

HOUSE BILL NO. HB0045

Special purpose depository institutions-amendments.

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

A BILL

for

1 AN ACT relating to banking; expanding the authority of
2 special purpose depository institutions to engage in
3 incidental activities with the public as specified;
4 amending the application timeframe for a special purpose
5 depository charter; authorizing the commissioner to provide
6 a fee exemption; requiring the state banking board to
7 establish personnel classifications and salaries for
8 certain positions within the division of banking;
9 specifying the types of security that can be pledged by a
10 special purpose depository institution in lieu of a surety
11 bond; clarifying a continuous appropriation; repealing a
12 provision requiring depositor services and the issuance of
13 special purpose depository accounts; specifying
14 applicability; and providing for an effective date.

15

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

2

3 **Section 1.** W.S. 13-1-605(b) by creating a new
4 paragraph (viii), 13-12-103(b)(vii) and (f),
5 13-12-104(a)(intro), (c) and by creating a new subsection
6 (d), 13-12-111(d), 13-12-112(a), 13-12-118(b), (c) and (f)
7 through (h) and 13-12-119(d) are amended to read:

8

9 **13-1-605. State banking board; meetings;**
10 **compensation; purpose.**

11

12 (b) The banking board shall:

13

14 (viii) Establish personnel classifications and
15 salaries for the division of banking, subject to
16 appropriations and notwithstanding W.S. 9-2-1022.
17 Classifications and salaries shall be commensurate with
18 other state and federal financial regulators and the
19 specialized skills required to supervise special purpose
20 depository institutions and financial technology.

21

1 13-12-103. Special purpose depository institutions
2 created as corporations; operating authority; powers;
3 prohibition on lending.

4
5 (b) Each special purpose depository institution may:

6
7 (vii) Engage in any other activity that is usual
8 or incidental to the business of banking, subject to the
9 prior written approval of the commissioner. The
10 commissioner shall not approve a request to engage in an
11 incidental activity if he finds that the requested activity
12 will adversely affect the solvency or the safety and
13 soundness of the special purpose depository institution or
14 conflict with any provision of this chapter.† As used in
15 this paragraph, "incidental activity" includes:

16
17 (A) Custody, safekeeping and asset
18 servicing, including custodial services under W.S.
19 34-29-104;

20
21 (B) Investment adviser, investment company
22 and broker-dealer activities;

23

1 (C) Commodities intermediary activities;

2

3 (D) Exercising fiduciary powers similar to
4 those permitted to national banks;

5

6 (E) Receiving deposits relating to
7 activities under this paragraph;

8

9 (F) Other incidental activities authorized
10 by the commissioner.

11

12 (f) ~~Subject to the laws of the host state,~~ A special
13 purpose depository institution may open a branch in another
14 state in the manner set forth in W.S. 13-2-803. A special
15 purpose depository institution, including any branch of the
16 institution, may only accept deposits or provide other
17 services under this chapter to depositors engaged in ~~a bona~~
18 ~~fide business~~ activities which ~~is~~ are lawful under the laws
19 of Wyoming, ~~the laws of the host state~~ and federal law.

20

21 **13-12-104. Requirements relating to depositors;**
22 **nature of business.**

23

1 (a) Except as otherwise provided by subsection (d) of
2 this section, no depositor shall maintain an account with a
3 special purpose depository institution or otherwise receive
4 any services from the institution unless the depositor
5 meets the criteria of this subsection. A depositor shall:

6
7 (c) Consistent with paragraphs (a)(iv) and (v) of
8 this section and in addition to any requirements specified
9 by federal law, a special purpose depository institution
10 shall require that a potential depositor provide reasonable
11 evidence that the person is engaged in a lawful, bona fide
12 business, or is likely to open a lawful, bona fide business
13 within the next six (6) months. As used in this subsection,
14 "reasonable evidence" includes business entity filings,
15 articles of incorporation or organization, bylaws,
16 operating agreements, business plans, promotional
17 materials, financing agreements or other evidence. This
18 subsection shall not apply to activities conducted under
19 subsection (d) of this section.

20
21 (d) A special purpose depository institution may
22 conduct incidental activities under W.S. 13-12-103(b)(vii)
23 with persons who do not meet the criteria of paragraphs

1 (a)(i) through (iv) of this section. The lawful business
2 requirements of W.S. 13-12-103(f) shall remain applicable.

