

WORKING DRAFT

HOUSE BILL NO. _____

Banking-revisions.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to banks, banking and finance; modifying
 2 remote electronic terminal requirements; correcting
 3 definitions for branch banking; modifying bank service
 4 organization provision; adding penalty provisions for
 5 persons engaged in the trust business; applying penalty
 6 provisions to financial institutions; adding provision to
 7 remove and suspend an officer or director of a bank holding
 8 company; making conforming amendments; eliminating
 9 unnecessary language; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 13-1-101(a)(xiv), 13-1-502(j)(intro)
 14 and (k), 13-2-701(a)(i) and (iv), 13-5-110(a)(i), 13-9-
 15 101(f), 13-10-101, 13-10-102, 13-10-103(b), 13-10-104(a)

1 and (b), 13-10-106, 13-10-107(b), (c), (e) and (f), 13-10-
2 108 by creating subsection (c), 13-10-109 through 13-10-
3 111, and 13-10-205(a) are amended to read:

4
5 **13-1-101. Definitions.**

6
7 (a) As used in this act, unless another definition is
8 specifically provided for a section, article or chapter of
9 this act:

10
11 (xiv) "This act" unless otherwise indicated
12 means W.S. 13-1-101 through ~~13-10-209~~ 13-11-101;

13 **[Staff Comment: This is a conforming amendment to include**
14 **the statutory provision W.S. 13-11-101 enacted in 2001.]**
15

16 **13-1-502. Remote electronic terminals.**

17
18 (j) No person shall operate a remote electronic
19 terminal in this state unless the commissioner has approved
20 a written sponsorship agreement between the person and a
21 Wyoming financial institution or a financial institution
22 ~~having a place of business in this state~~. Every sponsorship
23 agreement shall include the following information:

24
25 (k) An owner of a remote electronic terminal shall

1 operate the terminal in compliance with applicable federal,
2 state and local laws governing the management, operation
3 and safety of the terminal. No agreement to operate or
4 share a remote electronic terminal shall prohibit, limit or
5 restrict the right of a Wyoming financial institution or
6 other financial institution ~~having a place of business in~~
7 ~~this state~~ to charge a customer any fee not prohibited by
8 state or federal law. No agreement to operate or share a
9 remote electronic terminal shall require a Wyoming
10 financial institution or other financial institution ~~having~~
11 ~~a place of business in this state~~ to limit or waive its
12 rights or obligations under this article.

13 **[Staff Comment: This amendment will allow ATM/cash**
14 **dispensing machine owners to enter into agreements with**
15 **financial institutions, whether located in Wyoming or**
16 **outside the state.]**
17

18 **13-2-701. Definitions.**

19
20 (a) As used in this act:

21

22 (i) "Branch" means any manned branch bank,
23 branch office, branch agency, additional office, separate
24 office or any branch or separate place of business operated
25 by a parent bank in this state which offers any or all of
26 the banking services conducted at a parent bank, but

1 excludes a remote electronic terminal as defined in W.S.
2 13-1-501(a)(v) and loan production offices operated in
3 accordance with W.S. 13-2-709;

4
5 (iv) "Parent bank" means a state or national
6 bank which operates or has applied to operate a branch in
7 this state;

8 **[Staff Comment: These changes are needed to clarify**
9 **intrastate banking definitions.]**

10

11 **13-5-110. Powers of state banking commissioner.**

12

13 (a) In addition to other powers conferred by this
14 act, the state banking commissioner shall:

15

16 (i) Supervise and examine all trust companies
17 organized under the provisions of this act and all such
18 trust companies shall be subject to the laws of this state
19 governing banks and other financial institutions in all
20 cases where the laws do not conflict with the provisions of
21 this act. All trust companies shall file with the
22 commissioner the Federal Financial Institutions Examination
23 Council Annual Report of trust assets for the company and
24 an annual report of the financial condition of the company.

