



THE LEGISLATURE OF THE STATE OF WYOMING

Senate

Cheyenne, ..... January 25....., 19 91.

Mr. President:

Your Committee No. 3 on REVENUE

to whom was referred SF No. 0239

respectfully reports same back to the Senate with the recommendation that

SF 0239A by substituted for SF 0239 and that SF 0239A DO PASS.

AYES: Senators Healy, Coe, Fanos, Guice and Reese

SF 0239A

*Done*

*Mike Healy*  
.....  
Mike Healy Chairman

SF0239SS1/

SF0239A be substituted for SF0239 and that SF0239A DO PASS.  
HEALY CHAIRMAN

*True*

1991

STATE OF WYOMING

91LSO-0794.SUB1  
NOT ADOPTED

SENATE FILE NO. 0239A

Real estate trusts.

Sponsored by: Senator(s) KINNISON and HEALY

A BILL

for

1 AN ACT to amend W.S. 34-2-116(a) by creating a new para-  
2 graph (iv), 34-2-122 and 34-2-123 relating to real estate  
3 trust instruments; providing requirements for acknowledge-  
4 ment of trust instrument; requiring specified information  
5 for a written trust instrument; and providing for an  
6 effective date.

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

8 Section 1. W.S. 34-2-116(a) by creating a new para-  
9 graph (iv), 34-2-122 and 34-2-123 are amended to read:

10 34-2-116. Acknowledgment Act; requirements for  
11 implied acknowledgment.

*Empowered with Standing Committee Amendments*

1           (a) Every certificate of acknowledgment substantially  
2 in the form provided for in W.S. 34-2-115 shall for all  
3 purposes be deemed to be a certification by the officer  
4 making the certificate that:

5           (iv) IF THE INSTRUMENT TO WHICH THE CERTIFICATE  
6 IS AFFIXED WAS EXECUTED BY A TRUSTEE OF AN EXPRESS TRUST  
7 CREATED BY A WRITTEN TRUST INSTRUMENT, THAT THE TRUSTEE  
8 WHO SIGNED THE INSTRUMENT ON BEHALF OF THE TRUST APPEARED  
9 BEFORE AND WAS PERSONALLY KNOWN TO THE OFFICER MAKING THE  
10 CERTIFICATE, AND WAS BY HIM DULY SWORN AND UPON OATH REP-  
11 RESENTED THAT HE WAS THE TRUSTEE OF THE TRUST, THAT THE  
12 INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF THE TRUST,  
13 THE TRUSTEE HAD THE AUTHORITY UNDER THE TERMS OF THE WRIT-  
14 TEN TRUST INSTRUMENT TO EXECUTE THE INSTRUMENT ON BEHALF  
15 OF THE TRUST, AND THAT THE TRUSTEE ACKNOWLEDGED THE  
16 INSTRUMENT TO BE THE FREE ACT AND DEED OF THE TRUST.

17           34-2-122. Notice of trust or representative capacity  
18 of grantee; when certain information required. In all  
19 instruments conveying real estate, or interests therein,  
20 in which the grantee is described as trustee, agent, or as  
21 in any other representative capacity, such instruments of  
22 conveyance shall also ~~name-the-beneficiary--or--beneficia-~~  
23 ~~ries--se--represented-and~~ define the trust or other agree-

