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



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

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

12 The purpose of this Act is to establish a licensing program
13 that will replace the digital currency innovation lab.

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

17 **"CHAPTER**

18 **SPECIAL PURPOSE DIGITAL CURRENCY LICENSING ACT**

19 **PART I. GENERAL PROVISIONS**

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



1 "Commissioner" means the commissioner of financial
2 institutions.

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

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

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

12 "Department" means the department of commerce and consumer
13 affairs.

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



- 1 (1) Digital units that:
- 2 (A) Are used solely within online gaming platforms;
- 3 (B) Have no market or application outside of those
- 4 gaming platforms; and
- 5 (C) Cannot be converted into, or redeemed for, fiat
- 6 currency or digital currency;

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

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

15 "Digital currency administration" means issuing digital

16 currency with the authority to redeem the currency for money,

17 bank credit, or other digital currency.

18 "Digital currency business activity" means:

- 19 (1) Exchanging, transferring, or storing digital currency
- 20 or engaging in digital currency administration,



- 1 whether directly or through an agreement with a
2 digital currency control-services vendor;
- 3 (2) Exchanging one or more digital representations of
4 value used within one or more online games, game
5 platforms, or family of games for money or bank credit
6 outside the online game, game platform, or family of
7 games offered by or on behalf of the same publisher
8 from which the original digital representation of
9 value was received;
- 10 (3) Storing, holding, or maintaining custody or control of
11 digital currency on behalf of others;
- 12 (4) Buying and selling digital currency as a business;
- 13 (5) Performing exchange services as a business; or
- 14 (6) Controlling, administering, or issuing a digital
15 currency.

16 "Digital currency control-services vendor" means a person
17 who has control of digital currency solely under an agreement
18 with a person who, on behalf of another person, assumes control
19 of digital currency.

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



1 "Elder" means an individual who is sixty-two years of age
2 or older.

3 "Exchange" means the conversion or change of fiat currency
4 or other value into digital currency, the conversion or change
5 of digital currency into fiat currency or other value, or the
6 conversion or change of one form of digital currency into
7 another form of digital currency.

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

10 "NMLS" means a nationwide multi-state licensing and
11 registry system developed and maintained by the Conference of
12 State Bank Supervisors for the state licensing and registration
13 of state-licensed financial services providers.

14 "Person" means an individual, sole proprietorship,
15 partnership, corporation, limited liability company, limited
16 liability partnership, or other association of individuals,
17 however organized.

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

20 (1) Held by a person;



1 (2) Paired with a unique, publicly available element of
2 cryptographic data; and

3 (3) Associated with an algorithm that is necessary to
4 carry out an encryption or decryption required to
5 execute a transaction.

6 "Special purpose digital currency company" means a person
7 who holds a special purpose digital currency license under this
8 chapter.

9 "Stored value" means monetary value that is evidenced by an
10 electronic record.

11 "Tangible net worth" means total assets excluding
12 intangible assets, less total liabilities, in accordance with
13 United States Generally Accepted Accounting Principles.

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

16 (1) Credit the digital currency to the account of another
17 person;

18 (2) Move the digital currency from one account of a person
19 to another account of the same person; or

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



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

5 § -2 **Exclusions.** This chapter shall not apply to:

6 (1) The exchange, transfer, or storage of digital currency
7 or to digital currency administration to the extent
8 regulated by the Securities Exchange Act of 1934,
9 title 15 United States Code sections 78a through 78oo,
10 or the Commodity Exchange Act, title 7 United States
11 Code sections 1 through 27f;

12 (2) Activity by a person that:

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

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



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



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

2 (i) Providing digital currency products or
3 services; or

4 (ii) Conducting digital currency business
5 activity; or

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

8 (9) Non-custodial digital currency business activity by a
9 person using a digital currency acknowledged as legal
10 tender by the United States, or government recognized
11 by the United States, or that has been determined to
12 not be a security by a United States regulatory
13 agency; or

14 (10) Banks, bank holding companies, credit unions, savings
15 banks, financial services loan companies, and mutual
16 banks organized under the laws of the United States or
17 any state shall be exempt from the licensing and
18 examination provisions of this chapter.

