

ENROLLED ACT NO. 59, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

AN ACT relating to revision of inadvertent errors; correcting statutory references and language resulting from inadvertent errors and omissions in previously adopted legislation; correcting obsolete references; repealing fully executed provisions; specifying applicability; and providing for an effective date.

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

**Section 1.** W.S. 1-41-103(c)(iii)(B), 4-10-523(a)(intro), (vii) and (viii), 5-11-101(a)(vi), 6-2-301(a)(v), 6-2-318, 7-3-504(b), 7-19-201(a)(xvi), 9-1-207(d)(iv) and (v), 9-2-2104(a)(vii), 9-3-451(a)(i)(intro) and (B), 11-2-202(d), 12-1-101(a)(xxiv), 15-5-104, 15-7-103, 16-1-103(a)(ii), 17-16-202(b)(v)(intro), 17-16-203(a), 18-2-111, 18-2-112, 18-3-505(c), 18-3-507, 18-3-510(a), 18-3-513(b), 18-3-611(a), 18-5-105(a), 18-5-201, 18-5-202(b), 18-8-101(a)(intro), 30-5-110(e)(vi)(C) and (D), 34-1-142(c)(vi), 34-20-102, 35-11-1209(a)(intro) and (v), 39-11-109(c)(vii)(B), 40-4-101(a)(i), (c)(v) and (vi), 40-9-101(a)(intro), 40-9-105, 40-14-641(c)(iii), 40-20-113(a)(vii)(B)(intro) and (III), 40-23-124(c)(iii), 41-2-117(a)(i)(F), 41-3-115(s), 41-7-864 and 42-4-207(c)(ii) are amended to read:

**1-41-103. Self-insurance account; creation; authorized payments.**

(c) Expenditures shall be made out of the self-insurance account for the following claims which have been settled or reduced to final judgment:

(iii) Claims against a peace officer employed by the Wyoming state board of outfitters and professional

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guides, the University of Wyoming or a local government brought under the Wyoming Governmental Claims Act, provided:

(B) The indemnification for the judgment shall not exceed the limits provided by W.S. 1-39-118;~~and~~

**4-10-523. Qualified transfer affidavit.**

(a) A qualified transfer affidavit shall be in writing, sworn to by the settlor, and shall ~~state that~~ include each of the following statements:

(vii) The settlor does not contemplate the filing for relief under the provisions of the federal Bankruptcy Code;~~and~~

(viii) The property transferred to the qualified spendthrift trust was not derived from any unlawful activities;~~and~~

**5-11-101. Wyoming court security commission created; membership; powers and duties; compensation; report required.**

(a) The Wyoming court security commission is created under the supervision of the Wyoming supreme court. The commission shall be composed of the director of the office of homeland security or his designee and nine (9) additional members who shall be appointed for a term of three (3) years commencing July 1, 2008, who may be reappointed to serve subsequent terms. The nine (9) additional members shall include:

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(vi) One (1) representative of the Wyoming peace officer's standards and training commission, appointed by the governor; ~~and~~

**6-2-301. Definitions.**

(a) As used in this article:

(v) "Sexual assault" means any act made criminal pursuant to W.S. 6-2-302 through ~~6-2-304~~ 6-2-319;

**6-2-318. Soliciting to engage in illicit sexual relations; penalty.**

Except under ~~circumstance~~ circumstances constituting sexual assault in the first, second or third degree as defined by W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor in the first, second, third or fourth degree as defined by W.S. 6-2-314 through 6-2-317, anyone who has reached the age of majority and who solicits, procures or knowingly encourages anyone less than the age of fourteen (14) years, or a person purported to be less than the age of fourteen (14) years, to engage in sexual intrusion as defined in W.S. 6-2-301 is guilty of a felony, and upon conviction shall be imprisoned for a term of not more than five (5) years.

**7-3-504. Judgment against complainant; defects in complaint.**

(b) A proceeding to prevent an offense under this ~~section~~ article shall not be dismissed because of any informality or insufficiency of the complaint or other document in the proceeding. The complaint may be amended by the judge to conform to the evidence in the case.

