

**Report on Public Policy Position****Name of section:**

Probate &amp; Estate Planning Section

**Contact person:**

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[SB 0192](#) (Caswell) Probate; wills and estates; estate administration fee; allow deduction for amount of mortgage on real property. Amends sec. 871 of [1961 PA 236](#) (MCL [600.871](#)).

**Date position was adopted:**

March 18, 2011

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

19

**Number who voted in favor and opposed to the position:**

16 Voted for position

3 Voted against position

0 Abstained from vote

0 Did not vote

**Position:**

Support

**Explanation of the position, including any recommended amendments:**

The initial problem was that different Counties computed the inventory fee differently with regard to encumbering debt. Some allowed a deduction for an encumbering debt, such as a mortgage on real estate, in computing the value of a decedent estate's assets. Others did not. After a negotiation between the Michigan Probate & Estate Planning Section of the State Bar of Michigan and the Michigan Probate and Juvenile Registers Association, Michigan Court Rule 5.307 was amended to allow the deduction of such debt. However, a class action law suit filed by third parties designed to retroactively apply the then recently modified court rule instead resulted in the deduction of no debt being allowed in computing the inventory fee, Estate of *Wolfe-Haddad v. Oakland County*, 272 Mich App 323 (2006). Consistent with the Section's prior support of a modified court rule, the section supports SB 0192.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report. <http://legislature.mi.gov/doc.aspx?2011-SB-0192>