

HOUSE BILL NO. HB0030

Trust company statutes-updates.

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

A BILL

for

1 AN ACT relating to trust companies; establishing supervised
2 trust companies and private family trust companies as
3 specified; establishing requirements for trust company
4 records; amending and creating definitions for trust
5 companies; making conforming amendments; providing rulemaking
6 authority; renumbering and amending statutes relating to
7 trust companies; repealing obsolete and superseded
8 provisions; 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. 13-5-301, 13-5-303, 13-5-402 through
13 13-5-408, 13-5-421 through 13-5-423, 13-5-425, 13-5-501
14 through 13-5-521 and 13-5-701 through 13-5-703 are created to
15 read:

16
17 **ARTICLE 3**
18 **GENERAL PROVISIONS**

19
20 **13-5-301. Definitions.**

21
22 (a) As used in this chapter:

23
24 (i) "Charter" means the commissioner's grant of
25 authority to any supervised trust company to act and operate
26 in that capacity;

27
28 (ii) "Chartered family trust company" means a
29 family trust company that has been granted a charter by the
30 commissioner to act and operate pursuant to this chapter;

1
2 (iii) "Collateral kinship" means a relationship
3 that is not lineal, but stems from a common ancestor;
4

5 (iv) "Commissioner" means the state banking
6 commissioner;
7

8 (v) "Designated relative" means:
9

10 (A) With respect to a chartered family trust
11 company, the individual, whether living or deceased, who is
12 listed as the designated relative in a charter application
13 for a charter under this chapter. A chartered family trust
14 company may have no more than two (2) designated relatives;
15

16 (B) With respect to a private family trust
17 company, the person, whether living or deceased, who is listed
18 as the designated relative in a written document by the
19 private family trust company that is maintained with the
20 private family trust company records. A private family trust
21 company may have no more than one (1) designated relative.
22

23 (vi) "Family affiliate" means a corporation,
24 partnership, limited liability company or other entity with
25 respect to which one (1) or more family members own, directly
26 or indirectly, more than fifty percent (50%) of the entity or
27 possess, directly or indirectly, the power to direct or cause
28 the direction of the entity's management and policies,
29 whether through the ownership of voting securities, by
30 contract, power of direction or otherwise;
31

32 (vii) "Family member" means:
33

34 (A) Each designated relative;
35

36 (B) Any person within the tenth degree of
37 lineal kinship of a designated relative;
38

39 (C) Any person within the ninth degree of
40 collateral kinship of a designated relative;
41

42 (D) The spouse and any former spouse of the
43 designated relative or of any person qualifying as a family
44 member pursuant to subparagraph (B) or (C) of this paragraph;
45

1 (E) Any person within the fifth degree of
2 lineal kinship of a spouse or former spouse specified in
3 subparagraph (D) of this paragraph;

4
5 (F) A family affiliate and the officers,
6 managers and directors of a family affiliate;

7
8 (G) A key employee of a family affiliate or
9 former key employee of a family affiliate;

10
11 (H) A trust established or funded by any one
12 (1) or more family members or any trustee, advisor or other
13 person assisting with the administration of the trust;

14
15 (J) A trust established or funded by a person
16 who is not a family member if the noncharitable beneficiaries
17 consist entirely of one (1) or more family members;

18
19 (K) A charitable trust, entity or other
20 organization of which one (1) or more family members is a
21 settlor, incorporator, organizer, member of the board of
22 directors, trustee or a donor of a substantial portion of its
23 assets;

24
25 (M) For purposes of this definition:

26
27 (I) A legally adopted person shall be
28 treated as a natural child of the adoptive parents;

29
30 (II) A stepchild shall be treated as a
31 natural child of the family member who is or was the
32 stepparent of that child;

33
34 (III) A foster child or an individual
35 who was a minor when a family member became his or her legal
36 guardian shall be treated as a natural child of the family
37 member appointed as foster parent or guardian;

38
39 (IV) Children of a spouse of a family
40 member shall be treated as a natural child of that family
41 member;

42
43 (V) Each key employee, spouse of a key
44 employee, former key employee and spouse of a former key

1 employee shall be treated as a natural child of the ninth
2 degree of lineal kinship of the designated relative; and

3
4 (VI) Degrees are calculated by adding
5 the number of steps from the designated relative through each
6 person to the family member either directly, in case of lineal
7 kinship, or through the common ancestor, in the case of
8 collateral kinship.

9
10 (viii) "Family trust company" means a chartered
11 family trust company or a private family trust company that
12 engages in trust company business exclusively for one (1) or
13 more family members and does not engage in trust company
14 business with the general public;

15
16 (ix) "Fiduciary" means acting as executor,
17 administrator, guardian or conservator of an estate or as an
18 assignee, receiver, depository, trustee, custodian or in any
19 other fiduciary or representative capacity;

20
21 (x) "Key employee" means a natural person,
22 including any spouse of an officer, manager or director who
23 holds a joint, community property or other similar shared
24 ownership interest with that officer, manager or director,
25 who is an executive officer, director, manager, trustee,
26 general partner or person serving in a similar capacity for
27 a family affiliate who, in connection with his regular
28 functions or duties, participates in the investment
29 activities of a family affiliate, provided that the person
30 has been performing functions and duties for or on behalf of
31 a family trust company for at least twelve (12) months. For
32 purposes of this definition, a family trust company may
33 designate as a key employee an individual who is a former
34 employee of the family trust company; provided, however, that
35 the number of persons designated as key employees shall not
36 exceed twenty (20) within the trust;

37
38 (xi) "Lineal kinship" means a family member who is
39 in the direct line of ascent or descent from a designated
40 relative;

41
42 (xii) "Organizational instrument" means the
43 articles of incorporation for a corporation or the articles
44 of organization for a limited liability company;

45

1 (xiii) "Private family trust company" means a
2 family trust company that is not a chartered family trust
3 company and is not subject to regulation by the Wyoming
4 division of banking;

5
6 (xiv) "Public trust company" means a trust company
7 that has been granted a charter by the commissioner to engage
8 in trust company business with the general public;

9
10 (xv) "Supervised trust company" means any public
11 trust company or chartered family trust company but does not
12 include a private family trust company;

13
14 (xvi) "Trust company" means a corporation or
15 limited liability company that is organized or qualified to
16 do business in this state as a trust company and that is
17 engaged in trust company business;

18
19 (xvii) "Trust company branch" means a place of
20 business within this state that engages in trust company
21 business;

22
23 (xviii) "Trust company business" means the holding
24 out by a person, by advertising, solicitation or other means,
25 that such person is available to act as a fiduciary in this
26 state and accepting and undertaking to act as a fiduciary in
27 the regular course of its business. For purposes of this
28 chapter, a person or entity does not engage in trust company
29 business solely by:

30
31 (A) Rendering services as an attorney-at-law
32 in the performance of his duties;

33
34 (B) Acting as trustee under a deed of trust
35 made only as security for the payment of money or for the
36 performance of another act;

37
38 (C) Acting as a trustee in bankruptcy or as
39 a receiver;

40
41 (D) Holding trusts of real estate for the
42 primary purpose of subdivision, development or sale or to
43 facilitate any business transaction with respect to such real
44 estate, provided the person is not regularly engaged in the
45 business of acting as a trustee for such trusts;

1
2 (E) Holding assets as trustee of trusts
3 created for charitable purposes;
4

5 (F) Receiving rents and proceeds of sale as
6 a licensed real estate broker on behalf of a principal;
7

8 (G) Engaging in securities transactions as a
9 dealer or salesman registered under W.S. 17-4-101 through
10 17-4-701;
11

12 (H) Acting as guardian, conservator, special
13 conservator, trustee or personal representative pursuant to
14 a court order or other statutory authority; or
15

16 (J) Acting as trustee of a statutory trust
17 created under the Wyoming Statutory Trust Act.
18

19 (xix) "Trust service office" means any other
20 office or other place of business where the supervised trust
21 company exercises its administrative duties but does not
22 conduct trust company business.
23

24 **13-5-303. Trust company organized as limited liability**
25 **company; applicability.**
26

27 A trust company organized as a limited liability company shall
28 be subject to all of the same laws and regulations that relate
29 to a trust company organized as a corporation. All managers,
30 officers and employees of a trust company organized as a
31 limited liability company shall be subject to the same duties
32 and liabilities that apply to directors, officers and
33 employees of a trust company organized as a corporation. Any
34 reference made in this chapter only to a corporation, director
35 or shareholder shall also apply to a limited liability
36 company, manager or member.
37

38 ARTICLE 4
39 SUPERVISED TRUST COMPANIES
40

41 **13-5-402. Records; retention generally.**
42

43 Each supervised trust company in this state shall retain its
44 business records for the periods prescribed by W.S. 13-5-403
45 through 13-5-408.

1

2

13-5-403. Records; permanent records.

3

4 Each supervised trust company shall permanently retain the
5 minute books of meetings of its stockholders and directors,
6 its capital stock ledger and capital stock certificate ledger
7 or stubs, its general ledger, or the record kept by the
8 supervised trust company in lieu of a general ledger, its
9 daily statements of condition, if any, and all records which
10 the commissioner requires to be retained permanently.

11

12

13-5-404. Records; records retained three years.

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13-5-405. Records; requirements of state banking commissioner.

22

23

24

All other supervised trust company records shall be retained
for the periods prescribed by the commissioner.

25

26

27

13-5-406. Records; state banking commissioner to issue rules.

28

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34

(a) The commissioner shall issue rules classifying
records kept by supervised trust companies and prescribing
the periods for which records of each class shall be retained.
The rules shall be reviewed and considered for revision at
least once every five (5) years. When issuing rules the
commissioner shall consider:

35

36

37

38

(i) Actions and administrative proceedings in
which the production of supervised trust company records
might be necessary or desirable;

39

40

41

(ii) State and federal statutes of limitation
applicable to actions or proceedings;

42

43

44

(iii) The availability of information contained in
supervised trust company records from other sources;

1 (iv) Other matters pertinent to the interests of
2 supervised trust company customers, shareholders and the
3 people of the state of Wyoming.

4
5 **13-5-407. Records; duty to produce records.**

6
7 After the period prescribed for the retention of records of
8 its class the supervised trust company has no duty to produce
9 the record in any action or proceeding if the supervised trust
10 company has disposed of the records.

11
12 **13-5-408. Records; reproduction.**

13
14 Any supervised trust company may cause any of its records
15 including those held by it as a fiduciary, to be photographed,
16 microfilmed, scanned or otherwise reproduced in permanent
17 form. Any photograph, scan or reproduction has the same effect
18 as the original and shall be admitted in evidence in lieu of
19 the original.

20
21 **13-5-421. Change in place of business.**

22
23 (a) Any supervised trust company may apply in writing
24 to the commissioner for permission to change its place of
25 business to any other municipality in the state. The
26 application shall be accompanied by a fee established by rule
27 of the commissioner and shall state the reasons for the
28 proposed change, be signed by a majority of its board of
29 directors and accompanied by the written assent to the
30 application by the stockholders owning at least two-thirds
31 (2/3) of its stock. The application fee shall be deposited by
32 the commissioner with the state treasurer and credited to the
33 financial institutions administration account. Expenditures
34 shall be made from the account by warrants drawn by the state
35 auditor, upon vouchers issued and signed by the director or
36 commissioner. Funds from the account shall be expended only
37 to carry out the duties of the commissioner under this
38 chapter.

39
40 (b) If the commissioner finds that the change of
41 location may be desirable and in the supervised trust
42 company's best interests, he shall grant a certificate
43 authorizing the change of location.