1 ment under which the grantee is acting, 7 IN ALL INSTRU-  
2 MENTS CONVEYING REAL ESTATE, OR INTERESTS THEREIN, IN  
3 WHICH THE GRANTEE IS DESCRIBED AS A TRUST, SUCH INSTRUMENT  
4 OF CONVEYANCE SHALL ALSO DEFINE THE TRUST OR OTHER AGREE-  
5 MENT AND SHALL BE DEEMED TO HAVE VESTED TITLE IN THE  
6 TRUSTEES OF THE TRUST. INSTRUMENTS CREATING THE CONVEY-  
7 ANCES SHALL PROVIDE THE INFORMATION AS DESCRIBED HEREIN  
8 EITHER BY SETTING IT FORTH IN THE TEXT OF THE INSTRUMENT  
9 or shall refer by proper description of the affecting  
10 record book, page, document number or file, to the instru-  
11 ment, order, decree or other writing, which is of public  
12 record in the county in which the land so conveyed is  
13 located and in which ~~such~~ THE related matters appear;  
14 otherwise the description of a grantee in any representa-  
15 tive capacity ~~as-aforesaid~~ in each ~~such~~ instrument of con-  
16 veyance shall be considered and held to be a description  
17 of the person, only, and shall not be notice of any trust,  
18 agency or other representative capacity of ~~such~~ THE  
19 grantee who shall be held as vested with the power to per-  
20 sonally convey, transfer, encumber or release the affected  
21 title and whenever he, she or it shall execute and deliver  
22 a conveyance, transfer, encumbrance or release of ~~such~~ THE  
23 property in ~~such~~ A representative capacity, ~~such~~ IT shall  
24 not thereafter be questioned by anyone claiming as a bene-

1     ficiary under ~~such~~ THE trust or agency or by anyone claim-  
2     ing by, through or under any undisclosed beneficiary, pro-  
3     vided that none of the trust property in the name of ~~such~~  
4     THE trustee, agent or representative and owned only as  
5     ~~such~~ IN THAT CAPACITY, shall be liable for his, her or its  
6     personal obligations.

7             34-2-123. Notice of trust or representative capacity  
8     of trustee; prior conveyances. ~~At-the-expiration-of-ten~~  
9     ~~(10)-years-after-this-act-becomes-effective;~~ ANY INSTRU-  
10    MENT WHICH COMPLIES WITH THIS ACT SHALL BE EFFECTIVE  
11    REGARDLESS OF WHEN IT WAS EXECUTED OR RECORDED. All  
12    instruments of conveyance to, or transfer, encumbrance or  
13    release of, lands or any interest therein within the state  
14    of Wyoming, which name a grantee in ~~such~~ A representative  
15    capacity, ~~and--fail--to--name--the--affected--beneficiary--or~~  
16    ~~beneficiaries--or--to--define--the--trust--or--other--agreement~~  
17    ~~under--which--such--grantee--takes--title--and--which--have--been~~  
18    ~~executed--prior--to--the--time--this--act--becomes--effective;~~ OR  
19    NAME A TRUST AS GRANTEE, AND WHICH FAIL TO PROVIDE THE  
20    INFORMATION REQUIRED BY W.S. 34-2-122, shall cease to be  
21    notice of any trust or representative capacity of ~~such~~ THE  
22    grantee and shall be considered and held to be a descrip-  
23    tion of the person only of ~~such~~ THE grantee, who shall be

1 held to have individually, the full power to convey,  
2 transfer, encumber or release the affected title and no  
3 such conveyance, transfer, encumbrance or release shall  
4 thereafter be questioned by anyone claiming with respect  
5 to the affected property, as a beneficiary or by anyone  
6 claiming by, through, or under an undisclosed beneficiary,  
7 provided that such THIS PROVISION shall not apply if said  
8 THE grantee or any beneficiary or beneficiaries or other  
9 properly interested person shall within--said--ten--(10)  
10 years, file for record in the proper office of the county  
11 in which such THE land is situated, a statement, duly ver-  
12 ified, describing the affected lands and interest therein,  
13 setting forth the-name-of-such-beneficiary--or--beneficia-  
14 ries--and THE INTEREST OF THE PERSON MAKING THE STATEMENT,  
15 defining such THE representative relationship, AND SETTING  
16 FORTH THE INFORMATION REQUIRED BY W.S. 34-2-122, or  
17 referring by proper description to an instrument of public  
18 record in such THE county, in which such THE matters shall  
19 appear.

