

TITLE 34  
PROPERTY, CONVEYANCES AND SECURITY TRANSACTIONS

CHAPTER 1  
GENERAL PROVISIONS

ARTICLE 1  
IN GENERAL

**34-1-101. "Purchaser" defined.**

The term "purchaser", as used in this act shall be construed to embrace every person to whom any estate or interest in real estate shall be conveyed for a valuable consideration, and also every assignee of a mortgage or lease, or other conditional estate.

**34-1-102. "Conveyance" defined.**

The term "conveyance", as used in this act, shall be construed to embrace every instrument in writing by which any estate or interest in real estate is created, alienated, mortgaged or assigned, or by which the title to any real estate may be affected in law or in equity, except wills, leases for a term not exceeding three (3) years, executory contracts for the sale or purchase of lands, and certificates which show that the purchaser has paid the consideration and is entitled to a deed for the lands, and contain a promise or agreement to furnish said deed at some future time.

**34-1-103. Letters of attorney; not a conveyance.**

The preceding section shall not be construed to extend to a letter of attorney, or other instrument, containing a power to convey lands as agent or attorney for the owner of such lands.

**34-1-104. Letters of attorney; recordation; effect as evidence.**

Every letter of attorney, or other instrument, containing a power to convey lands as agent or attorney for the owner of such lands, and every executory contract for the sale or purchase of lands, only when acknowledged by such owner, may be recorded by the county clerk of any county in which the lands to which such letter, instrument or contract relates, or any part of such lands, may be situated, and when so acknowledged, and the record thereof when recorded, or a transcript of such record duly

certified, may be read in evidence in the same manner and with like effect as a conveyance recorded in such county.

**34-1-105. Letters of attorney; recordation; when revocation valid.**

No letter of attorney, or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office in which the instrument containing the power was recorded.

**34-1-106. Form and capacity of conveyances.**

Conveyances of land or of any estate or interest therein, may be made by instrument executed and acknowledged by the party from whom or which the estate or interest is intended to pass.

**34-1-107. Quitclaim deed.**

A deed of quitclaim and release shall be sufficient to pass all the estate which the grantor could lawfully convey by deed of bargain and sale.

**34-1-108. Married women; right to convey generally.**

A married woman may, by her deed or mortgage, convey her real estate in like manner as she might, if she were an unmarried woman.

**34-1-109. Married women; right to convey all interest in land divested from husband; effect of conveyance.**

In all cases where the interest of the husband in any tract or parcel of land has been, or shall be, divested by process of law, or by voluntary conveyance or otherwise, the wife may, by her separate deed, release and convey to the purchaser, his heirs or grantees, all her interest in such tract or parcel of land, whether in possession or expectancy, in the same manner as though she were sole and unmarried; and any deed by the wife so executed and acknowledged, shall be a valid and sufficient bar in law and equity to any right or choice of dower, or other interest which she may thereafter assert in such premises.

**34-1-110. Married women; conveyance by nonresident.**

When any married woman, not residing in this state, shall join her husband in any conveyance of real estate situated within this state, the conveyance shall have the same effect as if she were sole, and the acknowledgment of proof of the execution of such conveyance by her, may be the same as if she were sole.

**34-1-111. Conveyance by tenant for life.**

A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

**34-1-112. Claim of adverse possession not to invalidate conveyance.**

No grant or conveyance of lands or interest therein shall be void, for the reason that at the time of the execution thereof, such land shall be in the actual possession of another, claiming adversely.

**34-1-113. Acknowledgment of conveyances; generally.**

Execution of deeds, mortgages or other conveyances of lands, or any interest in lands, shall be acknowledged by the party or parties executing same, before any notarial officer. The notarial officer taking such acknowledgment shall comply with the requirements of W.S. 34-26-107.

**34-1-114. Repealed By Laws 2008, Ch. 20, § 3.**

**34-1-115. Repealed By Laws 2008, Ch. 20, § 3.**

**34-1-116. Repealed By Laws 2008, Ch. 20, § 3.**

**34-1-117. Repealed By Laws 2008, Ch. 20, § 3.**

**34-1-118. Where conveyance to be recorded.**

A certificate of the acknowledgment of any deed, mortgage or conveyance, or proof of the execution thereof, before a notarial officer, shall entitle such deed, mortgage or conveyance, certificate or certificates aforesaid, to be recorded in the office of the county clerk in the county where the land lies.

**34-1-119. Duties of county clerk generally.**

(a) The county clerk of each county within this state shall receive and record at length all deeds, mortgages, conveyances, patents, certificates and instruments left with him for that purpose, and he shall endorse on every such instrument the day and hour on which it was filed for record. The county clerk shall not record any document until the address of the grantee, mortgagee or assignee of the mortgagee is furnished to the county clerk, but this requirement shall not affect the validity of the recording of any instrument except to the extent provided in W.S. 34-1-142(b). Only instruments which are the originally signed documents, including electronic documents recorded pursuant to the Uniform Real Property Electronic Recording Act, W.S. 34-1-401 through 34-1-407, or properly certified or authenticated copies thereof may be properly recorded. A document is properly certified if in compliance with Rule 902 of the Wyoming Rules of Evidence or other applicable rule or statute.

(b) Whenever a transfer on death deed is filed with the county clerk pursuant to W.S. 2-18-103, the county clerk shall furnish the following information to the Wyoming department of health, division of healthcare financing within fourteen (14) days of recording the deed:

(i) The name of the grantor;

(ii) The name of the grantee;

(iii) The legal description of the property being transferred.

**34-1-120. Unrecorded conveyance void as to subsequent purchasers recording first.**

Every conveyance of real estate within this state, hereafter made, which shall not be recorded as required by law, shall be void, as against any subsequent purchaser or purchasers in good faith and for a valuable consideration of the same real estate or any portion thereof, whose conveyance shall be first duly recorded.

**34-1-121. Recorded instrument as notice to subsequent purchasers; recordation of instruments issued by United States or state of Wyoming.**

(a) Each and every deed, mortgage, instrument or conveyance touching any interest in lands, made and recorded, according to the provisions of this chapter, shall be notice to and take precedence of any subsequent purchaser or purchasers from the time of the delivery of any instrument at the office of the county clerk, for record. Any and all instruments or other documents, or copies of instruments or other documents duly certified by any agency, department or bureau of the United States or the state of Wyoming having charge of the records of the instruments or other documents, conveying, remising or demising, or otherwise affecting:

(i) Real estate on any Indian reservation and relating to any period the real estate may be or has been held by the United States in trust for an Indian or Indians or Indian tribe, or restricted against alienation under the laws of the United States, or any interest in the real estate; or

(ii) Real estate, or any interest therein, or any assignment thereof, issued by the United States or the state of Wyoming, or any agency, department or bureau of either thereof, including mineral leases and assignments thereof, certificates of purchase or payment for public lands issued by the receiver of the land office, shall be entitled to record under this chapter, and the record of all instruments or other documents shall have the same effect to all intents and purposes as though the same were acknowledged and otherwise executed as required by the provisions of this chapter relating to conveyances.

**34-1-122. Force and effect of conveyances prior to act.**

All conveyances of real estate heretofore made and acknowledged or proved in accordance with the laws of this state in force at the time of such making, acknowledgment or proof, shall have the same force as evidence, and be recorded in the same manner and with like effect as conveyances executed and acknowledged in accordance with the provisions of this act.

**34-1-123. Admissibility of conveyance or record thereof as evidence.**

All deeds, mortgages, conveyances or instruments of any character, concerning any interest in lands within this state, which shall be executed, acknowledged, attested or proved in accordance with the provisions of this act or the laws of this state, or the local laws of any mining district wherein such real estate is situate, in force at the date of such

acknowledgment, attestation or proof, may be read in evidence, without in the first instance additional proof of the execution thereof, and the record of any such deed, mortgage, conveyance or instrument, whether an original record of any mining district, or a copy thereof deposited in the register's [county clerk's] office of any county, in accordance with the laws of this state (as a part of the records of such mining district) or a record of such recorder's office, when the same appears by such record to be properly acknowledged, attested or proved in accordance with the laws of this state, or of the proper mining district in force at the date of such acknowledgment, attestation or proof, or a transcript from any such record, certified by the register [county clerk] of the proper county where such deed, mortgage, conveyance or instrument ought by law to be recorded, may, upon the affidavit of the party desiring to use the same, that the original thereof is not in his possession or power to produce, be read in evidence with like effect as the original of such deed, mortgage, conveyance or instrument properly acknowledged, attested or proved as aforesaid, but the effect of such evidence may be rebutted by other competent testimony.

**34-1-124. Federal land office instruments; generally; railway maps and affidavits; recording and recording fees.**

Patents heretofore or hereafter issued by the United States, for lands and certificates of purchase or payment for public lands, heretofore or hereafter issued by the receiver of any land office of the United States, shall be entitled to be recorded under the provisions of this chapter, and the record of all such instruments shall have the effect to all intents and purposes, as though same were acknowledged and otherwise executed as required by law; provided, that any railroad company, having a right-of-way or station grounds, acquired in conformity to an act of the congress of the United States, requiring a map thereof, to be approved by the secretary of the interior, shall file with the county clerk, of any county in this state, wherein such right-of-way and station grounds may be, a copy of such map, duly authenticated, together with the affidavit of any officer or agent of such railroad company, describing by quarter sections the lands within such county, affected by such right-of-way, which were public lands when such map was approved, and it shall be the duty of such county clerk to record said affidavit, and file said map, and to note upon the abstract of lands of his office as to each quarter section so described, that a right-of-way across the same is claimed by the company

filing said map; provided, further, that the fee for filing said map and recording said affidavit, shall be two dollars (\$2.00).

**34-1-125. Federal land office instruments; as evidence.**

The certificate of purchase or payment issued by the receiver of any land office of the United States, or the record thereof, or if the same be lost or destroyed or beyond the reach of the person entitled thereto, secondary evidence of its contents, is proof of the title to the lands described therein, equivalent to a patent against all except the United States or the holder of a patent from the United States.

**34-1-126. Repealed By Laws 2008, Ch. 20, § 3.**

**34-1-127. Effect on purported absolute conveyance of unrecorded deed of defeasance.**

When a deed or mortgage purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by force of defeasance, or other instrument for that purpose, the original conveyance shall not be thereby defeated or affected as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded in the office of the county clerk of the county where the lands lie.

**34-1-128. Recorded assignment of mortgage.**

The recording of the assignment of a mortgage, shall not in itself, be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them or either of them to the mortgagee.

**34-1-129. Husband or wife may appoint each other as attorney-in-fact to control interests.**

A husband or wife may constitute the other his or her attorney-in-fact to control or dispose of his or her property, or any inchoate or other interest therein and may revoke the same to the same extent and in the same manner as other persons.

**34-1-130. County clerk to discharge mortgage or deed of trust on record when certificate of release recorded.**

Any mortgage or deed of trust shall be discharged upon the record thereof, by the county clerk in whose custody it shall

be, or in whose office it is recorded, when there shall be recorded in his office a certificate or deed of release executed by the mortgagee, trustee or beneficiary, his assignee or legally authorized representative, or by a title agent or title insurer acting in accordance with the provisions of W.S. 34-1-145 through 34-1-150, acknowledged or proven and certified as by law prescribed to entitle conveyances to be recorded, specifying that such mortgage or deed of trust has been paid or otherwise satisfied or discharged, and the county clerk shall make a reference to such release in the record.

**34-1-131. Force and effect of section 34-1-130 on mortgages and deeds of trust executed and deeds of trust discharged prior to act.**

The preceding section, as hereby amended, shall apply to all mortgages and deeds of trust, heretofore as well as those which may be hereafter, executed and the release or discharge of any deed of trust heretofore made in accordance with said section, by the trustee named in said deed of trust or his successor, is hereby legalized and declared to be as binding upon all parties in interest as though such release or discharge had been made after the passage of this act.

**34-1-132. Liability of mortgagee for failing to discharge; damage limitations; definition.**

(a) A mortgagee shall, within thirty (30) days after having received by certified or registered mail a request in writing for the discharge or release of a mortgage, execute and acknowledge a certificate or deed of discharge or release of the mortgage if there has been full performance of the condition of the mortgage and if there is no other written agreement between the mortgagee and mortgagor encumbering the property subject to the mortgage.

(b) A mortgagee who fails or refuses to discharge or release a mortgage within the thirty (30) day period required by subsection (a) of this section is liable to the mortgagor or his assignees for:

(i) All actual damages resulting from the mortgagee's failure or refusal to discharge or release the mortgage; and

(ii) Special damages in the amount of one-tenth of one percent (.10%) of the original principal amount of the mortgage for each additional day after the thirty (30) day



period until the mortgage is released or discharged. Special damages authorized by this paragraph shall not exceed one hundred dollars (\$100.00) per day.

(c) Notwithstanding any assignment of the mortgage, the mortgagee of record is liable for the damages specified in subsection (b) of this section unless, within sixty (60) days after receipt of the request for discharge or release as provided by subsection (a) of this section, he furnishes to the person making the request the name and address of the current assignee or holder of the mortgage who has legal authority to execute the discharge or release.

(d) As used in this section "mortgagee" means the mortgagee named in the original mortgage or, if assigned, the current holder of the mortgage or the servicing agent for the current holder of the mortgage.

**34-1-133. Release; mortgage of deceased nonresident mortgagee.**

Whenever any nonresident of this state shall die without this state, owing, at the time of his death, debts secured by mortgage or other incumbrance upon real or personal property situated in this state, and the debtor shall make voluntary payment of such debt to the executor of the last will and testament of such deceased person, or to the administrator of the estate of such deceased person, whose letters testamentary or of administration, as the case may be, were issued from the proper court of the state or territory of the United States, where such deceased creditor resided at the time of his death, it shall be lawful and competent for such executor or administrator to execute a full and valid release, and acquittance of such debt, and of the mortgage or other incumbrance securing the same; provided, that there shall be attached to such release and acquittance, and made a part thereof, a full and complete transcript of the records of the court issuing such letters testamentary or of administration, as the case may be, certified to by the clerk of such court, or other proper custodian of the records thereof, under his hand and under the seal of such court, fully exhibiting the due appointment and qualification of such executor or administrator, and there shall also be attached to such release and made a part thereof, a certificate under the hand of the presiding judge of such court, or the clerk thereof, that at the date of such release, the person or persons executing the same, was such duly appointed and qualified executor or administrator, as set forth

in such release. Any release so executed shall be admitted to record, in this state, in the office of any of the county clerks and upon being recorded in the proper office, the county clerk shall discharge the mortgage or other incumbrance in such release mentioned, in the manner provided by law, but this section shall not be construed to authorize any administrator appointed by the courts of any other state or territory of the United States, to exercise any power, within the state other than the power to receive voluntary payments of debts due to his intestate, and to release mortgages or other incumbrances upon property situate in this state and securing such debts.

**34-1-134. Release; mortgage of bankrupt corporation mortgagee.**

It shall be the duty of any county clerk within the state of Wyoming, upon request of any person and the filing in his office of a certified copy of an order of discharge of any receiver or trustee in bankruptcy of any national or state bank, trust company or building and loan association, to cancel of record any unreleased and unassigned mortgage or deed of trust of record in his office in which such national or state bank, trust company, or building and loan association, is mortgagee by releasing the said mortgage or deed of trust in the record where the same has been placed of record, and said release shall be effective and constitute a discharge of the lien of said mortgage or trust deed upon the real property covered by the same in the same manner and to the same effect as if said release had been made by the mortgagee thereof.

**34-1-135. Covenants; not implied in conveyances; exception.**

No covenant shall be implied in any conveyance of real estate other than a conveyance of oil, gas or other minerals whether such conveyance contains special covenants or not.

**34-1-136. Covenants; not implied for payment of sum secured by mortgage.**

No mortgage shall be construed as implying a covenant for the payment of the sum thereby intended to be secured, where there shall be no express covenant for such payment contained in the mortgage, and, if no bond or other separate instrument to secure such payment shall be given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

**34-1-137. Fees tail prohibited; future interests of fees tail; worthier title doctrine abolished.**

(a) The creation of fees tail is not permitted. The use in an otherwise effective conveyance of property of language appropriate to create a fee tail, creates a fee simple in the person who would have taken a fee tail. Any future interest limited upon such an interest is a limitation upon the fee simple and its validity is determined accordingly.

(b) The doctrine of worthier title is abolished as a rule of law and as a rule of construction. Language in a will, trust agreement, beneficiary designation or other governing instrument describing the beneficiaries of a disposition as "heirs," "heirs at law," "next of kin," "distributees," "relatives" or "family" or language of similar import, does not create or presumptively create a reversionary interest in the transferor.

**34-1-138. Perpetuities; short title.**

This act may be cited as the "Model Rule Against Perpetuities Act".

**34-1-139. Perpetuities; time limits for vesting; restrictions on selected lives; legislative intent.**

(a) No interest in real property shall be valid unless it must vest not later than twenty-one (21) years after some life in being at the creation of the interest and any period of gestation involved in the situation to which the limitation applies. The lives selected to govern the time of vesting must not be so numerous nor so situated that evidence of their deaths is likely to be unreasonably difficult to obtain. It is intended by this subsection to make effective in this state the American common-law rule against perpetuities for interests in real property.

(b) A trust created after July 1, 2003, owning or holding property other than or in addition to interests in real property, shall continue for up to one thousand (1,000) years after the trust's creation, unless some earlier term is expressly set forth in the trust instrument, so long as:

(i) Repealed by Laws 2019, ch. 47, § 2.

(ii) Repealed by Laws 2019, ch. 47, § 2.

(iii) The trust is governed by the laws of this state;

(iv) The trustee maintains a place of business, administers the trust in this state or is a resident of this state; and

(v) The trust terms require that any power of appointment over the trust property, other than interests in real property, terminate and all such interests in trust property vest or terminate no later than one thousand (1,000) years after the trust's creation or such earlier date as is set forth in the trust instrument.

(c) Repealed by Laws 2019, ch. 47, § 2.

(d) Repealed by Laws 2019, ch. 47, § 2.

(e) If a trust owns or holds both interests in real property and interests in property other than real property, subsection (a) of this section shall apply to any real property interests held in the trust and subsection (b) shall apply to the remaining property of the trust.

**34-1-140. Establishing joint tenancy or tenancy by entirety in real or personal property.**

A joint tenancy or a tenancy by the entirety as to any interest in real or personal property may be established by the owner thereof, by designating in the instrument of conveyance or transfer, the names of such joint tenants or tenants by the entirety, including his own, without the necessity of any transfer or conveyance to or through a third person.

**34-1-141. Easements.**

(a) Except as provided in subsection (c) of this section, easements across land executed and recorded after the effective date of this act which do not specifically describe the location of the easement are null and void and of no force and effect.

(b) Except as provided in subsection (c) of this section, agreements entered into after the effective date of this act which grant the right to locate an easement at a later date and which do not specifically describe the location of the easement are null and void.

(c) For purposes of this section an easement or agreement which does not specifically describe the location of the easement or which grants a right to locate an easement at a later date shall be valid for a period of one (1) year from the date of execution of the easement or agreement. If the specific description is not recorded within one (1) year then the easement or agreement shall be of no further force and effect.

(d) For purposes of this section the specific description required in an easement shall be sufficient to locate the easement and is not limited to a survey.

(e) For purposes of this section options to obtain easements at a later date shall not be considered easements or agreements pursuant to subsections (b) and (c) of this section and shall be for a period not to exceed seven (7) years.

**34-1-142. Instrument transferring title to real property; procedure; exceptions; confidentiality.**

(a) When a deed, contract or other document transferring legal or equitable title to real property, including instruments conveying ownership of structures on lands not owned by the transferring party, is presented to a county clerk for recording, the instrument shall be accompanied by a statement under oath by the grantee or his agent disclosing the name of the grantor and grantee, the addresses and contact information of the grantor and grantee, the date of transfer, date of sale, a legal description of the property transferred, the actual full amount paid or to be paid for the property, terms of sale and an estimate of the value of any nonreal property included in the sale.

(b) No instrument evidencing a transfer of real property may be accepted for recording until the completed sworn statement is received by the county clerk. The validity or effectiveness of an instrument as between the parties is not affected by the failure to comply with subsection (a) of this section.

(c) For instruments transferring title as described in this subsection, the presenting party may omit from the statement the amount paid or other consideration exchanged for the property, the terms of the sale and an estimate of the value of any nonreal property included in the sale that would otherwise be required to be included in the statement under subsection (a) of this section:

(i) An instrument which confirms, corrects, modifies or supplements a previously recorded instrument without added consideration;

(ii) A transfer pursuant to mergers, consolidations or reorganizations of business entities;

(iii) A transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of a subsidiary stock;

(iv) A transfer which constitutes a gift of more than one-half (1/2) of the actual value;

(v) A transfer between husband and wife or parent and child with only nominal consideration therefor;

(vi) An instrument the effect of which is to transfer the property to the same party;

(vii) A sale for delinquent taxes or assessments or a sale or a transfer pursuant to a foreclosure;

(viii) Any other transfers which the state board of equalization and department of revenue exempts upon a finding that the information is not useful or relevant in determining sales-price ratios.

(d) The sworn statements shall be used by the county assessors and the state board of equalization and the department of revenue along with other statements filed only as data in a collection of statistics which shall be used collectively in determining sales-price ratios by county. An individual statement shall not, by itself, be used by the county assessor to adjust the assessed value of any individual property.

(e) The statement is not a public record and shall be held confidential by the county clerk, county assessor, county board of equalization, the state board of equalization and the department of revenue. A statement may be disclosed pursuant to W.S. 39-13-109(a)(i) to any person wishing to review or contest his property tax assessment or valuation. The statement shall not be subject to discovery in any other county or state proceeding.

(f) Repealed by Laws 1991, ch. 174, § 3.

(g) As used in W.S. 34-1-142 through 34-1-144:

(i) A "review" is considered the initial meetings between the taxpayer and the county assessor's office pursuant to W.S. 39-13-109(b) (i);

(ii) "Contest" means the filing of a formal appeal pursuant to W.S. 39-13-109(b) (i);

(iii) "Geographic area" may include any area requested by the property owner or his agent within the boundaries of the county in which the subject property is located.

(h) The state board of equalization shall adopt rules and regulations to implement W.S. 34-1-142 and 34-1-143 which shall include forms to be used and which shall be used by county assessors and county clerks.

**34-1-143. Information to be furnished to department of revenue and the state board of equalization.**

The county clerk shall place the recording data on the statement of consideration paid and deliver the statement to the county assessor. The county assessor shall furnish information from the statements of consideration to the state board of equalization and department of revenue as the board or department shall require, and when disclosed under W.S. 34-1-142(g) and 39-13-109(b) (i), any person or his agent wishing to review or contest his property tax assessment or valuation and the county board of equalization. The county assessor may furnish information from the statements of consideration to a county assessor in another county in this state to be used as provided by law.

**34-1-144. Penalty for falsifying statement.**

It is a misdemeanor for a person to willfully falsify or publicly disclose, except as specifically authorized by law, any information on the statement of consideration required by W.S. 34-1-142 and 34-1-143. Upon conviction the offender is subject to a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

**34-1-145. Definitions.**

(a) As used in W.S. 34-1-145 through 34-1-150:

(i) "Beneficiary" means the record owner of the beneficiary's interest under a trust deed, including successors in interest;

(ii) "Mortgage" means as described in W.S. 34-2-107;

(iii) "Mortgagee" means the record owner of the mortgagee's interest under a mortgage, including a successor in interest;

(iv) "Satisfactory evidence of the full payment of the obligation secured by a trust deed or mortgage" means the original cancelled check or a copy of a cancelled check, showing all endorsements, payable to the beneficiary, servicer or mortgagee and reasonable documentary evidence that the check was to effect full payment under the trust deed or an encumbrance upon the property covered by the trust deed or mortgage;

(v) "Servicer" means a person or entity that collects loan payments on behalf of a beneficiary or mortgagee;

(vi) "Title agent" means a title insurance agent licensed as an organization under W.S. 26-23-316 and bonded as a title abstractor under W.S. 26-23-308 or 33-2-101;

(vii) "Title insurer" means a title insurer authorized to conduct business in the state under the Wyoming Insurance Code;

(viii) "Trust deed" means as described in W.S. 34-3-101.

**34-1-146. Reconveyance of trust deed or release of mortgage; procedures; forms.**

(a) A title insurer or title agent may reconvey a trust deed or release a mortgage in accordance with the provisions of subsections (b) through (f) of this section if:

(i) The obligation secured by the trust deed or mortgage has been fully paid by the title insurer or title agent; or



(ii) The title insurer or title agent possesses satisfactory evidence of the full payment of the obligation secured by a trust deed or mortgage.

(b) A title insurer or title agent may reconvey a trust deed or release a mortgage under subsection (a) of this section regardless of whether the title insurer or title agent is named as a trustee under a trust deed or has the authority to release a mortgage.

(c) No sooner than thirty (30) days after payment in full of the obligation secured by a trust deed or mortgage, and after notice is given pursuant to W.S. 34-1-132, the title insurer or title agent shall deliver to the beneficiary, mortgagee or servicer, or send by certified mail to the beneficiary, mortgagee or servicer, at the address specified in the trust deed or mortgage or at any address for the beneficiary or mortgagee specified in the last recorded assignment of the trust deed or mortgage a notice of intent to release or reconvey and a copy of the release or reconveyance to be recorded as provided in subsections (d) and (e) of this section.

(d) The notice of intent to release or reconvey shall contain the name of the beneficiary or mortgagee and the servicer if loan payments on the trust deed or mortgage are collected by a servicer, the name of the title insurer or title agent, the date and be substantially in the following

form:

NOTICE OF INTENT TO RELEASE OR RECONVEY

Notice is hereby given to you as follows:

1. This notice concerns the (trust deed or mortgage) described as follows:

(Trustor or Mortgagor): \_\_\_\_\_

(Beneficiary or Mortgagee): \_\_\_\_\_

Recording Information: \_\_\_\_\_

Book Number: \_\_\_\_\_

Page Number: \_\_\_\_\_

2. The undersigned claims to have paid in full or possesses satisfactory evidence of the full payment of the obligation secured by the trust deed or mortgage described above.

3. The undersigned will fully release the mortgage or reconvey the trust deed described in this notice unless, within thirty (30) days from the date stated on this notice, the undersigned has received by certified mail a notice stating that the obligation secured by the trust deed or mortgage has not been paid in full or that you otherwise object to the release of the mortgage or the reconveyance of the trust deed. Notice shall be mailed to the address stated on this form.

4. A copy of the (release of mortgage or reconveyance of trust deed) is enclosed with this notice.

(Signature of title insurer or title agent)

(Address of title insurer or title agent)

(e) If, within thirty (30) days from the day on which the title insurer or title agent delivered or mailed the notice of intent to release or reconvey in accordance with subsections (c) and (d) of this section, the beneficiary, mortgagee or servicer does not send by certified mail to the title insurer or title agent a notice that the obligation secured by the trust deed or mortgage has not been paid in full or that the beneficiary, mortgagee or servicer objects to the release of the mortgage or reconveyance of the trust deed, the title insurer or title agent may execute, acknowledge and record a reconveyance of a trust deed or release of a mortgage:

(i) A reconveyance of a trust deed under this subsection shall be in substantially the following form:

#### RECONVEYANCE OF TRUST DEED

(Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct business in the state does hereby reconvey, without warranty, the following trust property located in .... County, state of Wyoming, that is covered by a trust deed naming (name of trustor) as trustor, and (name of beneficiary) as beneficiary and was recorded on ...., ....(year), as document number ....., or, if applicable, in Book .... at Page....., (insert a description of the trust property):

The undersigned title insurer or title agent certifies as follows:

1. The undersigned title insurer or title agent has fully paid the obligation secured by the trust deed or possesses satisfactory evidence of the full payment of the obligation secured by the trust deed.
2. No sooner than thirty (30) days after payment in full of the obligation secured by the trust deed, the title insurer or title agent delivered or sent by certified mail to the beneficiary or servicer at the address specified in the trust deed and at any address for the beneficiary specified in the last recorded assignment of the trust deed, a notice of intent to release or reconvey and a copy of the reconveyance.
3. The title insurer or title agent did not receive, within thirty (30) days from the day on which the title insurer or title agent delivered or mailed the notice of intent to release or reconvey, a notice from the beneficiary or servicer sent by certified mail that the obligation secured by the trust deed has not been paid in full or that the beneficiary or servicer objects to the reconveyance of the trust deed.

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(Notarization)

(Signature of title insurer or title agent)

(ii) A release of a mortgage under this subsection shall be in substantially the following form:

RELEASE OF MORTGAGE

(Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct business in the state does hereby release the mortgage on the following property located in .... County, state of Wyoming, that is covered by a mortgage naming (name of mortgagor) as mortgagor, and (name of mortgagee) as mortgagee and was recorded on ...., ....(year), as document number ....., or, if applicable, in Book .... at Page....., (insert a description of the trust property):

The undersigned title insurer or title agent certifies as follows:

1. The undersigned title insurer or title agent has fully paid the obligation secured by the mortgage or possesses satisfactory evidence of the full payment of the obligation secured by the mortgage.

2. No sooner than thirty (30) days after payment in full of the obligation secured by the mortgage, the title insurer or title agent delivered to the mortgagee or sent by certified mail to the mortgagee or servicer at the address specified in the mortgage and at any address for the mortgagee specified in the last recorded assignment of the mortgage, a notice of intent to release or reconvey and a copy of the release.

3. The title insurer or title agent did not receive, within thirty (30) days from the day on which the title insurer or title agent delivered or mailed the notice of intent to release or reconvey, a notice from the mortgagee or servicer sent by certified mail that the obligation secured by the mortgage has not been paid in full or that the mortgagee or servicer objects to the release of the mortgage.

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(Notarization)

(Signature of title insurer or title agent)

(iii) A release of mortgage or reconveyance of trust deed that is executed and notarized in accordance with paragraph (i) or (ii) of this subsection is entitled to recordation in accordance with W.S. 34-1-119 and 34-1-130. Except as otherwise provided in this paragraph, a reconveyance of a trust deed or release of a mortgage that is recorded under this paragraph is valid regardless of any deficiency in the release or reconveyance procedure. If the title insurer's or title agent's signature on a release of mortgage or reconveyance of trust deed recorded under this paragraph is forged, the release of mortgage or reconveyance of trust deed is void.

(f) A release of mortgage or reconveyance of trust deed under this section does not discharge an obligation that was

secured by the trust deed or mortgage at the time the trust deed was reconveyed or the mortgage was released.

**34-1-147. Objections to reconveyance or release.**

A title insurer or title agent may not record a reconveyance of trust deed or release of mortgage if, within thirty (30) days from the day on which the title insurer or title agent delivered or mailed the notice of intent to release or reconvey in accordance with W.S. 34-1-146(c) and (d), the beneficiary, mortgagee or servicer sends a notice by certified mail that the obligation secured by the trust deed or mortgage has not been paid in full or objects to the release of the mortgage or reconveyance of the trust deed under W.S. 34-1-146(e).

**34-1-148. Liability of title insurer or title agent.**

(a) A title insurer or title agent purporting to act under the provisions of W.S. 34-1-146 who reconveys a trust deed or releases a mortgage is liable for the damages suffered as a result of the reconveyance if the obligation secured by the trust deed or mortgage has not been fully paid and:

(i) The title insurer or title agent failed to comply with the provisions of W.S. 34-1-146 and 34-1-147; or

(ii) The title insurer or title agent acted with gross negligence or in bad faith in reconveying the trust deed.

**34-1-149. Application of provisions.**

The provisions of W.S. 34-1-145 through 34-1-148 apply to any obligation secured by a trust deed or mortgage that was paid prior to, on or after July 1, 1999.

**34-1-150. Other sections not affected.**

W.S. 34-1-145 through 34-1-149 do not excuse a beneficiary, mortgagee, trustee, secured lender or servicer from complying with the provisions of W.S. 34-1-132.

