

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 BUDGET SESSION

AN ACT relating to banking; expanding the authority of special purpose depository institutions to engage in incidental activities with the public as specified; amending the application timeframe for a special purpose depository charter; authorizing the commissioner to provide a fee exemption; specifying the types of security that can be pledged by a special purpose depository institution in lieu of a surety bond; clarifying a continuous appropriation; repealing a provision requiring depositor services and the issuance of special purpose depository accounts; specifying applicability; and providing for an effective date.

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

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

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

(b) Each special purpose depository institution may:

(vii) Engage in any other activity that is usual or incidental to the business of banking, subject to the prior written approval of the commissioner. The commissioner shall not approve a request to engage in an incidental activity if he finds that the requested activity will adversely affect the solvency or the safety and soundness of the special purpose depository institution or

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conflict with any provision of this chapter. As used in this paragraph, "incidental activity" includes:

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

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

(C) Commodities intermediary activities;

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

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

(F) Other incidental activities authorized by the commissioner.

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

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

(a) Except as otherwise provided by subsection (d) of this section, no depositor shall maintain an account with a

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special purpose depository institution or otherwise receive any services from the institution unless the depositor meets the criteria of this subsection. A depositor shall:

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

(d) A special purpose depository institution may conduct incidental activities under W.S. 13-12-103(b)(vii) with persons who do not meet the criteria of paragraphs (a)(i) through (iv) of this section. The lawful business requirements of W.S. 13-12-103(f) shall remain applicable.

13-12-111. Application for charter; fee; subaccount created.

(d) The special purpose depository institutions subaccount within the financial institutions administration account is created. Funds in the subaccount ~~shall be used~~ are continuously appropriated to the department of audit and shall only be expended by the commissioner to supervise special purpose depository institutions and to otherwise carry out the duties specified by this chapter. Funds in the subaccount ~~are continuously appropriated to the~~

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~~subaccount and~~ shall not lapse at the end of any fiscal period. For purposes of accounting and investing only, the special purpose depository institutions subaccount shall be treated as a separate account from the financial institutions administration account.

13-12-112. Procedure upon filing application.

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

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

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

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

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

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

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

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

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(d) Unless the commissioner determines an exemption is appropriate because of payment of other fees, on or before January 31 and July 31 of each year, a special purpose depository institution shall compute and pay supervisory fees to the commissioner based on the total assets of the special purpose depository institution as of the preceding December 31 and June 30 respectively. Supervisory fees under this section shall provide for the operating costs of the office of the commissioner and the administration of the laws governing special purpose depository institutions. Such fees shall be established by rule of the commissioner and shall be adjusted by the commissioner to assure consistency with the cost of supervision. Supervisory fees shall be deposited by the commissioner with the state treasurer and credited to the special purpose depository institutions subaccount created by W.S. 13-12-111(d).

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

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

ORIGINAL HOUSE
BILL NO. HB0045

ENGROSSED

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk