

Wyoming Statutes
Title 13. BANKS, BANKING AND FINANCE
Chapter 5. TRUST COMPANIES
ARTICLE 1 – GENERAL

§ 13-5-101. Definitions

(a) As used in this chapter:

(i) “Bank” has the meaning set forth in W.S. 13-1-101(a)(i).

(ii) “Banking business” has the meaning set forth in W.S. 13-1-101(a)(ii).

(iii) “Board” has the meaning set forth in W.S. 13-1-101(a)(iv).

(iv) “Charter” means the commissioner’s grant of authority to any public trust company or chartered family trust company to act and operate in such capacity.

(v) “Chartered family trust company” means a family trust company which has been granted a charter by the commissioner to act and operate as a chartered family trust company under this chapter.

(vi) “Collateral kinship” means a relationship that is not lineal, but stems from a common ancestor.

(vii) “Commissioner” has the meaning set forth in W.S. 13-1-101(a)(v).

(viii) “Designated relative” means:

(A) With respect to a chartered family trust company, the individual or individuals, whether living or deceased, designated as the designated relative or designated relatives in the application for a charter under this chapter. A chartered family trust company may have up to two (2) designated relatives; and

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

(ix) “Family affiliate” means a corporation, partnership, limited liability company or other entity with respect to which one (1) or more family members own, directly or indirectly, more than fifty percent (50%) of the entity or possess, directly or indirectly, the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, power of direction or otherwise.

(x) “Family member” means:

(A) Each designated relative;

(B) Any person within the tenth degree of lineal kinship of a designated relative;
(C) Any person within the ninth degree of collateral kinship of a designated relative;

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

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

(F) A family affiliate and the officers, managers and directors of a family affiliate, key employee of a family affiliate and former key employee of a family affiliate;

(G) A trust established or funded by any one (1) or more family members and any trustee, advisor or other person assisting with administration of that trust;

(H) A trust established or funded by a person who is not a family member if the noncharitable beneficiaries consist of one (1) or more family members;

(I) The estate of a family member;

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

(K) For purposes of this definition:

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

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

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

(IV) Children of a spouse of a family member shall be treated as a natural child of that family member; and

(V) Degrees are calculated by adding the number of steps from a designated relative through each person to the family member either directly, in case of lineal kinship, or through a designated relative, in the case of collateral kinship.

(xi) “Family trust company” means a trust company that engages in trust company business exclusively for one (1) or more family members and does not engage in trust company business with the general public.

(xii) “Fiduciary” means acting as executor, administrator, guardian or conservator of estates, assignee, receiver, depository, trustee, custodian or in any other fiduciary or representative capacity.

(xiii) “Key employee” means a natural person, including any officer, manager or director’s spouse who holds a joint, community property or other similar shared ownership interest with that officer, manager or director, who is an executive officer, director, manager,

trustee, general partner or person serving in a similar capacity of ~~the-a~~ family affiliate who, in connection with his or her regular functions or duties, participates in the investment activities of ~~the-a~~ family affiliate, provided that the person has been performing functions and duties for or on behalf of ~~the-a~~ family trust company for at least twelve (12) months. For purposes of this definition, a family trust company may designate as a key employee an individual who is a former employee of the family trust company, an eligible trust, or a family affiliate; provided, however, that the number of persons designated as key employees shall not exceed thirty-five (35).

(xiv) “Lineal kinship” means a family member who is in the direct line of ascent or descent from a designated relative.

(xv) “Organizational instrument” means the articles of incorporation for a corporation or the articles of organization for a limited liability company.

(xvi) “Private family trust company” means a family trust company that is not a chartered family trust company and, as such, is not subject to regulation by the Wyoming Division of Banking.

(xvii) “Public trust company” means a trust company which has been granted a charter by commissioner to engage in trust company business with the general public.

(xviii) “Supervised trust company” means any public trust company or chartered family trust company.

(xix) “Trust company” means a corporation or limited liability company that is organized or qualified to do business in this state and that is engaged in trust company business.

(xx) “Trust company business” means the holding out by a person, by advertising, solicitation or other means, that such person is available to act as a fiduciary in this state and accepting and undertaking to act as a fiduciary in the regular course of its business. For purposes of this chapter, a person or entity does not engage in trust company business solely by:

(A) Rendering services as an attorney-at-law in the performance of his or her duties;

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

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

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

(E) Holding assets as trustee of trusts created for charitable purposes;

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

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

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

(F) Acting as trustee of statutory trust created pursuant to the Wyoming Statutory Trust Act, W.S. 17-23-102 et seq.

‡(xxi) “Trust service office” means any office, agency or other place of business at which the powers granted to chartered family trust companies are exercised by the chartered family trust company other than the place of business specified in the chartered family trust company’s charter.‡

From W.S. 13-5-204

§ 13-5-102. Naming convention; advertisement of trust company

(a) Except as provided in paragraph (b) below, no person or entity shall advertise, issue or circulate any paper or exhibit any sign, using the term “trust company” unless they have fully complied with this chapter and qualify as a supervised trust company.

(b) No person or entity wishing to organize as a private family trust company shall use the term “trust company” in its name without further specifying in its name that the entity is a “private trust company.”

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

From W.S. 13-5-207

§ 13-5-103. Powers of Ppublic trust companies; ~~powers~~; limitations; prohibitions; exemptions

(a) A public trust company may exercise the following powers and all other powers granted to corporations and limited liability companies under general law except as provided in this chapter:

(i) Act or be appointed by any court to act in like manner as an individual or as a fiduciary for any purpose permitted by law except as otherwise limited by this chapter;

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

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

(iv) Accept and execute any trust company business permitted by any law of this or any other state or of the United States to be taken, accepted or executed by an individual except as otherwise limited in this chapter;

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

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

(vii) Perform all acts necessary to exercise the powers enumerated in this chapter.

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

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

(d) Public trust companies shall not issue or sell capital notes or debentures except with the written authority of the commissioner in the manner prescribed for banks ~~{insert cross-reference}~~by W.S. 13-2-310 et seq.

(e) Except as provided in this chapter no person or entity shall act as a public trust company or engage in trust company business with the general public without first obtaining a charter under this chapter.

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

(g) Insurance companies licensed to write life insurance policies and annuity or endowment contracts in this state and subject to the regulation and control of the state insurance commissioner shall not be subject to the provisions of this chapter.

