OCG Bill Review — H.B. 446 (Trust Protectors, Directed Trusts and Probate)

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Bill Review No. 006 · RL-2026-046 · 11/16/26 · Version 1.0

Bottom line: H.B. 446 writes a new chapter of Ohio trust law, the Ohio Trust Protector and Directed Trust Act. A "protector" is someone other than the trustee whom a trust gives power to direct the trustee, veto decisions, change beneficiaries' shares, amend the trust or remove trustees. The bill sets the protector's duties, liability and removal, and treats protectors as fiduciaries unless the trust says otherwise. It also changes rules that reach beyond trusts. Creditors lose the constructive-fraud claim under Ohio's fraudulent-transfer law against transfers that happen because of a debtor's death, and any fraudulent-transfer claim over such a transfer must be brought within six months of the death. Out-of-state relatives may serve as estate administrators. The bill was drafted with the Ohio State Bar Association's estate planning section.

The House passed it 96–0 on May 20, 2026, the same day the Judiciary Committee adopted a substitute bill and reported it. The substitute added limits on the lawyer who drafts a trust also serving as its paid protector, a ban on protector self-dealing, and the nonresident-administrator change. The substitute was adopted and reported at a hearing with no witnesses, so no one testified on its additions in the House. The Senate Judiciary Committee heard sponsor testimony on June 10, 2026, and has hearings set for November 17 and 18. Section 7 identifies six drafting issues.

Item	Detail
Bill	Sub. H.B. 446, 136th General Assembly — "to modify trust and probate laws"
Sponsors	Reps. Adam Mathews (R-56th District) and Brian Stewart (R-12th District); 12 cosponsors, 6 Republicans and 6 Democrats
House action	Introduced Sep 15, 2025; five Judiciary hearings; substitute adopted, reported and passed 96–0 on May 20, 2026
Senate action	Introduced May 21, 2026; referred to Judiciary Jun 2, 2026; sponsor testimony Jun 10, 2026; 2nd and 3rd hearings scheduled Nov 17 and 18, 2026
Version reviewed	As Passed by the House, with LSC's analysis and LBO's fiscal note for that version, LSC's substitute bill comparative synopsis, and the As Introduced and As Reported texts
Lame-duck flag	Yes. The bill needs Senate passage, and House concurrence if amended, before the General Assembly ends.
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1. What the bill does, in plain language

H.B. 446 does five things.

1. **Creates the Ohio Trust Protector and Directed Trust Act** (new Chapter 5818).[1]
   - **Who a protector is.** Anyone other than the trustee who holds a "power of direction" under a trust, whatever the trust calls the role ("adviser," "director"). The powers can include binding directions to the trustee on investments and distributions, removing or appointing trustees, amending the trust, adding or removing beneficiaries, changing beneficiaries' shares, moving the trust to another state, and ending the trust. The same person cannot be trustee and protector of the same trust at once.
   - **Duties and liability.** A protector is a fiduciary unless the trust says otherwise. A fiduciary protector answers for breach of trust as a trustee would. A nonfiduciary protector may act in its "sole and absolute discretion" and is not liable for breach of trust, but is always liable for willful misconduct and self-dealing, which a trust cannot excuse.
   - **Trustees who follow directions.** A trustee must take reasonable steps to carry out a protector's directive and is not liable for doing so unless it amounts to willful misconduct. The person claiming misconduct carries the burden of proof. Trustees and protectors share information related to each other's powers but owe no duty to monitor each other.
   - **Removal and court relief.** A settlor, trustee or beneficiary may ask a court to remove a protector, including for self-dealing, unfitness or willful misconduct, and the court may also suspend the protector, cut its pay, or void its acts. Beneficiaries must be told in advance of any change in how a protector is paid. A beneficiary's suit against a fiduciary protector must generally be filed within two years after a report disclosing the breach.
   - **Reach.** The chapter applies to any trust "whenever created" that is administered or governed in Ohio, unless the trust provides otherwise.
2. **Limits the drafting lawyer as protector.** The attorney who drafted or supervised the trust, anyone at that attorney's firm, and the attorney's relatives may not serve or be paid as protector unless they are related to the settlor or the attorney first makes five written disclosures to the settlor. The settlor signs a separate acknowledgment form. A drafting attorney serving as protector may remove a trustee only after a court finds good cause.
3. **Changes creditor and estate deadlines.**
   - A creditor may not bring a constructive-fraud claim (a transfer without fair value while insolvent or near it) under R.C. Chapter 1336 against a transfer made "due to or as a result of the debtor's death." Any Chapter 1336 claim over such a transfer, including a claim of actual intent to defraud, ends unless filed within six months after the death. Today the limits are four years, or one year after discovery for actual-intent claims. The bill does not address remedies outside Chapter 1336, and OCG did not examine them.
   - An executor or administrator with a claim against the estate must present it within three months after appointment and before the six-month creditor deadline runs.
4. **Lets out-of-state relatives administer estates.** An administrator may live outside Ohio if related to the decedent by blood or marriage, and may not be refused or removed only for living elsewhere. The court may require the decedent's assets in the county to stay there until distribution.
5. **Updates the Trust Code and powers of attorney.**
   - States Ohio's policy of giving "maximum effect" to freedom of disposition.
   - Lets a trustee pay or reimburse the income tax a settlor owes on trust income (a "grantor trust"), and confirms that the settlor's original place of administration remains appropriate, so a trustee need not move a trust out of Ohio.

