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## A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.

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

1       SECTION 1. Digital currency is an asset that is primarily  
2 managed or stored electronically. Digital currencies refer to  
3 digital currency, cryptocurrency, e-money, network money, e-cash  
4 and others as defined by various governmental jurisdictions.  
5 Digital currency may be recorded on a decentralized ledger on  
6 the internet or a centralized database or ledger system owned by  
7 a company.

8       Digital currencies do not have physical form like banknotes  
9 or minted coins. Digital currencies are also usually not issued  
10 by a governmental body and are generally not considered legal  
11 tender.

12       Although digital currency has grown in popularity and  
13 acceptance worldwide, there is little regulation of the industry  
14 in the United States, with a few states treating digital  
15 currency activities as within the scope of money transmitter  
16 laws. The division of financial institutions of the department  
17 of commerce and consumer affairs and the Hawaii technology  
18 development corporation are currently conducting a two-year

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1 "sandbox" program to study digital currency transactions  
2 (digital currency innovation lab). This study allows companies  
3 to conduct digital currency transactions without obtaining a  
4 money transmitter license while the division of financial  
5 institutions evaluates the need for more permanent and  
6 comprehensive oversight.

7 The data gathered through the digital currency innovation  
8 lab program confirmed that digital currency transactions are not  
9 best regulated through existing money transmitter laws and that  
10 a new regulatory framework is appropriate. This Act establishes  
11 a licensing program that will replace the digital currency  
12 innovation lab.

13 SECTION 2. The Hawaii Revised Statutes is amended by  
14 adding a new chapter to title 22, to be appropriately designated  
15 and to read as follows:

## 16 "CHAPTER \_\_\_\_\_

### 17 SPECIAL PURPOSE DIGITAL CURRENCY LICENSING ACT

#### 18 PART I. GENERAL PROVISIONS

19 § -1 **Definitions.** As used in this chapter, unless the  
20 context otherwise requires:

21 "Commissioner" means the commissioner of financial  
22 institutions.

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1 "Consumer" means a natural person who engages in a  
2 transaction that is primarily for that natural person's  
3 personal, family, or household purposes.

4 "Control of digital currency," when used in reference to a  
5 transaction or relationship involving digital currency, means  
6 the power to execute unilaterally or prevent indefinitely a  
7 digital currency transaction.

8 "Custodial services" means the safekeeping, servicing, and  
9 management of customer currency and digital assets.

10 "Department" means the department of commerce and consumer  
11 affairs.

12 "Digital currency" means any type of digital unit that is  
13 used as a medium of exchange or a form of digitally stored  
14 value. Digital currency shall be broadly construed to include  
15 digital units of exchange that have a centralized repository or  
16 administrator; are decentralized and have no centralized  
17 repository or administrator; or may be created or obtained by  
18 computing or manufacturing effort. Digital currency shall not  
19 be construed to include any of the following:

20 (1) Digital units that:

21 (A) Are used solely within online gaming platforms;

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1 (B) Have no market or application outside of those  
2 gaming platforms; and

3 (C) Cannot be converted into, or redeemed for, fiat  
4 currency or digital currency;

5 (2) Digital units that can be redeemed for goods,  
6 services, discounts, or purchases as part of a  
7 customer affinity or rewards program with the issuer  
8 or other designated merchants, or can be redeemed for  
9 digital units in another customer affinity or rewards  
10 program, but cannot be converted into or redeemed for  
11 fiat currency or digital currency; or

12 (3) Digital units used as part of prepaid cards.

13 "Digital currency administration" means issuing digital  
14 currency with the authority to redeem the currency for money,  
15 bank credit, or other digital currency.

16 "Digital currency business activity" means:

17 (1) Exchanging, transferring, or storing digital currency  
18 or engaging in digital currency administration,  
19 whether directly or through an agreement with a  
20 digital currency control-services vendor;

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(2) Holding electronic certificates representing interests in a thing of value on behalf of another person or issuing shares; or

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

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

(B) Money or bank credit outside the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received;

(4) Storing, holding, or maintaining custody or control of digital currency on behalf of others;

(5) Buying and selling digital currency as a business;

(6) Performing exchange services as a business; or

(7) Controlling, administering, or issuing a digital currency.

"Digital currency control-services vendor" means a person who has control of digital currency solely under an agreement

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1 with a person who, on behalf of another person, assumes control  
2 of digital currency.

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

5 "Elder" means a person who is sixty-two years of age or  
6 older.

7 "Exchange" means the conversion or change of fiat currency  
8 or other value into digital currency, the conversion or change  
9 of digital currency into fiat currency or other value, or the  
10 conversion or change of one form of digital currency into  
11 another form of digital currency.

12 "Licensee" means a person who is licensed or required to be  
13 licensed under this chapter.

14 "NMLS" means a multi-state licensing system developed and  
15 maintained by the Conference of State Bank Supervisors for the  
16 state licensing and registration of state-licensed financial  
17 services providers.

18 "Person" means an individual, sole proprietorship,  
19 partnership, corporation, limited liability company, limited  
20 liability partnership, or other association of individuals,  
21 however organized.

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1 "Private key" means a unique element of cryptographic data,  
2 or any substantially similar analogue, that is:

- 3 (1) Held by a person;
- 4 (2) Paired with a unique, publicly available element of  
5 cryptographic data; and
- 6 (3) Associated with an algorithm that is necessary to  
7 carry out an encryption or decryption required to  
8 execute a transaction.

9 "Special purpose digital currency company" means a person  
10 who holds a special purpose digital currency license under this  
11 chapter.

12 "Stored value" means monetary value that is evidenced by an  
13 electronic record.

14 "Tangible net worth" means total assets excluding tangible  
15 assets, less total liabilities, in accordance with United States  
16 Generally Accepted Accounting Principles.

17 "Transfer" means to assume control of digital currency from  
18 or on behalf of a person and to:

- 19 (1) Credit the digital currency to the account of another  
20 person;
- 21 (2) Move the digital currency from one account of a person  
22 to another account of the same person; or

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(3) Relinquish control of digital currency to another person.

"U.S. dollar equivalent of digital currency" means the equivalent value of a particular digital currency in United States dollars shown on a digital currency exchange based in the United States for a particular date or specified period.

**§ -2 Exclusions.** This chapter shall not apply to:

(1) The exchange, transfer, or storage of digital currency or to digital currency administration to the extent regulated by the Electronic Fund Transfer Act of 1978, 15 U.S.C. Sections 1693 through 1693r, the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a through 78oo, or the Commodity Exchange Act, 7 U.S.C. Sections 1 through 27f;

(2) Activity by a person that:

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

(B) Provides only data storage or security services for a business engaged in digital currency business activity and does not otherwise engage



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- 1                   in digital currency business activity on behalf  
2                   of another person; or
- 3           (C) Provides only to a person otherwise exempt from  
4           this chapter digital currency as one or more  
5           enterprise solutions used solely among each other  
6           and has no agreement or relationship with a  
7           person that is an end-user of digital currency;
- 8           (3) A person using digital currency, including creating,  
9           investing, buying or selling, or obtaining digital  
10          currency as payment for the purchase or sale of goods  
11          or services, solely for academic purposes;
- 12          (4) A person whose digital currency business activity with  
13          or on behalf of persons is reasonably expected to be  
14          valued, in the aggregate, on an annual basis at \$5,000  
15          or less, measured by the U.S. dollar equivalent of  
16          digital currency;
- 17          (5) An attorney to the extent of providing escrow services  
18          to a person;
- 19          (6) A securities intermediary, as defined in section  
20          490:8-102, or a commodity intermediary, as defined in  
21          section 490:9-102;
- 22          (7) A digital currency control services vendor; or

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(8) A person that:

(A) Does not receive compensation from a person for:

(i) Providing digital currency products or services; or

(ii) Conducting digital currency business activity; or

(B) Is engaged in testing products or services with the person's own funds or digital currency; or

(9) A financial institution chartered or licensed by chapter 412.

The commissioner may determine that a person or class of persons should be exempt from this chapter.

**§ -3 Powers of commissioner.** In addition to any other powers provided by law, the commissioner may:

(1) Adopt rules pursuant to chapter 91 as the commissioner deems necessary for the administration of this chapter;

(2) Issue declaratory rulings or informal nonbinding interpretations;

(3) Investigate and conduct hearings regarding any violation of this chapter or any rule or order of, or agreement with, the commissioner;

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- 1       (4) Create fact-finding committees that may make  
2       recommendations to the commissioner for the  
3       commissioner's deliberations;
- 4       (5) Require an applicant or any of its control persons,  
5       executive officers, directors, general partners, and  
6       managing members to disclose their relevant criminal  
7       history and request a criminal history record check to  
8       be conducted by or through NMLS or pursuant to chapter  
9       846. The information shall be accompanied by the  
10      appropriate payment of the applicable fee for each  
11      criminal history record check;
- 12      (6) Contract with or employ qualified persons, including  
13      accountants, attorneys, investigators, examiners,  
14      auditors, or other professionals who may be exempt  
15      from chapter 76 and who shall assist the commissioner  
16      in exercising the commissioner's powers and duties;
- 17      (7) Process and investigate complaints, subpoena witnesses  
18      and documents, administer oaths, and receive  
19      affidavits and oral testimony, including telephonic  
20      communications, and do anything necessary or  
21      incidental to the exercise of the commissioner's power

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1 and duties, including the authority to conduct  
2 contested case proceedings under chapter 91;

3 (8) Require a licensee to comply with any rule, guidance,  
4 guideline, statement, supervisory policy or any  
5 similar proclamation issued or adopted by the Federal  
6 Deposit Insurance Corporation to the same extent and  
7 in the same manner as a bank chartered by the State  
8 or, any policy position of the Conference of State  
9 Bank Supervisors;

10 (9) Enter into agreements or relationships with other  
11 government officials or regulatory associations to  
12 improve efficiencies and reduce regulatory burden by  
13 sharing resources, standardized or uniform methods or  
14 procedures, and documents, records, information, or  
15 evidence obtained under this chapter;

16 (10) Use, hire, contract, or employ public or privately  
17 available analytical systems, methods, or software to  
18 investigate or examine a licensee or person subject to  
19 this chapter;

20 (11) Accept and rely on investigation or examination  
21 reports made by other government officials, within or  
22 without this State;

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(12) Accept audit reports made by an independent certified public accountant for the licensee or person subject to this chapter during that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner; and

(13) Enter into agreements with, hire, retain, or contract with private and governmental entities to develop and create educational programs relating to special purpose digital currency.