From W.S. 13-5-101

§ 13-5-104. Powers of family trust companies; prohibitionsbanking business prohibited

(a) A family trust company may, but only for family members:

(i) Act or be appointed by any court within and outside this state to act as a fiduciary for family members for any purpose permitted by law;

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

(iii) Purchase, invest in and sell stocks, bonds, mutual funds, mortgages and other securities for the account of family members;

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

(v) Take oaths and execute affidavits by the oath or affidavit of its corporate officers or managing members;

(vi) Make any fiduciary investment as permitted by Wyoming Uniform Prudent Investor Act, W.S. 4-10-901; and

(vii) Perform all acts necessary to exercise the powers enumerated in this chapter.

(b) A family trust company shall not engage in:

- (i) Any banking business by accepting general deposits or issuing demand instruments; or
- (ii) Trust company business with the general public.

From W.S. 13-5-210

§ 13-5-105. Family trust companies; authorized actions and transactions; conflicts of interest

(a) In addition to the actions authorized by W.S. 13-5-104 and notwithstanding the other provisions of this chapter, while acting as a fiduciary, a family trust company may:

(i) Invest in a security of an investment company or investment trust for which the family trust company, or a family affiliate, provides services in a capacity other than as a fiduciary;

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

(iii) Invest in an investment contract that is purchased from an insurance company or carrier owned by or affiliated with the family trust company or a family affiliate;

(iv) Enter into an agreement with a beneficiary or grantor of a trust with respect to the appointment or compensation of the fiduciary family trust company or a family affiliate;

(v) Transact business with another trust, estate, guardianship or conservatorship for which the family trust company is a fiduciary or in which a beneficiary of a trust for which the family trust company is a fiduciary has an interest;

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

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

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

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

(x) Loan money to or borrow money from:

(A) A beneficiary or grantor of a trust for which the ~~trust or his or her legal representative;~~ family trust company is acting as fiduciary;

(B) Another trust for which the family trust company is acting as fiduciary; or

(C) A family affiliate.

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

(xii) Exercise any powers or control with respect to any interest in an entity that is an asset of a trust for which the family trust company is acting as fiduciary, including, without limitation, the appointment of officers, ~~or~~ directors, or managers of entities who are family

affiliates; and

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

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

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

(ii) ~~Be in the interest of the beneficiaries of the trust; and~~

~~(iii) Comply~~ Whether the transaction of action complies with:

~~(A) The~~ the terms of the ~~trust-governing~~ instrument establishing the fiduciary relationship;

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

~~(C) The written consent of each interested person, any applicable judgements, judicial decrees or court orders, and any applicable consent agreements or releases.~~

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

(i) A trust, estate, guardianship or conservatorship for which the family trust company is a fiduciary;

(ii) A family affiliate; or

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

(d) ~~A~~ If a potential conflict of interest exists as to a particular transaction or action between the family trust company, in its capacity as fiduciary duty, and personal interest of a family trust company ~~does not void a, in its individual capacity, such~~ transaction or action ~~that is not voidable if it:~~

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

(ii) Occurred before the family trust company entered into ~~a~~ the fiduciary relationship ~~pursuant to a trust instrument.~~

(e) A transaction by or action of a family trust company authorized by this section is not voidable if:

(i) The transaction or action was authorized by the terms of the ~~trust-governing~~ instrument;

(ii) The transaction or action was approved by a court ~~or~~ pursuant to a judgement, judicial decree or court order;

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

~~(iv) No interested person commenced a legal action relating to the transaction or action pursuant to subparagraph (b)(iii)(B) of this section;~~

~~(iv) The transaction or action was authorized by a valid consent agreement, release or~~

~~pursuant to the issuance of a notice of proposed action issued pursuant to subparagraph (b)(iii)(C) in accordance with paragraph (f) of this section; or~~

(v) The transaction or action occurred before the family trust company entered into ~~a~~the fiduciary relationship ~~pursuant to a trust instrument.~~

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

(g) Notwithstanding ~~the any other~~ provisions of ~~any other law to the contrary~~this chapter, a family trust company is not required to obtain court approval for any transaction that otherwise complies with the provisions of this section.

From W.S. 13-5-211

§ 13-5-106. Laws applicable; matters of contract

(a) In the exercise by a trust company of its powers as guardian, executor, trustee, administrator or conservator, or of any office or duty imposed by any court, the trust company shall be subject to the same responsibilities, liabilities and penalties as an individual acting in like capacity, and the trust company shall have the same powers and shall receive the same compensation as fixed by law for individuals acting in like capacity.

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

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

From W.S. 13-5-108

§ 13-5-107. Record retention generally

Each supervised trust company shall retain its business records for the periods prescribed by W.S. 13-5-108 through 13-5-113.

From W.S. 13-3-501

§ 13-5-108. Permanent records

(a) Each supervised trust company organized as a corporation shall permanently retain the minute books of meetings of its stockholders and directors, its capital stock ledger and capital stock certificate ledger or stubs, its general ledger (or the record kept by the trust company in lieu thereof), its daily statements of condition, if any, and all records which the commissioner requires to be retained permanently.

(b) Each supervised trust company organized as a limited liability company shall permanently retain the minute books of meetings of its members and managers, its capital account ledger and membership interest certificate ledger, if any, its general ledger (or the record kept by the trust company in lieu thereof), its daily statements of condition, if any, and all records which the commissioner requires to be retained permanently.

From W.S. 13-3-502

§ 13-5-109. Records retained 3 years

All supervised trust company records pertaining to other parties such as safekeeping and other transactional records shall be retained for a minimum of three (3) years after the completion of the transactions pertaining to the records.

From W.S. 13-3-503

§ 13-5-110. Requirements of commissioner

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

Cite as W.S. 13-3-504

§ 13-5-111. Commissioner to issue rules regarding records

(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:

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

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

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

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

From W.S. 13-3-505

§ 13-5-112. Duty to produce records

After the period prescribed for the retention of records of its class, the supervised trust company

has no duty to produce the record in any action or proceeding if the records have been disposed of by the supervised trust company.

From W.S. 13-3-506

§ 13-5-113. Reproduction of records

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

From W.S. 13-3-507

§ 13-5-114. Financial transactions

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

(b) Every trust company holding trust funds awaiting investment or distribution may deposit or leave on deposit the funds with a state or nationally chartered bank or savings and loan association or invest in other cash equivalent investments, including but not limited to uninsured money market funds or United States treasury bills with a duration of twelve (12) months or less. The funds shall not be deposited or left with the same corporation or association depositing or leaving on deposit such funds, nor with the corporation or association holding or owning a majority of the capital stock or membership interest of the trust company making or leaving the deposit, unless the corporation or association shall first pledge, as security for the deposit, securities eligible for investment in state banks that have a market value equal to that of the deposited funds. No security shall be required with respect to any portion of such deposits which are insured under the provisions of any law of the United States.

