

JAN 19 2018

A BILL FOR AN ACT

RELATING TO VIRTUAL CURRENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 UNIFORM REGULATION OF VIRTUAL CURRENCY BUSINESSES ACT

6 PART I. GENERAL PROVISIONS

7 § -1 Short title. This chapter shall be known and cited
8 as the Uniform Regulation of Virtual Currency Businesses Act.

9 § -2 Definitions. As used in this chapter, unless the
10 context otherwise requires:

11 "Applicant" means a person that applies for a license under
12 this chapter.

13 "Bank" means a federally chartered or state chartered
14 depository institution or holder of a charter granted by the
15 Office of the Comptroller of the Currency to a person engaged in
16 the business of banking other than accepting deposits. "Bank"
17 does not include:



(1) An industrial loan company, state chartered trust company, or a limited purpose trust company unless the division has authorized the company to engage in virtual currency business activity; or

(2) A trust company or limited purpose trust company chartered by a state with which this State does not have a reciprocity agreement governing trust company activities.

"Control" means:

(1) When used in reference to a transaction or relationship involving virtual currency, power to execute unilaterally or prevent indefinitely a virtual currency transaction; and

(2) When used in reference to a person, the direct or indirect power to direct the management, operations, or policies of the person through legal or beneficial ownership of voting power in the person or under a contract, arrangement, or understanding.

"Division" means the division of financial institutions of the department of commerce and consumer affairs.



1 "Exchange", used as a verb, means to assume control of
2 virtual currency from or on behalf of a resident, at least
3 momentarily, to sell, trade, or convert:

4 (1) Virtual currency for legal tender, bank credit, or one
5 or more forms of virtual currency; or

6 (2) Legal tender or bank credit for one or more forms of
7 virtual currency.

8 "Executive officer" means an individual who is a director,
9 officer, manager, managing member, partner, or trustee of a
10 person that is not an individual.

11 "Insolvent" means:

12 (1) Having generally ceased to pay debts in the ordinary
13 course of business other than as a result of a bona
14 fide dispute;

15 (2) Being unable to pay debts as they become due; or

16 (3) Being insolvent within the meaning of federal
17 bankruptcy law.

18 "Legal tender" means a medium of exchange or unit of value,
19 including the coin or paper money of the United States, issued
20 by the United States or by another government.

21 "Licensee" means a person licensed under this chapter.



1 "Person" means an individual, partnership, estate, business
2 or nonprofit entity, or other legal entity. "Person" does not
3 include a public corporation, government, or governmental
4 subdivision, agency, or instrumentality.

5 "Reciprocity agreement" means an arrangement between the
6 division and the appropriate licensing agency of another state
7 that permits a licensee operating under a license granted by the
8 other state to engage in virtual currency business activity with
9 or on behalf of a resident.

10 "Record" means information that is inscribed on a tangible
11 medium or stored in an electronic or other medium, and is
12 retrievable in perceivable form.

13 "Registrant" means a person that has registered with this
14 State in accordance with section -27 to conduct virtual
15 currency business activity.

16 "Registration" means the ability, pursuant to section
17 -27, to conduct virtual currency business activity.

18 "Registry" means the Nationwide Multistate Licensing System
19 and Registry.

20 "Resident":

21 (1) Means a person that:



(A) Is domiciled in this State;

(B) Is physically located in this State for more than
one hundred eighty-three days of the previous
three hundred sixty-five days; or

(C) Has a place of business in this State; and

(2) Includes a legal representative of a person that
satisfies paragraph (1).

"Responsible individual" means an individual who has
managerial authority with respect to a licensee's or
registrant's virtual currency business activity with or on
behalf of a resident.

"Sign" means, with present intent to authenticate or adopt
a record, to:

(1) Execute or adopt a tangible symbol; or

(2) Attach to or logically associate with the record an
electronic symbol, sound, or process.

"State" means a state of the United States, the District of
Columbia, Puerto Rico, the United States Virgin Islands, or any
territory or insular possession subject to the jurisdiction of
the United States.



1 "Store", "storage", or "storing", except in the phrase
2 "store of value", means to maintain control of virtual currency
3 on behalf of a resident by a person other than the resident.

4 "Transfer" means to assume control of virtual currency from
5 or on behalf of a resident and to:

6 (1) Credit the virtual currency to the account of another
7 person;

8 (2) Move the virtual currency from one account of a
9 resident to another account of the same resident; or

10 (3) Relinquish control of virtual currency to another
11 person.

12 "United States dollar equivalent of virtual currency" means
13 the equivalent value of a particular virtual currency in United
14 States dollars shown on a virtual currency exchange based in the
15 United States for a particular date or period specified in this
16 chapter.

17 "Virtual currency" means a digital representation of value
18 that is used as a medium of exchange, unit of account, or store
19 of value, and is not legal tender, regardless of whether
20 denominated in legal tender. "Virtual currency" does not
21 include:



(1) A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency; or

(2) A digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

"Virtual currency administration" means issuing virtual currency with the authority to redeem the currency for legal tender, bank credit, or other virtual currency.

"Virtual currency business activity" means:

(1) Exchanging, transferring, or storing virtual currency, or engaging in virtual currency administration, whether directly or through an agreement with a virtual currency control services vendor;

(2) Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals; or



1 (3) Exchanging one or more digital representations of
2 value used within one or more online games, game
3 platforms, or family of games for:

4 (A) Virtual currency offered by or on behalf of the
5 same publisher from which the original digital
6 representation of value was received; or

7 (B) Legal tender or bank credit outside the online
8 game, game platform, or family of games offered
9 by or on behalf of the same publisher from which
10 the original digital representation of value was
11 received.

12 "Virtual currency control services vendor" means a person
13 that has control of virtual currency solely under an agreement
14 with a person that, on behalf of another person, assumes control
15 of virtual currency.

16 § -3 **Scope.** (a) Except as otherwise provided in
17 subsection (b) or (c), this chapter governs the virtual currency
18 business activity of a person, wherever located, that engages in
19 or holds itself out as engaging in the activity with or on
20 behalf of a resident.



1 (b) This chapter shall not apply to the exchange,
2 transfer, or storage of virtual currency or to virtual currency
3 administration to the extent that the Electronic Fund Transfer
4 Act of 1978 (15 U.S.C. 1693 through 1693r), as amended; the
5 Securities Exchange Act of 1934 (15 U.S.C. 78a through 78oo), as
6 amended; the Commodities Exchange Act of 1936 (7 U.S.C. 1
7 through 27f), as amended; or chapters 467B, 482E, and 485A
8 govern the activity. This chapter shall not apply to activity
9 by:

10 (1) The United States, a state, political subdivision of a
11 state, agency or instrumentality of federal, state, or
12 local government, or a foreign government or a
13 subdivision, department, agency, or instrumentality of
14 a foreign government;

15 (2) A bank;

16 (3) A person engaged in money transmission that:

17 (A) Holds a license under chapter 489D;

18 (B) Is authorized by the division to engage in
19 virtual currency business activity; and

20 (C) Complies with parts II, III, V, and VI;



1 (4) A person whose participation in a payment system is
2 limited to providing processing, clearing, or
3 performing settlement services solely for transactions
4 between or among persons that are exempt from the
5 licensing or registration requirements of this
6 chapter;

7 (5) A person engaged in the business of dealing in foreign
8 exchange to the extent the person's activity meets the
9 definition in title 31 Code of Federal Regulations
10 section 1010.605(f)(1)(iv), as amended;

11 (6) A person that:

12 (A) Contributes only connectivity software or
13 computing power to a decentralized virtual
14 currency, or to a protocol governing transfer of
15 the digital representation of value;