**34-1-151. Property disclosure statement.**

(a) Unless disclosure is waived as provided in subsection (b) of this section, every seller of vacant land shall provide to any prospective buyer a property disclosure statement that includes, but is not limited to, the following information:

(i) Whether the property is being offered as a unified estate;

(ii) If fee ownership of the underlying mineral estate has in any way been severed in the chain of title from the surface estate;

(iii) The availability and location of public utilities;

(iv) The name of the entity that maintains the roads and the level of maintenance available;

(v) The availability of water and sewer infrastructure;

(vi) The availability of fire protection services; and

(vii) The existence and location of any easements across the land known to the seller or recorded in the records of the county clerk.

(viii) Repealed By Laws 2012, Ch. 45, § 2.

(b) A buyer may waive disclosure of the information required under subsections (a) and (e) of this section.

(c) No transfer subject to this section shall be invalidated solely because of the failure to comply with the provisions of subsection (a) of this section. However, any person who willfully or negligently violates or fails to perform the duties prescribed by subsection (a) of this section shall be liable in the amount of actual damages suffered by the buyer.

(d) For purposes of this section, "vacant land" means land:

(i) With no habitable dwelling;

(ii) Not within the boundaries of a platted subdivision, or city or town; and

(iii) Less than one hundred forty (140) acres.

(e) Unless disclosure is waived as provided in subsection (b) of this section, every seller of land not within the corporate boundaries of any city or town shall disclose in writing to any prospective buyer whether fee ownership of the wind estate has in any way been severed in the chain of title from the surface estate, including the existence of a wind energy agreement as defined in W.S. 34-27-102(a)(i).

**34-1-152. Ownership of pore space underlying surfaces.**

(a) The ownership of all pore space in all strata below the surface lands and waters of this state is declared to be vested in the several owners of the surface above the strata.

(b) A conveyance of the surface ownership of real property shall be a conveyance of the pore space in all strata below the surface of such real property unless the ownership interest in such pore space previously has been severed from the surface ownership or is explicitly excluded in the conveyance. The ownership of pore space in strata may be conveyed in the manner provided by law for the transfer of mineral interests in real property. No agreement conveying mineral or other interests underlying the surface shall act to convey ownership of any pore space in the stratum unless the agreement explicitly conveys that ownership interest.

(c) No provision of law, including a lawfully adopted rule or regulation, requiring notice to be given to a surface owner, to an owner of the mineral interest, or to both, shall be construed to require notice to persons holding ownership interest in any pore space in the underlying strata unless the law specifies notice to such persons is required.

(d) As used in this section, the term "pore space" is defined to mean subsurface space which can be used as storage space for carbon dioxide or other substances.

(e) Nothing in this section shall be construed to change or alter the common law as of July 1, 2008, as it relates to the rights belonging to, or the dominance of, the mineral estate. For the purpose of determining the priority of subsurface uses between a severed mineral estate and pore space as defined in subsection (d) of this section, the severed mineral estate is dominant regardless of whether ownership of the pore space is vested in the several owners of the surface or is owned separately from the surface.

(f) All instruments which transfer the rights to pore space under this section shall describe the scope of any right to use the surface estate. The owner of any pore space right shall have no right to use the surface estate beyond that set out in a properly recorded instrument.

(g) Transfers of pore space rights made after July 1, 2008 are null and void at the option of the owner of the surface estate if the transfer instrument does not contain a specific description of the location of the pore space being transferred. The description may include but is not limited to a subsurface geologic or seismic survey or a metes and bounds description of the surface lying over the transferred pore space. In the event a description of the surface is used, the transfer shall be deemed to include pore space at all depths underlying the described surface area unless specifically excluded. The validity of pore space rights under this subsection shall not affect the respective liabilities of any party and such liabilities shall operate in the same manner as if the pore space transfer were valid.

(h) Nothing in this section shall alter, amend, diminish or invalidate rights to the use of subsurface pore space that were acquired by contract or lease prior to July 1, 2008.

**34-1-153. Ownership of material injected into geologic sequestration sites; liability for holding interests related to a sequestration site or giving consent to allow geologic sequestration activities.**

(a) All carbon dioxide, and other substances injected incidental to the injection of carbon dioxide, injected into any geologic sequestration site for the purpose of geologic sequestration shall be presumed to be owned by the injector of such material and all rights, benefits, burdens and liabilities of such ownership shall belong to the injector. This presumption may be rebutted by a person claiming contrary ownership by a preponderance of the evidence in an action to establish ownership.

(b) No owner of pore space, other person holding any right to control pore space or other surface or subsurface interest holder, shall be liable for the effects of injecting carbon dioxide for geologic sequestration purposes, or for the effects of injecting other substances for the purpose of geologic sequestration which substances are injected incidental to the



injection of carbon dioxide, solely by virtue of their interest or by their having given consent to the injection.

ARTICLE 2  
UNIFORM CONSERVATION EASEMENT ACT

**34-1-201. Short title; definitions.**

(a) This article shall be known and may be cited as the "Uniform Conservation Easement Act".

(b) As used in this article, unless the context requires otherwise:

(i) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archeological or cultural aspects of real property;

(ii) "Holder" means:

(A) A governmental body empowered to hold an interest in real property under the laws of this state or the United States but does not include the Wyoming board of land commissioners after the effective date of 2008 House Enrolled Act 15; or

(B) A charitable corporation, charitable association or charitable trust, a primary purpose or power of which includes retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archeological or cultural aspects of real property.

(iii) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association or charitable trust, which, although eligible to be a holder, is not a holder;

(iv) "This act" means W.S. 34-1-201 through 34-1-207.

**34-1-202. Creation; conveyance; acceptance and duration.**

(a) Except as otherwise provided in this article, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements. The provisions of W.S. 34-1-141 shall apply to this article.

(b) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

(c) Except as provided by W.S. 34-1-203(b), a conservation easement is unlimited in duration unless the instrument creating the easement provides otherwise.

(d) An interest in real property and any interest in minerals including any leasehold interests are not impaired in any way by a conservation easement unless the owners of those interests consent to the conservation easement.

(e) This act shall not alter the law of Wyoming regarding the primacy of the mineral estate and any easement created hereunder shall not limit the right of a mineral owner or his lessee to reasonable use of the surface for the purpose of mineral exploration and production unless the owners and lessees of the entire mineral estate and geologic sequestration right are a party to the conservation easement or consent to the conservation easement.

**34-1-203. Judicial action; modification; termination.**

(a) An action affecting a conservation easement may be brought by:

(i) An owner of an interest in the real property burdened by the conservation easement;

(ii) A holder of the conservation easement;

(iii) A person having third-party rights of enforcement, as named in the instrument creating the conservation easement.

(b) This article shall not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

**34-1-204. Validity.**

(a) A conservation easement is valid even though:

(i) It is not appurtenant to an interest in real property;

(ii) It can be or has been assigned to another holder;

(iii) It is not of a character that has been recognized traditionally at common law;

(iv) It imposes a negative burden;

(v) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(vi) The benefit does not touch or concern the real property; or

(vii) There is no privity of estate or of contract.

**34-1-205. Applicability.**

(a) This article shall apply to any interest created after its effective date which complies with the requirements of this article, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement or otherwise.

(b) This article shall apply to any interest created before its effective date if it would have been enforceable had it been created after the effective date of this article unless retroactive application contravenes the constitution or laws of this state or the United States.

(c) This article does not invalidate any interest whether designated as a conservation or preservation easement, a covenant, equitable servitude, restriction, easement or other designation that is enforceable under any other law of this state.

**34-1-206. Uniformity of application and construction.**

This article shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the article among the states enacting it.

**34-1-207. Eminent domain; taxation.**

(a) Conservation easements shall be subject to the state's power of eminent domain in the same manner as any other real property interest.

(b) The real property tax imposed upon real property subject to a conservation easement shall not be less than the amount of the ad valorem tax for the property had it been levied and assessed based upon the taxable value of agricultural land of similar productive use and value under W.S. 39-13-101(a)(iii) and 39-13-103(b)(x).

ARTICLE 3  
HISTORIC PRESERVATION RIGHTS

**34-1-301. Definitions.**

(a) As used in this article:

(i) "Historic preservation right" means a nonpossessory property right stated in the form of a restriction, easement, covenant or condition or, with or without limitation, in any other form in any deed, will, plat or in any other instrument executed by or on behalf of the owner, or in any condemnation order of taking, appropriate to preserving the significant physical character and visual characteristics of structures having architectural, historical or cultural significance, together with any associated real property, whether or not improved, as determined eligible to the national register of historic places by the Wyoming state historic preservation office;

(ii) "Owner" means any person possessing a fee simple title to real property and any person possessing any other interest in the property including a contract purchaser, a lessee and a tenant.

**34-1-302. Conveyance; acceptance by grantee.**

(a) An owner may convey a historic preservation right in real property to the state, any city, town, county, joint powers board or other political subdivision of the state or to a nonprofit corporation or trust whose primary purpose includes the preservation of buildings, structures or sites of historical, architectural or cultural significance.

(b) The conveyance of a historic preservation right pursuant to this section shall not take effect until the conveyance is accepted by the grantee. Acceptance of the right may be conditioned upon any requirements imposed by the grantee including compensation by the grantor for the management of the right.

(c) Any conveyance of a historic preservation right shall bind only the interest of the grantor. Any conveyance of a historic preservation right by a person with limited interest in the property shall only be valid to the extent it does not violate the provisions of the instrument under which such grantor holds his limited interest.

**34-1-303. Historic preservation rights specified; release, transfer or assignment restricted.**

(a) An instrument conveying or reserving a historic preservation right may require, prohibit, condition, limit or control any of the following with respect to the grantor or grantee:

(i) Access or public visitation;

(ii) Affirmative acts of alteration, restoration, rehabilitation, repair, maintenance, investigation, documentation, payment of taxes or compliance with law or local ordinance or resolution;

(iii) Conditions of operation or use;

(iv) Acts detrimental to preservation;

(v) Any other acts or uses relating to the preservation of structures or improvements or appurtenances.

(b) A historic preservation right:

(i) Includes any preservation restriction imposed by agency rule or regulation or by local ordinance or resolution

and is not unenforceable because of lack of privity of estate or contract, lack of benefit to specific property or because of the benefit assigned;

(ii) Shall be enforced in accordance with its terms and transferred, recorded and indexed in the same manner as fee simple interests in real property subject only to limitations provided in this article;

(iii) May be transferred or assigned only to the state, any city, town, county, joint powers board or other political subdivision of the state or to a nonprofit corporation or trust;

(iv) Shall not affect a restriction, easement, covenant, third party right of enforcement or condition otherwise valid under law nor diminish the acquisition of real property and the historic preservation right by purchase, gift, grant, eminent domain or otherwise in accordance with law or the lawful use of the property for public purposes.

**34-1-304. Enforcement by civil action.**

The state, any city, town, county, joint powers board or other political subdivision of the state or any nonprofit corporation or trust holding a historic preservation right may enforce the right by initiating a civil action seeking injunctive relief, specific performance or damages.

ARTICLE 4

Uniform Real Property Electronic Recording Act

**34-1-401. Short title.**

This act may be cited as the "Uniform Real Property Electronic Recording Act".

**34-1-402. Definitions.**

(a) As used in this act unless the context otherwise requires:

(i) "Document" means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and retrievable in perceivable form; and

(B) Eligible to be recorded in the real property records maintained by the county clerk.

(ii) "Electronic" means as defined in W.S. 40-21-102(a)(v);

(iii) "Electronic document" means a document received by the county clerk in an electronic form;

(iv) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document;

(v) "Person" means as defined in W.S. 40-21-102(a)(xii);

(vi) "State" means as defined in W.S. 40-21-102(a)(xv);

(vii) "This act" means W.S. 34-1-401 through 34-1-407.

### **34-1-403. Validity of electronic documents.**

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying this act.

(b) If a law requires, as a condition for recording, that a document be signed or originally signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

### **34-1-404. Recording of documents.**

(a) A county clerk who implements any of the functions in this section shall do so in compliance with rules promulgated by the department of enterprise technology services pursuant to W.S. 34-1-405.

(b) A county clerk may:

(i) Receive, index, store, archive and transmit electronic documents;

(ii) Provide for access to, and for search and retrieval of, documents and information by electronic means;

(iii) Convert paper documents accepted for recording into electronic form;

(iv) Convert into electronic form information recorded before the county clerk began to record electronic documents;

(v) Accept electronically any fee that the county clerk is authorized to collect;

(vi) Agree with other officials of a state or a political subdivision thereof or of the United States on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

(c) A county clerk who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.

(d) As used in this section, "paper document" means a document received by the county clerk in a form that is not electronic.

**34-1-405. Administration and standards.**

(a) The department of enterprise technology services shall promulgate rules in accordance with the Wyoming Administrative Procedure Act to implement this act.

(b) The department of enterprise technology services in adopting rules pursuant to this section shall consider:



(i) Standards and practices of recording offices in other jurisdictions that enact substantially this act;

(ii) Technology used by recording offices in other jurisdictions that enact substantially this act;

(iii) The most recent standards promulgated by national standard setting bodies, including the Property Records Industry Association;

(iv) The views of interested persons and governmental officials and entities;

(v) The needs of counties of varying size, population and resources; and

(vi) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

**34-1-406. Uniformity of application and construction.**

In applying and construing this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**34-1-407. Relation to Electronic Signatures in Global and National Commerce Act.**

This act modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, section 7001 et seq. of title 15 of the United States Code but does not modify, limit or supersede section 7001(c) of title 15 of the United States Code or authorize electronic delivery of any of the notices described in section 7003(b) of title 15 of the United States Code.

CHAPTER 2  
DEEDS, MORTGAGES AND LEASES GENERALLY

**34-2-101. Word "heirs" or other words of inheritance not necessary to convey fee simple; presumptions.**

The term "heirs", or other words of inheritance, shall not be necessary to create or convey an estate in fee simple, and every conveyance of real estate shall pass all the estate of the

grantor therein, unless the intent to pass a less estate shall expressly appear or be necessarily implied in the terms of the grant.

**34-2-102. Form of warranty deed.**

Conveyances of land may be substantially in the following form:

Warranty Deed.

A. B., grantor, (here insert name or names and place of residence), for and in consideration of (here insert consideration) in hand paid, conveys and warrants to C. D., grantee, (here insert grantee's name or names and place of residence) the following described real estate (here insert description) situate in the county of ....., state of Wyoming.

Dated this .... day of .... A.D. ....

A. B.

**34-2-103. Form of warranty deed; effect; implied covenants.**

Every deed in substance in the above form, when otherwise duly executed, shall be deemed and held a conveyance in fee simple, to the grantee, his heirs and assigns, with covenants on the part of the grantor, (a) that at the time of the making and delivery of such deed he was lawfully seized of an indefeasible estate in fee simple in and to the premises therein described, and had good right and power to convey the same; (b) that the same were then free from all incumbrances; and (c) that he warrants to the grantee, his heirs and assigns, the quiet and peaceful possession of such premises, and will defend the title thereto against all persons who may lawfully claim the same. And such covenants shall be obligatory upon the grantor, his heirs and personal representatives, as fully, and with like effect as if written at length in such deed.

**34-2-104. Form of quitclaim deed.**

Quitclaim may be in substance in the following form:

Quitclaim Deed.

A. B., grantor (here insert grantor's name or names, and place of residence) for the consideration of (here insert

consideration) conveys and quitclaims to (here insert grantee's name or names) all interest in the following described real estate, (here insert description) situate in the county of ....., in the state of Wyoming.

Dated this .... day of .... A.D. ....

..... A. B.

**34-2-105. Form of quitclaim deed; effect generally.**

Every deed in substance in the form prescribed in the foregoing section, when otherwise duly executed, shall be deemed and held a sufficient conveyance, release and quitclaim to the grantee, his heirs and assigns, in fee of all the then existing legal or equitable rights of the grantor in the premises therein described, but shall not extend to after acquired title unless words are added expressing such intention.

**34-2-106. Form of quitclaim deed; effect without word "release".**

A deed of quitclaim, without the use of the word "release" shall be sufficient to pass all the estate which the grantor could lawfully convey by deed of bargain and sale. And all deeds of quitclaim, heretofore given to real estate in this state, shall have the same effect as deeds of quitclaim and release and shall operate the same as if the word "release" had been used therein.

**34-2-107. Form of real estate mortgage.**

Mortgages of land may be in the following form:

A. B., mortgagor, (here insert the name or names and place of residence) to secure the payment of (here insert the amount of indebtedness, when due, rate of interest, and whether secured by a note or otherwise), do hereby mortgage the following described real estate (here insert description thereof) situate in.... county, state of Wyoming.

The mortgagor agrees to pay all taxes and assessments on said premises and to keep the buildings thereon insured in a sum not less than \$ .... during the life of this mortgage, payable to the mortgagee; and in case he does not the mortgagee may insure said building or buildings and pay said taxes and all amounts so paid shall be added to and considered as part of the above indebtedness hereby secured. In case of default of payment

of either interest or principal then the whole indebtedness herein secured shall become due and payable, and the mortgagee may proceed, pursuant to law, to foreclose on said property and in case of foreclosure the mortgagor hereby agrees to pay all costs of the same, including an attorney's fee of \$ ....

Dated this .... day of .... A.D ....

A. B.

**34-2-108. Form of real estate mortgage; effect; when covenants implied.**

Every such mortgage when otherwise duly executed, shall be deemed and held a good and sufficient mortgage in fee to secure the payment of the moneys therein specified; and if the same contains the words "and warrants", the same shall be construed the same as if full covenants of seizin, good right to convey against encumbrances, of quiet enjoyment and general warranty, as expressed in section one of this act were fully written therein; but if the words "and warrants" are omitted no such covenant shall be implied.

**34-2-109. Master form mortgage; recording authorized; entitlement on face; need not be acknowledged.**

An instrument containing a form or forms of covenants, conditions, obligations, powers, and other clauses of a mortgage may be recorded in the office of the county clerk, upon the request of any person, on tender of the lawful fees therefor, shall record the same in his registry. Every such instrument shall be entitled on the face thereof as a "Master form recorded by .... (name of person causing the instrument to be recorded)". Such instrument need not be acknowledged to be entitled to record.

**34-2-110. Master form mortgage; index.**

When any such instrument is recorded, the recorder shall index such instrument under the name of the person causing it to be recorded in the manner provided for miscellaneous instruments relating to real estate.

**34-2-111. Master form mortgage; use by reference.**

Thereafter any of the provisions of such master form instrument may be incorporated by reference in any mortgage of real estate

situated within this state, if such reference in the mortgage states that the master form instrument was recorded in the county in which the mortgage is offered for record, the date when and the book and page or pages where such master form instrument was recorded, and that a copy of such master form instrument was furnished to the person executing the mortgage. The recording of any mortgage which has so incorporated by reference therein any of the provisions of a master form instrument recorded as provided in this section shall have like effect as if such provisions of the master form so incorporated by reference had been set forth fully in the mortgage.

**34-2-112. Master form mortgage; matters not recorded.**

Whenever a mortgage is presented for recording on which is set forth matter purporting to be a copy or reproduction of such master form instrument or of part thereof, identified by its title as provided in W.S. 34-2-109 and stating the date when it was recorded and the book and page where it was recorded, preceded by the words "do not record" or "not to be recorded", and on a separate page from the matter to be recorded as a part of the mortgage in such manner that it will not appear upon a photographic reproduction of any page containing any part of the mortgage, such matter shall not be recorded by the recorder to whom the instrument is presented for recording; in such case the recorder shall record only the mortgage apart from such matter and shall not be liable for so doing, any other provisions of law to the contrary notwithstanding.

**34-2-113. Cancellation form for mortgage or deed of trust; recordation; effect.**

(a) A cancellation or discharge of mortgage or deed of trust may be in the following form substantially:

Certificate of Discharge

This certifies that a (mortgage or deed of trust, as the case may be) from .... to .... dated .... A.D. .... and recorded in book .... of .... on page ..... has been fully satisfied by the payment of the debt secured thereby, and is hereby cancelled and discharged.

Signed in the presence of .... county clerk of .... County.

Filed and recorded .... A.D. .... at .... M.

County clerk

(b) Such cancellation or discharge shall be entered in a book kept for that purpose, and signed by the mortgagee or trustee, his attorney-in-fact, executor, administrator or assigns, in the presence of the county clerk or his deputy who shall subscribe the same as a witness, and such cancellation or discharge shall have the same effect as a deed or release duly acknowledged and recorded.

**34-2-114. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-115. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-116. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-117. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-118. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-119. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-120. Repealed By Laws 2008, Ch. 20, § 3.**

**34-2-121. Conveyance and encumbrance of homesteads void unless spouse joins; exception.**

Every owner or occupant of a homestead as established herein may voluntarily sell, mortgage, or otherwise dispose of or encumber the same; provided the instrument of writing conveying, mortgaging, disposing of or encumbering such homestead shall contain in substance the following words: "Hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of this state", and shall be freely and voluntarily signed and acknowledged by the owner and the spouse of the owner of said homestead. The foregoing provisions shall not be applicable to nor shall compliance therewith be required for full legal effectiveness of any conveyance of property directly from husband to wife.

**34-2-122. Notice of trust or representative capacity of grantee.**

In all instruments conveying real estate, or interests therein, in which the grantee is described as trustee, agent, or as in any other representative capacity, the instruments of conveyance shall also define the trust or other agreement under which the

grantee is acting. In all instruments conveying real estate, or interests therein, in which the grantee is described as a trust, the instrument of conveyance shall also define the trust or other instrument and shall be deemed to have vested title in the trustee or trustees of the trust. For purposes of this section, it shall be sufficient to define a trust by providing in the text of the instrument the name of the trustee or trustees and the name of the trust, the date of the trust or other agreement, or by referring by proper description of the affecting record book, page, document number or file, to the instrument, order, decree or other writing, which is of public record in the county in which the land so conveyed is located and in which the required information appears; otherwise the description of a grantee in any representative capacity in each instrument of conveyance shall be considered and held to be a description of the grantee, only, and shall not be notice of any trust, agency or other representative capacity of the grantee who shall be held as vested with the power to convey, transfer, encumber or release the affected title. Whenever the grantee shall execute and deliver a conveyance, transfer, encumbrance or release of the property in a representative capacity, it shall not thereafter be questioned by anyone claiming as a beneficiary under the trust or agency or by anyone claiming by, through or under any undisclosed beneficiary. Trust property in the name of the trustee, agent or representative and owned only in that capacity shall not be subject to execution for the grantee's individual obligations.

**34-2-123. Notice of trust or representative capacity of grantee; prior conveyances.**

Any instrument which complies with this act shall be effective regardless of when it was executed or recorded. All instruments of conveyance to, or transfer, encumbrance or release of, lands or any interest therein within the state of Wyoming, which name a grantee in a representative capacity, or name a trust as grantee, and which fail to provide the information required by W.S. 34-2-122, shall cease to be notice of any trust or representative capacity of the grantee and shall be considered and held to be a description of the grantee only, who shall be held to have individually, the full power to convey, transfer, encumber or release the affected title and no conveyance, transfer, encumbrance or release shall thereafter be questioned by anyone claiming with respect to the affected property, as a beneficiary or by anyone claiming by, through, or under an undisclosed beneficiary, provided that this section shall not apply if the grantee or any beneficiary or beneficiaries or

other properly interested person shall file for record in the proper office of the county in which the land is situated, a statement, duly verified, describing the affected lands and interest therein, setting forth the interest of the person or entity making the statement, defining the representative relationship, and setting forth the information required by W.S. 34-2-122, or referring by proper description to an instrument of public record in the county in which the matters shall appear. The identity of any successor trustee may be established by a recorded statement, duly verified, of the successor trustee specifying his name and address and the date and circumstances of his succession, and confirming that he is currently lawfully serving in that capacity.

**34-2-124. Priority of mortgages or specific liens on realty.**

A mortgage or other specific lien on real property shall take precedence over the lien of taxes levied against any other property than the property subject to such lien.

**34-2-125. Private seals.**

Hereafter it shall not be necessary to use private seals on any instrument in this state.

**34-2-126. Unsealed writings.**

There shall be no difference in evidence between sealed and unsealed writings and every writing not sealed shall have the same force and effect that it would have if sealed. A writing under seal may, therefore, be changed or altogether discharged by a writing not under seal. An agreement in writing without seal for the compromise or settlement of a debt is as obligatory as if the seal were affixed.

**34-2-127. Recitals in instruments.**

Recitals in any written instrument shall have no greater effect than they have heretofore had in writings not under seal.

**34-2-128. No implied tenancy except by sufferance.**

In this state there shall not exist the relations of landlord and tenant, by implication or operation of law, except a tenancy by sufferance. Upon the expiration of a term created by lease, either verbal or written, there shall be no implied renewal of



the same, for any period of time whatever, either by the tenant holding over or by the landlord accepting compensation or rent for or during any period of such holding over. Such holding over by the tenant and acceptance of rent by the landlord shall constitute only a tenancy by sufferance, with the rights, duties, obligations and incidents of such tenancy.

**34-2-129. Leases; renewal.**

No lease which shall have expired by its own limitation shall be again renewed except by express contract in writing, signed by the parties thereto, whether the original lease be written or verbal. Nor shall any other tenancy than that by sufferance exist after the termination of the original lease, unless created as aforesaid, by express contract in writing.

**34-2-130. Leases; expiration of oil, gas or other mineral leases; failure to record cancellation or other termination.**

If any lessee, his personal representative, successor or assign, as the case may be, after an oil, gas or other mineral lease has expired, been cancelled, surrendered, relinquished or otherwise terminated shall for the space of twenty (20) days after being thereto requested, fail, refuse or neglect to record in the office of the county clerk of the county wherein the lands described in said lease are located a recordable certificate or deed of discharge or release thereof, he shall be liable to the lessor, his heirs or assigns for all damages occasioned by such failure, refusal, or neglect, to be recovered in a civil action. The lessor's request for discharge or release shall be in writing and delivered to the lessee by personal service or registered mail at his last known address. A letterpress or carbon or written copy of said demand, when shown to be such, may be used as evidence in any court with the same force and effect as the original.

**34-2-131. Tax deeds; definitions.**

(a) As used in this act:

(i) "Tax deed" means any conveyance executed by or on behalf of the state, or any county, municipality, or other taxing or assessment unit thereof, which conveys or purports to convey real estate pursuant to any sale, foreclosure, forfeiture or other proceeding to satisfy the lien or indebtedness of any tax or special assessment;

(ii) "Former owner" means any person whose interest or estate has been conveyed or purportedly conveyed, or extinguished or purportedly extinguished, by execution of any tax deed, and any other persons claiming by, through or under him;

(iii) "Grantee" means the grantee named in any tax deed, and any other persons claiming by, through or under him;

(iv) "Possession" refers to possession, and to the extent of possession, as determined by the rules applicable in determining the existence of adverse possession under a written instrument constituting color of title, and includes possession by tenant or agent.

**34-2-132. Tax deeds; 2-year limitation.**

(a) No action, suit or other proceeding shall be commenced by the former owner to set aside, declare invalid or redeem from a tax deed or the sale, forfeiture, foreclosure or other proceeding upon which it is based or to recover possession, quiet title or otherwise litigate or contest the title of the grantee, if:

(i) Two (2) years or more have elapsed after the date of recording the deed in the office of the county clerk for the county in which the real estate described in the deed is situated; and

(ii) The grantee has been in possession of the real estate continuously for a period of at least six (6) months, at any time after one (1) year and six (6) months have elapsed since the date of recording of the tax deed.

(b) The limitation in subsection (a) of this section applies regardless of whether the tax deed or any of the proceedings upon which it is based are void or voidable for any reason, jurisdictional or otherwise. If the deed is executed substantially in the form prescribed for the execution of tax deeds, the limitation shall apply regardless of whether the deed is deemed void upon its face. The period shall not be extended by reason of the minority, insanity, imprisonment, nonresidence, or death of any person, or by reason of any other fact, or circumstance.

**34-2-133. Tax deeds; possession and affidavits of possession.**

(a) Possession by the grantee for a continuous period of not less than six (6) months at any time after one (1) year and six (6) months have elapsed since the date of recording the tax deed extinguishes forever all the claims, right, title and interest, including the right to possession, of the former owner, and vests in the grantee any title conveyed or purportedly conveyed by the tax deed. Proof of possession by the grantee and the record of the tax deed constitutes conclusive evidence of the legality and effectiveness of the deed and any proceedings upon which the deed is based, and of the title of the grantee. As a means of proving possession and preserving evidence of possession under a tax deed, the then owner or holder of the title conveyed or purportedly conveyed by the tax deed may, at any time after two (2) years from the date of recording of the tax deed, file for record in the office of the county clerk in which the real estate is located an affidavit substantially in the following form:

AFFIDAVIT OF POSSESSION AND CLAIM UNDER TAX DEED

State of .... )

) ss

.... County )

I, ....., (name) residing at .... (address), being first duly sworn, depose and say that on .... (date) a tax deed was issued to .... (grantee) for the following described real estate: .... that said tax deed was filed for record in the office of the county clerk for .... county, ....., on .... (date), and appears in the records of that office in .... County as recorded in book .... page .... of the .... records; that I am now in possession of such real estate and claim title to the same by virtue of such tax deed; that I have been in possession of such real estate for a continuous period of not less than six (6) months immediately preceding the date of this affidavit; and that the facts concerning the possession of such real estate from the date of recording the tax deed to the date of this notice are, insofar as known to me, as follows:

....

....

Subscribed and sworn to before me this .... day of ....., (year).

.....

Notarial Officer in and for

..... County

..... (state)

(b) In any action, suit or proceeding in which the tax deed, any proceedings upon which it is based, or the title of the grantee is contested or drawn in question, a certified copy of the record of any affidavit of possession and claim under tax deed which has been of record for not less than sixty (60) days constitutes prima facie evidence of the facts recited therein and of the application of this act.

**34-2-134. Tax deeds; liberal construction; legislative purposes.**

This act shall be liberally construed to effectuate the legislative purpose of giving stability and effect to record titles, of confirming and clarifying the titles of persons in possession, of providing a means of correcting procedural and jurisdictional defects without necessity of resort to further proceedings, and of rendering tax titles marketable and protecting purchasers thereof against remote claims.

**34-2-135. Tax deeds; provisions cumulative and retroactive; effective date.**

Nothing in this act shall be construed to extend the period of any other applicable statute of limitations or to permit the commencement of any proceeding or the enforcement of any claim or interest which is barred by lapse of time or for any other reason. This act shall apply to tax deeds heretofore or hereafter recorded, but the commencement of any action, suit or proceeding shall not be precluded by this act until two (2) years after its effective date. No affidavit shall be recorded pursuant to this act until two (2) years after its effective date. This act shall not apply to tax deeds issued only covering severed oil, gas, hydrocarbons and other minerals and estates therein.

**34-2-136. Form of special warranty deed.**

Conveyances of land may be substantially in the following form:

Special Warranty Deed

A. B., grantor, (here insert name or names and place of residence), for and in consideration of (here insert consideration) in hand paid, conveys and specially warrants against all who claim by, through, or under the grantor, but against none other, to C. D., grantee, (here insert grantee's name or names and place of residence) the following described real estate (here insert description) situate in the county of ....., state of Wyoming.

Dated this .... day of .... A.D. ....

..... A.B.

**34-2-137. Form of special warranty deed; effect.**

(a) Every deed in substance in the form prescribed in W.S. 34-2-136, when otherwise duly executed, shall have the effect of:

(i) A conveyance in fee simple to the grantee, the grantee's heirs, and assigns, of the property named in the special warranty deed, together with all the appurtenances, rights and privileges belonging to the property; and

(ii) A covenant from the grantor that:

(A) The granted property is free from all encumbrances made by that grantor; and

(B) The grantor will forever warrant and defend the title of the property in the grantee, the grantee's heirs and assigns against any lawful claim and demand of the grantor and any person claiming or to claim by, through, or under the grantor, but against none other.

