

HOUSE BILL NO. HB0236

Wyoming Statutory Foundation Act.

Sponsored by: Representative(s) Greear and Olsen and
Senator(s) Nethercott

A BILL

for

1 AN ACT relating to corporations, partnerships and
2 associations; creating statutory foundations as a new form of
3 entity; establishing procedures and standards for the
4 management of statutory foundation affairs; specifying
5 liability; imposing fees as specified; providing for the
6 operation and transfer of foreign foundations; authorizing
7 the adoption of rules and the establishment of fees; making
8 conforming amendments; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 17-30-101 through 17-30-106, 17-30-201
13 through 17-30-204, 17-30-301 through 17-30-309, 17-30-401,
14 17-30-402, 17-30-501 through 17-30-506, 17-30-601 through
15 17-30-603, 17-30-701 through 17-30-703, 17-30-801, 17-30-901

1 through 17-30-906, 17-30-1001 through 17-30-1003, 17-30-1101
2 and 17-30-1102 are created to read:

3

4

CHAPTER 30

5

WYOMING STATUTORY FOUNDATION ACT

6

7

ARTICLE 1

8

GENERAL PROVISIONS

9

10 **17-30-101. Short title.**

11

12 This chapter may be cited as the "Wyoming Statutory Foundation
13 Act".

14

15 **17-30-102. Definitions.**

16

17 (a) As used in this act:

18

19 (i) "Articles of formation" means the articles
20 required by W.S. 17-30-303, including any amendments thereto
21 and restatements thereof;

22

1 (ii) "Beneficiary" means a person designated as a
2 beneficiary in the operating agreement of a statutory
3 foundation, which may be any of the following:

4

5 (A) A person who has a present or future,
6 vested or contingent, beneficial interest in the statutory
7 foundation;

8

9 (B) If permitted under the terms in the
10 operating agreement, a person designated as a beneficiary of
11 the statutory foundation by the board of directors, at the
12 discretion of the board of directors;

13

14 (C) A charitable organization, as defined in
15 paragraph (v) of this subsection.

16

17 (iii) "Certificate of existence" means the
18 certificate issued to a statutory foundation under W.S.
19 17-30-308;

20

21 (iv) "Certificate of registration" means the
22 certificate of registration of a foreign foundation required
23 under W.S. 17-30-1101;

1

2 (v) "Charitable purpose" means the relief of
3 poverty, the advancement of education or religion, the
4 promotion of a health, governmental or municipal purpose or
5 the achievement of other purposes which are beneficial to the
6 community;

7

8 (vi) "Contributor" means any person, excluding a
9 founder, who contributes property to a statutory foundation;

10

11 (vii) "Court" means the district court of the
12 county where a statutory foundation has its registered office
13 or another court of competent jurisdiction which is the most
14 appropriate forum in the circumstances;

15

16 (viii) "Financial institution" means as defined in
17 W.S. 13-1-101(a)(ix);

18

19 (ix) "Foreign foundation" means an entity formed
20 under the law of a foreign jurisdiction as a statutory
21 foundation, pursuant to the law of the foreign jurisdiction,
22 or which appears to the secretary of state to possess

1 characteristics sufficiently similar to those of a statutory
2 foundation organized under this act;

3

4 (x) "Founder" or "organizer" means one (1) or more
5 persons that acts under W.S. 17-30-303 to form a statutory
6 foundation;

7

8 (xi) "Insolvency law" means title 11, United
9 States Code or successor federal statutes of general
10 application;

11

12 (xii) "Operating agreement" means the written
13 agreement, whether or not designated as an operating
14 agreement, of a founder of a statutory foundation concerning
15 the matters described in W.S. 17-30-309, including any
16 amendments thereto and restatements thereof;

17

18 (xiii) "Person" means as defined in W.S.
19 8-1-102(a)(vi);

20

21 (xiv) "Power" shall include discretion as to the
22 way in which an act may be performed;

23

1 (xv) "Principal office" means the principal
2 executive office of a statutory foundation or a foreign
3 foundation, whether or not the office is located in this
4 state;

5
6 (xvi) "Protector" means the person designated as
7 a protector of a statutory foundation under W.S. 17-30-503;

8
9 (xvii) "Record" means information that is
10 inscribed on a tangible medium or that is stored in an
11 electronic or other medium and is retrievable in perceivable
12 form;

13
14 (xviii) "Registered agent" means a person
15 appointed as a registered agent under W.S. 17-28-101 through
16 17-28-111;

17
18 (xix) "Sign" or "signature" shall include any
19 manual, facsimile, conformed or electronic signature;

20
21 (xx) "State" means a state of the United States,
22 the District of Columbia, Puerto Rico, the United States

1 Virgin Islands or any territory or insular possession subject
2 to the jurisdiction of the United States;

3

4 (xxi) "Statutory foundation" means an entity
5 formed or domesticated under this act;

6

7 (xxii) "This act" means W.S. 17-30-101 through
8 17-30-1102.

9

10 **17-30-103. Governing law.**

11

12 (a) This act governs:

13

14 (i) The internal affairs of a statutory
15 foundation; and

16

17 (ii) The liability of a person as a founder or
18 contributor of a statutory foundation for the debts,
19 obligations or other liabilities of a statutory foundation.

20

21 (b) The transfer of property by a founder or a
22 contributor to the statutory foundation, or any disposition
23 made subject to the terms of the operating agreement of the

1 foundation, shall not rendered ineffective for any reason,
2 including the following:

3

4 (i) The law of a foreign jurisdiction prohibits or
5 does not recognize the concept of a statutory foundation;

6

7 (ii) The statutory foundation, a transfer of
8 property by a founder or a contributor to a foundation or a
9 disposition made subject to the terms of the operating
10 agreement of the foundation, avoids or defeats any forced
11 heirship or legitimate right, claim or interest under the law
12 of a foreign jurisdiction.