16 (B) Provides only data storage or security services
17 for a business engaged in virtual currency
18 business activity and does not otherwise engage
19 in virtual currency business activity on behalf
20 of another person; or



- (C) Provides only to a person otherwise exempt from this chapter virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a resident that is an end user of virtual currency;
- (7) A person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:
- (A) On its own behalf;
- (B) For personal, family, or household purposes; or
- (C) For academic purposes;
- (8) A person whose virtual currency business activity with or on behalf of residents is reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less, measured by the United States dollar equivalent of virtual currency;
- (9) An attorney to the extent of providing escrow services to a resident;
- (10) A title insurance company to the extent of providing escrow services to a resident;



1 (11) A securities intermediary, as defined in section
2 490:8-102, or a commodity intermediary, as defined in
3 section 490:9-102, that:

4 (A) Does not engage in the ordinary course of
5 business in virtual currency business activity
6 with or on behalf of a resident in addition to
7 maintaining securities accounts or commodity
8 accounts and is regulated as a securities
9 intermediary or commodity intermediary under
10 federal law, law of this State other than this
11 chapter, or law of another state; and

12 (B) Affords a resident protection comparable to those
13 set forth in section -52;

14 (12) A secured creditor under article 9 of chapter 490 or
15 creditor with a judicial lien or lien arising by
16 operation of law on collateral that is virtual
17 currency, if the virtual currency business activity of
18 the creditor is limited to enforcement of the security
19 interest in compliance with article 9 of chapter 490
20 or the lien in compliance with the law applicable to
21 the lien;



(13) A virtual currency control services vendor; or

(14) A person that:

(A) Does not receive compensation from a resident

for:

(i) Providing virtual currency products or

services; or

(ii) Conducting virtual currency business

activity; or

(B) Is engaged in testing products or services with

the person's own funds.

(c) The division may determine that a person or class of persons, given facts particular to the person or class, should be exempt from this chapter, whether the person or class is covered by requirements imposed under federal law on a money service business.

§ -4 Supplementary law. Except as otherwise provided by this chapter, the principles of law and equity shall supplement this chapter.

PART II. LICENSURE

§ -21 Conditions precedent to engaging in virtual currency business activity. A person shall not engage in



1 virtual currency business activity, or hold itself out as being
2 able to engage in virtual currency business activity, with or on
3 behalf of a resident, unless the person is:

4 (1) Licensed in this State by the division under section
5 -22;

6 (2) Licensed in another state to conduct virtual currency
7 business activity by a state with which this State has
8 a reciprocity agreement and has qualified under
9 section -23;

10 (3) Registered with the division and operating in
11 compliance with section -27; or

12 (4) Exempt from licensure or registration under this
13 chapter pursuant to section -3(b) or (c).

14 **§ -22 License by application.** (a) Except as otherwise
15 provided in section -23, an application for a license under
16 this chapter:

17 (1) Shall be made in a form and medium prescribed by the
18 division or the registry;

19 (2) Except as otherwise provided in subsection (b), shall
20 provide the following information relevant to the



1 applicant's proposed virtual currency business
2 activity:

3 (A) The legal name of the applicant, each current or
4 proposed business United States Postal Service
5 address of the applicant, and any fictitious or
6 trade name the applicant uses or plans to use in
7 conducting its virtual currency business activity
8 with or on behalf of a resident;

9 (B) The legal name, any former or fictitious name,
10 and the residential and business United States
11 Postal Service address of each executive officer
12 and responsible individual of the applicant, and
13 each person that has control of the applicant;

14 (C) A description of the current and former business
15 of the applicant for the five years before the
16 application is submitted or, if the business has
17 operated for less than five years, for the time
18 the business has operated, including its products
19 and services, associated website addresses and
20 social media pages, principal place of business,



1 projected user base, and specific marketing
2 targets;

3 (D) The name, United States Postal Service address,
4 and telephone number of a person that manages
5 each server the applicant expects to use in
6 conducting its virtual currency business activity
7 with or on behalf of a resident and a copy of any
8 agreement with that person;

9 (E) A list of:

10 (i) Each money service or money transmitter
11 license the applicant holds in another
12 state;

13 (ii) The date the license expires; and

14 (iii) Any license revocation, license suspension,
15 or other disciplinary action taken against
16 the licensee in another state and any
17 license applications rejected by another
18 state;

19 (F) A list of any criminal conviction, deferred
20 prosecution agreement, and pending criminal
21 proceeding in any jurisdiction against:



- 1 (i) The applicant;
- 2 (ii) Each executive officer of the applicant;
- 3 (iii) Each responsible individual of the
- 4 applicant;
- 5 (iv) Each person that has control over the
- 6 applicant; and
- 7 (v) Each person over which the applicant has
- 8 control;
- 9 (G) A list of any litigation, arbitration, or
- 10 administrative proceeding in any jurisdiction in
- 11 which the applicant, or an executive officer or a
- 12 responsible individual of the applicant, has been
- 13 a party for the five years before the application
- 14 is submitted, determined to be material in
- 15 accordance with generally accepted accounting
- 16 principles and, to the extent the applicant would
- 17 be required to disclose the litigation,
- 18 arbitration, or administrative proceeding in the
- 19 applicant's audited financial statements, reports
- 20 to equity owners, and similar statements or
- 21 reports;



1 (H) A list of any bankruptcy or receivership
2 proceeding in any jurisdiction for the ten years
3 before the application is submitted in which any
4 of the following was a debtor:

5 (i) The applicant;

6 (ii) Each executive officer of the applicant;

7 (iii) Each responsible individual of the
8 applicant;

9 (iv) Each person that has control over the
10 applicant; and

11 (v) Each person over which the applicant has
12 control;

13 (I) The name and United States Postal Service address
14 of each bank in which the applicant plans to
15 deposit funds obtained by its virtual currency
16 business activity;

17 (J) The source of funds and credit to be used by the
18 applicant to conduct virtual currency business
19 activity with or on behalf of a resident and
20 documentation demonstrating that the applicant



1 has the net worth and reserves required by
2 section -24;

3 (K) The United States Postal Service address and
4 electronic mail address to which communications
5 from the division may be sent;

6 (L) The name, United States Postal Service address,
7 and electronic mail address of the registered
8 agent of the applicant in this State;

9 (M) A copy of the certificate, or a detailed summary
10 acceptable to the division, of coverage for each
11 liability, casualty, business interruption, or
12 cybersecurity insurance policy maintained by the
13 applicant for itself, an executive officer, a
14 responsible individual, or the applicant's users;

15 (N) The date on which and the state where the
16 applicant is formed and a copy of a current
17 certificate of good standing by that state, if
18 applicable;

19 (O) If a person has control of the applicant and the
20 person's equity interests are publicly traded in
21 the United States, a copy of the audited



1 financial statement of the person for the most
2 recent fiscal year or most recent report of the
3 person filed under section 13 of the Securities
4 Exchange Act of 1934 (15 U.S.C. 78m), as amended;

5 (P) If a person has control of the applicant and the
6 person's equity interests are publicly traded
7 outside the United States, a copy of the audited
8 financial statement of the person for the most
9 recent fiscal year of the person or a copy of the
10 most recent documentation similar to that
11 required in subparagraph (O) filed with the
12 foreign regulator in the domicile of the person;

13 (Q) If the applicant is a partnership or a member-
14 managed limited liability company, the names and
15 United States Postal Service addresses of general
16 partners or members;

17 (R) If the applicant is required to register with the
18 Financial Crimes Enforcement Network of the
19 United States Department of the Treasury as a
20 money service business, evidence of the
21 registration;



1 (S) A set of fingerprints for each executive officer
2 and responsible individual of the applicant;

3 (T) If available, for each executive officer and
4 responsible individual of the applicant, for the
5 five years before the application is submitted:

6 (i) Employment history; and

7 (ii) History of any investigation of the
8 individual or legal proceeding to which the
9 individual was a party;

10 (U) The plans through which the applicant will meet
11 its obligations under part VI; and

12 (V) Other information the division reasonably
13 requires by rules adopted pursuant to chapter 91;
14 and

15 (3) Shall be accompanied by a nonrefundable fee in the
16 amount specified by rules adopted by the division
17 pursuant to chapter 91.

