



Date: February 5, 2024
To: House Committee on Financial Institutions and Pensions
Representative Nick Hoheisel, Chairman
From: Will Bergman, In-House Counsel
Midwest Trust Company
RE: Verbal Proponent Testimony – HB 2560

Mr. Chairman and committee members, I am Will Bergman appearing on behalf of the Midwest Trust Company (Midwest Trust), a non-depository Kansas trust company with its headquarters in Overland Park. Thank you for this chance to provide proponent testimony for HB 2560. Although I am supportive of the whole bill, this testimony will only speak to the changes in Section 4. The updates to the Kansas uniform trust code, over the last two years, have allowed for Kansas trust companies to better compete both regionally and nationally. This bill, if passed, will allow Kansas trust companies to bring in many accounts from out of state in an efficient manner.

Background on Trust Administration by Kansas Institutions

The Kansas Office of the State Bank Commissioner currently regulates 13 active independent state-chartered trust companies and 33 Commercial Banks with trust powers. These organizations provide valuable services to Kansans and to residents of other states by acting as corporate trustee for trusts, private foundations and as administrator for estates. Collectively, these institutions administer accounts with assets over 135 billion dollars.

Largest Wealth Transfer in History

Over the next 30 years, there is an expected 68 trillion dollars of wealth that will be transferred to the next generation as baby boomers are expected to retire and pass away. This wealth transfer will have a profound impact on both the banking and fiduciary services industry. Additionally, the pandemic greatly affected the manner in which fiduciaries communicate and meet with clients and prospects. Clients are



much more comfortable meeting remotely and potentially never even meeting their advisors in person. Viewing these factors together, if Kansas creates a legal framework which is advantageous to clients, high net worth individuals will bring their business and wealth from around the United States to Kansas.

Section 4 Contracting Trustee Statute

What does KSA 9-2107 currently allow? KSA 9-2107 creates a legal mechanism that allows for the irrevocable transfer of fiduciary accounts to another trust company or bank. Under the language of the statute, two institutions may enter into a contract that governs how accounts will be transferred. The first entity, the “originating trustee”, is currently the trustee. The second entity, the “contracting trustee”, will become trustee or custodian of the accounts once the Bank Commissioner approves the transfer. This transfer of multiple trust accounts is commonly known as a “bulk transfer”.

Under the current law, the originating trustee must be a Kansas bank or trust company. This proposed change will allow for **either** the originating trustee or the contracting trustee to have their headquarters in Kansas. This is a monumental difference. It would allow for a Kansas entity to be the contracting trustee and receive the transfer from an out of state bank or trust company. At Midwest Trust, multiple times over the last five years, we have had to undergo cumbersome transfers that make it more difficult on the current trustee, beneficiaries of the trusts, and the probate courts. This results in a time consuming, expensive, and disruptive experience for our clients.

This bulk transfer of accounts to a new trustee is not a legal mechanism unique to Kansas. Nebraska, Michigan, Missouri, Illinois, New York, and Ohio all have their own versions of bulk transfer statutes.

The reason bulk transfers have become more common is that banks with trust departments may want to sell that trust department, but not the entire bank. Without bulk transfers, there is not an easy mechanism to do this. Also, with the more specialized nature of some trust companies, certain trust departments may want to transfer entire books of accounts they can no longer administer (i.e. ILITs, Oil and Gas, Real Estate).



When a Kansas trust company becomes trustee, there is a cascade of positive effects for Kansas. Accountants, estate-planning attorneys, and investment managers all receive additional work and jobs are created. Adopting this change will allow Kansas trust companies to bring in large amount of accounts in an efficient, legal manner that is better for the grantors, beneficiaries, trustees, and the court system.

As the Committee considers this bill, I respectfully ask for favorable consideration so that we can continue to grow the trust administration business in Kansas. Mr. Chairman, thank you, and I would be happy to stand for questions at the appropriate time. If at a later time you have questions or require additional information, don't hesitate to get in touch with me at will.bergman@midwesttrust.com or (913)319-0329

Sincerely,

Will Bergman