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**7-19-201. State or national criminal history record information.**

(a) The following persons shall be required to submit to fingerprinting in order to obtain state and national criminal history record information:

(xvi) Mortgage lenders, mortgage brokers, mortgage loan originators and persons identified in W.S. ~~40-23-107(a)(iii)~~ 40-23-107(b)(i), as necessary to perform the background checks required by W.S. 40-14-642(c)(i), 40-23-103(a)(viii) and 40-23-125(c)(i);

**9-1-207. State planning coordinator; appointment; qualifications; term; removal; powers; duties.**

(d) The governor through the state planning coordinator shall:

(iv) Utilize state agency expertise on specific issues, solicit and coordinate appropriate agency comments on pending federal land issues; ~~and~~

(v) Review comments from individuals, interest and user groups and state agencies, as well as other sources of information and prepare, submit and advocate the state of Wyoming's official position to federal land use management issues; ~~and~~

**9-2-2104. Duties and powers of director of department.**

(a) The director shall:

(vii) Promulgate reasonable rules and regulations in compliance with the Wyoming Administrative

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Procedure Act, for the implementation of all state and federal welfare laws; ~~and~~

**9-3-451. Enforcement.**

(a) An action may be maintained by:

(i) A public employer, participant, beneficiary or fiduciary for any one (1) or more of the following purposes:

(B) For appropriate equitable relief for a breach of trust under W.S. 9-3-443; ~~or~~

**11-2-202. Powers and duties of director generally.**

(d) The director in collecting information necessary to perform duties of the department and its divisions, may request information from any agency of the state, a county, city, town or other political subdivision. An agency shall furnish information upon written request of the ~~commissioner~~ director. An owner, operator or manager of any manufacturing, mining or other business establishment operating in this state or other person having information necessary to carry out the purposes of this act shall upon request of the director, furnish the information upon forms supplied by the board.

**12-1-101. Definitions.**

(a) As used in this title:

(xxiv) "This title" means W.S. 12-1-101 through ~~12-9-119~~ 12-10-101;

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**15-5-104. Civil service commission; offices; clerk; preliminary expenses.**

The governing body shall furnish the ~~commissions~~ commission's necessary offices, office furniture, books, stationery, blanks, printing, heat, light and any other supplies. The city clerk is ex officio clerk of the commissions without extra compensation. Expenses incurred before the adoption of the next budget following the organization of any commission may be defrayed from any funds available or included in the next budget.

**15-7-103. Borrowing and issuance of bonds; recreational facilities.**

A city or town may borrow money and issue coupon bonds in an amount which, together with the municipal indebtedness, but not including sewerage, water supply and school bonds, ~~do~~ does not exceed four percent (4%) of the assessed valuation of the city or town to acquire, lease, purchase, equip, construct, develop, improve or enlarge public recreational facilities. The bonds shall be in the denomination of one hundred dollars (\$100.00), or multiples thereof and bear interest payable semiannually at a rate, at a place and in the manner the governing body provides. The bonds shall be in a serial form with last maturity not more than twenty (20) years after the date of issue and are redeemable at the option of the city or town at a time to be designated by the governing body as provided in W.S. 16-5-302.

**16-1-103. Definitions.**

(a) As used in this act:

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(ii) "This act" means W.S. 16-1-102 through ~~16-1-109~~ 16-1-110.

**17-16-202. Articles of incorporation.**

(b) The articles of incorporation may set forth:

(v) A provision permitting or making obligatory indemnification of a director for liability (as defined in W.S. ~~17-16-850(a)(v)~~ 17-16-850(a)(iii)) to any person for any action taken, or failure to take any action, as a director, except liability for:

**17-16-203. Incorporation.**

(a) Unless a delayed effective date is specified, the corporate existence ~~begins~~ becomes effective when the articles of incorporation are filed.