18 (b) The division may waive a requirement under subsection

19 (a) or permit the applicant to submit other information instead
20 of the required information for good cause.



1 (c) An application for a license under this section is not
2 complete until the division receives all information required by
3 this chapter and completes its investigation under subsection
4 (d) .

5 (d) On receipt of a completed application:

6 (1) The division shall investigate:

7 (A) The financial condition and responsibility of the
8 applicant;

9 (B) The relevant financial and business experience,
10 character, and general fitness of the applicant;
11 and

12 (C) The competence, experience, character, and
13 general fitness of each executive officer, each
14 responsible individual, and any person that has
15 control of the applicant; and

16 (2) The division may conduct an investigation of the
17 business premises of an applicant.

18 (e) No later than thirty days after an application is
19 complete, the division shall send the applicant notice of its
20 decision to approve, conditionally approve, or deny the
21 application. If the division does not send the applicant notice



1 of its decision within thirty-one days of completion of the
2 application, the application is deemed denied. If the division
3 does not receive notice from the applicant that the applicant
4 accepts the conditions specified by the division within thirty-
5 one days following the division's notice of the conditions, the
6 application is deemed denied.

7 (f) A license takes effect on:

8 (1) The date on which the division issues the license; or

9 (2) The date the licensee provides the security required
10 by section -24,

11 whichever occurs later.

12 (g) An applicant shall pay the reasonable costs of the
13 division's investigation under this section.

14 **§ -23 License by reciprocity.** (a) Notwithstanding
15 section -22, a person licensed by another state to conduct
16 virtual currency business activity in that state may file with
17 the registry an application under this section.

18 (b) When an application under this section is filed with
19 the registry, the applicant shall notify the division in a
20 record that the applicant has submitted the application to the
21 registry and shall submit to the division:



(1) A certification of license history from the agency responsible for issuing a license in each state in which the applicant has been licensed to conduct virtual currency business activity;

(2) A nonrefundable reciprocal licensing application fee in the amount specified by rules adopted by the division pursuant to chapter 91;

(3) Documentation demonstrating that the applicant complies with the security and net worth reserve requirements of section -24; and

(4) A certification signed by an executive officer of the applicant affirming that the applicant will conduct its virtual currency business activity with or on behalf of a resident in compliance with this chapter.

(c) The division may permit conduct of virtual currency business activity by an applicant that complies with this section.

§ -24 Security, net worth, and reserves. (a) Before a license is issued under this chapter:

(1) An applicant shall deposit with the division funds or investment property, a letter of credit, a surety



bond, or other security satisfactory to the division
that:

(A) Secures the applicant's faithful performance of
its duties under this chapter; and

(B) Is in an amount the division specifies based on
the nature and extent of risks in the applicant's
virtual currency business model;

(2) The division shall not require a surety bond as
security under this chapter unless a surety bond is
generally available in the State at a commercially
reasonable cost;

(3) Security deposited under this section shall be payable
to this State for the benefit of a claim against the
licensee on account of the licensee's virtual currency
business activity with or on behalf of a resident;

(4) Security deposited under this section shall cover
claims for the period the division specifies by rule
and for an additional period the division specifies
after the licensee ceases to engage in virtual
currency business activity with or on behalf of a
resident;



1 (5) For good cause, the division may require the licensee
2 to increase the amount of security deposited under
3 this section, and the licensee shall deposit the
4 additional security no later than fifteen days after
5 the licensee receives notice in a record of the
6 required increase;

7 (6) For good cause, the division may permit a licensee to
8 substitute or deposit an alternate form of security
9 satisfactory to the division if the licensee at all
10 times complies with this section;

11 (7) A claimant shall not have a direct right to recover
12 against security deposited under this section; and

13 (8) Only the division may recover against the security,
14 and the division may retain the recovery for no more
15 than five years and may process claims and distribute
16 recoveries to claimants in accordance with rules
17 adopted by the division under chapter 489D.

18 (b) In addition to the security required under subsection
19 (a), a licensee and a registrant, at the time of the application
20 for a license under this chapter or filing of registration,
21 shall submit to the division evidence of and maintain:



1 (1) A minimum net worth of \$25,000; and

2 (2) Sufficient unencumbered reserves for winding down the
3 licensee's or registrant's operations as agreed to by
4 the division considering the nature and size of
5 expected virtual currency business activity with or on
6 behalf of residents.

7 (c) A licensee or registrant may include in its
8 calculation of net worth virtual currency, measured by the
9 average value of the virtual currency in United States dollar
10 equivalent over the prior six months, other than the virtual
11 currency over which it has control for a resident entitled to
12 the protections under section -52.

13 (d) For good cause, the division may require a licensee or
14 registrant to increase the net worth or reserves required under
15 this section. The licensee or registrant shall submit to the
16 division evidence that it has the additional net worth or
17 reserves not later than fifteen days after the licensee or
18 registrant receives notice in a record of the required increase.

19 § -25 Issuance of license; appeal. (a) Absent good
20 cause, the division shall issue a license to an applicant if the
21 applicant complies with this part and pays the costs of the



1 investigation under section -22(g) and the initial licensee
2 fee under section -22(a)(3) in an amount required by law or
3 specified by the division by rule.

4 (b) An applicant may appeal a denial of its application
5 under section -22 or -23, under chapter 91 no later than
6 thirty days after:

7 (1) The division notifies the applicant of the denial; or

8 (2) The application is deemed denied.

9 **§ -26 Renewal of license.** (a) Subject to subsection
10 (g), no later than fifteen days before the anniversary date of
11 issue of the license granted pursuant to this chapter, a
12 licensee may apply for the renewal of the license by:

13 (1) Paying a renewal fee in an amount specified by the
14 division by rule adopted pursuant to chapter 91; and

15 (2) Submitting to the division a renewal report in
16 accordance with subsection (b).

17 (b) A renewal report required by subsection (a)(2) shall
18 be submitted in a form and medium prescribed by the division.