25 ~~All financial institutions operating a trust department~~

1 ~~shall file annually similar reports regarding its trust~~
2 ~~department as the commissioner may require by rule and~~
3 ~~regulation;~~

4 **[Staff Comment: This change eliminates an unnecessary**
5 **reporting requirement; the information is already obtained**
6 **from other annual reports.]**
7

8 **13-9-101. Generally.**

9
10 (f) ~~A state bank shall not cause to be performed, by~~
11 ~~contract or otherwise, any bank services for itself,~~
12 ~~whether on or off its premises, unless satisfactory~~
13 ~~assurances are furnished to the state banking commissioner~~
14 ~~in writing by both the bank and the party performing the~~
15 ~~services that the performance of the services will be All~~
16 ~~bank services and bank service corporations shall be~~
17 subject to regulation and examination by the state banking
18 commissioner to the same extent as if the services were
19 being performed by the bank itself on its own premises.
20 Any bank contracting for or receiving bank services from a
21 bank service corporation shall notify the commissioner
22 within thirty (30) days of the earlier of the contract date
23 or receipt of services.

24 **[Staff Comment: This gives the commissioner express**
25 **authority for examination and regulation of bank service**
26 **corporations.]**
27

1 **13-10-101. General penalty.**

2

3 Any officer, director, owner or employee of a ~~bank or trust~~
4 ~~company~~ financial institution who willfully and knowingly
5 violates any provision of this act for which a penalty is
6 not expressly provided is guilty of a misdemeanor
7 punishable by a fine of not less than one hundred dollars
8 (\$100.00) nor more than one thousand dollars (\$1,000.00),
9 imprisonment for not more than one (1) year, or both.

10

11 **[Staff Comment: The term "financial institution" means a**
12 **bank, savings and loan association, trust company or state**
13 **chartered credit union, W.S. 13-1-101(a)(ix).]**

14

15 **13-10-102. False statements.**

16

17 (a) Any owner, director, officer or employee of a
18 ~~bank or trust company~~ financial institution who makes any
19 false entry or fails to make new entries of matters
20 pertaining to the affairs of the ~~bank~~ financial institution
21 in the books or statements of the ~~bank~~ financial
22 institution with intent to injure or defraud the ~~bank~~
23 financial institution or deceive any officer of the ~~bank~~
24 financial institution or any person appointed to examine
25 the affairs of the ~~bank~~ financial institution is guilty of
26 a felony punishable by a fine of not less than one thousand

1 dollars (\$1,000.00) nor more than five thousand dollars
2 (\$5,000.00), imprisonment for not less than one (1) year
3 nor more than ten (10) years, or both.

4
5 (b) Any officer, director, owner or employee of a
6 ~~bank or trust company~~ financial institution who willfully
7 and knowingly subscribes, makes or causes to be made any
8 false statement or report to the state banking
9 commissioner, or subscribes or exhibits false papers with
10 intent to deceive any person authorized to examine the
11 affairs of the ~~bank~~ financial institution, or states or
12 publishes any false report or statement of the ~~bank~~
13 financial institution is guilty of a felony punishable by a
14 fine of not less than one thousand dollars (\$1,000.00) nor
15 more than five thousand dollars (\$5,000.00), imprisonment
16 for not less than one (1) year nor more than ten (10)
17 years, or both.

18
19 (c) Any person who willfully and knowingly makes,
20 circulates or transmits any false statement or rumor to
21 another which is directly or indirectly derogatory to the
22 financial condition or affects the solvency or financial
23 standing of a ~~bank~~ financial institution doing business in
24 Wyoming is guilty of a misdemeanor punishable by a fine of

1 not more than seven hundred fifty dollars (\$750.00),
2 imprisonment for not more than six (6) months, or both.