**§ -4 License required.** (a) A person shall not engage in digital currency business activity, or hold itself out as being able to engage in digital currency business activity, with or on behalf of a person unless the person is:

(1) Licensed in this State under this chapter; or

(2) Excluded from licensing under section -2.

(b) Any transaction made in violation of this section is void, and no person shall have the right to collect, receive, or retain any principal, interest, fees, or other charges in connection with the transaction.

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1       **§ -5 Payment of fees.** All fees, fines, penalties, and  
2 other charges collected pursuant to this chapter or by rule  
3 shall be deposited with the director to the credit of the  
4 compliance resolution fund established pursuant to section 26-  
5 9(o). Payments shall be made through NMLS, to the extent  
6 allowed by NMLS.

## **PART II. LICENSING**

8       **§ -6 License; application; issuance.** (a) The  
9 commissioner shall require all licensees to register with NMLS.

10       (b) Applicants for a license shall apply in a form as  
11 prescribed by NMLS or by the commissioner. The application  
12 shall contain, at a minimum, the following information:

- 13       (1) The legal name, trade names, and business address of  
14           the applicant and, if the applicant is a partnership,  
15           association, limited liability company, limited  
16           liability partnership, or corporation, of every  
17           member, officer, principal, or director thereof;
- 18       (2) The principal place of business located in the United  
19           States;
- 20       (3) The complete address of any other branch offices at  
21           which the applicant currently proposes to engage in  
22           digital currency business activity; and

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1           (4) Other data, financial statements, and pertinent  
2           information as the commissioner may require with  
3           respect to the applicant or, if an applicant is not an  
4           individual, each of the applicant's control persons,  
5           executive officers, directors, general partners, and  
6           managing members.

7           (c) To fulfill the purposes of this chapter, the  
8           commissioner may enter into agreements or contracts with NMLS or  
9           other entities to use NMLS to collect and maintain records and  
10          process transaction fees or other fees related to licensees or  
11          other persons subject to this chapter.

12          (d) For the purpose and to the extent necessary to  
13          participate in NMLS, the commissioner may waive or modify, in  
14          whole or in part, by rule or order, any or all of the  
15          requirements of this chapter and establish new requirements as  
16          reasonably necessary to participate in NMLS.

17          (e) In connection with an application for a license under  
18          this chapter, the applicant, at a minimum, shall furnish to NMLS  
19          information or material concerning the applicant's identity,  
20          including:

21               (1) Fingerprints of the applicant or, if an applicant is  
22               not an individual, each of the applicant's control

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1 persons, executive officers, directors, general  
2 partners, and managing members for submission to the  
3 Federal Bureau of Investigation and any governmental  
4 agency or entity authorized to receive the  
5 fingerprints for a state, national, and international  
6 criminal history background check, accompanied by the  
7 applicable fee charged by the entities conducting the  
8 criminal history background check; and

9 (2) Personal history and experience of the applicant or,  
10 if an applicant is not an individual, each of the  
11 applicant's control persons, executive officers,  
12 directors, general partners, and managing members in a  
13 form prescribed by NMLS, including the submission of  
14 authorization for NMLS and the commissioner to obtain:

15 (A) An independent credit report obtained from a  
16 consumer reporting agency described in section  
17 603(p) of the Fair Credit Reporting Act, title 15  
18 United States Code section 1681a(p); and

19 (B) Information related to any administrative, civil,  
20 or criminal findings by any governmental  
21 jurisdiction;



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1 provided that the commissioner may use any information obtained  
2 pursuant to this subsection or through NMLS to determine an  
3 applicant's demonstrated financial responsibility, character,  
4 and general fitness for licensure.

5 (f) The commissioner may use NMLS as an agent for  
6 requesting information from and distributing information to the  
7 United States Department of Justice or any governmental agency.

8 (g) The commissioner may use NMLS as an agent for  
9 requesting and distributing information to and from any source  
10 directed by the commissioner.

11 (h) An applicant for a license as a special purpose  
12 digital currency company shall be registered with the business  
13 registration division of the department to do business in this  
14 State before a license pursuant to this chapter shall be  
15 granted.

16 § -7 Issuance of license; grounds for denial. (a) The  
17 commissioner shall investigate every applicant to determine the  
18 financial responsibility, character, and general fitness of the  
19 applicant. The commissioner shall issue the applicant a license  
20 to engage in the digital currency business activity if the  
21 commissioner determines that:

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1       (1) The applicant or, in the case of an applicant that is  
2       not an individual, each of the applicant's control  
3       persons, executive officers, directors, general  
4       partners, and managing members, has never had a  
5       digital currency license revoked in any jurisdiction;  
6       provided that a subsequent formal vacation of a  
7       revocation shall not be deemed a revocation;

8       (2) The applicant or, in the case of an applicant that is  
9       not an individual, each of the applicant's control  
10      persons, executive officers, directors, general  
11      partners, and managing members, has not been convicted  
12      of, pled guilty or nolo contendere to, or been granted  
13      a deferred acceptance of a guilty plea under federal  
14      law or the laws of any state to a felony in a  
15      domestic, foreign, or military court:

16      (A) During the seven-year period preceding the date  
17      of the application for licensing; or

18      (B) At any time preceding the date of application, if  
19      the felony involved an act of fraud, dishonesty,  
20      breach of trust, or money laundering; provided  
21      that any pardon of a conviction shall not be

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1           deemed a conviction for the purposes of this  
2           section;

3       (3) The applicant or, in the case of an applicant that is  
4       not an individual, each of the applicant's control  
5       persons, executive officers, directors, general  
6       partners, and managing members, has demonstrated  
7       financial responsibility, character, and general  
8       fitness to command the confidence of the community and  
9       to warrant a determination that the applicant shall  
10      operate honestly, fairly, and efficiently, pursuant to  
11      this chapter. For the purposes of this paragraph, a  
12      person is not financially responsible when the person  
13      has shown a disregard in the management of the  
14      person's financial condition. A determination that a  
15      person has shown a disregard in the management of the  
16      person's financial condition may be based upon:

- 17      (A) Current outstanding judgments, except judgments  
18      solely because of medical expenses;  
19      (B) Current outstanding tax liens or other government  
20      liens and filings, subject to applicable  
21      disclosure laws and administrative rules;  
22      (C) Foreclosures within the past three years; and

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(D) A pattern of seriously delinquent accounts within the past three years;

(4) The applicant or, in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members, has not been convicted of, pled guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under federal law or the laws of any state to any misdemeanor involving an act of fraud, dishonesty, breach of trust, or money laundering;

(5) The applicant has satisfied the licensing requirements of this chapter; and

(6) The applicant has the bond required by section -10.

(b) The applicant or, in the case of an applicant that is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members shall submit authorization to the commissioner for the commissioner to conduct background checks to determine or verify the information in subsection (a) in each state where the person has conducted the digital currency business activity.

Authorization pursuant to this subsection shall include consent

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1 to provide additional fingerprints, if necessary, to law  
2 enforcement or regulatory bodies in other states.

3 (c) A license shall not be issued to an applicant:

4 (1) Whose license to conduct business under this chapter,  
5 or any similar statute in any other jurisdiction, has  
6 been suspended or revoked within five years of the  
7 filing of the present application;

8 (2) Whose license to conduct digital currency business  
9 activity has been revoked by an administrative order  
10 issued by the commissioner or the commissioner's  
11 designee, or the licensing authority of another state  
12 or jurisdiction, for the period specified in the  
13 administrative order;

14 (3) Who has advertised directly and purposefully to Hawaii  
15 consumers or conducted transactions in violation of  
16 this chapter; or

17 (4) Who has failed to complete an application for  
18 licensure.

19 (d) A license issued in accordance with this chapter shall  
20 remain in force and effect until surrendered, suspended, or  
21 revoked, or until the license expires because of nonpayment of  
22 the annual license renewal fee as required by this chapter.

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1       §     -8   **Anti-money laundering program.**   (a)   Each licensee

2   shall conduct an initial risk assessment that will consider  
3   legal, compliance, financial, and reputational risks associated  
4   with the licensee's activities, services, customers,  
5   counterparties, and geographic location and shall establish,  
6   maintain, and enforce an anti-money laundering program based  
7   thereon. The licensee shall conduct additional assessments on  
8   an annual basis, or more frequently as risks change, and shall  
9   modify its anti-money laundering program as appropriate to  
10  reflect any such changes.

11       (b)   The anti-money laundering program shall, at a minimum:

12       (1)   Provide for a system of internal controls, policies,  
13              and procedures designed to ensure ongoing compliance  
14              with all applicable anti-money laundering laws, rules,  
15              and regulations;

16       (2)   Provide for independent testing for compliance with,  
17              and the effectiveness of, the anti-money laundering  
18              program to be conducted by qualified internal  
19              personnel of the licensee, who are not responsible for  
20              the design, installation, maintenance, or operation of  
21              the anti-money laundering program, or the policies and

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1 procedures that guide its operation, or a qualified  
2 external party, at least annually;

3 (3) Designate a qualified individual or individuals in  
4 compliance responsible for coordinating and monitoring  
5 day-to-day compliance with the anti-money laundering  
6 program; and

7 (4) Provide ongoing training for appropriate personnel to  
8 ensure they have an understanding of anti-money  
9 laundering requirements and to enable them to identify  
10 transactions required to be reported and maintain  
11 records required to be maintained.