19 The report shall contain:

20 (1) A copy of the licensee's most recent:



1 (A) Reviewed annual financial statement if the
2 licensee's virtual currency business activity in
3 this State was \$ or less for the fiscal
4 year ending before the anniversary date of issue
5 of the license granted pursuant to this chapter;
6 or

7 (B) Audited annual financial statement if the
8 licensee's virtual currency business activity in
9 this State totaled more than \$ for the
10 fiscal year ending before the date of issue of
11 the license granted pursuant to this chapter;

12 (2) If a person other than an individual has control of
13 the licensee, a copy of the person's most recent:

14 (A) Reviewed annual financial statement if the
15 person's gross revenue was \$ or less in
16 the previous fiscal year, measured as of the
17 anniversary date of issue of the license granted
18 pursuant to this chapter; or

19 (B) Audited consolidated annual financial statement
20 if the person's gross revenue was more than
21 \$ in the previous fiscal year, measured



1 as of the anniversary date of issue of the
2 license granted pursuant to this chapter;

3 (3) A description of any:

4 (A) Material change in the financial condition of the
5 licensee;

6 (B) Material litigation involving the licensee or an
7 executive officer, or responsible individual of
8 the licensee;

9 (C) License suspension or revocation proceeding
10 commenced, or other action taken, involving a
11 license to conduct virtual currency business
12 activity issued by another state on which
13 reciprocal licensing is based;

14 (D) Federal or state investigation involving the
15 licensee; and

16 (E) Data security breach involving the licensee;

17 (4) Information or records required by section -35 that
18 the licensee has not reported to the division;

19 (5) The number of virtual currency business activity
20 transactions with or on behalf of residents for the
21 period since, subject to subsection (g), the date the



1 license was issued or the date the last renewal report
2 was submitted, whichever occurred later;

3 (6) The:

4 (A) Amount of United States dollar equivalent of
5 virtual currency in the control of the licensee
6 at, subject to subsection (g), the end of the
7 last month that ends no later than thirty days
8 before the date of the renewal report; and

9 (B) Total number of residents for whom the licensee
10 had control of United States dollar equivalent of
11 virtual currency on that date;

12 (7) Evidence that the licensee continues to satisfy
13 section -52;

14 (8) Evidence that the licensee continues to satisfy
15 section -24;

16 (9) A list of each location where the licensee operates
17 its virtual currency business activity; and

18 (10) The name, United States Postal Service address, and
19 telephone number of each person that manages a server
20 used by the licensee in conducting its virtual



1 currency business activity with or on behalf of a
2 resident.

3 (c) If a licensee does not timely comply with subsection
4 (a), the division may use enforcement measures provided under
5 part IV. Notice or hearing is not required for a suspension or
6 revocation of a license under this chapter for failure to pay a
7 renewal fee or file a renewal report.

8 (d) If the division suspends or revokes a license under
9 this chapter for noncompliance with subsection (a), the division
10 may end the suspension or rescind the revocation and notify the
11 licensee of the action if, subject to subsection (g), no later
12 than twenty days after the license was suspended or revoked, the
13 licensee:

14 (1) Files a renewal report and pays a renewal fee; and

15 (2) Pays any penalty assessed under section -44.

16 (e) The division shall give prompt notice to a licensee of
17 the lifting of a suspension or rescission of a revocation after
18 the licensee complies with subsection (d).

19 (f) Suspension or revocation of a license under this
20 section does not invalidate a transfer or exchange of virtual
21 currency for or on behalf of a resident made during the



1 suspension or revocation and does not insulate the licensee from
2 liability under this chapter.

3 (g) For good cause, the division may extend any period of
4 time under this section.

5 (h) The division shall review the renewal of a license
6 issued under section -23 to ensure that the state that issued
7 the original license has not suspended, revoked, or limited the
8 license.

9 (i) A licensee that does not comply with this section
10 shall cease operations with or on behalf of a resident on or
11 before the anniversary date of issue of the license granted
12 pursuant to this chapter.

13 (j) A licensee shall pay the reasonable and necessary
14 costs of the division's investigation under this section.

15 § -27 Registration in lieu of license. (a) A person
16 whose volume of virtual currency business activity in United
17 States dollar equivalent of virtual currency will not exceed
18 \$35,000 annually may engage in virtual currency business
19 activity with or on behalf of a resident under a registration
20 without first obtaining a license under this chapter if the
21 person:



- 1 (1) Files with the division a notice in the form and
2 medium prescribed by the division of its intention to
3 engage in virtual currency business activity with or
4 on behalf of a resident;
- 5 (2) Provides the information for an investigation under
6 section -22;
- 7 (3) States the anticipated virtual currency business
8 activity for its next fiscal quarter;
- 9 (4) Pays the division a registration fee in the amount
10 specified by the division by rule adopted pursuant to
11 chapter 91;
- 12 (5) If required to register with the Financial Crimes
13 Enforcement Network of the United States Department of
14 the Treasury as a money service business, provides the
15 division evidence of the registration;
- 16 (6) Provides evidence that the person has policies and
17 procedures to comply with the Bank Secrecy Act, title
18 31 United States Code section 5311 et seq., as
19 amended, and other applicable laws;
- 20 (7) Describes the source of funds and credit to be used by
21 the person to conduct virtual currency business



1 activity with or on behalf of a resident and provides
2 evidence of and agrees to maintain the minimum net
3 worth and reserves required by section -24 and
4 sufficient unencumbered reserves for winding down
5 operations;

6 (8) Provides the division with evidence that the person
7 has in place policies and procedures to comply with
8 parts III, V, and VI and other requirements of this
9 chapter designated by the division; and

10 (9) Provides the division with a copy of its most recent
11 financial statement, whether reviewed or audited.

12 (b) Before the virtual currency business activity of a
13 registrant with or on behalf of residents exceeds \$35,000
14 annually in United States dollar equivalent of virtual currency,
15 the registrant shall file an application for a license under
16 this chapter and may continue to operate after the activity
17 exceeds \$35,000 annually while its application for license is
18 pending.

19 (c) For good cause, the division may suspend or revoke a
20 registration without a prior hearing or opportunity to be heard.



1 (d) A registrant shall cease all virtual currency business
2 activity with or on behalf of residents:

3 (1) If the division denies the registrant's application
4 for a license under this chapter, one day after the
5 registrant receives notice in a record that the
6 division has denied the application;

7 (2) If the division suspends or revokes the registration,
8 one day after the division sends notice of the
9 suspension or revocation to the registrant in a record
10 by a means reasonably selected for the notice to be
11 received by the recipient in one day, to the address
12 provided for receiving communications from the
13 division;

14 (3) If the virtual currency business activity of the
15 registrant with or on behalf of residents exceeds
16 \$35,000 annually in United States dollar equivalent of
17 virtual currency and the registrant has not filed an
18 application for a license under this chapter; or

19 (4) On the second anniversary date of the registration.



1 § -28 License or registration not assignable or
2 transferable. A license or registration under this chapter is
3 not transferable or assignable.

4 § -29 Rules and guidance. The division may adopt rules
5 in accordance with chapter 91 to implement this chapter and
6 issue guidance as appropriate.

7 PART III. EXAMINATION; EXAMINATION FEES; DISCLOSURE OF
8 INFORMATION OBTAINED DURING EXAMINATION

9 § -31 Authority to conduct examination. (a) The
10 division may conduct an annual examination of a licensee or
11 registrant. For good cause, the division may conduct an
12 additional examination. The division may examine a licensee or
13 registrant without prior notice to the licensee or registrant.

14 (b) A licensee or registrant shall pay the reasonable and
15 necessary costs of an examination under this section.

16 (c) Information obtained during an examination under this
17 part may be disclosed only as provided in section -34.

18 § -32 Records. (a) A licensee or registrant shall
19 maintain, for all virtual currency business activity with or on
20 behalf of a resident five years after the date of the activity,
21 a record of:



(1) Each transaction of the licensee or registrant with or on behalf of the resident or for the licensee's or registrant's account in this State, including:

(A) The identity of the resident;

(B) The form of the transaction;

(C) The amount, date, and payment instructions given by the resident; and

(D) The account number, name, and United States Postal Service address of the resident, and, to the extent feasible, other parties to the transaction;

(2) The aggregate number of transactions and aggregate value of transactions by the licensee or registrant with or on behalf of the resident and for the licensee's or registrant's account in this State, expressed in United States dollar equivalent of virtual currency for the previous twelve calendar months;

(3) Each transaction in which the licensee or registrant exchanges one form of virtual currency for legal



1 tender or another form of virtual currency with or on
2 behalf of the resident;

3 (4) A general ledger posted at least monthly that lists
4 all assets, liabilities, capital, income, and expenses
5 of the licensee or registrant;

6 (5) Each business call report the licensee or registrant
7 is required to create or provide to the division or
8 registry;

9 (6) Bank statements and bank reconciliation records for
10 the licensee or registrant and the name, account
11 number, and United States Postal Service address of
12 each bank the licensee or registrant uses in the
13 conduct of its virtual currency business activity with
14 or on behalf of the resident;

15 (7) A report of any dispute with the resident; and

16 (8) A report of any virtual currency business activity
17 transaction with or on behalf of a resident that the
18 licensee or registrant was unable to complete.

