

## HOUSE BILL NO. HB0062

Wyoming Utility Token Act-property amendments.

Sponsored by: Joint Corporations, Elections & Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to property; making legislative findings;  
2 establishing that open blockchain tokens with specified  
3 consumptive characteristics are intangible personal property  
4 and not subject to a securities exemption; providing  
5 definitions; requiring developers and sellers of open  
6 blockchain tokens to file notices of intent and fees with the  
7 secretary of state; authorizing specified enforcement  
8 actions; establishing virtual currency as intangible personal  
9 property; making specified violations unlawful trade  
10 practices; repealing provisions granting open blockchain  
11 tokens a securities exemption; specifying applicability;  
12 providing an appropriation; and providing for an effective  
13 date.

14

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

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2

**Section 1.**

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(a) The legislature finds the following:

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(i) Certain open blockchain tokens may be restricted to only be exchangeable for specified consumptive purposes, including services, content or property, whether real or tangible personal property, and do not entitle a token holder to a cash payment or a share of profits from the technology developer or business that created the token;

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(iii) The open blockchain tokens governed by this act do not constitute securities because a person who is sold a consumptive open blockchain token cannot receive a cash payment or share of profits from a developer or business, but

1 will instead receive a fixed amount of consumable services,  
2 content or property; and

3

4 (iv) Because of the consumptive nature of open  
5 blockchain tokens and for the other reasons specified above,  
6 these tokens are properly classified as intangible personal  
7 property under Wyoming law and, therefore, do not require an  
8 exemption from securities laws.

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10 **Section 2.** W.S. 34-29-101 and 34-29-102 are created to  
11 read:

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13

#### CHAPTER 29

14

#### DIGITAL ASSETS

15

16 **34-29-101. Wyoming Utility Token Act; open blockchain**  
17 **tokens classified as intangible personal property;**  
18 **characteristics; filing requirements; fee; enforcement**  
19 **authority; definitions; virtual currency.**

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21 (a) This section may be cited as the "Wyoming Utility  
22 Token Act."

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1           (b) An open blockchain token with the following  
2 characteristics constitutes intangible personal property:

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4           (i) The predominant purpose of the token is  
5 consumptive, as defined in paragraph (g)(ii) of this section;

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7           (ii) The developer or seller did not market the  
8 token to the initial buyer as a financial investment, as  
9 defined in paragraph (g)(v) of this section; and

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11           (iii) At least one (1) of the following  
12 subparagraphs is satisfied:

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14           (A) The developer or seller reasonably  
15 believed that it sold the token to the initial buyer for a  
16 consumptive purpose;

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18           (B) The token has a consumptive purpose that  
19 is available at or near the time of sale and can be used at  
20 or near the time of sale for a consumptive purpose;

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22           (C) The initial buyer of the token is  
23 prohibited by the developer or seller of the token from

1 reselling the token until the token is available to be used  
2 for a consumptive purpose;

3

4 (D) The developer or seller takes other  
5 reasonable precautions to prevent an initial buyer from  
6 purchasing the token as a financial investment.

7

8 (c) Before making an open blockchain token available  
9 for sale, the developer or seller of a token, or the  
10 registered agent of the developer or seller, shall  
11 electronically file a notice of intent with the secretary of  
12 state and pay a filing fee of two hundred dollars (\$200.00)  
13 to offset the costs of administering this section. The notice  
14 of intent shall contain the name of the person acting as a  
15 developer or seller and the contact information of the person,  
16 or the registered agent of the person. A form shall be made  
17 available by the secretary of state for this purpose, which  
18 shall include a secure electronic form conspicuously posted  
19 on the internet website of the secretary of state. A  
20 developer, seller and the registered agent of these persons,  
21 if applicable, shall have a continuing duty to update the  
22 contact information provided on a notice of intent as long as

1 the open blockchain token associated with the notice is  
2 actively being sold.

3

4 (d) A facilitator shall comply with the following  
5 requirements:

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7 (i) A facilitator shall, before making any token  
8 available for resale to the public, confirm with the secretary  
9 of state that a notice of intent has been filed pursuant to  
10 subsection (c) of this section;

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12 (ii) A facilitator shall, at all times, have a  
13 reasonable and good faith belief that a token subject to  
14 resale conforms to the requirements of paragraphs (b)(i)  
15 through (iii) of this section; and

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17 (iii) The facilitator shall take reasonably prompt  
18 action to terminate the resale of a token which does not  
19 conform to the requirements of this subsection.

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21 (e) A willful failure by a developer, seller or  
22 facilitator to comply with the duties imposed by this section  
23 shall constitute an unlawful trade practice under W.S.

1 40-12-105(a)(xvii). A developer, seller or facilitator is  
2 subject to all applicable criminal statutes, including the  
3 fraud provisions of W.S. 6-3-601 through 6-3-615.