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



1 § -3 **Powers of commissioner.** In addition to any other
2 powers provided by law, the commissioner may:

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

6 (2) Issue declaratory rulings or informal nonbinding
7 interpretations;

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

11 (4) Create fact-finding committees that may make
12 recommendations to the commissioner for the
13 commissioner's deliberations;

14 (5) Require an applicant or any of its control persons,
15 executive officers, directors, general partners, and
16 managing members to disclose their relevant criminal
17 history and request a criminal history record check to
18 be conducted by or through NMLS or pursuant to chapter
19 846. The information shall be accompanied by the
20 appropriate payment of the applicable fee for each
21 criminal history record check;



- 1 (6) Contract with or employ qualified persons, including
2 accountants, attorneys, investigators, examiners,
3 auditors, or other professionals who may be exempt
4 from chapter 76 and who shall assist the commissioner
5 in exercising the commissioner's powers and duties;
- 6 (7) Process and investigate complaints, subpoena witnesses
7 and documents, administer oaths, and receive
8 affidavits and oral testimony, including telephonic
9 communications, and do anything necessary or
10 incidental to the exercise of the commissioner's power
11 and duties, including the authority to conduct
12 contested case proceedings under chapter 91;
- 13 (8) Require a licensee to comply with any rule, guidance,
14 guideline, statement, supervisory policy or any
15 similar proclamation issued or adopted by the Federal
16 Deposit Insurance Corporation to the same extent and
17 in the same manner as a bank chartered by the State
18 or, any policy position of the Conference of State
19 Bank Supervisors;
- 20 (9) Enter into agreements or relationships with other
21 government officials or regulatory associations to



- 1 improve efficiencies and reduce regulatory burden by
2 sharing resources, standardized or uniform methods or
3 procedures, and documents, records, information, or
4 evidence obtained under this chapter;
- 5 (10) Use, hire, contract, or employ public or privately
6 available analytical systems, methods, or software to
7 investigate or examine a licensee or person subject to
8 this chapter;
- 9 (11) Accept and rely on investigation or examination
10 reports made by other government officials, within or
11 outside of this State;
- 12 (12) Accept audit reports made by an independent certified
13 public accountant for the licensee or person subject
14 to this chapter during that part of the examination
15 covering the same general subject matter as the audit
16 and may incorporate the audit report in the report of
17 the examination, report of investigation, or other
18 writing of the commissioner; and
- 19 (13) Enter into agreements with, hire, retain, or contract
20 with private and governmental entities to develop and



1 create educational programs relating to special
2 purpose digital currency.

3 § -4 **License required.** (a) A person shall not engage
4 in digital currency business activity, or hold itself out as
5 being able to engage in digital currency business activity, with
6 or on behalf of a person unless the person is:

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

8 (2) Excluded from licensing under section -2.

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

13 § -5 **Payment of fees.** All fees, fines, penalties, and
14 other charges collected pursuant to this chapter or by rule
15 shall be deposited with the director to the credit of the
16 compliance resolution fund established pursuant to
17 section 26-9(o). Payments shall be made through NMLS, to the
18 extent allowed by NMLS.

19 **PART II. LICENSING**

20 § -6 **License; application; issuance.** (a) The
21 commissioner shall require all licensees to register with NMLS.



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

4 (1) The legal name, trade names, and business address of
5 the applicant and, if the applicant is a partnership,
6 association, limited liability company, limited
7 liability partnership, or corporation, of every
8 member, officer, principal, or director thereof;

9 (2) The principal place of business located in the United
10 States;

11 (3) The complete address of any other branch offices at
12 which the applicant currently proposes to engage in
13 digital currency business activity in the State; and

14 (4) Other data, financial statements, and pertinent
15 information as the commissioner may require with
16 respect to the applicant or, if an applicant is not an
17 individual, each of the applicant's control persons,
18 executive officers, directors, general partners, and
19 managing members.