(c) Every trust company acting in any capacity under a trust, unless the instrument creating the trust provides otherwise, may cause any securities or other property held by ~~it~~the trust company in its representative capacity to be registered in the name of a nominee or nominees of the trust company.

(d) Every trust company when acting as depository or custodian for the fiduciary of a trust, unless the instrument creating the trust provides otherwise, may with the consent of the fiduciary of the trust cause any securities or other property held by ~~it~~the trust company to be registered in the name of the nominee or nominees of the trust company.

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

(f) No corporation or limited liability company, or ~~the any~~ registrar or transfer agent thereof, shall be liable for registering or causing to be registered on the books of ~~the corporation~~the

corporation or limited liability company any securities in the name of any nominee of a trust company or for transferring or causing to be transferred on the books of ~~the corporation~~the corporation or limited liability company any securities theretofore registered by ~~the corporation~~the corporation or limited liability company in the name of any nominee of a trust company, as provided in this section, when the transfer is made on the authorization of the nominee.

From W.S. 13-5-109

§ 13-5-115. Powers of the commissioner

(a) In addition to other powers conferred by this chapter, the commissioner shall:

(i) Supervise and examine all supervised trust companies and all such supervised trust companies shall be subject to the laws of this state governing banks and other financial institutions in all cases where the laws do not conflict with the provisions of this chapter. The commissioner or a duly appointed examiner shall visit and examine each supervised trust company in accordance with the provisions of this chapter. All supervised trust companies shall file with the commissioner an annual report of the supervised trust company's assets in a form prescribed by the commissioner and other reports as required by the commissioner;

(ii) Adopt rules and regulations to implement the provisions of this chapter, and in connection therewith the commissioner shall act in the interests of promoting and maintaining a sound trust company system, the security of assets and trust accounts, and the protection of other customers;

(iii) Collect from each supervised trust company an amount equal to the total cost of the examination conducted. The fees and expenses collected shall be remitted to the state treasurer and deposited as provided in W.S. 13-5-115(b) and may be expended as provided in that subsection;

(iv) Determine and collect from each private family trust company a fee in an amount equal to the total direct and indirect costs of providing any certificate, letter of assurance or other document requested by a private family trust company stating that the private family trust company has complied with W.S. 13-5-401 and is not regulated under this chapter; and

(v) On or before January 31 of each year, each supervised trust company shall compute and pay supervisory fees to the commissioner as set forth in the rules and regulations of the commissioner. Except as provided in subsection (b) of this section, the supervisory fees shall provide for the general administration of the laws and regulations governing the trust company industry. The fees shall be established by regulation of the commissioner and shall be adjusted by regulations issued by the commissioner to assure consistency with the cost of supervision. Other fees assessed for administrative services related to activities attributable to a specific supervised trust company shall be used to pay the costs of special services rendered by or at the direction of the commissioner and shall be recovered from the supervised trust company which required the special services.

(b) A trust company resolution fund account is established. A portion of each supervisory fee paid pursuant to paragraph (a)(v) of this section shall be paid to the resolution fund account and

shall be used by the commissioner in the event of an involuntary dissolution of any supervised trust company. The amount paid to the resolution fund account shall be established by regulation of the commissioner. All amounts paid shall be remitted to the state treasurer and deposited and credited to the trust company resolution fund account. Expenditures from the account shall be made using warrants drawn by the state auditor, upon vouchers issued and signed by the director of the department of audit or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner in the involuntary dissolution of any supervised trust company.

From W.S. 13-5-110

§ 13-5-116. Reports to commissioner

(a) The commissioner may call for special reports verified under oath from any supervised trust company at any time as necessary to inform the commissioner of the condition of the supervised trust company.

(b) All reports required of supervised trust companies by the commissioner under this chapter and all materials relating to examinations of supervised trust companies under this chapter shall be subject to the provisions of W.S. 9-1-512.

From W.S. 13-5-214

§ 13-5-117. Failure to submit required report; fees; regulations

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

(b) The commissioner shall adopt regulations establishing the amount of the fee imposed pursuant to this section.

From W.S. 13-5-117

§ 13-5-118. Suspension or revocation of charter

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

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

(ii) The application for charter of the supervised trust company contained a false representation or omission of a material fact; or

(iii) Any officer or agent of the supervised trust company, in connection with an

application for a charter, knowingly made a false representation of a material fact or failed to disclose a material fact to the state banking board, the commissioner or the duly authorized agent of the board or commissioner.

From W.S. 13-5-111

§ 13-5-119. Continuing jurisdiction

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

From W.S. 13-5-112

§ 13-5-120. Insolvency; unsafe condition; receivership

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

(b) A supervised trust company is insolvent when either of the following conditions exists:

(i) When the actual cash market value of a supervised trust company's assets is less than its current liabilities; or

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

(c) A supervised trust company is operating in an unsafe and unsound condition when either of the following conditions exists:

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

(ii) A supervised trust company fails to effectively manage and monitor its operational and financial risks.

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

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

(i) To take possession of all books, records of account and assets of the supervised trust

company;

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

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

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

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

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

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

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

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

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

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

From W.S. 13-5-113

§ 13-5-121. Order declaring supervised trust company properly wound up and dissolved

(a) Upon the completion of the liquidation of a supervised trust company pursuant to W.S. 13-5-120, the commissioner shall petition the court for an order declaring the supervised trust company properly wound up and dissolved.

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

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

(ii) All known assets of the supervised trust company have been distributed pursuant to W.S. 13-5-120;

(iii) The supervised trust company is dissolved; and

(iv) If there are known debts or liabilities of the supervised trust company, describe the provision made for their payment, setting forth all information necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

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

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

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

From W.S. 13-5-114

§ 13-5-122. Surety bond; pledged investments; investment income; bond or pledge increases; hearings

(a) Any supervised trust company shall, before transacting any business, pledge or furnish a surety bond to the commissioner to cover costs likely to be incurred by the commissioner in a receivership or liquidation of the supervised trust company should it become unsafe or unsound pursuant to W.S. 13-5-120. The amount of the pledge or the surety bond shall be determined by the commissioner in an amount sufficient to defray the costs of a receivership or liquidation, but shall have a market value of not less than five hundred thousand dollars (\$500,000.00). In lieu of a bond, the supervised trust company may irrevocably pledge its capital account to the commissioner. Any investments pledged to the commissioner shall be held in a state or nationally chartered bank or savings and loan association having a principal or branch office in this state and all costs associated with pledging and holding such investments are the responsibility of the supervised trust company.