13

14 **17-30-104. Supplemental principles of law.**

15

16 The principles of law and equity shall supplement this act,
17 unless in conflict with this act.

18

19 **17-30-105. Electronic records and signatures.**

20

21 The provisions of this act governing the legal effect,
22 validity or enforceability of electronic records or
23 electronic signatures, and of contracts formed or performed

1 with the use of such records or signatures, shall be construed
2 to conform to the requirements of the Electronic Signatures
3 in Global and National Commerce Act, 15 U.S.C. § 7002, and
4 supersede, modify and limit the requirements of the
5 Electronic Signatures in Global and National Commerce Act.

6

7 **17-30-106. Powers of secretary of state.**

8

9 The secretary of state shall promulgate reasonable rules,
10 forms and other requirements which are necessary to carry out
11 the purposes of this act.

12

13

ARTICLE 2

14

PURPOSE, POWERS AND CAPITAL

15

16 **17-30-201. Nature, purpose and duration of statutory**
17 **foundations.**

18

19 (a) A statutory foundation shall be an entity distinct
20 from its founders, contributors, beneficiaries and any other
21 persons.

22

1 (b) Unless stated otherwise in the articles of
2 formation, a statutory foundation has perpetual duration.

3

4 (c) Except for those purposes provided in subsection
5 (e) of this section, a statutory foundation may be created
6 for any lawful purpose, which shall be included in the
7 articles of formation of the foundation, regardless of
8 whether the foundation is for profit or for charitable
9 purposes, as defined in W.S. 17-30-102(a)(v), provided that
10 a statutory foundation shall:

11

12 (i) Confer a benefit on at least one (1) person;
13 and

14

15 (ii) Be authorized to hold tangible and intangible
16 property and accumulate income generated by that property for
17 the purposes of this act.

18

19 (d) In addition to those purposes provided in
20 subsection (c) of this section, a statutory foundation may be
21 organized for the purpose of holding or investing in other
22 entities or assets, including those entities or assets that
23 are the property of the statutory foundation.

1

2 (e) A statutory foundation may not be created to act as
3 a financial institution or an insurer, as defined in W.S.
4 26-1-102(a)(xvi).

5

6 (f) The purposes for which a statutory foundation may
7 be created under this act shall not be amended or restated
8 unless the articles of formation expressly provide that the
9 purpose of the statutory foundation "may be amended", "may be
10 restated" or include words of similar import or an amendment
11 or restatement is required pursuant to a court order.

12

13 **17-30-202. Enforcement of charitable purposes.**

14

15 (a) If the articles of formation or the operating
16 agreement of a statutory foundation formed for a charitable
17 purpose do not indicate or otherwise provide for selection of
18 a particular charitable purpose or beneficiary, or if the
19 designated charitable purpose cannot be completed or no
20 longer exists, the court may select one (1) or more charitable
21 purposes or beneficiaries. The selection shall be consistent
22 with the intent of the founder, to the extent intent can be
23 ascertained.

1

2 (b) A founder, the board of directors or the protector
3 of a statutory foundation formed for a charitable purpose may
4 commence a civil action to enforce the charitable purpose of
5 the statutory foundation.

6

7 **17-30-203. Powers of a statutory foundation.**

8

9 A statutory foundation has the capacity to sue and be sued in
10 its own name and has the power to take all actions necessary
11 or convenient to carry on the activities of the foundation.

12

13 **17-30-204. Property contribution.**

14

15 (a) The initial property contributed to a statutory
16 foundation may consist of tangible or intangible property,
17 whether or not the contribution is made as a gift or
18 otherwise.

19

20 (b) After the contribution of initial property to the
21 statutory foundation, and if permitted by the operating
22 agreement of the foundation, additional contributions may be

1 made to the statutory foundation by a founder or any
2 contributor.

3

4 (c) The tangible and intangible property of the
5 statutory foundation may include:

6

7 (i) Initial contributions of property;

8

9 (ii) Additional contributions of property;

10

11 (iii) Any accumulated income.

12

13

ARTICLE 3

14 NAME, FORMATION, ARTICLES OF FORMATION, OTHER FILINGS AND

15

ORGANIZATIONAL DOCUMENTS

16

17 **17-30-301. Name of a statutory foundation.**

18

19 (a) The words "statutory foundation", or its
20 abbreviations "SF" or "S.F.", shall be included in the name
21 of a statutory foundation formed under this act. A statutory
22 foundation name shall not:

23

1 (i) Contain words indicating or implying that the
2 foundation is organized for a purpose other than one (1) or
3 more of the purposes contained in its articles of formation;
4

5 (ii) Be the same as, or deceptively similar to in
6 the determination of the secretary of state, any trademark or
7 service mark registered in this state. The name shall be
8 distinguishable by the secretary of state from other business
9 names as provided in W.S. 17-16-401;
10

11 (iii) Contain a word or phrase which indicates or
12 implies that it is organized under the Wyoming Business
13 Corporation Act, the Wyoming Statutory Close Corporation
14 Supplement, the Wyoming Nonprofit Corporation Act, the
15 Wyoming Limited Liability Company Act or the Wyoming
16 Statutory Trust Act.
17

18 (b) Nothing in this article shall prohibit the use of
19 a trade name in accordance with applicable law.
20

21 **17-30-302. Registered office and registered agent.**
22

1 (a) Each statutory foundation shall continuously
2 maintain a registered office and registered agent, as
3 provided in W.S. 17-28-101 through 17-28-111, in this state.

4

5 (b) The provisions of W.S. 17-28-101 through 17-28-111
6 shall apply to all statutory foundations.

7

8 **17-30-303. Formation of statutory foundation; articles**
9 **of formation.**

10

11 (a) One (1) or more persons may act as an organizer to
12 form a statutory foundation by signing and delivering
13 articles of formation to the secretary of state. Articles of
14 formation shall be accompanied by a written consent of
15 appointment signed by a registered agent.

16

17 (b) Articles of formation shall state:

18

19 (i) The name of the statutory foundation, which
20 shall comply with W.S. 17-30-301; and

21

1 (ii) The street address of the statutory
2 foundation's initial registered office and the name of its
3 initial registered agent at that office.