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[1] Ohio Legislative Service Commission, *Bill Analysis: H.B. 446, As Passed by the House*, 136th General Assembly, June 8, 2026, https://www.legislature.ohio.gov/download?key=28379.

- Extends the anti-lapse rule to a trust's primary gifts, so a gift to a beneficiary who dies before the settlor passes to that beneficiary's descendants, and makes that change retroactive where the Constitution allows.
- Makes a power-of-attorney agent's core duties mandatory and unwaivable, requires both the power of attorney and the trust to authorize an agent's withdrawals from a revocable trust, and lets courts award attorney's fees in power-of-attorney disputes.
- Repeals the current power-to-direct statute (R.C. 5808.08) and the "excluded fiduciary" provisions it replaces.

LBO expects a minimal fiscal effect on the state's 88 probate courts, absorbed by existing staff.[2] That estimate covers government costs only. It does not measure effects on private creditors, beneficiaries, trustees or estate-planning clients.

Who answers for what under Chapter 5818[3]

Role	Standard	What a trust may waive	What it may not waive
Fiduciary protector (the default)	Same duties and liability as a trustee holding the same power	Liability, within the limits that apply to trustees	Breach through self-dealing, bad faith or reckless indifference; terms obtained by abusing the settlor's trust
Nonfiduciary protector (only if the trust says so)	Acts in "sole and absolute discretion"; no liability for breach of trust	Duties and liability generally	Willful misconduct and self-dealing; court removal for either
Trustee or other officeholder following a directive	Must take reasonable steps to comply; liable only for willful misconduct, which the bill defines to exclude negligence, gross negligence and recklessness	Additional duties may be added	Willful misconduct; the claimant must prove it

2. Provision by provision

Statute	Topic	Current law	H.B. 446
5818.01–.33 (new)	Trust protectors and directed trusts	R.C. 5808.08 allows a power to direct a trustee; no protector chapter	Full framework: definitions, powers, fiduciary status, liability, removal, compensation, limitation periods
5818.11, .13, .32 (new)	Self-dealing	—	Protector may not self-deal; liability cannot be waived; self-dealing is a removal ground
5818.34–.37 (new)	Drafting attorney as protector	No restriction	Attorney, firm and relatives barred from serving or being paid as protector without disclosures, unless related to settlor; good-cause court finding needed before the attorney removes a trustee
1336.04, 1336.05, 1336.09	Fraudulent transfers	Four-year limit (or one year after discovery for actual fraud)	Constructive-fraud claims barred for transfers "due to or as a result of" death; all claims over such transfers must be filed within six months of death
1337.34, 1337.36, 1337.42, 1337.52	Powers of attorney	Agent's duties listed; fees not expressly available	Duties mandatory and unwaivable; withdrawals from revocable trust need express authority in both documents; courts may award attorney's fees

[2] Ohio Legislative Service Commission, Legislative Budget Office, *Fiscal Note & Local Impact Statement: H.B. 446, As Passed by the House*, May 21, 2026, https://www.legislature.ohio.gov/download?key=28095.