12 (c) The anti-money laundering program shall include a  
13 written anti-money laundering policy reviewed and approved by  
14 the licensee's board of directors or equivalent governing body.

15 (d) Each licensee, as part of its anti-money laundering  
16 program, shall maintain records and make reports in the manner  
17 set forth below.

18 (1) Records of digital currency transactions. Each  
19 licensee shall maintain the following information for  
20 all digital currency transactions involving the  
21 payment, receipt, exchange, conversion, purchase,  
22 sale, transfer, or transmission of digital currency:

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1 (A) The identity and physical addresses of the party  
2 or parties to the transaction that are customers  
3 or accountholders of the licensee and, to the  
4 extent practicable, any other parties to the  
5 transaction;

6 (B) The amount or value of the transaction, including  
7 in what denomination purchased, sold, or  
8 transferred;

9 (C) The method of payment;

10 (D) The date or dates on which the transaction was  
11 initiated and completed; and

12 (E) A description of the transaction.

13 (2) Monitoring for suspicious activity. Each licensee  
14 shall monitor for transactions that might signify  
15 money laundering, tax evasion, or other illegal or  
16 criminal activity.

17 (A) Each licensee shall file suspicious activity  
18 reports in accordance with applicable federal  
19 laws, rules, and regulations; and

20 (B) Each licensee that is not subject to suspicious  
21 activity reporting requirements under federal law  
22 shall maintain a report of transactions that



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1           indicate a possible violation of law within  
2           thirty days from the detection. Continuing  
3           suspicious activity shall be reviewed on an  
4           ongoing basis and a suspicious activity report  
5           shall be filed within 120 days of the last filing  
6           describing continuing activity.

7           (e) No licensee shall structure transactions, or assist in  
8           the structuring of transactions, to evade reporting requirements  
9           under this chapter.

10          (f) No licensee shall engage in, facilitate, or knowingly  
11          allow the transfer or transmission of digital currency when such  
12          action will obfuscate or conceal the identity of an individual  
13          customer or counterparty. Nothing in this section, however,  
14          shall be construed to require a licensee to make available to  
15          the general public the fact or nature of the movement of digital  
16          currency by individual customers or counterparties.

17          (g) Each licensee shall also maintain, as part of its  
18          anti-money laundering program, a customer identification  
19          program.

20          (1) Identification and verification of account holders.

21               When opening an account for, or establishing a service  
22               relationship with, a customer, each licensee must, at

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a minimum, verify the customer's identity, maintain records of the information used to verify such identity, including name, physical address, and other identifying information, and check customers against the Specially Designated Nationals list maintained by the Office of Foreign Asset Control, a part of the U.S. Treasury Department. Enhanced due diligence may be required based on additional factors, such as for high risk customers, high-volume accounts, or accounts on which a suspicious activity report has been filed.

(2) Enhanced due diligence for accounts involving foreign entities. Licensees that maintain accounts for non-U.S. persons and non-U.S. licensees must establish enhanced due diligence policies, procedures, and controls to detect money laundering, including assessing the risk presented by such accounts based on the nature of the foreign business, the type and purpose of the activity, and the anti-money laundering and supervisory regime of the foreign jurisdiction.

(3) Prohibition on accounts with foreign shell entities. Licensees are prohibited from maintaining relationships of any type in connection with their

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1 digital currency business activity with entities that  
2 do not have a physical presence in any country.

3 (4) Identification required for large transactions. Each  
4 licensee must require verification of the identity of  
5 any accountholder initiating a transaction with a  
6 value greater than \$3,000.

7 (h) Each licensee shall demonstrate that it has risk-based  
8 policies, procedures, and practices.

9 (i) Each licensee shall have in place appropriate policies  
10 and procedures to block or reject specific or impermissible  
11 transactions that violate federal or state laws, rules, or  
12 regulations.

13 (j) The individual or individuals designated by the  
14 licensee, pursuant to subsection (b) (3), shall be responsible  
15 for day-to-day operations of the anti-money laundering program  
16 and shall, at a minimum:

17 (1) Monitor changes in anti-money laundering laws, and  
18 update the program accordingly;

19 (2) Maintain all records required to be maintained under  
20 this section;

21 (3) Review all filings required under this section before  
22 submission;

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1 (4) Escalate matters to the board of directors, senior  
2 management, or appropriate governing body and seek  
3 outside counsel, as appropriate;

4 (5) Provide periodic reporting, at least annually, to the  
5 board of directors, senior management, or appropriate  
6 governing body; and

7 (6) Ensure compliance with relevant training requirements.

8 § -9 **Cyber security program.** (a) Each licensee shall  
9 establish and maintain an effective cyber security program to  
10 ensure the availability and functionality of the licensee's  
11 electronic systems and to protect those systems and any  
12 sensitive data stored on those systems from unauthorized access,  
13 use, or tampering. The cyber security program shall be designed  
14 to perform the following five core cyber security functions:

15 (1) Identify internal and external cyber risks by, at a  
16 minimum, identifying the information stored on the  
17 licensee's systems, the sensitivity of such  
18 information, and how and by whom such information may  
19 be accessed;

20 (2) Protect the licensee's electronic systems, and the  
21 information stored on those systems, from unauthorized  
22 access, use, or other malicious acts through the use

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1 of defensive infrastructure and the implementation of  
2 policies and procedures;

3 (3) Detect systems intrusions, data breaches, unauthorized  
4 access to systems or information, malware, and other  
5 cyber security events;

6 (4) Respond to detected cyber security events to mitigate  
7 any negative effects; and

8 (5) Recover from cyber security events and restore normal  
9 operations and services.

10 (b) Each licensee shall implement a written cyber security  
11 policy setting forth the licensee's policies and procedures for  
12 the protection of its electronic systems and customer and  
13 counterparty data stored on those systems, which shall be  
14 reviewed and approved by the licensee's board of directors or  
15 equivalent governing body at least annually. The cyber security  
16 policy must address the following areas:

17 (1) Information security;

18 (2) Data governance and classification;

19 (3) Access controls;

20 (4) Business continuity and disaster recovery planning and  
21 resources;

22 (5) Capacity and performance planning;

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(6) Systems operations and availability concerns;

(7) Systems and network security;

(8) Systems and application development and quality assurance;

(9) Physical security and environmental controls;

(10) Customer data privacy;

(11) Vendor and third-party service provider management;

(12) Monitoring and implementing changes to core protocols not directly controlled by the licensee, as applicable; and

(13) Incident response.

(c) Each licensee shall designate a qualified employee to be responsible for overseeing and implementing the licensee's cyber security program and enforcing its cyber security policy.

(d) Each licensee shall submit to the commissioner a report, presented to the licensee's board of directors or equivalent governing body, at least annually, assessing the availability, functionality, and integrity of the licensee's electronic systems, identifying relevant cyber risks to the licensee, assessing the licensee's cyber security program, and proposing steps for the redress of any inadequacies identified therein.

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1 (e) Each licensee's cyber security program shall, at a  
2 minimum, include audit functions as set forth below.

3 (1) Penetration testing. Each licensee shall conduct  
4 penetration testing of its electronic systems, and  
5 vulnerability assessment of those systems based on the  
6 licensees risk assessment.

7 (2) Audit trail. Each licensee shall maintain audit trail  
8 systems that:

9 (A) Track and maintain data that allows for the  
10 complete and accurate reconstruction of all  
11 financial transactions and accounting;

12 (B) Protect the integrity of data stored and  
13 maintained as part of the audit trail from  
14 alteration or tampering;

15 (C) Protect the integrity of hardware from alteration  
16 or tampering, including by limiting electronic  
17 and physical access permissions to hardware and  
18 maintaining logs of physical access to hardware  
19 that allows for event reconstruction;

20 (D) Log system events including, at minimum, access  
21 and alterations made to the audit trail systems  
22 by the systems or by an authorized user, and all

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1 system administrator functions performed on the  
2 systems; and

3 (E) Maintain records produced as part of the audit  
4 trail in accordance with the recordkeeping  
5 requirements set forth in this chapter.

6 (f) Each licensee's cyber security program shall, at  
7 minimum, include written procedures, guidelines, and standards  
8 reasonably designed to ensure the security of all applications  
9 utilized by the licensee.

10 (g) Each licensee shall:

11 (1) Employ cyber security personnel adequate to manage the  
12 licensee's cyber security risks and to perform the  
13 core cyber security functions specified in subsection

14 (a) (1) - (5);

15 (2) Provide and require cyber security personnel to attend  
16 regular cyber security update and training sessions;  
17 and

18 (3) Require key cyber security personnel to take steps to  
19 stay abreast of changing cyber security threats and  
20 countermeasures.

21 § -10 Fees; bond. (a) A special purpose digital  
22 currency company shall pay the following fees to the division



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1 through NMLS to obtain and maintain a valid license under this  
2 chapter:

3 (1) Initial nonrefundable application fee of \$9,000;  
4 (2) Nonrefundable renewal application fee of \$1,000; and  
5 (3) Fees collected by NMLS for the processing of the  
6 application:

7 (A) Applicable fee charged by the entities conducting  
8 the criminal history background check of each of  
9 the applicant's control persons, executive  
10 officers, directors, general partners, and  
11 managing members for submission to the Federal  
12 Bureau of Investigation and any governmental  
13 agency or entity authorized to receive the  
14 fingerprints for a state, national, and  
15 international criminal history background check;  
16 and

17 (B) Applicable fee charged by the entities conducting  
18 an independent credit report obtained from a  
19 consumer reporting agency described in section  
20 603(p) of the Fair Credit Reporting Act, title 15  
21 United States Code section 1681a(p).