3

4 **13-10-103. Fraudulent insolvency.**

5

6 (b) Any officer or director of a ~~bank~~ financial
7 institution who participates in a fraudulent insolvency of
8 a ~~bank~~ financial institution is guilty of a misdemeanor
9 punishable by a fine of not less than one hundred dollars
10 (\$100.00) nor more than one thousand dollars (\$1,000.00),
11 imprisonment for not less than one (1) month nor more than
12 one (1) year, or both.

13

14 **13-10-104. Wrongful certification, issuance or**
15 **delivery of instruments, preferences or borrowing.**

16

17 (a) Any owner, director, officer, agent or employee
18 of a ~~bank~~ financial institution who willfully certifies a
19 check on the account of the drawer of the check which does
20 not contain sufficient funds to pay the check is guilty of
21 a misdemeanor punishable by a fine not to exceed one
22 thousand dollars (\$1,000.00).

23

24 (b) Any owner, director, officer or employee of a
25 ~~bank~~ financial institution who issues or delivers any

1 certificate of deposit, draws any check, draft or bill of
2 exchange, makes any acceptance, or signs any note, bond,
3 draft, bill of exchange, mortgage, judgment or decree
4 without the approval of the board of directors is guilty of
5 a felony punishable by imprisonment for not less than one
6 (1) year nor more than twenty (20) years.

7
8 **13-10-106. Transactions exceeding liability limits;
9 concealing or failing to report transactions.**

10
11 (a) Any officer, director or agent of a ~~bank~~
12 financial institution who makes or delivers any guarantee
13 or endorsement on behalf of the ~~bank~~ financial institution
14 whereby the ~~bank~~ financial institution may become liable
15 upon any of the ~~bank's~~ financial institution's discounted
16 notes, bills or obligations in an amount exceeding the
17 amount of loans or discounts which the ~~bank~~ financial
18 institution may make under this act is guilty of a
19 misdemeanor punishable by a fine of not less than five
20 hundred dollars (\$500.00) nor more than one thousand
21 dollars (\$1,000.00), imprisonment for not less than one (1)
22 month nor more than one (1) year, or both.

23

1 (b) Any director of a ~~bank~~ financial institution who
2 concurs in any vote or act of the board of directors or any
3 director of the ~~bank~~ financial institution whereby it is
4 intended to make a loan or discount to a director of the
5 ~~bank~~ financial institution or upon an instrument on which a
6 director is liable, exceeding the amount allowed under this
7 act, is guilty of a misdemeanor punishable by a fine of not
8 less than five hundred dollars (\$500.00) nor more than one
9 thousand dollars (\$1,000.00), imprisonment for not less
10 than one (1) month nor more than one (1) year, or both.

11
12 (c) Any officer, director or employee of a ~~bank~~
13 financial institution who intentionally conceals any
14 discounts or loans, purchases of securities or sale of ~~bank~~
15 financial institution securities by the ~~bank~~ financial
16 institution from the officers or directors of the ~~bank~~
17 financial institution, or who knowingly fails to report all
18 discounts, loans or purchases of securities by the ~~bank~~
19 financial institution to the board of directors when
20 required to do so by law, is guilty of a misdemeanor
21 punishable by a fine of not less than five hundred dollars
22 (\$500.00) nor more than one thousand dollars (\$1,000.00),
23 imprisonment for not less one (1) month nor more than one
24 (1) year, or both.

1

2 **13-10-107. Failure to report or cooperate with state**
3 **banking commissioner.**

4

5 b) Any bank failing to submit reports to the state
6 banking commissioner as required by W.S. 13-3-701(d) is
7 subject to a civil penalty of twenty-five dollars (\$25.00)
8 per day for each day the reports are delayed. Any trust
9 company failing to submit reports to the commissioner as
10 required by W.S. 13-5-110(a)(i) is subject to a civil
11 penalty of twenty-five dollars (\$25.00) per day for each
12 day the reports are delayed.

