

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 specifying the types of security that can be pledged by a
5 special purpose depository institution in lieu of a surety
6 bond; clarifying a continuous appropriation; repealing a
7 provision requiring depositor services and the issuance of
8 special purpose depository accounts; specifying
9 applicability; 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. 13-12-103(b)(vii) and (f),
14 13-12-104(a)(intro), (c) and by creating a new subsection

1 (d), 13-12-111(d) and 13-12-118(b), (c) and (f) through (h)
2 are amended to read:

3

4 **13-12-103. Special purpose depository institutions**
5 **created as corporations; operating authority; powers;**
6 **prohibition on lending.**

7

8 (b) Each special purpose depository institution may:

9

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

19

20 (A) Custody, safekeeping and asset
21 servicing, including custodial services under W.S.
22 34-29-104;

23

1 (B) Investment adviser, investment company
2 and broker-dealer activities;

3

4 (C) Commodities intermediary activities;

5

6 (D) Exercising fiduciary powers similar to
7 those permitted to national banks;

8

9 (E) Receiving deposits relating to
10 activities under this paragraph;

11

12 (F) Other incidental activities authorized
13 by the commissioner.

14

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

23

1 13-12-104. Requirements relating to depositors;
2 nature of business.

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

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

23

1 (d) A special purpose depository institution may
2 conduct incidental activities under W.S. 13-12-103(b)(vii)
3 with persons who do not meet the criteria of paragraphs
4 (a)(i) through (iv) of this section.

5
6 **13-12-111. Application for charter; fee; subaccount**
7 **created.**

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

22

1 13-12-118. Surety bond; pledged investments;
2 investment income; bond or pledge increases; hearings.

3
4 (b) In lieu of a bond, a special purpose depository
5 institution may irrevocably pledge specified ~~capital~~assets
6 equivalent to a bond under subsection (a) of this section.
7 ~~Any capital pledged to the commissioner under this~~
8 ~~subsection shall be held in a state or nationally chartered~~
9 ~~bank or savings and loan association having a principal or~~
10 ~~branch office in this state.~~ All costs associated with
11 pledging and holding ~~such capital~~the assets are the
12 responsibility of the special purpose depository
13 institution. Pledged assets shall be unencumbered and
14 shall not serve as collateral for any other purpose.

15
16 (c) ~~Capital~~Assets pledged to the commissioner shall
17 be of the same nature and quality as those required for
18 state financial institutions under W.S. 9-4-805.

19
20 (f) In the event of a liquidation or conservatorship
21 of a special purpose depository institution pursuant to
22 W.S. 13-12-122, the commissioner may, without regard to
23 priorities, preferences or adverse claims, reduce the

1 surety bond or ~~capital~~assets pledged under this section to
2 cash as soon as practicable and utilize the cash to defray
3 the costs associated with the liquidation or
4 conservatorship.

5

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

10

11 (h) Upon evidence that the current surety bond or
12 pledged ~~capital~~is~~assets~~are insufficient, the
13 commissioner may require a special purpose depository
14 institution to increase its surety bond or pledged ~~capital~~
15 assets by providing not less than thirty (30) days written
16 notice to the institution. The special purpose depository
17 institution may request a hearing before the board not more
18 than thirty (30) days after receiving written notice from
19 the commissioner under this subsection. Any hearing before
20 the board shall be held pursuant to the Wyoming
21 Administrative Procedure Act.

22

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

1

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

5

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

10

11

(END)