**18-2-111. Judgment against county to be paid by tax levy; when execution to issue.**

Except as provided in W.S. 1-39-101 through ~~1-39-119~~ 1-39-121 when a judgment is rendered against the board of county commissioners or any county officer the judgment shall be paid by a tax levied for that purpose and when collected shall be paid by the county treasurer to the judgment creditor upon the delivery of a proper voucher. Execution may issue on the judgment if payment is not made within sixty (60) days after the time required for the payment of county taxes to the county treasurer.

**18-2-112. Contracts for human services.**

A county may contract for treatment and preventive services for the mentally ill, substance abuser and developmentally

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disabled as provided in W.S. 35-1-611 through ~~35-1-626~~  
35-1-627.

**18-3-505. Commissioners may authorize acceptance of negotiable paper in payment of fees; negotiable paper defined; no personal liability of county officers; date of payment; effect of dishonor; seizure.**

(c) As used in this section "negotiable paper" means money orders, checks and drafts, including, without limitation, sales drafts and checks and drafts signed by a holder of a lender credit card issued by a bank maintaining a revolving loan account as defined in W.S. 40-14-308, for lender credit card holders.

**18-3-507. Selection of chairman.**

The board of county commissioners shall at the first meeting after their election or appointment elect one (1) member chairman, who shall preside at all meetings, except in his absence ~~either~~any of the other members may act as temporary chairman.

**18-3-510. Claims against county to be itemized and verified; penalty.**

(a) No claim against the county shall be allowed by the board of county commissioners unless it is properly dated and itemized and the value of each item specifically described, and when no specified fees are allowed by law, the date that such services were rendered and the time actually and necessarily devoted to the performance of any service. Each claim shall be accompanied by an affidavit, stating that the claim is just and correct and that no part of the claim has been paid by the county or other person. The board of county commissioners may disallow any account,



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in whole or in part, when so rendered and verified, and may require further evidence of the truth and propriety of the claim. This section does not apply to claims under W.S. 1-39-101 through ~~1-39-119~~ 1-39-121.

**18-3-513. Appeal on disallowance of claim.**

(b) When the appeal is perfected, the clerk of the board shall immediately give notice to the county attorney. The clerk shall make a brief return of the proceedings before the board with the decision properly certified and file the same together with the bond and all papers in the case in his possession with the clerk of the district court. The appeal shall be entered, tried and determined and costs awarded the same as appeals from circuit courts. This section does not apply to claims under W.S. 1-39-101 through ~~1-39-119~~ 1-39-121.

**18-3-611. Sheriff's office employees; removal from office; hearings.**

(a) This section applies to sworn nonprobationary, full-time deputies of a sheriff's department which employs at least twenty (20) sworn, full-time deputies. Except as provided by subsection (d) of this section, this section does not apply to any member of the executive staff. As used in this subsection, "member of the executive staff" means a deputy whose primary duties consist of the management of the department or a subdivision thereof, who regularly exercises discretionary powers as they relate to the employment status of employees and who is directly supervised by the sheriff.

**18-5-105. Purpose of zoning; regulation of sanitary facilities; division of county into zones; building permits required.**

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(a) The purpose of zoning is to conserve and promote the public health, safety and welfare of the citizens of the county. The board of county commissioners shall provide by resolution for the regulation of sanitary facilities for buildings and other structures. "Sanitary facilities" means domestic water supplies, sewage disposal, rodent and insect control and the storage, collection and disposal of garbage and refuse.

**18-5-201. Authority vested in board of county commissioners; inapplicability of chapter to incorporated cities and towns and mineral resources.**

To promote the public health, safety, morals and general welfare of the county, each board of county commissioners may regulate and restrict the location and use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated area of the county. However, nothing in W.S. 18-5-201 through ~~18-5-207~~18-5-208 shall be construed to contravene any zoning authority of any incorporated city or town and no zoning resolution or plan shall prevent any use or occupancy reasonably necessary to the extraction or production of the mineral resources in or under any lands subject thereto.