(b) Any exceptions to a covenant described in paragraph (a)(ii) of this section, may be inserted in the deed following the description of the land.

CHAPTER 3  
DEEDS OF TRUST

**34-3-101. Form.**

A deed of trust to secure debts or indemnify sureties may be in the following form, or to the same effect:

This deed, made the .... day ....., in the year of ....., between .... (the grantor) of the one part, and .... (the trustee) of the other part; witnesseth: That the said .... (the grantor) doth (or do) grant unto the said .... (the trustee) the following property (here describe it), in trust to secure (here describe the debts to be secured or the sureties to be indemnified, and insert covenants or any other provisions the parties may agree upon); witness the following signatures and seals (or signature and seal).

**34-3-102. Trustee's sale; generally.**

(a) The trustee in any such deed, except so far as may be therein otherwise provided, shall, whenever required by any creditor secured or any surety indemnified by the deed, or the personal representative of any such creditor or surety, after the debt due to such creditor, or for which such surety may be liable, shall have become payable, and default shall have been made in the payment thereof, or any part thereof, by the grantor, sell the property conveyed by the deed, or so much thereof as may be necessary, at public auction, for cash, having first given notice of such sale as hereinafter prescribed, and shall apply the proceeds of sale, first to the payment of expenses attending the execution of the trust, including a commission to the trustee of five percent (5%) on first three hundred dollars (\$300.00) and two percent (2%) on the residue of the proceeds, and then, pro rata (or in the order of priority, if any, prescribed by the deed) to the payment of the debts secured and the indemnity of the sureties indemnified by the deed, and shall pay the surplus, if any, to the grantor, his heirs, personal representatives, or assigns. Every such notice of such sale shall show the following particulars:

- (i) The time and place of sale;
- (ii) The names of the parties to the deed under which it will be made;
- (iii) The date of the deed;
- (iv) The office and book in which it is recorded;
- (v) The quantity and description of the land or other property, or both, conveyed thereby;

(vi) The names of the persons secured or indemnified thereby;

(vii) The amount secured and the time when payable;

(viii) The amount of credits, if any, to which the same is subject;

(ix) The amount of the principal and interest claimed to be due and unpaid, and for which the sale will be made.

**34-3-103. Trustee's sale; notice.**

Notice of sale mentioned in W.S. 34-3-102 shall in every case be the same as the notice provided in W.S. 34-4-104.

**34-3-104. Trustee's sale; form of deed for auctioned realty.**

Every deed for real estate sold under a deed of trust may be made in the following form, or to the same effect:

This deed, made the .... day of .... between A. B., trustee, of the first part, and C. D., of the second part, whereas the said trustee, by virtue of the authority vested in him by the deed of trust hereinafter mentioned (or by an order of the district court of the county of ....) made on the .... day of .... (as the case may be), did sell as required by law, a certain tract (or lot, as the case may be), of land, situated in the county (or city, town or village, as the case may be), of .... conveyed by E. F. to the said A. B., trustee (or to G. H., trustee, as the case may be), by deed bearing date the .... day of ....., and recorded (if it be recorded), in the office of the recorder of the county of ....., and bounded and described therein as follows: (Here insert the description and quantity as set forth in the deed of trust and any other description deemed necessary); at which sale the said C. D. became the purchaser for the sum of .... dollars. Now, therefore, this deed witnesseth that the said trustee hereby conveys and grants to the said C. D. the said real estate hereinbefore described, with all the right, title and interest held by the said E. F. therein, to have and to hold the said real estate and premises unto the said C. D., his heirs and assigns forever.

Witness the following signature and seal.

.....(Seal.)

CHAPTER 4  
FORECLOSURE OF MORTGAGES AND POWER OF SALE

**34-4-101. Application.**

The provisions of this act shall apply to all mortgages containing a power of sale executed prior to the passage thereof, not having been foreclosed, and nothing in this act contained shall be construed as limiting the power of parties to a mortgage to provide therein as they may see fit as to the manner of foreclosure and sale, and when such provision is made, foreclosure and sale may be made in accordance therewith, or in accordance with the provisions of this act.

**34-4-102. Foreclosure by advertisement.**

(a) Every mortgage of real estate, containing therein a power of sale upon default being made in any condition thereof, may be foreclosed by advertisement within ten (10) years after the maturing of such mortgage or the debt secured thereby, or after the recording thereof, in the cases and in the manner hereinafter specified.

(b) The time within which such proceeding may be commenced under the power of sale shall begin to run:

(i) As to any mortgage executed after May 21, 1945, from the date of such mortgage, unless the maturity of the debt or obligation secured by such mortgage be clearly stated in or is otherwise readily ascertainable from the provisions of such mortgage;

(ii) (A) As to any mortgage executed prior to May 21, 1945, at the latest of the following dates:

(I) The tenth anniversary of the maturity of the debt or obligation secured by such mortgage if clearly stated in or otherwise readily ascertainable from the provisions of the mortgage;

(II) The tenth anniversary of the recording of the mortgage if no such maturity date is clearly stated in or readily ascertainable from the provisions of the mortgage;



(III) The stated, renewed, or extended maturity date recorded on or before December 31, 1971, in the manner provided in subdivision (B)(II) of this paragraph.

(B) The owner and holder of any debt or obligation secured by a mortgage executed prior to May 21, 1945, the maturity date of which either:

(I) Is not clearly stated or otherwise readily ascertainable; or

(II) Has been renewed or extended by agreement, payment, or other act of the debtor, may, on or before December 31, 1971, record in the office of the county clerk in the county in which such real estate is located either:

(1) An agreement signed and acknowledged by the debtor as a conveyance of real estate, stating the agreed, renewed or extended maturity date of such debt or obligation; or

(2) An affidavit of the owner and holder of such debt or obligation, stating such maturity date and the date, form or manner of the agreement, payment or other act of the debtor fixing such date.

(c) No mortgage in which the maturity of the debt or obligation is not clearly stated or otherwise readily ascertainable, which was recorded on or before May 21, 1945, and for which no stated, renewed or extended maturity date is recorded on or before December 31, 1971, may be foreclosed by advertisement after December 31, 1971; and no such mortgage recorded after May 21, 1945, may be foreclosed by advertisement commenced more than ten (10) years after the date of such recording.

**34-4-103. Prerequisites to foreclosure.**

(a) To entitle any party to give a notice as hereinafter prescribed and to make such foreclosure, it is requisite:

(i) That some default in a condition of such mortgage has occurred by which the power to sell became operative;

(ii) That no suit or proceeding has been instituted at law to recover the debt then remaining secured by such mortgage, or any part thereof, or if any suit or proceeding has

been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied in whole or in part;

(iii) That the mortgage containing the power of sale has been duly recorded; and if it has been assigned, that all assignments have been recorded; and

(iv) That written notice of intent to foreclose the mortgage by advertisement and sale has been served upon the record owner, and the person in possession of the mortgaged premises if different than the record owner, by certified mail with return receipt, mailed to the last known address of the record owner and the person in possession at least ten (10) days before commencement of publication of notice of sale. Proof of compliance with this subsection shall be by affidavit.

**34-4-104. Publication and service of notices; generally.**

(a) Notice that the mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the notice for four (4) consecutive weeks, at least once in each week, in a newspaper printed in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated, if there be one; and if no newspaper be printed in the county, then notice shall be published in a paper printed in the state and of general circulation in the county. Prior to first date of publication, a copy of the notice shall be served by certified mail with return receipt requested upon the record owner, the person in possession of mortgaged premises, if different than the record owner, and all holders of recorded mortgages and liens subordinate to the mortgage being foreclosed, which appear of record at least twenty-five (25) days before the scheduled foreclosure sale. The notice shall be sent to the last known address for the addressee, which shall be the address set forth in the mortgage or lien filed of record unless another address has been recorded in the real estate records or has been provided to the foreclosing mortgagee or lienholder. Proof of compliance with this section shall be made by affidavit of an authorized representative of the foreclosing mortgagee or lienholder. A person or entity who acts in reliance upon the affidavit without knowledge that the representations contained therein are incorrect shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the affidavit.

(b) If there are sale proceeds in excess of the amount necessary to pay the foreclosing mortgagee, judgment creditor or other lienor in full, then within ten (10) business days following the sale of real estate by foreclosure, the foreclosing mortgagee or lienholder shall serve a copy of the sale results to the record owner of the mortgaged premises and all holders of recorded mortgages and liens subordinate to the mortgage or lien being foreclosed. Sale results shall be sent by certified mail with return receipt requested to the last known address for the addressee, which shall be the address set forth in the mortgage or lien filed of record unless another address has been recorded in the real estate records or has been provided in writing to the foreclosing mortgagee or lienholder. The sale results shall include the amount due the foreclosing mortgagee or lienholder as of the date of sale, the name of the successful bidder and the amount of the successful bid. If the certificate of sale awarded to the successful bidder includes the required information, the foreclosing mortgagee or lienholder may comply with this section by serving a copy of the certificate of sale.

**34-4-105. Publication of notice; contents.**

(a) Every such notice shall include:

(i) The names of the mortgagor and of the mortgagee and the assignee of the mortgage if any;

(ii) The date of the mortgage and when recorded;

(iii) The amount claimed to be due thereon at the date of the notice;

(iv) A description of the mortgaged premises, conforming substantially with that contained in the mortgage;

(v) The time and place of sale; and

(vi) A statement that "The property being foreclosed upon may be subject to other liens and encumbrances that will not be extinguished at the sale and any prospective purchaser should research the status of title before submitting a bid."

**34-4-106. Time, place and manner of sale generally; mortgagee, judgment creditor or lienor shall be present or waive.**

The sale shall be at public vendue, between the hour of ten (10:00) o'clock in the forenoon, and five (5:00) o'clock in the afternoon, at the front door of the courthouse, or the place of holding the district court of the county within the county in which the premises to be sold, or some part of them, are situated, and shall be made by the person appointed for that purpose in the mortgage or by the sheriff or deputy sheriff of the county, to the highest bidder. The sheriff or deputy sheriff shall not hold the sale unless the foreclosing mortgagee, judgment creditor, other foreclosing lienor or an authorized agent of the foreclosing party is present at the sale or has previously waived to the sheriff conducting the sale the right to appear and bid at the sale. The sheriff conducting the sale shall not be considered to be the authorized agent of the foreclosing party unless the foreclosing party has given the sheriff a specified opening bid to be presented by the sheriff on behalf of the foreclosing party and the sheriff actually presents the opening bid. Any foreclosure sale conducted without complying with the terms of this section is void, in which case the mortgage, power of sale, judgment or other lien which is the subject of the voided sale is not extinguished or exhausted, but may be properly foreclosed in a subsequent foreclosure sale in compliance with applicable law.

**34-4-107. Manner in which distinct tracts or lots sold.**

If the mortgaged premises consist of distinct tracts or lots the foreclosing mortgagee may offer for sale separately sufficient tracts or lots as shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and costs and expenses allowed by law, or the foreclosing mortgagee may offer all such distinct tracts or lots to be sold as a whole.

**34-4-108. Mortgagee may purchase; by whom sale made; mortgagee, judgment creditor or lienor shall be present or waive.**

The mortgagee, his assigns, or his or their legal representatives may fairly and in good faith, purchase the premises sold upon foreclosure of any mortgage by advertisement under power of sale or any part thereof, at the sale; and whenever the mortgage shall provide for the mortgagee to sell the premises at the foreclosure sale, notwithstanding the provision, the sale may be made by the sheriff, or deputy sheriff, or by the mortgagee at the option of the latter. The sale shall be postponed, if the foreclosing mortgagee, judgment

creditor or other foreclosing lienor, or an authorized agent of the foreclosing mortgagee, judgment creditor or other foreclosing lienor, is not present at the sale or has not previously waived in writing the right to appear and bid at the sale.

**34-4-109. Postponement of sale.**

A foreclosure sale may be postponed from time to time by inserting a notice of the postponement as soon as practicable in the newspaper in which the original advertisement was published and continuing the publication until the time to which the sale shall be postponed, at the expense of the party requesting the postponement, provided that the original advertisement is published at least once a week, over four (4) consecutive weeks, and the notice of postponement is published at least once a week, over two (2) consecutive weeks.

**34-4-110. Successor to officer making sale may execute conveyance.**

If the term of service of the officer who makes sale of any lands and tenements as provided in chapter 243 of the Wyoming Compiled Statutes of 1910 expires, or if such officer die, be absent or unable for any cause to make a deed of conveyance of the property sold, any successor of such officer may execute such conveyance.

**34-4-111. Costs and expenses; generally.**

The costs and expenses of the foreclosure sale, which shall be paid out of the proceeds of the sale, shall include the costs of advertising, the fee of the officer or person making the sale and executing the deed, said fee not to exceed ten dollars (\$10.00); and an attorney or solicitor's fee if there be a stipulation therefor in the mortgage.

**34-4-112. Costs and expenses; attorney's fees.**

Whenever an attorney's fee is provided for in any real or chattel mortgage, or the note or notes secured thereby, such attorney's fee shall not be allowed or added to the mortgage debt in any foreclosure by public advertisement and sale, unless it shall appear by the affidavit of an attorney admitted generally to practice in this state representing the mortgagee or his assigns in such foreclosures, or the party instituting such foreclosure, which affidavit shall be filed with the

sheriff or person who shall conduct the sale under such foreclosure, and said affidavit shall state therein that there has been and is no agreement, express or implied, between such attorney and his client, nor between him and any other person except a practicing attorney of this state engaged with him as an attorney in the foreclosure proceeding, for any sharing or division of said fee so to be allowed or added to the debt involved, and said fee when so allowed or added to the debt shall be only as compensation for services actually rendered in the foreclosure proceeding by an attorney admitted to practice in this state and residing therein. Provided, however, that in the foreclosure of real estate mortgages, this section shall in no wise affect the title to the real estate involved in such a foreclosure.

**34-4-113. Payment of proceeds.**

(a) After any sale of real estate made as herein prescribed, proceeds from the sale shall be paid over by the officer or other person making the sale in the following order:

(i) Payment of the reasonable expenses of collection and enforcement and, to the extent provided by law, reasonable attorney's fees and legal expenses incurred by the foreclosing mortgagee;

(ii) The satisfaction of obligations secured by the mortgage being foreclosed;

(iii) The satisfaction of obligations secured by any subordinate or junior mortgage or other lien on the real estate sold at the foreclosure sale; and

(iv) Surplus proceeds on demand to the mortgagor, his legal representatives or assigns, and if no demand is made, then the foreclosing mortgagee, officer or other person making sale may retain the surplus proceeds for disposition to the mortgagor or may dispose of the surplus proceeds in accordance with W.S. 34-24-101 et seq.

(b) If the foreclosing mortgagee receives a demand for the proceeds accompanied by the materials required by W.S. 1-18-104(c) and signed by the holder of a subordinate or junior mortgage or other lien within thirty (30) days after the results of the sale are served in accordance with W.S. 34-4-104, proceeds remaining after distribution under paragraphs (a) (i) and (ii) of this section shall be paid over by the officer or

other person making the sale as agreed upon by all parties in interest, or by court order, to the subordinate mortgagees or lienholders in accordance with their priority and to the extent of their interest.

(c) Subject to the other provisions of this section, a mortgagee shall account to and pay a mortgagor for any surplus, and the mortgagor is liable for any deficiency.

CHAPTER 5  
CONVEYANCES VALIDATED

**34-5-101. When executed out of state; exceptions.**

All deeds and conveyances of real estate given and recorded in the state of Wyoming prior to January 1, 1925, the execution of which shall have been acknowledged before a notarial officer out of this state, where the certificate of official character attached to such deeds or other conveyance fails to state that such deed or conveyance was executed and acknowledged according to the laws of the state or territory in which the same was executed, shall be deemed as valid and binding as if such certificate had contained the statement aforesaid, and shall be so construed by the courts, and the record thereof shall have the same force and effect as if such certificate had contained said statement; provided, that such record shall in no wise affect the right or title of any person acquired in good faith and for a valuable consideration before the said January 1, 1925; and provided, further, that this section shall not be construed to affect any judgment or decree rendered by any court of the state before that time.

**34-5-102. Instruments not witnessed; exceptions.**

All deeds, mortgages or other instruments executed five (5) years prior to January 1, 1935, not witnessed, and admitted to record, which, under the laws of the state of Wyoming should have been executed in the presence of one (1) witness, shall be deemed as valid and binding as if the same had been executed in the presence of a witness, and shall be so construed by the courts of this state, and the records thereof shall have the same force and effect as if such deeds, mortgages, and other instruments had been executed in the presence of a witness; provided, that such record shall in no wise affect the right or title of any person acquired in good faith and for a valuable consideration five (5) years before the said 1st day of January, 1935; and provided, further, that this section shall not be

construed to affect any judgment or decree rendered by any court of the state of Wyoming before that time.

**34-5-103. Certificate of acknowledgment; failure to state acknowledgment was according to law; liability of county clerk.**

All deeds, mortgages, powers of attorney and other instruments executed and acknowledged in any other state, territory or district of the United States five (5) years prior to January 1, 1935, affecting property or property rights in this state, but where the person taking the acknowledgment has omitted to state in his certificate of acknowledgment that such deed, mortgage, power of attorney or other instrument was executed and acknowledged according to the law of such state, territory or district, and when the laws of this state in relation to such certificate have in all other respects been complied with, shall be deemed valid and shall be so construed by the courts of this state, and such instruments shall be entitled to record and the record thereof shall have the same force and effect as if such deeds, mortgages, powers of attorney or other instruments had been acknowledged in the manner provided by the laws of this state, and in case any county clerk shall have received for record such defective instruments, he shall not be liable in an action for damages for having received for record and recorded any such deed, mortgage, power of attorney or other instrument.

**34-5-104. Certificate of acknowledgment; incomplete.**

Any conveyance of real estate made ten (10) years or more prior to January 1st, A.D. 1935, purporting to be acknowledged before any justice of the peace, within or without the state of Wyoming, where such justice of the peace did not state in his certificate of acknowledgment the date of expiration of his office, or where no certificate, or a defective certificate is attached to such deed by the county clerk or clerk of court of the county of such justice of the peace as is required by law in case such acknowledgment is taken before a justice of the peace outside of the state of Wyoming; and any conveyance of real estate made ten (10) years or more prior to January 1st, A.D. 1935, purporting to be acknowledged before any notarial officer, where such notarial officer did not attach his seal to such certificate of acknowledgment, or did not state therein the expiration of the time of his commission; and any conveyance of real estate made ten (10) years or more prior to the 1st day of January, A.D. 1935, where such conveyance does not purport to be properly witnessed; and any conveyance of real estate made ten (10) years or more, prior to the first day of January, A.D.



1935, purporting to be executed by any corporation, where there is any defect or irregularity in the execution or acknowledgment thereof, shall, if the same has been heretofore recorded ten (10) years or more prior to January 1st, 1935, in the office of the county clerk of the county where the real estate therein conveyed is situate, be deemed as valid and as effective and binding as though the defects and irregularities therein, herein mentioned, did not exist and as though in these respects the same had been executed in full accordance with the laws of this state, and the record, or the certified copy thereof, shall be admitted in evidence in all actions or proceedings with the same force and effect as though the defects and irregularities therein, herein mentioned, did not exist, and as though in these respects the same had been executed in full accordance with the laws of this state.

**34-5-105. Defects in mortgage releases and assignments; time limits for civil action.**

Any and all mortgage releases and assignments of mortgages which have been heretofore recorded in the office of the county clerk of the county wherein the real estate therein is affected is situate, and have been of record five (5) years or more prior to January 1, 1935, purporting to cancel and discharge or assign any mortgage, and purporting to be executed by any mortgagee his agent or attorney, or by any assignee of said mortgage, or purporting to be executed by any person acting for a corporation which is either mortgagee or assignee of said mortgage, shall be deemed to be valid, and the lien of such mortgage, shall be deemed to be canceled in case of release, and the mortgage deemed duly assigned, in case of assignment, notwithstanding any defects in the execution of such release or assignment.

Provided, however, that the holder of any mortgage or the assignee thereof, which said mortgage is defectively released, or assigned as hereinbefore specified, and which has remained unchallenged, by the proper action in court, or other legal and proper proceeding, on the records aforesaid for the period of five (5) years or more as aforesaid, shall have until the first day of January, 1936, in which to commence an action in a court of competent jurisdiction in this state, for the assertion and enforcement of his rights, or to set aside such release or assignment, and if not so commenced as herein mentioned, then such release or assignment shall be deemed valid against such persons and all rights as against the same shall be barred.

**34-5-106. When executed by executor; generally.**

In all cases where a conveyance of real estate situate in this state has been made by an executor, administrator or administrator de bonis non, of any deceased person, whether appointed and acting in this or any other state, and the fact of the sale or the conveyance of such real estate has been reported to the court in which such executor, administrator or administrator de bonis non was appointed and acting, and the proceeds of such sale or conveyance, or any part thereof have been distributed, it shall be prima facie evidence that the person or persons so receiving said proceeds or any part thereof, either directly or through any agent or assignee, consented to such sale and conveyance, and intended thereby and did thereby, vest in the purchaser under such sale, and the grantee in such conveyance all the right, title and interest which said person or persons, so receiving said proceeds or any part thereof, had in and to the premises so sold and conveyed at the time of such receipt, and did by so receiving such proceeds or any part thereof, intend to be estopped from claiming any further right, title or interest in and to such real estate.

**34-5-107. When executed by executor; deceased entryman.**

Any conveyance of land situate within this state, for which no final proof had been made by a deceased entryman or for which no patent had been issued to such deceased entryman under the land laws of the United States during the life of such entryman, which said conveyance has heretofore been made by an executor, administrator or administrator de bonis non of such deceased, appointed and acting by the authority of an order of court of this or any other state, and any conveyance of any land situate in this state heretofore made by any such executor, administrator or administrator de bonis non of a deceased person, whether made under the provisions of any will, foreign or domestic, or any order of court, foreign or domestic, shall be valid and binding, inter alia, upon any heir or devisee and upon any successor in interest of such heir or devisee by whatever manner, in the following cases: First, when such conveyance has with knowledge or means of knowledge of such conveyance, been treated as valid by any such heir or devisee, and the successor in interest thereof, or by such successor in interest, for the period of five (5) years after such conveyance has been ordered or approved by any such court or judge thereof; secondly, when such conveyance has not been sought to be set aside in any court of competent jurisdiction within five (5) years from and after the filing of such conveyance in the office of the county clerk of the county wherein such land is situate.

**34-5-108. Foreign administrator.**

Any conveyance of real estate heretofore, ten (10) years or more prior to January 1st, A.D. 1935, recorded in the county where such real estate is situate, executed by any foreign administrator, executor or administrator de bonis non, appointed and acting under an order of any court of any state of competent jurisdiction over estates of decedents in such state, when such order was made by the court wherein such executor, administrator or administrator de bonis non was appointed or the judge thereof, and when such conveyance was made in conformity to the laws of the state in which such administrator or executor was appointed, and any conveyance heretofore, ten (10) years or more prior to January 1st, A.D. 1935, recorded in the county where such real estate is situate, executed by any such executor, administrator or administrator de bonis non, under the provisions of any will duly probated in any court of competent jurisdiction wherever situate, when such conveyance was made in conformity to the law of the state in which such administrator or executor or administrator de bonis non was appointed, shall be as valid and binding upon the heir and devisees of the decedent and their successors in interest, as though such conveyance were made in conformity with the laws of this state; provided, such conveyances herein mentioned were made in accordance with due process of law in such state.

**34-5-109. Copies of proceedings in foreign courts.**

Duly certified copies, according to law, of the proceedings in foreign courts, mentioned and referred to in W.S. 34-5-107, 34-5-108 and 34-5-110, when recorded in the office of the county clerk of the county where the land involved is situate, such records, or the certified copies thereof, shall be competent and prima facie evidence of the truth of the contents thereof, and the regularity of the proceedings therein set forth.

**34-5-110. Adverse claims; when adverse claimant barred against purchaser.**

Any claimant having acquired any vested right in and to the said real estate conveyed as aforesaid in the two (2) preceding sections, adverse to the purchaser under the conveyances executed as aforesaid in the two (2) preceding sections, which said adverse claim was acquired five (5) years prior to January 1, 1935, shall have until the first day of January, 1936, in which to commence an action in a court of competent jurisdiction within this state, to assert and enforce such adverse right, and

such vested right shall during the period herein allowed for the commencement of such action, not be affected by the provisions of the two (2) preceding sections, but from and after the time so allowed for the commencement of such action, unless such action has been brought as herein mentioned, all rights of such adverse claimant in and to such real estate shall be forever barred.

**34-5-111. Adverse claims; action by heir against purchaser.**

In any action contemplated in the preceding section, commenced and brought by an heir or devisee of such deceased person in this action contemplated, or the successor in interest of such heir or devisee, if it shall appear that such heir or devisee had knowledge, either by personal notice, or constructively under the laws of the state where the estate of such deceased person was administered, of the fact of the sale or the conveyance of such real estate mentioned in the two (2) preceding sections, or where such person appeared in the proceedings in court relating thereto, it shall be prima facie evidence against such devisee and heir, and against any successor in interest of such heir or devisee without adequate consideration, that such heir and devisee consented to such sale and conveyance, and intended thereby, and did thereby, vest in the purchaser under such conveyance, or sale, all the right, title and interest which such devisee and heir had in and to such real estate so sold or conveyed at the time of such sale or conveyance, and meant to be estopped thereby to claim any future title or interest therein, and if such action is brought by the successor in interest of such heir or devisee, it shall be presumed in the first instance, that such successor in interest is such without adequate consideration, and provided further, that in all such actions, all such conveyances shall be prima facie of the effect as vesting the complete and clear title of the property conveyed in such conveyance in the grantee therein.

**34-5-112. Effect of preceding sections on pending litigation; enforcement of rights of minor heir in conveyed property.**

The provisions of W.S. 34-5-104 through 34-5-108, 34-5-110, 34-5-111, inclusive, shall not affect any pending litigation. And any right which any minor heir may have in and to any property conveyed, transferred or released as in said sections mentioned, may be asserted by bringing an action in any court of

competent jurisdiction within one (1) year after such minor heir becomes an adult.

**34-5-113. Where release of homestead or marital status of grantor not indicated.**

All conveyances by which any estate or interest in real estate is created, alienated, mortgaged or assigned, or by which the title to any real estate may be affected in law or in equity wherein there is no release or waiver of homestead or the marital status of the grantor is not set forth, and which have been or hereafter may be recorded for a period of ten (10) years in the office of the county clerk of the county wherein such real estate is situated, it shall be conclusively presumed that said real estate was not used, occupied or claimed by the grantor, or the spouse of the grantor as a homestead at the time of said conveyance.

**34-5-114. Gifts to religious and educational uses; generally.**

No gift, devise, bequest, transfer, grant or conveyance of real or personal property to religious, educational, charitable or benevolent uses, which shall in other respects be valid under the laws of this state shall be deemed invalid by reason of the indefiniteness or uncertainty of the persons designated as the beneficiaries thereunder in the instrument creating or constituting the same.

**34-5-115. Gifts to religious and educational uses; existence of prior trust agreements in will.**

No such gift, bequest or devise contained in any will executed in accordance with the requirements of law shall be deemed invalid by reason of the incorporation by reference in the will of any written or printed resolution, declaration or trust agreement, identified as existing prior to the execution of such will, and adopted or made by any corporation or corporations authorized by law to accept and execute trusts, creating a trust to assist, encourage and promote the well being or well doing of mankind, or of the inhabitants of any community, provided that a copy of such resolution, declaration or deed of trust, certified by the secretary or assistant secretary, or other officer or officers, of such corporation or corporations under its or their corporate seal or seals, shall have been filed for record in the office of the secretary of state of the state of Wyoming, the secretary of state being hereby authorized and directed to

receive and record such resolution, declaration or deed of trust, upon payment of the fees provided by law.

**34-5-116. Gifts to religious and educational uses; valid notwithstanding terms are included only by reference.**

(a) Any gift, devise or bequest so made to any such corporation in trust for the uses and purposes contained in such resolution, declaration, or deed of trust, shall be valid and effectual, notwithstanding:

(i) That the terms, conditions, uses and purposes of such gift, devise or bequest, are included only by such reference in the will; and, or

(ii) That such resolution, declaration, or deed of trust, has been or may be, amended in accordance with the provisions thereof.

**34-5-117. Gifts to religious and educational uses; application of W.S. 34-5-114 through 34-5-117.**

All the terms and provisions of this act shall be deemed applicable to all gifts, devises, bequests, transfers, grants or conveyances of real or personal property heretofore made, as well as to those hereafter made, and to all such resolutions, declarations, or deeds of trust as are hereinabove referred to which have been heretofore filed for record as hereinabove provided, as well as those which shall be hereafter so filed for record.

CHAPTER 6  
RIGHTS OF SURVIVORS

**34-6-101. Renumbered by Laws 1979, ch. 142, § 3.**

**34-6-102. Renumbered by Laws 1979, ch. 142, § 3.**

**34-6-103. Renumbered by Laws 1979, ch. 142, § 3.**

CHAPTER 7  
UNIFORM SIMULTANEOUS DEATH ACT

**34-7-101. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-102. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-103. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-104. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-105. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-106. Renumbered by Laws 1979, ch. 142, § 3.**

**34-7-107. Renumbered by Laws 1979, ch. 142, § 3.**

CHAPTER 8  
COMPREHENSIVE CURATIVE ACT

**34-8-101. Short title.**

This act shall be known as "The Comprehensive Curative Act", and may be quoted and cited as such.

**34-8-102. Provisions cumulative.**

The provisions of this act shall be cumulative and in addition to all other like acts and statutes previously enacted.

**34-8-103. When defective instruments validated by operation of law.**

When an instrument of writing, in any manner affecting or purporting to affect the title to real estate, has been, or may hereafter be recorded for a period of ten (10) years in the office of the county clerk of the county wherein such real estate is situated, and such instrument, or the record thereof, because of defect, irregularity or omission, fails to comply in any respect with any statutory requirement or requirements relating to the execution, attestation, acknowledgment, certificate of acknowledgment, recording or certificate of recording, such instrument and the record thereof shall, notwithstanding any or all such defects, irregularities and omissions, be fully legal, valid, binding and effectual for all purposes to the same extent as though such instrument had, in the first instance, been in all respects duly executed, attested, and acknowledged and recorded.

**34-8-104. Enumerated defects.**

The defects, irregularities and omissions mentioned in W.S. 34-8-103 shall include all defects and irregularities in respect to formalities of execution and recording, and all defects and

irregularities in, as well as the entire lack or omission of attestation, acknowledgment, certificate of acknowledgments, or certificate of recording, and shall apply with like force to instruments whether or not the real estate involved is homestead; and shall apply to instruments in which the marital status of any grantor is not given.

**34-8-105. Instruments as evidence after validation.**

From and after its validation by the operation of W.S. 34-8-103, such instrument shall impart notice to subsequent purchasers, encumbrancers, and all other persons whomsoever so far as and to the same extent that the same is recorded, notwithstanding such defects, irregularities or omissions; and such instrument, the record thereof, or a duly authenticated copy, shall be competent evidence to the same extent as such instrument would have been competent if valid in the first instance.