20 (c) To fulfill the purposes of this chapter, the
21 commissioner may enter into agreements or contracts with NMLS or



1 other entities to use NMLS to collect and maintain records and
2 process transaction fees or other fees related to licensees or
3 other persons subject to this chapter.

4 (d) For the purpose and to the extent necessary to
5 participate in NMLS, the commissioner may waive or modify, in
6 whole or in part, by rule or order, any or all of the
7 requirements of this chapter and establish new requirements as
8 reasonably necessary to participate in NMLS.

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

13 (1) Fingerprints of the applicant or, if an applicant is
14 not an individual, each of the applicant's control
15 persons, executive officers, directors, general
16 partners, and managing members for submission to the
17 Federal Bureau of Investigation and any governmental
18 agency or entity authorized to receive the
19 fingerprints for a state, national, and international
20 criminal history background check, accompanied by the



1 applicable fee charged by the entities conducting the
2 criminal history background check; and
3 (2) Personal history and experience of the applicant or,
4 if an applicant is not an individual, each of the
5 applicant's control persons, executive officers,
6 directors, general partners, and managing members in a
7 form prescribed by NMLS, including the submission of
8 authorization for NMLS and the commissioner to obtain:
9 (A) An independent credit report obtained from a
10 consumer reporting agency described in section
11 603(p) of the Fair Credit Reporting Act, title 15
12 United States Code section 1681a(p); and
13 (B) Information related to any administrative, civil,
14 or criminal findings by any governmental
15 jurisdiction;
16 provided that the commissioner may use any information obtained
17 pursuant to this subsection or through NMLS to determine an
18 applicant's demonstrated financial responsibility, character,
19 and general fitness for licensure.



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

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

7 (h) An applicant for a license as a special purpose
8 digital currency company shall be registered with the business
9 registration division of the department to do business in this
10 State before a license pursuant to this chapter shall be issued.

11 **§ -7 Issuance of license; grounds for denial.** (a) The
12 commissioner shall investigate every applicant to determine the
13 financial responsibility, character, and general fitness of the
14 applicant. The commissioner shall issue the applicant a license
15 to engage in the digital currency business activity if the
16 commissioner determines that:

17 (1) The applicant or, in the case of an applicant that is
18 not an individual, each of the applicant's control
19 persons, executive officers, directors, general
20 partners, and managing members, has never had a
21 digital currency license revoked in any jurisdiction;



1 provided that a subsequent formal vacation of a
2 revocation shall not be deemed a revocation;

3 (2) 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 not been convicted
7 of, pled guilty or nolo contendere to, or been granted
8 a deferred acceptance of a guilty plea under federal
9 law or the laws of any state to a felony in a
10 domestic, foreign, or military court:

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

13 (B) At any time preceding the date of application, if
14 the felony involved an act of fraud, dishonesty,
15 breach of trust, or money laundering; provided
16 that any pardon of a conviction shall not be
17 deemed a conviction for the purposes of this
18 section;

19 (3) The applicant or, in the case of an applicant that is
20 not an individual, each of the applicant's control
21 persons, executive officers, directors, general



1 partners, and managing members, has demonstrated
2 financial responsibility, character, and general
3 fitness to command the confidence of the community and
4 to warrant a determination that the applicant shall
5 operate honestly, fairly, and efficiently, pursuant to
6 this chapter. For the purposes of this paragraph, a
7 person is not financially responsible when the person
8 has shown a disregard in the management of the
9 person's financial condition. A determination that a
10 person has shown a disregard in the management of the
11 person's financial condition may be based upon:

- 12 (A) Current outstanding judgments, except judgments
13 solely because of medical expenses;
- 14 (B) Current outstanding tax liens or other government
15 liens and filings, subject to applicable
16 disclosure laws and administrative rules;
- 17 (C) Foreclosures within the past three years; and
- 18 (D) A pattern of seriously delinquent accounts within
19 the past three years;

