

# AN ACT

To amend sections 2109.371 and 3107.15 and to enact section 1111.15 of the Revised Code to allow a trust company, under certain circumstances, to purchase products or services through or from the trust company or an affiliate or from a syndicate or selling group that includes the trust company or an affiliate, to expand the investment authority of fiduciaries under the Probate Fiduciaries Law, and to restrict bequests and other property transfers to persons adopted as adults, unless such persons are expressly included in the instrument of transfer.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2109.371 and 3107.15 be amended and section 1111.15 of the Revised Code be enacted to read as follows:

Sec. 1111.15. (A) A trust company acting in any fiduciary capacity, including, but not limited to, the capacities described in section 1111.11 of the Revised Code, may purchase any service or product, including, but not limited to, 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 or from a syndicate or selling group that includes the trust company or an affiliate, provided that the purchase is otherwise prudent under sections 1339.52 to 1339.61 of the Revised Code and the compensation for the service or product is reasonable and is not prohibited by the instrument governing the fiduciary relationship. The compensation for the service or product may be in addition to the compensation that the trust company is otherwise entitled to receive from the fiduciary account.

(B) A trust company shall disclose at least annually any purchase authorized by this section that was made by the trust company during that reporting period. The disclosure shall be given, in writing or electronically, to all persons entitled to receive statements of account activity, and shall

include 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 the fact that the trust company or an affiliate may have an interest in the products or services.

(C) This section shall apply to the purchase of securities made at the time of the initial offering of the securities or at any time thereafter.

Sec. 2109.371. (A) In addition to those investments made eligible by section 2109.37 or 2109.372 of the Revised Code, investments may be made by a fiduciary other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, and subject to the restriction placed on an administrator or executor by division (B) of section 2109.37 of the Revised Code, in any of the following kinds and classes of securities, provided that it may be lawfully sold in Ohio and investment is made only in such securities as would be acquired by prudent persons of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital:

(1) Securities of corporations organized and existing under the laws of the United States, the District of Columbia, or any state of the United States including, but not limited to, bonds, debentures, notes, equipment trust obligations, or other evidences of indebtedness, and shares of common and preferred stocks of such corporations;

(2) Subject to division (C) of this section, collective investment funds established in accordance with section 1111.14 of the Revised Code or securities of any investment company, including any affiliated investment company, whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same investment company or affiliated investment company; Such investments may be made regardless of the eligibility of the underlying assets held by the fund portfolios of the investment company.

(3) Bonds or other interest-bearing obligations of any state or territory of the United States, or of any county, city, village, school district, or other legally constituted political taxing subdivision of any state or territory of the United States, not otherwise eligible under division (A)(2) or (3) of section 2109.37 of the Revised Code;

(4) Debt or equity securities of foreign corporations that trade on recognized United States domiciled exchanges.

(B) No investment shall be made pursuant to this section which, at the time such investment is made, causes the aggregate market value of the investments, not made eligible by section 2109.37 or 2109.372 of the Revised Code, to exceed sixty per cent of the aggregate market value at that

time of all the property of the fund held by the fiduciary. No sale or other liquidation of any investment shall be required solely because of any change in the relative market value of those investments made eligible by this section and those made eligible by section 2109.37 or 2109.372 of the Revised Code; provided that, in the event of a sale of investments authorized by this section, the proceeds from the sale may be reinvested in the kinds and classes of securities authorized by this section without regard to the percentage limitation provided in this division. In determining the aggregate market value of the property of a fund and the percentage of a fund to be invested under this section, a fiduciary may rely upon published market quotations as to those investments for which such quotations are available and upon such valuations of other investments as, in the fiduciary's best judgment, seem fair and reasonable according to available information.

(C)(1)(a) A fiduciary making an investment of trust funds in securities of an affiliated investment company, or a bank subsidiary corporation or other corporation owned or controlled by the bank holding company that owns or controls the fiduciary, may charge a reasonable fee for investment advisory, brokerage, transfer agency, registrar, management, or other similar services provided to an affiliated investment company. The fee may be in addition to the compensation to which the fiduciary is otherwise entitled to receive from the trust, provided that the fee is charged as a percentage of either asset value or income earned or actual amount charged and is disclosed at least annually by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity. The fiduciary shall disclose the relationship between the fiduciary and the affiliated investment company, at least annually by account statement, whether or not the fee is charged.

(b) A fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section shall, when providing any periodic account statements to the trust fund, report the net asset value of the shares comprising the investment of the trust funds in the affiliated investment company.

