



## **H.B. 509**

124th General Assembly  
(As Reported by H. Financial Institutions)

**Reps. Womer Benjamin, Blasdel, Salerno, Allen, Schmidt**

---

### **BILL SUMMARY**

- Expands the powers of trust companies by specifying, under certain circumstances, that the trust company acting in a fiduciary capacity may purchase any services or products for a fiduciary account from or through the trust company or affiliate of the trust company or from or through a syndicate or selling group that includes the trust company or an affiliate of the trust company.
- Requires that notice of the described purchase of services or products by a trust company and specified information about the purchase be provided at least annually to all persons entitled to receive statements of fiduciary account activity.

---

### **CONTENT AND OPERATION**

#### **Expanded purchase powers of trust companies**

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

#### **Current law**

Currently, under the Trust Company Law, a trust company may receive and hold moneys or property in trust or as custodian. These moneys or property may be received from executors, administrators, assignees, guardians, trustees, corporations, or individuals. In addition, a trust company may engage in activities constituting or incidental to "trust business," including specified activities described in the Trust Company Law (sec. 1111.11 not in the bill). Generally, "trust business" means (1) accepting and executing trusts of property, (2) serving as a trustee, executor, administrator, guardian, receiver, or conservator, and (3) providing fiduciary services as a business (sec. 1111.01(G) not in the bill). (See **COMMENT 1.**)

### *The bill*

The bill provides that a trust company acting in any fiduciary capacity, including, but not limited to, the capacities described in the preceding paragraph, may purchase any service or product described in the bill for a fiduciary account provided that specified conditions are satisfied. These services or products include, but are not limited to, insurance or *securities* underwritten or otherwise distributed by the trust company or by an affiliate, through or directly from (1) the trust company, (2) an affiliate of the trust company, or (3) a syndicate or selling group that includes the trust company or an affiliate of the trust company.

Under the bill, the following conditions must exist for the purchase of a service or product described in the bill:

(a) The purchase must be otherwise prudent under the Ohio Uniform Prudent Investor Act (see **COMMENT 2**);

(b) The compensation for the service or product must be reasonable; and

(c) The compensation must not be prohibited by the "instrument" governing the fiduciary relationship. ("Instrument" includes any will, declaration of trust, agreement of trust, agency, or custodianship, or court order creating a fiduciary relationship (sec. 1111.01(E) not in the bill).)

The bill specifies that the compensation for the service or product may be in addition to the compensation that the trust company otherwise is entitled to receive from the fiduciary account. And the bill provides that it applies to the purchase of securities made at the time of the initial offering of the securities or at any time thereafter.

### *Notice of purchases*

(sec. 1111.15(B))

Under the bill, a trust company at least annually must disclose 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. In addition, the disclosure 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. The Trust Company Law also prohibits a trust company that is 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, the Ohio Uniform Prudent Investor Act provides that if a trustee invests and manages trust assets under the Act, that trustee must invest and manage the trust's assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. And 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

H0509-RH.124/jc