4

5 (c) Articles of formation may state:

6

7 (i) The names and addresses of the individuals who
8 are to serve as the initial directors;

9

10 (ii) The name and address of the individual who is
11 to serve as the initial protector;

12

13 (iii) Other provisions not inconsistent with law,
14 which may include:

15

16 (A) The purpose for which the statutory
17 foundation is organized;

18

19 (B) An express statement that the purpose of
20 the statutory foundation "may be amended", "may be restated"
21 or words of similar import, pursuant to W.S. 17-30-201(f);

22

1 (C) A statement of the duration of the
2 statutory foundation;

3

4 (D) Any provision under this act that is
5 required or permitted to be stated in the operating agreement.

6

7 (d) A statutory foundation is formed when the articles
8 of formation become effective. The filing of articles of
9 formation by the secretary of state is conclusive proof that
10 the organizer has satisfied all conditions required for the
11 formation of a statutory foundation, except in a civil action
12 commenced by the state of Wyoming to terminate a statutory
13 foundation. In that case, a court may require other additional
14 evidence as it determines appropriate.

15

16 **17-30-304. Signing of records to be delivered for**
17 **filing to secretary of state.**

18

19 (a) A record delivered to the secretary of state for
20 filing under this act shall be signed as follows:

21

22 (i) Except as otherwise provided by this
23 subsection, a record signed on behalf of a statutory

1 foundation shall be signed by a person who has appropriate
2 authority granted by the foundation;

3

4 (ii) The initial articles of formation of a
5 statutory foundation shall be signed by at least one (1)
6 person acting as founder or organizer;

7

8 (iii) A record filed on behalf of a terminated
9 statutory foundation that has no founders shall be signed by
10 the person winding up the activities of the foundation under
11 article 9 of this chapter, the organizer or another person
12 appointed by the board of directors of the foundation;

13

14 (iv) Any other record shall be signed by the
15 person on whose behalf the record is delivered to the
16 secretary of state or by the person appointed by the board of
17 directors of the statutory foundation.

18

19 (b) Any record filed under this act may be signed by an
20 agent.

21

22 **17-30-305. Delivery to and filing of records by**
23 **secretary of state; effective time and date.**

1

2 (a) A record authorized or required to be delivered to
3 the secretary of state for filing under this act shall be
4 captioned to describe the purpose of the record and be
5 delivered to the secretary of state in an authorized medium.
6 The secretary of state shall file the record upon receipt,
7 unless:

8

9 (i) The secretary of state determines that a
10 record does not comply with the filing requirements of this
11 act;

12

13 (ii) The filing fees required by this act or other
14 provisions of law or past due fees, taxes or penalties have
15 not been paid.

16

17 (b) Upon filing the record, the secretary of state
18 shall send a copy of the filed record and a receipt for fees
19 to the person on whose behalf the record was filed.

20

21 (c) Upon request and payment of the requisite fee, the
22 secretary of state shall send to the requester a certified
23 copy of a requested record.

1

2 (d) Except as otherwise provided in this section and
3 W.S. 17-28-103, a record delivered to the secretary of state
4 for filing under this act shall be effective as of the date
5 of filing by the secretary of state.

6

7 **17-30-306. Correcting filed record.**

8

9 (a) A statutory foundation or foreign foundation may
10 deliver to the secretary of state for filing a statement of
11 correction to correct a record if the record contained
12 inaccurate information or a defective signature.

13

14 (b) A statement of correction shall:

15

16 (i) Describe the record to be corrected, including
17 its filing date, or attach a copy of the record as filed;

18

19 (ii) Specify the inaccurate information and the
20 reason the information is inaccurate or the manner in which
21 the signature was defective; and

22

1 (iii) Correct the inaccurate information or
2 defective signature.

3

4 (c) When filed by the secretary of state, a statement
5 of correction is effective retroactively as of the effective
6 date of the record the statement corrects, except that the
7 statement shall be effective when filed in the context of
8 persons that previously relied on the uncorrected record and
9 would be adversely impacted by retroactive effect.

10

11 **17-30-307. Liability for inaccurate information in**
12 **filed record.**

13

14 (a) If a record delivered to and filed by the secretary
15 of state under this act contains inaccurate information, a
16 person that suffers a loss by relying in good faith on the
17 record may recover damages relating to the loss from the
18 statutory foundation or foreign foundation if:

19

20 (i) The record was delivered for filing on behalf
21 of the statutory foundation or foreign foundation; and

22

1 (ii) The statutory foundation or foreign
2 foundation had notice of the inaccuracy for a reasonably
3 sufficient time and was able to correct the record in the
4 period of time before the record was relied upon.

5

6 (c) An individual who signs a record authorized or
7 required to be filed with the secretary of state under this
8 act shall affirm, under penalty of perjury, that the
9 information stated in the record is accurate.

10

11 **17-30-308. Certificate of existence.**

12

13 (a) The secretary of state, upon request and payment of
14 the requisite fee, shall furnish to any person a certificate
15 of existence for a statutory foundation or a foreign
16 foundation.

17

18 (b) A certificate of existence shall state:

19

20 (i) The name of the statutory or foreign
21 foundation used in this state;

22

1 (ii) That the statutory foundation was duly formed
2 under the laws of this state and the date of formation, or
3 that the foreign foundation is registered in this state;

4

5 (iii) Whether all fees, taxes and penalties due
6 under this act or under other provisions of law have been
7 paid;

8

9 (iv) Whether the most recent annual report
10 required pursuant to W.S. 17-30-703 has been filed by the
11 secretary of state;

12

13 (v) Whether the secretary of state has classified
14 the statutory foundation or foreign foundation as delinquent;

15

16 (vi) Whether articles of termination were
17 delivered to the secretary of state for filing; and

18

19 (vii) Other facts of record maintained by the
20 secretary of state which are specified by the person
21 requesting the certificate of existence.

22

1 (c) Subject to any qualification stated in a
2 certificate of existence, a certificate of existence issued
3 by the secretary of state shall be conclusive evidence that
4 the statutory foundation or foreign foundation is in
5 existence.

6

7 **17-30-309. Operating agreement; scope, function and**
8 **limitations.**

9

10 (a) The founders or board of directors of a statutory
11 foundation shall adopt an operating agreement for the
12 foundation as soon as possible after filing articles of
13 formation with the secretary of state.

14

15 (b) An operating agreement may contain any provision
16 for managing the business and regulating the affairs of the
17 statutory foundation that is not inconsistent with this act,
18 other provisions of law or the articles of formation of the
19 foundation.