44
45 **13-5-422. Amendment to organizational instrument.**

1
2 (a) A supervised trust company may amend its
3 organizational instrument pursuant to the requirements of
4 W.S. 17-16-1001 through 17-16-1009 for a corporation or W.S.
5 17-29-202 for a limited liability company. The articles of
6 amendment shall be executed in triplicate with an executive
7 officer executing in the place of the corporate secretary.
8 Notice of the shareholders' meeting to vote on a proposed
9 amendment shall be given as provided by the bylaws of the
10 supervised trust company.

11
12 (b) Triplicate originals of the articles of amendment
13 shall be delivered to the commissioner together with a fee
14 required for filing documents with the secretary of state. If
15 the commissioner finds that the articles of amendment do not
16 conform to law he shall return them to the corporation. If
17 the commissioner finds that the articles of amendment conform
18 to the law he shall endorse on the articles of amendment his
19 certificate of approval together with the word "filed" and
20 the month, day and year of filing, and he shall file one (1)
21 of the triplicate originals in his office and one (1) in the
22 office of the secretary of state. The commissioner shall issue
23 a certificate of amendment, affix it to the third triplicate
24 original of the articles of amendment and return it to the
25 corporation or its representatives.

26
27 (c) Upon the issuance of the certificate of amendment
28 by the commissioner, the amendment is effective and the
29 organizational instrument shall be amended accordingly.

30
31 **13-5-423. Liability of directors, managers and**
32 **officers.**

33
34 (a) Except as provided in this section, no director,
35 manager or officer of any supervised trust company may be
36 held individually liable to any person for participating in
37 or consenting to any act or failure to act in the conduct of
38 trust company business unless the act or failure to act:

39
40 (i) Constitutes misconduct, a breach of duty or a
41 failure to perform that is:

42
43 (A) Criminal, unless the director, manager or
44 officer had a good faith and reasonable belief that the
45 conduct was lawful; or

1
2 (B) Willful, reckless or undertaken in bad
3 faith that resulted in fraud, self-dealing or unlawful
4 personal benefit.

5
6 (ii) Is a proximate cause of the damage incurred;
7 and

8
9 (iii) Is established by clear and convincing
10 evidence.

11
12 (b) No director, manager or officer of any supervised
13 trust company shall incur any individual liability that
14 exceeds subsection (a) of this section unless that individual
15 liability is expressly authorized under the organizational
16 instrument, governing documents, resolutions of the
17 supervised trust company or by a valid written agreement
18 between the director, manager or officer incurring individual
19 liability and the parties in controversy.

20
21 (c) This chapter shall not supersede, modify or
22 supplement the standards of conduct and indemnity provisions
23 for directors, managers and officers under the Wyoming
24 Business Corporation Act and the Wyoming Limited Liability
25 Company Act.

26
27 **13-5-425. Establishment of trust company branches;**
28 **application; fee; activities; examination; criteria.**

29
30 (a) With prior approval of the commissioner a
31 supervised trust company may establish and operate one (1) or
32 more branches at any location in this state.

33
34 (b) All applications for establishing and operating a
35 branch shall be filed with the commissioner and be accompanied
36 by a filing fee established by rule of the commissioner. The
37 application shall be signed by the chief executive officer of
38 the applicant supervised trust company and contain and be
39 accompanied by the following information:

40
41 (i) Name and address of the applicant supervised
42 trust company;

43
44 (ii) Exact location of the proposed branch;

45

1 (iii) Certification of publication of notice of
2 the application at least one (1) time in a newspaper of
3 general circulation in the county in which the proposed branch
4 will be located;

5
6 (iv) Other information as the commissioner may
7 require in order to determine if the requirements of this
8 section are met.

9
10 (c) The commissioner shall issue a certificate of
11 authority for the branch to the applicant supervised trust
12 company within twenty (20) days after receipt of the complete
13 application and fee unless he finds:

14
15 (i) Establishment or operation of the proposed
16 branch would pose undue risk to the safety and soundness of
17 the supervised trust company;

18
19 (ii) The name of the proposed branch does not
20 reasonably identify the branch as a branch of the applicant
21 supervised trust company or is likely to unduly confuse the
22 public; or

23
24 (iii) The applicant supervised trust company has
25 failed to substantially comply with applicable law governing
26 its operation.

27
28 (d) The certificate of authority expires one (1) year
29 after its issuance unless the branch has opened and business
30 has begun in good faith.

31
32 (e) The application fee provided by subsection (b) of
33 this section shall be deposited by the commissioner with the
34 state treasurer and credited to the financial institutions
35 administration account. Expenditures shall be made from the
36 account by warrants drawn by the state auditor, upon vouchers
37 issued and signed by the commissioner. Funds from the account
38 shall be expended only to carry out the duties of the
39 commissioner under this chapter. If the application expenses
40 are less than the amount of the fee, the unexpended amount
41 shall remain within the account.

42
43 (f) Every branch of a supervised trust company in this
44 state shall be licensed by the commissioner before operating,
45 engaging in or conducting trust company business.

1
2 (g) The commissioner shall fix the amount of the
3 initial license fee and annual renewal fee by rule.
4

5 (h) An application for an initial branch license shall
6 be submitted to the commissioner in writing in the form and
7 containing the information required by the commissioner.
8 Each licensed branch of a supervised trust company chartered
9 under the laws of this state or of any other state is subject
10 to compliance examinations as the commissioner deems
11 necessary.
12

13 (j) The activities and operations of a branch are
14 attributable to the applicant supervised trust company for
15 purposes of determining qualification for authority to do
16 business in this state.
17

18 ARTICLE 5
19 PUBLIC TRUST COMPANIES
20

21 **13-5-501. Formation and organizational instrument.**
22

23 (a) One (1) or more adult persons may organize a
24 corporation or limited liability company for the purpose of
25 forming a public trust company at a place in this state
26 designated in the organizational instrument subject to the
27 conditions prescribed by law. The organizer shall subscribe
28 and verify triplicate originals of the organizational
29 instrument and the application required under W.S. 13-5-502
30 and transmit them to the commissioner together with any other
31 documents or information required by rule of the
32 commissioner.
33

34 (b) The organizational instrument shall include the
35 following information:
36

37 (i) The legal name of the public trust company;
38

39 (ii) The object for which the public trust company
40 is organized;
41

42 (iii) The term of its existence which may be
43 perpetual;
44

1 (iv) The place where its office shall be located
2 and its operations conducted;

3
4 (v) The amount of capital stock and the number of
5 shares or the amount of membership interest;

6
7 (vi) The name and residence of each shareholder
8 subscribing to more than ten percent (10%) of the stock and
9 the number of his shares or the name and residence of each
10 member owning more than ten percent (10%) of the membership
11 interest and percentage of his membership interest;

12
13 (vii) The number of directors and the names of
14 those who shall manage the affairs of the corporation for the
15 first year or the number and names of managers appointed to
16 manage the affairs of the limited liability company for the
17 first year; and

18
19 (viii) A statement that the organizational
20 instrument is made to enable the organizer to form a public
21 trust company within this state.

22
23 (c) The organizational instrument shall comply with
24 W.S. 17-16-202 for corporations and W.S. 17-29-201 for
25 limited liability companies. The commissioner may establish
26 by rule other documents and materials a public trust company
27 must file.

28
29 (d) Copies of all amended organizational instruments
30 shall be filed in the same manner as the original
31 organizational instrument.

32
33 **13-5-502. Procedure upon filing of organizational**
34 **instrument, application and other information.**

35
36 (a) The organizer shall apply to the commissioner for
37 a charter. The application shall be on forms prescribed by
38 the commissioner and shall contain such information as
39 required by rule of the commissioner.

40
41 (b) Upon filing with the commissioner the
42 organizational instrument as required by W.S. 13-5-501, an
43 application and any other information required by the rules
44 and regulations of the board, the commissioner shall notify
45 the applicants in writing within thirty (30) calendar days of

1 any deficiency in the required information or that the
2 application has been accepted for filing. When the
3 commissioner is satisfied that all required information has
4 been furnished, he shall notify the chairman of the board who
5 shall establish a time and place within the county where the
6 proposed public trust company is to be located for a public
7 meeting or hearing if the application is contested which shall
8 be not less than sixty (60) days nor more than one hundred
9 twenty (120) days after notice from the state banking
10 commissioner that the application is in order. Within thirty
11 (30) days after receipt of notice of the time and place of
12 the public meeting or hearing, the applicant shall cause
13 notice of filing of the application and of the meeting or
14 hearing to be published at the applicant's expense in a
15 newspaper of general circulation within the county where the
16 proposed public trust company is to be located. Publication
17 shall be made at least once a week for three (3) consecutive
18 weeks before the meeting or hearing stating the proposed
19 location of the public trust company, the names of the
20 proposed applicants for a charter, the nature of the
21 activities to be conducted by the proposed institution and
22 other information as the commissioner shall prescribe by
23 rule. The applicant shall furnish proof of publication to the
24 commissioner not more than ten (10) days prior to the public
25 meeting or hearing.

26

27 **13-5-503. Application filing fee.**

28

29 The application for a charter filed with the commissioner
30 shall be accompanied by a fee established by rule of the
31 commissioner to cover the expense of the investigation by the
32 commissioner, the expense of the public hearing or meeting
33 and other related expenses. The fee shall be deposited by the
34 commissioner with the state treasurer into the financial
35 institutions administration account. If an application for a
36 public trust company charter is withdrawn by the applicant at
37 any time prior to the meeting or hearing on the application,
38 the application filing fee, less the amount of any expense
39 authorized in this section and actually incurred, shall be
40 refunded to the applicant. If the application is approved and
41 expenses are less than the application fee collected the
42 unexpended amount shall remain within the account.

43

44 **13-5-504. Procedure for hearings or meetings on charter**
45 **applications.**

1
2 If a party with a bona fide interest contests the charter
3 application, the hearing held shall be a contested case under
4 the Wyoming Administrative Procedure Act and shall comply
5 with the requirements of that act. If the application is not
6 contested, a majority of the board members shall hold a public
7 meeting to consider the application. The public meeting shall
8 not be subject to the contested case procedures of the Wyoming
9 Administrative Procedure Act, W.S. 16-3-107 through 16-3-112.

10
11 **13-5-505. Emergency charters; fees.**

12
13 (a) Notwithstanding any other provisions contained in
14 this chapter, a public trust company charter may be granted
15 by the commissioner without a public meeting or hearing in
16 any case determined by the commissioner to be an emergency
17 arising from the insolvency, or to prevent the failure, of an
18 existing public trust company. The granting of any emergency
19 charter under this section is contingent upon the
20 commissioner determining that findings required by W.S.
21 13-5-507 have been satisfied.

22
23 (b) The application fee for an emergency charter shall
24 be established by rule of the commissioner. The fee shall be
25 deposited by the commissioner with the state treasurer and
26 credited to the financial institutions administration
27 account.

28
29 **13-5-506. Investigation and examination by banking**
30 **commissioner.**

31
32 (a) Upon receiving the organizational instrument,
33 application and other information required to be submitted
34 under W.S. 13-5-501 and 13-5-502, the commissioner shall make
35 a careful investigation and examination of the following:

36
37 (i) The character, reputation, financial standing
38 and ability of the organizers and those proposed as directors,
39 managers, members, stockholders or owners of the public trust
40 company;

41
42 (ii) The character, financial responsibility,
43 trust administration or other financial experience and
44 business qualifications of those proposed as officers or
45 managers; and

1
2 (iii) Such other facts and circumstances bearing
3 on the proposed public trust company as the commissioner may
4 deem relevant.