CHAPTER 9  
LIMITED POWER OF ATTORNEY

**34-9-101. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-102. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-103. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-104. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-105. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-106. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-107. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-108. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-109. Repealed by Laws 1985, ch. 226, § 2.**

**34-9-110. Repealed by Laws 1985, ch. 226, § 2.**

CHAPTER 10  
MARKETABLE TITLES

**34-10-101. Definitions.**

(a) As used in this act:



(i) "Marketable record title" means a title of record, as indicated in W.S. 34-10-103 which operates to extinguish such interests and claims, existing prior to the effective date of the root of title, as are stated in W.S. 34-10-105;

(ii) "Records" includes probate and other official public records, as well as records in the office of the county clerk;

(iii) "Recording", when applied to the official records of a probate or other court, includes filing;

(iv) "Person dealing with land" includes a purchaser of any estate or interest therein, a mortgagee, a levying or attaching creditor, a land contract vendee, or any other person seeking to acquire an estate or interest therein, or impose a lien thereon;

(v) "Root of title" means that conveyance or other title transaction in the chain of title of a person, purporting to create the interest claimed by the person, upon which he relies as a basis for the marketability of his title, and which was the most recent to be recorded as of a date forty (40) years prior to the time when marketability is being determined. The effective date of the "root of title" is the date on which it is recorded;

(vi) "Title transaction" means any transaction affecting title to any interest in land, including title by will or descent, title by tax deed, or by trustee's, referee's, guardian's, executor's, administrator's, master in chancery's, or sheriff's deed, or decree of any court, as well as warranty deed, quitclaim deed, deed of trust or mortgage;

(vii) "This act" means W.S. 34-10-101 through 34-10-109.

### **34-10-102. Purpose.**

This act shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title as described in W.S. 34-10-103, subject only to such limitations as appear in W.S. 34-10-104.

**34-10-103. Effect of unbroken chain of title; marketable record title.**

Any person having the legal capacity to own land in this state, who has an unbroken chain of title of record to any interest in land for forty (40) years or more, shall be deemed to have a marketable record title to such interest subject only to the matters stated in W.S. 34-10-104. A person shall be deemed to have such an unbroken chain of title when the official public records disclose a conveyance or other title transaction of record not less than forty (40) years at the time the marketability is to be determined, which conveyance or other title transaction purports to create the interest, either in the person claiming the interest, or some other person from whom, by one (1) or more conveyances or other title transactions of record, the purported interest has become vested in the person claiming the interest, so long as nothing appears of record, in either case, purporting to divest the claimant of his purported interest.

**34-10-104. Effect of unbroken chain of title; exceptions.**

(a) Marketable record title is subject to:

(i) All interests and defects which are inherent in the chain of record title. However, a general reference in the chain, to easements, use restrictions or other interests created prior to the root of title is not sufficient to preserve them, unless specific identification is made therein of a recorded title transaction which creates the easement, use restriction or other interest;

(ii) All interests preserved by the filing of proper notice or by possession by the same owner continuously for a period of forty (40) years or more, in accordance with W.S. 34-10-106;

(iii) The rights of any person arising from prescriptive use or period of adverse possession or user which was in whole or in part subsequent to the effective date of the root of title;

(iv) Any interest arising out of a title transaction which has been recorded subsequent to the effective date of the root of title from which the unbroken chain of title of record is started. However, the recording does not revive or give

validity to any interest which has been extinguished prior to the time of the recording by the operation of W.S. 34-10-105;

(v) The exceptions stated in W.S. 34-10-108(a) as to rights of reversioners in leases, as to apparent easements and interests in the nature of easements, as to water rights, as to mineral interests and as to interests of the state of Wyoming and of the United States.

**34-10-105. Certain interests null and void.**

Subject to matters stated in W.S. 34-10-104, marketable record title shall be held by its owner and shall be taken by any person dealing with the land free and clear of all interests, claims or charges whatsoever, the existence of which depends upon any act, transaction, event or omission that occurred prior to the effective date of the root of title. All such interests, claims or charges, however denominated, whether legal or equitable, present or future, whether asserted by a person sui juris or under a disability, whether such person is within or without the state, whether such person is natural, corporate, private or governmental, are null and void.

**34-10-106. Perpetuation of interest.**

(a) Any person claiming an interest in land may preserve and keep effective his interest by filing for record during the forty (40) year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a notice in writing, duly verified by oath, setting forth the nature of the claim. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of the forty (40) year period. Notice may be filed for record by the claimant or by any other person acting on behalf of any claimant who is:

(i) Under a disability;

(ii) Unable to assert a claim on his own behalf; or

(iii) One (1) of a class, but whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

(b) If the same record owner of any possessory interest in land has been in possession of the land continuously for a period of forty (40) years or more, during which period no title

transaction with respect to the interest appears of record in his chain of title, and no notice has been filed by him or on his behalf as provided in subsection (a) of this section, and his possession continues to the time when marketability is being determined, the period of possession is equivalent to the filing of the notice immediately preceding the termination of the forty (40) year period described in subsection (a) of this section.

**34-10-107. Contents of notice of claim.**

To be effective and to be entitled to record, the notice of claim shall contain an accurate and full description of all lands affected by the notice which shall be set forth in particular terms and not by general inclusions. However, if the claim is founded upon a recorded instrument, then the description in the notice may be the same as that contained in the recorded instrument. Notice shall be filed for record in the office of the county clerk of the county or counties where the land described is situated. The recorder of each county shall accept all such notices presented to him which describe land located in the county in which he serves and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded. Each recorder shall charge the same fees for the recording thereof as are charged for recording deeds. In indexing the notices in his office each recorder shall enter the notices under the grantee indexes of deeds under the names of the claimants appearing in the notices.

**34-10-108. Application.**

(a) Notwithstanding a failure to file a notice of claim, this act shall not be applied:

(i) To bar any lessor or his successor as a reversioner of his right to possession on the expiration of any lease;

(ii) To bar or extinguish the title to any railroad right-of-way or station grounds or to any easement created or held for any pipeline, highway, railroad or public utility purpose the existence of which is clearly observable by physical evidence of its use;

(iii) To bar or extinguish any water rights, whether evidenced by decrees, or by certificates of appropriation;

(iv) To bar or extinguish any title, estate or interest in and to any timber or any minerals (including without limiting the generality of that term, oil, gas and other hydrocarbons) and any development, mining, production or other rights or easements related thereto or exercisable in connection therewith;

(v) To bar any right, title or interest of the state of Wyoming and of the United States;

(vi) To bar or extinguish any claim to a conservation easement by a holder of the conservation easement or by a person having third-party rights of enforcement. For purposes of this paragraph the provisions of W.S. 34-1-201 through 34-1-207 shall be applicable.

(b) Nothing contained in this act shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statutes of limitations, nor, except as herein specifically provided, to affect the operation of any statutes governing the effect of the recording or the failure to record any instrument affecting land.

(c) If the forty (40) year period specified in this act expires less than two (2) years after the effective date of this act the period shall be extended two (2) years after the effective date of this act.

**34-10-109. Prohibition against filing notices for purpose of slandering title to land.**

No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to land, and in any action brought for the purpose of quieting title to land, if the court shall find that any person has filed a claim for that reason only, the court shall award the plaintiff all costs of such action as the court may allow to the plaintiff, and in addition, shall decree that the defendant asserting such claim shall pay to plaintiff all damages that plaintiff may have sustained as the result of such notice of claim having been so filed for record.

CHAPTER 11  
AFFIDAVITS AFFECTING TITLE

**34-11-101. Recorded affidavit as evidence; subjects; facts.**

(a) An affidavit stating facts relating to matters which may affect the title to real estate in this state, made by any person having knowledge of the facts and competent to testify concerning them in open court, may be recorded in the office of the county clerk in the county in which the real estate is situated. A certificate of acknowledgement shall not be required on an affidavit containing a jurat in order to be recorded. A recorded affidavit or a certified copy thereof is prima facie evidence of the facts therein stated insofar as the facts affect title to real estate.

(b) The affidavits may relate to the following matters: age, sex, birth, death, relationship, family history, names, identity of parties, marital status, homestead status, possession, occupancy possession, residence, service in the armed forces, conflicts and ambiguities in descriptions of land in recorded instruments, and the happening of any condition or event which may terminate an estate or interest.

(c) The affidavits shall include a description of the land, title to which may be affected by facts stated in the affidavit, and shall state the name of the person appearing by the record to be the owner of the land at the time of the recording of the affidavit. For affidavits involving subsequently discovered real property under W.S. 2-9-203, the affidavit shall also include a copy of the judicial determination of the decedent's heirs or right of descent. The county clerk shall index the affidavit in the name of the record owner and in the same manner as deeds are recorded.

## CHAPTER 12 PLATTING AND DEDICATION

### **34-12-101. Application of provisions.**

None of the provisions of this act shall be construed to require replatting in any case where plats have been made and recorded in pursuance of any law heretofore in force; and all plats heretofore filed for record, and not subsequently vacated, are hereby declared valid, notwithstanding irregularities and omissions in the manner or form of acknowledgment or judge's certificate.

### **34-12-102. Description of townsites and subdivisions; effect; duty to record.**

Every original owner or proprietor of any tract or parcel of land, who has heretofore subdivided, or shall hereafter subdivide the same into three (3) or more parts for the purpose of laying out any town or city, or any addition thereto, or any part thereof, or suburban lots, shall cause a plat of such subdivision, with references to known or permanent monuments, to be made, which shall accurately describe all the subdivisions of such tract or parcel of land, numbering the same by progressive numbers, and giving the dimensions, and length and breadth thereof, and the breadth and courses of all the streets and alleys established therein. Descriptions of lots or parcels of land in such subdivisions, according to the number and designation thereof, on said plat contained, in conveyances, or for the purposes of taxation, shall be deemed good and valid for all intents and purposes. The duty to file for record a plat, as provided herein, shall attach as a covenant of warranty, in all conveyances of any part or parcel of such subdivisions by the original owners or proprietors, against any and all assessments, costs and damages, paid, lost or incurred by any grantee, or person claiming under him, in consequence of the omission on the part of said owner or proprietors to file such plat.

**34-12-103. Contents of plat; acknowledgment; approval by county commissioners or governing body of cities or towns; filing and recording.**

(a) Every plat shall contain a statement to the effect that "the above or foregoing subdivision of (here insert a correct description of the land or parcel subdivided) as appears on this plat, is with the free consent, and in accordance with the desires of the undersigned owners and proprietors", which shall be signed by the owners and proprietors, and shall be duly acknowledged before some officer authorized to take the acknowledgement of deeds. The plat shall meet the approval of the board of county commissioners if it is of land situated without the boundaries of any city or town or by the governing body of the city or town if situated within the boundaries of such city or town. Provided, however, that any plat of land which is adjacent to any incorporated city or town or within one (1) mile of the boundaries of any city or town and which is not subject to regulation under and pursuant to a comprehensive plan adopted pursuant to W.S. 18-5-202(b), shall be jointly approved by both the board of county commissioners of the county and the governing body of the city or town before the plat shall be filed and recorded in the office of the county clerk.

(b) If a city or town approval is not required under this section and the plat is located within one (1) mile of the boundaries of a first class city or town, or within one-half (1/2) mile of a town with a population of less than four thousand (4,000), the board of county commissioners, upon receipt of a plat application, shall solicit comments from the governing body of the city or town relating to impacts to the city or town's infrastructure or other development plans resulting from the proposed plat and development. The board shall consider the city or town's comments that are received by the board at least twenty (20) business days prior to the scheduled final consideration of the plat proposal and shall respond in writing to the city or town about any items of disagreement. To the extent practical, the board of county commissioners shall ensure that a plat application meets the following:

(i) Is consistent with any applicable city and county land use or comprehensive plan;

(ii) Conforms to any adopted street plan of the city, town or county;

(iii) Contains all areas for streets, roads and alleys that are dedicated rights-of-way;

(iv) Contains dedicated easements for all existing and proposed utilities; and

(v) Contains any additional criteria the governing body of the city or town and the board of county commissioners agree to through a jointly adopted plan or voluntary agreement.

(c) When executed, acknowledged and approved as provided in this section, the plat shall be filed and recorded in the office of the clerk of the proper county.

**34-12-104. Townsites; effect of acknowledgment and recording.**

The acknowledgment and recording of such plat, is equivalent to a deed in fee simple of such portion of the premises platted as is on such plat set apart for streets, or other public use, or is thereon dedicated to charitable, religious or educational purposes.

**34-12-105. Townsites; recording fees.**



When any person, company or corporation, shall file a townsite plat, or an addition to a townsite, it must be accompanied by the fee listed in W.S. 18-3-402(a)(xvi)(O) for the purpose of filing and recording of said plat. The record of the plat shall include a description of the lots and blocks.

**34-12-106. Vacation; generally.**

Any such plat may be vacated by the proprietors thereof at any time before the sale of any lots therein, by a written instrument declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same office with the plat to be vacated, and the execution and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons and public grounds laid out or described in such plat, and in case where any lots have been sold, the plat may be vacated as herein provided, by all the owners of lots in such plat joining in the execution of the writing aforesaid. No plat or portion thereof within the corporate limits of a city or town shall be vacated as herein provided without the approval of the city or town. No plat or portion thereof for which a subdivision permit has been obtained pursuant to W.S. 18-5-304 shall be vacated as herein provided without the approval of the county commissioners. No municipal or county approval under this section shall be arbitrarily or unreasonably withheld.

**34-12-107. Vacation; streets and alleys.**

Streets and alleys so platted and laid out, or which have been platted or laid out under any prior law of this state regulating private plats, may be altered or vacated in the manner provided by law for the alteration or discontinuance of highways.

**34-12-108. Vacation; partial vacation; when permitted.**

Any part of a plat may be vacated under the provisions, and subject to the conditions of this act; provided, such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat; and provided, further, that nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law.

**34-12-109. Vacation; partial vacation; effect on streets.**

When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may enclose the streets, alleys and public grounds adjoining lots in equal proportions.

**34-12-110. Vacation; duty of county clerk.**

The county clerk, in whose office the plats aforesaid are recorded, shall write in plain, legible letters across that part of the plat so vacated, the word "vacated", and identify where the instrument of vacation is recorded.

**34-12-111. Vacation; platting by county surveyor; acknowledgment and recording; conveyance and assessment by number.**

The owner of any lots in a plat so vacated, may cause the same and a proportionate part of adjacent streets and public grounds to be platted and numbered by the county surveyor; and when such plat is acknowledged by such owner, and is recorded in the clerk's office of the county, such lots may be conveyed and assessed by the numbers given them on such plat.

**34-12-112. Procedure after failure to make plat; acknowledgment; recording; costs.**

Whenever the original owner or proprietor of any subdivision of any land, as contemplated in W.S. 34-12-102, has sold or conveyed any part thereof, or invested the public with any rights therein, and has failed and neglected to execute and file for record a plat, as provided in section one of this act, the county clerk shall notify some, or all, of such owners and proprietors by mail or otherwise, and demand the execution of said plat as provided; and if such owners or proprietors, whether so notified or not, fail and neglect to execute and file for record said plat for thirty (30) days after the issuance of such notice, the county clerk shall cause to be made the plat of such subdivision, and any surveying necessary therefor. Said plat shall be signed and acknowledged by the county clerk, who shall certify that he executed it by reason of the failure of the owners or proprietors named to do so, and filed for record; and when so filed for record, shall have the same effect for all purposes as if executed, acknowledged and recorded by the owners or proprietors themselves. A correct statement of the costs and expenses of such plat, surveying and recording, verified by oath, shall be by the county clerk laid before the first session of the county commissioners, who shall allow the same and order the same to be paid out of the county treasury, and who shall,

at the same time, assess the same amount pro rata, upon all the several subdivisions of said tract, parcel or lot so subdivided; and said assessment shall be collected with, and in like manner as the general taxes and shall go to the general county fund; or said county commissioners may direct suit to be brought in the name of the county before any court having jurisdiction, to recover of the said original owners or proprietors, or either of them, the said cost and expense of procuring and recording said plat.

**34-12-113. Procedure when ownership in severalty and description uncertain.**

Whenever any congressional subdivision of land of forty (40) acres of land, or less, or any lot or subdivision is owned by two (2) or more persons in severalty, and the description of one (1) or more of the different parts or parcels thereof, cannot, in the judgment of the county clerk, be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, said county clerk shall require, and cause to be made and recorded, a plat of such tract or lot of land, with its several subdivisions, in accordance with the provisions of (this act, and he shall proceed in such cases according to the provisions of) W.S. 34-12-112, and all the provisions of said section in relation to plats of towns, cities, and so forth, shall govern as to the tracts and parcels of land in this section referred to.

**34-12-114. Warranty of accurate description; notice if inaccurate description; proceedings upon repeal.**

Every conveyance of land in this state shall be deemed to be a warranty that the description therein contained is sufficiently definite and accurate, to enable the county clerk to make entries as required by law to be kept; and when there is presented for entry any conveyance in which the description is not, in the opinion of the county clerk, sufficiently definite and accurate, he shall note said fact on said deed with that of the entry for transfer, and shall notify the person presenting the same, that the land therein not sufficiently described, must be platted within thirty (30) days thereafter. Any person aggrieved by the opinion of the county clerk may, within said thirty (30) days, appeal therefrom to the county commissioners, by claiming said appeal in writing, and thereupon, no further proceedings shall be taken by the county clerk; and at their next session the county commissioners shall determine said question, and direct whether or not said plat shall be executed

and filed, and within what time, and if the grantor in such conveyance shall neglect for thirty (30) days thereafter to file for record a plat of said land, and of the appropriate congressional subdivision in which the same is found, duly executed and acknowledged as required by the county clerk, or, in case of appeal, as directed by the county commissioners, then the county clerk shall proceed, as is provided in W.S. 34-12-112, and cause such plat to be made and recorded, and thereupon the same proceedings shall be had, and rights shall accrue, and remedies had as are in said section provided. Such plat shall describe said tract of land, and any other subdivision of the smallest congressional subdivision of which the same is a part, numbering them by progressive numbers, setting forth the courses and distances, and numbers of acres, and such other memoranda as are usual and proper; and descriptions of such lots or subdivisions according to the number and designation thereof on said plat, shall be deemed good and sufficient for all purposes of conveyancing and taxation.

**34-12-115. Selling lots not platted prohibited.**

(a) No person shall sell, as defined in W.S. 18-5-302(a)(v), any lots in any town, or addition to any town or city, until the plat thereof has been duly acknowledged and recorded as provided in this act.

(b) The provisions of this section are enforceable by all appropriate legal remedies including but not limited to injunctive relief or a writ of mandamus.

CHAPTER 13  
TRANSFERS TO MINORS

**34-13-101. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-102. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-103. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-104. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-105. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-106. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-107. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-108. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-109. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-110. Repealed by Laws 1987, ch. 201, § 2.**

**34-13-111. Reserved.**

**34-13-112. Reserved.**

**34-13-113. Reserved.**

**34-13-114. Definitions.**

(a) As used in this act:

(i) "Adult" means an individual who has attained the age of twenty-one (21) years;

(ii) "Benefit plan" means an employer's plan for the benefit of an employee or partner;

(iii) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others;

(iv) "Conservator" means a person appointed or qualified by a court to act as general, limited or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions;

(v) "Court" means the district court;

(vi) "Custodial property" means any interest in property transferred to a custodian under this act and the income from and proceeds of that interest in property;

(vii) "Custodian" means a person so designated under W.S. 34-13-122 or a successor or substitute custodian designated under W.S. 34-13-131;

(viii) "Financial institution" means a bank, trust company or a savings institution or credit union chartered and supervised under state or federal law;

(ix) "Legal representative" means an individual's personal representative or conservator;

(x) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle or aunt, whether of whole or half blood or by adoption;

(xi) "Minor" means:

(A) An individual who has not attained the age of twenty-one (21) years; or

(B) An individual who has not attained the age at which the custodian is required to transfer the custodial property to the beneficiary under W.S. 34-13-133, 34-13-138 or 34-13-139, when used in reference to the beneficiary for whose benefit custodial property is held or is to be held.

(xii) "Person" means an individual, corporation, organization or other legal entity;

(xiii) "Personal representative" means an executor, administrator, successor personal representative or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions;

(xiv) "Transfer" means a transaction that creates custodial property under W.S. 34-13-122;

(xv) "Transferor" means a person who makes a transfer under this act;

(xvi) "Trust company" means any legal entity authorized to exercise general trust powers;

(xvii) "This act" means W.S. 34-13-114 through 34-13-139.

### **34-13-115. Scope and jurisdiction.**

(a) This act applies to a transfer that refers to this act in the designation under W.S. 34-13-122(a) by which the transfer is made if at the time of the transfer the transferor, the minor or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this act despite a subsequent change in residence of a transferor, the minor or the custodian or the removal of custodial property from this state.

(b) A person designated as custodian under this act is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(c) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act or a substantially similar act of another state is governed by the law of the designated state and may be executed and enforced in this state if at the time of the transfer, the transferor, the minor or the custodian is a resident of the designated state or the custodial property is located in the designated state.

**34-13-116. Nomination of future custodian.**

(a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a future custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the future custodian followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act". The nomination may name one (1) or more persons as substitute future custodians to whom the property shall be transferred, in the order named, if the first nominated future custodian dies before the transfer, or is unable, declines or is ineligible to serve. The nomination may be made in a will, a trust, an instrument exercising a power of appointment or in a writing designating a beneficiary of contractual rights which is delivered to the payor, issuer or other obligor of the contractual rights.

(b) A future custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under W.S. 34-13-122(a).

(c) The nomination of a future custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under W.S. 34-13-122. Unless the nomination of a future custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to W.S. 34-13-122.

**34-13-117. Transfer by gift or exercise of power of appointment.**

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to W.S. 34-13-122.

**34-13-118. Transfer authorized by will or trust.**

(a) A personal representative or trustee may make an irrevocable transfer pursuant to W.S. 34-13-122 to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a future custodian under W.S. 34-13-116(a) to receive the custodial property, the transfer shall be made to that person.

(c) If the testator or settlor has not nominated a future custodian or all persons nominated as future custodian die before the transfer or are unable, decline or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under W.S. 34-13-122(a).

**34-13-119. Other transfer by fiduciary.**

(a) Subject to subsection (c) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to W.S. 34-13-122, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to W.S. 34-13-122.

(c) A transfer under subsection (a) or (b) of this section may be made only if:

(i) The personal representative, trustee or conservator considers the transfer to be in the best interest of the minor;

(ii) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement or other governing instrument; and



(iii) The transfer is authorized by the court if it exceeds ten thousand dollars (\$10,000.00) in value.

**34-13-120. Transfer by obligor.**

(a) Subject to subsections (b) and (c) of this section, a person not subject to W.S. 34-13-118 or 34-13-119 who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to W.S. 34-13-122.

(b) If a person having the right to do so under W.S. 34-13-116(a) has nominated a future custodian to receive the custodial property, the transfer shall be made to that person.

(c) If no future custodian has been nominated, or all persons nominated as future custodian die before the transfer or are unable, decline or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ten thousand dollars (\$10,000.00) in value.

**34-13-121. Receipt for custodial property.**

A written receipt of the custodian constitutes a sufficient release and discharge for custodial property transferred to the custodian pursuant to this act.

**34-13-122. Manner of creating custodial property and effecting transfer; designation of initial custodian; control.**

(a) Custodial property is created and a transfer is effected when:

(i) An uncertificated security or a certificated security in registered form is either:

(A) Registered in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act"; or

(B) Delivered if in certificated form, or any document necessary for an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied

by an instrument in substantially the form set forth in subsection (b) of this section.

(ii) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act";

(iii) The ownership of a life or endowment insurance policy or annuity contract is either:

(A) Registered with the issuer in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act"; or

(B) Assigned in writing to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act".

(iv) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer or other obligor that the right is transferred to the transferor, an adult other than the transferor or a trust company, whose name in the notification is followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act";

(v) An interest in real property is recorded in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act";

(vi) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(A) Issued in the name of the transferor, an adult other than the transferor or a trust company, followed in

substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act"; or

(B) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act".

(vii) An interest in any property not described in paragraphs (i) through (vi) of this section is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (b) of this section.

(b) An instrument in the following form satisfies the requirements of subparagraph (a) (i) (B) and paragraph (a) (vii) of this section:

"TRANSFER UNDER THE WYOMING

UNIFORM TRANSFERS TO MINORS ACT

I, .... (name of transferor or name and representative capacity if a fiduciary) hereby transfer to .... (name of custodian), as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: ....

....

(Signature)

.... (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Wyoming Uniform Transfers to Minors Act.

Dated ....

...."

(Signature of Custodian)

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.

**34-13-123. Single custodianship.**

A transfer may be made for only one (1) minor, and only one (1) person may be the custodian. All custodial property held under this act by the same custodian for the benefit of the same minor constitutes a single custodianship.

**34-13-124. Validity and effect of transfer.**

(a) The validity of a transfer made in a manner prescribed in this act is not affected by:

(i) Failure of the transferor to comply with W.S. 34-13-122(c) concerning possession and control;

(ii) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under W.S. 34-13-122(a); or

(iii) Death or incapacity of the person nominated under W.S. 34-13-116 or designated under W.S. 34-13-122 as custodian or the disclaimer of the office by that person.

(b) A transfer made pursuant to W.S. 34-13-122 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties and authority provided in this act, and neither the minor nor the minor's legal representative has any right, power, duty or authority with respect to the custodial property except as provided in this act.

(c) By making a transfer pursuant to this act, the transferor incorporates in the disposition all the provisions of this act and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this act.

**34-13-125. Care of custodial property.**

(a) A custodian shall:

(i) Take control of custodial property;

(ii) Register or record title to custodial property if appropriate; and

(iii) Collect, hold, manage, invest and reinvest custodial property.

(b) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has special skills or is named custodian on the basis of representations of special skills or expertise, the custodian is under a duty to use those skills. However, a custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(c) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(i) The life of the minor only if the minor or the minor's estate is the sole beneficiary; or

(ii) The life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate or the custodian in the capacity of custodian is the irrevocable beneficiary.

(d) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for . . . . (name of minor) under the Wyoming Uniform Transfers to Minors Act".

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor has attained the age of fourteen (14) years.

**34-13-126. Powers of custodian.**

(a) A custodian acting in the capacity of custodian has all the rights, powers and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise any of the rights, powers and authority over custodial property only in the capacity of custodian and not otherwise.

(b) This section does not relieve a custodian from liability for breach of the provisions of W.S. 34-13-125.

**34-13-127. Use of custodial property.**

(a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much or all of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(i) The duty or ability of the custodian personally or of any other person to support the minor; or

(ii) Any other income or property of the minor which may be applicable or available for that purpose.

(b) The court, on the petition of an interested person or the minor if the minor has attained the age of fourteen (14) years, may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment or expenditure under this section is in addition to, not in substitution for, and does not affect, the obligation of any person to support the minor.

**34-13-128. Custodian's expenses; compensation and bond.**

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for a custodian who is a transferor under W.S. 34-13-117, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) A custodian is not required to give a bond for the performance of the custodian's duties, except as provided in W.S. 34-13-131(f).

**34-13-129. Exemption of third persons from liability.**

(a) A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer under this act or purporting to act in the capacity of a custodian and, in the absence of actual knowledge, is not responsible for determining:

(i) The validity of the purported custodian's designation;

(ii) The regularity of, or the authority under this act for, any act of the purported custodian;

(iii) The validity or propriety under this act of any instrument or instructions executed or given either by the person purporting to make a transfer under this act or by the purported custodian; or

(iv) The propriety of the application of any property of the minor delivered to the purported custodian.

**34-13-130. Liability to third persons.**

(a) A claim based on a contract entered into by a custodian acting as such, on an obligation arising from the ownership or control of custodial property, or on a tort committed during the custodianship may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

(b) A custodian is not personally liable:

(i) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal the custodial capacity and to identify the custodianship in the contract; or

(ii) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(c) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

**34-13-131. Renunciation, resignation, death or removal of custodian; designation of successor custodian.**

(a) A person nominated under W.S. 34-13-116 or designated under W.S. 34-13-122 as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute future custodian able, willing and eligible to serve was nominated, the person who made the nomination may nominate a substitute future custodian; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under W.S. 34-13-122(a). The custodian so designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under W.S. 34-13-117 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of fourteen (14) years and to the successor custodian and by transferring the custodial property to the successor custodian.

(d) If a custodian is ineligible, dies or becomes incapacitated without having effectively designated a successor and the minor has attained the age of fourteen (14) years, the minor may designate as successor custodian, in the manner prescribed in subsection (b) of this section, an adult member of the minor's family, a conservator of the minor or a trust company. If the minor has not attained the age of fourteen (14) years or fails to act within sixty (60) days after the ineligibility, death or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal



representative of the transferor or of the custodian, an adult member of the minor's family or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who disclaims under subsection (a) of this section or resigns under subsection (c) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor or the minor if the minor has attained the age of fourteen (14) years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under W.S. 34-13-117 or to require the custodian to give appropriate bond.

**34-13-132. Accounting by and determination of liability of custodian.**

(a) A minor who has attained the age of fourteen (14) years, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor or a transferor's legal representative may petition the court:

(i) For an accounting by the custodian or the custodian's legal representative; or

(ii) For a determination of responsibility as between the custodial property and the custodian personally for claims against the custodial property unless the responsibility has been adjudicated in an action referred to in W.S. 34-13-130 to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this act or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(d) If a custodian is removed under W.S. 34-13-131(f), the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

**34-13-133. Termination of custodianship.**

(a) The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(i) The minor's attainment of twenty-one (21) years of age with respect to custodial property transferred under W.S. 34-13-117 or 34-13-118, unless the time of transfer of the custodial property to the minor is changed under W.S. 34-13-138 or 34-13-139;

(ii) The minor's attainment of majority under the laws of this state other than this act with respect to custodial property transferred under W.S. 34-13-119 or 34-13-120, unless the time of transfer of the custodial property to the minor is changed under W.S. 34-13-138 or 34-13-139;

(iii) The minor's death.

**34-13-134. Applicability of provisions.**

(a) This act applies to a transfer within the scope of W.S. 34-13-115 made after its effective date if:

(i) The transfer purports to have been made under the Uniform Gifts to Minors Act of Wyoming; or

(ii) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this act is necessary to validate the transfer.

**34-13-135. Effect on existing custodianships.**

(a) Any transfer of custodial property as now defined in this act purporting to have been made before the effective date of this act is validated notwithstanding that there was no specific authority in the Uniform Gifts to Minors Act of Wyoming

for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(b) The provisions of this act apply to all transfers made in a manner and form prescribed in the Uniform Gifts to Minors Act of Wyoming except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this act.

**34-13-136. Uniform construction of provisions.**

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

**34-13-137. Short title.**

This act may be cited as the "Wyoming Uniform Transfers to Minors Act".

**34-13-138. Changing the time for transfer of custodial property.**

(a) Subject to the requirements and limitations of this section, the time for transfer to the minor of custodial property transferred under W.S. 34-13-116 through 34-13-119 may be changed to a specified time other than the minor's attainment of twenty-one (21) years of age, which time shall be specified in the transfer pursuant to W.S. 34-13-122.

(b) To specify a changed time for transfer to the minor of the custodial property, the words "as custodian for .... (name of minor) until age .... (age for delivery of property to minor) under the Wyoming Uniform Transfers to Minors Act" shall be substituted in substance for the words "as custodian for .... (name of minor) under the Wyoming Uniform Transfers to Minors Act" in making the transfer pursuant to W.S. 34-13-122.

(c) The time for transfer to the minor of custodial property transferred under or pursuant to W.S. 34-13-116 or 34-13-118 may be changed under this section only if the governing will, trust or nomination provides in substance that the custodianship is to continue until the minor's attainment of a specified age, which time shall not be later than the minor's attainment of thirty (30) years of age, and in that case the governing will, trust or nomination shall determine the time to be specified in the transfer pursuant to W.S. 34-13-122.

(d) The time for transfer to the minor of custodial property transferred by irrevocable gift or the irrevocable exercise of a power of appointment under W.S. 34-13-117 may be changed under this section only if the transfer pursuant to W.S. 34-13-122 provides in substance that the custodianship is to continue until the minor's attainment of a specified age, which time shall not be later than the minor's attainment of thirty (30) years of age.