20 (4) The applicant or, in the case of an applicant that is
21 not an individual, each of the applicant's control



1 persons, executive officers, directors, general
2 partners, and managing members, has not been convicted
3 of, pled guilty or nolo contendere to, or been granted
4 a deferred acceptance of a guilty plea under federal
5 law or the laws of any state to any misdemeanor
6 involving an act of fraud, dishonesty, breach of
7 trust, or money laundering;

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

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

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

18 Authorization pursuant to this subsection shall include consent
19 to provide additional fingerprints, if necessary, to law
20 enforcement or regulatory bodies in other states.

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



- 1 (1) Whose license to conduct business under this chapter,
2 or any similar statute in any other jurisdiction, has
3 been suspended or revoked within five years of the
4 filing of the present application;
- 5 (2) Whose license to conduct digital currency business
6 activity has been revoked by an administrative order
7 issued by the commissioner or the commissioner's
8 designee, or the licensing authority of another state
9 or jurisdiction, for the period specified in the
10 administrative order;
- 11 (3) Who has advertised directly and purposefully to
12 consumers in the State or conducted transactions in
13 violation of this chapter; or
- 14 (4) Who has failed to complete an application for
15 licensure.
- 16 (d) A license issued in accordance with this chapter shall
17 remain in force and effect until surrendered, suspended, or
18 revoked, or until the license expires because of nonpayment of
19 the annual license renewal fee as required by this chapter.
- 20 § -8 **Anti-money laundering program.** (a) Each licensee
21 shall conduct an initial risk assessment that shall consider



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

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

- 10 (1) Provide for a system of internal controls, policies,
11 and procedures designed to ensure ongoing compliance
12 with all applicable anti-money laundering laws, rules,
13 and regulations;
- 14 (2) Provide for independent testing for compliance with,
15 and the effectiveness of, the anti-money laundering
16 program to be conducted by qualified internal
17 personnel of the licensee, who are not responsible for
18 the design, installation, maintenance, or operation of
19 the anti-money laundering program, or the policies and
20 procedures that guide its operation, or a qualified
21 external party, at least annually;



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

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

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

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

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

20 (A) The identity and physical addresses of the party
21 or parties to the transaction that are customers



1 or accountholders of the licensee and, to the
2 extent practicable, any other parties to the
3 transaction;

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

7 (C) The method of payment;

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

10 (E) A description of the transaction.

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

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

18 (B) Each licensee that is not subject to suspicious
19 activity reporting requirements under federal law
20 shall maintain a report of transactions that
21 indicate a possible violation of law within



1 thirty days from the detection. Continuing
2 suspicious activity shall be reviewed on an
3 ongoing basis and a suspicious activity report
4 shall be filed within one hundred twenty days of
5 the last filing describing continuing activity.

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

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

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

19 (1) Identify and verify account holders. When opening an
20 account for, or establishing a service relationship
21 with, a customer, each licensee shall, at a minimum,



1 verify the customer's identity, maintain records of
2 the information used to verify the identity, including
3 name, physical address, and other identifying
4 information, and check customers against the Specially
5 Designated Nationals and Blocked Persons List
6 maintained by the Office of Foreign Asset Control, a
7 part of the Treasury Department of the United States.
8 Enhanced due diligence may be required based on
9 additional factors, such as for high risk customers,
10 high-volume accounts, or accounts on which a
11 suspicious activity report has been filed;

12 (2) Enhance due diligence for accounts involving foreign
13 entities. Licensees that maintain accounts for non-
14 United States persons and non-United States licensees
15 shall establish enhanced due diligence policies,
16 procedures, and controls to detect money laundering,
17 including assessing the risk presented by the accounts
18 based on the nature of the foreign business, the type
19 and purpose of the activity, and the anti-money
20 laundering and supervisory regime of the foreign
21 jurisdiction;