[3] Ohio Legislative Service Commission, *Bill Analysis: H.B. 446, As Passed by the House*, 136th General Assembly, June 8, 2026, https://www.legislature.ohio.gov/download?key=28379.

Statute	Topic	Current law	H.B. 446
2109.21, 2113.06	Estate administrators	Administrator must live in Ohio; removed on moving away	Nonresident relatives may serve; not refused or removed for residency alone; court may keep assets in county
2117.02	Executor's own claim against estate	Within three months after appointment	Within three months after appointment and before the six-month creditor period ends
5801.04, 5801.07	Trust Code policy; place of administration	—	"Maximum effect" policy statement; trustee duty of good faith made subject to Chapter 5818; trustee may choose among appropriate places to administer
5806.02, 5806.03; 5808.08 (repealed)	Revocable trusts; power to direct	Settlor or holder of power to direct may modify or end trust	Settlor directions on revocable trusts kept; R.C. 5808.08 repealed
5808.161 (new), 5812.43, 5701.11	Grantor-trust income tax	No express authority	Trustee may pay or reimburse the tax owner's income tax, with exceptions to protect tax treatment
5808.19	Anti-lapse rule for trusts	"Beneficiary" covers future interests and class gifts	Adds beneficiaries of a primary gift, retroactive to the extent Article II, Section 28 allows
5810.08, 5815.25, 5816.11	Trustee exculpation; excluded fiduciaries; legacy trusts	Excluded-fiduciary rules	Exculpation for following directives as Chapter 5818 permits; excluded-fiduciary rules repealed; legacy trust advisers treated as protectors
5301.071	Conveyance records	Refers to an unrecorded "memorandum of understanding"	Corrected to "memorandum of trust"

3. Context

Where the bill came from. The Ohio State Bar Association's Estate Planning, Trust and Probate Law Section Council developed the proposals, according to the Association's witness, who described them as "the product of years of work" by private lawyers, fiduciary litigators and bank trust officers.[4] The sponsors said the bill was "drafted in consultation with the Ohio Bar Association."[5]

The *Diller* case. In *Diller v. Diller* (2021), the Third District Court of Appeals held that Ohio's anti-lapse statute for wills, as rewritten in 2012, did not cover a primary devise, so a gift to the testator's brother who had died first did not pass to the brother's children.[6] The General Assembly amended the wills statute in Am. Sub. S.B. 202 of the 134th General Assembly, effective April 3, 2023, and made the change retroactive.[7] The Supreme Court then dismissed the appeal as improvidently accepted. On remand, the Third District declined to apply the retroactive amendment to the Penno estate, holding its earlier ruling was the law of the case.[8] H.B. 446 makes the same change for trusts. The sponsors and the Bar Association both attribute the wills change to S.B. 199 of the 134th General Assembly; S.B. 199 carried it but was not enacted, and S.B. 202 is the act that changed the law.

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[4] Brian Layman, Ohio State Bar Association, proponent testimony on H.B. 446, House Judiciary Committee, October 15, 2025.

[5] Reps. Adam Mathews and Brian Stewart, sponsor testimony on H.B. 446, House Judiciary Committee, October 8, 2025; Senate Judiciary Committee, June 10, 2026.

[6] *Diller v. Diller*, 2021-Ohio-4252, 182 N.E.3d 370 (3d Dist.); appeal dismissed as improvidently accepted, *Diller v. Diller*, 171 Ohio St.3d 99, 2023-Ohio-1508, https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2023/2023-Ohio-1508.pdf.

[7] Am. Sub. S.B. 202, 134th General Assembly (amending R.C. 2107.52), https://search-prod.lis.state.oh.us/api/v2/general_assembly_134/legislation/sb202/05_EN/pdf.

[8] *Diller v. Pennucci*, 2024-Ohio-1244 (3d Dist.), ¶¶ 8, 16–19, https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-1244.pdf.