(e) The time for transfer to the minor of custodial property transferred by a trustee under W.S. 34-13-119 may be changed under this section only if the transfer pursuant to W.S. 34-13-122 provides that the custodianship is to continue until a specified time not later than the earlier of:

(i) The minor's attainment of thirty (30) years of age;

(ii) The time of termination of all present beneficial interests of the minor in the trust from which the custodial property was transferred.

(f) If the transfer pursuant to W.S. 34-13-122 does not specify any age, the time for the transfer of the custodial property to the minor under W.S. 34-13-133 is the time when the minor attains twenty-one (21) years of age.

(g) If the transfer pursuant to W.S. 34-13-122 provides in substance that the duration of the custodianship is for a time longer than the maximum time permitted by this section for the duration of a custodianship created by that type of transfer, the custodianship shall be deemed to continue only until the minor's attainment of the maximum age permitted by this section for the duration of a custodianship created by that type of transfer.

**34-13-139. Extension of custodial term by custodian.**

(a) A custodian may extend the custodial term under this section to an age older than the age that is specified by this act or a transferring instrument made under W.S. 34-13-122, subject to the right of the minor to compel immediate distribution under subsection (c) of this section.

(b) To extend the custodial term under subsection (a) of this section, the custodian shall give the minor written notice

of the custodian's intent to extend the custodial term. The notice must specify the duration of the extension by indicating the new custodial term and must inform the minor of the minor's right to compel immediate distribution under subsection (c) of this section. The custodian shall give the notice during the later of the following periods:

(i) The six (6) month period that precedes the last day of the custodial term; or

(ii) The six (6) month period that begins when the minor attains twenty-one (21) years of age.

(c) Rather than permit the extension of the custodial term, the minor may compel immediate distribution of all or part of the custodial property by giving written notice to the custodian:

(i) During the six (6) month period that begins on the last day of the current custodial term; or

(ii) Within ninety (90) days after receiving the custodian's notice under subsection (b) of this section.

(d) If a minor does not exercise the minor's right to compel distribution under subsection (c) of this section, the custodial term shall be extended as indicated in the custodian's notice given under subsection (b) of this section, and the minor may not compel the immediate distribution of custodial property before the end of the custodial term, as extended.

(e) A custodian may extend the custodial term more than once under this section.

(f) As used in this section, "custodial term" means the time provided in or allowed by this act during which the custodian is directed to hold custodial property until the property is transferred to the minor.

CHAPTER 14  
FRAUDULENT TRANSFERS

ARTICLE 1  
UNIFORM FRAUDULENT CONVEYANCE ACT

**34-14-101. Repealed By Laws 2006, Chapter 55, § 2.**

- 34-14-102. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-103. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-104. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-105. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-106. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-107. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-108. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-109. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-110. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-111. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-112. Repealed By Laws 2006, Chapter 55, § 2.
- 34-14-113. Repealed By Laws 2006, Chapter 55, § 2.

ARTICLE 2  
UNIFORM FRAUDULENT TRANSFER ACT

**34-14-201. Short title.**

This act may be cited as the "Uniform Fraudulent Transfer Act."

**34-14-202. Definitions.**

(a) As used in this act:

(i) "Affiliate" means:

(A) A person who directly or indirectly owns, controls, or holds with power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(I) As a fiduciary or agent without sole discretionary power to vote the securities; or

(II) Solely to secure a debt, if the person has not exercised the power to vote.

(B) A corporation twenty percent (20%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with the power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

(I) As a fiduciary or agent without sole power to vote the securities; or

(II) Solely to secure a debt, if the person has not in fact exercised the power to vote.

(C) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(D) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(ii) "Asset" means property of a debtor, but the term does not include:

(A) Property to the extent it is encumbered by a valid lien;

(B) Property to the extent it is generally exempt under nonbankruptcy law; or

(C) An interest in property held in tenancy by the entirety to the extent it is not subject to process by a creditor holding a claim against only one (1) tenant.

(iii) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured;

(iv) "Creditor" means a person who has a claim;

(v) "Debt" means liability on a claim;

(vi) "Debtor" means a person who is liable on a claim;

(vii) "Insider" includes:

(A) If the debtor is an individual:

(I) A relative of the debtor or of a general partner of the debtor;

(II) A partnership in which the debtor is a general partner;

(III) A general partner in a partnership described in subdivision (A) (II) of this paragraph;

(IV) A corporation of which the debtor is a director, officer or person in control;

(V) An incorporated business organization, other than a partnership, in which the debtor is a member, partner, manager or other participant, when the debtor's participation includes the right to conduct the business of the organization or the debtor controls the organization; or

(VI) An individual, as described in subdivision (A) (I) of this paragraph, who participates in an unincorporated business organization, other than a partnership, and who has the right to conduct the business of the organization or who controls the organization.

(B) If the debtor is a corporation:

(I) A director of the debtor;

(II) An officer of the debtor;

(III) A person in control of the debtor;

(IV) A partnership in which the debtor is a general partner;

(V) A general partner in a partnership described in subdivision (A) (IV) of this paragraph; or

(VI) A relative of a general partner, director, officer or person in control of the debtor.



(C) If the debtor is a partnership:

(I) A general partner in the debtor;

(II) A relative of a general partner in or a general partner of, or a person in control of the debtor;

(III) Another partnership in which the debtor is a general partner;

(IV) A general partner in a partnership described in subdivision (C) (III) of this paragraph; or

(V) A person in control of the debtor.

(D) An affiliate, or an insider of an affiliate as if the affiliate were the debtor;

(E) A managing agent of the debtor; and

(F) If the debtor is an unincorporated business organization other than a partnership:

(I) A member, partner, manager or participant who has the right to conduct business of the organization;

(II) A person who controls the organization; or

(III) A relative of a person described in subdivision (F) (I) and (F) (II).

(viii) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien or a statutory lien;

(ix) "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity;

(x) "Property" means anything that may be the subject of ownership;

(xi) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree;

(xii) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease and creation of a lien or other encumbrance;

(xiii) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

#### **34-14-203. Insolvency.**

(a) A debtor is insolvent if the sum of the debtor's debt is greater than all of the debtor's assets, at a fair valuation.

(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

(c) A partnership is insolvent under subsection (a) of this section if the sum of the partnership's debts is greater than the aggregate of all of the partnership's assets, at a fair valuation, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay or defraud creditors or that has been transferred in a manner making the transfer voidable under this act.

(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

#### **34-14-204. Value.**

(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the

ordinary course of the promisor's business to furnish support to the debtor or another person.

(b) For the purposes of W.S. 34-14-205(a)(ii) and 34-14-206, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

**34-14-205. Transfers fraudulent as to present and future creditors.**

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(i) With actual intent to hinder, delay or defraud any creditor of the debtor; or

(ii) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(A) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(B) Intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

(b) In determining actual intent under paragraph (a)(i) of this section, consideration may be given, among other factors, to whether:

(i) The transfer or obligation was to an insider;

(ii) The debtor retained possession or control of the property transferred after the transfer;

(iii) The transfer or obligation was disclosed or concealed;

(iv) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

(v) The transfer was of substantially all the debtor's assets;

(vi) The debtor absconded;

(vii) The debtor removed or concealed assets;

(viii) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(ix) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(x) The transfer occurred shortly before or shortly after a substantial debt was incurred; and

(xi) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

**34-14-206. Transfers fraudulent as to present creditors.**

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(b) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

**34-14-207. When transfer is made or obligation is incurred.**

(a) For purposes of this act:

(i) A transfer is made:

(A) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(B) With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this act that is superior to the interest of the transferee.

(b) If applicable law permits the transfer to be perfected as provided in subsection (a) of this section and the transfer is not so perfected before the commencement of an action for relief under this act, the transfer is deemed made immediately before the commencement of the action.

(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a) of this section, the transfer is made when it becomes effective between the debtor and the transferee.

(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

(e) An obligation is incurred:

(i) If oral, when it becomes effective between the parties; or

(ii) If evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

**34-14-208. Remedies of creditors.**

(a) In an action for relief against a transfer or obligation under this act, a creditor, subject to the limitations in W.S. 34-14-209, may obtain:

(i) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(ii) An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by law;

(iii) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(A) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(B) Appointment of a receiver to take charge of the asset transferred or of the other property of the transferee; or

(C) Any other relief the circumstances may require.

(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

**34-14-209. Defenses, liability and protection of transferee.**

(a) A transfer or obligation is not voidable under W.S. 34-14-205(a)(i) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under W.S. 34-14-208(a)(i), the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c) of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(i) The first transferee of the asset or the person for whose benefit the transfer was made; or

(ii) Any subsequent transferee other than a good-faith transferee or obligee who took for value or from any subsequent transferee or obligee.

(c) If the judgment under subsection (b) of this section is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under this act, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

(i) A lien on or a right to retain any interest in the asset transferred;

(ii) Enforcement of any obligation incurred; or

(iii) A reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under W.S. 34-14-205(a) (ii) or 34-14-206 if the transfer results from:

(i) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

(ii) Enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code.

(f) A transfer is not voidable under W.S. 34-14-206(b):

(i) To the extent the insider gave a new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

(ii) If made in the ordinary course of business or financial affairs of the debtor and the insider; or

(iii) If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

**34-14-210. Extinguishment of claim for relief.**

(a) A claim for relief with respect to a fraudulent transfer or obligation under this act is extinguished unless action is brought:

(i) Under W.S. 34-14-205(a)(i), within four (4) years after the transfer was made or the obligation was incurred or, if later, within one (1) year after the transfer or obligation was or could reasonably have been discovered by the claimant;

(ii) Under W.S. 31-14-205(a)(ii) or 34-14-206(a), within four (4) years after the transfer was made or the obligation was incurred; or

(iii) Under W.S. 34-14-206(b), within one (1) year after the transfer was made or the obligation was incurred.

**34-14-211. Supplementary provisions.**

Unless displaced by the provisions of this act, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

**34-14-212. Uniformity of application and construction.**

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

CHAPTER 15  
ALIEN LAND

**34-15-101. Repealed By Laws 2001, Ch. 93, § 1.**

**34-15-102. Repealed By Laws 2001, Ch. 93, § 1.**

**34-15-103. Repealed By Laws 2001, Ch. 93, § 1.**

CHAPTER 16  
COMMERCIAL TRANSACTIONS; BILLS OF LADING

**34-16-101. Order bill of lading.**



(a) Whenever any common carrier, railroad or transportation company (hereinafter termed carrier), shall issue a bill of lading for the transportation of property from one (1) place to another within this state, or between places one (1) of which is within this state, which bill shall be, or purport to be drawn to the order of the shipper or other specified person, or which shall contain any statement or representation that the property described therein is, or may be deliverable upon the order of any person therein mentioned, such bill shall be known as an "order bill of lading" and shall conform to the following requirements:

(i) In connection with the name of the person to whose order the property is deliverable, the words "order of" shall prominently appear in print on the face of the bill thus: "Consigned to order of ....";

(ii) The bill shall be printed on yellow paper eight and one-half (8 1/2) inches by eleven (11) inches long;

(iii) It shall contain on its face the following provision: "The surrender of this original order bill of lading properly endorsed shall be required before delivery of the property";

(iv) It shall not contain the words: "Not negotiable", or words of similar import. If such words are placed on an order bill of lading, they shall be void and of no effect;

(v) Nothing herein shall be construed to prohibit the insertion in an order bill of lading of other terms or conditions not inconsistent with the provisions of this act, but it shall be unlawful to insert in such bill any terms or conditions contrary to, or inconsistent with such provisions.

#### **34-16-102. Straight bill of lading.**

(a) Whenever a bill of lading is issued by a carrier for the transportation of property from one (1) place to another within this state, or between places one (1) of which is within this state, in which the property described therein is stated to be consigned or deliverable to a specified person, without any statement or representation that such property is consigned or deliverable to the order of any person, such bill shall be known

as a "straight bill of lading", and shall contain the following requirements:

(i) The bill shall be printed on white paper eight and one-half (8 1/2) inches wide by eleven (11) inches long;

(ii) The bill shall have prominently stamped upon its face the words, "not negotiable";

(iii) Nothing herein shall be construed to prohibit the insertion in a straight bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any term or conditions contrary to or inconsistent with such provisions.

**34-16-103. Penalty for violation of W.S. 34-16-101 and 34-16-102.**

Every carrier or officer, agent or servant of a carrier, who shall knowingly violate any of the requirements stated in W.S. 34-16-101(a)(i) through (v) and 34-16-102(a)(i) through (iii), shall be guilty of a misdemeanor and punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment not more than one (1) year, or both.

**34-16-104. Issuance by carrier before receipt of goods prohibited; duplicates.**

It shall be unlawful for any carrier, or for any officer, agent or servant of a carrier, to issue an order bill of lading or a straight bill of lading, as defined by this act, until the whole of the property as described therein shall have been actually received and is at the time under the actual control of such carrier, to be transported; or to issue a second or duplicate order bill of lading or straight bill of lading for the same property, in whole or in part, for which a former bill of lading has been issued, and remains outstanding and uncanceled, without prominently marking across the face of the same the word "duplicate".

**34-16-105. Prohibited acts; penalty for violation of W.S. 34-16-104.**

Every carrier, or officer, agent or servant of a carrier, who knowingly violates the provisions of W.S. 34-16-104, and every person who negotiates or transfers for value a bill of lading known by him to have been issued in violation of section 4 shall

be guilty of a felony and upon conviction, shall be punished by fine not exceeding five thousand dollars (\$5,000.00) or imprisonment not exceeding five (5) years, or both. And every carrier, who himself, or by his officer, agent or servant authorized to issue bills of lading, issues a false or duplicate bill of lading in violation of the provisions of section 4, shall be estopped, as against all and every person or persons injured thereby who shall acquire any such false or duplicate bill of lading in good faith and for value, to deny the receipt of the property as described therein, or to assert that a former bill of lading has been issued and remains outstanding and uncanceled for the same property, as the case may be; and the issuing carrier shall be liable to any and every such person for all damages, immediate or consequential, which he or they may have sustained because of reliance upon the bill, whether the person or persons guilty of issuing or negotiating the bill shall have been convicted under this section or not.

**34-16-106. Penalty for fraudulent negotiations.**

Every person who receives from a carrier and fraudulently negotiates for value an order or straight bill of lading representing property to which he had no, or encumbered, title at the time of the negotiation of such bill, shall be guilty of a felony, and upon conviction shall be punished by fine not exceeding five thousand dollars (\$5,000.00), or imprisonment not exceeding five (5) years, or both.

CHAPTER 17  
WAREHOUSE RECEIPTS

**34-17-101. Issue of receipt for goods not received.**

A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five (5) years, or by a fine not exceeding five thousand dollars (\$5,000.00), or by both.

**34-17-102. Issue of receipt containing false statement.**

A warehouseman, or any officer, agent or servant of a warehouseman, who fraudulently issues or aids in fraudulently

issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both.

**34-17-103. Issue of unmarked duplicates; exception.**

A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "duplicate" except in the case of a lost or destroyed receipt after proceedings as provided for in section 14, shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment not exceeding five (5) years or by a fine not exceeding five thousand dollars (\$5,000.00), or by both.

**34-17-104. Issue of receipts fraudulently stating ownership.**

Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both.

**34-17-105. Delivery of goods without obtaining negotiable receipt.**

A warehouseman, or any officer, agent, or servant of a warehouseman who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods, is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 14 and 36, be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both.

**34-17-106. Fraudulent negotiation of receipt for mortgaged goods.**

Any person who deposits goods to which he has no title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000.00) or by both.

CHAPTER 18  
UNIFORM PRINCIPAL AND INCOME ACT

**34-18-101. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-102. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-103. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-104. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-105. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-106. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-107. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-108. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-109. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

**34-18-110. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.**

34-18-111. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

34-18-112. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

34-18-113. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

34-18-114. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

34-18-115. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

34-18-116. Renumbered by Laws 1979, ch. 142, § 3; 1980, ch. 54, § 1.

CHAPTER 19  
LIABILITY OF OWNERS OF LAND

ARTICLE 1  
LIABILITY OF OWNERS OF LAND USED FOR RECREATION PURPOSES

**34-19-101. Definitions.**

(a) As used in this act:

(i) "Land" means land, including state land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty;

(ii) "Owner" means the possessor of a fee interest, a tenant, lessee, including a lessee of state lands, occupant or person in control of the premises;

(iii) "Recreational purpose" includes, but is not limited to, any one (1) or more of the following: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, bicycling, mountain biking, horseback riding and other equine activities as defined in W.S. 1-1-122(a)(iv), noncommercial aviation activities and viewing or enjoying historical, archaeological, scenic or scientific sites;

(iv) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land;

(v) "This act" means W.S. 34-19-101 through 34-19-106.

**34-19-102. Landowner's duty of care or duty to give warnings.**

Except as specifically recognized by or provided in W.S. 34-19-105, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure or activity on such premises to persons entering for recreational purposes.

**34-19-103. Limitations on landowner's liability.**

(a) Except as specifically recognized by or provided in W.S. 34-19-105, an owner of land, including a lessee of state land, who either directly or indirectly invites or permits without charge any person to use the land for recreational purposes does not thereby:

(i) Extend any assurance that the premises are safe for any purpose;

(ii) Confer upon the person using the land the legal status of an invitee or licensee to whom a duty of care is owed;

(iii) Assume responsibility for or incur liability for any damage or injury to person or property, including to a third party, whether or not on the property, caused by an act or omission of the person using the land.

**34-19-104. Application to land leased to state or political subdivision thereof.**

(a) Unless otherwise agreed in writing W.S. 34-19-102 and 34-19-103 shall be deemed applicable to the duties and liability of:

(i) An owner of land leased to the state or any subdivision of this state for recreational purposes;

(ii) An owner of land on which the state or any subdivision of the state has an easement for vehicle parking and land access for recreational purposes.

**34-19-105. When landowner's liability not limited.**

(a) Nothing in this act limits in any way any liability which otherwise exists:

(i) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity, except an owner whose land is adjacent to a national scenic trail designated by the United States congress and who has conveyed an easement across his lands for purposes of a designated national scenic trail shall owe no duty of care to keep the adjacent lands safe or to give any warning of a dangerous condition, use, structure or activity on the adjacent lands. The installation of a sign, other form of warning or modification made to improve safety shall not create liability on the part of an owner of the adjacent land if there is no other basis for liability;

(ii) For injury suffered in any case where the owner of land charges the persons who enter or go on the land for recreational purposes, except that in the case of land leased to the state or a subdivision of this state, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section;

(iii) Under W.S. 1-39-107.

**34-19-106. Duty of care, not created; duty of care of persons using land.**

(a) Nothing in this act shall be construed to:

(i) Create a duty of care or ground of liability for injury to persons or property;

(ii) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this act to exercise care in his use of the land and in his activities on the land, or from the legal consequences of failure to employ such care.

**34-19-107. User liability for damages.**



Any person using the land of another for recreational purposes, with or without permission, shall assume the inherent risk of using the land for recreational purposes and shall be liable for any damage or injury to property, livestock or crops or to a third party, whether or not on the property, caused by the person while on the property.

ARTICLE 2  
LIABILITY OF LANDOWNERS TO TRESPASSERS

**34-19-201. Definitions**

(a) As used in this article:

(i) "Land" means land, including state land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty;

(ii) "Owner" means the owner of an interest in land, a tenant, renter, lessee, including a lessee of state lands, lawful occupant or person in control of the premises;

(iii) "Trespasser" means a person or persons who enter or remain upon land in the possession of another without a privilege to do so created by the owner's consent or otherwise.

**34-19-202. Duty of owner of land to trespasser.**

Except as provided in W.S. 34-19-203, an owner of land owes no duty of care to a trespasser and is not liable for any injury to a trespasser, except that the owner owes a duty not to willfully or wantonly injure a trespasser.

**34-19-203. Artificial conditions highly dangerous to trespassing children.**

(a) An owner of land is subject to liability for physical harm to a child trespassing on the land caused by an artificial condition upon the land if:

(i) The place where the condition exists is one upon which the owner knows or has reason to know that a child is likely to trespass;

(ii) The condition is one of which the owner knows or has reason to know and which he realizes or should realize will

involve an unreasonable risk of death or serious bodily harm to the child;

(iii) The child because of his youth does not discover the condition or realize the risk involved in intermeddling with it or in coming within the area made dangerous by it;

(iv) The utility to the owner of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to the child involved; and

(v) The owner fails to exercise reasonable care to eliminate the danger or otherwise to protect the child.

**34-19-204. Conflicts.**

If a statute other than a statute in this article prescribes a standard or duty of care that differs from that prescribed in this article, the other standard or duty of care shall control over the provisions of this article.

CHAPTER 20  
CONDOMINIUM OWNERSHIP

**34-20-101. Short title.**

This act shall be known and may be cited as the "Condominium Ownership Act".

**34-20-102. Condominium ownership recognized; fee simple estate in air space and common elements; inseparability.**

Condominium ownership of real property is recognized in this state. Whether created before or after the date of this chapter, such ownership shall be deemed to consist of a separate fee simple estate in an individual air space unit of a multi-unit property together with an undivided fee simple interest in common elements. The separate estate of any condominium owner of an individual air space unit and his common ownership of such common elements as are appurtenant to his individual air space unit by the terms of the recorded declaration shall be inseparable for any period of condominium ownership that is prescribed by the said recorded declaration.

**34-20-103. Definitions.**

(a) As used in this act, unless the context otherwise requires:

(i) An "individual air space unit" shall consist of any enclosed room or rooms occupying all or part of a floor or floors in a building of one (1) or more floors to be used for residential, professional, commercial or industrial purposes and which has access to a public street;

(ii) Unless otherwise provided in the declaration or by written consent of all the condominium owners:

(A) "General common elements" means the land on which a building or buildings are located; the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of such building or buildings; the basements, yards, gardens, parking areas and storage spaces; the premises for the lodging of custodians or persons in charge of the property; installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, central air conditioning and incinerating; the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use; such community and commercial facilities as may be provided for in the declaration; and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(B) "Limited common elements" means those common elements designated in the declaration as reserved for use by fewer than all the owners of the individual air space units;

(iii) "Condominium unit" means an individual air space unit together with the interest in the common elements appurtenant to such unit;

(iv) "Declaration" is an instrument which defines the character, duration, rights, obligations and limitations of condominium ownership.

**34-20-104. Notice to tax assessor; apportionment of taxes; recording declaration; covenants running with land.**

(a) Whenever condominium ownership of real property is created, or separate assessment of condominium units is desired, a written notice thereof shall be delivered to the assessor of

the county in which said real property is situated, which notice shall set forth descriptions of the condominium units. Thereafter all taxes, assessments and other charges of this state or of any political subdivision or of any special improvement district or any other taxing or assessing authority shall be assessed against and collected on each condominium unit, each of which shall be carried on the tax books as a separate and distinct parcel for the purpose, and not on the building or property as a whole. The valuation of the general and limited common elements shall be assessed proportionately upon the individual air space unit in the manner provided in the declaration. The lien for taxes assessed to any individual condominium owner shall be confined to his condominium unit and to his undivided interest in the general and limited common elements. No forfeiture or sale of any condominium unit for delinquent taxes, mechanics, laborers or materialmen's liens, assessments or charges shall divest or in any way affect the title of other condominium units.

(b) The declaration shall be recorded in the office of the county clerk where the condominium property is located. Such declaration shall provide for the filing for record of a map properly locating condominium units. Any instrument affecting the condominium unit may legally describe it by the identifying condominium unit number or symbol as shown on such map. If such declaration provides for the disposition of condominium units in the event of the destruction or obsolescence of buildings in which such units are situated and restricts partition of the common elements, the rules or laws known as the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall not be applied to defeat or limit any such provisions.

(c) To the extent that any such declaration shall contain a mandatory requirement that all condominium unit owners shall be members of an association or corporation, or provide for the payment of charges assessed by the association upon condominium units, or the appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence, any rule of law to the contrary notwithstanding, the same shall be considered as covenants running with the land binding upon all condominium owners and their successors in interest. Any common law rule terminating agency upon death or disability of a principal shall not be applied to defeat or limit any such provisions.

UNIFORM COMMERCIAL CODE

ARTICLE 1  
GENERAL PROVISIONS

- 34-21-101. Renumbered by order of management council.
- 34-21-102. Renumbered by order of management council.
- 34-21-103. Renumbered by order of management council.
- 34-21-104. Renumbered by order of management council.
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ARTICLE 2  
SALES

- 34-21-201. Renumbered by order of management council.
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ARTICLE 3  
COMMERCIAL PAPER

- 34-21-301. Renumbered by order of management council.
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ARTICLE 4  
BANK DEPOSITS AND COLLECTIONS

- 34-21-401. Renumbered by order of management council.
- 34-21-402. Renumbered by order of management council.
- 34-21-403. Renumbered by order of management council.
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ARTICLE 5  
LETTERS OF CREDIT

- 34-21-501. Renumbered by order of management council.
- 34-21-502. Renumbered by order of management council.
- 34-21-503. Renumbered by order of management council.
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ARTICLE 6  
BULK TRANSFERS

- 34-21-601. Renumbered by order of management council.
- 34-21-602. Renumbered by order of management council.
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ARTICLE 7  
WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER  
DOCUMENTS OF TITLE

- 34-21-701. Renumbered by order of management council.
- 34-21-702. Renumbered by order of management council.
- 34-21-703. Renumbered by order of management council.
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ARTICLE 8  
INVESTMENT SECURITIES

- 34-21-801. Renumbered by order of management council.
- 34-21-802. Renumbered by order of management council.
- 34-21-803. Renumbered by order of management council.

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ARTICLE 9

SECURED TRANSACTIONS: SALES OF ACCOUNTS,  
CONTRACT RIGHTS AND CHATTEL PAPER

34-21-901. Renumbered by order of management council.

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ARTICLE 10  
REPEAL OF INCONSISTENT LEGISLATION  
AND EFFECTIVE DATE

**34-21-1001. Renumbered by order of management council.**

**34-21-1002. Renumbered by order of management council.**

ARTICLE 11  
CENTRAL FILING SYSTEM - AGRICULTURAL PRODUCTS

**34-21-1101. Definitions.**

(a) As used in this act:

(i) "Buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products;

(ii) "Central filing system" means the system for filing effective financing statements or notice of those financing statements established under this act in response to section 1324 of the Food Security Act of 1985, Public Law 99-198, 7 U.S.C. § 1631 (Supp. 1988);

(iii) "Commission merchant" means any person engaged in the business of receiving any farm product for sale, on commission or for or on behalf of another person;

(iv) "Debtor" means the person subjecting a farm product to a security interest;

(v) "Effective financing statement" means a statement that:

(A) Is signed, authorized or otherwise authenticated by the secured party;

(B) Is filed by the secured party in the office of the secretary of state;

(C) Is signed, authorized or otherwise authenticated by the debtor;

(D) Contains:

(I) The name and address of the secured party;

(II) The name and address of the debtor;

(III) An approved unique identification number of the debtor;

(IV) A description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable;

(V) Each county in this state where the debtor's farm product is used or produced or to be used or produced;

(VI) Crop year, unless every crop of the farm product in question is to be subject to the particular security interest for the duration of the effective financing statement;

(VII) Further details of the farm product subject to the security interest if needed to distinguish it from other quantities of the product owned by the same person but not subject to the particular security interest; and

(VIII) Other information that the secretary of state may require to comply with section 1324 of the Food Security Act of 1985, Public Law 99-198, 7 U.S.C. § 1631 (Supp. 1988), or to more efficiently carry out his duties under this act.

(E) Shall be amended and filed, within three (3) months to reflect material changes;

(F) Remains effective for a period of five (5) years from the date of filing, subject to extensions for additional periods of five (5) years each by refiling or filing a continuation statement within six (6) months before the expiration of the five (5) year period;

(G) Lapses on either the expiration of the effective period of the statement or the filing of a notice signed, authorized or otherwise authenticated by the secured party that the statement is terminated, whichever occurs first;

(H) Is accompanied by the filing fee required under this act; and

(J) Substantially complies with the requirements of this paragraph even though it contains minor errors that are not seriously misleading. An effective financing statement may, for any given debtor or debtors, cover more than one (1) farm product located in more than one (1) county. However, should more than ten (10) products, counties or combinations thereof be listed, an additional fee shall be charged.

(vi) "Farm product" means an agricultural commodity, such as wheat, corn, soybeans or a species of livestock such as cattle, hogs, sheep, horses or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state, such as woolclip, milk or eggs that is in the possession of a person engaged in farming operations;

(vii) "Knows" or "knowledge" means actual knowledge;

(viii) "Receipt of notice" of an existing security interest means, for purposes of section 1324 of the Food Security Act of 1985, Public Law 99-198, 7 U.S.C. § 1631 (Supp. 1988), and for purposes of this act, the earlier of:

(A) The date notice is actually received by a buyer in the ordinary course of business;

(B) The first day upon which delivery of the notice is attempted by a carrier; or

(C) Five (5) days after the notice is mailed.

(ix) "Registrant" means any buyer of farm products, commission merchant, selling agent or other person who registers with the secretary of state to receive the master list;

(x) "Security interest" means an interest in farm products that secures payment or performance of an obligation;

(xi) "Selling agent" means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations;

(xii) "This act" means W.S. 34-21-1101 through 34-21-1107.

**34-21-1102. Central filing system; establishment.**

(a) The secretary of state shall establish and operate a central filing system for effective financing statements. The system shall provide a means for filing effective financing statements or notices of such financing statements on a statewide basis. The system shall include requirements that:

(i) An effective financing statement or notice of a financing statement shall be filed in the office of the secretary of state. A debtor's residence is presumed to be the residence shown on the filing. The validity of the filing is not affected if the residence indicated is improper or inaccurate. The secretary of state shall mark the statement or notice with a consecutive file number and the date and hour of filing and shall hold the statement or notice for public inspection. In addition, the secretary of state shall index the statements and notices according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement;

(ii) The secretary of state shall compile all statements or notices filed under this act into a master list containing the information specified in W.S. 34-21-1101(a)(v)(D);

(iii) The secretary of state shall distribute to registrants the information on the master list in lists by farm product arranged either alphabetically by debtor or numerically by the debtor's approved unique identification number. If a registered buyer so requests, the list or lists for such buyer may be limited to any county or group of counties where the farm product is used or produced or to any crop year or years or a combination of those identifiers;

(iv) All buyers of farm products, commission merchants, selling agents and other persons may register with the secretary of state to receive lists described in paragraph (a)(iii) of this section. Lists produced under the central filing system shall be used only for the purposes of this act. Any buyer of farm products, commission merchant, selling agent or other person conducting business from multiple locations shall be considered as one (1) entity. Registration shall be on an annual calendar year basis. The secretary of state shall provide the form for registration which shall include the name and address of the registrant and the list or lists described in

paragraph (a)(iii) of this section which the registrant desires to receive. The form shall also include other information that the secretary of state may require to comply with section 1324 of the Food Security Act of 1985, Public Law 99-198, 7 U.S.C. 1631 (Supp. 1988), or to more efficiently carry out his duties under this act. A registration shall not be completed until the form provided is properly completed and received by the secretary of state accompanied by the specified registration fee. A registrant shall pay an additional annual fee as specified under this act to receive monthly lists described in paragraph (a)(iii) of this section. A registration may be amended during the year by properly completing the prescribed form and submitting it along with the specified fee to the secretary of state. Registrants shall immediately notify the secretary of state of any change of address by filling out the proper form in order to continue to receive copies of the central filing system master list and to continue to be considered registered. The secretary of state shall maintain a record of the registrants and the lists and contents of the lists received by the registrants for a period of five (5) years;

(v) The lists requested by registrants under paragraph (a)(iv) of this section shall be distributed by the secretary of state on a monthly basis and shall be in written or printed form. The secretary of state may by rule provide for the distribution of the lists on any medium and establish reasonable charges therefor. The secretary of state shall, by rule, establish the dates upon which the monthly distribution will be made, the dates after which a filing of an effective financing statement will not be reflected on the next monthly distribution of lists and the dates by which a registrant must complete a registration to receive the next monthly list; and

(vi) The secretary of state shall remove lapsed and terminated effective financing statements or notices of such financing statements from the master list before preparing the lists for distribution under paragraph (a)(v) of this section.