5
6 (b) The commissioner or his designee shall submit his
7 findings at the public meeting or hearing on the application
8 and shall be subject to cross-examination or questioning by
9 any interested party. No relevant information shall be
10 excluded by the board as hearsay.

11
12 **13-5-507. Approval or disapproval of application;**
13 **criteria for approval; action upon application; interim**
14 **charter; fee.**

15
16 (a) Within ninety (90) days after receipt of the
17 transcript of the public meeting or hearing, the board shall
18 in its discretion approve, conditionally approve or
19 disapprove the application, but it shall not approve the
20 application until it has ascertained to its satisfaction:

21
22 (i) The proposed public trust company is only
23 being formed for legitimate objects contemplated by the laws
24 of the state;

25
26 (ii) The proposed capital and surplus are not less
27 than the required minimum established in W.S. 13-5-511 and
28 are adequate in light of current and prospective conditions;

29
30 (iii) The proposed officers and directors or
31 managers have sufficient experience, ability and professional
32 reputation to afford reasonable promise of successful
33 operation;

34
35 (iv) The name of the proposed public trust company
36 does not resemble so closely as to cause confusion the name
37 of any other financial institution transacting business in
38 the county; and

39
40 (v) The applicants have complied with all
41 applicable provisions of law.

42
43 (b) The board shall take action upon the application by
44 stating its findings of fact and conclusions of law. If the
45 board approves the application, the commissioner shall

1 endorse upon the organizational instrument the approval and
2 shall file one (1) copy with the secretary of state, retain
3 one (1) copy in his files and return one (1) copy to the
4 applicants within twenty (20) days after the date of the
5 decision of the board approving the application. If the board
6 conditionally approves an application by requiring increased
7 capital or surplus, retention of additional qualified
8 officers or directors or change of name to avoid confusion,
9 and upon compliance by the applicant, the commissioner shall
10 proceed as provided in the preceding sentence. If the board
11 disapproves the application, the commissioner shall mail
12 notice of the disapproval to the applicants within twenty
13 (20) days after the board's negative action.

14

15 (c) The board may waive the public meeting or hearing
16 required under W.S. 13-5-502(b) if the application is for an
17 interim public trust company charter to be used as a vehicle
18 for merger with an existing public trust company that is
19 currently serving the public need and convenience of the
20 community, operating profitably, adequately capitalized, has
21 officers and directors or managers of proven ability and is
22 to be chartered solely for the purpose of facilitating the
23 merger and the change in ownership of the existing public
24 trust company. The application fee for an interim public trust
25 company charter for which a public meeting or hearing is
26 waived shall be established by rule and regulation of the
27 commissioner. The fee shall be deposited by the commissioner
28 with the state treasurer and credited to the financial
29 institutions administration account.

30

31 **13-5-508. Certificate of authority to commence business**
32 **required; application; approval or denial; failure to**
33 **commence business.**

34

35 If the application is approved and a charter granted by the
36 board, the public trust company shall not commence business
37 before receiving a certificate of authority to operate from
38 the commissioner. An application for a certificate of
39 authority shall be made to the commissioner and shall certify
40 that all required capital and surplus have been paid in. The
41 application shall list the address at which the public trust
42 company will operate and shall attach the organizational
43 instrument or all adopted bylaws. The application shall state
44 who the officers, directors and stockholders or the members
45 and managers are at that time. The commissioner shall approve

1 or deny an application for a certificate of authority within
2 thirty (30) days after the application has been filed, but
3 the authority of the commissioner to disapprove any
4 application is restricted solely to noncompliance with this
5 section. If the commissioner approves the application, he
6 shall issue a certificate of authority to the organizers
7 within twenty (20) days. If the commissioner denies the
8 application, he shall mail a notice of denial to the
9 organizers within twenty (20) days, stating the reasons for
10 denying the application, and grant to the organizers a maximum
11 period of ninety (90) days to resubmit the application with
12 the necessary corrections. If the applicant fails to comply
13 with requirements of the notice of denial within ninety (90)
14 days from the receipt of the notice, the approval of the
15 application and charter previously issued to the applying
16 public trust company shall be revoked by the commissioner.
17 The failure of the commissioner to act upon an application
18 for a certificate of authority within thirty (30) days shall
19 be deemed an approval. If the approved public trust company
20 fails to commence business in good faith within one (1) year
21 after the issuance of a certificate of authority by the
22 commissioner or any required federal approval, whichever is
23 later, the charter and certificate of authority shall expire.

24
25 **13-5-509. Decisions by board appealable; grounds.**

26
27 Any decision of the board in approving or disapproving any
28 charter or the issuance or denial of a certificate of
29 authority is appealable to the district court of the county
30 in which the public trust company is to be located in
31 accordance with the provisions of the Wyoming Administrative
32 Procedure Act. In addition to the grounds for appeal contained
33 in the Wyoming Administrative Procedure Act, the appellant
34 may appeal if the board or the commissioner fails to make any
35 of the findings required.

36
37 **13-5-510. Powers of public trust companies;**
38 **limitations; prohibitions; conflicts of interest; exemptions.**

39
40 (a) Public trust companies may exercise the powers
41 permitted by subsection (b) of this section and the powers
42 and rights granted to other corporations and limited
43 liability companies under general law except as provided by
44 this chapter.

45

1 (b) Each public trust company may:

2

3 (i) Act or be appointed by any court to act in
4 like manner as an individual or as a fiduciary for any purpose
5 permitted by law;

6

7 (ii) Act as transfer agent or registrar of
8 corporate stocks and bonds;

9

10 (iii) Purchase, invest in and sell stocks, bonds,
11 mutual funds, mortgages and other securities for the account
12 of trusts;

13

14 (iv) Accept and execute any trust company business
15 permitted by any law of this or any other state or of the
16 United States to be taken, accepted or executed by an
17 individual;

18

19 (v) Take oaths and execute affidavits by the oath
20 or affidavit of its directors, managers, managing members,
21 officers, agents or employees;

22

23 (vi) Make any lawful fiduciary investment as
24 permitted by W.S. 2-3-301;

25

26 (vii) Do and perform all acts necessary to
27 exercise the powers enumerated in this chapter.

28

29 (c) A public trust company shall not engage in any
30 banking business by accepting general deposits or issuing
31 demand instruments.

32

33 (d) A public trust company may invest its capital and
34 surplus in stocks, bonds, mortgages, mutual funds and other
35 securities. A public trust company may invest in, purchase,
36 hold, convey and lease real estate in accordance with W.S.
37 13-3-201(a)(i).

38

39 (e) A public trust company shall consider the following
40 when undertaking a transaction or other action authorized
41 under subsection (b) of this section:

42

43 (i) The interests of the beneficiaries of the
44 trust for which the public trust company is acting as
45 fiduciary, if applicable;

1
2 (ii) Whether the transaction or action complies
3 with the terms of the governing instrument establishing the
4 fiduciary relationship, any applicable judgments, judicial
5 decrees or court orders and any applicable consent agreements
6 or releases.

7
8 (f) Except as provided in this chapter, no person shall
9 act as a public trust company or engage in trust company
10 business without first obtaining a charter from the
11 commissioner under this chapter.

12
13 (g) A bank or savings and loan authorized under the
14 laws of the United States or this state to engage in trust
15 company business in this state, may engage in such business
16 as a bank or savings and loan association without obtaining
17 a charter under this chapter, but shall be subject to the
18 provisions of this chapter relating to the administration of
19 its trust accounts.

20
21 (h) Insurance companies licensed to write life
22 insurance policies and annuity or endowment contracts in this
23 state and subject to the regulation and control of the state
24 insurance commissioner shall not be subject to the provisions
25 of this chapter.

26
27 (j) Except as otherwise provided in subsection (e) of
28 this section, nothing in this section prohibits a public trust
29 company from transacting business with or investing in any
30 asset of:

31
32 (i) A trust, estate, guardianship or
33 conservatorship for which the public trust company is a
34 fiduciary;

35
36 (ii) Any other company, agent, entity or person
37 for which a conflict of interest may exist.

38
39 (k) If a potential conflict of interest exists as to a
40 particular transaction or action between the public trust
41 company in its capacity as a fiduciary and the public trust
42 company in its individual capacity, the transaction or action
43 is not voidable if it complies with this section or occurred
44 before the public trust company entered into the fiduciary
45 relationship.

1
2 (m) A transaction by or action of a public trust company
3 is not voidable if:

4
5 (i) The transaction or action was authorized by
6 the terms of the organizational instrument;

7
8 (ii) The transaction or action was approved by a
9 court pursuant to a judgment, judicial decree or court order;

10
11 (iii) The transaction or action was authorized by
12 a valid consent agreement or release signed by all interested
13 persons to the transaction or action;

14
15 (iv) No interested person commenced a legal action
16 relating to the transaction in accordance with subsection (n)
17 of this section; or

18
19 (v) The transaction or action occurred before the
20 public trust company entered into the fiduciary relationship.

21
22 (n) A legal action by an interested person alleging
23 that a transaction or action by a public trust company is
24 voidable because of the existence of a conflict of interest
25 must be commenced within one (1) year of the date on which
26 the interested person discovered, or by the exercise of
27 reasonable diligence should have discovered, the facts in
28 support of his claim.

29
30 (o) Notwithstanding any other provision of this
31 chapter, a public trust company is not required to obtain
32 court approval for any transaction that otherwise complies
33 with the provisions of this section.

34
35 **13-5-511. Requirements as to capital or membership**
36 **interest.**

37
38 (a) The capital stock or membership interest of each
39 public trust company shall be subscribed for as fully paid
40 stock or fully paid membership interests. No public trust
41 company shall organize with a capital stock or membership
42 interest less than one million dollars (\$1,000,000.00).

43
44 (b) No public trust company shall commence business
45 until the full amount of its authorized capital or membership

1 interest is subscribed and fully paid in. No public trust
2 company may organize without a paid up surplus fund of at
3 least twenty percent (20%) of its legally authorized capital
4 stock or membership interest, and undivided profits in
5 sufficient amount for the first year expenses of operation as
6 determined by the commissioner.

7
8 **13-5-512. Issue of stock or membership interest.**

9
10 A public trust company shall not issue any share of stock or
11 any percentage of membership interest until the par value of
12 the share or the capital contribution has been actually paid
13 in cash.

14
15 **13-5-513. Increase or reduction of capital stock.**

16
17 A public trust company may increase or reduce the capital
18 stock or membership interest of the public trust company after
19 receiving the written approval of the commissioner and by the
20 vote of the shareholders or members owning two-thirds (2/3)
21 of the stock or membership interest in the public trust
22 company at a stockholders' or members' meeting called for
23 that purpose.

24
25 **13-5-514. Transfer of stock, membership interests and**
26 **other ownership interests.**

27
28 (a) The shares of stock or membership interests of
29 public trust companies are personal property and shall be
30 transferred on the books of the public trust company in such
31 manner as the bylaws or operating agreement may provide. A
32 transfer of stock or membership interest in a public trust
33 company is invalid until any impairment of its capital stock
34 or membership interest has been restored.