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1       (b) The applicant shall file and maintain a surety bond,  
2 approved by the commissioner, executed by the applicant as  
3 obligor and by a surety company authorized to operate as a  
4 surety in this State, whose liability as a surety does not  
5 exceed, in the aggregate, the penal sum of the bond. The penal  
6 sum of the bond shall be a minimum of \$500,000, based upon the  
7 annual U.S. dollar equivalent of digital currency as reported in  
8 the annual renewal report.

9       (c) The bond required by subsection (b) shall run to the  
10 State of Hawaii as obligee for the use and benefit of the State  
11 and of any person or persons who may have a cause of action  
12 against the licensee as obligor under this chapter. The bond  
13 shall be conditioned upon the following:

14       (1) The licensee as obligor shall faithfully conform to  
15 and abide by this chapter and all the rules adopted  
16 under this chapter; and

17       (2) The bond shall pay to the State and any person or  
18 persons having a cause of action against the licensee  
19 as obligor all moneys that may become due and owing to  
20 the State and those persons under and by virtue of  
21 this chapter.

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1        §     -11   **Renewal of license; annual report.**   (a)   Every  
2   licensee shall be assessed an annual fee, paid quarterly based  
3   on the Hawaii total value of transactions in U.S. dollar  
4   equivalent of digital currency activity as reported in the  
5   quarterly reports.   The quarterly fees shall be assessed the  
6   quarter after the applicant is licensed in accordance with the  
7   following:

8        (1)   For licensees with total value of transactions in U.S.  
9               dollar equivalent of digital currency under  
10               \$10,000.00, the quarterly assessment shall be \$2,500;

11        (2)   For licensees with total value of transactions in U.S.  
12               dollar equivalent of digital currency between  
13               \$10,000.01 and \$15,000.00, the quarterly assessment  
14               shall be \$3,750;

15        (3)   For licensees with total value of transactions in U.S.  
16               dollar equivalent of digital currency between  
17               15,000.01 and \$25,000.00, the quarterly assessment  
18               shall \$6,250;

19        (4)   For licensees with total value of transactions in U.S.  
20               dollar equivalent of digital currency between  
21               \$25,000.01 and \$35,000.00, the quarterly assessment  
22               shall be \$8,750; and

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(5) For licensees with total value of transactions in U.S. dollar equivalent of digital currency over \$35,000.01, the quarterly assessment shall be \$12,500.

(b) The assessments shall be paid quarterly on February 15, May 15, August 15, and November 15 of each year based on the licensee's quarterly reports as of the previous December 31, March 31, June 30, and September 30, respectively.

(c) The digital assets shall be based on the U.S. dollar value of cryptocurrency assets held on behalf of customers, calculated on U.S. dollars from the company's quarterly report based on the trading price of the asset on the licensee's platform as of 4:30 p.m. Hawaii standard time.

(d) The annual audited financial statement report shall be filed in accordance with NMLS policy. The annual audited financial report shall include balance sheets, statement of income or loss, statement of changes in shareholders' equity, and statement of cash flows or, if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation in lieu of the licensee's audited annual financial statement.

(e) The quarterly reports shall be filed in a form prescribed by the commissioner, that shall include:

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(1) A report detailing the special purpose digital currency company's activities in this State since the prior reporting period, including:

(A) The number of stored value accounts opened;

(B) The number of transactions processed;

(C) The total value of transactions in U.S. dollar equivalent of digital currency;

(D) The number of system outages;

(E) A chart of accounts, including a description of each account; and

(F) Any other information that the commissioner may require related to performance metrics and the efficacy of the special purpose digital currency license program;

(2) Any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;

(3) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority; and

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1 (4) Any other information the commissioner may require.

2 (f) A license may be renewed by continuing to meet the  
3 licensing requirements of sections -6, -7, and -8,  
4 filing a completed renewal statement on a form prescribed by  
5 NMLS or by the commissioner, paying a renewal fee, and meeting  
6 the requirements of this section.

7 (g) At renewal, a licensee that has not filed an annual  
8 financial statement, quarterly reports, that has been deemed  
9 complete by the commissioner, or paid the quarterly assessments  
10 and has not been granted an extension of time to do so by the  
11 commissioner, shall have its license suspended on the renewal  
12 date. The licensee shall have thirty days after its license is  
13 suspended to file the annual financial statement, quarterly  
14 reports or pay the quarterly assessments, plus a late filing fee  
15 of \$250 for each day after suspension that the commissioner does  
16 not receive the annual financial report, quarterly reports, and  
17 the quarterly fee. The commissioner, for good cause, may reduce  
18 or suspend the \$250 per day late filing fee.

19 § -12 **Authorized places of business; principal office;**  
20 **branch offices; relocation; closure.** (a) Every special purpose  
21 digital currency company licensed under this chapter shall have  
22 and maintain a principal place of business in the United States,

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1 regardless of whether the special purpose digital currency  
2 company maintains its principal office outside of the United  
3 States.

4 (b) The principal place of business of the special purpose  
5 digital currency company shall be identified in NMLS.

6 **§ -13 Sale or transfer of license; change of control.**

7 (a) No special purpose digital currency company license shall  
8 be transferred, except as provided in this section.

9 (b) A person or group of persons requesting approval of a  
10 proposed change of control of a licensee shall submit to the  
11 commissioner an application requesting approval of a proposed  
12 change of control of the licensee, accompanied by a  
13 nonrefundable application fee of \$10,000.

14 (c) After review of a request for approval under  
15 subsection (b), the commissioner may require the licensee or  
16 person or group of persons requesting approval of a proposed  
17 change of control of the licensee, or both, to provide  
18 additional information concerning the persons who shall assume  
19 control of the licensee. The additional information shall be  
20 limited to similar information required of the licensee or  
21 persons in control of the licensee as part of its original  
22 license or renewal application. The information shall include,

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1 for the five-year period prior to the date of the application  
2 for change of control of the licensee, a history of material  
3 litigation and criminal convictions of each person who, upon  
4 approval of the application for change of control, will be a  
5 principal of the licensee. Authorization shall also be given to  
6 conduct criminal history record checks of those persons,  
7 accompanied by the appropriate payment of the applicable fee for  
8 each record check.

9 (d) The commissioner shall approve a request for change of  
10 control under subsection (b) if, after investigation, the  
11 commissioner determines that the person or group of persons  
12 requesting approval has the competence, experience, character,  
13 and general fitness to control the licensee or person in control  
14 of the licensee in a lawful and proper manner, and that the  
15 interests of the public will not be jeopardized by the change of  
16 control.

17 (e) The following persons shall be exempt from the  
18 requirements of subsection (b), but the licensee regardless  
19 shall notify the commissioner when a change of control results  
20 in the following:

21 (1) A person who acts as a proxy for the sole purpose of  
22 voting at a designated meeting of the security holders



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1 or holders of voting interests of a licensee or person  
2 in control of a licensee;

3 (2) A person who acquires control of a licensee by devise  
4 or descent;

5 (3) A person who acquires control as a personal  
6 representative, custodian, guardian, conservator,  
7 trustee, or as an officer appointed by a court of  
8 competent jurisdiction or by operation of law; or

9 (4) A person whom the commissioner, by rule or order,  
10 exempts in the public interest.

11 (f) Before filing a request for approval for a change of  
12 control, a person may request, in writing, a determination from  
13 the commissioner as to whether the person would be considered a  
14 person in control of a licensee upon consummation of a proposed  
15 transaction. If the commissioner determines that the person  
16 would not be a person in control of a licensee, the commissioner  
17 shall enter an order to that effect and the proposed person and  
18 transaction shall not be subject to subsections (b) through (d).

19 (g) Subsection (b) shall not apply to public offerings of  
20 securities.

21 § -14 Ownership and control of digital currency. (a)

22 A licensee that has control of digital currency for one or more

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1 persons shall maintain control of digital currency in each type  
2 of digital currency sufficient to satisfy the aggregate  
3 entitlements of the persons to the type of digital currency.

4 (b) If a licensee violates subsection (a), the property  
5 interests of the persons in the digital currency are pro rata  
6 property interests in the type of digital currency to which the  
7 persons are entitled, without regard to the time the persons  
8 became entitled to the digital currency or the licensee obtained  
9 control of the digital currency.

10 (c) The digital currency referred to in this section is:

11 (1) Held for the persons entitled to the digital currency;

12 (2) Not property of the licensee; and

13 (3) Not subject to the claims of creditors of the  
14 licensee.

15 (d) To the extent a licensee stores, holds, or maintains  
16 custody or control of digital currency on behalf of another  
17 person, the licensee shall hold digital currency of the same  
18 type and amount as that which is owed or obligated to that other  
19 person.

20 (e) Each licensee is prohibited from selling,  
21 transferring, assigning, lending, hypothecating, pledging, or  
22 otherwise using or encumbering assets, including digital

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1 currency, stored, held, or maintained by, or under the custody  
2 or control of, the licensee on behalf of another person except  
3 for the sale, transfer, or assignment of the assets at the  
4 direction of that other person.

5 **PART III. DISCLOSURES, ADVERTISING, AND RECORDKEEPING**

6 **§ -15 Required disclosures.** (a) A licensee that  
7 engages in digital currency business activity shall provide to a  
8 person who uses the licensee's products or service the  
9 disclosures required by subsection (b) and any additional  
10 disclosure the commissioner determines reasonably necessary for  
11 the protection of persons. The commissioner shall determine the  
12 time and form required for disclosure. A disclosure required by  
13 this section must be made separately from any other information  
14 provided by the licensee and in a clear and conspicuous manner  
15 in a record the person may keep. A licensee may propose for the  
16 commissioner's approval alternate disclosures as more  
17 appropriate for its digital currency business activity.