(b) The secretary of state shall apply to the secretary of the United States department of agriculture for certification of the central filing system.

(c) The secretary of state shall:

(i) Adopt and promulgate rules to implement this act if necessary to obtain federal certification of the central



filing system. Additional and alternative requirements made in conformity with section 1324 of the Food Security Act of 1985, Public Law 99-198, 7 U.S.C. § 1631 (Supp. 1988) and with the rules promulgated under it may be imposed by the secretary of state by rule;

(ii) Prescribe all forms to be used for filing effective financing statements and subsequent transactions and all other forms necessary to implement this act.

**34-21-1103. Filing.**

(a) Presentation for filing of an effective financing statement, tender of the filing fee and the acceptance of the statement by the secretary of state constitutes filing under this act.

(b) A continuation statement may be filed by the secured party within six (6) months immediately prior to the expiration of the five (5) year period specified in W.S. 34-21-1101(a)(v)(F). Any continuation statement shall identify the original statement by file number and state that the original statement is still effective. The continuation statement need not be signed by the secured party or the debtor, whether filed by electronic means or filed in written form. Upon timely filing of the continuation statement, the effectiveness of the original statement shall be continued for five (5) years after the last date to which the filing was effective whereupon it shall lapse unless another continuation statement is filed in accordance with this subsection. If an effective financing statement exists at the time insolvency proceedings are commenced by or against the debtor, the effective financing statement shall remain effective until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until the expiration of the five (5) year period, whichever occurs later. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement.

**34-21-1104. Termination; notice.**

(a) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party shall notify the debtor in writing of his right to have a notice of lapse of his effective financing statement filed which shall lead to the removal of his name from the files and lists compiled by the

secretary of state. In lieu of that notice, the secured party may acquire a waiver of the debtor of that right and a request by the debtor that his effective financing statement be retained on file. The notice may be given or waiver acquired by the secured party at any time prior to the time specified in this subsection for giving the notice.

(b) If the secured party does not furnish the notice or obtain the waiver specified in subsection (a) of this section, the secured party shall, within ten (10) days of final payment of all secured obligations, file a notice of termination with the secretary of state. The secured party shall on written demand by the debtor send the debtor a notice of termination to the effect that he no longer claims a security interest under the effective financing statement, which shall be identified by file number. The notice of termination is valid if signed by the secured party.

(c) If the affected secured party fails to send a notice of lapse within ten (10) days after proper demand under subsection (b) of this section, he is liable to the debtor for the amount of one hundred dollars (\$100.00) and for any loss caused to the debtor by the failure.

(d) On presentation to the secretary of state of a notice of lapse, he shall treat it as a termination statement and note it in the index.

#### **34-21-1105. Information requests.**

(a) Oral and written inquiries regarding information provided by the filing of effective financing statements may be made at the office of the secretary of state during regular business hours or at such other times as the secretary of state may set. The secretary of state shall, within twenty-four (24) hours after the request, furnish oral confirmation of any effective financing statement in the system to any buyer of farm products buying from a debtor, commission merchant or selling agent selling for a seller covered by such statement. If requested, oral confirmation shall be followed by written confirmation mailed by the end of the next business day.

(b) The secretary of state and his employees or agents are exempt from all liability as a result of any error or omission in providing information as required by this act, except in cases of willful misconduct or gross negligence.

**34-21-1106. Sales subject to security interest; release of security interest.**

(a) In the case of a farm product produced in Wyoming, a buyer in the ordinary course of business buying farm products takes subject to a security interest created by the seller, and a commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product, if:

(i) The buyer, commission merchant or selling agent has failed to register with the secretary of state prior to the purchase of farm products, and the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(ii) The buyer, commission merchant or selling agent received from the secretary of state written notice as provided in W.S. 34-21-1102(a)(v) that specifies both the seller and the farm products being sold by the seller as being subject to an effective financing statement or notice, and does not secure a waiver or release of the security interest specified in the effective financing statement or notice from the secured party by performing any payment obligation or otherwise. If a buyer in the ordinary course of business buying farm products covered by the central filing system tenders to the seller the total purchase price by means of a check or other instrument payable to the seller and each security interest holder of the seller identified in the central filing system for those products and if the security interest holder authorizes the negotiation of the check or other instrument, the authorization or endorsement and payment thereof constitutes a waiver or release of the security interest specified to the extent of the amount of the instrument.

(b) A buyer in the ordinary course of business buying farm products covered by the central filing system shall take subject to the security interest identified under the system, except that a registrant or a buyer in the ordinary course of business making an inquiry under W.S. 34-21-1105 shall not take subject to the security interest if the central filing system's failure to correctly provide any of the information specified in W.S. 34-21-1101(a)(v)(D) prevents the buyer from having knowledge of the effective financing statement.

**34-21-1107. Fees.**

The secretary of state shall, while determining appropriate fees under W.S. 34.1-9-525 for original financing statements, determine appropriate fees for effective financing statement filings, statements of amendments, continuation, assignment and release and for statements of termination by rules. The rules must be adopted in accordance with the Wyoming Administrative Procedure Act.

CHAPTER 22  
SOLAR RIGHTS

**34-22-101. Short title.**

This act may be cited as the "Solar Rights Act".

**34-22-102. Definitions.**

(a) As used in this act:

(i) "Solar collector," except as provided in subsection (b) of this section, is one (1) of the following which is capable of collecting, storing or transmitting at least twenty-five thousand (25,000) BTU's on a clear winter solstice day:

(A) A wall, clerestory or skylight window designed to transmit solar energy into a structure for heating purposes;

(B) A greenhouse attached to another structure and designed to provide part of the heating load for the structure to which it is attached;

(C) A trombe wall, "drum wall" or other wall or roof structural element designed to collect and transmit solar energy into a structure;

(D) A photovoltaic collector designed to convert solar energy into electric energy;

(E) A plate-type collector designed to use solar energy to heat air, water or other fluids for use in hot water or space heating or for other applications; or

(F) A massive structural element designed to collect solar energy and transmit it to internal spaces for heating.

(ii) "Solar right" is a property right to an unobstructed line-of-sight path from a solar collector to the sun which permits radiation from the sun to impinge directly on the solar collector. The extent of the solar right shall be described by that illumination provided by the path of the sun on the winter solstice day which is put to a beneficial use or otherwise limited by this act;

(iii) "Winter solstice day" is the solstice on or about December 21 which marks the beginning of winter in the northern hemisphere and is the time when the sun reaches its southernmost point;

(iv) "Local government" means a city, town or county;

(v) "This act" means W.S. 34-22-101 through 34-22-106.

(b) For purposes of this act, "solar collector" shall not include a solar collector that is part of a facility that:

(i) Has a rated power capacity of more than five hundred (500) kilowatts; or

(ii) Would result in a surface disturbance equal to or greater than one hundred (100) acres.

**34-22-103. Declaration of solar rights.**

(a) The beneficial use of solar energy is a property right.

(b) In disputes over the use of solar energy:

(i) Beneficial use shall be the basis, the measure and the limit of the solar right, except as otherwise provided by written contract. If the amount of solar energy which a solar user can beneficially use varies with the season of the year, then the extent of the solar right shall vary likewise;

(ii) Priority in time shall have the better right, except as provided in this act; and

(iii) Nothing in this act diminishes the right of eminent domain.

(c) Solar rights are property rights and as such shall be freely transferable within the bounds of law.

**34-22-104. Restrictions on solar rights.**

(a) The solar right to radiation of the sun before 9:00 a.m. or after 3:00 p.m. Mountain Standard Time is de minimus and may be infringed without compensation to the owner of the solar collector.

(b) A solar right which is not applied to a beneficial use for a period of five (5) years or more shall be deemed abandoned and without priority.

(c) Solar collectors shall be located on the solar user's property so as not to unreasonably or unnecessarily restrict the uses of neighboring property. Unless otherwise permitted by the local government, no solar right attaches to a solar collector, or a portion of a solar collector, which would be shaded by a ten (10) foot wall located on the property line on a winter solstice day.

**34-22-105. County and municipal authority.**

(a) Land-use regulations of local governments may encourage the use of solar energy systems. To encourage the use of solar energy systems, local governments may regulate:

(i) The height, location, setback and energy efficiency of structures;

(ii) The height and location of vegetation with respect to property lines;

(iii) The platting and orientation of land developments; and

(iv) The type and location of energy systems or their components.

(b) The local government shall establish permit systems for the use and application of solar energy. Where a local government establishes a permit system for the use and application of solar energy:

(i) A solar permit shall be granted before a solar right may be established;

(ii) The local government shall grant a solar permit to any proposed or existing solar collector which complies with this act. If a local government sets height or locational limits on structures or vegetation, the local government may restrict the solar permit to the airspace above or surrounding the restrictions. The extent of the solar right granted by this act shall not exceed the extent of the solar right granted by the solar permit;

(iii) The solar right vests on the date the solar permit is granted. The solar collector shall be put to beneficial use within two (2) years except the local government may allow additional time for good cause shown. The local government shall certify the right and its beneficial use within two (2) years of its vesting;

(iv) The priority of new construction with regard to interference in solar rights shall vest as of the date the building permit is applied for;

(v) Cities and towns shall regulate solar rights within their boundaries. Counties shall regulate solar rights within the county and outside city limits. Local governments which agree may regulate solar rights jointly;

(vi) Existing solar collector users shall apply for permits within five (5) years after the date permit systems are established by their local governments. The priority date for these solar rights shall be the first date the solar collector was beneficially used.

(c) No local government shall prohibit the construction or use of solar collectors except for reasons of public health and safety or as authorized in W.S. 18-5-501 through 18-5-513.

#### **34-22-106. Recording solar rights.**

The granting of solar permits and the transfer of solar rights shall be recorded pursuant to W.S. 34-1-101 through 34-1-140. The instrument granting a solar permit shall include a description of the collector surface, or that portion of the collector surface to which the solar permit is granted. The description shall include the dimensions of the collector surface, the direction of orientation, the height above ground level and the location of the collector on the solar user's property.

CHAPTER 23  
MUSEUMS - LOANED PROPERTY

**34-23-101. Definitions.**

(a) For purposes of this chapter:

(i) "Lender" means the actual owner of loaned property or his duly authorized agent, trustee, conservator, custodian, heir, fiduciary or any other person capable of having an interest in property;

(ii) "Lender's address" means the most recent address as shown on the museum's records pertaining to the property on loan from the lender;

(iii) "Loan" means all deposits of property with a museum which are not accompanied by a transfer of title to the property or other evidence of donative intent;

(iv) "Museum" means an institution located in Wyoming and operated by a nonprofit corporation or a public agency primarily for educational, scientific or aesthetic purposes and which owns, borrows, cares for, exhibits, studies or archives property;

(v) "Property" means all tangible objects, organic and inorganic, under a museum's care which have intrinsic scientific, historic, artistic or cultural value.

**34-23-102. Notice to lender.**

(a) If a museum accepts a loan of property on or after July 1, 1992 for a period of time exceeding ninety (90) days that is not subject to a written loan agreement, the museum shall give the lender the written notice required by this section.

(b) If a museum holds loaned property acquired between July 1, 1982 and June 30, 1992 which is not subject to a written loan agreement, or holds loaned property acquired prior to July 1, 1982 which is not subject to a written loan agreement and which is not subject to subsection (f) of this section, the museum may give the lender the written notice required by this section.



(c) Notice to a lender by a museum shall be deemed given under this chapter if sent by certified mail to the lender's address, return receipt requested. If the lender's address is not available to the museum or if proof of receipt is not received by the museum, notice shall be by publication at least once a week for three (3) successive weeks in a newspaper of general circulation in both the county in which the museum is located and the county of the lender's address, if any.

(d) The notice shall contain the lender's name, the lender's address, the date of the loan, a description of the property loaned, the name, address and telephone number of the appropriate office or official to be contacted at the museum for information regarding the loan, an explanation of the lender's responsibilities to notify the museum of any change of address or ownership pursuant to W.S. 34-23-103, an explanation of the lender's right to file a notice of intent to preserve an interest pursuant to W.S. 34-23-104 and an explanation of when a museum acquires title to property originally loaned to it as provided in W.S. 34-23-104(b).

(e) For purposes of this section, a museum is located in the county of its principal place of business or in the county in which any branch of the museum is located if the loan is made to the museum branch.

(f) If a museum holds loaned property acquired prior to July 1, 1982 which is not subject to a written loan agreement, and more than ten (10) years have elapsed without written donor contact indicating the deposit is not a gift, the deposit is presumed to be a gift. The presumption of a gift under this subsection may be rebutted by submission of written documentation by the lender prior to July 1, 1995 establishing that the deposit was a loan. Failure by the lender to submit documentation to the museum under this subsection prior to July 1, 1995 shall result in transfer of ownership of the loaned property to the museum.

#### **34-23-103. Lender's duties.**

The lender of property on loan to a museum shall notify the museum promptly in writing of any change of address or change in ownership of the property. Failure to notify the museum pursuant to this section may result in the lender's loss of ownership in the property.

#### **34-23-104. Intent to preserve an interest.**

(a) The lender may file with a museum a notice of intent to preserve an interest in the property on loan to the museum within sixty (60) days of receipt of the notice required in W.S. 34-23-102. Filing of the notice does not validate or make enforceable any claim which would be extinguished under the terms of a written loan agreement or which would otherwise be invalid or unenforceable. The notice of intent to preserve an interest shall be effective for ten (10) years. The museum shall notify the lender by certified mail, return receipt requested, within thirty (30) days of the expiration of the initial ten (10) year period covered by the lender's notice of intent to preserve an interest. The lender may extend his intent to preserve an interest for ten (10) years by filing another notice in accordance with this section.

(b) Failure to timely file a notice of intent after notification by a museum as provided for in W.S. 34-23-102, or failure to timely refile a notice of intent within ten (10) years of the original filing of notice, or failure to claim loaned property at the termination of the loan period shall result in transfer to the museum of ownership of the loaned property.

(c) Failure to file a notice of intent, or to refile a notice of intent within ten (10) years of the original filing of notice pursuant to this section, shall result in transfer to the museum of ownership of the loaned property immediately, or if any lending agreement is in effect the termination of any lending agreement.

(d) Notice of intent to preserve an interest shall:

(i) Be in writing;

(ii) Contain a description of the property adequate to enable the museum to identify the property;

(iii) Be accompanied by documentation sufficient to establish the lender as the owner of the property; and

(iv) Be signed under penalty of perjury by the lender or by a person authorized to act on behalf of the lender.

(e) A museum is not required to retain a notice of intent to preserve an interest which does not meet the requirements of subsection (d) of this section. Any museum not retaining the

notice pursuant to this subsection shall promptly notify the lender at the address given on the notice of its determination that the notice is ineffective to preserve an interest and the reasons the notice is ineffective. Retention of a notice under this section is not an implication that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

(f) Unless the loaned property is returned to the lender, the museum shall retain the original or a copy of each notice to preserve an interest for a period of not less than ten (10) years.

(g) The museum shall furnish any person filing notice under this section proof of receipt of notice by mailing a receipt to the lender at the address given on the notice within thirty (30) days after receipt of the notice.

(h) The provisions of this section are not intended to affect or alter the terms of a written loan agreement.

(j) All rights and obligations of a lender in property loaned to a museum under this chapter shall pass to the lender's estate upon the death of the lender.

(k) The notice requirements of this section do not apply to loaned property held by a museum pursuant to W.S. 34-23-102(f).

**34-23-105. Conservation or disposal of loaned property.**

(a) A museum may apply measures to or dispose of property on loan to the museum without the permission of the lender if:

(i) No notice of intent to preserve an interest has been filed or refiled pursuant to W.S. 34-23-104(a) and any applicable lending agreement has terminated;

(ii) No notice of intent to preserve an interest has been filed and the lending agreement is still in effect or a notice of intent to preserve an interest has been filed within ten (10) years of the proposed conservation measure or disposal but:

(A) Immediate action is required to protect the property on loan or other property in the custody of the museum and the lender cannot be reached at his last known address;

(B) Immediate action is required because the property on loan has become a hazard to the health and safety of the public or the museum staff and the lender cannot be reached at his last known address; or

(C) The lender does not agree to the conservation measures or to the disposal but is not willing or able to terminate the loan and retrieve the property.

(iii) The museum holds the property as a presumed gift pursuant to W.S. 34-23-102(f).

(b) Any museum applying conservation measures to property pursuant to paragraph (a)(ii) or (iii) of this section shall acquire ownership of the property or any proceeds from the disposition of the property. Any museum disposing of property pursuant to paragraph (a)(ii) or (iii) of this section shall not be liable for damage caused by sale of the property.

**34-23-106. Notice of injury or loss.**

A museum shall provide prompt notice to the lender of any known injury to or loss of property on loan.

**34-23-107. Notice of intent to terminate loan.**

(a) A museum may provide notice of the museum's intent to terminate a loan:

(i) To a lender who has filed a notice of intent to preserve an interest;

(ii) To a lender who has not filed a notice of intent to preserve an interest if a lending agreement is still in effect; or

(iii) To a lender of property held pursuant to W.S. 34-23-102(f) if the lender has submitted written documentation that the deposit was a loan within the period provided by W.S. 34-23-102(f).

(b) The notice shall include a description of the property, the name, address and telephone number of the

appropriate office or official to be contacted at the museum, and a statement containing substantially the following information:

"The records of ....(name of museum) indicate that you have property on loan to the museum. The museum intends to terminate the loan. You are required by law to contact the museum, establish your ownership of the property and make arrangements to collect the property. If you fail to do so within one (1) year following the date of notice, you will be considered to have donated the property to the museum as provided under W.S. 34-23-108."

**34-23-108. Limitations on actions against the museum.**

(a) Any action against a museum for damages because of injury to or loss of property loaned to the museum is barred unless commenced within one (1) year from the date the museum provides notice to the lender of the injury or loss or within three (3) years from the date of the injury or loss, whichever occurs earlier.

(b) Any action against a museum to recover property on loan is barred unless commenced within one (1) year from the date the museum provides notice to the lender of its intent to terminate the loan provided under W.S. 34-23-107 or within ten (10) years from the date of notice of intent to preserve an interest in the property is filed with the museum under W.S. 34-23-104, whichever date is earlier.

(c) Property loaned to the museum for which the lender fails to file an action for damages or recovery within the periods specified by subsections (a), (b) and (f) of this section shall be considered donated to the museum.

(d) Notwithstanding subsections (b) and (c) of this section, a lender of property, other than property held by a museum pursuant to W.S. 34-23-102(f), not provided notice of the intention of the museum to terminate a loan and providing proof that the museum received a notice of intent to preserve an interest in loaned property within ten (10) years immediately preceding the filing of an action to recover the property, may recover the property or if the property has been disposed of, the reasonable value of the property at the time of disposition plus interest at five percent (5%) per year.

(e) Any person purchasing property from a museum acquires good title to the property if the museum represents that title to the property has been acquired pursuant to this chapter.

(f) Any action against a museum to recover property held by the museum pursuant to W.S. 34-23-102(f) is barred from and after July 1, 1995 unless the lender submits the documentation required by W.S. 34-23-102(f) to the museum prior to July 1, 1995.

CHAPTER 24  
UNIFORM UNCLAIMED PROPERTY ACT

**34-24-101. Short title; policy statement; uniform construction.**

(a) This act may be cited as the "Uniform Unclaimed Property Act."

(b) Property shall be deemed to be "abandoned" or "unclaimed" when:

(i) It is held, issued or owing by a holder;

(ii) The identity, status or present location of the apparent owner is unknown; and

(iii) The property cannot be paid, distributed or given to the apparent owner after the dormancy period stated for the type of unclaimed property in this act.

(c) Property shall not be deemed to be "abandoned" or "unclaimed" while the character or degree of ownership interest of the apparent owner in the property is unsettled or disputed and the holder is notified of this fact.

(d) All unclaimed property shall be placed in the custody of the administrator, subject to the perpetual right of the party originally owning or being entitled to the property to reclaim it upon proper proof of ownership and identity. Except for escrow agreements pursuant to W.S. 30-5-302, any provision, contract, agreement, practice, resolution, ordinance, decision, order or understanding, shall be void as contrary to this public policy, if the purpose of that provision is to avoid or contradict the custodial taking of unclaimed property by the administrator.

(e) This act shall be liberally construed in favor of the state and so as to foster the report and turnover of unclaimed property to the administrator.

**34-24-102. Definitions.**

(a) As used in this act:

(i) "Administrator" means the state treasurer;

(ii) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued or owing by the holder;

(iii) "Attorney general" means the chief legal officer of this state;

(iv) "Banking organization" means a bank, trust company, savings bank, private banker or any organization defined by other law as a bank or banking organization;

(v) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership or association for business purposes of two (2) or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company or utility;

(vi) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person;

(vii) "Financial organization" means a savings and loan association, building and loan association or credit union;

(viii) "Holder" means a person, wherever organized or domiciled, who is:

(A) In possession of property belonging to another;

(B) A trustee; or

(C) Indebted to another on an obligation.

(ix) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether

or not for profit, which is engaged in providing insurance coverage, including but not limited to accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety and wage protection insurance;

(x) "Intangible property" includes:

(A) Monies, checks, drafts, deposits, interest, dividends and income;

(B) Credit balances, customer overpayments, gift certificates, merchant stored value cards, security deposits, refunds, credit memos, unpaid wages, unused airline tickets and unidentified remittances except balances represented on debit cards;

(C) Stocks and other intangible ownership interests in business associations except patronage capital of Wyoming rural electric cooperatives;

(D) Monies deposited to redeem stocks, bonds, coupons and other securities or to make distributions;

(E) Bonds, notes and any other debt obligations;

(F) Amounts due and payable under the terms of insurance policies;

(G) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; and

(H) Amounts distributable from a mineral interest in land.

(xi) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail;

(xii) "Mineral" means oil, gas, uranium, sulphur, lignite, coal and any other substance that is ordinarily and naturally considered a mineral, regardless of the depth at which



the oil, gas, uranium, sulphur, lignite, coal or other substance is found;

(xiii) "Mineral proceeds" includes:

(A) All obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments and joint operating agreements; and

(B) All obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties and minimum royalties.

(xiv) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant or payee in the case of other intangible property or a person or that person's legal representative having a legal or equitable interest in property subject to this act;

(xv) "Person" means an individual, business association, state or other government (including any governmental subdivision, agency, entity, officer or appointee thereof) public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest or any other legal or commercial entity;

(xvi) "State" means any state, district, commonwealth, territory, insular possession or any other area subject to the legislative authority of the United States;

(xvii) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise or license for the transmission of communications, including cable television or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas;

(xviii) "Merchant stored value card" means an electronic promise that is:

(A) Redeemable at a single merchant or an affiliated group of merchants that share the same name, mark or logo;

(B) Issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the owner of the card;

(C) Purchased on a prepaid basis in exchange for payment;

(D) Upon presentation, honored by a single merchant or affiliated group of merchants for goods or services; and

(E) Not:

(I) Distributed under an awards, rewards, loyalty, incentive, rebate or promotional program; or

(II) Sold below face value or donated to an employee, nonprofit organization or an education institution for fund raising.

(xix) "This act" means W.S. 34-24-101 through 34-24-140.

**34-24-103. Property deemed abandoned; general rule.**

(a) Except as otherwise provided by this act, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than five (5) years after it became payable or distributable is deemed abandoned.

(b) Property is payable or distributable for the purpose of this act notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

**34-24-104. General rules for taking custody of intangible unclaimed property.**

(a) Unless otherwise provided in this act or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the property is deemed abandoned under W.S. 34-24-103 and 34-24-106 through 34-24-117 and 34-24-140 are satisfied and:

(i) The last known address, as shown on the records of the holder, of the apparent owner is in this state;

(ii) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this state;

(iii) The records of the holder do not reflect the last known address of the apparent owner and it is established that:

(A) The last known address of the person entitled to the property is in this state; or

(B) The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property.

(iv) The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(v) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

(vi) The transaction out of which the property arose occurred in this state and:

(A) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

(B) The last known address of the apparent owner or other person entitled to the property is:

(I) Unknown; or

(II) In a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

**34-24-105. Traveler's checks and money orders.**

(a) Subject to subsection (d) of this section, any sum payable on a traveler's check that has been outstanding for more than fifteen (15) years after its issuance is deemed abandoned unless the owner, within fifteen (15) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(b) Subject to subsection (d) of this section, any sum payable on a money order that has been outstanding for more than seven (7) years after its issuance is deemed abandoned unless the owner, within seven (7) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(c) A holder may not deduct from the amount of a traveler's check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(d) No sum payable on a traveler's check or money order described in subsections (a) and (b) of this section may be subjected to the custody of this state as unclaimed property unless:

(i) The records of the issuer show that the traveler's check or money order was purchased in this state;

(ii) The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check or money order was purchased; or

(iii) The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws

of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(e) Notwithstanding any other provision of this act, subsection (d) of this section applies to sums payable on traveler's checks or money orders deemed abandoned on the effective date of this act.

(f) As used in this section, "money order" means a money order issued by a business association and includes a personal money order or other similar instrument issued by a banking or financial organization, but not a bank money order, which is deemed a cashier's check.

**34-24-106. Checks, drafts and similar instruments issued or certified by banking and financial organizations.**

(a) Any sum payable on a check, draft or similar instrument, except those subject to W.S. 34-24-105, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than five (5) years after it was payable or after its issuance if payable on demand, is deemed abandoned, unless the owner, within five (5) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(b) A holder may not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

**34-24-107. Bank deposits and funds in financial organizations.**

(a) Any demand, savings or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate or any other interest in a banking or financial organization is deemed

abandoned after five (5) years if the location of the owner is unknown, except where the owner, within five (5) years, has:

(i) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(ii) Communicated in writing with the banking or financial organization concerning the property;

(iii) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

(iv) Owned other property to which paragraph (i), (ii) or (iii) of this subsection applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be deemed abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or

(v) Had another relationship with the banking or financial organization concerning which the owner has:

(A) Communicated in writing with the banking or financial organization; or

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(b) For purposes of subsection (a) of this section, property includes interest and dividends.

(c) A holder may not impose with respect to property described in subsection (a) of this section any charge due to dormancy or inactivity or cease payment of interest unless:

(i) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest and the holder regularly imposes such charges or ceases payment of

interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property; or

(ii) The holder is specifically exempted by federal law.

(d) Any property described in subsection (a) of this section that is automatically renewable is matured for purposes of subsection (a) of this section upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in W.S. 34-24-120, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

**34-24-108. Funds owing under life insurance policies.**

(a) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are deemed abandoned if unclaimed for more than five (5) years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in paragraph (c)(ii) of this section is deemed abandoned if unclaimed for more than two (2) years.

(b) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.

(c) For purposes of this act, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

(i) The company knows that the insured or annuitant has died; or

(ii) It is determined that:

(A) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(B) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph; and

(C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two (2) years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(d) For purposes of this act, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (a) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(e) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(f) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four (4) months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.



(g) Commencing two (2) years after the effective date of this act, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state shall request the following information:

(i) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

(ii) The address of each beneficiary; and

(iii) The relationship of each beneficiary to the insured.

**34-24-109. Deposits held by utilities.**

A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one (1) year after termination of the services for which the deposit or advance payment was made is deemed abandoned.

**34-24-110. Refunds and payments resulting from judicial or administrative proceedings.**

(a) The sum to be paid as a refund, under an order or decision of a court or administrative agency or by agreement, remaining unclaimed for more than six (6) months after it became payable, is deemed abandoned, regardless of whether the apparent owner has made any claim to the refund, unless, within the preceding six (6) months, there has been a communication between the apparent owner and the holder concerning that sum.

(b) Any sum payable or intangible property distributable in the course of a voluntary or involuntary dissolution or liquidation, remaining unclaimed for six (6) months after the date of the final distribution or liquidation, is deemed abandoned, unless, within the preceding six (6) months, there has been communication between the apparent owner and the person making the payment or distribution concerning that sum or distribution.

(c) Intangible property payable or distributable to a member of or participant in a class action, either one allowed by the court to be maintained as such or one essentially handled

as a class action, and remaining unclaimed for more than six (6) months after the time for the final payment or distribution is deemed abandoned, unless, within the preceding six (6) months, there has been a communication between the member or participant and the holder concerning the property.

(d) Intangible property payable or distributable as the result of litigation or settlement of a dispute before a judicial or administrative body and remaining unclaimed for more than six (6) months after the time for the final payment or distribution is deemed abandoned, unless, within the preceding six (6) months, there has been a communication between the apparent owner and the holder concerning the property.

(e) The person actually making or having the duty to make payment or distribution shall be deemed the holder for the purpose of this section.

**34-24-111. Stock and other intangible interests in business associations.**

(a) Any stock, shareholding, or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is deemed abandoned and, with respect to the interest, the association is the holder, if:

(i) The interest in the association is owned by a person who for more than three (3) years has neither claimed a dividend, distribution or other sum payable as a result of the interest, or who has not communicated with the association regarding the interest or a dividend, distribution or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association; and

(ii) The association does not know the location of the owner at the end of the three (3) year period.

(b) The return of official shareholder notifications or communications by the postal service as undeliverable shall be evidence that the association does not know the location of the owner.

(c) This act shall be applicable to both the underlying stock, shareholdings or other intangible ownership interests of an owner, and any stock, shareholdings or other intangible

ownership interest of which the business association is in possession of the certificate or other evidence or indicia of ownership, and to the stock, shareholdings or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

(d) At the time an interest is deemed abandoned under this section, any dividend, distribution or other sum then held for or owing to the owner as a result of the interest, and not previously deemed abandoned, is deemed abandoned.

(e) This act does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interest unless:

(i) The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan that the owner has not within three (3) years communicated in any manner described in subsection (a) of this section; or

(ii) Three (3) years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those three (3) years communicated in any manner described in subsection (a) of this section. The three (3) year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.

**34-24-112. Property held by agents and fiduciaries.**

(a) All intangible property and any income or increment derived therefrom, held in a fiduciary capacity for the benefit of another person is deemed abandoned unless the owner, within five (5) years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

(b) All intangible property and any income or increment derived therefrom held in an individual retirement account, a

retirement plan for self-employed individuals, or similar account or plan established pursuant to the internal revenue laws of the United States, which has not been paid or distributed for more than ninety (90) days after the earliest of (1) the actual date of distribution or attempted distribution, (2) the date contracted for distribution in the plan or trust agreement governing the account or plan, or (3) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty, is deemed abandoned unless the owner or beneficiary, within five (5) preceding years has made additional payments or transfers of property to the account or plan, was paid or received a distribution, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the account or plan fiduciary.

(c) For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between him and the business association provides otherwise.

(d) For the purposes of this act, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

**34-24-113. Property held by courts and public agencies.**

Any intangible property held by the executive, legislative or judicial branch of the United States government, or a state or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services or other organizations, and remaining unclaimed for more than one (1) year after it became payable or distributable is deemed abandoned.

**34-24-114. Gift certificates, merchant stored value cards and credit memos.**

(a) Except as provided by subsection (e) of this section, a gift certificate, merchant stored value card or a credit memo is deemed abandoned if the balance remaining is greater than one hundred dollars (\$100.00) and it remains unredeemed for more

than five (5) years after the later of its issuance date or the last activity by its owner, including partial use, or in the case of a merchant stored value card, an increase in the card balance purchased by the owner.

(b) In the case of a gift certificate or merchant stored value card, the amount deemed abandoned is the balance on the gift certificate or merchant stored value card as of the day of abandonment. In the case of a credit memo, the amount deemed abandoned is the amount credited as shown on the memo itself.

