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Wyoming Blockchain Legislative  
Task Force  
Hon. Senator Chris Rothfus, Chairman  
Hon. Rep. Tyler Lindholm, Chairman

Re: Real Estate Tokenization

Dear Chairman Rothfus and Chairman Lindholm,

Greetings to you and each member of the Task Force.

I am writing today because there is a need to pass legislation that allows a token (or series of tokens) to become the actual form of title or official record of ownership for real estate in Wyoming.

### **Background**

In 2018, I was asked to help create a group that would tokenize the historic Hynds building in Cheyenne. The goal was to raise money through the sale of tokens in order to fund the restoration of that building by the Cheyenne legacy Corp (a Wyoming non-profit).

In helping to design the project, I found deficiencies in the way utility tokens are treated relating to real estate.

Utility Tokens are a digital representation of a contract between the issuer and the buyer. The contract is a very simple one that gives the buyer the right to exchange the token (under predefined circumstances) for a product, service or property (real or personal). The underlying property creates value for the token, which can then be sold on secondary markets.



### **Tokens and Real Estate**

With real estate, the token represents a claim to a tenancy-in-common interest. This is a very novel and new idea and very exciting in many ways. It can create a very liquid form of real estate ownership. This can allow investors to move into and out of real estate holdings whenever they feel it is advantageous to do so. It can also drive down the cost of entry into the market, so smaller investors can benefit equally as much as large investors. It can even help to fund cash-poor ventures like farms, ranches and historic buildings.

But the contract is problematic for a real estate transaction. The fact that the token is not the actual record of ownership or form of title means that the token remains on the balance sheet of the issuer as a liability with a specific claim on the asset that backs it.

In order to maintain that specific claim, the issuer and purchaser must file the normal documents that would perfect that claim with the County. If the issuer does not do so, the token holder owns nothing more than an unsecured debt. Even if the lien were perfected, the ownership of the underlying property remains in the name of the token issuer. In the event of a bankruptcy or other default on the part of the issuer, the token holder would be required to take the normal foreclosure steps in order to receive the actual tenancy-in-common interest. This could take weeks, months or even years at a significant cost to the investor.

Another area that is problematic is that there are various beneficial components of US tax law that are available to a holder of record yet not available to a holder of a contract. One of these is that a holder of record of real estate can affect a tax free exchange of that asset under section 1031 of the US Tax Code. The code and regulations, however, are very specific in that you must hold direct title in order to take advantage of those provisions.

On a practical level, this also could allow token holders to avoid paying property taxes in Wyoming. If the owner of record is a non-profit and uses the real estate for its exempt purpose, the token holders could enjoy the benefits of ownership without being assessed the taxes.

### **How It Can Be Fixed**

The legislature should add language to Title 34 of Wyoming Statutes that allows (not requires) counties in Wyoming to accept a token as a form of title. This will in turn allow each county to decide whether to put into operation the necessary systems to record and transfer the tokens.

### **Benefits of Tokens as Record of Ownership**

If the Counties elect to accept tokens as the record of ownership or title, the following would happen:

1. Transaction costs would decrease



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2. There would be a wider market for the real estate in that county (which could create higher market values)
3. Property taxes would be unavoidable (they would be assessed on transfer)
4. The State could allow a transfer fee to be collected (possible income stream for the State)
5. Holders could avail themselves of the benefits of ownership under the tax code
6. There would be no question as to whether this is a security or property that is being transferred
7. The token and underlying real estate would be removed from the balance sheet of the issuer, allowing the purchaser of the token to divorce themselves fully from the financial situation of the issuer.

### **Conclusion**

I do not believe all of the Counties would avail themselves of this opportunity immediately. But what this legislation would do is to allow them to move into this area as the markets move in this direction. We can again move Wyoming to the forefront of tokenomics through this one small step.

Thank you for your time. I wish each of you the best.

Sincerely,



David A. Pope, CPA CGMA