18 (b) Before establishing a relationship with a person, a  
19 licensee shall disclose, to the extent applicable to the digital  
20 currency business activity the licensee will undertake with the  
21 person:

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- 1 (1) A schedule of fees and charges the licensee may  
2 assess, how fees and charges will be calculated if  
3 they are not set in advance and disclosed, and the  
4 timing of the fees and charges;
- 5 (2) That the product or service provided by the licensee  
6 is not covered by a form of insurance or is otherwise  
7 guaranteed against loss by an agency of the United  
8 States, including the Federal Deposit Insurance  
9 Corporation, the Securities Investor Protection  
10 Corporation; or the full U.S. dollar equivalent of  
11 digital currency purchased from the licensee or for  
12 control of digital currency by the licensee; or  
13 private insurance against theft or loss, including  
14 cyber theft or theft by other means;
- 15 (3) The irrevocability of a transfer or exchange;
- 16 (4) The method for the person to update the person's  
17 contact information with the licensee;
- 18 (5) That the date or time when the transfer or exchange is  
19 made, and the person's account is debited may differ  
20 from the date or time when the person initiates the  
21 instruction to make the transfer or exchange;

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(6) The person's right to receive a receipt or other evidence of the transfer or exchange;

(7) The person's right to at least thirty days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating its digital currency business activity with the person and the policies applicable to the person's account; and

(8) That digital currency is not money.

(c) Except as otherwise provided in subsection (d), at the end of a digital currency transaction with or on behalf of a person, a licensee shall provide the person a confirmation in a record that contains:

(1) The name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

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

(3) The fee charged for the transaction, including any charge for conversion of digital currency to money, bank credit, or other digital currency.

**§ -16 Records, net worth requirement.** (a) A licensee engaged in digital currency business activities may include in

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1 its calculation of tangible net worth digital currency, measured  
2 by the average value of the digital currency in U.S. dollar  
3 equivalent over the prior six months, excluding control of  
4 digital currency for a person entitled to the protections  
5 pursuant to section -14.

6 (b) Each licensee shall make, keep, preserve, and make  
7 available for inspection by the commissioner the books,  
8 accounts, and other records required in subsection (c).

9 (c) A licensee shall maintain, for all digital currency  
10 business activity with or on behalf of a person five years after  
11 the date of the activity, a record of:

12 (1) Each transaction of the licensee with or on behalf of  
13 the person or for the licensee's or account in this  
14 State, including:

15 (A) The identity of the person;

16 (B) The form of the transaction;

17 (C) The amount, date, and payment instructions given  
18 by the person; and

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

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- (2) The aggregate number of transactions and aggregate value of transactions by the licensee with or on behalf of the person and for the licensee's account in this State, expressed in U.S. dollar equivalent of digital currency for the previous twelve calendar months;
- (3) Each transaction in which the licensee exchanges one form of digital currency for money or another form of digital currency with or on behalf of the person;
- (4) A general ledger posted at least monthly that lists all assets, liabilities, capital, income, ownership equity, and expenses of the licensee;
- (5) Each business-call report the licensee is required to create or provide to the division of financial institutions or NMLS;
- (6) Bank statements and bank reconciliation records for the licensee and the name, account number, and United States Postal Service address of each bank the licensee uses in the conduct of its digital currency business activity with or on behalf of the person;
- (7) Communications and documentation related to investigations of customer complaints; and

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(8) A report of any digital currency business activity transaction with or on behalf of a person which the licensee was unable to complete.

(d) A licensee shall maintain records required by subsection (c) in a form that enables the commissioner to determine whether the licensee is in compliance with this chapter, any court order, and law of this State other than this chapter.

§ -17 **Advertising and marketing.** (a) Each licensee engaged in digital currency business activity shall not advertise its products, services, or activities in Hawaii or to Hawaii consumers without including the name of the licensee and the legend that such licensee is "Licensed to engage in Digital Currency Business Activity by the Hawaii Division of Financial Institutions."

(b) Each licensee shall maintain, for examination by the commissioner, all advertising and marketing materials for a period of at least seven years from the date of their creation, including but not limited to print media, internet media (including websites), radio and television advertising, road show materials, presentations, and brochures. Each licensee shall maintain hard copy, website captures of material changes



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1 to internet advertising and marketing, and audio and video  
2 scripts of its advertising and marketing materials, as  
3 applicable.

4 (c) In all advertising and marketing materials, each  
5 licensee shall comply with all disclosure requirements under  
6 federal and state laws, rules, and regulations.

7 (d) In all advertising and marketing materials, each  
8 licensee and any person or entity acting on its behalf, shall  
9 not, directly or by implication, make any false, misleading, or  
10 deceptive representations or omissions.

11 **§ -18 Confidentiality.** (a) Except as otherwise  
12 provided in title 12 United States Code section 5111, the  
13 requirements under any federal or state law regarding the  
14 privacy or confidentiality of any information or material  
15 provided to NMLS, and any privilege arising under federal or  
16 state law, including the rules of any federal or state court,  
17 with respect to the information or material shall continue to  
18 apply to the information or material after the information or  
19 material has been disclosed to NMLS. The information and  
20 material may be shared with all state and federal regulatory  
21 officials with oversight authority over transactions subject to

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1 this chapter, without the loss of privilege or the loss of  
2 confidentiality protections provided by federal or state law.

3 (b) For the purposes of this section, the commissioner  
4 shall be authorized to enter into agreements or sharing  
5 arrangements with other governmental agencies, the Conference of  
6 State Bank Supervisors, or other associations representing  
7 governmental agencies as established by rule or order of the  
8 commissioner.

9 (c) Information or material that is subject to a privilege  
10 or confidentiality under subsection (a) shall not be subject to:

11 (1) Disclosure under chapter 92F; or

12 (2) Subpoena or discovery, or admission into evidence, in  
13 any private civil action or administrative process,  
14 unless any privilege is determined by NMLS to be  
15 applicable to the information or material; provided  
16 that the person to whom the information or material  
17 pertains waives, in whole or in part, in the  
18 discretion of the person, that privilege.

19 (d) Notwithstanding chapter 92F, the examination process  
20 and related information and documents, including the reports of  
21 examination, shall be confidential and shall not be subject to  
22 discovery or disclosure in civil or criminal lawsuits.

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(e) In the event of a conflict between this section and any other section of law relating to the disclosure of privileged or confidential information or material, this section shall control.

(f) This section shall not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, any persons that are included in NMLS for access by the public.

**PART IV. ENFORCEMENT**

**§ -19 Enforcement authority; violations; penalties.**

(a) To ensure the effective supervision and enforcement of this chapter, the commissioner may take any disciplinary action as specified in subsection (b) against an applicant or licensee if the commissioner finds that:

(1) The applicant or licensee has violated this chapter, or any rule or order lawfully made pursuant to this chapter;

(2) The applicant has failed to disclose facts or conditions that would clearly have justified the commissioner in denying an application for licensure, had these facts or conditions been known to exist at the time the application was made;

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- 1           (3) The applicant or licensee has failed to provide  
2           information required by the commissioner within a  
3           reasonable time, as specified by the commissioner;  
4           (4) The applicant or licensee has failed to provide or  
5           maintain proof of financial responsibility;  
6           (5) The applicant or licensee is insolvent;  
7           (6) The applicant or licensee has made, in any document or  
8           statement filed with the commissioner, a false  
9           representation of a material fact or has omitted to  
10          state a material fact;  
11          (7) The applicant, licensee, or, if an applicant or  
12          licensee is not an individual, any of the applicant's  
13          or licensee's control persons, executive officers,  
14          directors, general partners, and managing members have  
15          been convicted of or entered a plea of guilty or nolo  
16          contendere to a crime involving fraud or deceit, or to  
17          any similar crime under the jurisdiction of any  
18          federal court or court of another state;  
19          (8) The applicant or licensee has failed to make,  
20          maintain, or produce records that comply with section  
21          -20 or any rule adopted by the commissioner pursuant  
22          to chapter 91;

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(9) The applicant or licensee has been the subject of any disciplinary action by any state or federal agency that resulted in revocation of a license;

(10) A final judgment has been entered against the applicant or licensee for violations of this chapter, any state or federal law concerning a digital currency license or money transmitters, or any state or federal law prohibiting unfair or deceptive acts or practices; or

(11) The applicant or licensee has failed, in a timely manner as specified by the commissioner, to take or provide proof of the corrective action required by the commissioner after an investigation or examination pursuant to section -3.

(b) After a finding of one or more of the conditions under subsection (a), the commissioner may take any or all the following actions:

(1) Deny an application for licensure, including an application for a branch office license;

(2) Revoke the license;

(3) Suspend or condition the license in accordance with -23;

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(4) Issue an order to the licensee to cease and desist from engaging in any act specified under subsection (a) or in accordance with section -24;

(5) Order the licensee to make refunds to consumers of excess charges under this chapter; or

(6) Impose penalties of up to \$10,000 for each violation in accordance with section -26.

(c) The commissioner may issue a temporary cease and desist order if the commissioner makes a finding that the licensee, applicant, or person is engaging, has engaged, or is about to engage in an illegal, unauthorized, unsafe, or unsound practice in violation of this chapter. Whenever the commissioner denies a license application or takes disciplinary action pursuant to this subsection, the commissioner shall enter an order to that effect and notify the licensee, applicant, or person of the denial or disciplinary action. The notification required by this subsection shall be given by personal service or by certified mail to the last known address of the licensee or applicant as shown on the application, license, or as subsequently furnished in writing to the commissioner.

(d) The revocation, suspension, expiration, or surrender of a license shall not affect the licensee's liability for acts

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1 previously committed or impair the commissioner's ability to  
2 issue a final agency order or take disciplinary action against  
3 the licensee.

4 (e) No revocation, suspension, consent order, or surrender  
5 of a license shall impair or affect the obligation of any  
6 preexisting lawful contract between the licensee and any  
7 consumer.

8 (f) The commissioner may reinstate a license, terminate a  
9 suspension, or grant a new license to a person whose license has  
10 been revoked or suspended if no fact or condition then exists  
11 that clearly would justify the commissioner in revoking,  
12 suspending, or refusing to grant a license.