35
36 (b) Transfers of voting stock or membership interests
37 of a public trust company shall be reported to the
38 commissioner not less than ten (10) days prior to being made
39 if the transfer:

40
41 (i) Equals or exceeds ten percent (10%) of the
42 public trust company's voting ownership interests; or
43

1 (ii) Is made to a person owning or controlling ten
2 percent (10%) or more and less than eighty percent (80%) of
3 the public trust company's voting ownership interests.
4

5 (c) The commissioner may disapprove any transfer of
6 stock or membership interest required to be reported if he
7 finds that the transferee:
8

9 (i) Has been convicted of a felony; or
10

11 (ii) Has been removed from a position as director,
12 manager, officer or employee of a public trust company or
13 other financial institution pursuant to an order of the
14 commissioner or federal regulatory authority.
15

16 **13-5-515. Stock or membership interest register;**
17 **inspection.**
18

19 A public trust company shall keep a stock or membership
20 interest register that is open for inspection during business
21 hours to officers, directors and stockholders or members and
22 managers of the public trust company. The register shall
23 contain the name, residence and number of shares of each
24 stockholder or the percentage of membership interest of each
25 member and all transfers of stock or membership interest,
26 stating the time made, the number of shares or percentage of
27 membership interest transferred and to whom transferred.
28

29 **13-5-516. Voting by shareholders and members generally;**
30 **balloting for directors and managers.**
31

32 (a) Unless the public trust company's governing
33 documents provide otherwise:
34

35 (i) Each share or membership interest entitles the
36 owner to one (1) vote on all elections of directors or
37 managers and all other questions submitted at meetings of
38 shareholders or members. Shareholders or members may vote by
39 proxies executed in writing but no officer, clerk, teller or
40 bookkeeper of the public trust company shall act as proxy.
41 The presence in person or by proxy of the owners of at least
42 fifty-one percent (51%) of the issued and outstanding capital
43 stock or membership interest at any meeting of stockholders
44 or members constitutes a quorum;
45

1 (ii) In balloting for directors or managers each
2 qualified shareholder or member may vote the number of shares
3 or amount of membership interest owned by him for as many
4 directors or managers as are to be elected or may cumulate
5 his votes by giving one (1) candidate the number of votes
6 equal to the number of directors or managers to be elected
7 multiplied by the number of his shares or percentage of
8 membership interest and he may distribute his votes
9 cumulatively on the same principle among any number of
10 candidates. The persons having the highest number of votes
11 shall be declared elected as the board of directors or as
12 managers for the ensuing corporate year.

13
14 **13-5-517. Preferred stock.**

15
16 (a) Unless the organizational instrument of a public
17 trust company is more restrictive, a public trust company may
18 issue one (1) or more classes of preferred stock or membership
19 interest upon the approval of two-thirds (2/3) of the
20 stockholders or members and the approval of the commissioner
21 under this section.

22
23 (b) Copies of the directors' and stockholders' or
24 members' and managers' minutes approving the issuance and
25 bearing the approval of the commissioner shall be filed in
26 the office of the secretary of state and treated as an
27 amendment to the organizational instrument.

28
29 (c) At a board of directors' or managers' meeting
30 called on not less than one (1) day's notice, the directors
31 or managers may adopt a resolution calling for the issuance
32 of preferred shares or classes of membership interest. The
33 directors shall then call a meeting of the stockholders or
34 members, giving not less than five (5) days' notice and
35 stating the purpose of the meeting.

36
37 (d) The voting rights and manner of retirement of
38 preferred shares or membership interest shall be as adopted
39 in the resolution of the stockholders or members authorizing
40 their issuance subject to the provisions of the
41 organizational instrument and the approval of the
42 commissioner.

43
44 (e) The holders of the preferred stock or membership
45 interest of the highest class shall be entitled to cumulative

1 dividends or distributions of up to six percent (6%) per year
2 before dividends are paid on any other stock or before
3 distributions are made to members of any other class. The
4 holders of preferred stock or membership interest of
5 subsequent classes shall next be entitled to cumulative
6 dividends or distributions of up to six percent (6%) in order
7 of preference before dividends are paid to the holders of
8 common stock or before distributions are made to members of
9 any other class. In any liquidation no payment shall be made
10 to the holders of common stock or membership interest until
11 the holders of preferred stock or highest priority membership
12 interest have been paid the full par value of their stock and
13 accumulated dividends or the full value, up to the amount of
14 their capital contribution and accumulated profits, in order
15 of preference.

16

17 (f) The preferred stock and holders of preferred stock
18 and preferred membership interest and the owners of preferred
19 membership interest are not liable for assessments to restore
20 impairment of capital or for any liability imposed by law on
21 common stock or the holders of common stock or on the lowest
22 priority membership class or the owners of the lowest priority
23 of membership interest.

24

25 (g) No issue of preferred stock or membership interest
26 is valid until the entire par value of the shares or
27 membership interest has been paid in cash or until
28 arrangements satisfactory to the commissioner have been made
29 for payment.

30

31 (h) The par value of preferred stock or membership
32 interest shall be included in any determination of required
33 capital under this chapter.

34

35 **13-5-518. Authority to manage public trust companies;**
36 **qualifications.**

37

38 The affairs of a public trust company shall be managed by not
39 less than five (5) directors or managers. Shareholders or the
40 board of directors or members or the managers, if provided by
41 the organizational instrument, may adopt and amend bylaws for
42 the management of the public trust company. Each director and
43 manager shall take an oath that he will faithfully and
44 diligently perform the duties of his office and will not
45 violate or knowingly permit the violation of any of the laws

1 of this state relating to trust company business. Within
2 thirty (30) days after being elected or appointed each
3 director and manager of a public trust company shall sign the
4 oath required by this section on a form prescribed by the
5 commissioner and it shall be part of the record of any meeting
6 and included in the public trust company's minutes. Within
7 thirty (30) days after initially being elected or appointed
8 each director and manager of a public trust company shall
9 file with the commissioner a sworn financial statement on a
10 form prescribed by the commissioner.

11
12 **13-5-519. Election; term; vacancies; number.**

13
14 (a) The initial and elected directors or managers of
15 any public trust company shall hold office for one (1) year
16 and until their successors are elected and qualified except
17 in cases of death, resignation or removal under the laws of
18 this state. All elections shall be held annually on a day
19 designated by the directors or managers on or before April
20 30.

21
22 (b) If the annual election of directors or managers is
23 not held at the time designated, an election may be held
24 within sixty (60) days thereafter following notice by
25 publication in three (3) consecutive issues of a weekly
26 newspaper printed in the county in which the public trust
27 company is located, or if no newspaper is printed in the
28 county then in a newspaper of general circulation in the
29 state.

30
31 (c) Any director or manager who during his tenure as a
32 director becomes insolvent or makes a general assignment of
33 his property for the benefit of creditors shall vacate his
34 office.

35
36 (d) Vacancies which reduce the board or the total
37 number of managers to less than five (5) members shall be
38 filled within ninety (90) days of the vacancy by appointment
39 by the remaining directors or managers for the unexpired term.
40 The board or managers shall notify the commissioner of any
41 vacancy on the board or of any manager within thirty (30)
42 days of the vacancy.

43
44 (e) Changes in the number of directors or managers
45 shall be authorized by a majority vote of the stockholders or

1 members to be effective upon expiration of the current
2 corporate year. The change may become effective immediately
3 with the consent of the directors or managers and written
4 notification to the commissioner.
5

6 **13-5-520. Meetings; record of proceedings and business.**
7

8 (a) The board of directors or managers of a public trust
9 company shall hold a regular meeting at least once every
10 quarter of the calendar year. At each meeting a detailed
11 report showing all trust business shall be submitted. The
12 board of directors or managers shall review the report and
13 make it a part of the record of the meeting. The record shall
14 show their approval or disapproval of the report.
15

16 (b) A record of the proceedings and business of all
17 meetings shall be included in the public trust company's
18 minutes.
19

20 **13-5-521. Inspection of public trust company;**
21 **confidentiality.**
22

23 (a) Every public trust company is subject to inspection
24 by the commissioner. The commissioner or a duly appointed
25 examiner shall visit and examine each public trust company as
26 often as the commissioner deems necessary and at least once
27 every two (2) years, with or without previous notice to the
28 officers or managers of or anyone interested in the public
29 trust company. The commissioner or a duly appointed examiner
30 shall make a complete and careful examination of the condition
31 and resources of the public trust company, the mode of
32 managing the company's affairs and conducting its business,
33 all records, transactions and other data or documents
34 pertaining to the actions of the public trust company, the
35 action of its officers and directors or managers in the
36 investment and disposition of trust funds, the safety and
37 prudence of the company's management, the security afforded
38 to those by whom trust company engagements are held, whether
39 the requirements of this chapter are being complied with and
40 such other matters as the commissioner may prescribe.
41

42 (b) All information, reports or applications obtained
43 by the commissioner from an applicant or public trust company
44 are confidential.
45

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ARTICLE 7
PRIVATE FAMILY TRUST COMPANIES

13-5-701. Establishment of a private family trust company.

(a) One (1) or more persons may subscribe to an organizational instrument in writing for the purpose of forming a private family trust company, subject to the provisions of this chapter.

(b) The articles of incorporation for a private family trust company organized as a corporation shall include all of the information required by W.S. 17-16-202 and the following:

(i) The corporate name, which shall comply with W.S. 13-5-302 and 17-16-401;

(ii) A statement that the articles of incorporation are made to enable the corporation to act as a fiduciary for the family members; and

(iii) A statement that the corporation will act as a fiduciary exclusively for one (1) or more family members and will not engage in trust company business with the general public.

(c) The articles of organization for a private family trust company organized as a limited liability company shall include all of the information required by W.S. 17-29-201 and the following:

(i) The name of the limited liability company, which shall comply with W.S. 13-5-302 and 17-29-108;

(ii) A statement that the articles of organization are made to enable the corporation to act as a fiduciary for the family members; and

(iii) A statement that the limited liability company will act as a fiduciary exclusively for one (1) or more family members and will not engage in trust company business with the general public.

1 (d) Upon the approval of the organizational instrument
 2 of a private family trust company by the secretary of state,
 3 the directors or managers of the private family trust company
 4 shall execute and deliver a signed waiver to the commissioner
 5 acknowledging that the private family trust company is not
 6 supervised by the commissioner and that at all times the
 7 private family trust company will not transact trust company
 8 business with the general public.

9
 10 **13-5-702. Inspection of private family trust companies;**
 11 **authority of commissioner.**

12
 13 (a) If the commissioner has reasonable cause to believe
 14 that a private family trust company proposes to transact or
 15 has transacted trust company business with the general
 16 public, then the commissioner may conduct any inspections of
 17 the private family trust company as he deems necessary to
 18 ensure compliance with the provisions of this chapter.

19
 20 (b) If the commissioner discovers that a private family
 21 trust company has proposed to transact or has transacted trust
 22 company business with the general public, then the
 23 commissioner may take any action authorized under W.S.
 24 13-10-201 through 13-10-209 with respect to the private
 25 family trust company to ensure compliance with the provisions
 26 of this chapter.

27
 28 **13-5-703. Private family trust companies;**
 29 **applicability of chapter.**

30
 31 Except as otherwise provided in this chapter, the provisions
 32 of this chapter applicable to supervised trust companies and
 33 family trust companies shall not apply to private family trust
 34 companies.

