

## WYOMING BLOCKCHAIN LEGISLATION SUMMARY REVIEW FOR YEARS 2018-2019

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Recently declared the “Delaware of digital asset law”,<sup>2</sup> Wyoming is the first and only state to have enacted legislation providing a comprehensive framework supportive of blockchain innovation. Courtesy of Representative Tyler Lindholm, also House Majority Whip and Co-Chairman of the Wyoming Blockchain Task Force, is the following list of 13 blockchain bills enacted during legislative sessions in years 2018 and 2019. Having reviewed each one as Enrolled<sup>3</sup> together with its Summary<sup>4</sup> in order to prepare this analysis, I am including an active hyperlink to each bill, its “Catch Title” as so designated within its respective Summary, and a descriptive summary of each bill’s main points.

While Wyoming’s approach is most thorough, a read of the draft minutes of the Wyoming Blockchain Task Force Committee Meeting Minutes from May 2019<sup>5</sup> reveals they are just getting started. Included for discussion was the examination of an internationally-recognized digital identity system, the protection of digital speech embodied in computer programs and related liabilities for those host computer code, and whether online platforms that actively moderate posted content should assume obligations or liabilities for that content, among other equally riveting issues.

While not specifically pertaining to blockchain, equally noteworthy is Wyoming’s recent implementation of a Chancery Court dedicated to resolving business disputes. Codified in 2019, the Chancery Court is fully and independently funded to support up to three non-partisan judges, nominated and appointed, to serve a term of six years.<sup>6</sup> The court has limited jurisdiction over disputes involving commercial, business, trust and similar issues, employs nonjury trials, ADR and limited motions practice, and has broad authority to shape and expedite discovery.<sup>7</sup> Jurisdiction to decide action for equitable or declaratory relief runs concurrent with district court judges, and lies with claims exceeding \$50,000 that arise from at least one of a list of several potential causes of action.<sup>8</sup> Indeed, it seems Delaware better engage some super rapid, fancy legislative activity if they want to stay relevant into the Fourth Industrial Revolution,<sup>9</sup> not to mention the other 49 states.

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<sup>2</sup> See, Long, Caitlin. "What Do Wyoming's 13 New Blockchain Laws Mean?". *Forbes.Com*, 2019, <https://www.forbes.com/sites/caitlinlong/2019/03/04/what-do-wyomings-new-blockchain-laws-mean/#6b0672635fde>.

<sup>3</sup> “Enrolled” means that version which was passed in both chambers of Wyoming’s state government inclusive of all adopted amendments.

<sup>4</sup> “Summary” means the high level digest of the bill provided by the Wyoming Legislative Service Office once the bill is enacted, but which is not an official statement of legislative intent, nor should it be relied upon as a comprehensive summary of the bill.

<sup>5</sup> Wyoming Blockchain Task Force. *Draft Committee Meeting Summary Of Proceedings*. Legislative Service Office, Jackson, 2019.

<sup>6</sup> See, Wyo. Stat. §§5-13-103; 5-13-106 and 5-13-107.

<sup>7</sup> See generally, Wyo. Stat. §5-13-115.

<sup>8</sup> See, Id.

<sup>9</sup> Marr, Bernard. "The 4Th Industrial Revolution Is Here - Are You Ready?". *Forbes.Com*, 2018, <https://www.forbes.com/sites/bernardmarr/2018/08/13/the-4th-industrial-revolution-is-here-are-you-ready/#56c1a213628b>

(Describing Industry 4.0 as “...disrupting almost every industry in every country and creating massive change in a non-linear way at unprecedeted speed” due to the implementation of smart technologies and its impact on all disciplines, industries and economies).

