

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Trusts and bank assets in bankruptcy-clarification.

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

A BILL

for

1 AN ACT relating to banks, banking and finance; Specifying  
2 when certain accounts shall not be deemed assets or  
3 liabilities of financial institutions for purposes of  
4 receivership, conservatorship or bankruptcy of the  
5 financial institution; providing definitions; making  
6 conforming amendments; and providing for an effective date.

7

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

9

10 \*\*\*\*\*  
11 \*\*\*\*\*

12 **STAFF COMMENT**

13

1 The language for this draft was provided to LSO and has not  
2 completed LSO review. Significant changes may be  
3 necessary.

4 \*\*\*\*\*  
5 \*\*\*\*\*  
6

7 Section 1. W.S. 13-1-206 is created to read:

8

9 13-1-206. Financial institutions; fiduciary and  
10 custodial accounts; bankruptcy and receivership treatment.

11

12 (a) Fiduciary and custodial accounts under the  
13 administration or management of a financial institution, as  
14 defined in W.S. 13-1-101(a)(ix), that meet the requirements  
15 of subsection (b) of this section shall not be deemed  
16 assets or liabilities of the financial institution for the  
17 purposes of any receivership or conservatorship under this  
18 title or a bankruptcy, receivership or other similar  
19 proceeding under federal law. Fiduciary and custodial  
20 accounts shall be maintained off-balance sheet for  
21 accounting purposes. This section, and other applicable  
22 provisions of Titles 4, 13 and 34 of the Wyoming statutes,  
23 shall create an interest in property under state law for  
24 the purposes of title 11 of the United States Code.

25

1           (b) A fiduciary or custodial account shall be subject  
2 to the following requirements to be covered by subsection  
3 (a) of this section:

4

5           (i) The account is governed by a properly  
6 documented trust or custodial agreement, with a clear legal  
7 relationship between the financial institution and  
8 customer;

9

10           (ii) Assets held in the account shall be properly  
11 identified and segregated from the assets and liabilities  
12 of the financial institution, with proper documentation of  
13 segregation evident on the books and records of the  
14 institution; and

15

16           (iii) The account meets all other applicable  
17 requirements of Title 4 of the Wyoming statutes, W.S. 34-  
18 29-101 through 34-29-209 and W.S. 34.1-1-101 through 34.1-  
19 9-809.

20

21           (c) As determined by the Commissioner, a deposit, as  
22 defined in 12 U.S.C. 1813(1), held by a depository  
23 institution in reserve with respect to virtual currency as

1 defined in W.S. 34-29-101(a)(iv) representative of and  
2 redeemable for one (1) United States dollar, shall not be  
3 subject to this section.

4

5 (d) As used in this section:

6

7 (i) "Custodial account" means an account  
8 established by a financial institution that does not  
9 involve the exercise of substantial discretion and involves  
10 the safekeeping, servicing and management of customer  
11 financial assets, including currency, digital assets,  
12 securities and commodities.

13

14 (ii) "Fiduciary account" means an account  
15 established by a financial institution for which the  
16 institution owes a fiduciary duty to a customer and that  
17 involves the exercise of substantial discretion, which  
18 shall include investment advice or investment decision-  
19 making relating to financial assets, including currency,  
20 digital assets, securities and commodities.

21

1           **Section 2.** W.S. 13-5-417(f), 34-29-104(a), (d) and by  
2 creating a new subsection (p) and renumbering (p) as (q)  
3 are amended to read:

4

5           **13-5-417. Insolvency; unsafe condition; receivership.**

6

7           (f) If determined by the commissioner to be in the  
8 best interests of both the state and the supervised trust  
9 company, the commissioner may require the supervised trust  
10 company to file a petition under title 11 of the United  
11 States Code in lieu of a receivership under this section.  
12 If the commissioner has been appointed receiver under this  
13 section prior to the filing of a petition under title 11,  
14 United States Code, the commissioner shall be discharged  
15 from further duties under the receivership after the  
16 resolution of any jurisdictional issues at the commencement  
17 of a bankruptcy proceeding.

18

19           **34-29-104. Digital asset custodial services.**

20

21           (a) A bank may provide custodial services for digital  
22 assets consistent with this section upon providing sixty  
23 (60) days written notice to the commissioner. ~~The~~

1 ~~provisions of this section are cumulative and not exclusive~~  
2 ~~as an optional framework for enhanced supervision of~~  
3 ~~digital asset custody.~~ If a bank elects to provide  
4 custodial services ~~under this section~~ for digital assets,  
5 it shall comply with all provisions of this section.  
6

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

17 ~~(p)~~ (q) As used in this section:  
18

19 (i) "Bank" has the meaning ascribed to it in  
20 W.S. 13-1-101(a)(i);  
21

22 (ii) "Commissioner" means the banking  
23 commissioner;

1

2           (iii) "Custodial services" means the  
3 safekeeping, servicing and management of ~~customer currency~~  
4 ~~and digital assets. This term includes the exercise of~~  
5 ~~fiduciary and trust powers involving the exercise of~~  
6 ~~discretion, including transactions under subsection (e) of~~  
7 ~~this section~~ financial assets, including currency, digital  
8 assets, securities and commodities that do not involve the  
9 exercise of substantial discretion.

10

11           **Section 4.** This act is effective July 1, 2024.

12

13

(END)