35
 36 **Section 2.** W.S. 13-2-101(a)(ix) is amended to read:

37
 38 **13-2-101. Generally.**

39
 40 (a) Each bank may:

41
 42 (ix) Operate a trust department and exercise all
 43 powers enumerated by W.S. ~~13-5-101(b)~~ 13-5-510(b);
 44

1 **Section 3.** W.S. 13-5-207 as 13-5-302, 13-5-108 as
 2 13-5-401, 13-5-109 and 13-5-110 as 13-5-409 and 13-5-410,
 3 13-5-214 as 13-5-411, 13-5-117 as 13-5-412, 13-5-115 as
 4 13-5-413, 13-5-216 as 13-5-414, 13-5-111 as 13-5-415,
 5 13-5-112 through 13-5-114 as 13-5-416 through 13-5-418,
 6 13-5-116 as 13-5-419, 13-5-118 as 13-5-420, 13-5-219 as
 7 13-5-424, 13-5-218 as 13-5-522, 13-5-210 and 13-5-211 as
 8 13-5-601 and 13-5-602, 13-5-205 as 13-5-603, 13-5-209 as
 9 13-5-606, 13-5-215 as 13-5-607 and 13-5-217 as 13-5-608 are
 10 amended and renumbered to read:

11
 12 ~~13-5-207~~ 13-5-302. **Naming convention; advertisement of**
 13 **trust company.**

14
 15 (a) Except as provided in subsection (b) of this
 16 section, no person or entity shall advertise, issue or
 17 circulate any paper or exhibit any sign, using the term "trust
 18 company" unless ~~they have~~ the person or entity has fully
 19 complied with this ~~act or W.S. 13-5-101 through 13-5-113~~
 20 chapter and has qualified as a supervised trust company.

21
 22 (b) No person or entity wishing to organize as a private
 23 family trust company shall use the term "trust company" in
 24 its name without further specifying in its name that the
 25 company entity is a "private single-family trust company."
 26 unless they have fully complied with this act or W.S. 13-5-101
 27 through 13-5-113.

28
 29 (c) Neither a private family trust company nor a
 30 chartered family trust company formed and doing business
 31 under the laws of this state or any other state shall
 32 advertise its services to the public.

33
 34 ARTICLE 4
 35 SUPERVISED TRUST COMPANIES

36
 37 ~~13-5-108~~ 13-5-401. **Laws applicable; matters of**
 38 **contract.**

39
 40 (a) In the exercise by a supervised trust company of
 41 its powers as guardian, executor, trustee, administrator or
 42 conservator, or of any office or duty imposed by any court,
 43 the supervised trust company shall be subject to the same
 44 responsibilities, liabilities and penalties as an individual
 45 acting in like capacity, and the supervised trust company

1 shall have the same powers and shall receive the same
2 compensation as fixed by law for individuals acting in like
3 capacity.

4
5 (b) The exercise of the other powers and the
6 performance of the other duties by the supervised trust
7 company may be as contracted for by the parties interested.

8
9 (c) In performing its duties under a trust, a
10 supervised trust company shall be subject to the provisions
11 of ~~the Uniform Trustees' Powers Act, W.S. 4-10-801 et seq~~
12 through 4-10-817.

13
14 ~~13-5-109~~ 13-5-409. **Financial transactions.**

15
16 (a) Every supervised trust company shall keep all trust
17 funds and investments separate and apart from the assets of
18 the supervised trust company and all investments made by the
19 supervised trust company as a fiduciary shall be designated
20 so that the trust or estate to which such investments belong
21 may be clearly identified.

22
23 (b) Every supervised trust company holding trust funds
24 awaiting investment or distribution may deposit or leave on
25 deposit such funds with a state or ~~national~~ nationally
26 chartered bank or savings and loan association or invest the
27 funds in other cash equivalent investments, including but not
28 limited to uninsured money market funds or United States
29 treasury bills with a duration of twelve (12) months or less.
30 The funds shall not be deposited or left with the same
31 corporation or association depositing or leaving on deposit
32 such funds, nor with a corporation or association holding or
33 owning a majority of the capital stock of the supervised trust
34 company making or leaving the deposit, unless the corporation
35 or association shall first pledge, as security for the
36 deposit, securities eligible for investment by state banks
37 that have a market value equal to that of the deposited funds.
38 No security shall be required with respect to any portion of
39 such deposits which are insured under the provisions of any
40 law of the United States.

41
42 (c) Every supervised trust company acting in any
43 capacity under a trust, unless the instrument creating the
44 trust provides otherwise, may cause any securities or other
45 property held by it in its representative capacity to be

1 registered in the name of a nominee or nominees of the
2 supervised trust company.

3
4 (d) Every supervised trust company when acting as
5 depository or custodian for the ~~personal representative~~
6 fiduciary of a trust, unless the instrument creating the trust
7 provides otherwise, may with the consent of the ~~personal~~
8 ~~representative~~fiduciary of the trust, cause any securities
9 or other property held by it to be registered in the name of
10 a nominee or nominees of the supervised trust company.

11
12 (e) Every supervised trust company shall be liable for
13 any loss occasioned by the acts of any of its nominees with
14 respect to securities or other property registered under
15 subsections (c) and (d) of this section.

16
17 (f) No corporation or the registrar or transfer agent
18 thereof shall be liable for registering or causing to be
19 registered on the books of the corporation any securities in
20 the name of any nominee of a supervised trust company or for
21 transferring or causing to be transferred on the books of the
22 corporation any securities theretofore registered by the
23 corporation in the name of any nominee of a supervised trust
24 company, as provided in this section, when the transfer is
25 made on the authorization of the nominee.

26
27 ~~13-5-110~~ 13-5-410. Powers of the commissioner.

28
29 (a) In addition to other powers conferred by this ~~act~~
30 chapter, the commissioner shall:

31
32 (i) Supervise and examine all supervised trust
33 companies organized under the provisions of this ~~act~~chapter
34 and all ~~such supervised~~ trust companies shall be subject to
35 the laws of this state governing banks and other financial
36 institutions in all cases where the laws do not conflict with
37 the provisions of this ~~act~~chapter. The commissioner or a
38 duly appointed examiner shall visit and examine each
39 supervised trust company ~~as often as the commissioner deems~~
40 ~~necessary and at least once every two (2) years, with or~~
41 ~~without previous notice to the officers or any other party~~
42 ~~interested in the trust company pursuant to the provisions of~~
43 this chapter. All supervised trust companies shall file with
44 the commissioner an annual report of the supervised trust
45 company's assets in a form prescribed by the commissioner, ~~an~~

1 ~~annual report of the financial condition of the company~~ and
2 other reports as required by the commissioner;

3
4 ~~(iii)(ii)~~ In the exercise of the power to make
5 orders and regulations to implement the provisions of this
6 ~~act chapter~~, the commissioner shall act in the interests of
7 promoting and maintaining a sound trust company system, the
8 security of assets and trust accounts, and the protection of
9 other customers;

10
11 ~~(vi)(iii)~~ Collect from each supervised trust
12 company ~~subject to this section~~ an amount equal to the total
13 cost of ~~the examination~~ examinations conducted under the
14 authority of this section. The fees and expenses collected
15 shall be remitted to the state treasurer and deposited as
16 provided in ~~W.S. 13-2-210(b)~~ subsection (b) of this section
17 and may be expended as provided in that subsection;

18
19 ~~(vii)(iv)~~ On or before January 31 of each year,
20 each supervised trust company shall compute and pay
21 supervisory fees to the commissioner as set forth in the rules
22 and regulations of the commissioner. Except as provided in
23 subsection (b) of this section, the supervisory fees shall
24 provide for the general administration of the laws and
25 regulations governing the supervised trust company industry.
26 The fees shall be established by regulation of the
27 commissioner and shall be adjusted by regulations issued by
28 the commissioner to assure consistency with the cost of
29 supervision. Other fees assessed for administrative services
30 related to activities attributable to a specific supervised
31 trust company shall be used to pay the costs of special
32 services rendered by or at the direction of the commissioner
33 and shall be recovered from the supervised trust company which
34 required the special services.

35
36 (b) A trust company resolution fund account is
37 established. A portion of each supervisory fee paid pursuant
38 to paragraph ~~(a)(vii)~~ (a)(iv) of this section shall be paid
39 to the resolution fund account and shall be used by the
40 commissioner in the event of an involuntary dissolution of a
41 supervised trust company. The amount paid to the resolution
42 fund account shall be established by regulation of the
43 commissioner. All amounts paid shall be remitted to the state
44 treasurer and deposited and credited to the trust company
45 resolution fund account. Expenditures from the account shall

1 be made using warrants drawn by the state auditor, upon
 2 vouchers issued and signed by the director of the department
 3 of audit or commissioner. Funds from the account shall be
 4 expended only to carry out the duties of the commissioner in
 5 the involuntary dissolution of a supervised trust company.

6
 7 ~~13-5-214~~ 13-5-411. Reports to commissioner.

8
 9 (a) The commissioner may call for special reports
 10 verified under oath from any ~~chartered family supervised~~
 11 trust company at any time as necessary to inform the
 12 commissioner of the condition of the ~~chartered family~~
 13 supervised trust company.

14
 15 (b) All reports required of ~~chartered family supervised~~
 16 trust companies by the commissioner under this ~~act chapter~~
 17 and all materials relating to examinations of ~~chartered~~
 18 ~~family supervised~~ trust companies under this ~~act chapter~~
 19 shall be subject to the provisions of W.S. 9-1-512.

20
 21 ~~13-5-117~~ 13-5-412. Failure to submit required report;
 22 fees; regulations.

23
 24 (a) If a supervised trust company fails to submit any
 25 report required pursuant to this ~~act chapter~~ or any regulation
 26 adopted pursuant thereto within the prescribed period, the
 27 commissioner may impose and collect a fee ~~of not more than~~
 28 ~~twenty five dollars (\$25.00)~~ for each day the report is
 29 overdue ~~or such other greater amount~~ as established by rule
 30 ~~and regulation~~ of the commissioner.

31
 32 (b) The commissioner shall adopt ~~regulations rules~~
 33 establishing the amount of the fee imposed pursuant to this
 34 section.

35
 36 ~~13-5-115~~ 13-5-413. Surety bond; pledged investments;
 37 investment income; bond or pledge increases; hearings.

38
 39 (a) Any supervised trust company ~~chartered under this~~
 40 ~~chapter~~, shall, before transacting any business, pledge or
 41 furnish a surety bond to the commissioner to cover costs
 42 likely to be incurred by the commissioner in a receivership
 43 or liquidation of the supervised trust company should it
 44 become unsafe or unsound pursuant to W.S. ~~13-5-113~~ 13-5-417.
 45 The amount of the pledge or the surety bond shall be

1 determined by the commissioner in an amount sufficient to
2 defray the costs of a receivership or liquidation, but shall
3 have a market value of not less than ~~one hundred thousand~~
4 ~~dollars (\$100,000.00)~~ one million dollars (\$1,000,000.00). In
5 lieu of a bond, the supervised trust company may irrevocably
6 pledge its capital account to the commissioner. Any
7 investments pledged to the commissioner shall be held in a
8 state or nationally chartered bank or savings and loan
9 association having a principal or branch office in this state
10 and all costs associated with pledging and holding such
11 investments are the responsibility of the supervised trust
12 company.

13

14 (b) Investments pledged to the commissioner shall be of
15 the same nature and quality as those required for state
16 financial institutions in W.S. 9-4-805.

17

18 (c) Surety bonds shall run to the state of Wyoming, and
19 shall be approved under the terms and conditions required by
20 W.S. 9-4-804(b) and (c).

21

22 (d) The commissioner may promulgate rules pursuant to
23 W.S. 13-1-603 to establish additional investment guidelines
24 or investment options for purposes of the pledge or surety
25 bond required by this section.