4

5 (f) The secretary of state may refer the following to  
6 appropriate state or federal agencies for investigation,  
7 criminal prosecution, civil penalties and other appropriate  
8 enforcement actions:

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10 (i) Suspected violations of this section;

11

12 (ii) The developer, seller or facilitator of  
13 either an open blockchain token which conforms to the  
14 requirements of this section or another digital asset which  
15 substantially resembles an open blockchain token, but which,  
16 in the determination of the secretary of state, is being sold  
17 for financial investment or fraudulent purposes.

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19 (g) As used in this section:

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21 (i) "Blockchain" means a digital ledger or  
22 database which is chronological, consensus-based,  
23 decentralized and mathematically verified in nature;

1

2           (ii) "Consumptive" means a circumstance when a  
3 token is exchangeable for, or provided for the receipt of,  
4 services, content or real or tangible personal property,  
5 including rights of access to services, content or real or  
6 tangible personal property;

7

8           (iii) "Developer" means the person primarily  
9 responsible for creating an open blockchain token or  
10 otherwise designing the token, including by executing the  
11 technological processes necessary to create the token;

12

13           (iv) "Facilitator" means a person who, as a  
14 business, makes open blockchain tokens available for resale  
15 to the public after a token has been purchased by an initial  
16 buyer;

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18           (v) "Financial investment" means a contract,  
19 transaction or arrangement where a person invests money in a  
20 common enterprise and is led to expect profits solely from  
21 the efforts of a promoter or a third party;

22



1           (vi) Except as otherwise provided in subsection  
2 (h) of this section, "open blockchain token" means a digital  
3 unit which is:

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5           (A) Created:

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7           (I) In response to the verification or  
8 collection of a specified number of transactions relating to  
9 a digital ledger or database;

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11           (II) By deploying computer code to a  
12 blockchain that allows for the creation of digital tokens or  
13 other units; or

14  
15           (III) Using a combination of the methods  
16 specified in subdivisions (I) and (II) of this subparagraph.

17  
18           (B) Recorded to a blockchain; and

19  
20           (C) Capable of being traded or transferred  
21 between persons without an intermediary or custodian of  
22 value.

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1           (vii) "Seller" means a person who makes an open  
2 blockchain token available for purchase to an initial buyer.

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4           (h) Virtual currency, as defined in W.S. 34-29-102(b),  
5 shall not constitute an open blockchain token.

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7           **34-29-102. Virtual currency classified as intangible**  
8 **personal property.**

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10          (a) Virtual currency constitutes intangible personal  
11 property, consistent with W.S. 34-29-101(h).

12

13          (b) As used in this section, "virtual currency" means  
14 any type of digital representation of value that:

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16           (i) Is used as a medium of exchange, unit of  
17 account or store of value; and

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19           (ii) Is not recognized as legal tender by the  
20 United States government.

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1           **Section 3.** W.S. 17-4-102(a)(xvii)(intro) and  
2 40-12-105(a) by creating new paragraph (xvii) are amended to  
3 read:

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5           **17-4-102. Definitions.**

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7           (a) In this act, unless the context otherwise requires:

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9                   (xvii) "Issuer" means a person that issues or  
10 proposes to issue a security, subject to ~~W.S. 17-4-206(a) and~~  
11 ~~(e) and~~ the following:

12

13           **40-12-105. Unlawful practices.**

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15           (a) A person engages in a deceptive trade practice  
16 unlawful under this act when, in the course of his business  
17 and in connection with a consumer transaction, he knowingly:

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19                   (xvii) Willfully fails to comply with the duties  
20 imposed by W.S. 34-29-101.

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22           **Section 4.** W.S. 17-4-102(a)(iv)(F) and (xxviii)(F),  
23 17-4-206, 40-22-104(a)(vii) and 40-22-126(b) are repealed.

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2           **Section 5.**

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4           (a) Except as otherwise provided in subsection (b) of  
5 this section, a person who has properly filed a notice of  
6 intent pursuant to 2018 Wyoming Session Laws, chapter 44  
7 before July 1, 2019 shall be subject to the requirements of  
8 this act.

9

10           (b) Notices of intent properly filed with the secretary  
11 of state pursuant to 2018 Wyoming Session Laws, chapter 44  
12 before July 1, 2019, shall constitute compliance with W.S.  
13 34-29-101(c), as of the effective date of this act.

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15           (c) Open blockchain tokens relating to a notice of  
16 intent properly filed pursuant to 2018 Wyoming Session Laws,  
17 chapter 44 before July 1, 2019 shall constitute intangible  
18 personal property under W.S. 34-29-101 after the effective  
19 date of this act.

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21           **Section 6.** For the period beginning July 1, 2019 and  
22 ending June 30, 2020, there is appropriated fifty thousand  
23 dollars (\$50,000.00) from the general fund to the secretary

1 of state. This appropriation shall only be expended to provide  
2 services relating to the administration and enforcement of  
3 this act. Notwithstanding any other provision of law, this  
4 appropriation shall not be transferred or expended for any  
5 other purpose and any unexpended, unobligated funds remaining  
6 from this appropriation shall revert as provided by law on  
7 June 30, 2020. The secretary of state may include a request  
8 for an appropriation for these services in its 2021-2022  
9 standard budget request.

10

11 **Section 7.** This act is effective July 1, 2019.

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(END)