20

21

ARTICLE 4

22

FOUNDERS

23

1 **17-30-401. Reservation to founder of power to amend,**
2 **revoke, restate or terminate.**

3

4 (a) Subject to subsections (b) and (c) of this section,
5 a founder may reserve the following powers to himself, or a
6 specific number of founders if applicable:

7

8 (i) The power to amend or restate the articles of
9 formation of a statutory foundation;

10

11 (ii) Pursuant to W.S. 17-30-201, the power to
12 amend the purposes of the statutory foundation;

13

14 (iii) The power to amend, revoke or restate the
15 terms of the operating agreement of the statutory foundation;

16

17 (iv) The power to terminate the statutory
18 foundation.

19

20 (b) A founder must expressly reserve those powers
21 specified in paragraphs (a)(i) and (ii) of this section in
22 the articles of formation of the statutory foundation. The
23 founder may expressly reserve those powers specified by

1 paragraphs (a)(iii) and (iv) of this section in the articles
2 of formation.

3

4 (c) Unless the articles of formation or operating
5 agreement of a statutory foundation provide otherwise, any
6 powers reserved to a founder in subsection (a) of this section
7 shall lapse on the death, dissolution or termination of the
8 founder.

9

10 **17-30-402. Protection from founder's successors.**

11

12 (a) The heirs, spouse or creditors of a founder shall
13 not:

14

15 (i) Amend or restate the articles of formation of
16 a statutory foundation;

17

18 (ii) Amend the purpose of a statutory foundation,
19 if any;

20

21 (iii) Terminate the statutory foundation.

22

23

ARTICLE 5

1 DIRECTORS AND PROTECTORS

2

3 **17-30-501. Board of directors.**

4

5 (a) A statutory foundation shall maintain a board of
6 directors.

7

8 (b) Unless the articles of formation or operating
9 agreement of a statutory foundation provide otherwise:

10

11 (i) The board of directors of the foundation shall
12 have the authority to exercise all powers of the foundation
13 and to manage foundation affairs;

14

15 (ii) The board of directors shall consist of one
16 (1) or more persons;

17

18 (iii) One (1) or more founders may be appointed as
19 a director; and

20

21 (iv) No director shall simultaneously serve as a
22 director and a protector for the same statutory foundation.

23

1 (c) A board of directors shall conduct the affairs of
2 the statutory foundation in accordance with the articles of
3 formation and operating agreement, if any, of the foundation,
4 as well as this act and any other applicable provision of
5 law.

6

7 (d) Each director shall act:

8

9 (i) In good faith; and

10

11 (ii) In a manner not opposed to the best interests
12 of the statutory foundation.

13

14 (e) An act of a director shall be retroactively valid
15 despite any defect that may be found in:

16

17 (i) The appointment of the director;

18

19 (ii) The qualifications of the director.

20

21 **17-30-502. Liability of directors.**

22

1 A director is not personally liable for the acts, omissions,
2 obligations or debts of the statutory foundation, whether
3 arising in contract, tort or otherwise.

4

5 **17-30-503. Protector.**

6

7 (a) If a statutory foundation has a charitable purpose,
8 the foundation shall maintain a protector in relation to that
9 purpose.

10

11 (b) If a statutory foundation has any purpose permitted
12 under this act other than a charitable purpose, then the
13 foundation may have a protector in relation to that purpose.

14

15 (c) Except as otherwise provided by law, a founder or
16 other person may be appointed as the protector of a statutory
17 foundation.

18

19 (d) The operating agreement of a statutory foundation
20 may authorize a protector to approve or disapprove any
21 specified action of the board of directors of the statutory
22 foundation.

23

1 **17-30-504. Protector as a fiduciary.**

2

3 A protector shall serve as a fiduciary to the extent of
4 authority and duties granted under the terms of the operating
5 agreement.

6

7 **17-30-505. Liability of protector.**

8

9 (a) Except as otherwise provided in subsection (b) of
10 this section, the debts, obligations or other liabilities of
11 a statutory foundation, whether arising in contract, tort or
12 otherwise:

13

14 (i) Are solely the debts, obligations or other
15 liabilities of the foundation; and

16

17 (ii) Do not become the debts, obligations or other
18 liabilities of a protector solely by reason of the protector
19 performing his duties.

20

21 (b) A court may impose liability for the debts,
22 obligations or other liabilities of the statutory foundation
23 on a protector in the following circumstances, except that no

1 single factor other than fraud is sufficient to impose
2 liability:

3

4 (i) Fraud;

5

6 (ii) Inadequate capitalization;

7

8 (iii) Failure to observe foundation formalities as
9 required by law;

10

11 (iv) Intermingling of assets, business operations
12 and finances of the foundation and the protector to such an
13 extent that there is no distinction between them.

14

15 (c) A court shall not consider factors intrinsic to the
16 character and operation of a statutory foundation under
17 subsection (b) of this section. These factors shall include:

18

19 (i) The ability to elect treatment as a
20 disregarded or pass-through entity for tax purposes;

21

22 (ii) Flexible operation or organization,
23 including the failure to observe any particular formality

1 relating to the exercise of the powers of the foundation or
2 management of activities;

3

4 (iii) The exercise of ownership, influence and
5 governance by a protector;

6

7 (iv) The protection of the personal assets of the
8 protector from the obligations and acts of the foundation.

9

10 **17-30-506. Conflict of interest transactions.**

11

12 (a) A sale, encumbrance or other transaction involving
13 the investment or management of the property of the statutory
14 foundation which is entered into by a director or protector
15 for the personal account of the director or protector or which
16 is otherwise affected by a conflict between the fiduciary or
17 personal interests of the director or protector is voidable
18 by a beneficiary affected by the transaction unless:

19

20 (i) The transaction was authorized by the terms of
21 the operating agreement;

22

23 (ii) The transaction was approved by a court;

1

2 (iii) The beneficiary did not commence a judicial
3 proceeding within the time specified by W.S. 4-10-1005;

4

5 (iv) The beneficiary consented to the transaction,
6 ratified the transaction or released the director or
7 protector pursuant to W.S. 4-10-1009; or

8

9 (v) The transaction involves a contract entered
10 into, or claim acquired by the director or protector, before
11 the person became or contemplated becoming a director or
12 protector.