How the substitute changed the bill. In committee on November 5, 2025, the House adopted two amendments, AM_1222 and AM_1237.[9] According to LSC, AM_1222 added a right for anyone who paid a decedent's funeral, burial or cemetery costs to be reimbursed from the estate, and removed the current limit that such reimbursement not prejudice other creditors.[10] The substitute adopted May 20, 2026 dropped the funeral provisions and added:[11]

- the self-dealing prohibitions and liability;
- the drafting-attorney limits, disclosures and acknowledgment form;
- advance notice to beneficiaries of protector pay changes;
- the good-cause requirement before a drafting attorney removes a trustee;
- the nonresident-administrator change;
- the "memorandum of trust" correction.

The record reviewed does not describe AM_1237 separately or explain why the funeral provisions came out.

When	Event
Nov 17 and 18, 2026	Senate Judiciary 2nd and 3rd hearings (scheduled)
Jun 10, 2026	Senate Judiciary: sponsor testimony
Jun 2, 2026	Referred to Senate Judiciary
May 20, 2026	House Judiciary adopts substitute and reports; House passes 96–0
Nov 5, 2025	House Judiciary adopts AM_1222 and AM_1237
Oct 8, 15 and 29, 2025	House Judiciary sponsor, proponent and interested-party hearings
Sep 15, 2025	Introduced

4. Who is for and against, and why

No opponent testified in the committee record reviewed. Every witness filed as a sponsor or proponent except the Ohio Judicial Conference, an interested party that reported no concerns. All three House witnesses testified before the substitute was adopted.

Affected parties were not contacted for comment before this release. Positions reflect the public record as of November 16, 2026. Responses received later will be added in a revised version.

On the record

Witness	Hearing	Position	Stated reasons
Reps. Mathews (R) and Stewart (R), sponsors	House Judiciary (Oct 8, 2025); Senate Judiciary (Jun 10, 2026, Mathews)	Sponsor	Aligns Ohio law "with national best practices"; recognizes trust protectors; protects estates "from fraud and late claims"; reduces "liability exposure and ambiguity" for attorneys and fiduciaries. The Senate testimony repeats the House testimony word for word.[12]

[9] Ohio House Judiciary Committee, minutes, November 5, 2025.

[10] Ohio Legislative Service Commission, *Substitute Bill Comparative Synopsis: Sub. H.B. 446* (l_136_3189-1), House Judiciary, https://www.legislature.ohio.gov/download?key=28050.

[11] Ohio Legislative Service Commission, *Substitute Bill Comparative Synopsis: Sub. H.B. 446* (l_136_3189-1), House Judiciary, https://www.legislature.ohio.gov/download?key=28050.

[12] Reps. Adam Mathews and Brian Stewart, sponsor testimony on H.B. 446, House Judiciary Committee, October 8, 2025; Senate Judiciary Committee, June 10, 2026.

Witness	Hearing	Position	Stated reasons
Ohio State Bar Association (Brian Layman, immediate past chair, Estate Planning, Trust and Probate Law Section Council)	House Judiciary (Oct 15, 2025)	Proponent	Fills gaps in directed-trust law; sets "a mandatory minimum liability threshold" for nonfiduciary protectors; promotes "finality in probate administration"; protects "the elderly and infirm" under powers of attorney.[13]
Ohio Judicial Conference (Shawn Welch, Deputy Legislative Counsel)	House Judiciary (Oct 29, 2025)	Interested party	Its Probate Law and Procedure Committee reviewed the bill; "the probate judges have no concerns."[14]

Affected interests with no public position found

Interest	Provision affecting them
Creditors of decedents, including lenders, medical providers and government agencies with claims	Constructive-fraud claims over transfers at death barred; six-month limit on all such claims
Estate planning attorneys and their firms	Limits on serving or being paid as protector of trusts they draft; disclosure and acknowledgment requirements
Banks and trust companies serving as trustees	Duty to follow protector directives; liability shield except for willful misconduct
Trust beneficiaries	Protectors may change their shares or remove them; nonfiduciary protectors face liability only for willful misconduct and self-dealing; notice of protector pay changes
Funeral homes, cemeteries and those who pay funeral costs	Reimbursement provisions added in committee, then dropped
Out-of-state relatives of decedents	May serve as estate administrators
Probate courts	New petitions (protector removal, trustee removal by drafting attorneys, instructions); nonresident administrators. The Judicial Conference testified before these were added.