26

27 (e) In the event of a receivership of a supervised trust
28 company as provided in W.S. ~~13-5-113~~ 13-5-417, the
29 commissioner may, without regard to priorities, preferences
30 or adverse claims, reduce the pledged investments to cash as
31 soon as practicable with court approval, and utilize the cash
32 to defray the costs associated with the receivership.

33

34 (f) Income from investments pledged under this section
35 shall be paid to the supervised trust company unless the court
36 places the supervised trust company in receivership.

37

38 (g) Upon evidence that the current bond or investment
39 pledge is insufficient, the commissioner may require any
40 supervised trust company to increase its investment pledge or
41 surety by providing no less than thirty (30) days written
42 notice to the supervised trust company. The supervised trust
43 company to which notice is given may request a hearing in
44 writing no more than thirty (30) days after receiving notice
45 of the proposed increase. Any hearing before the commissioner

1 shall be held pursuant to the Wyoming Administrative
2 Procedure Act.

3
4 ~~13-5-216~~ 13-5-414. **Fidelity bonds; insurance.**

5
6 (a) The directors or managers of a ~~chartered family~~
7 supervised trust company shall obtain fidelity bonds of not
8 less than one million dollars (\$1,000,000.00) providing
9 coverage for any active officers, managers, members acting in
10 a managerial capacity and employees, whether or not they
11 receive a salary or other compensation from the ~~chartered~~
12 family-supervised trust company, to indemnify the ~~chartered~~
13 family-supervised trust company against loss because of any
14 dishonest, fraudulent or criminal act or omission by any of
15 the persons bonded, acting alone or in combination with any
16 other person. The bonds may be in any form and may be paid
17 for by the ~~chartered family-supervised~~ trust company.

18
19 (b) A ~~chartered family-supervised~~ trust company may
20 also procure property and casualty insurance of a nature and
21 with such coverage amounts as the ~~chartered family-supervised~~
22 trust company deems advisable.

23
24 ~~13-5-111~~ 13-5-415. **Suspension or revocation of charter.**

25
26 (a) The commissioner may suspend or revoke the charter
27 of a supervised trust company if, after notice and opportunity
28 for a hearing, the commissioner determines that:

29
30 (i) The supervised trust company has failed or
31 refused to comply with any order issued pursuant to W.S.
32 13-10-201 through 13-10-209;

33
34 (ii) The supervised trust company's application
35 for charter contained a false representation or omission of
36 a material fact; or

37
38 (iii) Any officer or agent of the supervised trust
39 company, in connection with an application for a charter
40 knowingly made a false representation of a material fact or
41 failed to disclose a material fact to the state banking board,
42 the commissioner or the duly authorized agent of the board or
43 commissioner.

44
45 ~~13-5-112~~ 13-5-416. **Continuing jurisdiction.**

1
2 If the certificate of a supervised trust company is
3 surrendered, suspended or revoked, the supervised trust
4 company shall continue to be subject to the provisions of
5 this chapter for so long as it acts as a fiduciary with
6 respect to any trust business previously undertaken.

7
8 ~~13-5-113~~ 13-5-417. **Insolvency; unsafe condition;**
9 **receivership.**

10
11 (a) If the commissioner finds a deficiency in capital
12 or other unsafe or unsound condition of a supervised trust
13 company that has not been remedied within the time prescribed
14 under an order of the commissioner issued pursuant to W.S.
15 13-10-201 through 13-10-209, or if the supervised trust
16 company is insolvent, the commissioner shall apply to the
17 district court, in the county in which the principal office
18 of the supervised trust company is located, to be appointed
19 receiver for the liquidation or rehabilitation of the
20 supervised trust company. The expense of the receivership
21 shall be paid out of the assets of the supervised trust
22 company.

23
24 (b) A supervised trust company is insolvent when any of
25 the following conditions exist:

26
27 (i) When the actual cash market value of a
28 supervised trust company's assets is less than its
29 liabilities;

30
31 (ii) When a supervised trust company fails to pay,
32 in the manner commonly accepted by business practices, its
33 obligations when due.

34
35 (c) A supervised trust company is operating in an
36 unsafe and unsound condition when any of the following
37 conditions exist:

38
39 (i) A supervised trust company fails to safely
40 manage its operations and provide fair and equitable services
41 to its trust customers;

42
43 (ii) It fails to effectively manage and monitor
44 its operational and financial risks.

45

1 (d) Title to all of the supervised trust company's
2 assets shall vest in the commissioner upon appointment by the
3 court pursuant to subsection (a) of this section of the
4 commissioner as receiver, without the execution of any
5 instrument of conveyance, assignment, transfer or
6 endorsement.

7
8 (e) Subject to the approval of the appointing court, as
9 receiver, the commissioner shall have all of the following
10 powers:

11
12 (i) To take possession of all books, records of
13 account and assets of the supervised trust company;

14
15 (ii) To collect debts, claims and judgments
16 belonging to the supervised trust company and to take any
17 other action necessary to preserve and liquidate the assets
18 of the supervised trust company;

19
20 (iii) To appoint a special assistant to take
21 charge of the affairs of the supervised trust company. The
22 special assistant shall qualify, give bond, and receive
23 compensation in the same manner as the commissioner acting as
24 a receiver, but compensation for the special assistant shall
25 be paid by the supervised trust company being liquidated or
26 rehabilitated;

27
28 (iv) To execute in the name of the supervised
29 trust company any instrument necessary or proper to
30 effectuate the receiver's powers or perform its duties as
31 receiver;

32
33 (v) To initiate, pursue, compromise and defend
34 litigation involving any right, claim, interest or liability
35 of the supervised trust company;

36
37 (vi) To exercise all fiduciary functions of the
38 supervised trust company as of the date of appointment as
39 receiver;

40
41 (vii) To borrow money as necessary in the
42 liquidation of the supervised trust company and to secure
43 those borrowings by the pledge or mortgage of assets of the
44 supervised trust company;

45

1 (viii) To sell any and all assets, to compromise
 2 any debt, claim, obligation or judgment due to the supervised
 3 trust company, to discontinue any pending action or other
 4 proceeding and to sell or otherwise transfer all or any
 5 portion of the asset or liabilities of the supervised trust
 6 company;

7
 8 (ix) To establish ancillary receivership in any
 9 jurisdiction the receiver determines necessary;

10
 11 (x) To distribute assets of the supervised trust
 12 company in accordance with court approval after notice to all
 13 claimants, beneficiaries, shareholders or members. Subject to
 14 the approval of the court, the receiver may make periodic and
 15 interim liquidating dividends or payments; and

16
 17 (xi) To take any other action incident to the
 18 powers set forth above.

19
 20 ~~13-5-114~~ 13-5-418. Order declaring supervised trust
 21 company properly wound up and dissolved.

22
 23 (a) Upon the completion of the liquidation of a trust
 24 company pursuant to W.S. ~~13-5-113~~ 13-5-417, the commissioner
 25 shall petition the court for an order declaring the supervised
 26 trust company properly wound up and dissolved.

27
 28 (b) After notice and hearing, as ordered by the court,
 29 if any, the court shall enter an order declaring the
 30 supervised trust company wound up and dissolved. The order
 31 shall, to the extent applicable, declare the following:

32
 33 (i) The supervised trust company has been properly
 34 wound up;

35
 36 (ii) All known assets of the supervised trust
 37 company have been distributed pursuant to W.S. ~~13-5-113~~
 38 13-5-417;

39
 40 (iii) The supervised trust company is dissolved;

41
 42 (iv) If there are known debts or liabilities of
 43 the supervised trust company, describe the provision made for
 44 their payment, setting forth all information necessary to

1 enable the creditor or other person to whom payment is to be
2 made to appear and claim payment of the debt or liability.

3
4 (c) The order shall confirm a plan by the commissioner
5 for the disposition or maintenance of any remaining real or
6 personal property or other supervised trust company assets.
7 The plan shall include written notice to all known owners or
8 beneficiaries of the supervised trust company's assets, to be
9 sent by first class mail to each individual's-person's or
10 entity's address as shown on the records of the supervised
11 trust company.

12
13 (d) The court may enter additional orders and grant
14 further relief as it determines appropriate upon the evidence
15 submitted.

16
17 (e) Upon the issuance of the order declaring the
18 supervised trust company dissolved, the existence of the
19 supervised trust company as either a corporation or a limited
20 liability company shall cease, except for purposes of any
21 necessary additional winding up. The commissioner shall
22 promptly file a copy of the order, certified by the clerk of
23 the court, with the secretary of state.

24
25 ~~13-5-116~~ 13-5-419. Voluntary dissolution of supervised
26 trust company; liquidation; reorganization; application for
27 dissolution; filing fee; filing with secretary of state;
28 revocation of charter.

29
30 (a) A supervised trust company may voluntarily dissolve
31 in the manner provided herein. Voluntary dissolution shall be
32 accomplished by either liquidating the supervised trust
33 company or reorganizing the supervised trust company into a
34 domestic or foreign corporation, limited liability company,
35 limited partnership or limited liability partnership that
36 does not engage in ~~any activity that is authorized only for~~
37 ~~a~~-trust company business. Upon complete liquidation or
38 completion of the reorganization, the commissioner shall
39 revoke the supervised trust company's charter and thereafter
40 the company may not use the word "trust" in its business name
41 or in connection with its business and may not conduct trust
42 company business.

43
44 (b) A supervised trust company seeking to dissolve its
45 charter either by liquidation or reorganization shall file an

1 application for dissolution with the commissioner accompanied
2 by a filing fee established by rule and regulation of the
3 commissioner. The application shall include a comprehensive
4 plan for dissolution setting forth the proposed disposition
5 of all assets and liabilities, in reasonable detail to effect
6 a liquidation or reorganization. The plan of dissolution
7 shall provide for the discharge or assumption of all of the
8 supervised trust company's known and unknown claims and
9 liabilities and for the transfer of all of its
10 responsibilities as a trustee to a successor trustee or
11 trustees. Additionally, the application for dissolution shall
12 include other evidence, certifications, affidavits, documents
13 or information as the commissioner may require demonstrating
14 how assets and liabilities will be disposed, the timetable
15 for effecting disposition of the assets and liabilities and
16 the applicant's proposal for addressing any claims that are
17 asserted after the dissolution has been completed. The
18 commissioner shall examine the application for completeness
19 and compliance with the requirements of this section, the
20 business entity laws applicable to the required type of
21 dissolution and applicable rules and ~~regulation~~ regulations.
22 The commissioner may conduct a special examination of the
23 applicant for purposes of evaluating the application.
24

25 (c) If the commissioner finds that the application is
26 incomplete, the commissioner shall return it for completion
27 not later than sixty (60) days after it is filed. If the
28 application is found to be complete by the commissioner, not
29 later than thirty (30) days after it is filed, the
30 commissioner shall approve or disapprove the application. If
31 the commissioner approves the application, the applicant may
32 proceed with the dissolution pursuant to the plan outlined in
33 the application, subject to any conditions the commissioner
34 may prescribe. If the applicant subsequently determines that
35 the plan of dissolution needs to be amended to complete the
36 dissolution, it shall file an amended plan with the
37 commissioner and obtain approval to proceed under the amended
38 plan. If the commissioner does not approve the application or
39 amended plan, the applicant may appeal the decision to the
40 board pursuant to the Wyoming Administrative Procedure Act.
41

42 (d) Upon completion of all actions required under the
43 plan of dissolution and satisfaction of all conditions
44 prescribed by the commissioner, the applicant shall submit a
45 written report of its actions to the commissioner. The report

1 shall contain a certification made under oath that the report
2 is true and correct. Following receipt of the report, the
3 commissioner, no later than sixty (60) days after the filing
4 of the report, shall examine the supervised trust company to
5 determine whether the commissioner is satisfied that all
6 required actions have been taken in accordance with the plan
7 of dissolution and any conditions prescribed by the
8 commissioner. If all requirements and conditions have been
9 met, the commissioner shall notify the applicant in writing
10 that the dissolution has been completed and issue a
11 certificate of dissolution. Upon receiving a certificate of
12 dissolution, the applicant shall surrender its charter to the
13 commissioner. The applicant shall then file articles of
14 dissolution and other documents required by W.S. 17-16-1401
15 through 17-16-1440 for a corporation or required by W.S.
16 17-29-701 through 17-29-708 for a limited liability company,
17 in the office of the secretary of state. In the case of
18 reorganization, the applicant shall also file the documents
19 required by the secretary of state to finalize the
20 reorganization.

