

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Digital assets-amendments.

Sponsored by: Select Committee on Blockchain, Financial  
Technology and Digital Innovation Technology

A BILL

for

1 AN ACT relating to digital assets; amending the definition  
2 of digital asset; amending provisions relating to the  
3 nature of digital assets under commercial law; amending  
4 security interest provisions relating to digital assets;  
5 specifying the application of commercial law to specific  
6 types of digital assets; clarifying provisions relating to  
7 custody of digital assets by banks; establishing that  
8 certain digital asset provisions are consumer protection  
9 statutes for commercial law purposes; and providing for an  
10 effective date.

11

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

1

2           **Section 1.** W.S. 34-29-101(a)(i), 34-29-102(b) and by  
3 creating a new subsection (e), 34-29-103(a) through (d),  
4 (e)(i)(intro) and (iv), (g)(intro), (i) and (ii) and 34-29-  
5 104(d)(intro) and (e) are amended to read:

6

7           **34-29-101. Definitions.**

8

9           (a) As used in this chapter:

10

11           (i) "Digital asset" means a representation of  
12 economic, proprietary or access rights that is stored in a  
13 computer readable format, and ~~includes digital consumer~~  
14 ~~assets, digital securities and virtual currency~~ is either a  
15 digital consumer asset, digital security or virtual  
16 currency;

17

18           **34-29-102. Classification of digital assets as**  
19 **property; applicability to Uniform Commercial Code;**  
20 **application of other law.**

21

22           (b) Consistent with W.S. 34.1-8-102(a)(ix), a digital  
23 asset may be treated as a financial asset under that

1 paragraph, pursuant to ~~a written~~an agreement with the  
2 owner of the digital asset. If treated as a financial  
3 asset, the digital asset shall remain intangible personal  
4 property.

5

6 (e) This chapter shall be considered a consumer-  
7 protection statute for the purposes of W.S. 34.1-9-201(b).

8

9 **34-29-103. Perfection of security interests in**  
10 **digital assets; control; possession; security agreements;**  
11 **location.**

12

13 (a) Notwithstanding the financing statement  
14 requirement specified by W.S. 34.1-9-310(a) as otherwise  
15 applied to general intangibles or any other provision of  
16 law, perfection of a security interest in virtual currency  
17 ~~or digital securities~~ may be achieved through possession ~~or~~  
18 ~~control, as applicable to the asset, consistent with W.S.~~  
19 34-29-102(a) and perfection of a security interest in  
20 digital securities may be achieved by control. A security  
21 interest held by a secured party having possession or  
22 control, as applicable, of virtual currency or digital  
23 securities has priority over a security interest held by a

1 secured party that does not have possession or control, as  
2 applicable. ~~of virtual currency or digital securities.~~

3 Other provisions of law relating to perfection and priority  
4 of security interests, including W.S. 34.1-9-322(c) and  
5 priority of control over delivery, shall ~~remain applicable~~  
6 apply, except that W.S. 34.1-9-322(a)(i) and (b) shall not  
7 apply. W.S. 34.1-9-207 shall apply to this section.

8  
9 (b) Before a secured party may take possession or  
10 control under this section, the secured party shall enter  
11 into a security agreement with the debtor and, as  
12 necessary, other parties. The security agreement may set  
13 forth the terms under which a secured party may pledge its  
14 security interest as collateral for another transaction.  
15 Consistent with W.S. 34.1-9-201(a), the security agreement  
16 shall be effective according to its terms between parties,  
17 against purchasers of collateral and against creditors.

18  
19 \*\*\*\*\*  
20 \*\*\*\*\*  
21 **STAFF COMMENT**  
22 **The Committee may wish to consider whether clarifying**  
23 **"located in Wyoming" as used in (c) below is needed.**  
24 \*\*\*\*\*  
25 \*\*\*\*\*  
26

1           (c)    If a debtor is located in Wyoming, a secured  
2 party may file a financing statement with the secretary of  
3 state to perfect a security interest in digital consumer  
4 assets or digital securities, including to perfect a  
5 security interest in proceeds ~~from a digital asset~~ pursuant  
6 to W.S. 34.1-9-315(d).