5. Pros and cons by lens

These are the arguments each camp would likely make, not documented positions and not OCG positions.

	Conservative lens	Liberal lens
Pros	Honors settlor intent and freedom of disposition. Keeps trust business in Ohio. Faster estate closings and predictable deadlines. Lets families choose out-of-state relatives as administrators.	Self-dealing ban and drafting-attorney disclosures protect settlors. Unwaivable agent duties protect the elderly under powers of attorney. Fee awards make misconduct by agents worth challenging.
Cons	A new layer of court petitions and duties. Retroactive changes to existing trusts unsettle arrangements families already made. Creditors, including small businesses owed legitimate debts, lose time to recover.	Trustees following directives, and nonfiduciary protectors, answer only for willful misconduct and self-dealing, not negligence. Creditors, including those owed for care at the end of life, get six months to act. A bill written by the practitioners it regulates.
Likely split	Estate-planning and wealth-management practitioners vs. property-rights advocates wary of retroactivity	Consumer and elder advocates vs. those who see the substitute's safeguards as sufficient

[13] Brian Layman, Ohio State Bar Association, proponent testimony on H.B. 446, House Judiciary Committee, October 15, 2025.

[14] Shawn Welch, Ohio Judicial Conference, interested party testimony on H.B. 446, House Judiciary Committee, October 29, 2025. The statement's closing line refers to "H.B. 466."

Common ground in the record: the House vote was unanimous, the cosponsors are split evenly by party, and no witness opposed the bill. **Points either lens could raise:** how much of the substitute was vetted in public, and how the six-month limit treats creditors who learn of a death late.

6. Process record

Metric	H.B. 446
Hearings	House Judiciary: 5 (Oct 8, Oct 15, Oct 29, Nov 5, 2025; May 20, 2026). Senate Judiciary: 1 (Jun 10, 2026), with 2 scheduled (Nov 17 and 18, 2026)
Testimony	Sponsors, 1 proponent (Ohio State Bar Association), 1 interested party (Ohio Judicial Conference); 0 opponents. All House testimony predates the substitute; the hearing that adopted it had no witnesses
Gap in House	About six and a half months between the 4th hearing (Nov 5, 2025) and the 5th (May 20, 2026)
Substitute to floor	Substitute adopted, reported and passed by the House on the same day, May 20, 2026
House committee vote	The votes page shows 13–0.[15] The committee minutes record "11 yeas and 0 nays."[16] OCG could not retrieve a member-by-member list and has not reconciled the two figures.
House floor vote	96–0 (May 20, 2026), with members of both parties voting yes[17]
Cosponsors	12: 6 Republicans, 6 Democrats, including the committee's ranking member
Senate sponsor testimony	Identical to the October 2025 House testimony apart from the date and addressees; it does not describe the substitute's additions[18]
Fiscal note	Minimal fiscal impact on the state and political subdivisions[19]
Lame-duck or omnibus	Lame duck: yes. Omnibus: no single subject beyond trusts and estates, but it reaches fraudulent-transfer and power-of-attorney law
Comment requests	None sent before release (2026 lame-duck reviews; see section 4)

7. Drafting issues and implementation risks

Sections 3 and 7 reflect OCG's reading of the bill text and current law. They have not been reviewed by an attorney and are not legal advice.

[15] Ohio General Assembly, "House Bill 446: Votes," accessed November 16, 2026, https://www.legislature.ohio.gov/legislation/136/hb446/votes.

[16] Ohio House Judiciary Committee, minutes, May 20, 2026.

[17] Ohio General Assembly, "House Bill 446: Votes," accessed November 16, 2026, https://www.legislature.ohio.gov/legislation/136/hb446/votes.