21
22 (e) If the commissioner is not satisfied that all
23 required actions under the plan for dissolution or as required
24 by the commissioner have been taken, the commissioner shall
25 notify the applicant not later than thirty (30) days after
26 the examination pursuant to subsection (d) of this section in
27 writing what additional actions shall be taken to be eligible
28 for a certificate of dissolution. The commissioner shall
29 establish a reasonable deadline for the submission of
30 evidence that the additional actions have been taken. The
31 commissioner may extend the deadline for good cause shown. If
32 the applicant fails to file a supplemental report showing
33 that the additional actions have been taken before the
34 deadline, or submits a report that is found not to be
35 satisfactory by the commissioner, the commissioner shall
36 notify the applicant in writing that its voluntary
37 dissolution is not approved, and the applicant may appeal the
38 decision to the board pursuant to the Wyoming Administrative
39 Procedure Act.

40
41 (f) The commissioner may adopt rules pursuant to W.S.
42 13-1-603 to carry out the requirements of this section.

43

1 ~~13-5-118~~ 13-5-420. Willful neglect to perform duties
2 imposed by law or failure to conform to material lawful
3 requirement made by commissioner; removal.
4

5 (a) Each officer, director, manager, member, employee
6 or agent of a supervised trust company, following written
7 notice from the commissioner sent by certified mail, is
8 subject to removal upon order of the commissioner if he
9 knowingly or willfully fails:

10
11 (i) To perform any duty required by this act
12 chapter or other applicable law; or
13

14 (ii) To conform to any rule, regulation or
15 requirement of the commissioner.
16

17 ~~13-5-219~~ 13-5-424. Establishment of trust service
18 offices; application.
19

20 (a) After first applying for and obtaining the approval
21 of the commissioner, one (1) or more trust service offices
22 may be established and operated by a ~~chartered-family~~
23 supervised trust company organized under the laws of this
24 state. An application to establish and operate a trust
25 service office or to relocate an existing trust service office
26 shall be submitted and approved by way of the procedure set
27 forth in W.S. ~~13-5-209~~ 13-5-508.
28

29 (b) A ~~chartered-family-supervised~~ trust company may
30 establish a trust service office in another state, territory
31 or district and may conduct any activities at that office
32 that are permissible for a supervised trust company under the
33 laws of that state, territory or district, subject to the
34 laws of this state and subject to the rules and regulations
35 of the commissioner.
36

37 (c) After giving notice to the commissioner, a trust
38 company, established and chartered under the laws of another
39 state and which qualifies as a family-supervised trust company
40 for the purposes of this ~~act and provides in its articles of~~
41 ~~incorporation or operating agreement that it will only~~
42 ~~exercise within Wyoming the powers of a family trust company~~
43 ~~as specified in W.S. 13-5-210~~ chapter, may establish and
44 operate a trust service office in this state if the company's
45 home state does not prohibit a Wyoming supervised trust

1 company from establishing a trust service office in that
2 state.

3
4 ~~13-5-218~~ 13-5-522. Conversion from chartered family
5 trust company to public trust company.

6
7 A chartered family trust company ~~following that complies with~~
8 the ~~procedure requirements~~ outlined in W.S. ~~13-5-102 through~~
9 ~~W.S. 13-5-105~~ 13-5-501 through 13-5-509, and upon approval of
10 the new public trust company charter and surrender of the
11 chartered family trust company charter, may be granted a
12 charter as a public trust company.

13
14 ARTICLE 6
15 FAMILY TRUST COMPANIES

16
17 ~~13-5-210~~ 13-5-601. Powers of family trust companies;
18 prohibitions.

19
20 (a) A ~~chartered family trust company or a~~ family trust
21 company may, but only for family members:

22
23 (i) Act or be appointed by any court within and
24 outside this state to act as ~~executor, administrator,~~
25 ~~guardian or conservator of estates of family members,~~
26 ~~assignee, receiver, depository, trustee, custodian or in any~~
27 ~~other~~ a fiduciary ~~or representative capacity~~ for family
28 members for any purpose permitted by law;

29
30 (ii) Act as transfer agent or registrar of
31 corporate stocks and bonds of family affiliates;

32
33 (iii) Purchase, invest in and sell stocks, bonds,
34 mutual funds, mortgages and other securities for the account
35 of ~~the family trusts~~ members;

36
37 (iv) Accept and execute any trust company business
38 of family members ~~or family affiliates~~ permitted by any law
39 of this or any other state or of the United States to be
40 taken, accepted or executed by an individual;

41
42 (v) Take oaths and execute affidavits by the oath
43 or affidavit of its ~~president, vice president, secretary,~~
44 ~~assistant secretary, manager, trust officer or assistant~~
45 ~~trust officer~~ corporate officers or managing members;

1
2 (vi) Make any lawful fiduciary investment as
3 permitted by Wyoming Uniform Prudent Investor Act;
4

5 (vii) Perform all acts necessary to exercise the
6 powers enumerated in this section.
7

8 (b) A ~~chartered family trust company organized under~~
9 ~~this act or a~~ family trust company shall not engage in:
10

11 (i) Any banking business by accepting general
12 deposits or issuing demand instruments; or
13

14 (ii) ~~Engage in~~ Trust company business with the
15 public.
16

17 ~~13-5-211-13-5-602.~~ **Family trust companies; authorized**
18 **actions and transactions; conflicts of interest.**
19

20 (a) In addition to the actions authorized by W.S.
21 ~~13-5-210-13-5-601~~ and notwithstanding the other provisions of
22 ~~any other law this chapter~~, while acting as a fiduciary ~~of a~~
23 ~~trust, a chartered~~ family trust company may:
24

25 (i) Invest in a security of an investment company
26 or investment trust for which the ~~chartered~~ family trust
27 company, or a family affiliate, provides services in a
28 capacity other than as a fiduciary;
29

30 (ii) Place a security transaction using a broker
31 that is a family affiliate;
32

33 (iii) Invest in an investment contract that is
34 purchased from an insurance company or carrier owned by or
35 affiliated with the ~~chartered~~ family trust company or a family
36 affiliate;
37

38 (iv) Enter into an agreement with a beneficiary or
39 ~~grantor-settlor~~ of a trust with respect to the appointment or
40 compensation of the ~~fiduciary family trust company~~ or a family
41 affiliate;
42

43 (v) Transact business with another trust, estate,
44 guardianship or conservatorship for which the ~~chartered~~
45 family trust company is a fiduciary or in which a beneficiary

1 of a trust for which the family trust company is a fiduciary
2 has an interest;

3
4 (vi) Make an equity investment in a closely held
5 entity that may or may not be marketable and that is owned or
6 controlled, either directly or indirectly, by one (1) or more
7 ~~beneficiaries,~~ family members or family affiliates;

8
9 (vii) Deposit ~~trust~~ money in a financial
10 institution that is owned or operated by a family affiliate;

11
12 (viii) Delegate the authority to conduct any
13 transaction or action pursuant to this section to an agent of
14 the ~~chartered~~ family trust company or a family affiliate;

15
16 (ix) Purchase, sell, hold or invest in any
17 security, bond, real or personal property, stock or other
18 asset of a family affiliate;

19
20 (x) Loan money to or borrow money from:

21
22 (A) A ~~family member of the trust or his or~~
23 ~~her legal representative~~ beneficiary or settlor of a trust
24 for which the family trust company is acting as fiduciary;

25
26 (B) Another trust ~~managed by~~ for which the
27 ~~chartered~~ family trust company is acting as fiduciary; or

28
29 (C) A family affiliate.

30
31 (xi) Act as proxy in voting any shares of stock
32 which are assets of ~~the a~~ trust for which the family trust
33 company is acting as fiduciary;

34
35 (xii) Exercise any powers of control with respect
36 to any interest in ~~a company~~ an entity that is an asset of
37 ~~the a~~ trust for which the family trust company is acting as
38 fiduciary, including, without limitation, the appointment of
39 officers or directors of entities who are family affiliates;
40 and

41
42 (xiii) Receive reasonable compensation for its
43 services or the services of a family affiliate.
44

1 (b) A family trust company shall consider the following
 2 when undertaking a transaction or action authorized pursuant
 3 to subsection (a) of this section: ~~must:~~

4
 5 (i) ~~Be for a fair price,~~ The interests of the
 6 beneficiaries of the trust for which the family trust company
 7 is acting as fiduciary if applicable; and

8
 9 (ii) ~~Be in~~ Whether the ~~interest of the~~
 10 ~~beneficiaries; and~~ transaction or action complies with the
 11 terms of the governing documents of the family trust company
 12 establishing the fiduciary relationship, any applicable
 13 judgments, judicial decrees or court orders and any
 14 applicable consent agreements or releases.

15
 16 (iii) ~~Comply with:~~

17
 18 ~~(A) The terms of the trust instrument~~
 19 ~~establishing the fiduciary relationship;~~

20
 21 ~~(B) A judgment, decree or court order;~~

22
 23 ~~(C) The written consent of each interested~~
 24 ~~person.~~

25
 26 (c) Except as otherwise provided in subsection (b) of
 27 this section, nothing in this section prohibits a chartered
 28 family trust company from transacting business with or
 29 investing in any asset of:

30
 31 (i) A trust, estate, guardianship or
 32 conservatorship for which the chartered family trust company
 33 is a fiduciary;

34
 35 (ii) A family affiliate; or

36
 37 (iii) Any other company, agent, entity or person
 38 for which a conflict of interest may exist.

39
 40 (d) If a potential conflict of interest between the
 41 exists as to a particular transaction between the family trust
 42 company, in its capacity as a fiduciary duty and personal
 43 interest of a chartered the family trust company does not
 44 void a in its individual capacity, the transaction or action
 45 that is not voidable if it:

1
2 (i) Complies with the provisions of this section;
3 or

4
5 (ii) Occurred before the ~~chartered~~-family trust
6 company entered into ~~a~~-the fiduciary relationship. ~~pursuant~~
7 ~~to a trust instrument.~~

8
9 (e) A transaction by or action of a ~~chartered~~-family
10 trust company authorized by this section is not voidable if:

11
12 (i) The transaction or action was authorized by
13 the terms of the ~~trust governing documents of the family trust~~
14 company;

15
16 (ii) The transaction or action was approved by a
17 court or was taken pursuant to a judicial decree or court
18 order;

19
20 (iii) No interested person commenced a legal
21 action relating to the transaction or action pursuant to
22 ~~subparagraph (b)(iii)(B)~~ subsection (f) of this section;

23
24 (iv) The transaction or action was authorized by
25 a valid consent agreement, or release ~~or pursuant to the~~
26 ~~issuance of a notice of proposed action issued pursuant to~~
27 ~~subparagraph (b)(iii)(C) of this section signed by all~~
28 interested persons to the transaction or action; or

29
30 (v) The transaction or action occurred before the
31 ~~chartered~~-family trust company entered into ~~a~~-the fiduciary
32 relationship. ~~pursuant to a trust instrument.~~

33
34 (f) A legal action by an interested person alleging
35 that a transaction or action by a ~~chartered~~-family trust
36 company is voidable because of the existence of a conflict of
37 interest must be commenced within one (1) year of the date on
38 which the interested person discovered, or by the exercise of
39 reasonable diligence should have discovered, the facts in
40 support of his or her claim.

