



Ohio House Financial Institutions, Housing, and Urban Development Committee

HB 229 - Opponent Testimony

18 November 2015

Chairman Terhar, Vice Chair Hambley, Ranking Member Bryant Kuhns, and members of the House Financial Institutions, Housing, and Urban Development Committee, my name is Dustin Holfinger; I am Vice President of State Government Relations for the Ohio Bankers League. On behalf of the FDIC insured banks and thrifts doing business in Ohio, thank you for allowing the OBL to weigh in as opponents for House Bill 229.

The private trust company language is highly complex special interest legislation and even after many interested party meetings, the banking industry is still struggling to understand why it is necessary in the state of Ohio. We currently have entities that are regulated, supervised, and audited that provide excellent service to their customers and the flexibility they desire.

To the extent families want to appoint individuals as trustees, they can readily do so through an application to the Probate Court or a Private Settlement Agreement, authorized under the Ohio Trust Code. However, that activity should not be so easily converted into to totally unregulated business.

Many OBL members have expressed that they are skeptical or uncomfortable because there are provisions that seem to make this much broader than just a “lightly regulated” family office. Through this legislation, we are seeing the birth of an unregulated, unaudited, and unlicensed competitor.

In managing the assets of large wealthy Ohio families, our institutions have had the opportunity to work with individual co-trustees who are often family members or family advisors.

In fact, the ability to divide fiduciary duties into distinct activities is even more common place now than it has been in the past – in part due to a recent changes to Ohio Revised Code Section 5815.25 (Limitation on liability of fiduciary when certain powers granted to other persons) in 2013.

Administering trusts is a complicated business which requires knowledge and expertise in:

1. investment management of trust assets,
2. proper identification of and ongoing communication with trust beneficiaries
3. effective interaction and coordination with co-trustees or other third party decision makers
4. correct interpretation and application of trust terms when considering distributions to beneficiaries
5. proper handling of unique assets such as real estate, closely-held business interests and insurance

Our institutions that hold trust companies are rigorously supervised and regularly audited by the Federal Reserve Bank and the State of Ohio as well as by independent auditors and their own internal auditing department.

These entities help to ensure that Ohio’s banks engage in proper fiduciary activities and abide by all pertinent federal and state rules pertaining to trust administration.

The Ohio legislature has assisted in ensuring that Ohio fiduciaries engage in proper administration of trusts through its enactment of various statutes such as the Ohio Trust Code in 2007 and more recently, the Ohio Legacy Trust Act in 2014.

If the Ohio legislature intends to allow the establishment of family offices to engage in the administration of trusts, we believe that these entities will also need to keep current regarding proper trust administration. Therefore, we ask that the unlicensed portion of the bill be removed entirely – as they would be supervised, regulated, and auditable by state regulators similar to the regulation and oversight imposed upon corporate trustees.

The Ohio legislature has been very diligent in its review of legislation which impacts the fiduciary management of other people's wealth. Ohio legislators have carefully scrutinized proposed legislation to ensure that the management of wealth is handled properly and with accountability.

The management of the assets of large wealthy Ohio families should be accorded the same scrutiny and careful review. The trust beneficiaries of wealthy Ohio families deserve the same protections as any other trust beneficiaries.

The Ohio Bankers League urges Ohio legislators to either enact HB 229 without the unlicensed entities to ensure proper safeguards are in place for Ohioans, or to not pass this bill at all.