[18] Reps. Adam Mathews and Brian Stewart, sponsor testimony on H.B. 446, House Judiciary Committee, October 8, 2025; Senate Judiciary Committee, June 10, 2026.

[19] Ohio Legislative Service Commission, Legislative Budget Office, *Fiscal Note & Local Impact Statement: H.B. 446, As Passed by the House*, May 21, 2026, https://www.legislature.ohio.gov/download?key=28095.

The text raises six drafting questions. None is rated High. An issue describes what the text does or leaves open, not anyone's intent.

#	Issue (R.C.)	Type	What the text does	Interests affected	Severity
1	**Transfers "due to or as a result of" death.** 1336.04(C), 1336.05(C), 1336.09(B)	Legal question	The phrase is not defined. It could reach payable-on-death and transfer-on-death designations, survivorship accounts and trust distributions at death. Constructive-fraud claims under 1336.04(A)(2) and 1336.05 over those transfers are barred outright; actual-fraud claims survive but must be filed within six months of the death, with no discovery rule (bill lines 71–73, 92 and the new 1336.09(B)). LSC's detailed analysis says a creditor "cannot commence an action for a fraudulent transfer" in these cases, which is broader than the text: the bar in 1336.04 applies only to division (A)(2), and claims of actual intent remain. The consequences for creditors could be significant; the rating stays at Medium because the reach of the phrase is not yet established.	Creditors; heirs and beneficiaries; government agencies with claims	Medium
2	**"Self-dealing" is undefined.** 5818.11(C), 5818.13, 5818.32	Legal question	Self-dealing is a ban, a liability a trust cannot waive and a removal ground, but Chapter 5818 does not define it. The substitute added the term in seven places. The concept has meaning in trust law, including the trustee's duty of loyalty in R.C. 5808.02, but the bill does not say whether that standard applies to protectors, so its scope is an interpretive question rather than a demonstrated defect.	Protectors; beneficiaries; courts	Medium
3	**Drafting-attorney rules: reach and gaps.** 5818.02(B), 5818.33(C), 5818.34–.36	Legal question	Chapter 5818 applies to trusts "whenever created," but the disclosures must be made "before the trust instrument is executed." The text does not answer three separate questions for existing trusts: whether an attorney already named protector without disclosures may keep serving, whether that attorney may keep being paid, and whether the limits apply only to actions taken after the effective date. They may have different answers under Ohio's rules on retroactive laws. The good-cause requirement for removing a trustee applies to the attorney serving as protector, not to a relative serving in that role. The notice of protector pay changes does not say who gives it, to which beneficiaries, or what happens if it is not given.	Estate planning attorneys; settlors; beneficiaries	Medium

#	Issue (R.C.)	Type	What the text does	Interests affected	Severity
4	**Retroactive anti-lapse change for trusts.** 5808.19(A)(1)	Legal question	Adds "the beneficiary of a primary gift" without defining a primary gift (LSC notes the same), and directs retroactive effect "to the fullest extent permitted" under Article II, Section 28. In the *Diller* litigation, the Third District declined to apply the parallel retroactive amendment for wills to an estate it had already ruled on, relying on the law of the case and noting the heir's vested interest.[20] That ruling does not hold retroactive anti-lapse changes invalid in general; their effect may depend on whether rights have vested, whether litigation has concluded, and whether a court treats the change as substantive or remedial.	Beneficiaries of existing trusts; trustees	Low–Medium
5	**Cross-reference error.** 5818.02(B)(1)	Textual	Reads "Except as otherwise provided by the terms of a trust or section 5518.03 of the Revised Code" (As Passed by the House, line 1242). The Revised Code has no Chapter 5518; the Title 55 chapter list runs from 5517 to 5519.[21] The context, and LSC's analysis, point to 5818.03, the Legacy Trust Act conflict rule. The error appears in the introduced, reported and passed versions. Section 5818.03 states the same rule on its own, which limits the effect.	Trustees and advisers of legacy trusts	Low
6	**Executor's claim deadline described differently.** 2117.02	Textual (document)	The text keeps the three-month deadline after appointment and adds the six-month creditor period, so the earlier deadline controls. The sponsors describe it that way. LSC's analysis says the claim must be brought within six months "regardless of the date of appointment," without mentioning that the three-month limit remains.	Executors; administrators; heirs	Low

Type: *Textual* = confirmed in the bill's text or official documents. *Implementation* = depends on rules or practice not yet written. *Legal question* = depends on how a court would apply other law. **Severity:** *High* = a demonstrated conflict affecting public property, statutory rights or public money at scale. *Medium* = fraud, accountability, liability or coordination exposure the text leaves open. *Low* = administrative.