YEAR	BILL	CATCH TITLE	DESCRIPTIVE SUMMARY
2018	<a href="#"><u>HB0019</u></a>	Wyoming Money Transmitter Act – Virtual Currency Exemption	<ul style="list-style-type: none"> <li>Modifies the existing Money Transmitter Act to specifically exempt virtual currency transactions and any corresponding requirements for a money transmitters license.</li> <li>Defines “<b>virtual currency</b>” as any digital representation of value that is used as a medium of exchange, unit of account or store of value; and is not recognized as legal tender by the US government.</li> </ul>
2018	<a href="#"><u>HB0070</u></a>	Open Blockchain Tokens Exemption	<ul style="list-style-type: none"> <li>Defines “<b>open blockchain token</b>” as a digital unit created pursuant to a blockchain recorded transaction which can be traded without an intermediary. These are utility tokens which are not marketed as an investment.</li> <li>Specifies that developers, sellers and persons who facilitate the exchange of these tokens are not issuing securities if they first e-file a notice of intent with the WY Secretary of State; the token is only exchangeable for goods, services or content; the developer or seller did not sell the token as a financial investment; and one of several options which indicate the token is for a consumptive purpose.</li> </ul>
2018	<a href="#"><u>HB0101</u></a>	Electronic Corporate Records	<ul style="list-style-type: none"> <li>Authorizes Wyoming corporations to use distributed and electronic means to create and maintain corporate records as long as they are also convertible into written form.</li> <li>Use a data address associated with a private key to identify a shareholder, provide requisite notices, arrange lists, and accept votes.</li> </ul>
2018	<a href="#"><u>HB0126</u></a>	Limited Liability Companies - Series	<ul style="list-style-type: none"> <li>Authorizes an LLC to provide for the establishment of one or more designated series of members, managers, transferable interests or assets to be treated as a separate unit of LLC for certain purposes, where such interests or assets may be digital.</li> <li>LLCs will be recognized for a series if the record of assets is maintained separately for each series and the limitations on liability are specifically provided in the operating agreement and the LLC articles of organization.</li> </ul>
2018	<a href="#"><u>SF0111</u></a>	Property Taxation Digital Currencies	<ul style="list-style-type: none"> <li>Exempts virtual currencies from property taxation where “<b>virtual currency</b>” is any type of digital representation of value that is used for exchange, accounting or to store value; and is not recognized as legal tender.</li> </ul>
2019	<a href="#"><u>HB0057</u></a>	Financial Technology Sandbox Act	<ul style="list-style-type: none"> <li>The Banking Commissioner or Secretary of State may waive certain regulations to permit the testing of innovative financial products and services through a designated sandbox program upon receipt of application and consumer protection bond of at least \$10,000.</li> <li>The fintech sandbox is only available to WY businesses with principal operations in WY, and who are developing innovative financial products and services that cannot be made available under existing laws.</li> <li>Testing period is 2 years with the possibility of a 1 year extension.</li> </ul>

