

HOUSE BILL NO. HB0062

Wyoming Utility Token Act-property amendments.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to property; making legislative findings;
2 establishing that open blockchain tokens with specified
3 consumptive characteristics are intangible personal property
4 and not subject to a securities exemption; providing
5 definitions; requiring developers and sellers of open
6 blockchain tokens to file notices of intent and fees with the
7 secretary of state; authorizing specified enforcement
8 actions; establishing virtual currency as intangible personal
9 property; making specified violations unlawful trade
10 practices; repealing provisions granting open blockchain
11 tokens a securities exemption; specifying applicability;
12 providing an appropriation; and providing for effective
13 dates.

14

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

1

2

Section 1.

3

4

(a) The legislature finds the following:

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(i) Certain open blockchain tokens may be restricted to only be exchangeable for specified consumptive purposes, including services, software, content or property, whether real or tangible personal property, and do not entitle a token holder to a cash payment or a share of profits from the technology developer or business that created the token;

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(iii) The open blockchain tokens governed by this act do not constitute securities because a person who is sold a consumptive open blockchain token cannot receive a cash payment or share of profits from a developer or business, but

1 will instead receive a fixed amount of consumable services,
2 content or property; and

3

4 (iv) Because of the consumptive nature of open
5 blockchain tokens and for the other reasons specified above,
6 these tokens are properly classified as intangible personal
7 property under Wyoming law and, therefore, do not require an
8 exemption from securities laws.

9

10 **Section 2.** W.S. 34-29-101 and 34-29-102 are created to
11 read:

12

13

CHAPTER 29

14

DIGITAL ASSETS

15

16 **34-29-101. Wyoming Utility Token Act; open blockchain**
17 **tokens classified as intangible personal property;**
18 **characteristics; filing requirements; fee; enforcement**
19 **authority; definitions; virtual currency.**

20

21 (a) This section may be cited as the "Wyoming Utility
22 Token Act."

23

1 (b) An open blockchain token with the following
2 characteristics constitutes intangible personal property:

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4 (i) The predominant purpose of the token is
5 consumptive, as defined in paragraph (g)(ii) of this section;

6

7 (ii) The developer or seller did not market the
8 token to the initial buyer as a financial investment, as
9 defined in paragraph (g)(v) of this section; and

10

11 (iii) At least one (1) of the following
12 subparagraphs is satisfied:

13

14 (A) The developer or seller reasonably
15 believed that it sold the token to the initial buyer for a
16 consumptive purpose;

17

18 (B) The token has a consumptive purpose that
19 is available at or near the time of sale and can be used at
20 or near the time of sale for a consumptive purpose;

21

22 (C) The initial buyer of the token is
23 prohibited by the developer or seller of the token from

1 reselling the token until the token is available to be used
2 for a consumptive purpose;

3

4 (D) The developer or seller takes other
5 reasonable precautions to prevent an initial buyer from
6 purchasing the token as a financial investment.

7

8 (c) Before making an open blockchain token under
9 subsection (b) of this section available for sale, the
10 developer or seller of a token, or the registered agent of
11 the developer or seller, shall electronically file a notice
12 of intent with the secretary of state and pay a filing fee of
13 one thousand dollars (\$1,000.00) to offset the costs of
14 administering this section. The notice of intent shall
15 contain the name of the person acting as a developer or
16 seller, the contact information of the person, or the
17 registered agent of the person and comprehensive details on
18 the open blockchain token under subsection (b) of this section
19 made available for sale, as required by the secretary of
20 state. A form shall be made available by the secretary of
21 state for this purpose, which shall include a secure
22 electronic form conspicuously posted on the internet website
23 of the secretary of state. A developer, seller and the

1 registered agent of these persons, if applicable, shall have
2 a continuing duty to update the contact information provided
3 on a notice of intent as long as the open blockchain token
4 associated with the notice is actively being sold.

5

6 (d) A facilitator shall comply with the following
7 requirements:

8

9 (i) A facilitator shall, before making any token
10 available for resale to the public, confirm with the secretary
11 of state that a notice of intent has been filed pursuant to
12 subsection (c) of this section;

13

14 (ii) A facilitator shall, at all times, have a
15 reasonable and good faith belief that a token subject to
16 resale conforms to the requirements of paragraphs (b)(i)
17 through (iii) of this section; and

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19 (iii) The facilitator shall take reasonably prompt
20 action to terminate the resale of a token which does not
21 conform to the requirements of this subsection.

22

1 (e) A willful failure by a developer, seller or
2 facilitator to comply with the duties imposed by this section
3 shall constitute an unlawful trade practice under W.S.
4 40-12-105(a)(xvii). A developer, seller or facilitator is
5 subject to all applicable criminal statutes, including the
6 fraud provisions of W.S. 6-3-601 through 6-3-615.

7

8 (f) The secretary of state may refer the following to
9 appropriate state or federal agencies for investigation,
10 criminal prosecution, civil penalties and other appropriate
11 enforcement actions:

12

13 (i) Suspected violations of this section;

14

15 (ii) The developer, seller or facilitator of
16 either an open blockchain token which conforms to the
17 requirements of this section or another digital asset which
18 substantially resembles an open blockchain token, but which,
19 in the determination of the secretary of state, is being sold
20 for financial investment or fraudulent purposes.