19 (b) A licensee or registrant shall maintain records
20 required by subsection (a) in a form that enables the division
21 to determine whether the licensee or registrant is in compliance



1 with this chapter, any court order, and law of this State other
2 than this chapter.

3 (c) If a licensee or registrant maintains records outside
4 this State that pertain to transactions with or on behalf of a
5 resident, the licensee or registrant shall make the records
6 available to the division no later than three days after
7 request, or, on a determination of good cause by the division,
8 at a later time.

9 (d) All records maintained by a licensee or registrant are
10 subject to inspection by the division.

11 **§ -33 Rules; cooperation; data sharing authority. (a)**
12 Subject to section -34 and law of this State other than this
13 chapter concerning privacy, consumer financial privacy, data
14 protection, privilege, and confidentiality, the division may
15 cooperate, coordinate, jointly examine, consult, and share
16 records and other information with the appropriate regulatory
17 agency of another state, a self-regulatory organization, federal
18 or state regulator of banking or nondepository providers, or a
19 regulator of a jurisdiction outside the United States,
20 concerning the affairs and conduct of a licensee or registrant
21 in this State.



1 (b) The division shall:

2 (1) Establish or participate in, with another state that
3 enacts a law substantially similar to this chapter, a
4 central depository for filings required by law of this
5 State other than this chapter;

6 (2) Cooperate in developing and implementing uniform forms
7 for applications and renewal reports and the conduct
8 of joint administrative proceedings and civil actions;

9 (3) Formulate joint rules, forms, statements of policy,
10 and guidance and interpretative opinions and releases;
11 and

12 (4) Develop common systems and procedures.

13 (c) The division shall not establish or participate in a
14 central commercial depository that contains nonpublic personally
15 identifiable information that does not comply with section
16 502(e)(5) or (8) of the Gramm-Leach-Bliley Act (15 U.S.C.
17 6802(e)(5) or (8)), as amended, or with the Federal Right to
18 Financial Privacy Act (18 U.S.C. 3401 et seq.), as amended.

19 (d) In deciding whether and how to cooperate, coordinate,
20 jointly examine, consult, or share records and other information
21 under subsection (a), the division shall consider:



(1) Maximizing effectiveness and uniformity of regulation, examination, implementation, and enforcement for the benefit of residents and licensees and registrants; and

(2) Minimizing burdens on licensees and registrants without adversely affecting protection for residents.

§ -34 Confidentiality. (a) Except as otherwise provided in subsection (b) or (c), information not contained in a report otherwise available to the public or reports obtained by the division from an applicant, licensee, or registrant; information contained in or related to an examination, investigation, or operating or condition report prepared by, on behalf of, or for the use of the division; and other financial and operating information, are not subject to disclosure under chapter 92F. If the division determines the information or records are confidential under the open records law of a reciprocal licensing state, the information or records shall not be disclosed.

(b) A trade secret of an applicant, a licensee, or a registrant is confidential and shall not be subject to disclosure under chapter 92F. If the division determines a



1 trade secret is confidential under the open records law of a
2 reciprocal licensing state, the trade secret shall not be
3 disclosed.

4 (c) Subsection (a) does not prohibit the disclosure of:

- 5 (1) General information about a licensee's or registrant's
6 virtual currency business activity with or on behalf
7 of a resident;
- 8 (2) A list of persons licensed or registered under this
9 chapter; or
- 10 (3) Aggregated financial data concerning licensees or
11 registrants in this State.

12 § -35 Interim report. (a) Each licensee and registrant
13 shall file with the division a report of:

- 14 (1) A material change in information in the application
15 for a license under this chapter or a registration or
16 the most recent renewal report of the licensee under
17 this chapter or for the registrant;
- 18 (2) A material change in the licensee's or registrant's
19 business for the conduct of its virtual currency
20 business activity with or on behalf of a resident; and



(3) A change of an executive officer, responsible individual, or person in control of the licensee or registrant.

(b) Absent good cause, a report required by subsection (a) shall be filed no later than fifteen days after the change.

§ -36 Change in control of licensee or registrant. (a)

For purpose of this section, "proposed person to be in control" means the person that would control a licensee or registrant after a proposed transaction that would result in a change in control of the licensee or registrant.

(b) The following shall apply in determining whether a person has control over a licensee or registrant:

(1) There is a rebuttable presumption of control if the person's voting power in the licensee or registrant constitutes or will constitute at least twenty-five per cent of the total voting power of the licensee or registrant;

(2) There is a rebuttable presumption of control if:

(A) The person's voting power in another person constitutes or will constitute at least ten per



1 cent of the total voting power of the other
2 person; and

3 (B) The other person's voting power in the licensee
4 or registrant constitutes at least twenty-five
5 per cent of the total voting power of the
6 licensee or registrant; and

7 (3) There is no presumption of control solely because an
8 individual is an executive officer of the licensee or
9 registrant.

10 (c) At least thirty days before a proposed change in
11 control of a licensee or registrant, the proposed person to be
12 in control shall submit to the division in a record:

13 (1) An application in a form and medium prescribed by the
14 division;

15 (2) The information and records that section -22 would
16 require if the proposed person to be in control
17 already had control of the licensee;

18 (3) A license application under section -22 by the
19 proposed person to be in control;

20 (4) In the case of a registrant, the information that
21 section -27 would require if the proposed person to



1 be in control already had control of the registrant;

2 and

3 (5) In the case of a registration, a registration under
4 section -27 by the proposed person to be in
5 control.

6 (d) The division, in accordance with section -22, shall
7 approve, approve with conditions, or deny an application for a
8 change in control of a licensee or registrant. The division, in
9 a record, shall send notice of its decision to the licensee or
10 registrant and the person that would be in control if the
11 division had approved the change in control. If the division
12 denies the application, the licensee or registrant shall abandon
13 the proposed change in control or cease virtual currency
14 business activity with or on behalf of residents.

15 (e) If the division applies a condition to approval of a
16 change in control of a licensee or registrant and the division
17 does not receive notice of the applicant's acceptance of the
18 condition specified by the division no later than thirty-one
19 days after the division sends notice of the condition, the
20 application is deemed denied. If the application is deemed
21 denied, the licensee or registrant shall abandon the proposed



1 change in control or cease virtual currency business activity
2 with or on behalf of residents.

3 (f) Submission in good faith of records required by
4 subsection (c) relieves the proposed person to be in control
5 from any obligation imposed by this section other than
6 subsections (d), (e), and (h) until the division has acted on
7 the application.

8 (g) The division may revoke or modify a determination
9 under subsection (d), after notice and opportunity to be heard,
10 if, in its judgment, revocation or modification is consistent
11 with this chapter.

12 (h) If a change in control of a licensee or registrant
13 requires approval of an agency of this State or another state
14 with which this State has a reciprocity agreement and the action
15 of the other agency conflicts with that of the division, the
16 division shall confer with the other agency. If the proposed
17 change in control cannot be completed because the conflict
18 cannot be resolved, the licensee or registrant shall abandon the
19 change in control or cease virtual currency business activity
20 with or on behalf of residents.