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

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

(d) The commissioner may promulgate rules pursuant to W.S. 13-5-115(a)(ii) to establish additional investment guidelines or investment options for purposes of the pledge or surety bond required by this section.

(e) In the event of a receivership of a supervised trust company as provided in W.S. 13-5-120, the commissioner may, without regard to priorities, preferences or adverse claims, reduce the pledged investments to cash as soon as practicable with court approval, and utilize the cash to defray the costs associated with the receivership.

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

(g) Upon evidence that the current bond or investment pledge is insufficient, the commissioner may require any supervised trust company to increase its investment pledge or surety by providing no less than thirty (30) days written notice to the supervised trust company. The supervised trust company to which notice is given may request a hearing in writing no more than thirty (30) days after receiving notice of the proposed increase. Any hearing before the commissioner shall be held pursuant to the Wyoming Administrative Procedure Act.

From W.S. 13-5-115

§ 13-5-123. Voluntary dissolution of trust company; liquidation; reorganization; application for dissolution; filing fee; filing with secretary of state; revocation of charter

(a) A supervised trust company may voluntarily dissolve in the manner provided herein. Voluntary dissolution shall be accomplished by either liquidating the supervised trust company or reorganizing the supervised trust company into a domestic or foreign corporation, limited liability company, limited partnership or limited liability partnership that does not engage in trust company business. Upon complete liquidation or completion of the reorganization, the commissioner shall revoke the supervised trust company's charter and thereafter the company may not use the word "trust" in its name or in connection with its business and may not conduct trust company business.

(b) A supervised trust company seeking to dissolve its charter either by liquidation or reorganization shall file an application for dissolution with the commissioner accompanied by a filing fee established by rule and regulation of the commissioner. The application shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets and liabilities, in reasonable detail to effect a liquidation or reorganization. The plan of dissolution shall provide for the discharge or assumption of all of the supervised trust company's known and unknown claims and liabilities and for the transfer of all of its responsibilities as a trustee to a successor trustee or trustees. Additionally, the application for dissolution shall include other evidence, certifications, affidavits, documents or information as the commissioner may require demonstrating how assets and liabilities will be disposed, the timetable for effecting disposition of the assets and liabilities and the applicant's proposal for addressing any claims that are asserted after the dissolution has been completed. The commissioner shall examine the application for completeness and compliance with the requirements of this section, the business entity laws applicable to the required type of dissolution and applicable rules and regulation. The commissioner may conduct a special examination of the applicant for purposes of evaluating the application.

(c) If the commissioner finds that the application is incomplete, the commissioner shall return it for completion not later than sixty (60) days after it is filed. If the application is found to be

complete by the commissioner, not later than thirty (30) days after it is filed, the commissioner shall approve or disapprove the application. If the commissioner approves the application, the applicant may proceed with the dissolution pursuant to the plan outlined in the application, subject to any conditions the commissioner may prescribe. If the applicant subsequently determines that the plan of dissolution needs to be amended to complete the dissolution, it shall file an amended plan with the commissioner and obtain approval to proceed under the amended plan. If the commissioner does not approve the application or amended plan, the applicant may appeal the decision to the board pursuant to the Wyoming Administrative Procedure Act.

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

(e) If the commissioner is not satisfied that all required actions under the plan for dissolution or as required by the commissioner have been taken, the commissioner shall notify the applicant in writing not later than thirty (30) days after the examination described in (d) above what additional actions shall be taken to be eligible for a certificate of dissolution. The commissioner shall establish a reasonable deadline for the submission of evidence that the additional actions have been taken. The commissioner may extend the deadline for good cause shown. If the applicant fails to file a supplemental report showing that the additional actions have been taken before the deadline, or submits a report that is found not to be satisfactory by the commissioner, the commissioner shall notify the applicant in writing that its voluntary dissolution is not approved, and the applicant may appeal the decision to the board pursuant to the Wyoming Administrative Procedure Act.

(f) The commissioner may adopt rules pursuant to W.S. 13-5-115(a)(ii) to carry out the requirements of this chapter.

From W.S. 13-5-116

§ 13-5-125. Willful neglect to perform duties imposed by law or failure to conform to material lawful requirement made by commissioner; removal

(a) Each officer, director, manager, ~~[member,]~~ employee or agent of a supervised trust company, following written notice from the commissioner sent by certified mail, is subject to removal upon

order of the commissioner if such person knowingly or willfully fails:

- (i) To perform any duty required by this chapter ~~{or other applicable law}~~; or
- (ii) To conform to any rule, regulation or requirement of the commissioner.

From W.S. 13-5-118

Wyoming Statutes
Title 13. BANKS, BANKING AND FINANCE
Chapter 5. TRUST COMPANIES
ARTICLE 2 – PUBLIC TRUST COMPANIES

§ 13-5-201. Organization and application

One (1) or more adult persons may organize a corporation or limited liability company for the purpose of forming a public trust company in a place in this state designated in the organizational instrument subject to the conditions prescribed by law. The organizer shall subscribe and verify triplicate originals of the organizational instrument and transmit them to the commissioner.

From W.S. 13-2-201

§ 13-5-202. Organizational Instrument

(a) The organizational instrument shall include the following information:

- (i) The legal name of the public trust company;
 - (ii) The object for which the public trust company is organized;
 - (iii) The term of its existence which may be perpetual;
 - (iv) The place where its office shall be located and its operations conducted;
 - (v) The amount of capital stock and the number of shares or the amount of membership interests;
 - (vi) The name and residence of each shareholder subscribing to more than ten percent (10%) of the stock and the number of his or her shares or the name and residence of each member owning more than ten percent (10%) of the membership interest and percentage of his or her membership interest;
 - (vii) The number of directors and the names of those who shall manage the affairs of the corporation for the first year or the number and names of the managers appointed to manage the affairs of the limited liability company for the first year; and
 - (viii) A statement that the organizational instrument is made to enable the organizer to form a public trust company within this state.
- (b) Copies of all amended organizational instruments shall be filed in the same manner as the original organizational instrument.