(c) The amount of a gift certificate, merchant stored value card or credit memo deemed abandoned is subject to the custody of this state in the following circumstances:

(i) The records of the issuer show that the last known address of the purchaser of the certificate, merchant stored value card or recipient of the memo is in this state;

(ii) Repealed by Laws 2015, ch. 127, § 2.

(iii) The records of the issuer do not show the address of the purchaser or of the recipient and the issuer is a domiciliary of this state; or

(iv) The records of the issuer show that the address of the purchaser or recipient is in or is a state whose escheat or unclaimed property law does not provide for the escheat or custodial taking of gift certificates, merchant stored value cards and credit memos, and the issuer is a domiciliary of this state.

(d) Repealed by Laws 2015, ch. 127, § 2.

(e) A gift certificate or merchant stored value card which has no expiration date and does not impose a fee of any kind in relation to the sale, redemption or replacement of the certificate or card, other than an initial charge not exceeding the face value of the certificate or card, is exempt from the requirements of this section.

(f) Repealed by Laws 2016, ch. 73, § 1.

**34-24-115. Wages.**

Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business

which remain unclaimed by the owner for more than one (1) year after becoming payable are deemed abandoned.

**34-24-116. Contents of safe deposit box or other safekeeping repository.**

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than five (5) years after the lease or rental period on the box or other repository has expired, are deemed abandoned.

**34-24-117. Mineral proceeds.**

(a) Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three (3) years after it became payable or distributable and the owner's underlying right to receive those mineral proceeds are deemed abandoned.

(b) At the time an owner's underlying right to receive mineral proceeds is deemed abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are deemed abandoned. The sum deemed abandoned is subject to the custody of this state as unclaimed property if:

(i) The last known address, as shown on the records of the holder, of the apparent owner is in this state;

(ii) The records of the holder do not reflect the last known address and it is established that the last known address of the apparent owner is in this state;

(iii) The records of the holder do not reflect the last known address, and the holder is domiciled in or is a government or governmental subdivision or agency of this state;  
or

(iv) The mineral interest is located in this state,  
and:

(A) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which the state's escheat or unclaimed property law is not applicable to the property; or

(B) The last known address of the apparent owner is unknown and the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state escheat or unclaimed property law is not applicable to the property.

(c) A holder may not deduct from mineral proceeds any charge due to dormancy unless:

(i) There is an enforceable written contract between the holder and the owner of the mineral proceeds pursuant to which the holder may impose a charge;

(ii) For mineral proceeds in excess of five dollars (\$5.00), the holder, no more than three (3) months before the initial imposition of those charges, has mailed written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed, provided the notice required in this paragraph need not be given with respect to charges imposed before the effective date of this act; and

(iii) The holder regularly imposes such charges and in no instance reverses or otherwise cancels them.

(d) Charges authorized under subsection (c) of this section may be made and collected monthly, quarterly or annually. However, beginning with the effective date of this act, the cumulative amount of charges may not exceed twelve dollars (\$12.00) per year, and may only be charged for a maximum of two (2) calendar years.

**34-24-118. Report of abandoned property.**

(a) A person holding property tangible or intangible, deemed abandoned and subject to custody as unclaimed property under this act, shall report to the administrator concerning the property as provided in this section.

(b) The report shall be verified and shall include:

(i) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of fifty dollars (\$50.00) or more deemed abandoned under this act;

(ii) In the case of unclaimed funds of fifty dollars (\$50.00) or more held or owing under any insurance policy or annuity contract, the full name and last known address of the insured policy owner or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds. The report shall also include any information required by W.S. 26-16-505(h);

(iii) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

(iv) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under fifty dollars (\$50.00) each may be reported in the aggregate;

(v) The date the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and

(vi) Other information the administrator prescribes by rule as necessary for the administration of this act.

(c) If the person holding property deemed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed a name while holding the property, the report filed shall contain all known names and addresses of each previous holder of the property.

(d) The report shall be filed no later than November 1 of each year for the reporting period ending June 30 next preceding. On written request by any person required to file a report, the administrator may postpone the reporting date.

(e) Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property deemed abandoned and subject to custody as unclaimed property under this act shall send written notice to the apparent owner at that owner's last known address informing the owner that the holder is in possession of property subject to this act if:



(i) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

(ii) The claim of the apparent owner is not barred by the statute of limitations; and

(iii) The property has a value of fifty dollars (\$50.00) or more.

(f) Reports filed with the administrator under this section are not public records and are not open to public inspection until twenty-four (24) months after the date payment or delivery is made under W.S. 34-24-120.

**34-24-119. Abandoned property lists; notice and publication of lists of abandoned property.**

(a) The administrator shall prepare two (2) lists with information about property paid or delivered to the administrator under W.S. 34-24-120:

(i) One list shall refer to all unclaimed funds of fifty dollars (\$50.00) or more in the administrator's custody and shall contain:

(A) The name and last known address of each person appearing from the holders' report to be entitled to the property; and

(B) The name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company.

(ii) The second list shall refer to property that has been in the administrator's custody for more than twenty-four (24) months and shall contain the following information:

(A) The name and last known address of each person appearing from the holders' report to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company;

(B) The amount paid or delivered to the administrator;

(C) The name of the person who paid or delivered the property to the administrator;

(D) A general description of the property; and

(E) Other information the administrator deems appropriate for inclusion in the list.

(b) The lists described in subsection (a) of this section shall be updated semiannually and shall be available for public inspection at all reasonable business hours. Copies of each list shall be available to the public for a fee to be set by the administrator.

(c) Within the calendar year following the year in which unclaimed property has been paid or delivered to the administrator, the administrator shall advertise the unclaimed property in a form that, in the discretion of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property.

(i) Repealed by Laws 2015, ch. 57, § 2.

(ii) Repealed by Laws 2015, ch. 57, § 2.

(iii) Repealed by Laws 2015, ch. 57, § 2.

(iv) Repealed by Laws 2015, ch. 57, § 2.

(d) The administrator shall not be required to advertise the name and address or location of an owner of abandoned property having a total value less than fifty dollars (\$50.00) nor information concerning traveler's checks, money orders and other similar written instruments deemed abandoned under W.S. 34-24-105.

**34-24-120. Payment or delivery of abandoned property.**

(a) At the time of the filing of the report required by W.S. 34-24-118 and with that report, the person holding property deemed abandoned and subject to custody as unclaimed property shall pay or deliver to the administrator all of the property shown on the report and remaining unclaimed by the apparent owner. Upon written request showing good cause, the administrator may postpone the payment or delivery upon such terms or conditions as the administrator deems necessary and appropriate. The property paid or delivered to the administrator

shall include all interest, dividends, increments and accretions due, payable or distributable on the property on November 1 of the year in which the report is required, except that interest accrued on a policy as defined in W.S. 26-16-505(k)(iii) or a retained asset account as defined in W.S. 26-16-505(k)(v) shall not be considered unclaimed property. If payment or delivery is postponed, the property paid or delivered to the administrator shall include all interest, dividends, increments and accretions due, payable or distributable on the day that the property is paid or delivered to the administrator.

(b) The holder of an interest under W.S. 34-24-111 shall issue and deliver to the administrator a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership, registered in the name of the Wyoming state treasurer. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate or other evidence of ownership is relieved of all liability in accordance with W.S. 34-24-121 to every person, including any person acquiring the original certificate or the duplicate certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery of the duplicate certificate or other evidence of ownership to the administrator.

(c) When a certificate or other evidence of ownership, or a bond or other debt security, registered in the name of a person is delivered to the administrator pursuant to any provision of this act and is presented by the administrator to the issuer thereof of [or] its agent, the issuer shall transfer and register it in the name of the Wyoming state treasurer, and a new certificate or security, so registered, shall be delivered to the administrator. The issuer and its transfer agent, registrar or other person acting on behalf of the issuer in executing and delivering the certificate or security shall be fully and automatically relieved from any liability to any person in accordance with W.S. 34-24-121 for any loss or damage caused by the transfer, issuance and delivery of the certificate or security to the administrator.

**34-24-121. Custody by state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges.**

(a) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property. The person who pays or delivers in this manner shall not thereafter be liable for interest.

(b) A holder who has paid money to the administrator pursuant to this act may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled thereto, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder shall be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under W.S. 34-24-130(a).

(c) A holder who has delivered property (including a certificate of any interest in a business association) other than money to the administrator pursuant to this act may reclaim the property if still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

(d) The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

(e) If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(f) For the purposes of this section, "good faith" means that:

(i) Payment or delivery was made in a reasonable attempt to comply with this act;

(ii) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was abandoned for the purposes of this act; and

(iii) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(g) Property removed from a safe deposit box or other safekeeping repository is received by the administrator subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent, storage, or any other charges that are reasonable and related.

**34-24-122. Amount recoverable by owner.**

Whenever property is paid or delivered to the administrator under this act, the owner is entitled to receive from the administrator the principal amount turned over to the state.

**34-24-123. Public sale of abandoned property.**

(a) Except as provided in subsections (b) and (c) of this section, the administrator, within three (3) years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section shall be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at

prices prevailing at the time of sale or by any other method the administrator considers advisable.

(c) Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities, other than those deemed abandoned under W.S. 34-24-111, delivered to the administrator shall be held for at least one (1) year before he may sell them.

(d) Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities deemed abandoned under W.S. 34-24-111 and delivered to the administrator shall be held for at least three (3) years before the administrator may sell them. If the administrator sells any securities delivered pursuant to W.S. 34-24-111 before the expiration of the three (3) year period, any person making a claim pursuant to this act before the end of the three (3) year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater. A person making a claim under this act after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, but no person has any claim under this act against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(e) The purchaser of property at any sale conducted by the administrator pursuant to this act takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

**34-24-124. Deposit of funds; investment of funds; loans; immunity from liability.**

(a) Except as otherwise provided by this section, the administrator shall promptly deposit in the unclaimed property account all funds received under this act, including the proceeds from the sale of abandoned property under W.S. 34-24-123. Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name

and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company its number, the name of the company and the amount due. The claimant's name and last known address shall be available for public inspection at all reasonable business hours.

(b) The administrator or his designee shall invest the funds in the unclaimed property account created by subsection (a) of this section as authorized by law in a manner to obtain the highest return possible consistent with the purposes of this act. Investment earnings from the account shall be deposited into the unclaimed property investment earnings account. There is continuously appropriated to the administrator from the unclaimed property investment earnings account an amount equal to the administrator's expenses in carrying out this act. Annually after the end of each fiscal year the administrator shall deposit in the general fund investment earnings earned on the unclaimed property account which exceed the amount necessary to administer this act for the fiscal year and which exceeds the amount equal to one hundred percent (100%) of the immediately prior biennium's appropriation for the unclaimed property division.

(c) An action or proceeding shall not be commenced against the state, the administrator or his designee because of an act of the administrator under this section or under W.S. 9-4-715(p) (viii) involving the investment of unclaimed property funds.

**34-24-125. Filing of claim with administrator.**

(a) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(b) The administrator shall consider each claim within ninety (90) days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the administrator shall pay over to the claimant the monies received from the holder, or the net proceeds if property has been sold by the administrator, together with any additional amount required by W.S. 34-24-122. If the claim is for property deemed abandoned under W.S. 34-24-111 which was sold by the administrator within three (3) years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

**34-24-126. Claim of another state to recover property; procedure.**

(a) At any time after property has been paid or delivered to the administrator under this act another state may recover the property if:

(i) The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was deemed abandoned under this act, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(ii) The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

(iii) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(iv) The property was subjected to custody by this state under W.S. 34-24-104(a)(vi) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

(v) The property is the sum payable on a traveler's check, money order or other similar instrument that was



subjected to custody by this state under W.S. 34-24-105, and the instrument was purchased in the other state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(b) The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the administrator, who shall decide the claim within ninety (90) days after it is presented. The administrator shall allow the claim if he determines that the other state is entitled to the abandoned property under subsection (a) of this section.

(c) The administrator shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

**34-24-127. Action to establish claim.**

A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety (90) days after its filing may bring an action to establish the claim in the district court of the county where the claimant resides or in the district court of Laramie county, naming the administrator as a defendant. The action shall be brought within ninety (90) days after the decision of the administrator or within one hundred eighty (180) days after the filing of the claim if he has failed to act on it.

**34-24-128. Delivery prior to abandonment.**

A holder, with the written consent of the administrator and upon conditions and terms prescribed by him, may report and deliver property before the property is deemed abandoned. Property delivered under this subsection shall be held by the administrator and is not deemed abandoned until such time as it otherwise would be deemed abandoned under this act.

**34-24-129. Destruction or disposition of property having insubstantial commercial value; immunity from liability.**

If the administrator determines after investigation that any property delivered under this act has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property after five (5) years in accordance with rules and regulations promulgated by the administrator. No action or proceeding may be maintained against the state or any officer or

against the holder for or on account of any action taken by the administrator pursuant to this section. The administrator shall keep a public record of all such property, identifying the property and the date and nature of the disposition.

**34-24-130. Periods of limitation.**

(a) The expiration, before or after the effective date of this act, of any period of time specified by contract, statute or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being deemed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act.

(b) No action or proceeding may be commenced by the administrator against any holder concerning any provision of this act more than ten (10) years after the holder either specifically reported the property, or gave notice of a dispute regarding the property, to the administrator.

**34-24-131. Examination of records.**

(a) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder at the rate of one hundred dollars (\$100.00) a day for each examiner, but in no case may the charges exceed the value of the property found to be reportable and deliverable. The cost of examination may be imposed only against a business association.

(b) If a holder fails after the effective date of this act to maintain the records required by W.S. 34-24-132 and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

**34-24-132. Retention of records.**

(a) Every holder required to file a report under W.S. 34-24-118, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the

name and last known address of the owner for five (5) years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) of this section or by rule of the administrator.

(b) Any business association that sells in this state its traveler's checks, money orders or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three (3) years after the date the property is reportable.

### **34-24-133. Enforcement.**

(a) The administrator, for and on behalf of this state, may commence an action, summary or otherwise, in the district court of the county where the defendant resides or in the district court of Laramie county:

(i) For an adjudication that certain property is unclaimed and payable or distributable to the administrator;

(ii) To compel presentation of a report or payment or distribution of property to the administrator;

(iii) To enforce the duty of a person to permit the examination or audit of the records of that person;

(iv) To enjoin any act that violates the public policy or provisions of this act; or

(v) To enforce any aspect of this act in any manner.

(b) The administrator may commence an action under subsection (a) of this section in the following situations:

(i) The holder is a person domiciled in this state or is a governmental entity of this state;

(ii) The holder is a person engaged in or transacting any business in this state, although not domiciled in this state; or

(iii) The subject matter is tangible personal property held in this state.

(c) In a situation where no state court in this state can obtain jurisdiction over the person involved, the administrator may commence an action authorized by this section in a federal court or state court of another state having jurisdiction over that person.

(d) The administrator shall be an indispensable party to any judicial or administrative proceedings concerning the disposition and handling of unclaimed property that is or may be payable or distributable into the protective custody of the administrator.

(e) The administrator shall have a right to intervene and participate in any judicial or administrative proceeding when to do so will be in the best interest of this state, the apparent owner or the unclaimed property or to conserve and safeguard the unclaimed property against dissipation, undue diminishment or adverse discriminatory treatment.

**34-24-134. Interstate agreements and cooperation; joint and reciprocal actions with other states.**

(a) The administrator may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(b) To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the administrator, so far as is consistent with the purposes, policies and provisions of this act, before adopting, amending or repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

(c) The administrator may join with other states to seek enforcement of this act against any person who is or may be holding property reportable under this act.

(d) At the request of another state, the attorney general of this state may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.

(e) The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state. This state shall pay all expenses including attorney's fees in any action under this subsection. The administrator may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under this act.

#### **34-24-135. Interest and penalties.**

(a) Unless specifically exempted by federal law:

(i) A person who willfully fails to present a report to the administrator when due or to perform any other duty required under this act, other than payment or delivery of unclaimed property as required by this act, shall pay a civil penalty of not more than one hundred dollars (\$100.00) for each day the report is not presented or the duty is not performed;

(ii) A person who willfully fails to pay or deliver to the administrator any unclaimed property as required under this act shall pay a civil penalty equal to twenty-five percent (25%) of the value of the property that should have been paid or delivered;

(iii) Any person who fails to pay or deliver unclaimed property to the administrator within the time period required by this act shall pay to the administrator interest at the annual rate of ten percent (10%) above the annual rate of discount, in effect on the date the property should have been paid or delivered, for the most recent issue of 52-week U.S. treasury bills, calculated upon the value of the unclaimed property from the date that property should have been paid or delivered. If the property remains unpaid or undelivered for more than one (1) year after becoming payable or deliverable,

the interest rate for each succeeding year shall be calculated at an annual rate of ten percent (10%) above the discount rate on each succeeding anniversary of the date that the unclaimed property was payable or distributable.

(b) For the purposes of assessing and calculating the penalties and interest on unclaimed property which was discovered during an examination or audit and which was not paid or distributed, as required, the date upon which the unclaimed property was originally payable or distributable shall be used as the date upon or from which penalties and interest are assessed and calculated.

(c) The administrator shall have discretion to waive the payment of penalties and interest or to reduce the amount of the interest in an appropriate circumstance.

**34-24-136. Agreements to locate property.**

(a) All agreements from claimants to pay compensation to a third-party researcher to recover or assist in the recovery of property reported under W.S. 34-24-118, made within twenty-four (24) months after the date payment or delivery is made from the holder to the state of Wyoming under W.S. 34-24-120, are unenforceable.

(b) An agreement entered into after the twenty-four (24) month period provided by subsection (a) of this section is enforceable only if the agreement is in writing.

(c) An agreement by a claimant to pay compensation to a third-party researcher to recover or assist in the recovery of property in the possession of a holder is unenforceable if made within twelve (12) months prior to the scheduled date for the holder to report the property under W.S. 34-24-118, whether or not the property remains in the holder's possession until that reporting date.

**34-24-137. Foreign transactions.**

This act does not apply to any property held, due and owing in a foreign country and arising out of a foreign transaction.

**34-24-138. Effect of new provisions; clarification of application.**

(a) This act does not relieve a holder of a duty that arose before the effective date of this act to report, pay or deliver property. A holder who did not comply with the law in effect before the effective date of this act is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to W.S. 34-24-130(b).

(b) The initial report filed under this act for property that was not required to be reported before the effective date of this act but which is subject to this act shall include all items of property that are deemed abandoned as of the effective date of this act.

**34-24-139. Rules.**

The administrator may adopt necessary rules to carry out the provisions of this act.

**34-24-140. Property originated or issued by this state, any political subdivision hereof or any entity incorporated, organized, created or otherwise located herein.**

(a) All intangible property, including but not limited to securities, principal, interest, dividends, or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed the property or corresponded in writing with the holder concerning the property within three (3) years after the date prescribed for payment or delivery by the issuer (unless the holder is a state that has taken custody pursuant to its own unclaimed property laws, in which case no additional period of holding beyond that of such state is necessary hereunder), is presumed abandoned and subject to the custody of this state as unclaimed property if:

(i) The last known address of the owner is unknown;  
and

(ii) The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or is incorporated, organized, created or otherwise located in this state.

(b) The provisions of subsection (a) of this section shall not apply to property which is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law.

(c) The provisions of subsection (a) of this section shall apply to all property held at the time of enactment of this section, or at any time thereafter, regardless of when the property became or becomes presumptively abandoned.

CHAPTER 25  
PLANE COORDINATES SYSTEM

**34-25-101. System of plane coordinates adopted; zones.**

(a) The system of plane coordinates which has been established by the office of National Geodetic Survey, or its successors, for defining and stating the positions or locations of points on the surface of the earth within the state of Wyoming is adopted and hereafter shall be known and designated as the "Wyoming Coordinate System NAD 1983."

(b) For the purpose of the use of this system, the state is divided into an East Zone, an East Central Zone, a West Central Zone and a West Zone:

(i) As established for use in the East Zone, the Wyoming Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Wyoming Coordinate System NAD 1983, East Zone." The following counties will use Wyoming Coordinate System NAD 1983, East Zone: Laramie, Albany, Platte, Niobrara, Converse, Weston, Crook, Campbell, and Goshen;

(ii) As established for use in the East Central Zone, the Wyoming Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Wyoming Coordinate System NAD 1983, East Central Zone." The following counties will use Wyoming Coordinate System NAD 1983, East Central Zone: Carbon, Natrona, Johnson, Sheridan, Washakie, and Big Horn;

(iii) As established for use in the West Central Zone, the Wyoming Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Wyoming Coordinate System NAD 1983, West Central Zone." The



following counties will use Wyoming Coordinate System NAD 1983, West Central Zone: Sweetwater, Fremont, Hot Springs, and Park;

(iv) As established for use in the West Zone, the Wyoming Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Wyoming Coordinate System NAD 1983, West Zone." The following counties will use Wyoming Coordinate System NAD 1983, West Zone: Uinta, Lincoln, Sublette, and Teton; also Yellowstone National Park.

**34-25-102. Designation of coordinates.**

The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of this system, shall consist of two (2) linear distances, expressed in meters to the nearest millimeter. One (1) of these distances, to be known as the "x-coordinate" or "east-coordinate," shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate" or "north-coordinate," shall give the position in a north-and-south direction. These coordinates shall depend upon and conform to the coordinates, on the Wyoming Coordinate System NAD 1983 of the National Geodetic Survey, or its successors, within the state of Wyoming, as those coordinates have been determined by the survey.

**34-25-103. Land extending into a second zone.**

When any tract of land to be defined by a single description extends from one into a second of the coordinate zones specified in W.S. 34-25-101, the positions of all the points on its boundaries may be referred to either of the two (2) zones, and the zone which is used shall be specifically named in the description.

**34-25-104. Definition of zones; horizontal control stations.**

(a) For purposes of more precisely defining the Wyoming Coordinate System NAD 1983 the following definition of the zones is adopted:

(i) The Wyoming Coordinate System NAD 1983, East Zone, is a transverse Mercator projection of the North American Datum of 1983, having a central meridian at 105T10' West of Greenwich on which meridian the scale is set at one part in

16,000 exactly. The origin of coordinates is at the intersection of the parallel at 40r30' North Latitude and the meridian at 105310' West of Greenwich. This origin is given the coordinates: x=200,000 meters and y=0 meters;

(ii) The Wyoming Coordinate System NAD 1983, East Central Zone, is a transverse Mercator projection of the North American Datum of 1983, having a central meridian at 107T20' West of Greenwich on which meridian the scale is set at one part in 16,000 exactly. The origin of coordinates is at the intersection of the parallel at 40y30' North Latitude and the meridian at 107320' West of Greenwich. This origin is given the coordinates: x=400,000 meters and y=100,000 meters;

(iii) The Wyoming Coordinate System NAD 1983, West Central Zone, is a transverse Mercator projection of the North American Datum of 1983, having a central meridian at 108T45' West of Greenwich on which meridian the scale is set at one part in 16,000 exactly. The origin of coordinates is at the intersection of the parallel at 40l30' North Latitude and the meridian at 108345' West of Greenwich. This origin is given the coordinates: x=600,000 meters and y=0 meters;

(iv) The Wyoming Coordinate System NAD 1983, West Zone, is a transverse Mercator projection of the North American Datum of 1983, having a central meridian at 110T05' West of Greenwich on which meridian the scale is set at one part in 16,000 exactly. The origin of coordinates is at the intersection of the parallel at 40o30' North Latitude and the meridian at 110305' West of Greenwich. This origin is given the coordinates: x=800,000 meters and y=100,000 meters.

(b) The position of any survey control point in the Wyoming Coordinate System NAD 1983 shall be as marked on the ground by horizontal control stations established in conformity with standards adopted by the Federal Geodetic Control Committee, or its successors, using first-order, second-order or higher-order accuracy survey work, whose geodetic positions have been rigorously adjusted on the North American Datum of 1983 and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a connection with the Wyoming Coordinate System NAD 1983.

**34-25-105. Recording coordinates; use of satellite survey techniques.**

No coordinates based on the Wyoming Coordinate System NAD 1983, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records in the office of a county clerk unless a record and report of survey of the actual survey to establish the plane coordinates of the point has been filed with the county surveyor, the county engineer or the county clerk and in conformity with the standards prescribed in W.S. 34-25-104. When acceptable satellite survey techniques are employed, a minimum of two (2) independent observing sessions shall be executed and shall agree to not less than one (1) part in one hundred thousand (100,000) of the distance between the points. The procedures and results shall conform with the standards in W.S. 34-25-104.

**34-25-106. Reference to system on maps.**

The use of the term "Wyoming Coordinate System NAD 1983" on any map, report of survey or other document, shall be limited to plane coordinates based on the Wyoming Coordinate System NAD 1983 as defined in this chapter.

**34-25-107. Description in other surveys; conflicts.**

Wherever coordinates based on the Wyoming Coordinate System NAD 1983 are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by plane coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by plane coordinates. Every recorded map, survey or conveyance, or other instrument affecting title to real property which delineates, describes or refers to such property or any part thereof by reference to coordinates based upon the Wyoming Coordinate System NAD 1983 shall also describe the property by reference and tie to a controlling corner monument of the United States public land surveys, if applicable.

**34-25-108. Application.**

Nothing contained in this chapter shall require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon Wyoming Coordinate System NAD 1983.

CHAPTER 26  
NOTARIAL ACTS

ARTICLE 1  
WYOMING UNIFORM NOTARIAL ACT

**34-26-101. Short title; definitions; acknowledgements.**

(a) This act shall be known and may be cited as the "Wyoming Uniform Law on Notarial Acts".

(b) As used in this act:

(i) "Acknowledgment" means a declaration by a person that the person has freely and voluntarily executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein and that the person acknowledges that the instrument was executed and acknowledged freely and voluntarily;

(ii) In a "representative capacity" means:

(A) For and on behalf of a corporation, partnership, trust or other entity, as an authorized officer, agent, partner, trustee or other representative;

(B) As a public officer, personal representative, guardian or other representative, in the capacity recited in the instrument;

(C) As an attorney in fact for a principal; or

(D) In any other capacity as an authorized representative of another.

(iii) "Notarial act," "notarize" and "notarization" mean:

(A) Taking an acknowledgment;

(B) Administering an oath or affirmation;

(C) Taking a verification upon oath or affirmation;

- (D) Witnessing or attesting a signature;
- (E) Certifying or attesting a copy;
- (F) Noting a protest of a negotiable instrument;
- (G) Performing a jurat; and

(H) Performing other acts so authorized by the laws of this state.

(iv) "Notarial officer" means any person authorized to perform notarial acts under W.S. 34-26-103 and includes persons commissioned as notaries public under W.S. 32-1-101 through 32-1-109;

(v) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation;

(vi) Repealed By Laws 2011, Ch. 113, § 3.

(vii) "Affirmation" means a notarial act, or part thereof, which is legally equivalent to an oath and in which an individual at a single time and place:

(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence; and

(B) Makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word "swear".

(viii) "Commission" means both to empower to perform notarial acts and the written evidence of authority to perform those acts;

(ix) "Commissioned notarial officer" means a person who has been issued a commission to perform notarial acts by the secretary of state pursuant to W.S. 32-1-101 through 32-1-109. A commissioned notarial officer is a notary public;

(x) "Credible witness" means an honest, reliable and impartial person who personally knows an individual appearing

before a notarial officer and takes an oath or affirmation from the notarial officer to vouch for that individual's identity;

(xi) "Jurat" means a notarial act in which an individual at a single time and place:

(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence;

(B) Signs the document in the presence of the notarial officer, as provided in subparagraph (xxi)(A) of this subsection; and

(C) Takes an oath or affirmation from the notarial officer vouching for the truthfulness or accuracy of the signed document.

(xii) "Notarial certificate" and "certificate" means the certificate required by W.S. 34-26-107;

(xiii) "Notary public" and "notary" mean a commissioned notarial officer;

(xiv) "Oath" means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence; and

(B) Makes a vow of truthfulness or fidelity on penalty of perjury while invoking a deity or using any form of the word "swear".

(xv) "Personal knowledge of identity," "personally known to the notarial officer" and "personally knows" mean familiarity with an individual resulting from interactions with that individual over a period of time or any other reasonable corroboration sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(xvi) "Principal" means:

(A) A person whose signature is notarized; or

(B) A person, other than a credible witness, taking an oath or affirmation from the notarial officer.

(xvii) "Regular place of work or business" means a stationary office or workspace where one spends all or some of one's working or business hours;

(xviii) "Satisfactory evidence," when referring to proof of identity, means identification of an individual based on:

(A) The notarial officer's personal knowledge of identity;

(B) At least one (1) current document issued by a federal, state or tribal government agency bearing the photographic image of the individual's face and signature and a physical description of the individual, though a properly stamped passport without a physical description is acceptable; or

(C) The oath or affirmation of one (1) credible witness unaffected by the document or transaction who is personally known to the notarial officer and who personally knows the individual, or of two (2) credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notarial officer documentary identification as described in subparagraph (B) of this paragraph.

(xix) "Seal" means a device for affixing on a document an image containing a notarial officer's name, jurisdiction, commission expiration date and other information related to the notarial officer's commission and identity as required by W.S. 32-1-106;

(xx) "Verification of fact" means a notarial act in which a notarial officer reviews public or vital records to ascertain or confirm any of the following facts regarding a person:

(A) Date of birth or death;

(B) Name of parent, offspring or sibling;

(C) Date of marriage or divorce; or

(D) Name of marital partner.

(xxi) "Personally appear," "in the presence of," and "appear before" mean for all purposes of this act except as used in paragraph (xi) of this subsection that:

(A) The principal is in the notarial officer's presence at the time of notarization; or

(B) The principal confirmed to the notarial officer that the principal signed the document.

(xxii) "This act" means W.S. 34-26-101 through 34-26-304.

(c) A properly executed jurat satisfies any requirement for an acknowledgement.

**34-26-102. Notarial acts.**

(a) In taking an acknowledgment, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(b) In taking a verification upon oath or affirmation, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature the principal shall be personally known to the notarial officer or identified through satisfactory evidence, shall appear in person before the notarial officer and shall make the signature in the presence of the notarial officer.

(d) A notarial officer may certify or attest to a copy of a document or other item except that a notarial officer shall not certify or attest to a copy of a vital record, public record or publicly recordable document. In certifying or attesting a copy of a document or other item under this subsection, the notarial officer shall:

(i) Have the document in his presence;



(ii) Copy or supervise the copying of the document or other item using a photographic or electronic copying process; and

(iii) Determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.

(e) In certifying an instrument executed by a business entity the notarial officer shall determine that the person who signed the instrument on behalf of the business entity appeared before and was personally known to the notarial officer making the certification, and was by him duly sworn and upon oath represented that he was the president or other officer or agent of the business entity, that the instrument was signed on behalf of the entity pursuant to his authority to do so, and that the person who executed the instrument on behalf of the business entity acknowledged the instrument to be the free act and deed of the business entity. For purposes of this subsection "business entity" means corporation, limited liability company, partnership or other entity, whether for profit or not for profit, authorized to be formed under title 17 of the Wyoming statutes or the laws of another state that are the functional equivalent.

(f) In certifying an instrument executed by a trustee of a testamentary trust or of an express trust created by a written trust instrument, the notarial officer shall determine that the trustee who signed the instrument on behalf of the trust appeared before and was personally known to the notarial officer making the certification, and was by him duly sworn and upon oath represented that he was the trustee of the trust, that the instrument was signed and sealed on behalf of the trust, the trustee had the authority under the terms of the written trust instrument to execute the instrument on behalf of the trust, and that the trustee acknowledged the instrument to be the free act and deed of the trust.

(g) In making or noting a protest of a negotiable instrument the notarial officer shall determine the matters set forth in W.S. 34.1-3-505.