1 § -37 Merger or consolidation by licensee or registrant.

2 (a) At least thirty days before a proposed merger or
3 consolidation of a licensee or registrant with another person,
4 the licensee or registrant shall submit to the division in a
5 record:

6 (1) An application in a form and medium prescribed by the
7 division;

8 (2) The plan of merger or consolidation in accordance with
9 subsection (e);

10 (3) In the case of a licensee, the information required by
11 section -22 concerning the person that would be the
12 surviving entity in the proposed merger or
13 consolidation; and

14 (4) In the case of a registrant, the information required
15 by section -27 concerning the person that would be
16 the surviving entity in the proposed merger or
17 consolidation.

18 (b) If a proposed merger or consolidation would change the
19 control of a licensee or registrant, the licensee or registrant
20 shall comply with section -36 and this section.



1 (c) The division, in accordance with section -22, shall
2 approve, conditionally approve, or deny an application for
3 approval of a merger or consolidation of a licensee or
4 registrant. The division, in a record, shall send notice of its
5 decision to the licensee or registrant and the person that would
6 be the surviving entity. If the division denies the
7 application, the licensee or registrant shall abandon the merger
8 or consolidation or cease virtual currency business activity
9 with or on behalf of residents.

10 (d) The division may revoke or modify a determination
11 under subsection (c), after notice and opportunity to be heard,
12 if, in its judgment, revocation or modification is consistent
13 with this chapter.

14 (e) A plan of merger or consolidation of a licensee or a
15 registrant with another person shall:

16 (1) Describe the effect of the proposed transaction on the
17 licensee's or registrant's conduct of virtual currency
18 business activity with or on behalf of residents;

19 (2) Identify each person to be merged or consolidated and
20 the person that would be the surviving entity; and



1 (3) Describe the terms and conditions of the merger or
2 consolidation and the mode of carrying it into effect.

3 (f) If a merger or consolidation of a licensee or
4 registrant and another person requires approval of an agency of
5 this State or another state with which this State has a
6 reciprocity agreement and the action of the other agency
7 conflicts with that of the division, the division shall confer
8 with the other agency. If the proposed merger or consolidation
9 cannot be completed because the conflict cannot be resolved, the
10 licensee or registrant shall abandon the merger or consolidation
11 or cease virtual currency business activity with or on behalf of
12 residents.

13 (g) The division may condition approval of an application
14 under subsection (a). If the division does not receive notice
15 from the parties that the parties accept the division's
16 condition no later than thirty-one days after the division sends
17 notice in a record of the condition, the application is deemed
18 denied. If the application is deemed denied, the licensee or
19 registrant shall abandon the merger or consolidation or cease
20 virtual currency business activity with or on behalf of
21 residents.



1 (h) If a licensee or registrant acquires substantially all
2 the assets of a person, regardless of whether the person's
3 license was approved by or registration was filed with the
4 division, the transaction is subject to this section.

5 (i) Submission in good faith of the records required by
6 subsection (e) relieves the proposed surviving entity from any
7 obligation imposed by this section, other than subsections (c),
8 (f), and (g), until the division has acted on the application.

9 **PART IV. ENFORCEMENT**

10 **§ -41 Enforcement measure.** For purposes of this part,
11 "enforcement measure" means an action to:

- 12 (1) Suspend or revoke a license or a registration under
13 this chapter;
- 14 (2) Order a person to cease and desist from doing virtual
15 currency business activity with or on behalf of a
16 resident;
- 17 (3) Request the court to appoint a receiver for the assets
18 of a person doing virtual currency business activity
19 with or on behalf of a resident;
- 20 (4) Request the court to issue temporary, preliminary, or
21 permanent injunctive relief against a person doing



1 virtual currency business activity with or on behalf
2 of a resident;

3 (5) Assess a penalty under section -43;

4 (6) Recover on the security under section -24 and
5 initiate a plan to distribute the proceeds for the
6 benefit of a resident injured by a violation of this
7 chapter or law of this State other than this chapter
8 that applies to virtual currency business activity
9 with or on behalf of a resident; or

10 (7) Impose necessary or appropriate conditions on the
11 conduct of virtual currency business activity with or
12 on behalf of a resident.

13 **§ -42 Division authority to use enforcement measures.**

14 (a) The division may take an enforcement measure against a
15 licensee, registrant, or person that is neither a licensee nor
16 registrant, but is engaging in virtual currency business
17 activity with or on behalf of a resident if:

18 (1) The licensee, registrant, or person materially
19 violates this chapter, a rule adopted or order issued
20 under this chapter, or law of this State other than
21 this chapter that applies to virtual currency business



1 activity of the violator with or on behalf of a
2 resident;

3 (2) The licensee, registrant, or person does not cooperate
4 substantially with an examination or investigation by
5 the division, fails to pay a fee, or fails to submit a
6 report or documentation;

7 (3) The licensee, registrant, or person, in the conduct of
8 its virtual currency business activity with or on
9 behalf of a resident, engages in:

10 (A) An unsafe or unsound act or practice;

11 (B) An unfair or deceptive act or practice;

12 (C) Fraud or intentional misrepresentation;

13 (D) Another dishonest act; or

14 (E) Misappropriation of legal tender, virtual
15 currency, or other value held by a fiduciary;

16 (4) An agency of the United States or another state takes
17 an action against the licensee, registrant, or person
18 that would constitute an enforcement measure if the
19 division had taken the action;

20 (5) The licensee, registrant, or person is convicted of a
21 crime related to its virtual currency business



1 activity with or on behalf of a resident or involving
2 fraud or felonious activity that, as determined by the
3 division, makes the licensee, registrant, or person
4 unsuitable to engage in virtual currency business
5 activity; or

6 (6) The licensee, registrant, or person:

7 (A) Becomes insolvent;

8 (B) Makes a general assignment for the benefit of its
9 creditors;

10 (C) Becomes the debtor, alleged debtor, respondent,
11 or person in a similar capacity in a case or
12 other proceeding under any bankruptcy,
13 reorganization, arrangement, readjustment,
14 insolvency, receivership, dissolution,
15 liquidation, or similar law, and does not obtain
16 from the court, within a reasonable time,
17 confirmation of a plan or dismissal of the case
18 or proceeding; or

19 (D) Applies for or permits the appointment of a
20 receiver, trustee, or other agent of a court for



1 itself or for a substantial part of its assets;

2 or

3 (7) The licensee, registrant, or person makes a material
4 misrepresentation to the division.

5 (b) On application and for good cause, the division may:

6 (1) Extend the due date for filing a document or report
7 under subsection (a) (2); or

8 (2) Waive to the extent warranted by circumstances, such
9 as a bona fide error notwithstanding reasonable
10 procedures designed to prevent error, an enforcement
11 measure under subsection (a) if the division
12 determines that the waiver will not adversely affect
13 the likelihood of compliance with this chapter.

14 (c) In an enforcement action related to operating without
15 a license under this chapter or registration in this State, it
16 is a defense to the action that the person has in effect a
17 customer identification program reasonably designed to identify
18 whether a customer is a resident, which failed to identify the
19 particular customer as a resident.

20 (d) A proceeding under this chapter is subject to chapter
21 91.



1 **§ -43 Civil penalty.** (a) If a person other than a
2 licensee or registrant engages in virtual currency business
3 activity with or on behalf of a resident in violation of this
4 chapter, the division may assess a civil penalty against the
5 person in an amount not to exceed \$50,000 for each day of
6 violation.

