

ORIGINAL SENATE  
FILE NO. SF0096

ENROLLED ACT NO. 39, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2024 BUDGET SESSION

AN ACT relating to banks, banking and finance; specifying when certain accounts shall not be deemed assets or liabilities of financial institutions for purposes of receivership, conservatorship or bankruptcy; amending requirements for banks providing custodial or fiduciary services for digital assets; providing definitions; making conforming amendments; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 13-1-206 is created to read:

**13-1-206. Financial institutions; fiduciary and custodial accounts; bankruptcy and receivership treatment.**

(a) Covered accounts under the administration or management of a financial institution, as defined in W.S. 13-1-101(a)(ix), that meet the requirements of subsection (b) of this section shall not be deemed assets or liabilities of the financial institution for the purposes of any receivership or conservatorship under this title or a bankruptcy, receivership or other similar proceeding under federal law. This section, and other applicable provisions of Titles 4, 13 and 34, Wyoming Statutes, shall govern whether an account is a custodial account for the purposes of any proceedings pursuant to titles 7, 11, 12 and 15 of the United States Code or similar insolvency, receivership, conservatorship or restructuring proceedings.

(b) Consistent with subsection (a) of this section, a covered account shall be subject to the following requirements:

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(i) The covered account shall be governed by a written agreement consistent with subsection (d) of this section;

(ii) Assets held in the covered account shall be segregated from the assets and liabilities of the financial institution, and shall be accounted for separately on the books and records of the financial institution;

(iii) Digital assets held in a covered account may be held in omnibus digital wallets that are commingled with digital assets held in other covered accounts, provided that the books and records of the financial institution reflect the assets held in each covered account;

(iv) Assets of the financial institution shall not be commingled with assets held in covered accounts;

(v) A financial institution may utilize a subcustodian to maintain a covered account if the agreement specified by paragraph (i) of this subsection meets each of the following requirements:

(A) Explicitly identifies the subcustodian by name; and

(B) The subcustodian may not commingle fiat or digital assets held in the covered account with the fiat or digital assets of the subcustodian.

(vi) The staking of digital assets held in a covered account shall be permitted, but only if the agreement specified by paragraph (i) of this subsection meets each of the following requirements:

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(A) Explicitly authorizes staking;

(B) Prior to and after staking, the digital assets may never be commingled in digital wallets with the digital assets of the financial institution or any third party service provider;

(C) Third parties who provide staking services for covered accounts shall maintain a written agreement that prior to and after staking, customer digital assets are never commingled with the digital assets of that third party service provider; and

(D) Otherwise complies with W.S. 34-29-104.

(vii) Digital assets in a covered account may be held on third-party platforms for the limited purpose of trade execution, but only if the agreement specified by paragraph (i) of this subsection:

(A) Explicitly authorizes trading on third-party platforms;

(B) Provides that digital assets may not be held on third-party platforms for a period of time longer than reasonably required to execute transactions;

(C) Otherwise complies with W.S. 34-29-104.

(viii) Stablecoin reserves may be held in covered accounts and are subject to this section, but only if the financial institution complies with this section;

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(ix) The covered account meets all other applicable requirements of law, including title 4 of the Wyoming statutes, W.S. 34-29-101 through 34-29-209 and 34.1-1-101 through 34.1-9-809.

(c) Covered account agreements between financial institutions and customers shall include the following or similar language:

"This is a covered account agreement entered into pursuant to W.S. 13-1-206. All parties intend for this agreement to create a covered account under which the assets provided pursuant to this agreement remain the property of the customer and not the financial institution. The financial institution agrees to comply with W.S. 13-1-206 and to refrain from commingling any customer assets with assets of the financial institution."

(d) If a covered account will hold stablecoin reserves, the covered account agreements between financial institutions and customers shall include the following or similar language:

"This covered account will hold stablecoin reserves and the beneficiaries of this covered account are the holders of the corresponding stablecoins."

(e) Nothing in this section shall be construed as restricting or prohibiting use of a subcustodian that maintains a custodial account which complies with the requirements of this section.

(f) As used in this section:

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(i) "Covered account" means either a custodial account or a fiduciary account;

(ii) "Custodial account" means an account under which a financial institution provides custodial services, as provided in W.S. 34-29-104(a);

(iii) "Custodial account agreement" means the agreement between a financial institution and customer pursuant to subsection (b) of this section;

(iv) "Fiduciary account" means an account governed by Title 4, Wyoming Statutes, and is an account established by a financial institution for which the institution owes a fiduciary duty to a customer and involves the exercise of substantial discretion, which shall include investment advice or investment decision making relating to financial assets, including currency, digital assets, securities and commodities;

(v) "Fiduciary account agreement" means the agreement between a financial institution and customer pursuant to subsection (b) of this section;

(vi) "Stablecoin" means digital assets that are designed to maintain a stable value in relation to another asset and which a holder of the stablecoin may convert, redeem or repurchase for another asset. "Stablecoin" includes the Wyoming Stable Token identified in W.S. 40-31-102(a)(viii);

(vii) "Stablecoin reserves" means the fiat or digital assets which are intended to be used for exchanging stablecoin for fiat or digital assets;

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(viii) "Staking" means committing digital assets to participate in the validation of transactions relating to a blockchain protocol, or any substantially similar analog;

(ix) "Subcustodian" means a third-party that provides technical services concerning digital asset and fiat custody and that is a financial institution, licensed money transmitter under W.S. 40-22-101 et seq. or a bank organized under the laws of the United States.

**Section 2.** W.S. 13-5-417(f), 34-29-104(a), (d)(intro), by creating new subsections (p) and (q) and amending and renumbering (p) as (r) are amended to read:

**13-5-417. Insolvency; unsafe condition; receivership.**

(f) If determined by the commissioner to be in the best interests of both the state and the supervised trust company, the commissioner may require the supervised trust company to file a petition under title 11 of the United States Code in lieu of a receivership under this section. If the commissioner has been appointed receiver under this section prior to the filing of a petition under title 11, United States Code, the commissioner shall be discharged from further duties under the receivership after the resolution of any jurisdictional issues at the commencement of a bankruptcy proceeding.

**34-29-104. Digital asset custodial services.**

(a) A bank may provide custodial services for digital assets consistent with this section upon providing sixty (60) days written notice to the commissioner. The

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~~provisions of this section are cumulative and not exclusive as an optional framework for enhanced supervision of digital asset custody.~~ If a bank elects to provide custodial services under this section for digital assets, it shall comply with all provisions of this section.

(d) Digital assets held in custody under this section are not ~~depository~~ liabilities or assets of the bank. A bank, or a subsidiary, may register as an investment adviser, investment company or broker dealer as necessary. A bank shall maintain possession or control, as applicable, over a digital asset while in custody. A customer shall elect, pursuant to a written agreement with the bank, one (1) of the following relationships for each digital asset held in custody:

(p) A bank may provide custodial services for stablecoin reserves, provided those custodial services are consistent with this section and the rules and regulations of the commissioner.

(q) A supervised trust company that is chartered in this state may provide all the services provided in this section if it complies with the provisions of this section and the rules and regulations of the commissioner.

~~(p)~~(r) As used in this section:

(i) "Bank" has the meaning ascribed to it in W.S. 13-1-101(a)(i);

(ii) "Commissioner" means the banking commissioner;

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(iii) "Custodial services" means the safekeeping, servicing and management of customer currency and digital assets. This term includes the exercise of fiduciary and trust powers involving the exercise of discretion, including transactions under subsection (e) of this section.

**Section 3.** This act is effective July 1, 2024.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk