

Legislative Analysis



ESTATE ADMINISTRATION FEE

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

Senate Bill 192 (Substitute H-1)

Sponsor: Sen. Bruce Caswell

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 11-28-12

A SUMMARY OF SENATE BILL 192 AS REPORTED BY HOUSE COMMITTEE

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 and would revise the formula for distribution of the fees to counties and the state general fund.

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 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 before the estate administration fee is calculated.

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.

In addition, the bill would revise the formula for distribution of the fees. Under the bill, 45% (increased from two-fifths) of each fee would be directed to a county's general fund and 55% (decreased from three-fifths) would be directed to the state General Fund.

MCL 600.871 and 600.877

FISCAL IMPACT:

The bill would reduce revenue for the state General Fund, and have an indeterminate impact on county general funds. Overall revenue will be reduced because of the reduction in value

of estates for the purpose of calculating administrative fees, which would thus reduce the total amount of fees collected. The state will also see a further reduction in revenue due to now receiving a decreased share of revenue collected from these fees. For counties, it is unclear whether or not the reduction in overall revenue would be partially or fully offset by the increase in the counties' share of revenue.

Currently, state revenue from these fees is estimated at \$3.0 million, meaning counties are receiving approximately \$2.0 million, totaling \$5.0 million in fees collected. Before any reductions in fee revenue collected, state share of this revenue would reduce to \$2.75 million and county share would increase to \$2.25 million under the new 55/45 split, compared to the previous 60/40 share of fee revenue.

No data are available to indicate how much fee revenue would be reduced under the bill, but overall revenue would have to be reduced by at least \$500,000, or about 10%, in order for counties to see a negative fiscal impact from the bill.

POSITIONS:

The Michigan Bankers Association indicated support for the bill. (11-8-12)

The Michigan Probate Judges Association indicated opposition to the bill. (11-8-12)

The Michigan Associations of Counties expressed some concerns with the bill. (11-8-12)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Erik Jonasson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.