21

22 (g) As used in this section:

23

1 (i) "Blockchain" means a digital ledger or
2 database which is chronological, consensus-based,
3 decentralized and mathematically verified in nature;
4

5 (ii) "Consumptive" means a circumstance when a
6 token is exchangeable for, or provided for the receipt of,
7 services, software, content or real or tangible personal
8 property, including rights of access to services, content or
9 real or tangible personal property;
10

11 (iii) "Developer" means the person primarily
12 responsible for creating an open blockchain token or
13 otherwise designing the token, including by executing the
14 technological processes necessary to create the token;
15

16 (iv) "Facilitator" means a person who, as a
17 business, makes open blockchain tokens under subsection (b)
18 of this section available for resale to the public after a
19 token has been purchased by an initial buyer;
20

21 (v) "Financial investment" means a contract,
22 transaction or arrangement where a person invests money in a

1 common enterprise and is led to expect profits solely from
2 the efforts of a promoter or a third party;

3

4 (vi) Except as otherwise provided in subsection
5 (h) of this section, "open blockchain token" means a digital
6 unit which is:

7

8 (A) Created:

9

10 (I) In response to the verification or
11 collection of a specified number of transactions relating to
12 a digital ledger or database;

13

14 (II) By deploying computer code to a
15 blockchain that allows for the creation of digital tokens or
16 other units; or

17

18 (III) Using a combination of the methods
19 specified in subdivisions (I) and (II) of this subparagraph.

20

21 (B) Recorded to a blockchain; and

22

1 (C) Capable of being traded or transferred
2 between persons without an intermediary or custodian of
3 value.

4

5 (vii) "Seller" means a person who makes an open
6 blockchain token available for purchase to an initial buyer.

7

8 (h) Virtual currency, as defined in W.S. 34-29-102(b),
9 shall not constitute an open blockchain token.

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11 **34-29-102. Virtual currency classified as intangible**
12 **personal property.**

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14 (a) Virtual currency constitutes intangible personal
15 property, consistent with W.S. 34-29-101(h).

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17 (b) As used in this section, "virtual currency" means
18 any type of digital representation of value that:

19

20 (i) Is used as a medium of exchange, unit of
21 account or store of value; and

22

1 (ii) Is not recognized as legal tender by the
2 United States government.

3

4 **Section 3.** W.S. 17-4-102(a)(xvii)(intro) and
5 40-12-105(a) by creating new paragraph (xvii) are amended to
6 read:

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8 **17-4-102. Definitions.**

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10 (a) In this act, unless the context otherwise requires:

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12 (xvii) "Issuer" means a person that issues or
13 proposes to issue a security, subject to ~~W.S. 17-4-206(a) and~~
14 ~~(c) and~~ the following:

15

16 **40-12-105. Unlawful practices.**

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18 (a) A person engages in a deceptive trade practice
19 unlawful under this act when, in the course of his business
20 and in connection with a consumer transaction, he knowingly:

21

22 (xvii) Willfully fails to comply with the duties
23 imposed by W.S. 34-29-101.

1

2 **Section 4.** W.S. 17-4-102(a)(iv)(F) and (xxviii)(F),
3 17-4-206, 40-22-104(a)(vii) and 40-22-126(b) are repealed.

4

5 **Section 5.**

6

7 (a) Except as otherwise provided in subsection (b) of
8 this section, a person who has properly filed a notice of
9 intent pursuant to 2018 Wyoming Session Laws, chapter 44
10 before the effective date of this act shall be subject to the
11 requirements of this act.

12

13 (b) Notices of intent properly filed with the secretary
14 of state pursuant to 2018 Wyoming Session Laws, chapter 44
15 before the effective date of this act, shall constitute
16 compliance with W.S. 34-29-101(c), as of the effective date
17 of this act.

18

19 (c) Open blockchain tokens relating to a notice of
20 intent properly filed pursuant to 2018 Wyoming Session Laws,
21 chapter 44 before the effective date of this act shall
22 constitute intangible personal property under W.S. 34-29-101
23 after the effective date of this act.

1

2 **Section 6.** For the period beginning July 1, 2019 and
3 ending June 30, 2020, there is appropriated fifty thousand
4 dollars (\$50,000.00) from the general fund to the secretary
5 of state. This appropriation shall only be expended to provide
6 services relating to the administration and enforcement of
7 this act. Notwithstanding any other provision of law, this
8 appropriation shall not be transferred or expended for any
9 other purpose and any unexpended, unobligated funds remaining
10 from this appropriation shall revert as provided by law on
11 June 30, 2020. The secretary of state may include a request
12 for an appropriation for these services in its 2021-2022
13 standard budget request.

14

15 **Section 7.**

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17 (a) Section 6 of this act is effective July 1, 2019.

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1 (b) Except as provided in subsection (a) of this
2 section, this act is effective immediately upon completion of
3 all acts necessary for a bill to become law as provided by
4 Article 4, Section 8 of the Wyoming Constitution.

5

6

(END)