13

14

ARTICLE 6

15

BENEFICIARIES

16

17 **17-30-601. Beneficiaries.**

18

19 (a) The articles of formation or operating agreement of
20 a statutory foundation may provide for the distribution of
21 property of the foundation to one (1) or more beneficiaries.

22

1 (b) Notwithstanding subsection (a) of this section, a
2 beneficiary of a statutory foundation shall not have the right
3 to, or interest in, property of the statutory foundation
4 unless such right or interest arises by express terms stated
5 in the operating agreement of the statutory foundation.

6

7 **17-30-602. Beneficial interest.**

8

9 (a) A beneficiary may have a beneficial interest in the
10 property of the statutory foundation in the form of cash,
11 property, a promissory note or other obligation. A
12 beneficiary may have a beneficial interest in a statutory
13 foundation without making a contribution, or being obligated
14 to make a contribution, to the foundation.

15

16 (b) Except to the extent otherwise provided in the
17 governing instrument, a beneficial owner shall have an
18 undivided beneficial interest in the property of the
19 statutory foundation and shall share in the profits or losses
20 of the foundation in the proportion of the entire undivided
21 beneficial interest he owns in the foundation. The governing
22 instrument of a statutory foundation may provide that the
23 foundation or the directors, acting for and on behalf of the

1 foundation, shall be deemed to hold beneficial ownership of
2 any income earned on securities of the foundation issued by
3 any business entities formed, organized or existing under the
4 laws of any jurisdiction, including the laws of any foreign
5 country.

6

7 (c) No creditor of the beneficial owner shall have any
8 right to obtain possession of, or otherwise exercise legal or
9 equitable remedies with respect to, the property of the
10 statutory foundation.

11

12 (d) The beneficial interest of a beneficial owner in
13 the statutory foundation is personal property notwithstanding
14 the nature of the property of the foundation. Except to the
15 extent otherwise provided in the governing instrument, a
16 beneficial owner has no interest in specific foundation
17 property.

18

19 (e) Except to the extent otherwise provided in the
20 governing instrument, the transferee of the beneficial
21 interest of a beneficial owner in the statutory foundation
22 shall only be entitled to receive the share of profits and
23 the return of contributions to which the beneficial owner

1 otherwise would be entitled. In the absence of the unanimous
2 written consent of the owners of all other beneficial
3 interests and of all directors of the foundation, and except
4 to the extent otherwise provided in the governing instrument,
5 the transferee of the beneficial interest of a beneficial
6 owner shall have no right to participate in or be kept
7 apprised of the affairs of the foundation or to become a
8 beneficial owner of a beneficial interest in the foundation.

9

10 (f) Except to the extent otherwise provided in the
11 governing instrument, at the time a beneficial owner becomes
12 entitled to receive a distribution, the owner has the status
13 of, and is entitled to all remedies available to, a creditor
14 of the statutory foundation with respect to the distribution.
15 A governing instrument may provide for the establishment of
16 record dates with respect to allocations and distributions by
17 a statutory foundation.

18

19 **17-30-603. Limitation of transferability of rights.**

20

21 Subject to the operating agreement of the statutory
22 foundation, a beneficial interest in a foundation is
23 transferable.

1

2

ARTICLE 7

3

RECORDS AND REPORTS

4

5

17-30-701. Right to information.

6

7 (a) Unless the articles of formation or operating
8 agreement of a statutory foundation provide otherwise, upon
9 written request by a beneficiary, the foundation shall
10 provide, within a reasonable time, a copy of the articles of
11 formation and operating agreement of the foundation to the
12 beneficiary. Information regarding beneficiaries other than
13 the beneficiary making a request under this section may be
14 redacted.

15

16 (b) Upon written request by a protector, a statutory
17 foundation shall provide all information requested by the
18 protector within a reasonable time. After the death of the
19 last founder of a statutory foundation or if there is no
20 protector, the foundation shall provide all information
21 requested by a beneficiary within a reasonable time, upon
22 written request by a beneficiary.

23

1 (c) Except as otherwise provided in this section, no
2 beneficiary shall have the right to receive information
3 related to the administration, operation or affairs of a
4 statutory foundation.

5

6 **17-30-702. Recordkeeping and identification of**
7 **statutory foundation property.**

8

9 (a) The board of directors of a statutory foundation
10 shall keep and maintain adequate records regarding the
11 administration of the foundation.

12

13 (b) The board of directors of a statutory foundation
14 may invest property of two (2) or more statutory foundations
15 as a whole as long as the board maintains clear records
16 indicating the respective interests of each foundation.

17

18 **17-30-703. Annual report for secretary of state.**

19

20 (a) Every statutory foundation formed under the laws of
21 this state and every foreign foundation that obtains a
22 certificate of registration shall file an annual report,
23 under penalty of perjury, with the secretary of state on or

1 before the first day of the month of formation. The annual
2 report shall contain the address of the principal office of
3 the statutory foundation or the foreign foundation.

4

5 (b) The secretary of state shall collect from every
6 statutory foundation formed under the laws of this state, and
7 every foreign statutory foundation registered in this state,
8 an annual fee of one hundred dollars (\$100.00), due and
9 payable January 2 of each year. A fee is delinquent under
10 this subsection if not paid by February 1. A late fee of one
11 hundred dollars (\$100.00) may be charged by the secretary of
12 state for delinquent fees.

13

14 (c) If an annual report does not contain the
15 information required by this section, the secretary of state
16 shall promptly notify the reporting statutory foundation or
17 foreign foundation in writing and return the annual report
18 for correction.

19

20 (d) Every statutory foundation formed under the laws of
21 this state and every foreign foundation registered in this
22 state shall preserve annual reports at its principal office

1 for three (3) years after submission to the secretary of
2 state.

3

4

ARTICLE 8

5

RIGHTS AND LIMITATIONS OF CREDITORS

6

7

17-30-801. Creditor claim against founder.