From W.S. 13-2-202

§ 13-5-203. Procedure upon filing of organizational instrument, application and other information

Upon filing with the commissioner the organizational instrument, as required by W.S. 13-5-201 and 13-5-202, an application and any other information required by the rules and regulations of the board, 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, the commissioner shall notify the chairman of the board who shall establish a time and place for a public hearing which shall be not less than sixty (60) days nor more than one hundred twenty (120) days after notice from the commissioner that the application is in order. Within thirty (30) days after receipt of notice of the time and place of the public hearing, the applicant shall cause notice of filing of the application and of the hearing to be published at applicant's expense in a newspaper of general circulation within the county where the proposed financial institution is to be located. Publication shall be made at least once a week for three (3) consecutive weeks before the hearing stating the proposed location of the financial institution, the names of the proposed applicants for a charter, the nature of the activities to be conducted by the proposed institution and other information as the board shall prescribe from time to time by rules and regulations. The applicant shall furnish proof of publication to the commissioner not more than ten (10) days prior to the hearing. The commissioner shall send notice of the hearing to state and national banks, federal savings and loan associations and other financial institutions in the state who have requested notice from the commissioner and to the appropriate federal financial institution regulatory authorities.

From W.S. 13-2-207

§ 13-5-204. Application filing fee

The application filed with the commissioner shall be accompanied by a fee established by rule and regulation of the commissioner to cover the expense of the investigation by the commissioner, the expense of the public hearing and other related expenses. The fee shall be deposited by the commissioner with the state treasurer into the financial institutions administration account. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the director or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner and the state banking board under this chapter. If an application for a financial institution charter is withdrawn by the applicant at any time prior to the hearing on the application, the statutory application filing fee, less the amount of any expense authorized above and actually incurred, shall be refunded to the applicant. If the application expenses are less than the application fee collected the unexpended amount shall remain within the account.

From W.S. 13-2-208

History. Amended by Laws 2017, ch. 23, §1, eff. 7/1/2017.

§ 13-5-205. Procedure for hearings on charter applications

The hearing for a charter application shall be conducted as a contested case under the Wyoming Administrative Procedure Act and shall comply with the requirements of that act.

From as W.S. 13-2-209

§ 13-5-206. Emergency charters; fees

(a) Notwithstanding any other provisions contained in this chapter, a public trust company charter may be granted by the commissioner without a hearing in any case determined by the commissioner to be an emergency arising from the insolvency, or to prevent the failure, of an existing public trust company, but the granting of any emergency charter under this section is contingent upon the commissioner determining that findings required by W.S. 13-5-208 have been satisfied.

(b) The application fee for an emergency charter shall be established by rule and regulation of the commissioner. The fee shall be deposited by the commissioner with the state treasurer and credited to the financial institutions administration account. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the director or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner and the state banking board under this chapter.

From W.S. 13-2-210

History. Amended by Laws 2017, ch. 23, §1, eff. 7/1/2017.

§ 13-5-207. Investigation and examination by **banking** commissioner

(a) Upon receiving the organizational instrument, application and other information required, the commissioner shall make a careful investigation and examination of the following:

(i) The character, reputation, financial standing and ability of the organizer or organizers, those proposed as directors, managers, members, stockholders or owners;

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

(iii) Such other facts and circumstances bearing on the proposed public trust company as the **banking** commissioner may deem relevant.

(b) The commissioner shall submit the commissioner's findings at the public hearing on the application and shall be subject to cross-examination by any interested party. No relevant information shall be excluded by the board as hearsay.

From W.S. 13-2-211

§ 13-5-208. Approval or disapproval of application; criteria for approval; action upon application; interim bank charter; fee

(a) Within sixty (60) days after receipt of the transcript of the public hearing, the board shall in its discretion approve, conditionally approve or disapprove the application, but it shall not approve the application until it has ascertained to its satisfaction:

(i) ~~(ii)~~ The proposed public trust company is being formed for no other purpose than the legitimate objects contemplated by the laws of the state;

(ii) The proposed capital and surplus are not less than the required minimum and are adequate in light of current and prospective conditions;

(iii) The proposed officers and directors or managers have sufficient experience, ability and standing to afford reasonable promise of successful operation;

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

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

(b) The board shall take action upon the application by stating its findings of fact and conclusions of law. If the board approves the application, the commissioner shall endorse upon the organizational instrument the approval and shall file one (1) copy with the secretary of state, retain one (1) copy in the commissioner's files and return one (1) copy to the applicants within twenty (20) days after the date of the decision of the board approving the application. If the board conditionally approves an application by requiring increased capital or surplus, retention of additional qualified officers or directors, or change of name to avoid confusion, and upon compliance by the applicant, the commissioner shall proceed as provided in the preceding sentence. If the board disapproves the application, the commissioner shall mail notice of the disapproval to the applicants within twenty (20) days after the board's negative action.

(c) The board may waive the public hearing required under W.S. 13-5-203 if the application is for an interim public trust company charter to be used as a vehicle for merger with an existing public trust company which is currently serving the public need and convenience of the community, operating profitably, adequately capitalized, has officers and directors or managers of proven ability and is to be chartered solely for the purpose of facilitating the merger and the change in ownership of the existing public trust company in accordance with W.S. 13-4-108. The application fee for an interim public trust company charter for which a public hearing is waived shall be established by rule and regulation of the commissioner. The fee shall be deposited by the commissioner with the state treasurer and credited to the financial institutions administration account. Expenditures shall be made from the account by warrants drawn by the state auditor, upon vouchers issued and signed by the director or commissioner. Funds from the account shall be expended only to carry out the duties of the commissioner and the state banking board under this chapter.

From W.S. 13-2-212

§ 13-5-209. Certificate of authority to commence business required; application; approval or denial; failure to commence business

If the application is approved and a charter granted by the board, the public trust company shall not commence business before receiving a certificate of authority to operate from the commissioner. The application for a certificate of authority shall be made to the commissioner and shall certify that the capital and surplus have been paid in, the address at which the public trust company will operate and that all of the bylaws adopted have, or the operating agreement adopted has, been attached as an exhibit to the application. The application shall state who the officers, directors and stockholders, or the mangers and members, are at that time and have attached evidence that appropriate federal insurance of deposits has been obtained, where applicable. The commissioner shall approve or deny an application for a certificate of authority within thirty (30) days after the application has been filed, but the authority of the commissioner to disapprove any application is restricted solely to noncompliance with this section. If the commissioner approves the application, the commissioner shall issue a certificate of authority to the organizers within twenty (20) days. If the commissioner denies the application, the commissioner shall mail a notice of denial to the organizer or organizers within twenty (20) days, stating the reasons for denying the application, and grant to the organizers a maximum period of ninety (90) days to resubmit the application with the necessary corrections. If the applicant fails to comply with requirements of the notice of denial within ninety (90) days from the receipt of the notice, the approval of the application and articles of incorporationorganizational instrument previously issued to the applying public trust company shall be revoked by the commissioner. The failure of the commissioner to act upon an application for a certificate of authority within thirty (30) days shall be deemed an approval. If the approved public trust company fails to commence business in good faith within one (1) year after the issuance of a certificate of authority by the commissioner or any required federal approval, whichever is later, the charter and certificate of authority shall expire.