8. Open questions

1. **Why did the committee drop the funeral-expense provisions,** and what did amendment AM_1237 do? The record reviewed does not say.
2. **Who proposed the drafting-attorney limits,** and does the Ohio State Bar Association support them? Its testimony predates the substitute.
3. **Was the committee vote 13–0 or 11–0?** The votes page and the minutes differ.
4. **For existing trusts, may an attorney already named protector keep serving, keep being paid, or both,** and do the drafting-attorney limits reach only future actions?

[20] *Diller v. Pennucci*, 2024-Ohio-1244 (3d Dist.), ¶¶ 8, 16–19, https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-1244.pdf.

[21] Ohio Legislative Service Commission, *Ohio Revised Code*, Title 55, chapter list, https://codes.ohio.gov/ohio-revised-code/title-55.

5. **Which transfers count as made "due to or as a result of" death,** and how does the six-month limit interact with other recovery statutes? OCG did not examine those statutes.
6. **Will the Senate hearings on November 17 and 18 bring testimony on the substitute's additions,** or a vote?

About this review

What this is. OCG Bill Reviews are Research Center publications. They describe what a bill does, who has taken a position on it, and how it has moved through the General Assembly. Ohio Common Ground does not endorse or oppose legislation, candidates or parties. Nothing in this review is a recommendation to vote for or against this bill.

Version and date. This review covers Sub. H.B. 446 As Passed by the House, as of November 16, 2026. Bills change through substitutes and amendments, so a later version may differ. Updates are posted at ohiocommonground.com.

Sources. Figures and statements of law come from primary government sources: bill text, analyses from LSC's Office of Research and Drafting, Legislative Budget Office fiscal notes, committee records, minutes and votes, and court decisions. Statements in testimony are reported as the witness's statement. A figure that cannot be traced to a primary source is left out.

Method. Each review follows the OCG Legislative Review Standard:

1. Plain-language summary and provision-by-provision comparison against current law.
2. Context: earlier versions, related bills, recent law and litigation.
3. Positions on the record, from committee testimony and public statements. Interests affected by a provision are listed separately; being affected is not treated as support or opposition.
4. Lens analysis: the arguments conservative and liberal observers would likely make. These are hypothetical, attributed arguments, not documented positions and not OCG positions.
5. Process record: measurable facts about hearings, testimony, timing and sponsorship.
6. Drafting issues: places where the text is ambiguous, incomplete or leaves discretion unchecked, each tied to a section of the Revised Code and labeled by type. An issue describes what the text does or leaves open, not anyone's intent.
7. Open questions the public record does not yet answer.

Not legal advice. This review is not legal advice. Anyone with a legal question should contact the responsible court or an attorney.

Corrections. Report errors through ohiocommonground.com. Corrections made before release are logged in the working draft. Substantive changes after release are issued as a new version.

Sources

Primary

- Sub. H.B. 446, As Passed by the House; As Reported by House Judiciary; As Introduced
- LSC Bill Analysis, As Passed by the House; LBO Fiscal Note, As Passed by the House; LSC Substitute Bill Comparative Synopsis
- H.B. 446 committee activity, status and votes; House Judiciary minutes, Nov 5, 2025 and May 20, 2026
- Written testimony: Reps. Mathews and Stewart (House and Senate); Ohio State Bar Association (Layman); Ohio Judicial Conference (Welch)
- *Diller v. Diller*, 2023-Ohio-1508; *Diller v. Pennucci*, 2024-Ohio-1244; Am. Sub. S.B. 202, 134th G.A.

Revision history

Version	Date	Change
1.0	11/16/26	Initial release.