7 (b) If a licensee or registrant materially violates this
8 chapter, the division may assess a civil penalty in an amount
9 not to exceed \$10,000 for each day of violation.

10 (c) A civil penalty under this section continues to accrue
11 until:

12 (1) The date on which the violation ceases; or

13 (2) A date specified by the division,
14 whichever occurs first.

15 **§ -44 Effective period of revocation, suspension, or**
16 **cease and desist order.** (a) Revocation of a license under this
17 chapter is effective against a licensee one day after the
18 division sends notice in a record of the revocation to the
19 licensee, by a means reasonably selected for the notice to be
20 received by the recipient in one day, to the address provided
21 for receiving communications from the division.



(b) Suspension of a license under this chapter, suspension of a registration, or an order to cease and desist is effective against a licensee, registrant, or other person one day after the division sends notice in a record of the suspension or order to the licensee, registrant, or other person, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the division or, if no address is provided, to the recipient's last known address. A suspension or order to cease and desist remains in effect until the earliest of:

- (1) Entry of an order by the division pursuant to chapter 91 setting aside or limiting the suspension or order;
- (2) Entry of a court order setting aside or limiting the suspension or order to cease and desist; or
- (3) A date specified by the division.

(c) If, without reason to know of the division's notice sent under subsection (a) or (b), a licensee, registrant, or other person does not comply in accordance with the notice until the notice is actually received at the address provided, the division may consider the delay in compliance in imposing a sanction for the failure.



1 § -45 **Consent order.** The division may enter into a
2 consent order with a person regarding an enforcement measure.
3 The order may provide that it does not constitute an admission
4 of fact by a party.

5 § -46 **Scope of right of action.** (a) Except as
6 otherwise provided in this section, a person shall not have a
7 right of action for violation of this chapter.

8 (b) The division may bring an action for restitution on
9 behalf of a resident if the division proves economic injury due
10 to a violation of this chapter.

11 (c) This section shall not preclude an action by a
12 resident to enforce rights under section -52 or law of this
13 State other than this chapter.

14 **PART V. DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS**

15 § -51 **Required disclosures.** (a) A licensee or
16 registrant shall provide to a resident who uses the licensee's
17 or registrant's products or service the disclosures required by
18 subsection (b) and any additional disclosure the division by
19 rule determines reasonably necessary for the protection of
20 residents. The division shall determine by rule the time and
21 form required for disclosure. A disclosure required by this



1 section shall be made separately from any other information
2 provided by the licensee or registrant and in a clear and
3 conspicuous manner in a record the resident may keep. A
4 licensee or registrant may propose for the division's approval
5 alternate disclosures as more appropriate for its virtual
6 currency business activity with or on behalf of residents.

7 (b) Before establishing a relationship with a resident, a
8 licensee or registrant shall disclose, to the extent applicable
9 to the virtual currency business activity the licensee or
10 registrant will undertake with the resident:

11 (1) A schedule of fees and charges the licensee or
12 registrant may assess, the manner by which fees and
13 charges will be calculated if they are not set in
14 advance and disclosed, and the timing of the fees and
15 charges;

16 (2) Whether the product or service provided by the
17 licensee or registrant is covered by:

18 (A) A form of insurance or is otherwise guaranteed
19 against loss by an agency of the United States:

20 (i) Up to the full United States dollar
21 equivalent of virtual currency placed under



1 the control of or purchased from the
2 licensee or registrant as of the date of the
3 placement or purchase, including the maximum
4 amount provided by insurance under the
5 Federal Deposit Insurance Corporation or
6 otherwise available from the Securities
7 Investor Protection Corporation; or

8 (ii) If not provided at the full United States
9 dollar equivalent of virtual currency placed
10 under the control of or purchased from the
11 licensee or registrant, the maximum amount
12 of coverage for each resident expressed in
13 the United States dollar equivalent of the
14 virtual currency; or

15 (B) Private insurance against theft or loss,
16 including cyber theft or theft by other means;

17 (3) The irrevocability of a transfer or exchange and any
18 exception to irrevocability;

19 (4) A description of:

20 (A) Liability for an unauthorized, mistaken, or
21 accidental transfer or exchange;



1 (B) The resident's responsibility to provide notice
2 to the licensee or registrant of the transfer or
3 exchange;

4 (C) The basis for any recovery by the resident from
5 the licensee or registrant;

6 (D) General error resolution rights applicable to the
7 transfer or exchange; and

8 (E) The method for the resident to update the
9 resident's contact information with the licensee
10 or registrant;

11 (5) That the date or time when the transfer or exchange is
12 made and the resident's account is debited may differ
13 from the date or time when the resident initiates the
14 instruction to make the transfer or exchange;

15 (6) Whether the resident has a right to stop a
16 preauthorized payment or revoke authorization for a
17 transfer and the procedure to initiate a stop-payment
18 order or revoke authorization for a subsequent
19 transfer;

20 (7) The resident's right to receive a receipt, trade
21 ticket, or other evidence of the transfer or exchange;



1 (8) The resident's right to at least thirty days' prior
2 notice of a change in the licensee's or registrant's
3 fee schedule, other terms and conditions of operating
4 its virtual currency business activity with the
5 resident and the policies applicable to the resident's
6 account; and

7 (9) That virtual currency is not legal tender.

8 (c) Except as otherwise provided in subsection (d), at the
9 conclusion of a virtual currency transaction with or on behalf
10 of a resident, a licensee or registrant shall provide the
11 resident a confirmation in a record that contains:

12 (1) The name and contact information of the licensee or
13 registrant, including information the resident may
14 need to ask a question or file a complaint;

15 (2) The type, value, date, precise time, and amount of the
16 transaction; and

17 (3) The fee charged for the transaction, including any
18 charge for conversion of virtual currency to legal
19 tender, bank credit, or other virtual currency.

20 (d) If a licensee or registrant discloses that it will
21 provide a daily confirmation in the initial disclosure under



1 subsection (c), the licensee or registrant may elect to provide
2 a single, daily confirmation for all transactions with or on
3 behalf of a resident on that day instead of a per transaction
4 confirmation.

5 **§ -52 Property interests and entitlements to virtual**
6 **currency.** (a) A licensee or registrant that has control of
7 virtual currency for one or more persons shall maintain in its
8 control an amount of each type of virtual currency sufficient to
9 satisfy the aggregate entitlements of the persons to the type of
10 virtual currency.

11 (b) If a licensee or registrant violates subsection (a),
12 the property interests of the persons in the virtual currency
13 are pro rata property interests in the type of virtual currency
14 to which the persons are entitled, without regard to the time
15 the persons became entitled to the virtual currency or the
16 licensee or registrant obtained control of the virtual currency.

17 (c) The virtual currency referred to in this section is:

- 18 (1) Held for the persons entitled to the virtual currency;
19 (2) Not property of the licensee or registrant; and
20 (3) Not subject to the claims of creditors of the licensee
21 or registrant.



PART VI. POLICIES AND PROCEDURES

§ -61 Mandated compliance programs and monitoring. (a)

An applicant, before submitting an application, and registrant, before registering, shall create and, during licensure or registration, maintain in a record policies and procedures for:

(1) An information security and operational security program;

(2) A business continuity program;

(3) A disaster recovery program;

(4) An anti-fraud program;

(5) An anti-money laundering program;

(6) A program to prevent funding of terrorist activity; and

(7) A program designed to:

(A) Ensure compliance with this chapter, law of this State other than this chapter, and federal law, which are relevant to the virtual currency business activity contemplated by the licensee or registrant with or on behalf of residents; and

(B) Assist the licensee or registrant in achieving the purposes of law of this State other than this



chapter and federal law if violation of that law
has a remedy under this chapter.