13 (g) The commissioner may impose an administrative fine on  
14 a licensee or person subject to this chapter if the commissioner  
15 finds on the record after notice and opportunity for hearing  
16 that the licensee or person subject to this chapter has violated  
17 or failed to comply with any requirement of this chapter or any  
18 rule prescribed by the commissioner under this chapter or order  
19 issued under the authority of this chapter.

20 (h) Each violation or failure to comply with any directive  
21 or order of the commissioner shall be a separate and distinct  
22 violation.

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1        (i) Any violation of this chapter that is directed toward,  
2 targets, or injures an elder may be subject to an additional  
3 civil penalty not to exceed \$10,000 for each violation in  
4 addition to any other fines or penalties assessed for the  
5 violation.

6        **§ -20 Investigation and examination authority.** (a) In  
7 addition to the authority granted under section -3, the  
8 commissioner may conduct investigations and examinations in  
9 accordance with this section. The commissioner may access,  
10 receive, and use any books, accounts, records, files, documents,  
11 information, or evidence that the commissioner deems relevant to  
12 the investigation or examination, regardless of the location,  
13 possession, control, or custody of the documents, information,  
14 or evidence.

15        (b) For the purposes of investigating violations or  
16 complaints arising under this chapter, or for the purposes of  
17 examination, the commissioner may review, investigate, or  
18 examine any licensee or person subject to this chapter as often  
19 as necessary to carry out the purposes of this chapter. The  
20 commissioner may direct, subpoena, or order the attendance of,  
21 and examine under oath, all persons whose testimony may be  
22 required about digital currency transactions or the business or



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1 subject matter of any investigation or examination and may  
2 direct, subpoena, or order the person to produce books,  
3 accounts, records, files, and any other documents the  
4 commissioner deems relevant to the inquiry.

5 (c) Each licensee or person subject to this chapter shall  
6 provide to the commissioner, upon request, the books and records  
7 relating to the operations of the licensee or person subject to  
8 this chapter. The commissioner shall have access to the books  
9 and records and shall be permitted to interview the control  
10 persons, executive officers, directors, general partners,  
11 managing members, principals, managers, employees, independent  
12 contractors, agents, and consumers of the licensee or person  
13 subject to this chapter concerning their business.

14 (d) Each licensee or person subject to this chapter shall  
15 make or compile reports or prepare other information, as  
16 directed by the commissioner, to carry out the purposes of this  
17 section, including:

- 18 (1) Accounting compilations;  
19 (2) Information lists and data concerning digital currency  
20 transactions in a format prescribed by the  
21 commissioner; or

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1           (3) Other information that the commissioner deems  
2           necessary.

3           (e) In conducting any investigation or examination  
4 authorized by this chapter, the commissioner may control access  
5 to any documents and records of the licensee or person under  
6 investigation or examination. The commissioner may take  
7 possession of the documents and records or place a person in  
8 exclusive charge of the documents and records. During the  
9 period of control, no person shall remove or attempt to remove  
10 any of the documents and records except pursuant to a court  
11 order or with the consent of the commissioner. Unless the  
12 commissioner has reasonable grounds to believe the documents or  
13 records of the licensee or person under investigation or  
14 examination have been, or are at risk of being, altered or  
15 destroyed for the purposes of concealing a violation of this  
16 chapter, the licensee or owner of the documents and records  
17 shall have access to the documents or records as necessary to  
18 conduct its ordinary business affairs.

19           (f) The authority of this section shall remain in effect,  
20 whether a licensee or person subject to this chapter acts or  
21 claims to act under any licensing or registration law of this  
22 State or claims to act without such authority.

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1           (g) No licensee or person subject to investigation or  
2 examination under this section may knowingly withhold, abstract,  
3 remove, mutilate, destroy, or secrete any books, records,  
4 computer records, or other information.

5           (h) The commissioner may charge an investigation or  
6 examination fee, payable to the commissioner, based upon the  
7 cost per hour per examiner for all licensees and persons subject  
8 to this chapter investigated or examined by the commissioner or  
9 the commissioner's staff. The hourly fee shall be \$60 or an  
10 amount as the commissioner shall establish by rule pursuant to  
11 chapter 91. In addition to the investigation or examination  
12 fee, the commissioner may charge any person who is investigated  
13 or examined by the commissioner or the commissioner's staff  
14 pursuant to this section additional amounts for travel, per  
15 diem, mileage, and other reasonable expenses incurred in  
16 connection with the investigation or examination, payable to the  
17 commissioner.

18           (i) Any person having reason to believe that this chapter  
19 or the rules adopted under this chapter have been violated, or  
20 that a license issued under this chapter should be suspended or  
21 revoked, may file a written complaint with the commissioner,

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1 setting forth the details of the alleged violation or grounds  
2 for suspension or revocation.

3       **§ -21 Prohibited practices.** (a) It shall be a  
4 violation of this chapter for a licensee, its control persons,  
5 executive officers, directors, general partners, managing  
6 members, employees, or independent contractors, or any other  
7 person subject to this chapter to:

8       (1) Engage in any act that limits or restricts the  
9 application of this chapter;

10       (2) Use a customer's digital currency account number to  
11 prepare, issue, or create a digital currency  
12 transaction on behalf of the consumer without the  
13 customer's authorization;

14       (3) Charge, collect, or receive, directly or indirectly,  
15 charges for negotiating digital currency transactions  
16 except those explicitly authorized in this chapter;

17       (4) Fail to make disclosures as required by this chapter  
18 and any other applicable state or federal law,  
19 including rules or regulations adopted pursuant to  
20 state or federal law;

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- 1 (5) Directly or indirectly employ any scheme, device, or  
2 artifice to defraud or mislead any consumer, or any  
3 person;
- 4 (6) Directly or indirectly engage in unfair or deceptive  
5 acts, practices, or advertising in connection with a  
6 digital currency business activity toward any person;
- 7 (7) Directly or indirectly obtain digital assets by fraud  
8 or misrepresentation;
- 9 (8) Conduct digital currency business activity to any  
10 person physically located in the State through the use  
11 of the Internet, facsimile, telephone, kiosk, or other  
12 means without first obtaining a license under this  
13 chapter;
- 14 (9) Make, in any manner, any false or deceptive statement  
15 or representation, including with regard to the rates,  
16 fees, or other financing terms or conditions for  
17 digital currency activity, or engage in bait and  
18 switch advertising;
- 19 (10) Make any false statement or knowingly make any  
20 omission of material fact in connection with any  
21 reports filed with the division by a licensee or in

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1 connection with any investigation conducted by the  
2 division;

3 (11) Conduct digital currency business activity from any  
4 unlicensed location;

5 (12) Draft funds from any depository financial institution  
6 without written approval of the consumer; provided  
7 that nothing in this paragraph shall prohibit the  
8 conversion of a negotiable instrument into an  
9 electronic form for processing through the Automated  
10 Clearing House or similar system;

11 (13) Fail to comply with all applicable state and federal  
12 laws relating to the activities governed by this  
13 chapter; or

14 (14) Fail to pay any fee, assessment, or moneys due to the  
15 department.

16 (b) In addition to any other penalties provided for under  
17 this chapter, any digital currency transaction in violation of  
18 subsection (a) shall be void and unenforceable.

19 § -22 **Voluntary surrender of license.** (a) A licensee  
20 may voluntarily cease business and surrender its license by  
21 giving written notice through NMLS to the commissioner of its  
22 intent to surrender its license. Prior to the surrender date of

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1 a license, the licensee shall have either completed all pending  
2 digital currency transactions or assigned each pending digital  
3 currency transaction to another licensee.

4 (b) Notice pursuant to this section shall be provided at  
5 least thirty days before the surrender of the license and shall  
6 include:

7 (1) The date of surrender;

8 (2) The name, address, telephone number, facsimile number,  
9 and electronic mail address of a contact individual  
10 with knowledge and authority sufficient to communicate  
11 with the commissioner regarding all matters relating  
12 to the licensee during the period that it was licensed  
13 pursuant to this chapter;

14 (3) The reason or reasons for surrender;

15 (4) Total dollar amount of the licensee's outstanding  
16 digital currency transactions in Hawaii and the  
17 individual amounts of each outstanding digital  
18 currency transactions, and the name, address, and  
19 contact telephone number of the licensee to whom each  
20 outstanding digital currency transaction was assigned;

21 (5) A list of the licensee's Hawaii authorized branch  
22 offices, if any, as of the date of surrender;

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(6) Confirmation that the licensee has notified each of its Hawaii authorized branch offices, if any, that the branch offices may no longer conduct digital currency business activity on the licensee's behalf; and

(7) Confirmation that the licensee has notified each of its digital currency accounts, if any, that the digital currency account is being transferred and the name, address, telephone number, and any other contact information of the licensee or entity described in section -20 to whom the digital currency was assigned.

(c) Voluntary surrender of a license shall be effective upon the date of surrender specified on the written notice to the commissioner as required by this section; provided that the licensee has met all the requirements of voluntary surrender and has returned the original license issued.

**§ -23 Suspension or revocation of licenses.** The commissioner may suspend or revoke a license if the commissioner finds that:

(1) Any fact or condition exists that, if it had existed at the time when the licensee applied for its license,



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1 would have been grounds for denying the licensee's  
2 application;

3 (2) The licensee's tangible net worth becomes inadequate  
4 and the licensee, after ten days written notice from  
5 the commissioner, fails to take steps as the  
6 commissioner deems necessary to remedy a deficiency;

7 (3) The licensee knowingly violates any material provision  
8 of this chapter or any rule or order validly adopted  
9 by the commissioner under authority of this chapter;

10 (4) The licensee is conducting its business in an unsafe  
11 or unsound manner;

12 (5) The licensee is insolvent;

13 (6) The licensee has suspended payment of its obligations,  
14 has made an assignment for the benefit of its  
15 creditors, or has admitted, in writing, its inability  
16 to pay its debts as they become due;

17 (7) The licensee has filed for bankruptcy, reorganization,  
18 arrangement, or other relief under any bankruptcy law;

19 (8) The licensee refuses to permit the commissioner to  
20 make any examination authorized by this chapter; or

21 (9) The competence, experience, character, or general  
22 fitness of the licensee indicates that it is not in

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1           the public interest to allow the licensee to have a  
2           license.

