

TITLE 13 – BANKS & BANKING
CHAPTER 5
TRUST COMPANIES

13-5-101. Authority to organize; powers; limitations; prohibitions; exemptions.

(a) Trust companies may be organized under this act to exercise the powers permitted by subsection (b) of this section and powers and rights granted to other corporations under general law except as provided by this act.

(b) Each trust company may:

(i) Act or be appointed by any court to act in like manner as an individual, as executor, administrator, guardian or conservator of estates, assignee, receiver, depository, trustee, custodian or in any other fiduciary or representative capacity for any purpose permitted by law;

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

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

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

(v) Take oaths and execute affidavits by the oath or affidavit of its president, vice-president, secretary, assistant secretary, manager, trust officer or assistant trust officer;

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

(vii) Do and perform all acts necessary to exercise the powers enumerated in this section.

(c) A trust company organized under this act shall not engage in any banking business by accepting general deposits or issuing demand instruments.

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

(e) Trust companies shall not issue or sell capital notes or debentures except with the written authority of the state banking commissioner in the manner prescribed for banks.

(f) Except as provided in this section no person shall act as a trust company or engage in the trust business without first obtaining a charter from the commissioner under this chapter.

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

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

(j) For the purposes of this act, a person does not engage in the trust business by:

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

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

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

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

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

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

(vii) Engaging in securities transactions as a dealer or salesman registered under W.S. 17-4-101 through 17-4-130;

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

Source: Laws 1925, ch. 157, 69, 71, 75, 78; R.S. 1931, 10-301, 10-303, 10-401, 10-404; C.S. 1945, 35-301, 35-303, 35-401, 35-404; W.S. 1957, 13-90, 13-92, 13-96, 13-98; Laws 1977, ch. 67, 1; 1979, ch. 34, 1; 1991, ch. 240, 1; 1993, ch. 51, 2; 1995, ch. 85, 1.

13-5-102. Formation.

(a) Any number of persons may form a trust company in accordance with the provisions of this act.

(b) The person forming a trust company shall execute articles of incorporation as provided by W.S. 13-2-202.

Source: Laws 1925, ch. 157, 76; R.S. 1931, 10-402; C.S. 1945, 35-402; W.S. 1957, 13-97; Laws 1977, ch. 67, 1; 1993, ch. 51, 2.

13-5-103. Application for charter; fee.

(a) The incorporator shall apply to the state banking commissioner for a charter. The application shall be on forms prescribed by the state banking board and shall contain such information as required by rule and regulation of the state banking board. The commissioner shall act upon the application in accordance with W.S. 13-2-207.

(b) Each application for charter shall be accompanied by an application fee as provided by W.S. 13-2-208.

Source: Laws 1977, ch. 67, 1; 1988, ch. 59, 1; 1991, ch. 240, 1; 1993, ch. 51, 2.

13-5-104. Procedure for granting charter; failure to open for business.

(a) Upon receiving the articles of incorporation, the application for charter and other information required, the state banking commissioner shall investigate and examine the proposed trust company in accordance with W.S. 13-2-211(a).

(i) Repealed by Laws 1993, ch. 51, § 3.

(ii) Repealed by Laws 1993, ch. 51, § 3.

(iii) Repealed by Laws 1993, ch. 51, § 3.

(iv) Repealed by Laws 1993, ch. 51, § 3.

(v) Repealed by Laws 1993, ch. 51, § 3.

(b) Repealed by Laws 1979, ch. 71, § 2.

(c) The state banking board shall hold hearings and approve or disapprove the granting of a charter to the applicant as provided by W.S. 13-2-207 through 13-2-214 if it determines that the requirements of W.S. 13-2-207 through 13-2-214 have been met.

(d) If the proposed trust company fails to open for business within six (6) months after the date of granting the charter, the privilege of transacting business shall terminate. The state banking board, for good cause and upon written application filed prior to the expiration of the six (6) month period, may extend the time within which the trust company may open for business.

Source: Laws 1977, ch. 67, 1; 1979, ch. 71, 1, 2; 1991, ch. 240, 1; 1993, ch. 51, 2, 3; ch. 115, 1.

13-5-105. Capital stock required; statement.