20 Section 2. This act is effective July 1, 1991.

21 (END)

House of Intro  
To Com. No. \_\_\_\_\_  
Stand Report Do \_\_\_ Amd \_\_\_ Not \_\_\_  
Com Whole Do \_\_\_ Amd \_\_\_ Not \_\_\_  
2nd Reading Amd \_\_\_  
3rd Reading Amd \_\_\_ Pass \_\_\_ Fail \_\_\_

Second House  
To Com No. \_\_\_\_\_  
Stand Report Do \_\_\_ Amd \_\_\_ Not \_\_\_  
Com Whole Do \_\_\_ Amd \_\_\_ Not \_\_\_  
2nd Reading Amd \_\_\_  
3rd Reading Amd \_\_\_ Pass \_\_\_ Fail \_\_\_

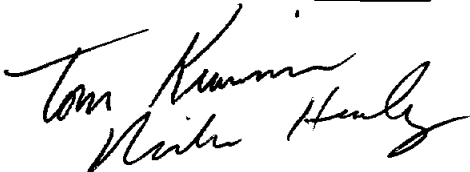
1991

STATE OF WYOMING

91LSO-0794.01

SENATE FILE NO. 0239

Real estate trusts.



Sponsored by: Senator(s) KINNISON and HEALY

A BILL

for

1 AN ACT to amend W.S. 34-2-116(a) by creating a new para-  
2 graph (iv), 34-2-122 and 34-2-123 relating to real estate  
3 trust instruments; providing requirements for acknowledge-  
4 ment of trust instrument; requiring specified information  
5 for a written trust instrument; specifying the date upon  
6 which specified provisions will become applicable; and  
7 providing for an effective date.

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

9 Section 1. W.S. 34-2-116(a) by creating a new para-  
10 graph (iv), 34-2-122 and 34-2-123 are amended to read:

11 34-2-116. Acknowledgment Act; requirements for

1 implied acknowledgment.

2 (a) Every certificate of acknowledgment substantially  
3 in the form provided for in W.S. 34-2-115 shall for all  
4 purposes be deemed to be a certification by the officer  
5 making the certificate that:

6 (iv) IF THE INSTRUMENT TO WHICH THE CERTIFICATE  
7 IS AFFIXED WAS EXECUTED BY A TRUSTEE OF AN EXPRESS TRUST  
8 CREATED BY A WRITTEN TRUST INSTRUMENT, THAT THE TRUSTEE  
9 WHO SIGNED THE INSTRUMENT ON BEHALF OF THE TRUST APPEARED  
10 BEFORE AND WAS PERSONALLY KNOWN TO THE OFFICER MAKING THE  
11 CERTIFICATE, AND WAS BY HIM DULY SWORN AND UPON OATH REP-  
12 RESENTED THAT HE WAS THE TRUSTEE OF THE TRUST, THAT THE  
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15 TEN TRUST INSTRUMENT TO EXECUTE THE INSTRUMENT ON BEHALF  
16 OF THE TRUST, AND THAT THE TRUSTEE ACKNOWLEDGED THE  
17 INSTRUMENT TO BE THE FREE ACT AND DEED OF THE TRUST.

18 34-2-122. Notice of trust or representative capacity  
19 of grantee; when certain information required. In--all  
20 instruments--conveying--real-estate,-or-interests-therein,  
21 in-which-the-grantee-is-described-as-trustee,-agent,-or-as  
22 in-any-other-representative-capacity,-such-instruments--of

1 ~~conveyance--shall--also--name--the--beneficiary--or--beneficia-~~  
2 ~~ries--so--represented--and--define--the--trust--or--other--agree-~~  
3 ~~ment--under--which--the--grantee--is--acting,~~