(b) Each policy required by subsection (a) shall be in a
record and designed to be adequate for a licensee's or
registrant's contemplated virtual currency business activity
with or on behalf of residents, considering the circumstances of
all participants and the safe operation of the activity. Each
policy and implementing procedure shall be compatible with other
policies and the procedures implementing them and not conflict
with policies or procedures applicable to the licensee or
registrant under law of this State other than this chapter. A
policy and implementing procedure may be one in existence in the
licensee's or registrant's virtual currency business activity
with or on behalf of residents.

(c) A licensee's or registrant's policy for detecting
fraud shall include:

- (1) Identification and assessment of the material risks of
its virtual currency business activity related to
fraud;



1 (2) Protection against any material risk related to fraud
2 identified by the division or the licensee or
3 registrant; and

4 (3) Periodic evaluation and revision of the anti-fraud
5 procedure.

6 (d) A licensee's or registrant's policy for preventing
7 money laundering and financing of terrorist activity shall
8 include:

9 (1) Identification and assessment of the material risks of
10 its virtual currency business activity related to
11 money laundering and financing of terrorist activity;

12 (2) Procedures, in accordance with federal law or guidance
13 published by federal agencies responsible for
14 enforcing federal law, pertaining to money laundering
15 and financing of terrorist activity; and

16 (3) Filing reports under the Bank Secrecy Act (31 U.S.C.
17 5311 et seq.), as amended, or title 31 Code of Federal
18 Regulations part X, as amended, and other federal or
19 state laws pertaining to the prevention or detection
20 of money laundering or financing of terrorist
21 activity.



1 (e) A licensee's or registrant's information security and
2 operational security policy shall include reasonable and
3 appropriate administrative, physical, and technical safeguards
4 to protect the confidentiality, integrity, and availability of
5 any nonpublic personal information or virtual currency it
6 receives, maintains, or transmits.

7 (f) A licensee or registrant is not required to file with
8 the division a copy of a report it makes to a federal authority
9 unless the division specifically requires filing.

10 (g) A licensee's or registrant's protection policy under
11 subsection (e) for residents shall include:

12 (1) Any action or system of records required to comply
13 with this chapter and law of this State other than
14 this chapter applicable to the licensee or registrant
15 with respect to virtual currency business activity
16 with or on behalf of a resident;

17 (2) A procedure for resolving disputes between the
18 licensee or registrant and a resident;

19 (3) A procedure for a resident to report an unauthorized,
20 mistaken, or accidental virtual currency business
21 activity transaction; and



1 (4) A procedure for a resident to file a complaint with
2 the licensee or registrant and for the resolution of
3 the complaint in a fair and timely manner with notice
4 to the resident as soon as reasonably practical of the
5 resolution and the reasons for the resolution.

6 (h) After the policies and procedures required under this
7 section are created and approved by the division and the
8 licensee or registrant, the licensee or registrant shall engage
9 a responsible individual with adequate authority and experience
10 to monitor each policy and procedure, publicize it as
11 appropriate, recommend changes as desirable, and enforce it.

12 (i) A licensee or registrant may:

13 (1) Request advice from the division as to compliance with
14 this section; and

15 (2) With the division's approval, outsource functions,
16 other than compliance, required under this section.

17 (j) Failure of a particular policy or procedure adopted
18 under this section to meet its goals in a particular instance is
19 not a ground for liability of the licensee or registrant if the
20 policy or procedure was created, implemented, and monitored
21 properly. Repeated failures of a policy or procedure are



1 evidence that the policy or procedure was not created or
2 implemented properly.

3 (k) Policies and procedures adopted under this section
4 shall be disclosed separately from other disclosures made
5 available to a resident, in a clear and conspicuous manner and
6 in the medium through which the resident contacted the licensee
7 or registrant.

8 § -62 Mandated compliance policy or procedure. (a) An
9 applicant, before submitting its application, and a registrant,
10 before registering, shall establish and maintain in a record a
11 policy or procedure designed to ensure compliance with:

12 (1) This chapter; and

13 (2) Law of this State other than this chapter if:

14 (A) The other law is relevant to the virtual currency
15 business activity contemplated by the licensee or
16 registrant or the scope of this chapter; or

17 (B) This chapter could assist in the purpose of the
18 other law because violation of the other law has
19 a remedy under this chapter.

20 (b) A policy or procedure under subsection (a):



(1) Shall be compatible, and not conflict, with requirements applicable to a licensee or registrant under law of this State other than this chapter and under federal law; and

(2) May be a policy or procedure in existence for the licensee's or registrant's virtual currency business activity with or on behalf of a resident.

(c) After the policies and procedures required under this section are created by the licensee or registrant and approved by the division, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy or procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.

(d) A licensee or registrant may:

(1) Request advice from the division as to compliance with this section; and

(2) With the division's approval, outsource functions, other than compliance, required under this section.

(e) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the



1 policy or procedure was created, implemented, and monitored
2 properly. Repeated failures of a policy or procedure are
3 evidence that the policy or procedure was not created or
4 implemented properly.

5 **PART VII. MISCELLANEOUS PROVISIONS**

6 **§ -71 Uniformity of application and construction.** In
7 applying and construing this Uniform Act, consideration shall be
8 given to the need to promote uniformity of the law with respect
9 to its subject matter among the states that enact it.

10 **§ -72 Relation to Electronic Signatures in Global and**
11 **National Commerce Act.** This chapter modifies, limits, or
12 supersedes the Electronic Signatures in Global and National
13 Commerce Act (15 U.S.C. 7001, et seq.), but does not modify,
14 limit, or supersede section 101(c) of that Act (15 U.S.C.
15 7001(c)), or authorize electronic delivery of any of the notices
16 described in section 103(b) of that Act (15 U.S.C. 7003(b)).

17 **§ -73 Saving and transitional provisions.** (a) A
18 license issued under chapter 489D which is in effect immediately
19 before the effective date of this Act remains in effect as a
20 license for its duration unless revoked or suspended by the
21 licensing authority that issued it. A person licensed under



1 chapter 489D which does not intend to engage in virtual currency
2 business activity is not required to inform the division of its
3 intention.

4 (b) If the division denies, suspends, or revokes a license
5 under this chapter or suspends, or revokes a registration to
6 conduct virtual currency business activity with or on behalf of
7 a resident, the denial, suspension, or revocation may not be
8 used as a ground for suspension or revocation of a license
9 granted under chapter 489D unless that chapter independently
10 provides a basis for action against the licensee or registrant.

11 (c) This chapter applies to virtual currency business
12 activity with or on behalf of a resident on or after the
13 effective date of this Act.

14 (d) A person is deemed to be conducting unlicensed virtual
15 currency business activity with or on behalf of a resident in
16 violation of this chapter if the person engages in virtual
17 currency business activity on or after the effective date of
18 this Act and the person does not hold a license issued or
19 recognized under this chapter, is not exempt from this chapter,
20 and has not applied for a license or filed a registration. This
21 subsection includes a person that:



(1) Has obtained a license under chapter 489D, regardless of whether that chapter covers virtual currency business activity, or holds a charter as a trust company from this State; and

(2) Does not have permission to engage in virtual currency business activity with or on behalf of a resident."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon its approval.

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S.B. NO. 2129

Report Title:

Uniform Regulation of Virtual Currency Businesses Act; Virtual Currency; Division of Financial Institutions

Description:

Adopts the Uniform Regulation of Virtual Currency Businesses Act and codifies the Act into law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

