



Date: March 13, 2023
To: Senate Judiciary Committee
Senator Kellie Warren, Chair
From: Will Bergman, In-House Counsel
Midwest Trust Company
RE: Written Proponent Testimony – HB 2172

Madam Chair and committee members, I am Will Bergman from 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 2172. This bill, if passed, will allow for more flexibility for estate planning attorneys and trust companies when trusts are being administered.

Background on Trust Administration by Kansas Institutions

The Kansas Office of the State Bank Commissioner currently regulates 12 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 acting as corporate trustee for trusts, private foundations and administrator for estates. Collectively, those institutions administer accounts with assets over 74 billion dollars.

Section 1 Decanting

Decanting a trust means to transfer all of the assets of a trust to a second newer trust document that better fulfills the purpose of the grantor. Typically, decanting is a tool used by estate planning attorneys to solve drafting errors, ambiguity in the document, and to make modifications to the trust. Decanting is not needed for every trust document, but is one of the most comprehensive and best strategies to correct a problem.

The proposed decanting statute is slightly amended from the uniform decanting statute that has been adopted in many states. In Kansas, we have been relying on common law to provide a legal means for decanting. With the passage of the statute, estate planners will be able to have more legal guidance to ensure any



changes are allowed under the law. Currently, Missouri, Colorado, Oklahoma and Nebraska all have decanting statutes. The passage of this act will modernize our trust law and make us more competitive regionally and nationally.

I would like to thank you all for the opportunity to provide proponent testimony on behalf of HB 2172. With the passage of this bill, Kansas trust companies and estate planners will be able to provide a better service to our clients.

As the Committee considers this bill, I respectfully ask for favorable consideration so that we can provide the best service to our clients. Madam Chair, thank you, and if 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