

Wyoming Updates Its Trust Company Legislation, Allows for Two-Family Private Trust Companies

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Wyoming is one of the few states that authorize by statute private trust companies that serve a single family and trust companies that serve the general public. Effective July 1, 2019, House Bill 0030 updates the laws governing trust companies – read more about the key changes to legislation below.

IN DEPTH

Individuals who are establishing a Wyoming trust company, or who are administering a Wyoming trust company, should be aware of recent Wyoming law changes.

Wyoming is one of the few states that authorize by statute both (1) private trust companies that serve a single family, and (2) trust companies that serve the general public. In its most recent session, the Wyoming legislature passed House Bill 0030 updating the law governing trust companies. Governor Mark Gordon signed the Bill on February 14, 2019, which legislation is effective July 1, 2019. Here are the key changes:

- **Reorganization:** The new legislation reorganizes Chapter 5 of Title 13 of the Wyoming Statutes to provide separate chapters governing the formation and operation of public trust companies, chartered (regulated) family trust companies and private (unregulated) family trust companies. The reorganization simplifies and clarifies the law governing trust companies.
- **Two Unrelated Families:** A chartered family trust company can now provide fiduciary services to two unrelated families. This provision is unique in that most states with private trust company statutes do not allow multiple families to form a single private trust company. The family trust company must be chartered (regulated) to act for two families.
- **Class Expansion:** A chartered or private family trust company can now provide fiduciary services to (1) key employees and former key employees of entities that are majority-owned and controlled by family members and (2) trusts created by non-family members if all of the individual beneficiaries of the trust are family members. This expanded class of potential family trust company clients is more consistent with the class of “family clients” defined with respect to the family office exemption from registration as an investment adviser with the Securities and Exchange Commission. The statute is now more aligned with the laws of other states that facilitate private trust company planning.
- **Conflicts of Interest:** The new legislation modernizes the rules governing potential conflict of interest transactions and facilitates transactions involving potential conflicts of interest with family members, affiliates of the family and the trust company serving in other capacities.
- **Application to LLCs:** New provisions clarify that a trust company organized as a limited liability company and managed by a manager or member is regulated in the same manner as a trust company organized as a corporation and managed by a board of directors.
- **Application Simplification:** The prior application requirements for a public trust company included certain procedures only applicable to banks that accept deposits. New procedures eliminate these bank-specific application requirements for public trust companies and establish a simplified and more efficient



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application process for public trust companies.

- **Record Retention:** The rules for record retention and record production applicable to a public trust company also are applicable to a chartered family trust company, which means a chartered family trust company must (1) permanently retain its corporate record book and ledger, (2) retain any transactional records for three years after the date the transaction is finalized, and (3) follow any additional record retention or record production regulations established by the Wyoming Banking Commissioner. These requirements do not apply to private family trust companies.
- **Surety Bond Requirement:** A chartered family trust company now must obtain a surety bond in the amount of \$1,000,000 and the amount of the surety bond required for a public trust company is now \$1,000,000, increased from \$100,000. No surety bond is required for a private family trust company.

The new legislation governs the requirements and procedures for forming a new public or family trust company in Wyoming after July 1, 2019, and also the procedures for converting one type of trust company to another after the same date. Additionally, the ongoing operations and regulation (where applicable) of all existing public and family trust companies in Wyoming are subject to this new legislation after July 1, 2019.

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