3
4 **13-12-111. Application for charter; fee; subaccount**
5 **created.**

6
7 (d) The special purpose depository institutions
8 subaccount within the financial institutions administration
9 account is created. Funds in the subaccount ~~shall be used~~
10 are continuously appropriated to the department of audit
11 and shall only be expended by the commissioner to supervise
12 special purpose depository institutions and to otherwise
13 carry out the duties specified by this chapter. Funds in
14 the subaccount ~~are continuously appropriated to the~~
15 ~~subaccount and~~ shall not lapse at the end of any fiscal
16 period. For purposes of accounting and investing only, the
17 special purpose depository institutions subaccount shall be
18 treated as a separate account from the financial
19 institutions administration account.

20
21 **13-12-112. Procedure upon filing application.**

22

1 (a) Upon receiving an application for a special
2 purpose depository charter, the commissioner shall notify
3 the applicants in writing within thirty (30) calendar days
4 of any deficiency in the required information or that the
5 application has been accepted for filing. When the
6 commissioner is satisfied that all required information has
7 been furnished, he shall notify the chairman of the board
8 who shall establish a time and place for a public hearing
9 which shall be conducted not less than sixty (60) days, nor
10 more than ~~one hundred twenty (120)~~ one hundred fifty (150)
11 days, after notice from the commissioner to the applicants
12 that the application is in order.

13

14 **13-12-118. Surety bond; pledged investments;**
15 **investment income; bond or pledge increases; hearings.**

16

17 (b) In lieu of a bond, a special purpose depository
18 institution may irrevocably pledge specified ~~capital~~ assets
19 equivalent to a bond under subsection (a) of this section.
20 ~~Any capital pledged to the commissioner under this~~
21 ~~subsection shall be held in a state or nationally chartered~~
22 ~~bank or savings and loan association having a principal or~~
23 ~~branch office in this state.~~ All costs associated with

1 pledging and holding ~~such capital~~ the assets are the
2 responsibility of the special purpose depository
3 institution. Pledged assets shall be unencumbered and
4 shall not serve as collateral for any other purpose.

5

6 (c) ~~Capital~~ Assets pledged to the commissioner shall
7 be of the same nature and quality as those required for
8 state financial institutions under W.S. 9-4-805.

9

10 (f) In the event of a liquidation or conservatorship
11 of a special purpose depository institution pursuant to
12 W.S. 13-12-122, the commissioner may, without regard to
13 priorities, preferences or adverse claims, reduce the
14 surety bond or ~~capital~~ assets pledged under this section to
15 cash as soon as practicable and utilize the cash to defray
16 the costs associated with the liquidation or
17 conservatorship.

18

19 (g) Income from ~~capital~~ assets pledged under
20 subsection (b) of this section shall be paid to the special
21 purpose depository institution, unless a liquidation or
22 conservatorship takes place.

23

1 (h) Upon evidence that the current surety bond or
2 pledged ~~capital is~~ assets are insufficient, the
3 commissioner may require a special purpose depository
4 institution to increase its surety bond or pledged ~~capital~~
5 assets by providing not less than thirty (30) days written
6 notice to the institution. The special purpose depository
7 institution may request a hearing before the board not more
8 than thirty (30) days after receiving written notice from
9 the commissioner under this subsection. Any hearing before
10 the board shall be held pursuant to the Wyoming
11 Administrative Procedure Act.

12

13 **13-12-119. Reports and examinations; supervisory**
14 **fees; required private insurance or bond.**

15

16 (d) Unless the commissioner determines an exemption
17 is appropriate because of payment of other fees, on or
18 before January 31 and July 31 of each year, a special
19 purpose depository institution shall compute and pay
20 supervisory fees to the commissioner based on the total
21 assets of the special purpose depository institution as of
22 the preceding December 31 and June 30 respectively.
23 Supervisory fees under this section shall provide for the

1 operating costs of the office of the commissioner and the
2 administration of the laws governing special purpose
3 depository institutions. Such fees shall be established by
4 rule of the commissioner and shall be adjusted by the
5 commissioner to assure consistency with the cost of
6 supervision. Supervisory fees shall be deposited by the
7 commissioner with the state treasurer and credited to the
8 special purpose depository institutions subaccount created
9 by W.S. 13-12-111(d).

10

11 **Section 2.** W.S. 13-12-104(b) is repealed.

12

13 **Section 3.** The amendments made by this act shall
14 apply to special purpose depository institutions who file a
15 charter application on or after October 1, 2019.

16

17 **Section 4.** This act is effective immediately upon
18 completion of all acts necessary for a bill to become law
19 as provided by Article 4, Section 8 of the Wyoming
20 Constitution.

21

22

(END)