From W.S. 13-2-213

§ 13-5-210. Decisions by board appealable; grounds

Any decision of the board in approving or disapproving any charter or the issuance or denial of a certificate of authority is appealable to the district court of the county in which the institution is to be principally located in accordance with the provisions of the Wyoming Administrative Procedure Act. In addition to the grounds for appeal contained in the Wyoming Administrative Procedure Act, the appellant may appeal if the board or the commissioner fails to make any of the findings required.

From W.S. 13-2-214

§ 13-5-211. Requirements as to capital

(a) The capital stock or membership interest of each public trust company organized under this chapter shall be subscribed for as fully paid stock or membership interest. No public trust company shall organize with a capital stock or a membership interest less than one million

dollars (\$1,000,000.00)].

(b) No public trust company shall commence business until the full amount of its authorized capital is subscribed and all capital ~~stock~~ stock or membership interest is fully paid in. No public trust company may organize without a paid up surplus fund of at least twenty percent (20%) of its legally authorized capital stock or membership interest, and undivided profits in sufficient amount for the expense of operation the first year as determined by the commissioner.

From W.S. 13-2-301

§ 13-5-212. Issue of stock or membership interest

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

From W.S. 13-2-302

§ 13-5-213. Increase or reduction of capital stock

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

From W.S. 13-2-303

§ 13-5-214. Transfer of stock, membership interests and other ownership interests

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

(b) Transfers of voting ownership interests of a public trust company shall be reported to the commissioner not less than ten (10) days prior to being made if the transfer:

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

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

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

(i) Has been convicted of a felony; or

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

From W.S. 13-2-304

§ 13-5-216. Purchase or acceptance of own capital stock or membership interest

A public trust company shall not accept as collateral or purchase its own capital stock or membership interest unless the taking of the collateral or purchase is necessary to prevent loss upon a debt previously contracted in good faith. The stock or membership interest shall be sold by the public trust company within six (6) months from the date it was received as collateral or acquired by purchase unless the debt is paid in full.

From W.S. 13-2-305

§ 13-5-217. Stock or membership interest register; membership interest register; inspection

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

From W.S. 13-2-306

§ 13-5-218. Voting by shareholders, members generally; balloting for directors, managers

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

(b) In balloting for directors or managers, each qualified shareholder or member may vote the number of shares or amount of membership interest owned by such shareholder or member for as many directors or managers as are to be elected or may cumulate his or her votes by giving one (1) candidate the number of votes equal to the number of directors or managers to be elected multiplied by the number of his or her shares or membership interest and such shareholder or member may distribute his or her votes cumulatively on the same principle among any number of candidates. The persons having the highest number of votes shall be declared elected as the board of directors or as managers for the ensuing corporate year.

(c) The governing documents of the public trust company may override any provision of

subparagraph (a) or (b) above.

From W.S. 13-2-307

§ 13-5-219. Preferred stock or membership class

(a) Unless the organizational instrument of a public trust company is more restrictive, Aa public trust company may issue one (1) or more classes of preferred stock or one (1) or more classes of membership interest upon the approval of two-thirds (2/3) of the stockholders or two-thirds (2/3) of the members, respectively, and upon approval by the commissioner pursuant to this section and the approval of the commissioner.

(b) Copies of the directors' and stockholders' or members' and managers' minutes approving the issuance and bearing the approval of the commissioner shall be filed in the office of the secretary of state and treated as an amendment to the articles of incorporationorganizational instrument.

(c) At a board of directors' or managers' meeting called on not less than one (1) days notice, the directors or managers may adopt a resolution calling for the issuance of preferred shares or classes of membership interest. The directors or managers shall then call a meeting of the stockholders of the corporation or members of the limited liability company, respectively, giving not less than five (5) days notice stating for the purpose of ~~stockholder approval~~the meeting.

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

(e) The holders of the preferred stock of the highest class shall be entitled to cumulative dividends of up to six percent (6%) per year before dividends are paid on any other stock and the holders of the highest priority class of membership interest shall be entitled to distributions of up to six percent (6%) per year before distributions are made to members of any other class. The holders of preferred stock of subsequent classes shall next be entitled to cumulative dividends of up to six percent (6%) per year in order of preference before dividends are paid to the holders of common stock and the holders of subsequent classes of membership interest shall be entitled to cumulative distributions of up to six percent (6%) per year in order of preference before distributions are made to members of any other class. In any liquidation no payment shall be made to the holders of common stock until the holders of preferred stock have been paid the full par value of their stock and accumulated dividends in order of preference or to the owners of membership interest in the lowest priority membership class until the owners of the highest priority membership interest have been paid the full value, up to the amount of their capital contribution and accumulated profits in order of preference.

(f) ~~The p~~Preferred stock and holders of preferred stock and preferred membership interest and owners of preferred membership interest are not liable for assessments to restore impairment of capital or for any liability imposed by law on common stock or the holders of common stock or on the lowest priority membership class or the owners of the lowest priority of membership class interest.

(g) No issue of preferred stock or preferred membership interest is valid until the entire par value of the shares or membership interest has been paid in cash or until arrangements satisfactory to

the commissioner have been made for payment.

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

From W.S. 13-2-308

§ 13-5-220. Issuance of capital notes or debentures; generally

(a) A public trust company may issue, sell or pledge its capital notes or debentures only if the public trust company has first obtained either the written or voting approval of the shareholders holding a majority of the shares of the public trust company or the written or voting approval of the members holding a majority of the membership interest of the public trust company and the written approval of the commissioner.

(b) The board of directors or the managers shall determine the terms of its capital notes or debentures subject to the provisions of W.S. 13-2-311 and subsection (c) of this section.

(c) The amount of outstanding capital notes or debentures of any public trust company shall not exceed fifty percent (50%) of the amount of the capital stock or membership interest and surplus fund of the public trust company at the date of issue. The periods of maturities with respect to any issue shall not exceed twenty-five (25) years as prescribed by the commissioner. Capital notes and debentures shall be subject to a schedule of prepayments or to an appropriate sinking fund for the amortization of the indebtedness.

From W.S. 13-2-309

§ 13-5-221. Issuance of capital notes or debentures; approval by commissioner

The commissioner may approve the issuance of capital notes or debentures by any public trust company. Applications for approval shall be in writing and contain information which the commissioner requests including a full explanation of the need for and proposed use of the funds. The commissioner shall consider whether the issuance would constitute sound practice and would be in the best interests of the public, customers, creditors and stockholders of the public trust company.