8

9 The property of a statutory foundation contributed by a
10 founder, and all income, appreciation and proceeds thereof,
11 shall not be subject to the claims of a founder's creditor,
12 including any claims for forced heirship or legitimate right.

13

14

ARTICLE 9

15

TERMINATION

16

17

17-30-901. Termination.

18

19 (a) A statutory foundation may be terminated, and its
20 activities wound up, upon the occurrence of any of the
21 following:

22

1 (i) An event or circumstance provided in the
2 operating agreement or articles of formation of the
3 foundation that results in or authorizes termination;

4
5 (ii) Upon consent of all adult beneficiaries, the
6 founder and the protector, if any, agree to terminate the
7 statutory foundation, provided that this consent is only
8 valid to the extent that termination is not inconsistent with
9 a material purpose of the statutory foundation.

10
11 **17-30-902. Cancellation of articles of formation.**

12
13 (a) The articles of formation of the statutory
14 foundation shall be cancelled upon the completion of
15 termination and winding up of the foundation. A certificate
16 of cancellation shall be filed with the secretary of state
17 and shall set forth:

18
19 (i) The name of the statutory foundation;

20
21 (ii) The date of filing of its articles of
22 formation; and

23

1 (iii) Any other information the board of directors
2 determines is necessary or advisable for inclusion.

3

4 (b) The certificate of cancellation shall be effective
5 as of the filing date.

6

7 **17-30-903. Claims against terminated statutory**
8 **foundation.**

9

10 (a) A terminated statutory foundation may publish
11 notice of termination and, in the notice, request persons
12 with claims against the foundation to present them in
13 accordance with the notice.

14

15 (b) The notice authorized by subsection (a) of this
16 section shall:

17

18 (i) Be published at least once in a newspaper of
19 general circulation in the county of this state in which the
20 principal office of the terminated statutory foundation was
21 located or, if the foundation does not have a principal office
22 in this state, in the county in which the designated office
23 of the foundation is or was last located;

1

2 (ii) Describe the information required to be
3 contained in a claim and provide a mailing address to which
4 a claim may be sent; and

5

6 (iii) State that a claim against the foundation is
7 barred one hundred twenty (120) days after the date of first
8 publication of the notice.

9

10 (c) A creditor may file a claim against the assets of
11 a terminated statutory foundation within the earlier of:

12

13 (i) One hundred twenty (120) days after the
14 termination of the statutory foundation;

15

16 (ii) If the terminated statutory foundation
17 publishes a notice under subsection (a) of this section, one
18 hundred twenty (120) days after the first publication of a
19 notice complying with subsection (b) of this section; or

20

21 (iii) One hundred twenty (120) days after a known
22 creditor has been mailed notice, by certified mail return

1 receipt requested. As part of notice under this paragraph,
2 notice shall inform a known creditor:

3

4 (A) Of the information required to be
5 included in a claim;

6

7 (B) Of the name of the terminated statutory
8 foundation and the mailing address to which a claim may be
9 sent; and

10

11 (C) Of the deadline for the known creditor to
12 make a claim, one hundred twenty (120) days after a notice is
13 mailed by certified mail return receipt requested.

14

15 (d) A creditor failing to file a claim within the times
16 set forth in this section is prohibited from making a claim
17 against the assets of a terminated statutory foundation.

18

19 **17-30-904. Administrative forfeiture of authority and**
20 **articles of formation.**

21

22 (a) If the registered agent of the statutory foundation
23 has filed its resignation with the secretary of state and the

1 foundation has not replaced its registered agent, or the
2 statutory foundation is without a registered agent or
3 registered office in this state for any reason, the foundation
4 shall be deemed to be operating in this state without
5 authority and to have forfeited any rights or privileges
6 acquired under the laws of this state.

7

8 (b) A forfeiture under subsection (a) of this section
9 shall be made effective as follows:

10

11 (i) The secretary of state shall mail by first
12 class mail, or submit by electronic means if the statutory
13 foundation has consented to receive notices electronically,
14 a notice of the failure of the statutory foundation to comply
15 with subsection (a) of this section; and

16

17 (ii) Unless compliance is made within sixty (60)
18 days of mailing or electronic submission, the statutory
19 foundation shall be deemed defunct and to have forfeited its
20 articles of formation filed in this state.

21

22 (c) A statutory foundation, at any time within two (2)
23 years after a forfeiture under subsection (a) or (b) of this

1 section, may be revived and reinstated by filing the necessary
2 statement under this act and paying a reinstatement fee
3 established by the secretary of state by rule, together with
4 a penalty of two hundred fifty dollars (\$250.00). A
5 reinstatement fee under this subsection shall not exceed the
6 costs of providing the reinstatement service. The foundation
7 shall retain its registered name during the two (2) year
8 reinstatement period under this section.

9

10 (d) If a statutory foundation has failed to pay any fee
11 required by the secretary of state or any penalties imposed
12 under W.S. 17-28-109, the statutory foundation shall be
13 deemed to be operating within this state without authority
14 and to have forfeited any rights or privileges acquired under
15 the laws of this state.

16

17 (e) A forfeiture under subsection (d) of this section
18 shall be made effective as follows:

19

20 (i) The secretary of state shall provide notice to
21 the statutory foundation at its last known mailing address by
22 first class mail, or submit by electronic means if the
23 statutory foundation has consented to receive notices

1 electronically, a notice of the failure of the statutory
2 foundation to comply; and

3

4 (ii) Unless compliance is made within sixty (60)
5 days of the date of mailing of the notice, the statutory
6 foundation shall be deemed defunct and to have forfeited its
7 articles of formation filed in this state.

8

9 (f) A statutory foundation, at any time within two (2)
10 years after a forfeiture under subsection (d) of this section,
11 may be revived and reinstated by paying the delinquent fees.

12

13 (g) Upon reinstatement of a statutory foundation under
14 this section, the reinstatement shall relate back to and take
15 effect as of the date the forfeiture was made effective under
16 this section and the statutory foundation may resume carrying
17 on operations as if the forfeiture was never effective.