4       (a) AN EXPRESS TRUST CREATED BY A WRITTEN TRUST  
5 INSTRUMENT MAY ACQUIRE, OWN AND CONVEY ANY REAL ESTATE, OR  
6 INTERESTS THEREIN, IN ITS OWN NAME. CONVEYANCES OF THE  
7 INTEREST MAY BE MADE TO THE TRUST IN ITS OWN NAME OR TO  
8 THE TRUSTEES OF THE TRUST. IN THOSE SITUATIONS THE INSTRU-  
9 MENT CREATING OR CONVEYING ANY INTEREST SHALL IDENTIFY THE  
10 TRUST AS AN EXPRESS TRUST CREATED BY A WRITTEN AGREEMENT,  
11 SHALL STATE THE NAME OF THE TRUST AND THE DATE OF THE  
12 TRUST AGREEMENT. THE TRUSTEE OF THE TRUST SHALL BE DEEMED  
13 TO HAVE THE POWERS SET FORTH IN THE WYOMING UNIFORM  
14 TRUSTEES POWERS ACT UNLESS THE INSTRUMENT CREATING THE  
15 INTEREST SETS FORTH ANY LIMITATION ON THE POWERS OR ANY  
16 ADDITIONAL POWERS WHICH APPLY TO THE TRUSTEE. CONVEYANCES  
17 TO THE TRUSTS NEED NOT IDENTIFY THE BENEFICIARIES OR PRO-  
18 VIDE ANY FURTHER INFORMATION CONCERNING THE TRUST. A PUR-  
19 CHASER ACQUIRING AN INTEREST FROM A TRUST SHALL NOT BE  
20 OBLIGATED TO ASSURE THAT THE TRUSTEE OF THE TRUST HAS  
21 PROPERLY APPLIED THE PROCEEDS OF THE SALE TO THE USE OF  
22 THE BENEFICIARIES.

23       (b) CONVEYANCES OF ANY INTEREST IN REAL ESTATE TO ANY

1 TRUST, AGENCY OR OTHER REPRESENTATIVE, EXCEPT THOSE WHICH  
2 MEET THE REQUIREMENTS OF SUBSECTION (a) OF THIS SECTION  
3 SHALL BE MADE ONLY TO THE TRUSTEE, AGENT OR OTHER REPRESENTATIVE.  
4 INSTRUMENTS CREATING THE CONVEYANCES SHALL PROVIDE THE FOLLOWING INFORMATION,  
5 EITHER BY SETTING IT FORTH IN THE TEXT OF THE INSTRUMENT or shall refer by proper  
6 description of the affecting record book, page, document number or file,  
7 to the instrument, order, decree or other writing, which is of public record  
8 in the county in which the land so conveyed is located and in which such  
9 THE related matters appear: ~~7-otherwise~~

12 (i) THE NAMES AND ADDRESSES OF ALL PERSONS WHO  
13 ARE TRUSTEES, AGENTS OR REPRESENTATIVES OF THE BENEFICIARIES AT THE TIME  
14 OF THE CONVEYANCE OF THE INTEREST TO THE TRUSTEE, AGENT OR OTHER REPRESENTATIVE;

16 (ii) THE NAMES AND ADDRESSES OF ALL PEOPLE WHO  
17 HAVE A PRESENTLY VESTED BENEFICIAL INTEREST;

18 (iii) ALL POWERS AND LIMITATIONS ON THE POWERS OF THE TRUSTEE,  
19 AGENT OR OTHER REPRESENTATIVE TO ACQUIRE, MANAGE OR CONVEY THE INTERESTS;  
20 AND

21 (iv) ALL PROVISIONS CONCERNING HOW A SUCCESSOR TRUSTEE,  
22 AGENT OR OTHER REPRESENTATIVE IS TO BE CHOSEN OR

1 APPOINTED IN THE EVENT OF THE DEATH, RESIGNATION, REMOVAL  
2 OR INCAPACITY OF THE NAMED TRUSTEE, AGENT OR OTHER REPRESENTATIVE.  
3