**18-5-202. Planning and zoning commission; composition; residency requirements, terms and removal of members; vacancies; rules; record; meetings to be public; secretary; preparation and amendments; purpose; certifications and hearing; amendments.**

(b) The planning and zoning commission may prepare and amend a comprehensive plan including zoning for

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promoting the public health, safety, morals and general welfare of the unincorporated areas of the county, and certify the plan to the board of county commissioners. Before certifying its plan or amendments thereto to the board the commission shall hold at least one (1) public hearing. Notice of the time and place of hearing shall be given by one (1) publication in a newspaper of general circulation in the county at least thirty (30) days before the date of the hearing. Any person may petition the planning and zoning commission to amend any zoning plan adopted under the provisions of W.S. 18-5-201 through ~~18-5-207~~ 18-5-208.

**18-8-101. Definitions.**

(a) As used in W.S. 18-8-102 through ~~18-8-108~~ 18-8-109 the words:

**30-5-110. Agreements for waterflooding or other recovery operations, repressuring or pressure-maintenance operations, cycling or recycling operations; operation as a unit of 1 or more pools or parts thereof and pooling of interests in oil and gas therein; amendment of orders and agreements.**

(e) If after considering the application and hearing the evidence offered in connection therewith, the commission shall enter an order setting forth the following described findings and approving the proposed plan of unitization and proposed operating plan, if any, if the commission finds that:

(vi) In case there are owners who have not executed an operating agreement or agreed to the proposed operating plan covering the supervision, management and

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allocation of payment costs, that such proposed operating plan:

(C) If necessary, prescribes fair, reasonable and equitable terms and conditions as to time and rate of interest for carrying or otherwise financing any person who is unable to promptly meet his financial obligations in connection with the unit; ~~and~~

(D) Provides that each owner shall have a vote in the supervision and conduct of unit operations corresponding to the percentage of costs of unit operations chargeable against the interests of such person; and

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

(c) This section does not apply to:

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

**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 ~~article~~ 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

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inseparable for any period of condominium ownership that is prescribed by the said recorded declaration.

**35-11-1209. Contract eligibility.**

(a) The abandoned mine land division shall not issue a contract to any contractor if the United States department of interior, office of surface mining applicant violator system shows the contractor has any one (1) or more of the following:

(v) Bond forfeiture if the violation upon which the forfeiture was based has not been corrected;~~or~~

**39-11-109. Taxpayer remedies.**

(c) Refunds. The following shall apply:

(vii) No applicant is entitled to a refund under this subsection unless the person has total household assets as defined by the department of health through rules and regulations of not to exceed twenty-five thousand dollars (\$25,000.00) per adult member of the household as adjusted annually by the state average Wyoming cost-of-living index published by the economic analysis division of the department of administration and information. In determining assets, the following property is exempt:

(B) Household furnishings and personal belongings;~~and~~

**40-4-101. What constitutes unfair discrimination; penalty; exceptions.**

(a) Any person, firm, corporation, foreign or domestic, or other entity doing business in the state of

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Wyoming and engaged in the production, manufacture, sale or distribution of any commodity in general use, shall not:

(i) Make, enter into, form or become a party to any plan, contract, agreement, consolidation, merger or combination of any kind whatsoever to prevent competition or to control or influence production or prices thereof. ~~+~~  
~~or~~

(c) This chapter shall not:

(v) Prohibit the development, agreement on and use of standards designed to permit or encourage competition or interoperability among products or services, provided the standards do not include provisions fixing or colluding on the prices or colluding to prevent competition by limiting the availability of the products or services; ~~or~~

(vi) Prohibit any person, firm, corporation or other entity from entering into any agreement or contract with a customer which specifies the price charged, or the services furnished, to the customer, or which gives discounts or additional services to the customer for purchasing specified volumes or multiple products of the same or similar product or service; or

**40-9-101. Standard natural gas defined.**

(a) For the purpose of this ~~act~~ chapter standard natural gas shall be considered to have an average standard of heating units of not less than one thousand (1,000) British thermal units per cubic foot of gas, ascertained and determined by the state chemist in accordance with standard conditions, to wit:

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**40-9-105. Expense of tests charged to state university.**

Any and all expenses incurred by the state chemist in carrying out the provisions of this ~~act~~chapter shall be a charge against the University of Wyoming.