(c) If a fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section invests such funds in any mutual fund, the fiduciary shall disclose, in at least ten-point boldface type, by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government-sponsored agency of the federal government or of this state.

(2) Unless the investment of trust funds in securities of an affiliated investment company can be made under the terms of the instrument creating the trust, an exception to the investment of trust funds in securities of an affiliated investment company may be filed with the probate court. Any exception filed pursuant to this division must be signed by all persons who would, at the time the exception is filed, be permitted to file an exception to an account pursuant to section 2109.33 of the Revised Code and must state that all such persons request that the current investment of trust funds in securities of an affiliated investment company be terminated within a reasonable time. If the probate court determines that the exception complies with the requirements of this division, the probate court shall establish a schedule for disposing of any current investments in securities of an affiliated investment company, and the fiduciary shall cause the trust to dispose of the investments in accordance with the schedule. The fiduciary shall not be liable for any loss incurred by the trust as a result of complying with division (C)(2) of this section.

(D) As used in this section, "affiliated investment company" and "reasonable fee" have the same meanings as in division (E) of section 1111.13 of the Revised Code.

Sec. 3107.15. (A) A final decree of adoption and an interlocutory order of adoption that has become final as issued by a court of this state, or a decree issued by a jurisdiction outside this state as recognized pursuant to section 3107.18 of the Revised Code, shall have the following effects as to all matters within the jurisdiction or before a court of this state, whether issued before or after May 30, 1996:

(1) Except with respect to a spouse of the petitioner and relatives of the spouse, to relieve the biological or other legal parents of the adopted person of all parental rights and responsibilities, and to terminate all legal relationships between the adopted person and the adopted person's relatives, including the adopted person's biological or other legal parents, so that the adopted person thereafter is a stranger to the adopted person's former relatives for all purposes including inheritance and the interpretation or construction of documents, statutes, and instruments, whether executed before or after the adoption is decreed, which do not expressly include the person by name or by some designation not based on a parent and child or blood relationship;

(2) To create the relationship of parent and child between petitioner and the adopted person, as if the adopted person were a legitimate blood descendant of the petitioner, for all purposes including inheritance and applicability of statutes, documents, and instruments, whether executed

before or after the adoption is decreed, and whether executed or created before or after May 30, 1996, which do not expressly exclude an adopted person from their operation or effect;

(3) Notwithstanding division (A)(2) of this section, a person who is eighteen years of age or older at the time the person is adopted, and the adopted person's lineal descendants, are not included as recipients of gifts, devises, bequests, or other transfers of property, including transfers in trust made to a class of persons including, but not limited to, children, grandchildren, heirs, issue, lineal descendants, and next of kin, for purposes of inheritance and applicability of statutes, documents, and instruments, whether executed or created before or after May 30, 1996, unless the document or instrument expressly includes the adopted person by name or expressly states that it includes a person who is eighteen years of age or older at the time the person is adopted.

(B) Notwithstanding division (A) of this section, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent thereafter adopts the child, the child's rights from or through the deceased parent for all purposes, including inheritance and applicability or construction of documents, statutes, and instruments, are not restricted or curtailed by the adoption.

(C) Notwithstanding division (A) of this section, if the relationship of parent and child has not been terminated between a parent and that parent's child and a spouse of the other parent of the child adopts the child, a grandparent's or relative's right to companionship or visitation pursuant to section 3109.11 of the Revised Code is not restricted or curtailed by the adoption.

(D) An interlocutory order of adoption, while it is in force, has the same legal effect as a final decree of adoption. If an interlocutory order of adoption is vacated, it shall be as though void from its issuance, and the rights, liabilities, and status of all affected persons that have not become vested are governed accordingly.

SECTION 2. That existing sections 2109.371 and 3107.15 of the Revised Code are hereby repealed.

SECTION 3. No liability shall arise against any one of the following that, prior to the effective date of this section, authorized or was otherwise responsible for a distribution or other payment or a transfer of property that is inconsistent with division (A)(3) of section 3107.15 of the Revised Code,

as amended by this act:

- (1) A fiduciary under a trust instrument, will, or other document;
- (2) A bank, savings and loan association, credit union, or society for savings, in connection with written contracts described in sections 2131.10 and 2131.11 of the Revised Code;

(3) A registering entity, as defined in division (H) of section 1709.01 of the Revised Code, for a transfer-on-death made pursuant to Chapter 1709. of the Revised Code.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 509

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_