4 (c) The description of a grantee in any representa-  
5 tive capacity as ~~afesaid~~ PROVIDED IN SUBSECTION (b) OF  
6 THIS SECTION WHICH DOES NOT COMPLY WITH THE PROVISIONS OF  
7 THIS SECTION in each ~~such~~ instrument of conveyance shall  
8 be considered and held to be a description of the person,  
9 only, and shall not be notice of any trust, agency or  
10 other representative capacity of ~~such~~ THE grantee who  
11 shall be held as vested with the power to personally con-  
12 vey, transfer, encumber or release the affected title and  
13 whenever he, she or it shall execute and deliver a convey-  
14 ance, transfer, encumbrance or release of ~~such~~ THE prop-  
15 erty in ~~such~~ A representative capacity, ~~such~~ IT shall not  
16 thereafter be questioned by anyone claiming as a benefi-  
17 ciary under ~~such~~ THE trust or agency or by anyone claiming  
18 by, through or under any undisclosed beneficiary, provided  
19 that none of the trust property in the name of ~~such~~ THE  
20 trustee, agent or representative and owned only as-~~such~~ IN  
21 THAT CAPACITY, shall be liable for his, her or its per-  
22 sonal obligations.

23 34-2-123. Notice of trust or representative capacity

1 of trustee; prior conveyances. At ANY INSTRUMENT WHICH  
2 COMPLIES WITH THIS ACT SHALL BE EFFECTIVE REGARDLESS OF  
3 WHEN IT WAS EXECUTED OR RECORDED, BUT the expiration of  
4 ten (10) years after this act ~~becomes~~ ORIGINALLY BECAME  
5 effective, all instruments of conveyance to, or transfer,  
6 encumbrance or release of, lands or any interest therein  
7 within the state of Wyoming, which name a grantee in ~~such~~  
8 A representative capacity, and fail to name the affected  
9 beneficiary or beneficiaries or to define the trust or  
10 other agreement under which ~~such~~ THE grantee takes title  
11 and which ~~have-been~~ WERE executed prior to the time this  
12 act ~~becomes~~ ORIGINALLY BECAME effective, AND ALL INSTRU-  
13 MENTS OF CONVEYANCE EXECUTED AFTER JULY 1, 1991 WHICH FAIL  
14 TO OTHERWISE COMPLY WITH THIS ACT, shall cease to be  
15 notice of any trust or representative capacity of ~~such~~ THE  
16 grantee and shall be considered and held to be a descrip-  
17 tion of the person only of ~~such~~ THE grantee, who shall be  
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2 erly interested person shall within said THE ten (10)  
3 years, file for record in the proper office of the county  
4 in which such THE land is situated, a statement, duly ver-  
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7 ciaries and defining such THE representative relationship,  
8 or referring by proper description to an instrument of  
9 public record in such THE county, in which such THE mat-  
10 ters shall appear.

11 Section 2. This act is effective July 1, 1991.

12 (END)

THE LEGISLATURE OF THE STATE OF WYOMING

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Mr. President:

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AYES: Senators Healy, Coe, Fanos, Guice and Reese

SF 0239A

*Healy*

*Mike Healy*  
Mike Healy Chairman

SF0239SS1/

SF0239A be substituted for SF0239 and that SF0239A DO PASS.  
HEALY CHAIRMAN

*Done*

1991

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91LSO-0794.SUB1  
NOT ADOPTED

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20 Section 2. This act is effective July 1, 1991.

21 (END)

SF0239SS1/

SF0239A be substituted for SF0239 and that SF0239A DO PASS.  
HEALY CHAIRMAN

*Dave*

SF0239SS1/

SF0239A be substituted for SF0239 and that SF0239A DO PASS.  
HEALY CHAIRMAN *Done*

*Letter for C/W Report*

1991

STATE OF WYOMING

91LSO-0794.SUB1  
NOT ADOPTED

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Sponsored by: Senator(s) KINNISON and HEALY

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