Ohio House of Representatives

Representative Adam Mathews
56th House District

Representative Brian Stewart
12th House District

House Judiciary Committee
Sponsor Testimony – H.B. 446
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Chair Thomas, Vice Chair Swearingen, Ranking Member Synenberg, and fellow members of the House Judiciary Committee, thank you for the opportunity to present sponsor testimony on House Bill 446, which modernizes Ohio's trust, probate, and fiduciary statutes. The bill contains a series of provisions, drafted in consultation with the Ohio Bar Association, which align Ohio law with national best practices in estate and trust management to protect consumers and clarify the responsibilities of attorneys and fiduciaries.

Among key reforms, House Bill 446 establishes the Ohio Trust Protector and Directed Trust Act and formally recognizes trust protectors, independent individuals who hold power of direction over a trust and may direct or restrict trustee actions. The bill specifies that protectors are fiduciaries unless stated otherwise, establishes liability for breach of duty or willful misconduct, and allows protectors, if vested by the terms of a trust, to modify or adjust trust terms to respond to changing circumstances of beneficiaries. This Act and its recognition of this role enables directed trusts, which divide duties among trustees, advisors, and protectors for greater flexibility, efficiency, and protection of beneficiaries.

House Bill 446 additionally includes provisions to strengthen estate and beneficiary protections through timeline clarifications. For bringing creditor's claims against an estate, the bill sets a timeline of the earlier of three months after date of appointment of administrator or six months under Ohio's general claims statute. For challenging alleged fraudulent transfers, the bill sets a timeframe of generally within six months after the debtor's death. It further expands fiduciary accountability by clarifying that agents' mandatory duties outlined in law, which include the requirement to act in good faith and within the principal's best interests, cannot be waived.

To modernize trust administration in Ohio, the bill finally contains a series of provisions to clarify agent and trustee duties and responsibilities. These include a provision to clarify that agents with power of attorney may withdraw or direct the distribution of revocable trust property when expressly authorized and a provision to clarify that trustees do not have an affirmative duty to move the situs of trust outside of Ohio, even if there exist beneficial reasons to do so. The bill also builds upon Senate Bill 199 of the 134th General Assembly to reverse the Ohio Supreme

Court's decision in *Diller. v. Diller* to prevent a trust provision from lapsing when a beneficiary predeceases the grantor (SB 199 did the same for wills).

Overall, House Bill 446 strengthens the legal framework for trust and probate oversight and bolsters protections for Ohio families who rely on efficient trust administration. For consumers, this bill safeguards assets from fraud and late claims, adds transparency to decision-making, and improves the efficiency and trustworthiness of estate administration. For attorneys and fiduciaries, this bill reduces liability exposure and ambiguity in trust drafting, clarifies their obligations, and provides an updated legal framework needed to properly administer estates.

Thank you for the opportunity to testify, and we are happy to answer any questions.