41
42 (g) Notwithstanding ~~the any other~~ provisions of ~~any~~
43 ~~other law to the contrary~~ this chapter, a ~~chartered~~-family
44 trust company is not required to obtain court approval for

1 any transaction that otherwise complies with the provisions
2 of this section.

3
4 ~~13-5-205~~ 13-5-603. **Organization of a chartered family**
5 **trust company.**

6
7 (a) One (1) or more persons may subscribe to an
8 organizational instrument in writing for the purpose of
9 forming a chartered family trust company, subject to the
10 conditions prescribed by law.

11
12 (b) The articles of incorporation for a chartered
13 family trust company organized as a corporation shall set
14 forth all of the information required by W.S. 17-16-202 and
15 the following:

16
17 (i) The corporate name, which shall comply with
18 W.S. ~~13-5-207~~ 13-5-302 and 17-16-401; ~~and~~

19
20 (ii) A statement that the articles of
21 incorporation are made to enable the shareholders to avail
22 themselves of the advantages of this ~~act.~~ chapter;

23
24 (iii) A statement that the corporation will act as
25 a fiduciary exclusively for one (1) or more family members
26 and will not engage in trust company business with the general
27 public.

28
29 (c) The articles of organization for a chartered family
30 trust company organized as a limited liability company shall
31 include the following information:

32
33 (i) The name of the limited liability company,
34 which must comply with W.S. ~~13-5-207~~ 13-5-302 and 17-29-108;

35
36 (ii) A statement that the articles of organization
37 are made to enable the members to avail themselves of the
38 advantage of this ~~act.~~ chapter;

39
40 (iii) A statement that the limited liability
41 company will act as a fiduciary exclusively for one (1) or
42 more family members and will not engage in trust company
43 business with the general public.

44

1 (d) ~~A chartered family trust company organized as a~~
2 ~~limited liability company shall be subject to all of the same~~
3 ~~laws and regulations that relate to a chartered family trust~~
4 ~~company organized as a corporation. All managers and~~
5 ~~employees of a chartered family trust company organized as a~~
6 ~~limited liability company shall be subject to the same duties~~
7 ~~and liabilities as pertain to directors, trustees and~~
8 ~~employees of a chartered family trust company organized as a~~
9 ~~corporation.~~

10
11 **~~13-5-209~~ 13-5-606. Procedures upon filing of**
12 **organizational instruments, application and other**
13 **information; application fee; approval or disapproval of**
14 **application; criteria for approval; action upon application.**
15

16 (a) An applicant for a chartered family trust company
17 charter must file an application with the commissioner on
18 forms prescribed by the commissioner. The application must
19 contain or be accompanied by such information as required
20 pursuant to rules and regulations of the commissioner.
21

22 (b) The application filed with the commissioner shall
23 be accompanied by a fee established by rule and regulation of
24 the commissioner to cover the expense of the investigation by
25 the commissioner. If an application to become a chartered
26 family trust company is withdrawn by the applicant at any
27 time prior to the granting of the charter, the statutory
28 application filing fee, less the amount of any expense
29 authorized above and actually incurred, shall be refunded to
30 the applicant.
31

32 (c) The failure of the applicant to furnish required
33 information, data, other material or the required fee within
34 thirty (30) days after a written request from the commissioner
35 may be considered a withdrawal of the application.
36

37 (d) Within ~~forty five (45)~~ sixty (60) days after
38 receipt of a completed application, the commissioner shall,
39 in his discretion, approve, conditionally approve or
40 disapprove the application. Prior to taking action on an
41 application, the commissioner shall determine that:
42

43 (i) The chartered family trust company is being
44 formed for no other purpose than ~~the legitimate objects~~
45 contemplated by the laws of this state;

1
2 (ii) The proposed capital and surplus are not less
3 than the required minimum amount in W.S. ~~13-5-208-13-5-605~~
4 and are adequate in light of current and prospective
5 conditions as determined by the commissioner;
6

7 (iii) The applicants, proposed officers and
8 directors or managers have sufficient character, reputation,
9 experience, ability and financial standing to afford
10 reasonable promise of successful operation;
11

12 (iv) The name of the proposed chartered family
13 trust company does not resemble the name of any other
14 chartered family trust company or financial institution
15 transacting business in the state so closely as to cause
16 confusion;
17

18 (v) The applicants have complied with all
19 applicable provisions of law and such other facts and
20 circumstances bearing on the proposed family trust company as
21 the commissioner may reasonably deem relevant.
22

23 (e) The commissioner shall take action upon the
24 application by stating findings of fact and conclusions of
25 law.
26

27 (f) Upon approval of an application, the commissioner
28 shall endorse upon the ~~articles of organization or~~
29 ~~incorporation~~ organizational instrument his approval and
30 shall file one (1) copy of the application with the secretary
31 of state, retain one (1) copy in his files and return one (1)
32 copy to the applicant within twenty (20) days after the date
33 of the decision of the commissioner approving the
34 application. If the commissioner conditionally approves an
35 application and the applicant complies with the conditions
36 imposed by the commissioner, the commissioner shall approve
37 the application and proceed in accordance with this section.
38

39 (g) Notice of the entry of an order refusing a charter
40 or imposing conditions upon approval of the charter to a
41 family trust company must be given in writing, served
42 personally or sent by certified mail, return receipt
43 requested, to the applicant. If the commissioner disapproves
44 or imposes conditions upon the application, the commissioner
45 shall mail notice of the action to the applicants within

1 twenty (20) days after the commissioner's negative action.
2 The company, upon appeal, is entitled to a hearing before the
3 board pursuant to the Wyoming Administrative Procedure Act.
4 If no such appeal is made within thirty (30) days after the
5 entry of an order refusing a charter or imposing conditions
6 upon the charter to any applicant, the commissioner shall
7 enter a final order.

8
9 **~~13-5-215~~ 13-5-607. Inspection of chartered family trust
10 company; fees; resolution fund account; confidentiality.**
11

12 (a) Every chartered family trust company is subject to
13 inspection by the commissioner. The commissioner or a duly
14 appointed examiner shall visit and examine each chartered
15 family trust company as often as the commissioner deems
16 necessary and at least once every three (3) years, with or
17 without previous notice to the officers or managers of or
18 anyone interested in the chartered family trust company. The
19 commissioner or a duly appointed examiner shall make a
20 complete and careful examination of the condition and
21 resources of the chartered family trust company, the mode of
22 managing the company's affairs and conducting its business,
23 all records, transactions and other data or documents
24 pertaining to the actions of the family trust company, the
25 action of its managers or officers and directors in the
26 investment and disposition of trust funds, the safety and
27 prudence of the company's management, the security afforded
28 to those by whom trust company engagements are held, whether
29 the requirements of this ~~act~~ chapter are being complied with
30 and such other matters as the commissioner may prescribe.

31
32 (b) ~~On or before January 31 of each year, a chartered~~
33 ~~family trust company shall compute and pay supervisory fees~~
34 ~~to the commissioner based on the total asset base of the~~
35 ~~chartered family trust company as of the preceding December~~
36 ~~31. The supervisory fees shall be set by rule and regulation~~
37 ~~at an amount to provide for the supervision of the chartered~~
38 ~~family trust company as required by this act. Such fees shall~~
39 ~~be established by rules of the commissioner to assure~~
40 ~~consistency with the cost of supervision and the fees paid by~~
41 ~~chartered family trust companies. Other fees assessed for~~
42 ~~administrative services caused by applications or activities~~
43 ~~attributable to a specific family trust company shall be used~~
44 ~~to defray the cost of the special services and, to the extent~~

1 ~~possible, shall be recovered from the chartered family trust~~
 2 ~~company that requires the special service.~~

3
 4 ~~(c) A portion of each chartered family trust company's~~
 5 ~~supervisory fee shall be designated to the trust company~~
 6 ~~resolution fund account created pursuant to subsection (c) of~~
 7 ~~this section to be used by the commissioner in the event of~~
 8 ~~involuntary dissolution of a chartered family trust company.~~
 9 ~~Expenditures to cover the expenses incurred by the~~
 10 ~~commissioner as a result of the involuntary dissolution of a~~
 11 ~~chartered family trust company shall be made from the fund~~
 12 ~~account by warrants drawn from the state auditor and signed~~
 13 ~~by the commissioner or the director. The portion of the~~
 14 ~~supervisory fee designated to the account shall be:~~

15
 16 ~~(i) Established and adjusted by rule and~~
 17 ~~regulation of the commissioner; and~~

18
 19 ~~(ii) Remitted to the state treasurer for deposit~~
 20 ~~to the trust company resolution fund account.~~

21
 22 (d) All information, reports or applications obtained
 23 by the commissioner from an applicant or chartered family
 24 trust company are confidential.

25
 26 ~~(e) There is created the trust company resolution fund~~
 27 ~~account. Funds in the account shall be expended as provided~~
 28 ~~in subsection (c) of this section. Funds in the account are~~
 29 ~~continuously appropriated to be expended for the purposes of~~
 30 ~~this section.~~

31
 32 **13-5-217-13-5-608. Conversion from public trust company**
 33 **to chartered family trust company.**

34
 35 (a) A **public** trust company that meets the requirements
 36 of W.S. **13-5-204(a)(vii), 13-5-206 and 13-5-208**
 37 **13-5-301(a)(viii), 13-5-604 and 13-5-605** may merge with,
 38 convert into or reorganize as a chartered family trust company
 39 upon application to the commissioner on forms approved by the
 40 commissioner.

41
 42 (b) For **public** trust companies established after July
 43 1, **2015-2019**, seeking to convert from a **public** trust company
 44 to a chartered family trust company, the application filed

1 with the commissioner shall be accompanied by a fee
2 established by rule and regulation of the commissioner.

3
4 (c) Within thirty (30) days after receipt of a
5 completed application, a trust company that meets the
6 requirements of this section and is in good standing with the
7 commissioner, shall be issued a charter as a chartered family
8 trust company.

9
10 (d) The applicant shall be notified when the
11 application is approved. Within twenty (20) days after
12 notification, the applicant shall furnish the bonds required
13 by W.S. ~~13-5-216(a)~~ 13-5-414(a).

14
15 **Section 4.** W.S. 13-5-206 and 13-5-208 are renumbered as
16 13-5-604 and 13-5-605.

17
18 **Section 5.** W.S. 13-5-101 through 13-5-105, 13-5-201
19 through 13-5-204, 13-5-205(d) renumbered by this act as
20 13-5-603(d), 13-5-211(b)(iii) renumbered by this act as
21 13-5-602(b)(iii), 13-5-212, 13-5-213 and 13-5-215(b), (c) and
22 (e) renumbered by this act as 13-5-607(b), (c) and (e) are
23 repealed.

24
25 **Section 6.** This act is effective July 1, 2019.

26
27 (END)