18

19 (h) A statutory foundation shall be deemed to be
20 operating within this state without authority, to have
21 forfeited any rights or privileges acquired under the laws of
22 this state and shall be deemed to have forfeited its articles
23 of formation filed in this state if:

1

2 (i) An organizer, founder or any other person
3 authorized to act on behalf of the foundation signed a
4 document he knew was false in any material respect with intent
5 that the document be delivered to the secretary of state for
6 filing;

7

8 (ii) The statutory foundation has failed to
9 respond to a valid subpoena; or

10

11 (iii) The public interest is served by forfeiture
12 and the statutory foundation, its founder or any other person
13 authorized to act on behalf of the statutory foundation:

14

15 (A) Failed to provide records to the
16 registered agent as required by this act;

17

18 (B) Provided fraudulent information or
19 failed to correct false information upon request of the
20 secretary of state on any filing under this act;

21

1 (C) Cannot be served by either the registered
2 agent or by the secretary of state using mail and acting as
3 the agent for process.

4

5 (j) The secretary of state may classify a statutory
6 foundation as delinquent and as awaiting forfeiture of its
7 articles of formation at the time the secretary of state mails
8 any notice required under this section to the foundation.

9

10 **17-30-905. Appeal from rejection of reinstatement.**

11

12 Appeals from decisions of the secretary of state made under
13 this act shall occur as provided in W.S. 17-16-1423.

14

15 **17-30-906. Distribution upon termination.**

16

17 Upon the occurrence of an event terminating a statutory
18 foundation, including forfeiture under this section, the
19 board of directors shall proceed expeditiously to distribute
20 the property of the foundation as provided in the articles of
21 formation or the operating agreement of the foundation.

22

23

ARTICLE 10

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JUDICIAL PROCEEDINGS

17-30-1001. Role of court in administration.

(a) The court may intervene in the administration of a statutory foundation only to the extent its jurisdiction is invoked as provided in this act or as otherwise provided by law.

(b) A statutory foundation is not subject to continuing judicial supervision unless ordered by a court.

(c) A civil proceeding to approve or disapprove a proposed decision or transaction of a statutory foundation may be commenced by the board of directors of the foundation.

17-30-1002. Power of court to give directions.

(a) Upon application to the court by a founder, protector or statutory foundation, the court may issue a declaratory judgment regarding the following:

1 (i) The meaning and effect of a provision in the
2 articles of formation or operating agreement of the
3 foundation;

4

5 (ii) The administration of the property or purpose
6 of the foundation;

7

8 (iii) The function of the board of directors of
9 the foundation;

10

11 (iv) Such other matters as determined by the court
12 to be relevant to the statutory foundation and its purpose.

13

14 (b) If there is no express power to amend the purpose
15 of a statutory foundation in the articles of formation of the
16 foundation, then a founder or the protector may apply to a
17 court for an order to amend the purpose stated in the articles
18 in accordance with the probable intent of the founder, based
19 on one (1) of the following grounds:

20

21 (i) The purpose stated in the articles of
22 formation has been fulfilled;

23

1 (ii) The purpose stated in the articles of
2 formation cannot be carried out in accordance with the intent
3 of the founder;

4

5 (iii) The purpose stated in the articles of
6 formation provides a use for only part of the property of the
7 foundation;

8

9 (iv) The purpose stated in the articles of
10 formation cannot be completed or no longer exists.

11

12 **17-30-1003. Sealing and availability of documents.**

13

14 Except for information that is otherwise publicly available,
15 the privacy of persons who have organized a statutory
16 foundation shall be protected in any judicial proceeding. A
17 filed document or court order issued concerning a statutory
18 foundation shall be sealed and shall not be made a part of
19 the public record of the proceeding except as otherwise
20 required by law. A filed document or court order issued shall
21 be available to the court, a founder, the board of directors,
22 a protector, the attorney of any of the persons specified in

1 this section and any other interested person as the court may
2 order upon a showing of need.

3

4

ARTICLE 11

5

CONTINUANCE AND TRANSFER

6

7

17-30-1101. Continuance.

8

9 (a) Consistent with subsection (d) of this section, a
10 foreign foundation organized under the laws of a foreign
11 jurisdiction may apply to the secretary of state for
12 registration under this act, upon acknowledgement by the
13 foreign jurisdiction that the domicile of the foreign
14 foundation in that jurisdiction has terminated.

15

16 (b) The secretary of state may issue a certificate of
17 registration upon receipt of an application supported by
18 articles of continuance specified by subsection (e) of this
19 section together with the other statements, information and
20 documents required by this section.

21

22 (c) Upon issuance of a certificate of registration by
23 the secretary of state, the foreign foundation shall continue

1 to operate under the laws of this state as if the foreign
2 foundation had been organized as a statutory foundation in
3 this state. The secretary of state may impose limitations or
4 conditions on a certificate of registration as appropriate.

5

6 (d) The secretary of state shall cause notice of
7 issuance of a certificate of registration to be given to the
8 proper officer of the foreign jurisdiction in which the
9 foreign foundation was previously organized.

10

11 (e) Articles of continuance filed with the secretary of
12 state by a foreign foundation under this section shall
13 contain:

14

15 (i) A certified copy of the original articles of
16 formation of the foundation, including any amendments
17 thereto, or its equivalent basic charter or other
18 authorization;

19

20 (ii) The name of the foreign foundation and the
21 foreign jurisdiction in which the foundation was lawfully
22 organized;

23

1 (iii) The date of organization of the foreign
2 foundation in the foreign jurisdiction;

3

4 (iv) The principal mailing address of the foreign
5 foundation;

6

7 (v) The name and address of the proposed
8 registered agent in this state;

9

10 (vi) Any additional information specified for
11 articles of formation under W.S. 17-30-303.

12

13 (f) An application for articles of continuance shall be
14 executed by any member of the board of directors of the
15 foreign foundation or any officer authorized to execute the
16 application on behalf of the foundation.

17

18 (g) The provisions of the articles of continuance may
19 vary from the provisions of the articles of formation of the
20 foreign foundation, the equivalent basic charter or other
21 authorization in the foreign jurisdiction only if those
22 variations could be lawfully effectuated by amending articles
23 of formation as otherwise provided under this act.