From W.S. 13-2-310

§ 13-5-222. Capital notes or debentures; provisions to be stated

(a) The following provisions shall be stated in the capital notes or debentures:

(i) That the notes or debentures are an unsecured indebtedness of the public trust company and subordinate to the claims of creditors and depositors;

(ii) In the event of liquidation of the public trust company all creditors are entitled to be paid in full with interest provided by law prior to payment on the notes or debentures; and

(iii) No payment will be made on the principal of the notes or debentures unless following the payment the aggregate of the capital, surplus and undivided profits of the public trust company is at least equal to the amount of the capital, surplus and undivided profits at the date of issue unless otherwise authorized by the commissioner.

From W.S. 13-2-311

§ 13-5-223. Capital notes or debentures; conversion into common or preferred stock

Capital notes and debentures may be converted into shares of common or preferred stock or membership interest or preferred membership interest in accordance with the provisions of the capital notes or debentures. If capital notes or debentures are converted the president or vice-president or one (1) or more of the managers of the public trust company shall subscribe and verify triplicate originals of a certificate stating the amount of conversion and other information as required by the commissioner. The certificates shall be delivered to and approved by the commissioner who shall file one (1) of the certificates in the commissioner's office, one (1) in the office of the secretary of state and return one (1) to the subscribing officer of the public trust company.

From W.S. 13-2-312

§ 13-5-224. Capital notes or debentures; no assessment or liability

Capital notes, debentures and the holders thereof are not subject to any assessment nor are holders of the notes or debentures liable for any debts or contracts of the public trust company.

From W.S. 13-2-313

§ 13-5-226. Capital notes or debentures; proceeds not part of capital or surplus

(a) The proceeds from the sale of capital notes or debentures shall not be considered a portion of the capital or surplus of the issuing public trust company nor treated as meeting any requirements, restrictions or conditions relating to the capital or surplus of a public trust company.

(b) The proceeds from the sale of notes or debentures issued may not be used to reduce or retire outstanding capital stock or surplus.

From W.S. 13-2-313

§ 13-5-227. Authority to manage public trust companies; qualifications

The affairs of a public trust company shall be managed by no fewer than five (5) directors or managers. Shareholders or the board of directors, or members of the managers, if provided by the

organizational instrument may adopt and amend ~~bylaws or an operating agreement~~the organizational instrument for the management of the public trust company. Each director or manager shall take an oath that he or she will faithfully and diligently perform the duties of his or her office and will not violate or knowingly permit the violation of any of the laws of this state relating to the trust company business. Within thirty (30) days after being elected or appointed each director or manager of a public trust company shall sign the oath required by this section on a form prescribed by the commissioner and it shall be part of the record of the meeting and included in the public trust company's minutes. Within thirty (30) days after initially being elected or appointed each director or manager of a public trust company shall file with the commissioner a sworn financial statement on a form prescribed by the commissioner.

From W.S. 13-2-401

§ 13-5-228. Election; term; vacancies; number

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

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

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

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

(e) Changes in the number of directors or managers shall be authorized by a majority vote of the stockholders or members to be effective upon expiration of the current corporate year. The change may become effective immediately with the consent of the directors or managers and written notification to the commissioner.

From W.S. 13-2-402

§ 13-5-229. Meetings; record of proceedings and business

(a) The board of directors or the managers of a public trust company shall hold a regular meeting every quarter of the calendar year. At each meeting a detailed report showing all trust business

shall be submitted. The board of directors or the managers shall review the report and make it a part of the record of the meeting. The record shall show their approval or disapproval of the report.

(b) A record of the proceedings and business of all meetings shall be included in the public trust company's minutes. The record shall show the gross earnings of the public trust company and their disposition by indicating expenses and taxes paid, worthless items charged off, depreciation in assets, amount carried to surplus fund and amount of dividend and amount of undivided profits remaining.

From W.S. 13-2-403

§ 13-5-230. Liability

Any director or manager who participates in or consents to any action of a public trust company contrary to law or regulations shall be liable in such director's individual capacity for damages proximately sustained by the public trust company, its stockholders or other persons.

From W.S. 13-2-404

§ 13-5-231. Conversion from chartered family trust company to public trust company

A chartered family trust company following the procedure outlined in W.S. 13-5-201 through W.S. 13-5-205, and upon approval of the new public trust company charter and surrender of the family trust company charter, may be granted a charter as a public trust company.

From W.S. 13-5-218

Wyoming Statutes
Title 13. BANKS, BANKING AND FINANCE
Chapter 5. TRUST COMPANIES
ARTICLE 3 – CHARTERED FAMILY TRUST COMPANIES

§ 13-5-301. Organization of a chartered family trust company

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

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

(i) The corporate name, which shall comply with W.S. 13-5-102 and 17-16-401; and

(ii) A statement that the articles of incorporation are made to enable the shareholders to avail themselves of the advantages of this chapter; and

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

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

(i) The name of the limited liability company, which must comply with W.S. 13-5-102 and 17-29-108;

(ii) A statement that the articles of organization are made to enable the members to avail themselves of the advantage of this chapter; and

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

(d) A chartered family trust company organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a chartered family trust company organized as a corporation. All managers, officers and employees of a chartered family trust company organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, officers and employees of a chartered family trust company organized as a corporation.

From W.S. 13-5-205

§ 13-5-303. Requirements for chartered family trust company

(a) A chartered family trust company shall maintain:

(i) A physical office in this state where original or true copies, including electronic

copies, of all material business records and accounts of the chartered family trust company may be accessed and readily available for examination by the commissioner; and

(ii) A bank account with a state or nationally chartered bank or savings and loan association having a principal or branch office in this state.

From W.S. 13-5-206

§ 13-5-304. Minimum capital requirements; investment of capital

The initial capital required to organize a chartered family trust company shall be not less than five hundred thousand dollars (\$500,000.00). The full amount of the initial capital must be paid in cash to the governing body of the chartered family trust company, exclusive of all organization expenses, before the chartered family trust company is authorized to commence business as a chartered family trust company. Once organized, a chartered family trust company shall maintain a minimum level of capital required by the commissioner to operate in a safe and sound manner based upon the commissioner's examination of the chartered family trust company, provided that the amount of capital of a chartered family trust company shall not be less than five hundred thousand dollars (\$500,000.00).