3           §    **-24 Orders to cease and desist.**   (a)   If the  
4   commissioner determines a violation of this chapter or a rule  
5   adopted or an order issued under this chapter by a licensee or  
6   authorized delegate is:

7           (1)   Likely to cause immediate and irreparable harm to the  
8                licensee, the licensee's customers, or the public as a  
9                result of the violation; or

10          (2)   Cause insolvency or significant dissipation of assets  
11                of the licensee, the commissioner may issue an order  
12                requiring the licensee to cease and desist from the  
13                violation. The order becomes effective upon service  
14                of the order upon the licensee.

15          (b)   An order to cease and desist remains effective and  
16   enforceable pending the completion of an administrative  
17   proceeding pursuant to chapter 91.

18          (c)   A licensee that is served with an order to cease and  
19   desist may petition the circuit court for a judicial order  
20   setting aside, limiting, or suspending the enforcement,  
21   operation, or effectiveness of the order pending the completion

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1 of an administrative proceeding pursuant to section -29 or  
2 -30.

3 (d) The commissioner shall commence an administrative  
4 proceeding pursuant to chapter 91 within twenty days after  
5 issuing an order to cease and desist.

6 (e) The commissioner may apply to the circuit court for an  
7 appropriate order to protect the public interest.

8 § -25 **Consent orders.** The commissioner may enter into  
9 a consent order at any time with a person to resolve a matter  
10 arising under this chapter. A consent order shall be signed by  
11 the person to whom the order is issued or by the person's  
12 authorized representative, and shall indicate agreement with the  
13 terms contained in the order. A consent order may provide that  
14 it does not constitute an admission by a person that this  
15 chapter or a rule adopted or an order issued under this chapter  
16 has been violated.

17 § -26 **Civil penalties.** The commissioner may assess a  
18 fine against a person who violates this chapter or a rule  
19 adopted or an order issued under this chapter in an amount not  
20 to exceed \$10,000 per violation is outstanding, plus the State's  
21 costs and expenses for the investigation and prosecution of the  
22 matter, including reasonable attorneys' fees.

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1           §     **-27 Criminal penalties.** (a) A person who  
2 intentionally makes a false statement, misrepresentation, or  
3 false certification in a record filed or required to be  
4 maintained under this chapter, who intentionally makes a false  
5 entry, or who omits a material entry in a record shall be guilty  
6 of a class C felony, and be subject to a fine in an amount up to  
7 \$10,000.

8           (b) An individual or person who knowingly engages in any  
9 activity for which a license is required under this chapter,  
10 without being licensed under this chapter, shall be guilty of a  
11 misdemeanor, and be subject to a fine in an amount not to exceed  
12 \$1,000, imprisonment of not more than one year, or both, and  
13 each day a violation exists shall be deemed a separate offense.

14          §     **-28 Unlicensed persons.** (a) If the commissioner has  
15 reason to believe that a person has violated or is violating  
16 section     -4, the commissioner may issue an order to show cause  
17 why an order to cease and desist should not issue requiring that  
18 the person cease and desist from the violation of section     -4.

19          (b) If the commissioner has reason to believe that a  
20 person has violated or is violating section     -4, the  
21 commissioner may petition the circuit court for the issuance of

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1 a temporary restraining order if the public would be irreparably  
2 harmed.

3 (c) An order to cease and desist becomes effective upon  
4 service of the order upon the person.

5 (d) An order to cease and desist remains effective and  
6 enforceable pending the completion of an administrative  
7 proceeding pursuant to section -29.

8 (e) A person who is served with an order to cease and  
9 desist for violating section -4 may petition the circuit  
10 court for a judicial order setting aside, limiting, or  
11 suspending the enforcement, operation, or effectiveness of the  
12 order to cease and desist pending the completion of an  
13 administrative proceeding pursuant to section -29.

14 (f) The commissioner shall commence an administrative  
15 proceeding within twenty days after issuing an order to cease  
16 and desist.

17 § -29 **Administrative procedures.** All administrative  
18 proceedings under this chapter shall be conducted in accordance  
19 with chapter 91.

20 § -30 **Hearings.** Except as otherwise provided in  
21 sections -11(g) and -23, the commissioner may not suspend  
22 or revoke a license, issue an order to cease and desist, suspend

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1 or revoke the designation of a licensee, or assess a civil  
2 penalty without notice and an opportunity to be heard.

3       **§ -31 Division functions.** (a) The division shall  
4 exercise all administrative functions of the State in relation  
5 to the regulation, supervision, and licensing of money  
6 transmitters.

7       (b) The division shall interpret and carry out the  
8 provisions of this chapter."

9       SECTION 3. Section 489D-4, Hawaii Revised Statutes, is  
10 amended by amending the definition of "monetary value" to read  
11 as follows:

12       ""Monetary value" means a medium of exchange, whether or  
13 not redeemable in money[+] except as defined as digital currency  
14 under chapter \_\_\_\_\_."

15       SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17       "(b) Criminal history record checks may be conducted by:

18       (1) The department of health or its designee on operators  
19 of adult foster homes for individuals with  
20 developmental disabilities or developmental  
21 disabilities domiciliary homes and their employees, as  
22 provided by section 321-15.2;

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- 1           (2) The department of health or its designee on  
2           prospective employees, persons seeking to serve as  
3           providers, or subcontractors in positions that place  
4           them in direct contact with clients when providing  
5           non-witnessed direct mental health or health care  
6           services as provided by section 321-171.5;
- 7           (3) The department of health or its designee on all  
8           applicants for licensure or certification for,  
9           operators for, prospective employees, adult  
10          volunteers, and all adults, except adults in care, at  
11          healthcare facilities as defined in section 321-15.2;
- 12          (4) The department of education on employees, prospective  
13          employees, and teacher trainees in any public school  
14          in positions that necessitate close proximity to  
15          children as provided by section 302A-601.5;
- 16          (5) The counties on employees and prospective employees  
17          who may be in positions that place them in close  
18          proximity to children in recreation or child care  
19          programs and services;
- 20          (6) The county liquor commissions on applicants for liquor  
21          licenses as provided by section 281-53.5;

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- 1           (7) The county liquor commissions on employees and  
2           prospective employees involved in liquor  
3           administration, law enforcement, and liquor control  
4           investigations;
- 5           (8) The department of human services on operators and  
6           employees of child caring institutions, child placing  
7           organizations, and foster boarding homes as provided  
8           by section 346-17;
- 9           (9) The department of human services on prospective  
10          adoptive parents as established under section 346-19.7;
- 11          (10) The department of human services or its designee on  
12          applicants to operate child care facilities, household  
13          members of the applicant, prospective employees of the  
14          applicant, and new employees and household members of  
15          the provider after registration or licensure as  
16          provided by section 346-154, and persons subject to  
17          section 346-152.5;
- 18          (11) The department of human services on persons exempt  
19          pursuant to section 346-152 to be eligible to provide  
20          child care and receive child care subsidies as  
21          provided by section 346-152.5;



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1       (12) The department of health on operators and employees of  
2           home and community-based case management agencies and  
3           operators and other adults, except for adults in care,  
4           residing in community care foster family homes as  
5           provided by section 321-15.2;

6       (13) The department of human services on staff members of  
7           the Hawaii youth correctional facility as provided by  
8           section 352-5.5;

9       (14) The department of human services on employees,  
10          prospective employees, and volunteers of contracted  
11          providers and subcontractors in positions that place  
12          them in close proximity to youth when providing  
13          services on behalf of the office or the Hawaii youth  
14          correctional facility as provided by section 352D-4.3;

15      (15) The judiciary on employees and applicants at detention  
16          and shelter facilities as provided by section 571-34;

17      (16) The department of public safety on employees and  
18          prospective employees who are directly involved with  
19          the treatment and care of persons committed to a  
20          correctional facility or who possess police powers  
21          including the power of arrest as provided by section  
22          353C-5;

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- 1       (17) The board of private detectives and guards on  
2           applicants for private detective or private guard  
3           licensure as provided by section 463-9;
- 4       (18) Private schools and designated organizations on  
5           employees and prospective employees who may be in  
6           positions that necessitate close proximity to  
7           children; provided that private schools and designated  
8           organizations receive only indications of the states  
9           from which the national criminal history record  
10          information was provided pursuant to section 302C-1;
- 11       (19) The public library system on employees and prospective  
12           employees whose positions place them in close  
13           proximity to children as provided by section  
14           302A-601.5;
- 15       (20) The State or any of its branches, political  
16           subdivisions, or agencies on applicants and employees  
17           holding a position that has the same type of contact  
18           with children, vulnerable adults, or persons committed  
19           to a correctional facility as other public employees  
20           who hold positions that are authorized by law to  
21           require criminal history record checks as a condition  
22           of employment as provided by section 78-2.7;

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1 (21) The department of health on licensed adult day care  
2 center operators, employees, new employees,  
3 subcontracted service providers and their employees,  
4 and adult volunteers as provided by section 321-15.2;

5 (22) The department of human services on purchase of  
6 service contracted and subcontracted service providers  
7 and their employees serving clients of the adult  
8 protective and community services branch, as provided  
9 by section 346-97;

10 (23) The department of human services on foster grandparent  
11 program, senior companion program, and respite  
12 companion program participants as provided by section  
13 346-97;

14 (24) The department of human services on contracted and  
15 subcontracted service providers and their current and  
16 prospective employees that provide home and community-  
17 based services under section 1915(c) of the Social  
18 Security Act, title 42 United States Code section  
19 1396n(c), or under any other applicable section or  
20 sections of the Social Security Act for the purposes  
21 of providing home and community-based services, as  
22 provided by section 346-97;