- 1 (3) Prohibit accounts with foreign shell entities.
2 Licensees shall be prohibited from maintaining
3 relationships of any type in connection with their
4 digital currency business activity with entities that
5 do not have a physical presence in any country; and
- 6 (4) Require identification for large transactions. Each
7 licensee shall require verification of the identity of
8 any accountholder initiating a transaction with a
9 value greater than \$3,000.
- 10 (h) Each licensee shall demonstrate that it has risk-based
11 policies, procedures, and practices.
- 12 (i) Each licensee shall have in place appropriate policies
13 and procedures to block or reject specific or impermissible
14 transactions that violate federal or state laws, rules, or
15 regulations.
- 16 (j) The individual or individuals designated by the
17 licensee, pursuant to subsection (b)(3), shall be responsible
18 for day-to-day operations of the anti-money laundering program
19 and shall, at a minimum:
- 20 (1) Monitor changes in anti-money laundering laws, and
21 update the program accordingly;



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

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

5 (4) Escalate matters to the board of directors, senior
6 management, or appropriate governing body and seek
7 outside counsel, as appropriate;

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

11 (6) Ensure compliance with relevant training requirements.

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

19 (1) Identify internal and external cyber risks by, at a
20 minimum, identifying the information stored on the
21 licensee's systems, the sensitivity of the



1 information, and how and by whom the information may
2 be accessed;

3 (2) Protect the licensee's electronic systems, and the
4 information stored on those systems, from unauthorized
5 access, use, or other malicious acts through the use
6 of defensive infrastructure and the implementation of
7 policies and procedures;

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

11 (4) Respond to detected cyber security events to mitigate
12 any negative effects; and

13 (5) Recover from cyber security events and restore normal
14 operations and services.

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



- 1 (1) Information security;
 - 2 (2) Data governance and classification;
 - 3 (3) Access controls;
 - 4 (4) Business continuity and disaster recovery planning and
 - 5 resources;
 - 6 (5) Capacity and performance planning;
 - 7 (6) Systems operations and availability concerns;
 - 8 (7) Systems and network security;
 - 9 (8) Systems and application development and quality
 - 10 assurance;
 - 11 (9) Physical security and environmental controls;
 - 12 (10) Customer data privacy;
 - 13 (11) Vendor and third-party service provider management;
 - 14 (12) Monitoring and implementing changes to core protocols
 - 15 not directly controlled by the licensee, as
 - 16 applicable; and
 - 17 (13) Incident response.
- 18 (c) Each licensee shall designate a qualified employee to
- 19 be responsible for overseeing and implementing the licensee's
- 20 cyber security program and enforcing its cyber security policy.



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

9 (e) Each licensee's cyber security program shall, at a
10 minimum, include the following audit functions:

11 (1) Penetration testing. Each licensee shall conduct
12 penetration testing of its electronic systems and
13 vulnerability assessment of those systems based on the
14 licensee's risk assessment;

15 (2) Audit trail. Each licensee shall maintain audit trail
16 systems that:

17 (A) Track and maintain data that allows for the
18 complete and accurate reconstruction of all
19 financial transactions and accounting;



- 1 (B) Protect the integrity of data stored and
2 maintained as part of the audit trail from
3 alteration or tampering;
- 4 (C) Protect the integrity of hardware from alteration
5 or tampering, including by limiting electronic
6 and physical access permissions to hardware and
7 maintaining logs of physical access to hardware
8 that allows for event reconstruction;
- 9 (D) Log system events including, at minimum, access
10 and alterations made to the audit trail systems
11 by the systems or by an authorized user, and all
12 system administrator functions performed on the
13 systems; and
- 14 (E) Maintain records produced as part of the audit
15 trail in accordance with the recordkeeping
16 requirements set forth in this chapter.
- 17 (f) Each licensee's cyber security program shall, at
18 minimum, include written procedures, guidelines, and standards
19 reasonably designed to ensure the security of all applications
20 utilized by the licensee.
- 21 (g) Each licensee shall:



1 (1) Employ cyber security personnel adequate to manage the
2 licensee's cyber security risks and to perform the
3 core cyber security functions specified in subsection
4 (a);

5 (2) Provide and require cyber security personnel to attend
6 regular cyber security update and training sessions;
7 and

8 (3) Require key cyber security personnel to take steps to
9 stay abreast of changing cyber security threats and
10 countermeasures.