Wyoming Blockchain Legislation  
Years 2018-2019

2019	<a href="#"><b>HB0062</b></a>	Wyoming Utility Token - Property Amendments	<ul style="list-style-type: none"> <li>• Amends and clarifies 2018 HB0070 pertaining to the exemption of open blockchain tokens from securities regulations.</li> <li>• Recognizes that "...open blockchain tokens with specified consumptive purposes are similar to loyalty programs operated by many businesses today..." and, as such, need no securities exemption.</li> <li>• Requires a fee of \$1,000 for filing a notice of intent with the to conduct a utility token offering.</li> </ul>
2019	<a href="#"><b>HB0070</b></a>	Commercial Filing System	<ul style="list-style-type: none"> <li>• Authorizes the Secretary of State to develop and implement a blockchain based filing system for business and commercial filings otherwise required by law to be filed, including UCC financing statements.</li> </ul>
2019	<a href="#"><b>HB0074</b></a>	Special Purpose Depository Institutions	<ul style="list-style-type: none"> <li>• Recognizes that federally chartered financial institutions refuse to provide services to blockchain innovators or accept deposits in US currency obtained from the sale of virtual currency or other assets, nor will they manage accounts in virtual currency or hold other digital assets.</li> <li>• Creates a new form of financial institution to provide necessary financial services to blockchain innovators, which institution must maintain 100% of its depository liabilities as liquid assets and is prohibited from all kinds of commercial lending.</li> <li>• Requires the institution to maintain a contingency account into which depositors must make payment which shall, after three years, be maintained at no less than 2% of the institution's overall liabilities.</li> <li>• The institution can only provide services to bona fide businesses formed by at least 5 persons who maintain a minimum deposit of \$5,000 and provide sufficient evidence to enable compliance with KYC/AML regulations.</li> <li>• Specifies information to be included in the articles of incorporation, and that the capital stock shall be no less than \$5M dollars.</li> </ul>
2019	<a href="#"><b>HB0113</b></a>	Special Electric Utility Agreements	<ul style="list-style-type: none"> <li>• An electric utility may directly negotiate with any customer having a projected electric usage greater than five megawatts for services provided under a tariff approved by the Public Service Commission.</li> <li>• The final agreement anticipates that the revenue resulting to the utility exceeds the expected costs of service and provides benefits to other customers without imposing any additional direct or indirect costs upon them now or in the future .</li> </ul>
2019	<a href="#"><b>HB0185</b></a>	Corporate Stock Certificate Tokens	<ul style="list-style-type: none"> <li>• Authorizes a business entity to issue stock certificates in the form of electronic certificate tokens as long as it contains all the information required by statute and is entered into a blockchain or a secure, auditable database.</li> <li>• Requires the network signature of two officers designated in the bylaws or by the board of directors in order to validate the issuance/transmission of a certificate token.</li> </ul>

2019	<a href="#"><u>SF0028</u></a>	Banking Technology and Stock Revisions	<ul style="list-style-type: none"><li>• Authorizing banks to use electronic corporate records and issue any type of stock authorized for corporations under existing law, including nonvoting shares.</li><li>• Shareholder identity may be maintained using data addresses associate with a private key.</li><li>• The provisions of a bank's articles of incorporation governing shareholder voting rights shall control if they diverge from existing law.</li></ul>
2019	<a href="#"><u>SF0125</u></a>	Digital Assets Existing Law	<ul style="list-style-type: none"><li>• Establishes the legal nature of "<b>digital assets</b>" within existing law, divides them into 3 categories of intangible personal property and classifies them within the UCC as:</li><li>• <b>Digital Consumer Assets:</b> Treated as general intangibles under UCC Article 9 of W.S. 34.</li><li>• <b>Digital Securities:</b> Treated as securities &amp; investment property under UCC Articles 8 and 9 of W.S. 34.</li><li>• <b>Virtual Currencies:</b> Treated as money under UCC Article 9 of W.S. 34.</li><li>• Under W.S. 34.1-8-102(a)(ix) digital assets may be treated as financial assets pursuant to a written agreement with the owner of the digital asset.</li><li>• The perfection of a security interest in a digital asset may be achieved through "<b>control</b>", meaning possession. Control signifies priority of interest, which interest may be pledged by written agreement, and for which a financing statement may be filed with the state.</li><li>• Provides that a security interest in a digital asset expires two years after taken by a transferee absent actual notice of an adverse claim.</li><li>• Authorizes banks to voluntarily provide custodial services for digital assets consistent with this act and the SEC qualified custodian requirements.</li><li>• Defines "<b>custodial services</b>" as the safekeeping and management of customer currency and digital assets through the exercise of fiduciary and trust powers as a custodian, including fund administration and the execution of customer instructions.</li></ul>

## Disclaimer

*All information provided herein is intended for educational and information purposes only, and does not serve as, or otherwise provide legal or financial advice for any particular matter or circumstance. For further guidance regarding the inclusion of these 13 enacted blockchain-enabled legislation within the Wyoming code, please consult the Wyoming Statutes which may be found online. For legal or financial advise regarding how these statutes may benefit your business, please consult with your personal legal or financial advisor.*