No trust company shall be incorporated for any of the purposes enumerated in this act or possess the rights and franchises provided under this act unless it shall have paid in capital stock of not less than five hundred thousand dollars (\$500,000.00). Before proceeding to transact business under this act a sworn statement signed and sworn to by the president and secretary of the company shall be filed with the state banking commissioner to the effect that the capital has been paid up in cash and all the provisions of this act complied with.

Source: Laws 1925, ch. 157, 70; R.S. 1931, 10-302; C.S. 1945, 35-302; W.S. 1957, 13-91; Laws 1977, ch. 67, 1; 1988, ch. 59, 1; 1991, ch. 240, 1; 1993, ch. 51, 2.

13-5-106. Discontinuing trust business.

Whenever any corporation desires to discontinue doing a trust business it shall furnish to the state banking commissioner satisfactory evidence of its release and discharge from all the obligations and trusts which it has assumed or which have been imposed upon it by law. Thereupon the state banking commissioner shall revoke the corporation's charter and thereafter the corporation may not use the word "trust" in its corporate name or in connection with its business.

Source: Laws 1977, ch. 67, 1; 1991, ch. 240, 1.

13-5-107. Repealed by Laws 1993, ch. 51, § 3.

13-5-108. Laws applicable; matters of contract.

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

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

(c) In performing its duties under a trust, a trust company shall be subject to the provisions of the Uniform Trustees' Powers Act, W.S. 4-8-101 et seq.

Source: Laws 1977, ch. 67, 1; 1993, ch. 51, 2.

13-5-109. Financial transactions.

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

(b) Every trust company holding trust funds awaiting investment or distribution may deposit or leave on deposit such funds with a state or national bank. The funds shall not be deposited or left with the same corporation depositing or leaving on deposit such funds, nor with a corporation or association holding or owning a majority of the capital stock of the trust company making or leaving the deposit, unless the corporation or association shall first pledge, as security for the deposit, securities eligible for investment by state banks that have a market value equal to that of the deposited funds. No security shall be required with respect to any portion of such deposits which are insured under the provisions of any law of the United States.

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

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

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

(f) No corporation or the registrar or transfer agent thereof shall be liable for registering or causing to be registered on the books of the corporation any securities in the name of any nominee of a trust company or for transferring or causing to be transferred on the books of the corporation any securities theretofore registered by the corporation in the name of any nominee of a trust company, as provided in this section, when the transfer is made on the authorization of the nominee.

Source: Laws 1977, ch. 67, 1; 1993, ch. 51, 2.

13-5-110. Powers of state banking commissioner.

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

(i) Supervise and examine all trust companies organized under the provisions of this act and all such trust companies shall be subject to the laws of this state governing banks and other financial institutions in all cases where the laws do not conflict with the provisions of this act. All trust companies shall file with the commissioner the Federal Financial Institutions Examination Council Annual Report of trust assets for the company and an annual report of the financial condition of the company;

(ii) Repealed By Laws 1999, ch. 42, § 3.

(iii) In the exercise of the power to make orders and regulations to implement the provisions of this act, the commissioner shall act in the interests of promoting and maintaining a sound trust company system, the security of assets and trust accounts, and the protection of other customers;

(iv) Repealed By Laws 1999, ch. 42, § 3.

(v) Repealed By Laws 1999, ch. 42, § 3.

(vi) Collect from each trust company subject to this section an amount equal to the total cost of the examination conducted. The fees and expenses collected shall be remitted to the state treasurer and deposited as provided in W.S. 13-2-210(b) and may be expended as provided in that subsection.

Source: Laws 1925, ch. 157, 79; R.S. 1931, 10-405; C.S. 1945, 35-405; W.S. 1957, 13-100; Laws 1977, ch. 67, 1; 1988, ch. 59, 1; 1991, ch. 240, 1; 1993, ch. 51, 2; ch. 115, 1; 1994, ch. 14, 1; 1999, ch. 42, 2; 3; 2003, ch. 16, 1.

13-5-111. Suspension or revocation of charter.

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

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

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

(iii) Any officer or agent of the trust company, in connection with an application for a charter knowingly made a false representation of a material fact or failed to disclose a material fact to the state banking board, the commissioner or the duly authorized agent of the board or commissioner.

Source: Laws 1993, ch. 51, 1; 1999, ch. 42, 2.

13-5-112. Continuing jurisdiction.

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

Source: Laws 1993, ch. 51, 1.

13-5-113. Unsafe condition; receivership.

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

Source: Laws 1993, ch. 51, 1; 1999, ch. 42, 2.