

**As Reported by the Senate Finance and Financial Institutions  
Committee**

**124th General Assembly  
Regular Session  
2001-2002**

**Sub. H. B. No. 509**

**REPRESENTATIVES Womer Benjamin, Blasdel, Salerno, Allen, Schmidt,  
Seitz, Carey, Evans  
SENATOR Prentiss**

---

**A B I L L**

To amend sections 2109.371 and 3107.15 and to enact	1
section 1111.15 of the Revised Code to allow a	2
trust company, under certain circumstances, to	3
purchase products or services through or from the	4
trust company or an affiliate or from a syndicate	5
or selling group that includes the trust company or	6
an affiliate, to expand the investment authority of	7
fiduciaries under the Probate Fiduciaries Law, and	8
to restrict bequests and other property transfers	9
to persons adopted as adults, unless such persons	10
are expressly included in the instrument of	11
transfer.	12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

<b>Section 1.</b> That sections 2109.371 and 3107.15 be amended and	13
section 1111.15 of the Revised Code be enacted to read as follows:	14

<b><u>Sec. 1111.15.</u></b> (A) A trust company acting in any fiduciary	15
<u>capacity, including, but not limited to, the capacities described</u>	16
<u>in section 1111.11 of the Revised Code, may purchase any service</u>	17

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.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(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.

29  
30  
31  
32  
33  
34  
35  
36  
37

(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.

38  
39  
40

**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

41  
42  
43  
44  
45  
46  
47  
48

securities as would be acquired by prudent persons of discretion 49  
and intelligence in such matters who are seeking a reasonable 50  
income and the preservation of their capital: 51

(1) Securities of corporations organized and existing under 52  
the laws of the United States, the District of Columbia, or any 53  
state of the United States including, but not limited to, bonds, 54  
debentures, notes, equipment trust obligations, or other evidences 55  
of indebtedness, and shares of common and preferred stocks of such 56  
corporations; 57

(2) Subject to division (C) of this section, collective 58  
investment funds established in accordance with section 1111.14 of 59  
the Revised Code or securities of any investment company, 60  
including any affiliated investment company, whether or not the 61  
fiduciary has invested other funds held by it in an agency or 62  
other nonfiduciary capacity in the securities of the same 63  
investment company or affiliated investment company~~†~~. Such 64  
investments may be made regardless of the eligibility of the 65  
underlying assets held by the fund portfolios of the investment 66  
company. 67

(3) Bonds or other interest-bearing obligations of any state 68  
or territory of the United States, or of any county, city, 69  
village, school district, or other legally constituted political 70  
taxing subdivision of any state or territory of the United States, 71  
not otherwise eligible under division (A)(2) or (3) of section 72  
2109.37 of the Revised Code; 73

(4) Debt or equity securities of foreign corporations that 74  
trade on recognized United States domiciled exchanges. 75

(B) No investment shall be made pursuant to this section 76  
which, at the time such investment is made, causes the aggregate 77  
market value of the investments, not made eligible by section 78  
2109.37 or 2109.372 of the Revised Code, to exceed sixty per cent 79  
of the aggregate market value at that time of all the property of 80

## As Reported by the Senate Finance and Financial Institutions Committee

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.

145  
146

(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.

147  
148  
149

**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:

150  
151  
152  
153  
154  
155  
156

(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;

157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169

(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,

170  
171  
172  
173  
174  
175

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

176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207

void from its issuance, and the rights, liabilities, and status of 208  
all affected persons that have not become vested are governed 209  
accordingly. 210

**Section 2.** That existing sections 2109.371 and 3107.15 of the 211  
Revised Code are hereby repealed. 212

**Section 3.** No liability shall arise against any one of the 213  
following that, prior to the effective date of this section, 214  
authorized or was otherwise responsible for a distribution or 215  
other payment or a transfer of property that is inconsistent with 216  
division (A)(3) of section 3107.15 of the Revised Code, as amended 217  
by this act: 218

(1) A fiduciary under a trust instrument, will, or other 219  
document; 220

(2) A bank, savings and loan association, credit union, or 221  
society for savings, in connection with written contracts 222  
described in sections 2131.10 and 2131.11 of the Revised Code; 223

(3) A registering entity, as defined in division (H) of 224  
section 1709.01 of the Revised Code, for a transfer-on-death made 225  
pursuant to Chapter 1709. of the Revised Code. 226