

SENATE FILE NO. SF0096

Trusts and bank assets in bankruptcy-clarification.

Sponsored by: Senator(s) Rothfuss, Ellis, Furphy and
Nethercott and Representative(s) Andrew,
Singh, Western and Yin

A BILL

for

1 AN ACT relating to banks, banking and finance; specifying
2 when certain accounts shall not be deemed assets or
3 liabilities of financial institutions for purposes of
4 receivership, conservatorship or bankruptcy; amending
5 requirements for banks providing custodial or fiduciary
6 services for digital assets; providing definitions; making
7 conforming amendments; and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 13-1-206 is created to read:

12

13 **13-1-206. Financial institutions; fiduciary and**
14 **custodial accounts; bankruptcy and receivership treatment.**

15

1 (a) Covered accounts under the administration or
2 management of a financial institution, as defined in W.S.
3 13-1-101(a)(ix), that meet the requirements of subsection
4 (b) of this section shall not be deemed assets or
5 liabilities of the financial institution for the purposes
6 of any receivership or conservatorship under this title or
7 a bankruptcy, receivership or other similar proceeding
8 under federal law. This section, and other applicable
9 provisions of Titles 4, 13 and 34, Wyoming Statutes, shall
10 govern whether an account is a custodial account for the
11 purposes of any proceedings pursuant to titles 7, 11, 12
12 and 15 of the United States Code or similar insolvency,
13 receivership, conservatorship or restructuring proceedings.

14

15 (b) Consistent with subsection (a) of this section, a
16 covered account shall be subject to the following
17 requirements:

18

19 (i) The covered account shall be governed by a
20 written agreement consistent with subsection (d) of this
21 section;

22

1 (ii) Assets held in the covered account shall be
2 segregated from the assets and liabilities of the financial
3 institution, and shall be accounted for separately on the
4 books and records of the financial institution;

5
6 (iii) Digital assets held in a covered account
7 may be held in omnibus digital wallets that are commingled
8 with digital assets held in other covered accounts,
9 provided that the books and records of the financial
10 institution reflect the assets held in each covered
11 account;

12
13 (iv) Assets of the financial institution shall
14 not be commingled with assets held in covered accounts;

15
16 (v) A financial institution may utilize a
17 subcustodian to maintain a covered account if the agreement
18 specified by paragraph (i) of this subsection meets each of
19 the following requirements:

20
21 (A) Explicitly identifies the subcustodian
22 by name; and

23

1 (B) The subcustodian may not commingle fiat
2 or digital assets held in the covered account with the fiat
3 or digital assets of the subcustodian.

4

5 (vi) The staking of digital assets held in a
6 covered account shall be permitted, but only if the
7 agreement specified by paragraph (i) of this subsection
8 meets each of the following requirements:

9

10 (A) Explicitly authorizes staking;

11

12 (B) Prior to and after staking, the digital
13 assets may never be commingled in digital wallets with the
14 digital assets of the financial institution or any third
15 party service provider;

16

17 (C) Third parties who provide staking
18 services for covered accounts shall maintain a written
19 agreement that prior to and after staking, customer digital
20 assets are never commingled with the digital assets of that
21 third party service provider; and

22

23 (D) Otherwise complies with W.S. 34-29-104.

1

2 (vii) Digital assets in a covered account may be
3 held on third-party platforms for the limited purpose of
4 trade execution, but only if the agreement specified by
5 paragraph (i) of this subsection:

6

7 (A) Explicitly authorizes trading on
8 third-party platforms;

9

10 (B) Provides that digital assets may not be
11 held on third-party platforms for a period of time longer
12 than reasonably required to execute transactions;

13

14 (C) Otherwise complies with W.S. 34-29-104.

15

16 (viii) Stablecoin reserves may be held in
17 covered accounts and are subject to this section, but only
18 if the financial institution complies with this section;

19

20 (ix) The covered account meets all other
21 applicable requirements of law, including title 4 of the
22 Wyoming statutes, W.S. 34-29-101 through 34-29-209 and
23 34.1-1-101 through 34.1-9-809.

1

2 (c) Covered account agreements between financial
3 institutions and customers shall include the following or
4 similar language:

5

6 "This is a covered account agreement entered into
7 pursuant to W.S. 13-1-206. All parties intend
8 for this agreement to create a covered account
9 under which the assets provided pursuant to this
10 agreement remain the property of the customer and
11 not the financial institution. The financial
12 institution agrees to comply with W.S. 13-1-206
13 and to refrain from commingling any customer
14 assets with assets of the financial institution."

15

16 (d) If a covered account will hold stablecoin
17 reserves, the covered account agreements between financial
18 institutions and customers shall include the following or
19 similar language:

20

21 "This covered account will hold stablecoin
22 reserves and the beneficiaries of this covered

1 account are the holders of the corresponding
2 stablecoins."