7  
8           (d)    Notwithstanding any other provision of law,  
9 including article 9 of the Uniform Commercial Code, title  
10 34.1, Wyoming statutes, a transferee takes a digital asset  
11 free of any security interest two (2) years after the  
12 transferee takes the asset for value and does not have  
13 actual notice of an adverse claim at any time during the  
14 two (2) year period. This subsection only applies to a  
15 security interest perfected by filing.

16  
17           (e)    As used in this section:

18  
19           (i)    "Control," when used in article 9, title  
20 34.1, Wyoming statutes and this section, consistent with  
21 W.S. 34.1-9-314, includes the following:

22

1           (iv) "Possession," when used in article 9, title  
2 34.1, Wyoming statutes and this section, consistent with  
3 34.1-9-313, means the ability to exclude others from the  
4 use of property, and includes use of a private key, a  
5 multi-signature arrangement exclusive to the secured party  
6 or a smart contract, as defined in this subsection, or any  
7 substantially similar analogue. "Possession" shall also  
8 include delivery of certificated digital securities,  
9 consistent with W.S. 34.1-8-301(a).

10  
11           (g) For purposes of article 9, title 34.1 and this  
12 section, if collateral is required to be "located in a  
13 jurisdiction," a digital asset is located in Wyoming if the  
14 asset is possessed, ~~or~~ controlled ~~or otherwise held~~ by a  
15 Wyoming bank, trust company or other custodian, the debtor  
16 or secured party is physically located in Wyoming or the  
17 debtor or secured party is incorporated or organized in  
18 Wyoming, based on the following factors:

19  
20           (i) Whether a security agreement typically  
21 ~~present in~~ accompanying a possessory security interest ~~or~~  
22 other secured transaction exists, consistent with W.S.  
23 34.1-9-201(a), including an agreement describing the

1 possessory nature of a private key or any substantially  
2 similar analogue;

3

4 (ii) ~~The choice~~ Choice of law in a security  
5 agreement, evidencing the intent and understanding of the  
6 parties relating to ~~all potential aspects of~~ a transaction,  
7 including waivers of litigation in jurisdictions other than  
8 Wyoming, access to the Wyoming chancery court and judicial  
9 economy; and

10

11 **34-29-104. Digital asset custodial services.**

12

13 (d) Digital assets held in custody under this section  
14 are not depository liabilities or assets of the bank. A  
15 bank, or a subsidiary, may register as an investment  
16 adviser, investment company or broker dealer as necessary.  
17 A bank shall maintain possession or control, as applicable,  
18 over a digital asset while in custody. A customer shall  
19 elect, pursuant to a written agreement with the bank, one  
20 (1) of the following relationships for each digital asset  
21 held in custody:

22

1 \*\*\*\*\*  
 2 \*\*\*\*\*  
 3 STAFF COMMENT  
 4 The definitions of "possession" and "control" found in 34-  
 5 29-103 are limited to that section and do not apply to 34-  
 6 29-104(d) above. The Committee may wish to consider  
 7 whether extending those definitions to include this section  
 8 is appropriate.  
 9 \*\*\*\*\*  
 10 \*\*\*\*\*  
 11

12 (e) If a customer makes an election under paragraph  
 13 (d)(ii) of this section, the bank may, based only on  
 14 customer instructions, undertake transactions with the  
 15 digital asset. A bank ~~maintains~~ is deemed to maintain  
 16 possession or control pursuant to subsection (d) of this  
 17 section by entering into an agreement with the counterparty  
 18 to a transaction which contains a time for return of the  
 19 asset and other customary terms in securities or  
 20 commodities transactions. The bank shall not be liable for  
 21 any loss suffered with respect to a transaction under this  
 22 subsection, except for liability consistent with fiduciary  
 23 and trust powers.

24  
 25 **Section 2.** This act is effective July 1, 2021.

26  
 27 (END)