1

2 (h) Upon issuance of a certificate of registration by
3 the secretary of state, the articles of continuance shall be
4 deemed to be the articles of formation of the foreign
5 foundation. The foreign foundation may elect to incorporate
6 by reference in its articles of continuance the basic charter
7 or other authorization adopted in the foreign jurisdiction in
8 which the foreign foundation was formed, for the purpose of
9 continuing to act under the charter or other authorization,
10 provided that the basic charter or other authorization shall
11 be deemed amended to the extent necessary to make the charter
12 or authorization conform to this act and other provisions of
13 law.

14

15 (j) The existence of a foreign foundation that is
16 issued a certificate of continuation under this act shall be
17 deemed to have commenced on the date the foreign foundation
18 commenced its existence in the foreign jurisdiction in which
19 it was first formed, organized or otherwise came into being.
20 The laws of this state shall apply to a foreign foundation
21 continuing under this act to the same extent as if it had
22 been organized under the laws of this state from and after
23 the issuance of a certificate of continuation under this act

1 by the secretary of state. If a foreign foundation is
2 continued under this act, the continuance shall not affect
3 the ownership of its property or its liability for any
4 existing obligations, causes of action, claims, pending or
5 threatened prosecutions or civil or administrative actions,
6 or other convictions, rulings, orders or judgments.

7

8 **17-30-1102. Transfer of a statutory foundation to**
9 **another jurisdiction.**

10

11 (a) A statutory foundation registered and continued
12 under this act may, if authorized under subsection (f) of
13 this section and by the laws of the foreign jurisdiction,
14 apply to the proper officer of the foreign jurisdiction for
15 a certificate of registration and to the secretary of state
16 of this state for a certificate of transfer. The application
17 for a certificate of transfer shall set forth the following:

18

19 (i) The name of the statutory foundation
20 immediately before the transfer, and if that name is
21 unavailable for use in the foreign jurisdiction or, if the
22 foundation desires to change its name in connection with the

1 transfer, the name by which the foundation will be known in
2 the foreign jurisdiction;

3

4 (ii) The name of the foreign jurisdiction to which
5 the foundation is to be transferred;

6

7 (iii) Acknowledgement that the foundation shall
8 surrender its articles of formation under this act upon
9 transfer to the foreign jurisdiction; and

10

11 (iv) A statement that the transfer was duly
12 approved by the board of directors in the manner required by
13 subsection (f) of this section.

14

15 (b) The secretary of state shall require that a
16 statutory foundation transferred under this section maintain
17 an agent for service of process within this state for at least
18 one (1) year after the transfer is complete and may impose
19 any conditions the secretary of state considers appropriate
20 for the protection of creditors, including the provision of
21 notice to the public of the application described in
22 subsection (a) of this section, the provision of a bond or a
23 deposit of funds in an appropriate bank located in Wyoming

1 and subject to the jurisdiction of the courts of Wyoming. If
2 any conditions imposed under this subsection are not met, the
3 secretary of state may refuse to issue a certificate of
4 transfer.

5

6 (c) The secretary of state shall, upon compliance by
7 the applicant with subsections (a) and (b) of this section
8 and receipt of payment under subsection (e) of this section,
9 immediately transmit a notice of issuance of a certificate of
10 transfer to the proper officer of the foreign jurisdiction to
11 which the statutory foundation is transferred.

12

13 (d) For the purposes of the laws of this state, upon
14 issuance of a certificate of transfer, the statutory
15 foundation shall be continued as if it had been organized
16 under the laws of the foreign jurisdiction and shall become
17 a statutory foundation under the laws of the foreign
18 jurisdiction, upon issuance by such foreign jurisdiction of
19 a certificate of registration.

20

21 (e) In addition to all other fees and impositions, a
22 statutory foundation organized or continued under the laws of
23 this state shall pay to the secretary of state a special fee

1 established by rule before receiving a certificate of
2 transfer pursuant to subsection (c) of this section.

3

4 (f) A resolution to transfer the statutory foundation
5 to a foreign jurisdiction shall be adopted by the board of
6 directors unless the operating agreement of the foundation
7 provides otherwise.

8

9 (g) The statutory foundation may represent to the
10 proper officer of the foreign jurisdiction to which the
11 statutory foundation is transferred that the laws of this
12 state permit such transfer, and may describe the
13 authorization extended by this section as permitting the
14 continuance or other transfer of domicile as may be required
15 by the laws of the foreign jurisdiction, in order for the
16 statutory foundation to be accepted in that foreign
17 jurisdiction, provided that the statutory foundation may not
18 misrepresent the requirements or effects of this section.

19

20 **Section 2.** W.S. 17-16-401(b), 17-24-101(a)(intro) and
21 17-28-101(b) are amended to read:

22

23 **17-16-401. Corporate name.**

1

2 (b) Except as authorized by subsections (c) and (d) of
3 this section, a corporate name shall not be the same as, or
4 deceptively similar to any trademark or service mark
5 registered in this state and shall be distinguishable upon
6 the records of the secretary of state from the name of any
7 profit or nonprofit corporation, trade name, limited
8 liability company, statutory trust company, statutory
9 foundation, limited partnership or other business entity
10 organized, continued or domesticated under the laws of this
11 state or licensed or registered as a foreign profit or
12 nonprofit corporation, foreign limited partnership, foreign
13 joint stock company, foreign statutory trust company, foreign
14 foundation, foreign limited liability company or other
15 foreign business entity in this state or any fictitious or
16 reserved name.

17

18 **17-24-101. Business entity name; limited rights.**

19

20 (a) The authorization granted under this title by the
21 secretary of state to file articles of incorporation, a
22 certificate of limited partnership, articles of organization,
23 articles of formation, a certificate of trust or other similar

1 document authorizing the transaction of business in this
2 state under a corporate, limited partnership, limited
3 liability company, statutory trust, statutory foundation or
4 other business entity name or to reserve a name does not:

5

6 **17-28-101. Registered office and registered agent.**

7

8 (b) For purposes of this chapter, "business entity"
9 means a corporation, nonprofit corporation, limited liability
10 company, limited partnership, cooperative marketing
11 association, statutory trust, statutory foundation or
12 registered limited liability partnership, whether foreign or
13 domestic.

14

15 **Section 3.** This act is effective July 1, 2019.

16

17

(END)