



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #345

### **Real Estate Transfer Fee (General Fund Taxes -- Miscellaneous Taxes)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 209, #1]

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#### **CURRENT LAW**

The Wisconsin real estate transfer fee (RETF) is imposed upon the grantor (seller) of real estate at a rate of \$3.00 per \$1,000 of value. The determination of the "value" of real estate for purposes of the fee depends upon the type of transfer being conducted. In the case of a sale of property, value equals the full amount of consideration paid or to be paid, including any liens on the property. If the property is transferred as a gift, value is equal to the prevailing market value.

To pay the RETF, a return is filed and the fee is collected at the county level by the register of deeds when the deed or other instrument of conveyance is submitted for recording. Proceeds from the real estate transfer fee are divided between the state and the county in which it is collected, with the state receiving 80% (or \$2.40 per \$1,000 of value) and the county retaining 20% (or \$0.60 per \$1,000 of value). The state share of the RETF, which is deposited to the general fund, is currently estimated at \$62.0 million in each year of the 2007-09 biennium. The county share is estimated at approximately \$15.5 million in each year.

Certain conveyances of real property are exempt from the real estate transfer fee. For example, transfers from federal, state, or local units of government and transfers by gift to federal, state, or local governments are not subject to the fee. Other examples include transfers of property valued at \$100 or less, sales of real estate for delinquent taxes, and transfers between a husband and wife or between a parent and child for little or no consideration.

## **GOVERNOR**

Increase the RETF from \$3.00 to \$6.00 per \$1,000 of value transferred. However, specify that the rate increase would not apply to conveyances pursuant to a recorded land contract entered into before August 1, 1992. In addition, increase the percentage of collections of the RETF retained by the state from 80% to 90% and reduce the county share from 20% to 10%. With these changes, the state's share of the fee would increase from \$2.40 to \$5.40 per \$1,000 of value, while the county share would remain at \$0.60 per \$1,000 of value.

Specify that these provisions would be effective with conveyances of real estate recorded on the first day of the second month beginning after publication of the bill.

In addition, provide that all proceeds from the RETF are to be deposited in the segregated county aid fund (which would be created under the bill), rather than to the general fund. The county aid fund would be used to fund aid payments under the shared revenue, county and municipal aid, circuit court support grants, and youth and family aids programs and a transfer to the affordable housing trust fund. The various proposed uses of the county aid fund are addressed individually under papers prepared for each of these topics.

## **DISCUSSION POINTS**

1. The RETF was first imposed with respect to conveyances recorded in 1970. At that time, the fee was \$1.00 per \$1,000 of value transferred and the county collecting the fee retained 50% of the total fee, with the remaining 50% going to the state. The fee was increased to its current rate, effective for transfers occurring on or after July 1, 1982, under the 1981-83 biennial budget (Chapter 20, Laws of 1981). Chapter 20 also established the shares of the fee retained by the county and remitted to the state at the current law provisions of 20% and 80%, respectively.

2. While the RETF is imposed on the grantor of real estate, the RETF form requires signatures from both the grantor and the grantee or their respective agents. The form is typically completed at the closing of a real estate sale.

3. Over the last ten years, through 2005-06, general fund tax revenues from the RETF have increased at an average annual rate of 9.9%. In the last five years, the average annual increase has been 12.7%. However, from 2004-05 to 2005-06, the increase was only 4.3% (from \$77.2 million in 2004-05 to \$80.5 million in 2005-06). Year-to-date collections for 2006-07, through March, 2007, have decreased by 12.5% compared to the same time period in the previous year. Under current law, state tax revenues from the RETF are estimated at \$69.0 million in 2006-07, and at \$62.0 million per year in each year of the 2007-09 biennium. The growth trends in RETF collections reflect changes in general economic conditions as well as changes in the strength or weakness of various components of the real estate market.

4. On a calendar year basis for the last two years, there were 184,787 RETF forms filed with fees in 2005, with total fees of \$100.0 million. The average fee was \$541. In 2006, there were

162,688 RETF forms with a fee that were filed, along with total fees of \$93.3 million at an average of \$573 per return.

5. The administration estimates that the proposal would result in increases in state RETF collections of \$64.6 million in 2007-08 and \$77.5 million in 2008-09, for total state RETF collections of \$126.6 million and \$139.5 million in the first and second years, respectively. While the RETF rate would be doubled, the county share of the fees would be reduced from 20% to 10%. The result would be that the total county share of collections would remain at the current law estimate of \$15.5 million in each year of the 2007-09 biennium.

6. For purposes of projecting residential property taxes in the state, this office has estimated median home values in Wisconsin at \$168,500 in 2007 and \$173,100 in 2008. Based on these estimates, the RETF on a median-valued home would be estimated to increase, under the proposal, from \$505 to \$1,010 in 2007 and from \$519 to \$1,038 in 2008.

7. Under the proposal, it is intended that the rate increase and the modifications in the county and state shares of RETF collections would first apply to conveyances recorded on the first day of the second month beginning after publication of the budget bill. However, the deposit of state RETF revenues to the county aid fund, rather than the general fund, is intended to apply with respect to the entire 2007-08 fiscal year (as well as to subsequent years). The bill would require technical modifications to the initial applicability and effective date provisions to achieve these intended affects.