From W.S. 13-5-208

§ 13-5-305. Procedures upon filing of organizational instruments, application and other information; application fee; approval or disapproval of application; criteria for approval; action upon application

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

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

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

(d) Within ~~sixty (60)~~ ~~forty-five (45)~~ days after receipt of a completed application, the commissioner shall, in the commissioner's discretion, approve, conditionally approve or disapprove the application. Prior to taking action on an application, the commissioner shall determine that:

(i) The chartered family trust company is being formed for no other purpose than

contemplated by the laws of this state;

(ii) The proposed capital and surplus are not less than the required minimum amount in W.S. 13-5-304 and are adequate in light of current and prospective conditions as determined by the commissioner;

(iii) The applicants, proposed officers and directors have sufficient character, reputation, experience, ability and financial standing to afford reasonable promise of successful operation;

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

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

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

(f) Upon approval of an application, the commissioner shall endorse upon the ~~organizational articles of organization or incorporation instrument~~ organizational the commissioner's approval and shall file one (1) copy of the application with the secretary of state, retain one (1) copy in the commissioner's files and return one (1) copy to the applicant within twenty (20) days after the date of the decision of the commissioner approving the application. If the commissioner conditionally approves an application and the applicant complies with the conditions imposed by the commissioner, the commissioner shall approve the application and proceed in accordance with this section.

(g) Notice of the entry of an order refusing a charter or imposing conditions upon approval of the charter to a family trust company must be given in writing, served personally or sent by certified mail, return receipt requested, to the applicant. If the commissioner disapproves or imposes conditions upon the application, the commissioner shall mail notice of the action to the applicants within twenty (20) days after the commissioner's negative action. The applicant, upon appeal, is entitled to a hearing before the board pursuant to the Wyoming Administrative Procedure Act. If no such appeal is made within thirty (30) days after the entry of an order refusing a charter or imposing conditions upon the charter to any applicant, the commissioner shall enter a final order.

From W.S. 13-5-209

§ 13-5-306. Inspection of chartered family trust company; fees; resolution fund account; confidentiality

(a) Every chartered family trust company is subject to inspection by the commissioner. The commissioner or a duly appointed examiner shall visit and examine each chartered family trust company as often as the commissioner deems necessary and at least once every three (3) years, with or without previous notice to the officers of or anyone interested in the chartered family trust company. The commissioner or a duly appointed examiner shall make a complete and careful examination of the condition and resources of the chartered family trust company, the

mode of managing the company's affairs and conducting its business, all records, transactions and other data or documents pertaining to the actions of the chartered family trust company, the action of its officers, ~~and directors~~ and managers in the investment and disposition of trust funds, the safety and prudence of the company's management, the security afforded to those by whom trust company engagements are held, whether the requirements of this chapter are being complied with and such other matters as the commissioner may prescribe.

(b) All information, reports or applications obtained by the commissioner from an applicant or chartered family trust company are confidential.

From W.S. 13-5-215

§ 13-5-307. Fidelity bonds; insurance

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

(b) A chartered family trust company may also procure property and casualty insurance of a nature and with such coverage amounts as the chartered family trust company deems advisable.

From W.S. 13-5-216

History. Added by Laws 2015, ch. 84, §1, eff. 7/1/2015.

§ 13-5-308. Conversion from public trust company to chartered family trust company

(a) A public trust company that meets the requirements of W.S. 13-5-101(a)(vi), 13-5-303 and 13-5-304 may merge with, convert into or reorganize as a chartered family trust company upon application to the commissioner on forms approved by the commissioner.

(b) For public trust companies established after July 1, 2015, seeking to convert from a public trust company to a chartered family trust company, the application filed with the commissioner shall be accompanied by a fee established by rule and regulation of the commissioner.

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

(d) The applicant shall be notified when the application is approved. Within twenty (20) days after notification, the applicant shall furnish the bonds required by W.S. 13-5-307.

From W.S. 13-5-217

Wyoming Statutes
Title 13. BANKS, BANKING AND FINANCE
Chapter 5. TRUST COMPANIES
ARTICLE 4 – PRIVATE FAMILY TRUST COMPANIES

§ 13-5-401. 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 conditions prescribed by law.

(b) The articles of incorporation for a private family trust company organized as a corporation shall ~~set forth~~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. 13-5-102 and 17-16-401;

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

(iii) A statement that the corporation will act as a fiduciary exclusively for one 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 **information**:

(i) The name of the limited liability company, which ~~must~~shall comply with W.S. 13-5-102 and 17-29-108;

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

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

(d) Upon the approval of the ~~articles of incorporation or articles of organization~~organizational instrument of a private family trust company by the secretary of state, the directors or managers of the private family trust company shall execute and deliver a signed waiver to the commissioner acknowledging that the private family trust company is not supervised by the commissioner, and that at all times the private family trust company will not transact trust company business with the general public.

§ 13-5-402. Inspection authority of the commissioner

(a) If the commissioner has reasonable cause to believe that a private family trust company proposes to transact or has transacted trust company business with the general public, then the commissioner may conduct such inspections of the private trust company as the commissioner deems necessary to ensure compliance with the provisions of this chapter.

(b) If the commissioner discovers that a private family trust company proposes to transact or has transacted trust company business with the general public, then the commissioner may take those actions enumerated in W.S. 13-10-201 through 13-10-209 with respect to the private

family trust company to ensure compliance with the provisions of this chapter.

§ 13-5-403. Applicability of chapter

Except as otherwise provided in this chapter, the provisions of this chapter applicable to supervised trust companies shall not apply to private family trust companies.

Wyoming Statutes
Title 13. BANKS, BANKING AND FINANCE
Chapter 5. TRUST COMPANIES
ARTICLE 5 – TRUST SERVICE OFFICES

§ 13-5-501. Establishment of trust service offices; application

(a) After first applying for and obtaining the approval of the commissioner, one (1) or more trust service offices may be established and operated by a ~~chartered family~~supervised trust company organized under the laws of this state. An application to establish and operate a trust service office or to relocate an existing trust service office shall be submitted and approved by way of the procedure set forth in **W.S. 13-5-305**.

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

(c) After giving notice to the commissioner, a trust company, established and chartered under the laws of another state and which qualifies as a ~~family supervised~~ trust company for the purposes of this chapter and provides in its ~~articles of incorporation or operating agreement~~organizational instrument that it will only exercise within Wyoming the powers of a ~~family supervised~~ trust company as specified in W.S. 13-5-101, may establish and operate a trust service office in this state if the company's home state does not prohibit a Wyoming trust company from establishing a trust office in that state.

From W.S. 13-5-219