11 § -10 **Fees; bond.** (a) A special purpose digital
12 currency company shall pay the following fees to the division
13 through NMLS to obtain and maintain a valid license under this
14 chapter:

15 (1) Initial nonrefundable application fee of \$9,000;

16 (2) Nonrefundable renewal application fee of \$1,000; and

17 (3) Fees collected by NMLS for the processing of the
18 application:

19 (A) Applicable fee charged by the entities conducting
20 the criminal history background check of each of
21 the applicant's control persons, executive



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

8 (B) Applicable fee charged by the entities conducting
9 an independent credit report obtained from a
10 consumer reporting agency described in section
11 603(p) of the Fair Credit Reporting Act, title 15
12 United States Code section 1681a(p).

13 (b) The applicant shall file and maintain a surety bond,
14 approved by the commissioner, executed by the applicant as
15 obligor and by a surety company authorized to operate as a
16 surety in this State, whose liability as a surety does not
17 exceed, in the aggregate, the penal sum of the bond. The penal
18 sum of the bond shall be a minimum of \$500,000, based upon the
19 annual United States dollar equivalent of digital currency as
20 reported in the annual renewal report.



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

6 (1) The licensee as obligor shall faithfully conform to
7 and abide by this chapter and all the rules adopted
8 under this chapter; and

9 (2) The bond shall pay to the State and any person or
10 persons having a cause of action against the licensee
11 as obligor all moneys that may become due and owing to
12 the State and those persons under and by virtue of
13 this chapter.

14 § -11 **Renewal of license; annual report.** (a) Every
15 licensee shall be assessed an annual fee, paid quarterly based
16 on the total value of transactions in the State, in United
17 States dollar equivalent of digital currency activity as
18 reported in the quarterly reports. The quarterly fees shall be
19 assessed the quarter after the applicant is licensed in
20 accordance with the following:



- 1 (1) For licensees with total value of transactions in
2 United States dollar equivalent of digital currency
3 under \$10,000.00, the quarterly assessment shall be
4 \$2,500;
- 5 (2) For licensees with total value of transactions in
6 United States dollar equivalent of digital currency
7 between \$10,000.01 and \$15,000.00, the quarterly
8 assessment shall be \$3,750;
- 9 (3) For licensees with total value of transactions in
10 United States dollar equivalent of digital currency
11 between \$15,000.01 and \$25,000.00, the quarterly
12 assessment shall \$6,250;
- 13 (4) For licensees with total value of transactions in
14 United States dollar equivalent of digital currency
15 between \$25,000.01 and \$35,000.00, the quarterly
16 assessment shall be \$8,750; and
- 17 (5) For licensees with total value of transactions in
18 United States dollar equivalent of digital currency
19 over \$35,000.01, the quarterly assessment shall be
20 \$12,500.



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

5 (c) The digital assets shall be based on the United States
6 dollar value of cryptocurrency assets held on behalf of
7 customers, calculated on United States dollars from the
8 company's quarterly report based on the trading price of the
9 asset on the licensee's platform as of 4:30 p.m. Hawaii Aleutian
10 Standard Time.