13

14 (c) Any officer, director or employee of a ~~bank~~
15 financial institution or bank holding company who
16 willfully and knowingly fails to report any transfer of
17 ownership interests of the ~~bank~~ financial institution or ~~of~~
18 ~~its~~ a bank holding company to the commissioner as required
19 by this act is guilty of a misdemeanor punishable by a fine
20 of not more than one thousand dollars (\$1,000.00),
21 imprisonment for not less than six (6) months nor more than
22 one (1) year, or both.

23

1 (e) Any person refusing or obstructing access to the
2 state banking commissioner to any books, records or papers,
3 refusing to furnish any required information, or hindering
4 a full examination of the books, accounts, papers and
5 finances of a ~~bank, savings and loan association or trust~~
6 ~~company,~~ financial institution is guilty of a felony
7 punishable by a fine of not less than one thousand dollars
8 (\$1,000.00), imprisonment for a period of not less than one
9 (1) year, or both.

10
11 (f) A ~~bank~~ financial institution shall keep books and
12 accounts in a convenient manner so as to enable the
13 examiner to readily ascertain the true condition of the
14 ~~bank~~ financial institution. Any ~~bank~~ financial institution
15 that refuses or neglects to open and keep books and
16 accounts as prescribed by the state banking commissioner is
17 subject to a penalty of three hundred dollars (\$300.00) per
18 day for each day the ~~bank~~ financial institution neglects or
19 fails to open and keep the books and accounts after
20 receiving written notice from the state banking
21 commissioner.

22

1 **13-10-108. Operating bank or savings and loan**
2 **association or trust company without complying with**
3 **provisions.**

4
5 (c) Any person, firm or corporation which conducts a
6 trust business without compliance with this act and
7 following ten (10) days notice given by the commissioner,
8 is guilty of a misdemeanor punishable by a fine of not less
9 than one hundred dollars (\$100.00) nor more than one
10 thousand dollars (\$1,000.00), imprisonment for not more
11 than six (6) months, or both.

12
13 **13-10-109. Refusal to exhibit stock ledger or**
14 **register.**

15
16 Any officer of a ~~bank~~ financial institution refusing to
17 exhibit the stock ledger or register of the ~~bank~~ financial
18 institution to any person entitled to inspect the ledger or
19 register is guilty of a misdemeanor punishable by a fine
20 not to exceed fifty dollars (\$50.00).

21
22 **13-10-110. Improper procurement of loans; permitting**
23 **accounts to be overdrawn.**

24

1 Any officer, director, agent or employee of a ~~bank~~
2 financial institution who asks for, receives or agrees to
3 receive any compensation, reward or personal advantage for
4 procuring or endeavoring to procure for any person, firm or
5 corporation any loan from or the purchase or discount of
6 any instrument by the ~~bank~~ financial institution, or for
7 permitting any person, firm or corporation to overdraw any
8 account with the ~~bank~~ financial institution, is guilty of a
9 felony punishable by a fine of not less than one thousand
10 dollars (\$1,000.00) nor more than five thousand dollars
11 (\$5,000.00), imprisonment for not less than one (1) year
12 nor more than ten (10) years, or both.

13

14 **13-10-111. Financial involvement by state banking**
15 **commissioner and employees.**

16

17 The state banking commissioner and employees of the state
18 banking commissioner's office shall not become indebted to
19 any ~~bank~~ financial institution under state supervision nor
20 shall engage or be interested in the sale of securities or
21 negotiation of loans for others with any ~~bank~~ financial
22 institution under state supervision. Violation of this
23 section constitutes grounds for removal from office.

24

1 **13-10-205. Removal of officer or director; notice;**
2 **opportunity for hearing.**

3

4 (a) After notice and opportunity for hearing, the
5 commissioner may issue a final order removing an officer or
6 director of a Wyoming financial institution or a bank
7 holding company if the officer or director:

8 **[Staff Comment: This extends the commissioner's removal**
9 **authority to officers and directors of bank holding**
10 **companies.]**

11

12 **Section 2.** This act is effective July 1, 2003.

13

14

(END)

1

Draft