

Legislative Analysis



ESTATE ADMINISTRATION FEE

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 192

Sponsor: Sen. Bruce Caswell
House Committee: Judiciary
Senate Committee: Judiciary

Complete to 10-15-12

A SUMMARY OF SENATE BILL 192 AS PASSED BY THE SENATE 3-22-12

The bill would require the amount of indebtedness of real property included in an estate to be deducted from the value of the real property when calculating the estate administration fee.

The Revised Judicature Act (RJA) requires that, in all decedents' estates in which proceedings are instituted for probate, the probate court charge and collect fees as an expense of administration on the value of all assets, as of the date of the decedent's death. The fees, which are based on the value of an estate, equate to a dollar amount plus a percentage of an amount over a certain level. For example, in an estate valued at less than \$1,000, the fee is \$5 plus 1 percent of the amount over \$500. In an estate valued at \$100,000 to \$500,000, the fee is \$362.50 plus 1/8 of 1 percent of the amount over \$100,000. For estates worth over \$500,000, additional fees are charged based on increments of \$100,000. The fees are due and payable to the probate court before the filing of the final account or within one year after the beginning of probate proceedings, whichever occurs first, and are rounded to the whole dollar.

Senate Bill 192 would amend the RJA (MCL 600.871) so that, if real property included in the estate being probated is encumbered by or used as security for a debt, the amount of the indebtedness would have to be deducted from the value of the real property.

Thus, if the estate was valued at \$650,000 but included real property valued at \$500,000 that carried a mortgage of \$300,000, the estate administration fee would have to be based on a total value of \$350,000.

FISCAL IMPACT:

The bill would reduce revenue for the state General Fund and county general funds. The bill reduces the value of estates for the purpose of calculating administrative fees, and thus the total amount of the fees collected would be reduced. These fees are split between county and state general funds, with two-fifths of fees directed to county general funds, and the remaining three-fifths directed to the state general fund.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Erik Jonasson

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