(h) Repealed By Laws 2011, Ch. 113, § 3.

**34-26-103. Notarial acts in Wyoming.**

(a) A notarial act may be performed within this state by the following persons:

(i) A person commissioned as a notary public under W.S. 32-1-101 through 32-1-109;

(ii) A judge of any court of this state;

(iii) A clerk or deputy clerk of a county;

(iv) A clerk or deputy clerk of any court of this state;

(v) A district court commissioner;

(vi) A full-time magistrate as authorized by W.S. 5-9-208;

(vii) A part-time magistrate as authorized by W.S. 5-9-212;

(viii) Any other officer authorized under the laws of this state to take acknowledgments.

(b) Repealed By Laws 2011, Ch. 113, § 3.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) All persons authorized to perform notarial acts under subsection (a) of this section may perform such acts without a commission except persons listed under paragraph (a)(i) of this section.

**34-26-104. Notarial acts in other jurisdictions of the United States.**

(a) A notarial act, including the acknowledgment of any deed, mortgage or conveyance, has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district or possession of the United States by any of the following persons:

(i) A notarial officer of that jurisdiction;

(ii) A judge, clerk or deputy clerk of a court of that jurisdiction; or

(iii) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in W.S. 34-26-105 have the same effect as if performed by a notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) The signature and indicated title of an officer listed in paragraph (a)(i) or (ii) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

**34-26-105. Notarial acts under federal authority.**

(a) A notarial act, including the acknowledgment of any deed, mortgage or conveyance, has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

(i) A judge, clerk or deputy clerk of a court;

(ii) A commissioned officer on active duty in the military service of the United States;

(iii) An officer of the foreign service or consular officer of the United States; or

(iv) Any other person authorized by federal law to perform notarial acts.

(b) The signature and title of the person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(c) The signature and indicated title of an officer listed in paragraph (a)(i), (ii) or (iii) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

**34-26-106. Foreign notarial acts.**

(a) A notarial act, including the acknowledgment of any deed, mortgage or conveyance, has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under the authority of a foreign nation or its constituent units or a multi-national or international organization by any of the following persons:

(i) A notarial officer;

(ii) A judge, clerk or deputy clerk of a court of record; or

(iii) Any person authorized by the law of the jurisdiction to perform notarial acts.

(b) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(c) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(d) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in paragraph (a)(i) or (ii) of this section is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

**34-26-107. Certificate of notarial acts; presumptive evidence.**

(a) A notarial act shall be evidenced by a certificate signed and dated by a notarial officer. The certificate shall include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of the office. If the officer is a commissioned notarial officer, the certificate shall also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it shall also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) of this section and it:

(i) Is in the short form set forth in W.S. 34-26-108;

(ii) Is in a form otherwise prescribed by the law of this state;

(iii) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(iv) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) In addition to the presumptive evidence established by W.S. 32-1-107 and as otherwise provided in this chapter, a certificate of a notarial act in a form as set out in W.S. 34-26-108 shall be presumptive evidence that:

(i) If the instrument to which the certificate is affixed was executed by natural persons acting in their own right, that such person or persons personally appeared before the notarial officer, were known to the officer to be the person or persons described in and who executed such instrument, and that the person or persons acknowledged that the document was acknowledged freely and voluntarily;

(ii) If the instrument to which the certificate is affixed was executed by an attorney-in-fact acting for a natural person, that the attorney personally appeared before the

notarial officer, was known by the officer to be the party who executed the instrument on behalf of the natural person and that the attorney acknowledged that the instrument was executed and acknowledged as the free and voluntary act of the natural person;

(iii) If the instrument to which the certificate is affixed was executed by a corporation or other entity which is not a natural person, that the president or other official who signed the instrument on behalf of the entity appeared before and was personally known to the officer making the certificate and was duly sworn and upon oath represented that the person was the president or other officer or agent of the corporation or entity, that the seal affixed to the instrument is the corporate seal of the corporation or entity, that the instrument was signed and sealed on behalf of the corporation or entity by the authority of the board of directors or trustees thereof and that the officer who executed the instrument acknowledged the instrument to be the free act and deed of the corporation or entity. If the corporation or entity does not have a corporate seal, a recital of that fact shall be inserted at the end of the certificate by the notarial officer.

**34-26-108. Short forms.**

(a) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by W.S. 34-26-107(a):

(i) For an acknowledgment for all instruments conveying, mortgaging or otherwise disposing of or encumbering real estate, including homestead property, and for all other instruments affecting title to real estate and all other instruments required by the laws of this state to be acknowledged in an individual capacity:

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on (date) by (name(s) of person(s)).

\_\_\_\_\_

(Seal, if any)

(Signature of notarial officer)

\_\_\_\_\_  
Title (and Rank)

[My commission expires:            ]

(ii) For an acknowledgment of all instruments conveying, mortgaging or otherwise disposing of or encumbering real estate, including homestead property, and other instruments affecting title to real estate and all other instruments to be acknowledged in a representative capacity:

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

\_\_\_\_\_  
(Seal, if any)

(Signature of notarial officer)

\_\_\_\_\_  
Title (and Rank)

[My commission expires:            ]

(iii) For a verification upon oath or affirmation:

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement)

\_\_\_\_\_  
(Seal, if any)

(Signature of notarial officer)

\_\_\_\_\_  
Title (and Rank)

[My commission expires:            ]

(iv) For witnessing or attesting a signature:

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed or attested before me on (date) by (name(s) of person(s)).

\_\_\_\_\_

(Seal, if any)

(Signature of notarial officer)

\_\_\_\_\_

Title (and Rank)

[My commission expires:            ]

(v) For attestation of a copy of a document:

State of \_\_\_\_\_

County of \_\_\_\_\_

I certify that this is a true and correct copy of a document in the possession of \_\_\_\_\_.

Dated \_\_\_\_\_

\_\_\_\_\_

(Seal, if any)

(Signature of notarial officer)

\_\_\_\_\_

Title (and Rank)

[My commission expires:            ]

**34-26-109. Notarial acts affected by this act.**

(a) This act applies to notarial acts performed on or after its effective date.



(b) Any instrument which was acknowledged within this state prior to the effective date of this act and in accordance with the laws in effect in this state as of the date of the acknowledgment of the instrument shall continue to be a valid instrument. All instruments deemed to be properly acknowledged under W.S. 34-2-118, prior to its repeal by this enactment, shall continue to be deemed and regarded to be properly acknowledged after the effective date of this act.

ARTICLE 2  
POWERS OF NOTARIAL OFFICERS

**34-26-201. Powers and prohibitions.**

(a) A notarial officer is empowered to perform the acts described in W.S. 34-26-101(b) (iii).

(b) A notarial officer, shall not perform a notarial act if the principal:

(i) Is not in the notarial officer's presence at the time of notarization or is not personally known to the notarial officer;

(ii) Is not personally known to the notarial officer or identified by the notarial officer through satisfactory evidence.

(c) A notarial officer may certify the affixation of a signature by mark on a document presented for notarization if:

(i) The mark is affixed in the presence of the notarial officer and two (2) witnesses unaffected by the document;

(ii) Both witnesses sign their own names beside the mark;

(iii) The notarial officer writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notarial officer under W.S. 34-26-201(c)"; and

(iv) The notarial officer notarizes the signature by mark through an acknowledgment, jurat or signature witnessing.

(d) A notarial officer may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:

(i) The person directs the notarial officer to do so in the presence of two (2) witnesses unaffected by the document;

(ii) The notarial officer signs the person's name in the presence of the person and the witnesses;

(iii) Both witnesses sign their own names beside the signature;

(iv) The notarial officer writes below the signature: "Signature affixed by notarial officer in the presence of (names and addresses of person and two (2) witnesses) under W.S. 34-26-201(d)"; and

(v) The notarial officer notarizes the signature through an acknowledgment, jurat or signature witnessing.

(e) It shall be lawful for any notarial officer who is a stockholder, director, officer or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by said corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or to protest for nonacceptance, or nonpayment, bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by any such bank or other corporation.

**34-26-202. Avoidance of influence.**

(a) While acting as a notarial officer, a notarial officer who is not an attorney licensed to practice in Wyoming under W.S. 33-5-101 through 33-5-117 shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notarial officer.

(b) In his capacity as a notarial officer, a notarial officer has neither the duty nor the authority to investigate, ascertain or attest the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.

**34-26-203. False certificate.**

(a) A notarial officer shall not execute a certificate containing information known or believed by the notarial officer to be false.

(b) A notarial officer shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notarial officer's place of business.

**34-26-204. Improper documents.**

(a) A notarial officer shall not notarize a signature on a document without notarial certificate wording.

(b) A notarial officer shall neither certify nor authenticate a photograph.

**34-26-205. Intent to deceive.**

A notarial officer shall not perform any official action with the intent to deceive or defraud.

**34-26-206. Testimonials.**

A notarial officer shall not use the official notarial officer title or seal to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

ARTICLE 3  
NOTARIAL OFFICER FEES

**34-26-301. Imposition and waiver of fees.**

For performing a notarial act, a notarial officer may charge the maximum fee specified in W.S. 34-26-302, charge less than the maximum fee or waive the fee.

**34-26-302. Fees for notarial acts.**

(a) The maximum fees that may be charged by a notarial officer for notarial acts are:

(i) For taking an acknowledgment, five dollars (\$5.00) per signature;

(ii) For administering an oath or affirmation without a signature, five dollars (\$5.00) per person;

(iii) For jurats, five dollars (\$5.00) per signature;

(iv) For witnessing or attesting a signature, five dollars (\$5.00) per signature;

(v) For certifying or attesting copies, five dollars (\$5.00) per page certified;

(vi) For taking a verification upon oath or affirmation, five dollars (\$5.00) per certificate;

(vii) For noting a protest of negotiable instruments, five dollars (\$5.00) per protest.

(b) A notarial officer may charge a travel fee when traveling to perform a notarial act if:

(i) The notarial officer and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(ii) The notarial officer explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee, if any, and neither specified nor mandated by law.

**34-26-303. Payment prior to act.**

(a) A notarial officer may require payment of any fees specified in W.S. 34-26-302 prior to performance of a notarial act.

(b) Any fees paid to a notarial officer prior to performance of a notarial act are nonrefundable if:

(i) The act was completed; or

(ii) In the case of travel fees paid in compliance with W.S. 34-26-302(b), the act was not completed for reasons stated in W.S. 34-26-202(b)(i) or (ii) after the notarial officer had traveled to meet the principal.

**34-26-304. Fees of employee notarial officer.**

(a) An employer may prohibit an employee who is a notarial officer from charging for notarial acts performed as part of the employee's employment.

(b) A governmental employer who has absorbed an employee's costs in becoming or operating as a notarial officer shall require any fees collected for notarial acts performed as part of the employee's employment either to be waived or surrendered to the employer to support public programs.

CHAPTER 27  
WIND ENERGY RIGHTS

**34-27-101. Short title.**

This act may be cited as the "Wind Energy Rights Act."

**34-27-102. Definitions.**

(a) As used in this act:

(i) "Wind energy agreement" means a lease, license, easement or other agreement, whether by grant or reservation, to develop or participate in the income from or the development of wind powered energy generation;

(ii) "Wind energy developer" means the owner of the surface estate or the lessee, easement holder, licensee or contracting party under a wind energy agreement;

(iii) "Wind energy right" means a property right in the development of wind powered energy generation;

(iv) "This act" means W.S. 34-27-101 through 34-27-107.

**34-27-103. Declaration of wind energy rights.**

(a) Wind energy rights shall be regarded as an interest in real property and appurtenant to the surface estate.

(b) Wind energy rights shall not be severed from the surface estate, except that wind energy may be developed pursuant to a wind energy agreement.

(c) A wind energy agreement is an interest in real property. A wind energy agreement or a notice or memorandum evidencing a wind energy agreement shall:

(i) Be recorded in the office of the county clerk where the land subject to the agreement is located; and

(ii) Shall include a description of the land subject to the agreement.

(d) After a wind energy agreement has terminated, the surface owner may request the wind energy developer to record a release of the wind energy agreement in the office of the county clerk where the land subject to the wind energy agreement is located. The request shall be in writing and delivered to the wind energy developer by personal service or registered mail at the wind energy developer's last known address. The wind energy developer shall record the release within twenty (20) days after receipt of the request. If the wind energy developer fails to record the release within twenty (20) days after the receipt of the request, the wind energy developer shall be liable to the surface owner for all damages caused by the wind energy developer's failure. A copy of the written request shall have the same force and effect as the original in an action for damages.

(e) Wind energy becomes personalty at the point of conversion into electricity.

(f) Nothing in this act shall alter, amend, diminish or invalidate wind energy agreements or conveyances made or entered into prior to April 1, 2011 provided that a contract, lease, memorandum or other notice evidencing the acquisition, conveyance or reservation of the wind energy rights is recorded in accordance with subsection (c) of this section no later than July 1, 2011.

**34-27-104. Dominance of mineral estate.**

Nothing in this act shall be construed to change the common law as of April 1, 2011 as it relates to the rights belonging to, or the dominance of, the mineral estate.

**34-27-105. Compensation for taking of wind energy rights.**

Nothing in this act diminishes the right of the owner of the surface estate to receive compensation under W.S. 1-26-701

through 1-26-714 for the taking of wind energy rights incidental to the exercise of eminent domain.

**34-27-106. No restriction on transfer of wind energy agreement.**

Nothing in this act shall be construed to restrict the transfer of a wind energy agreement, including the transfer of the surface owner's right to receive payments under the wind energy agreement.

**34-27-107. Reversion of easements.**

Unless otherwise agreed between the surface owner and wind energy developer, all easement interests acquired after April 1, 2011 for the purpose of producing wind energy shall revert to the owner of the surface estate if wind energy production has ceased for a continuous period of ten (10) years or if the generation of electricity by a turbine has not commenced within twenty (20) years after the execution of a wind energy agreement. Reversion of an interest under this section does not transfer any obligation to restore or reclaim the surface estate.

CHAPTER 28  
PRIVATE TRANSFER FEES

**34-28-101. Definitions.**

(a) As used in this chapter:

(i) "Transfer" means the sale, gift, conveyance, assignment, inheritance or other transfer of an ownership interest in real property located in this state;

(ii) "Private transfer fee" means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept the transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price or other consideration given for the transfer. "Private transfer fee" shall not include the following:

(A) Any consideration payable by the grantee to the grantor for the interest, in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any

subsequent appreciation, development, lease or sale of the separate mineral estate and its appurtenant surface access rights;

(B) Any consideration payable by the grantee to the grantor for the interest in real property, other than a mineral estate and its appurtenant surface access rights, being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development or sale of the property, provided the additional consideration is payable on a one (1) time basis only and the obligation to make the payment does not bind successors in title to the property;

(C) Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development or sale of the property;

(D) Any interest, charges, fees or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including, but not limited to, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates and any other consideration allowed by law and payable to the lender in connection with the loan;

(E) Any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance or transfer of the lease;

(F) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing or not exercising the option or right upon the transfer of the property to another person;

(G) Any tax, fee, charge, assessment, fine or other amount payable to or imposed by a governmental authority;



(H) Any fee, charge, assessment, fine or other amount payable to a homeowners', condominium, cooperative, mobile home or property owners' association or to a nonprofit land trust pursuant to a declaration or covenant or law applicable to the association or nonprofit land trust;

(J) Any fee, charge, assessment, dues, contribution or other amount pertaining to the purchase or transfer of a club membership relating to real property owned by the member, including, but not limited to, any amount determined by reference to the value, purchase price or other consideration given for the transfer of the real property;

(K) Any fee, charge, assessment, contribution or other amount imposed by the holder of a recorded conservation easement that is designated to compensate the holder for the cost of ensuring compliance with the terms of the easement. The fee, charge, assessment, contribution or other amount may be determined by reference to the value, purchase price or other consideration given for the transfer of the real property.

(iii) "Private transfer fee obligation" means an obligation arising under a declaration or covenant purporting to affect real property that requires or purports to require the payment of a private transfer fee to the declarant or other person specified in the declaration, covenant or agreement, or to their successors or assigns, upon a subsequent transfer of an interest in the real property.

#### **34-28-102. Prohibition.**

A private transfer fee obligation recorded or entered into in this state on or after April 1, 2012 does not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser or mortgagee of any interest in real property as an equitable servitude or otherwise.

#### **34-28-103. Recording of existing private transfer fee obligations; jurisdictions; affidavit of payment; exemption of mineral rights.**

(a) The payee of a private transfer fee obligation imposed prior to April 1, 2012 or an obligation under W.S. 34-28-101(a)(ii)(H) shall record a notice of private transfer fee obligation in the office of the clerk for each county in

which the real property is located. The notice recorded shall meet the following requirements and contain:

(i) A clearly identified disclosure of the existence and amount of the private transfer fee obligation;

(ii) A description of the type and nature of the private transfer fee obligation;

(iii) A description of the type and nature of any penalty which may be incurred as a result of failure to pay the private transfer fee obligation;

(iv) A legal description of the real property; and

(v) The name and address of the payee. A notice filed under this subsection shall be amended upon change of the name or address of the payee.

(b) No court in the state of Wyoming shall have jurisdiction to enforce a private transfer fee obligation which is not recorded as required by subsection (a) of this section against a bona fide purchaser who receives title to the property after April 1, 2012.

(c) Filing of an affidavit by a grantor with the clerk for each county in which the real property is located stating that payment in full of any private transfer fee obligation was sent by certified mail to the payee at the address listed in the document recorded under subsection (a) of this section is prima facie evidence of satisfaction of the obligation.

(d) Nothing in this chapter shall apply to:

(i) A transfer of mineral rights, interests and obligations;

(ii) The transfer of any surface right appurtenant to a mineral right, interest or obligation which has been severed from the surface estate.

CHAPTER 29  
DIGITAL ASSETS

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

(a) As used in this chapter:

(i) "Digital asset" means a representation of economic, proprietary or access rights that is stored in a computer readable format, and includes digital consumer assets, digital securities and virtual currency;

(ii) "Digital consumer asset" means a digital asset that is used or bought primarily for consumptive, personal or household purposes and includes:

(A) An open blockchain token constituting intangible personal property as otherwise provided by law;

(B) Any other digital asset which does not fall within paragraphs (iii) and (iv) of this subsection.

(iii) "Digital security" means a digital asset which constitutes a security, as defined in W.S. 17-4-102(a)(xxviii), but shall exclude digital consumer assets and virtual currency;

(iv) "Virtual currency" means a digital asset that is:

(A) Used as a medium of exchange, unit of account or store of value; and

(B) Not recognized as legal tender by the United States government.

(b) The terms in paragraphs (a)(ii) through (iv) of this section are mutually exclusive.

**34-29-102. Classification of digital assets as property; applicability to Uniform Commercial Code.**

(a) Digital assets are classified in the following manner:

(i) Digital consumer assets are intangible personal property and shall be considered general intangibles, as defined in W.S. 34.1-9-102(a)(xlii), only for the purposes of article 9 of the Uniform Commercial Code, title 34.1, Wyoming statutes;

(ii) Digital securities are intangible personal property and shall be considered securities, as defined in W.S. 34.1-8-102(a)(xv), and investment property, as defined in W.S. 34.1-9-102(a)(xlix), only for the purposes of articles 8 and 9 of the Uniform Commercial Code, title 34.1, Wyoming statutes;

(iii) Virtual currency is intangible personal property and shall be considered money, notwithstanding W.S. 34.1-1-201(b)(xxiv), only for the purposes of article 9 of the Uniform Commercial Code, title 34.1, Wyoming statutes.

(b) Consistent with W.S. 34.1-8-102(a)(ix), a digital asset may be treated as a financial asset under that paragraph, pursuant to a written agreement with the owner of the digital asset. If treated as a financial asset, the digital asset shall remain intangible personal property.

(c) A bank providing custodial services under W.S. 34-29-104 shall be considered to meet the requirements of W.S. 34.1-8-102(a)(xiv).

(d) Classification of digital assets under this section shall be construed in a manner to give the greatest effect to this chapter, but shall not be construed to apply to any other asset.

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

(a) Notwithstanding the financing statement requirement specified by W.S. 34.1-9-310(a) as otherwise applied to general intangibles or any other provision of law, perfection of a security interest in virtual currency or digital securities may be achieved through possession or control, as applicable to the asset, consistent with W.S. 34-29-102(a). A security interest held by a secured party having possession or control, as applicable, of virtual currency or digital securities has priority over a security interest held by a secured party that does not have possession or control, as applicable of virtual currency or digital securities. Other provisions of law relating to priority of security interests, including priority of control over delivery, shall remain applicable.

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

(c) A secured party may file a financing statement with the secretary of state, including to perfect a security interest in proceeds from a digital asset pursuant to W.S. 34.1-9-315(d).

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

(e) As used in this section:

(i) "Control," when used in article 9, title 34.1, Wyoming statutes and this section, includes the following:

(A) A secured party, or an agent, custodian, fiduciary or trustee of the party, has complied with W.S. 34.1-8-106, including by means of a private key or the use of a multi-signature arrangement exclusive to the secured party or any substantially similar analogue;

(B) Use of a smart contract created by a secured party to comply with W.S. 34.1-8-106. As used in this subparagraph, "smart contract" means an automated transaction, as defined in W.S. 40-21-102(a)(ii), or any substantially similar analogue, which is comprised of code, script or programming language that executes the terms of an agreement, and which may include taking custody of and transferring an asset, or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

(ii) "Multi-signature arrangement" means a system of access control relating to a digital asset for the purposes of preventing unauthorized transactions relating to the asset, in which two (2) or more private keys are required to conduct a transaction, or any substantially similar analogue;

(iii) "Private key" means a unique element of cryptographic data, or any substantially similar analogue, which is:

(A) Held by a person;

(B) Paired with a unique, publicly available element of cryptographic data; and

(C) Associated with an algorithm that is necessary to carry out an encryption or decryption required to execute a transaction.

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

(f) Perfection by possession creates a possessory security interest under W.S. 34.1-9-301(a)(ii) in virtual currency or certificated digital securities, based on the possessory nature of a private key or any substantially similar analogue, which may be tangible or electronic.

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

(i) Whether a security agreement typically present in a possessory security interest exists, consistent with W.S. 34.1-9-201(a), including an agreement describing the possessory nature of a private key or any substantially similar analogue;

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

(iii) The relative clarity of the laws of other jurisdictions relating to a digital asset, consequences relating to unknown liens in those jurisdictions and the ability of a court to exercise jurisdiction over a particular digital asset.

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

(a) A bank may provide custodial services consistent with this section upon providing sixty (60) days written notice to the commissioner. The provisions of this section are cumulative and not exclusive as an optional framework for enhanced supervision of digital asset custody. If a bank elects to provide custodial services under this section, it shall comply with all provisions of this section.

(b) A bank may serve as a qualified custodian, as specified by the United States securities and exchange commission in 17 C.F.R. § 275.206(4)-2, or as a custodian authorized by the United States commodity futures trading commission or other law. In performing custodial services under this section, a bank shall:

(i) Implement all accounting, account statement, internal control, notice and other standards specified by applicable state or federal law and rules for custodial services;

(ii) Maintain information technology best practices relating to digital assets held in custody. The commissioner may specify required best practices by rule;

(iii) Fully comply with applicable federal anti-money laundering, customer identification and beneficial ownership requirements; and

(iv) Take other actions necessary to carry out this section, which may include exercising fiduciary powers similar to those permitted to national banks and ensuring compliance with federal law governing digital assets classified as commodities.

(c) A bank providing custodial services shall conform to the audit, accounting and related requirements specified by the commissioner and applicable law, which may include entering into an agreement with an independent public accountant to conduct an examination conforming to the requirements of 17 C.F.R. § 275.206(4)-2(a)(4) and (6), at the cost of the bank. An accountant shall transmit the results of any examination to the commissioner within one hundred twenty (120) days of the examination and may file the results with other regulatory agencies as their rules may provide. Material discrepancies in an examination shall be reported to the commissioner within one (1) day. The commissioner shall review examination results upon

receipt within a reasonable time and during any regular examination conducted under W.S. 13-3-702.

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

(i) Custody under a bailment as a nonfungible or fungible asset. Assets held under this paragraph shall be strictly segregated from other assets; or

(ii) Custody under a bailment pursuant to subsection (e) of this section.

(e) If a customer makes an election under paragraph (d)(ii) of this section, the bank may, based only on customer instructions, undertake transactions with the digital asset. A bank maintains control pursuant to subsection (d) of this section by entering into an agreement with the counterparty to a transaction which contains a time for return of the asset. The bank shall not be liable for any loss suffered with respect to a transaction under this subsection, except for liability consistent with fiduciary and trust powers.

(f) A bank and a customer shall agree in writing regarding the source code version the bank will use for each digital asset, and the treatment of each asset under the Uniform Commercial Code, title 34.1, Wyoming statutes if necessary. Any ambiguity under this subsection shall be resolved in favor of the customer.

(g) A bank shall provide clear, written notice to each customer, and require written acknowledgement, of the following:

(i) Prior to the implementation of any updates, material source code updates relating to digital assets held in custody, except in emergencies which may include security vulnerabilities;

(ii) The heightened risk of loss from transactions under subsection (e) of this section;



(iii) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible asset or custody under paragraph (d)(ii) of this section;

(iv) That custody under paragraph (d)(ii) of this section may not result in the digital assets of the customer being strictly segregated from other customer assets; and

(v) That the bank is not liable for losses suffered under subsection (e) of this section, except for liability consistent with fiduciary and trust powers.

(h) A bank and a customer shall agree in writing to a time period within which the bank must return a digital asset held in custody under this section. If a customer makes an election under paragraph (d)(ii) of this section, the bank and the customer may also agree in writing to the form in which the digital asset shall be returned.

(j) All ancillary or subsidiary proceeds relating to digital assets held in custody under this section shall accrue to the benefit of the customer, except as specified by a written agreement with the customer. The bank may elect not to collect certain ancillary or subsidiary proceeds, as long as the election is disclosed in writing. A customer who makes an election under paragraph (d)(i) of this section may withdraw the digital asset in a form that permits the collection of the ancillary or subsidiary proceeds.

(k) A bank shall not authorize or permit rehypothecation of digital assets under this section. The bank shall not engage in any activity to use or exercise discretionary authority relating to a digital asset except based on customer instructions.

(m) A bank shall not take any action under this section which would likely impair the solvency or the safety and soundness of the bank, as determined by the commissioner after considering the nature of custodial services customary in the banking industry.

(n) To offset the costs of supervision and administration of this section, a bank which provides custodial services under this section shall pay a supervision fee equal to two-tenths of one mill on the dollar (\$.0002) relating to assets held in custody as provided by rule of the commissioner. The supervision fee shall be deposited by the commissioner into the financial

institutions administration account and may be expended for any purpose authorized for that account.

(o) The commissioner may adopt rules to implement this section.

(p) As used in this section:

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

(ii) "Commissioner" means the banking commissioner;

(iii) "Custodial services" means the safekeeping, servicing and management of customer currency and digital assets. This term includes the exercise of fiduciary and trust powers involving the exercise of discretion, including transactions under subsection (e) of this section.

#### **34-29-105. Jurisdiction of courts.**

Subject to other jurisdictional limits placed on specific courts by Wyoming law, the courts of Wyoming shall have jurisdiction to hear claims in both law and equity relating to digital assets, including those arising from this chapter and the Uniform Commercial Code, title 34.1, Wyoming statutes.

#### **34-29-106. Wyoming Utility Token Act; open blockchain tokens classified as intangible personal property; characteristics; filing requirements; fee; enforcement authority; definitions; virtual currency.**

(a) This section may be cited as the "Wyoming Utility Token Act."

(b) An open blockchain token with the following characteristics constitutes intangible personal property:

(i) The predominant purpose of the token is consumptive, as defined in paragraph (g)(ii) of this section;

(ii) The developer or seller did not market the token to the initial buyer as a financial investment, as defined in paragraph (g)(v) of this section; and

(iii) At least one (1) of the following subparagraphs is satisfied:

(A) The developer or seller reasonably believed that it sold the token to the initial buyer for a consumptive purpose;

(B) The token has a consumptive purpose that is available at or near the time of sale and can be used at or near the time of sale for a consumptive purpose;

(C) The initial buyer of the token is prohibited by the developer or seller of the token from reselling the token until the token is available to be used for a consumptive purpose;

(D) The developer or seller takes other reasonable precautions to prevent an initial buyer from purchasing the token as a financial investment.

(c) Before making an open blockchain token under subsection (b) of this section available for sale, the developer or seller of a token, or the registered agent of the developer or seller, shall electronically file a notice of intent with the secretary of state and pay a filing fee of one thousand dollars (\$1,000.00) to offset the costs of administering this section. The notice of intent shall contain the name of the person acting as a developer or seller, the contact information of the person, or the registered agent of the person and comprehensive details on the open blockchain token under subsection (b) of this section made available for sale, as required by the secretary of state. A form shall be made available by the secretary of state for this purpose, which shall include a secure electronic form conspicuously posted on the internet website of the secretary of state. A developer, seller and the registered agent of these persons, if applicable, shall have a continuing duty to update the contact information provided on a notice of intent as long as the open blockchain token associated with the notice is actively being sold.

(d) A facilitator shall comply with the following requirements:

(i) A facilitator shall, before making any token available for resale to the public, confirm with the secretary of state that a notice of intent has been filed pursuant to subsection (c) of this section;

(ii) A facilitator shall, at all times, have a reasonable and good faith belief that a token subject to resale conforms to the requirements of paragraphs (b)(i) through (iii) of this section; and

(iii) The facilitator shall take reasonably prompt action to terminate the resale of a token which does not conform to the requirements of this subsection.

(e) A willful failure by a developer, seller or facilitator to comply with the duties imposed by this section shall constitute an unlawful trade practice under W.S. 40-12-105(a)(xvii). A developer, seller or facilitator is subject to all applicable criminal statutes, including the fraud provisions of W.S. 6-3-601 through 6-3-615.

(f) The secretary of state may refer the following to appropriate state or federal agencies for investigation, criminal prosecution, civil penalties and other appropriate enforcement actions:

(i) Suspected violations of this section;

(ii) The developer, seller or facilitator of either an open blockchain token which conforms to the requirements of this section or another digital asset which substantially resembles an open blockchain token, but which, in the determination of the secretary of state, is being sold for financial investment or fraudulent purposes.

(g) As used in this section:

(i) "Blockchain" means a digital ledger or database which is chronological, consensus-based, decentralized and mathematically verified in nature;

(ii) "Consumptive" means a circumstance when a token is exchangeable for, or provided for the receipt of, services, software, content or real or tangible personal property, including rights of access to services, content or real or tangible personal property;

(iii) "Developer" means the person primarily responsible for creating an open blockchain token or otherwise designing the token, including by executing the technological processes necessary to create the token;

(iv) "Facilitator" means a person who, as a business, makes open blockchain tokens under subsection (b) of this section available for resale to the public after a token has been purchased by an initial buyer;

(v) "Financial investment" means a contract, transaction or arrangement where a person invests money in a common enterprise and is led to expect profits solely from the efforts of a promoter or a third party;

(vi) Except as otherwise provided in subsection (h) of this section, "open blockchain token" means a digital unit which is:

(A) Created:

(I) In response to the verification or collection of a specified number of transactions relating to a digital ledger or database;

(II) By deploying computer code to a digital ledger or database, which may include a blockchain, that allows for the creation of digital tokens or other units; or

(III) Using a combination of the methods specified in subdivisions (I) and (II) of this subparagraph.

(B) Recorded to a digital ledger or database, which may include a blockchain; and

(C) Capable of being traded or transferred between persons without an intermediary or custodian of value.

(vii) "Seller" means a person who makes an open blockchain token available for purchase to an initial buyer.

(h) Virtual currency or a digital security, as defined in subsection (a) of this section, shall not constitute an open blockchain token.