8. As noted above, the proposed rate increase would not apply to conveyances pursuant to a recorded land contract entered into before August 1, 1992. This provision reflects the current treatment of such land contracts, for which current law (as clarified through the administrative code) defers the RETF until a deed in satisfaction of the land contract is recorded by the purchaser. At the time of the recording of the deed, the RETF is due, based on the terms of the land contract. For consistency with the current treatment of such land contracts, the budget provision would exempt a recorded land contract entered into before August 1, 1992, from the proposed increase in the fee. In the absence of this provision, even though the RETF is imposed on the seller of real estate, the buyer of such a land contract would have to pay the higher RETF at the time of recording the deed in satisfaction of the contract.

9. Assuming that these technical corrections would be made, the fiscal effects of the proposal are estimated as follows: (a) general fund tax revenues would be reduced by \$62.0 million in each year; and (b) segregated revenues in the county aid fund would total \$126.6 million in 2007-08 and \$139.5 million in 2008-09.

10. According to information on real estate transfer taxes or fees compiled by the National Council of State Legislatures, based on the Commerce Clearing House State Tax Guide as of May, 2005, 36 states and the District of Columbia impose such a tax or fee. Direct comparisons of Wisconsin's fees with the taxes or fees imposed by other states are difficult, as some states impose variable rates depending on factors such as the value of the property, the size of the

community, or whether the buyer is a first-time home owner. A number of states also have mortgage fees. In addition, differences in rates do not reflect differences among states in the number and nature of exemptions provided from the tax or fee.

11. Among our neighboring states, the following transfer taxes or fees are imposed:

a. Illinois imposes a state transfer tax on transfers of real property at the rate of \$1.00 per \$1,000 of value transferred. In addition, there is a county real estate transfer tax at the rate of \$0.50 per \$1,000 of value transferred. However, Chicago imposes a tax at the rate of \$7.50 per \$1,000. Certain exemptions from the tax apply.

b. Iowa imposes a realty transfer tax when there is consideration and the actual value of the realty transferred exceeds \$500. The rate is \$1.60 per \$1,000 value in excess of \$500. Certain exemptions from the tax apply.

c. In Michigan, counties levy a realty transfer tax of \$1.10 per \$1,000 of value if the transfer is in a county with a population of less than two million, and not more than \$1.50 per \$1,000, as authorized by the county board of commissioners, in a county with a population of two million or more. In addition, there is a state realty transfer tax of \$7.50 per \$1,000 of value transferred. Certain exemptions from the tax apply.

d. Minnesota imposes a mortgage registry tax and a deed tax. The mortgage registry tax is imposed on the principal debt or obligation which is or may be secured by any mortgage or real property within the state. The rate of the tax is \$2.30 per \$1,000 of debt. The deed tax is imposed on each deed instrument by which real property in Minnesota is granted, assigned, transferred, or otherwise conveyed. The deed tax is imposed at a rate of \$3.30 per \$1,000 of total consideration (including consideration for personal property located on the real property conveyed by the deed). Certain exemptions from both taxes apply.

12. Among all of the states with a fee or tax on realty transfers, the highest fee, on the basis of the percentage of the value of the real estate, is the 1.5% to 2.0% rate (\$15 to \$20 per \$1,000 of value) imposed by the state of Delaware. However, the state of Washington's tax, when combined with a local option tax, ranges from 1.53% to 2.03% (\$15.30 to \$20.30 per \$1,000 of value). The lowest rate among states imposing such taxes or fees is 0.01% (10¢ per \$1,000 of value), which is the rate imposed in Colorado.

13. Wisconsin's fee, expressed as a percentage of the value of the real estate being transferred, is 0.3% under current law. Under the bill, the rate would increase to 0.6%.

14. Under the proposal, the entire state share of RETF revenues would be deposited to the segregated county aid fund, rather than to the general fund, and used for the purposes specified under the bill. Alternatively, the Committee could choose to increase the fee as proposed but retain all state RETF revenues in the general fund, or specify such funds for an alternate purpose, or increase the fee by a different amount than would be provided under the bill. However, any modifications that would reduce estimated revenues from the RETF, compared to the bill, would

also affect the programs for which the proposal would provide funding through the county aid fund. If the Committee chose to reduce or eliminate the proposed increase in the RETF and/or deposits to the proposed county aid fund, funding for the programs that the bill would provide through the fund would also have to be reduced or to be replaced with other funds.

15. One alternative, for example, would be to increase the RETF to \$4.00 per \$1,000 of value transferred, rather than to \$6.00 per \$1,000 of value, and to change the state/county shares of the fee to 85% and 15% for the state and counties, respectively. As under the Governor's proposal, this option would hold county RETF revenues at the same level as under current law. Under this option, it is estimated that state tax revenues from the RETF would increase by \$21.5 million in 2007-08, compared to current law, and by \$25.8 million in 2008-09. These amounts would be \$43.1 million and \$51.7 million less in 2007-08 and 2008-09, respectively, than the estimated increases under the bill. Under this option, deposits to the proposed county aid fund would be reduced by the same amounts.