3

4 (e) Nothing in this section shall be construed as
5 restricting or prohibiting use of a subcustodian that
6 maintains a custodial account which complies with the
7 requirements of this section.

8

9 (f) As used in this section:

10

11 (i) "Covered account" means either a custodial
12 account or a fiduciary account;

13

14 (ii) "Custodial account" means an account under
15 which a financial institution provides custodial services,
16 as provided in W.S. 34-29-104(a);

17

18 (iii) "Custodial account agreement" means the
19 agreement between a financial institution and customer
20 pursuant to subsection (b) of this section;

21

22 (iv) "Fiduciary account" means an account
23 governed by Title 4, Wyoming Statutes, and is an account

1 established by a financial institution for which the
2 institution owes a fiduciary duty to a customer and
3 involves the exercise of substantial discretion, which
4 shall include investment advice or investment decision
5 making relating to financial assets, including currency,
6 digital assets, securities and commodities;

7

8 (v) "Fiduciary account agreement" means the
9 agreement between a financial institution and customer
10 pursuant to subsection (b) of this section;

11

12 (vi) "Stablecoin" means digital assets that are
13 designed to maintain a stable value in relation to another
14 asset and which a holder of the stablecoin may convert,
15 redeem or repurchase for another asset. "Stablecoin"
16 includes the Wyoming Stable Token identified in W.S.
17 40-31-102(a)(viii);

18

19 (vii) "Stablecoin reserves" means the fiat or
20 digital assets which are intended to be used for exchanging
21 stablecoin for fiat or digital assets;

22

1 (viii) "Staking" means committing digital assets
2 to participate in the validation of transactions relating
3 to a blockchain protocol, or any substantially similar
4 analog;

5
6 (ix) "Subcustodian" means a third-party that
7 provides technical services concerning digital asset and
8 fiat custody and that is a financial institution, licensed
9 money transmitter under W.S. 40-22-101 et seq. or a bank
10 organized under the laws of the United States.

11

12 **Section 2.** W.S. 13-5-417(f), 34-29-104(a),
13 (d)(intro), by creating new subsections (p) and (q) and
14 amending and renumbering (p) as (r) are amended to read:

15

16 **13-5-417. Insolvency; unsafe condition; receivership.**

17

18 (f) If determined by the commissioner to be in the
19 best interests of both the state and the supervised trust
20 company, the commissioner may require the supervised trust
21 company to file a petition under title 11 of the United
22 States Code in lieu of a receivership under this section.

23 If the commissioner has been appointed receiver under this

1 section prior to the filing of a petition under title 11,
2 United States Code, the commissioner shall be discharged
3 from further duties under the receivership after the
4 resolution of any jurisdictional issues at the commencement
5 of a bankruptcy proceeding.

6
7 **34-29-104. Digital asset custodial services.**

8
9 (a) A bank may provide custodial services for digital
10 assets consistent with this section upon providing sixty
11 (60) days written notice to the commissioner. ~~The~~
12 ~~provisions of this section are cumulative and not exclusive~~
13 ~~as an optional framework for enhanced supervision of~~
14 ~~digital asset custody.~~ If a bank elects to provide
15 custodial services ~~under this section~~ for digital assets,
16 it shall comply with all provisions of this section.

17
18 (d) Digital assets held in custody under this section
19 are not ~~depository~~ liabilities or assets of the bank. A
20 bank, or a subsidiary, may register as an investment
21 adviser, investment company or broker dealer as necessary.
22 A bank shall maintain possession or control, as applicable,
23 over a digital asset while in custody. A customer shall

1 elect, pursuant to a written agreement with the bank, one
2 (1) of the following relationships for each digital asset
3 held in custody:

4

5 (p) A bank may provide custodial services for
6 stablecoin reserves, provided those custodial services are
7 consistent with this section and the rules and regulations
8 of the commissioner.

9

10 (q) A supervised trust company that is chartered in
11 this state may provide all the services provided in this
12 section if it complies with the provisions of this section
13 and the rules and regulations of the commissioner.

14

15 ~~(p)~~(r) As used in this section:

16

17 (i) "Bank" has the meaning ascribed to it in
18 W.S. 13-1-101(a)(i);

19

20 (ii) "Commissioner" means the banking
21 commissioner;

22

1 (iii) "Custodial services" means the
2 safekeeping, servicing and management of customer currency
3 and digital assets. This term includes the exercise of
4 fiduciary and trust powers involving the exercise of
5 discretion, including transactions under subsection (e) of
6 this section.

7

8 **Section 3.** This act is effective July 1, 2024.

9

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(END)