**40-14-641. Loan originator licensing; registration; rulemaking.**

(c) An individual is exempt from subsection (a) of this section if he is:

(iii) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as ~~a seller's~~the individual's residence;

**40-20-113. Definitions.**

(a) As used in this chapter:

(vii) "Equipment" means:

(B) Other machinery, equipment, implements or attachments used for or in connection with one (1) or more of the following purposes:

(III) Raising, feeding, tending to or harvesting products from, livestock or any related activity;~~or~~

**40-23-124. Loan originator licensing; registration; rulemaking.**

(c) An individual is exempt from subsection (a) of this section if he is:

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(iii) An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as ~~a seller's~~ the individual's residence;

**41-2-117. Wyoming water development commission; membership; removal; terms.**

(a) The Wyoming water development commission is created to consist of ten (10) members. The membership shall include:

(i) Nine (9) persons, two (2) shall be residents appointed from each water division of the state as defined in W.S. 41-3-501, at least one (1) will be a person having an adjudicated water right. One (1) resident of Wyoming shall be appointed at large and one (1) shall be an enrolled member of the Arapahoe or Shoshone Indian tribes who is resident on the Wind River Indian Reservation:

(F) If any member ceases to reside in or is absent from the division from which appointed for a continuous period of six (6) months or more, the governor shall declare his office vacant and shall appoint a successor from the same division for the unexpired term;  
~~and~~

**41-3-115. Applications for use of water outside the state.**

(s) Nothing in this ~~act~~ section shall be construed to interfere with compacts, court decrees and treaty obligations.

**41-7-864. Rights and powers preserved.**



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An irrigation district receiving the rights, power and authority of a public power district as aforesaid, shall not lose any of its rights and powers under and by virtue of the provisions of chapter 2, Session Laws of Wyoming, Special Session, 1920, as amended, codified and compiled in W.S. 41-7-101 through ~~41-7-603~~ 41-7-415, as now amended.

**42-4-207. Recovery of incorrect payments; recovery of correct payments; liens.**

(c) The department may file a pre-death lien upon real property of an individual for medical assistance correctly paid under this chapter to an individual:

(ii) With respect to whom the department ~~of family services~~ determines, after notice and opportunity for a hearing, cannot reasonably be expected to be discharged from the medical institution and to return home.

**Section 2.** W.S. 17-16-1006(a)(vi) is repealed.

**Section 3.**

(a) If 2010 Senate Enrolled Act 14, being original Senate File 12, is enacted into law, W.S. 36-8-501(b)(intro) shall be amended to read:

**36-8-501. Powers generally.**

(b) Upon approval by the governor, the department of state parks and cultural resources may purchase in the name of the state of Wyoming the following real property, unless the Carissa gold mine has created unacceptable economical environmental impacts as shown by the department of environmental quality investigation and

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determined by the governor, in Fremont county containing approximately 312.41 acres which are hereby declared to be part of the ~~Old-South Pass Historical Preserve Wyoming~~ City state historic site:

(b) If 2010 Senate Enrolled Act 14, being original Senate File 12, is enacted into law, W.S. 36-8-1001(d)(viii) is repealed.

(c) This section shall not be effective if 2010 Senate Enrolled Act 14, being original Senate File 12, is not enacted into law.

**Section 4.**

(a) Notwithstanding section 3 of this act, if 2010 Senate Enrolled Act 9, being original Senate File 9, is enacted into law, then Section 2 of that act shall be amended to read:

**Section 2.**

(a) Except as provided in subsection (b) of this ~~act~~ section, this act is effective March 31, 2013.

(b) W.S. 14-4-117(a) and (c), created by section 1 of this act, is effective July 1, 2010.

**Section 5.** Except as provided in section 4 of this act, any other act adopted by the Wyoming legislature during the same session in which this act is adopted shall be given precedence and shall prevail over the amendments in this act to the extent that such acts are in conflict with this act.

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**Section 6.**

(a) Section 3 of this act is effective July 1, 2010, subject to the provisions of that section.

(b) Except as provided in subsection (a) of this section, this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk