the public concerning implementation of this authority, whether by rule or otherwise. The Secretary of State (SOS) must require any entity required to file an annual report with the SOS, to disclose any transfer of controlling interest or an interest that amounts to at least one third of a controlling interest in the entity.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect on January 1, 2020.