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1 (25) The department of commerce and consumer affairs on  
2 proposed directors and executive officers of a bank,  
3 savings bank, savings and loan association, trust  
4 company, and depository financial services loan  
5 company as provided by section 412:3-201;

6 (26) The department of commerce and consumer affairs on  
7 proposed directors and executive officers of a  
8 nondepository financial services loan company as  
9 provided by section 412:3-301;

10 (27) The department of commerce and consumer affairs on the  
11 original chartering applicants and proposed executive  
12 officers of a credit union as provided by section  
13 412:10-103;

14 (28) The department of commerce and consumer affairs on:

15 (A) Each principal of every non-corporate applicant  
16 for a money transmitter license;

17 (B) Each person who upon approval of an application  
18 by a corporate applicant for a money transmitter  
19 license will be a principal of the licensee; and

20 (C) Each person who upon approval of an application  
21 requesting approval of a proposed change in  
22 control of licensee will be a principal of the

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1                   licensee, as provided by sections 489D-9 and  
2                   489D-15;

3       (29)   The department of commerce and consumer affairs on  
4            applicants for licensure and persons licensed under  
5            title 24;

6       (30)   The Hawaii health systems corporation on:

7            (A)   Employees;

8            (B)   Applicants seeking employment;

9            (C)   Current or prospective members of the corporation  
10           board or regional system board; or

11           (D)   Current or prospective volunteers, providers, or  
12           contractors,

13           in any of the corporation's health facilities as  
14           provided by section 323F-5.5;

15       (31)   The department of commerce and consumer affairs on:

16            (A)   An applicant for a mortgage loan originator  
17           license, or license renewal; and

18            (B)   Each control person, executive officer, director,  
19           general partner, and managing member of an  
20           applicant for a mortgage loan originator company  
21           license or license renewal,

22           as provided by chapter 454F;

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1       (32) The state public charter school commission or public  
2           charter schools on employees, teacher trainees,  
3           prospective employees, and prospective teacher  
4           trainees in any public charter school for any position  
5           that places them in close proximity to children, as  
6           provided in section 302D-33;

7       (33) The counties on prospective employees who work with  
8           children, vulnerable adults, or senior citizens in  
9           community-based programs;

10      (34) The counties on prospective employees for fire  
11          department positions which involve contact with  
12          children or vulnerable adults;

13      (35) The counties on prospective employees for emergency  
14          medical services positions which involve contact with  
15          children or vulnerable adults;

16      (36) The counties on prospective employees for emergency  
17          management positions and community volunteers whose  
18          responsibilities involve planning and executing  
19          homeland security measures including viewing,  
20          handling, and engaging in law enforcement or  
21          classified meetings and assisting vulnerable citizens  
22          during emergencies or crises;

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1       (37)   The State and counties on employees, prospective  
2           employees, volunteers, and contractors whose position  
3           responsibilities require unescorted access to secured  
4           areas and equipment related to a traffic management  
5           center;

6       (38)   The State and counties on employees and prospective  
7           employees whose positions involve the handling or use  
8           of firearms for other than law enforcement purposes;

9       (39)   The State and counties on current and prospective  
10          systems analysts and others involved in an agency's  
11          information technology operation whose position  
12          responsibilities provide them with access to  
13          proprietary, confidential, or sensitive information;

14      (40)   The department of commerce and consumer affairs on:

15          (A)   Applicants for real estate appraiser licensure or  
16               certification as provided by chapter 466K;

17          (B)   Each person who owns more than ten per cent of an  
18               appraisal management company who is applying for  
19               registration as an appraisal management company,  
20               as provided by section 466L-7; and

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- 1 (C) Each of the controlling persons of an applicant  
2 for registration as an appraisal management  
3 company, as provided by section 466L-7;
- 4 (41) The department of health or its designee on all  
5 license applicants, licensees, employees, contractors,  
6 and prospective employees of medical cannabis  
7 dispensaries, and individuals permitted to enter and  
8 remain in medical cannabis dispensary facilities as  
9 provided under sections 329D-15(a) (4) and  
10 329D-16(a) (3);
- 11 (42) The department of commerce and consumer affairs on  
12 applicants for nurse licensure or license renewal,  
13 reactivation, or restoration as provided by sections  
14 457-7, 457-8, 457-8.5, and 457-9;
- 15 (43) The county police departments on applicants for  
16 permits to acquire firearms pursuant to section 134-2  
17 and on individuals registering their firearms pursuant  
18 to section 134-3;
- 19 (44) The department of commerce and consumer affairs on:  
20 (A) Each of the controlling persons of the applicant  
21 for licensure as an escrow depository, and each  
22 of the officers, directors, and principals who



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1 will be in charge of the escrow depository's  
2 activities upon licensure; and

3 (B) Each of the controlling persons of an applicant  
4 for proposed change in control of an escrow  
5 depository licensee, and each of the officers,  
6 directors, and principals who will be in charge  
7 of the licensee's activities upon approval of  
8 such application,

9 as provided by chapter 449;

10 (45) The department of taxation on current or prospective  
11 employees or contractors who have access to federal  
12 tax information in order to comply with requirements  
13 of federal law, regulation, or procedure, as provided  
14 by section 231-1.6;

15 (46) The department of labor and industrial relations on  
16 current or prospective employees or contractors who  
17 have access to federal tax information in order to  
18 comply with requirements of federal law, regulation,  
19 or procedure, as provided by section 383-110;

20 (47) The department of human services on current or  
21 prospective employees or contractors who have access  
22 to federal tax information in order to comply with

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1 requirements of federal law, regulation, or procedure,  
2 as provided by section 346-2.5;

3 (48) The child support enforcement agency on current or  
4 prospective employees, or contractors who have access  
5 to federal tax information in order to comply with  
6 federal law, regulation, or procedure, as provided by  
7 section 576D-11.5; and

8 (49) The department of the attorney general on current or  
9 prospective employees or agents of contractors who  
10 have access to federal tax information to comply with  
11 requirements of federal law, regulation, or procedure,  
12 as provided by section 28-17;

13 [†] (50) [†] The department of commerce and consumer affairs  
14 on each control person, executive officer, director,  
15 general partner, and managing member of an installment  
16 loan licensee, or an applicant for an installment loan  
17 license, as provided in chapter 480J;

18 [††] (51) [†] The University of Hawaii on current and  
19 prospective employees and contractors whose duties  
20 include ensuring the security of campus facilities and  
21 persons; [and]

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1     (52) The department of commerce and consumer affairs on  
2     each control person, executive officer, director,  
3     general partner, and managing member of a special  
4     purpose digital currency company licensee, or an  
5     applicant for a special purpose digital currency  
6     license, as provided in chapter       ; and

7     ~~[+(52)+]~~ (53) Any other organization, entity, or the State,  
8     its branches, political subdivisions, or agencies as  
9     may be authorized by state law."

10     SECTION 5. The department of commerce and consumer affairs  
11     may employ necessary personnel without regard to chapter 76,  
12     Hawaii Revised Statutes, including three full-time examiners, to  
13     assist with the implementation and continuing function of this  
14     Act.

15     SECTION 6. There is appropriated out of the compliance  
16     resolution fund established pursuant to section 26-9(o), Hawaii  
17     Revised Statutes, the sum of \$500,000 or so much thereof as may  
18     be necessary for fiscal year 2022-2023 to implement the  
19     licensing program established by this Act.

20     The sum appropriated shall be expended by the department of  
21     commerce and consumer affairs for the purposes of this Act.

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1       SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 8. This Act, upon its approval, shall take effect  
4 on July 1, 2022; provided that:

5       (1) The special purpose digital currency licensing  
6 requirements established by section 2 of this Act  
7 shall take effect on January 1, 2023;

8       (2) The participating companies in the digital currency  
9 innovation lab will be allowed to continue operations  
10 until their applications are acted upon by the  
11 division of financial institutions if the complete  
12 application is submitted to the division of financial  
13 institutions by March 1, 2023; and

14       (3) A company authorized to participate in the digital  
15 currency innovation lab as of June 30, 2022, and whose  
16 application for licensure under chapter \_\_\_\_ has been  
17 submitted to the division of financial institutions on  
18 or before March 1, 2023, is exempt from the  
19 requirements of section     -4 in section 2 of this Act  
20 for a period of six months from the date the  
21 application is deemed complete or until the  
22 commissioner approves or denies the application,

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whichever occurs first. The commissioner of financial institutions, for good cause, may reduce or extend the six-month period. Submission of an application for licensure shall be evidenced through NMLS to the commissioner.

INTRODUCED BY:

Alan

BY REQUEST

**JAN 24 2022**

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**Report Title:**

Digital Currency Companies; Licensure; Division of Financial Institutions

**Description:**

Establishes a program for the licensure, regulation, and oversight of digital currency companies.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.

PURPOSE: To regulate digital currency companies.

MEANS: Add a new chapter to the Hawaii Revised Statutes (HRS) and amend sections 489D-4 and 846-27(b), HRS.

JUSTIFICATION: Digital currency has grown in popularity and acceptance in this State and nationwide. There is, however, little regulation of the industry. The Division of Financial Institutions has partnered with the Hawaii Technology Development Corporation (HTDC) to allow digital currency companies to operate in a temporary "sandbox" environment. This experience has confirmed the popularity and versatility of digital currency transactions and the need for more comprehensive regulation. This bill provides for a new regulatory framework for digital currency companies.

Impact on the public: The bill will provide protection for digital currency consumers.

Impact on the department and other agencies: The Division of Financial Institutions will have clearer and more comprehensive oversight of digital currency companies.

GENERAL FUNDS: None.

OTHER FUNDS: \$500,000, Compliance Resolution Fund.

PPBS PROGRAM DESIGNATION: CCA-104.

OTHER AFFECTED  
AGENCIES:

Department of Business and Economic  
Development and Tourism, Hawaii Technology  
Development Corporation.

EFFECTIVE DATE: July 1, 2022, with new licensure effective  
January 1, 2023.