16. Another option would be to increase the RETF to \$5.00 per \$1,000 of value transferred, and to change the state/county shares of the fees to 88% and 12% for the state and counties, respectively. Under this option, county RETF revenues would be held at the current law estimates, while estimated state tax revenues from the RETF would increase by \$43.1 million in 2007-08 and by \$51.7 million in 2008-09, compared to current law. These estimated increases would be \$21.5 million and \$25.8 million less in 2007-08 and 2008-09, respectively, than the estimates under the bill. This option would reduce the deposits to the proposed county aid fund by the same amounts.

17. It could be argued that, if the RETF were to be increased, the counties should be permitted to benefit from that increase by retaining 20% of RETF revenues, rather than being held to the same receipts as under current law through a reduction in the county share of the RETF. If the total fee were increased as provided under the Governor's proposal, but the county share remained at 20%, it is estimated that counties would receive an additional \$12.9 million in 2007-08 and \$15.5 million in 2008-09, and the state's share of increased revenues under the proposed increase in the rate of the RETF would be reduced, compared to the bill, by the same amounts. Under this option, however, there would also be less revenue to deposit to the county aid fund.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's proposal, with technical modifications to clarify that the proposed rate increase and change in the county and state shares of the RETF would first apply on the first day of the second month after publication of the bill, and that the deposit of state RETF collections to the county aid fund would apply with respect to state RETF collections for 2007-08 and thereafter. Under this alternative, there would be no change to the estimates in the bill. Compared to current law, general fund tax revenues would be reduced by an estimated \$62.0 million in each year and estimated segregated revenues in the county aid fund would total \$126.6 million in 2007-08 and \$139.5 million in 2008-09.

<b>ALT 1</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	\$0	-\$124,000,000
SEG	<u>0</u>	<u>266,100,000</u>
Total	\$0	\$142,100,000

2. Approve the Governor's proposal as modified under Alternative 1, with the following exceptions: (a) specify that the RETF would be increased to \$4 per \$1,000 of value transferred rather than the rate of \$6 per \$1,000 that would be provided under the bill; and (b) provide that the state share of the RETF would increase to 85% and the county share would be reduced to 15%. This alternative would maintain county RETF revenues at the same level as estimated under both current law and the Governor's proposal. Compared to the bill, this alternative would reduce estimated deposits to the proposed county aid fund by \$43.1 million in 2007-08 and \$51.7 million in 2008-09. Compared to current law, general fund tax revenues would be reduced by an estimated \$62.0 million in each year (as would be the case under the bill) and estimated segregated revenues in the county aid fund would total \$83.5 million in 2007-08 and \$87.8 million in 2008-09.

<b>ALT 2</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	\$0	-\$124,000,000
SEG	<u>- 94,800,000</u>	<u>171,300,000</u>
Total	-\$94,800,000	\$47,300,000

3. Approve the Governor's proposal as modified under Alternative 1, with the following exceptions: (a) specify that the RETF would be increased to \$5 per \$1,000 of value transferred, rather than to \$6.00 per \$1,000 of value; and (b) provide that the state share of the RETF would increase to 88% and the county share would be reduced to 12%. This alternative would maintain county RETF revenues at the same level as estimated under both current law and the Governor's proposal. Compared to the bill, estimated deposits to the proposed county aid fund would be reduced by \$21.5 million in 2007-08 and by \$25.8 million in 2008-09. Compared to current law, general fund tax revenues would be reduced by an estimated \$62.0 million in each year and estimated segregated revenues in the county aid fund would total \$105.1 million in 2007-08 and \$113.7 million in 2008-09.

<b>ALT 3</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	\$0	-\$124,000,000
SEG	<u>- 47,300,000</u>	<u>218,800,000</u>
Total	-\$47,000,000	\$94,800,000

4. Approve the Governor's proposal as modified under Alternative 1, with the following exception: maintain the county share of the RETF at 20% and the state share at 80%, as under current law. Compared to the bill, total deposits to the proposed county aid fund would be reduced by an estimated \$12.9 million in 2007-08 and by \$15.5 million in 2008-09. County revenues from the RETF would, correspondingly, be estimated to increase by these amounts. Compared to current law, general fund tax revenues would be reduced by an estimated \$62.0 million in each year and estimated segregated revenues in the county aid fund would total \$113.7 million in 2007-08 and \$124.0 million in 2008-09.

<b>ALT 4</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	\$0	-\$124,000,000
SEG	<u>-28,400,000</u>	<u>237,700,000</u>
Total	-\$28,400,000	\$113,700,000

5. Delete provision.

<b>ALT 5</b>	<b>Change to Bill Revenue</b>	<b>Change to Base Revenue</b>
GPR	\$124,000,000	\$0
SEG	<u>-266,100,000</u>	<u>0</u>
Total	-\$142,100,000	\$0

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