



H.B. 509

124th General Assembly
(As Passed by the House)

Reps. Womer Benjamin, Blasdel, Salerno, Allen, Schmidt, Seitz, Carey, Evans

BILL SUMMARY

- Expands the powers of trust companies by providing, under certain circumstances, that a trust company acting in a fiduciary capacity may purchase any service or product through or directly from the trust company or an affiliate of the trust company or from a syndicate or selling group that includes the trust company or an affiliate of the trust company.
- Requires that notice of such a purchase by a trust company be provided at least annually to all persons entitled to receive statements of fiduciary account activity.

CONTENT AND OPERATION

Expanded powers of trust companies

(sec. 1111.15(A) and (C))

The Trust Companies Law (Chapter 1111. of the Revised Code) authorizes a trust company to receive and hold money or property--in trust or as custodian--from executors, administrators, assignees, guardians, trustees, corporations, or individuals. In addition, it permits a trust company to engage in activities constituting or incidental to the trust business. A trust company acting as a fiduciary generally is permitted to invest trust funds in a specified manner, unless otherwise prohibited by law or by the instrument creating the trust. (See **COMMENT 1.**)

Under the bill, a trust company acting in any fiduciary capacity may purchase any service or product--including insurance or securities underwritten or otherwise distributed by the trust company or by an affiliate--through or directly from the trust company or an affiliate of the trust company or from a syndicate or

selling group that includes the trust company or an affiliate of the trust company, *if* both of the following apply:

(1) The purchase is otherwise prudent under the Ohio Uniform Prudent Investor Act (see **COMMENT 2**).

(2) The compensation for the service or product is reasonable and is not prohibited by the instrument governing the fiduciary relationship. This compensation may be in addition to the compensation the trust company otherwise is entitled to receive from the fiduciary account.

The bill states that it applies to the purchase of securities made at the time of the initial offering of the securities or at any time thereafter.

Disclosure required

(sec. 1111.15(B))

A trust company is required by the bill to disclose at least annually any purchase of a service or product authorized by the bill that was made by the trust company during that reporting period. The disclosure must be given, in writing or electronically, to all persons entitled to receive statements of account activity and must include (1) any capacities in which the trust company or an affiliate acts for the issuer of the securities or the provider of the products or services and (2) the fact that the trust company or an affiliate may have an interest in the products or services.

COMMENT

1. For example, the Trust Companies Law prohibits a trust company acting as a fiduciary from investing trust funds in stock issued by the fiduciary itself except under specified circumstances (sec. 1111.13(A)(2)).

2. Generally, if a trustee invests and manages trust assets under the Ohio Uniform Prudent Investor Act, that trustee must invest and manage the assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. The Act, in addition to other provisions, specifies standards and requirements applicable to the management of trust assets, rather than specifying a list of permissible investments by a trustee. (Secs. 1339.52 to 1339.61.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-14-02	p. 1407
Reported, H. Financial Institutions	05-30-02	p. 1892
Passed House (89-0)	06-19-02	pp. 1944-1945

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