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

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



- 1 (1) A report detailing the special purpose digital
2 currency company's activities in this State since the
3 prior reporting period, including:
- 4 (A) The number of stored value accounts opened;
 - 5 (B) The number of transactions processed;
 - 6 (C) The total value of transactions in United States
7 dollar equivalent of digital currency;
 - 8 (D) The number of system outages;
 - 9 (E) A chart of accounts, including a description of
10 each account; and
 - 11 (F) Any other information that the commissioner may
12 require related to performance metrics and the
13 efficacy of the special purpose digital currency
14 license program;
- 15 (2) Any material changes to any of the information
16 submitted by the licensee on its original application
17 that have not previously been reported to the
18 commissioner on any other report required to be filed
19 under this chapter;



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

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

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

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



1 good cause, may reduce or suspend the \$250 per day late filing
2 fee.

3 **§ -12 Authorized places of business; principal office.**

4 (a) Every special purpose digital currency company licensed
5 under this chapter shall have and maintain a principal place of
6 business in the United States, regardless of whether the special
7 purpose digital currency company maintains its principal office
8 outside of the United States.

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

11 **§ -13 Sale or transfer of license; change of control.**

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

14 (b) A person or group of persons requesting approval of a
15 proposed change of control of a licensee shall submit to the
16 commissioner an application requesting approval of a proposed
17 change of control of the licensee, accompanied by a
18 nonrefundable application fee of \$10,000.

19 (c) After review of a request for approval under
20 subsection (b), the commissioner may require the licensee or
21 person or group of persons requesting approval of a proposed



1 change of control of the licensee, or both, to provide
2 additional information concerning the persons who shall assume
3 control of the licensee. The additional information shall be
4 limited to similar information required of the licensee or
5 persons in control of the licensee as part of its original
6 license or renewal application. The information shall include,
7 for the five-year period prior to the date of the application
8 for change of control of the licensee, a history of material
9 litigation and criminal convictions of each person who, upon
10 approval of the application for change of control, will be a
11 principal of the licensee. Authorization shall also be given to
12 conduct criminal history record checks of those persons,
13 accompanied by the appropriate payment of the applicable fee for
14 each record check.

15 (d) The commissioner shall approve a request for change of
16 control under subsection (b) if, after investigation, the
17 commissioner determines that the person or group of persons
18 requesting approval has the competence, experience, character,
19 and general fitness to control the licensee or person in control
20 of the licensee in a lawful and proper manner, and that the



1 interests of the public will not be jeopardized by the change of
2 control.

3 (e) The following persons shall be exempt from the
4 requirements of subsection (b); provided that the licensee shall
5 notify the commissioner when a change of control results in the
6 following:

7 (1) A person who acts as a proxy for the sole purpose of
8 voting at a designated meeting of the security holders
9 or holders of voting interests of a licensee or person
10 in control of a licensee;

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

13 (3) A person who acquires control as a personal
14 representative, custodian, guardian, conservator,
15 trustee, or as an officer appointed by a court of
16 competent jurisdiction or by operation of law; or

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

19 (f) Before filing a request for approval for a change of
20 control, a person may request, in writing, a determination from
21 the commissioner as to whether the person would be considered a



1 person in control of a licensee upon consummation of a proposed
2 transaction. If the commissioner determines that the person
3 would not be a person in control of a licensee, the commissioner
4 shall enter an order to that effect and the proposed person and
5 transaction shall not be subject to subsections (b) through (d).

6 (g) Subsection (b) shall not apply to public offerings of
7 securities.

8 § -14 **Ownership and control of digital currency.** (a) A
9 licensee that has control of digital currency for one or more
10 persons shall maintain control of digital currency in each type
11 of digital currency sufficient to satisfy the aggregate
12 entitlements of the persons to the type of digital currency.

13 (b) If a licensee violates subsection (a), the property
14 interests of the persons in the digital currency shall be pro
15 rata property interests in the type of digital currency to which
16 the persons are entitled, without regard to the time the persons
17 became entitled to the digital currency or the licensee obtained
18 control of the digital currency.

19 (c) The digital currency referred to in this section
20 shall:



- 1 (1) Be held for the persons entitled to the digital
2 currency;
- 3 (2) Not be considered property of the licensee; and
- 4 (3) Not be subject to the claims of creditors of the
5 licensee.
- 6 (d) To the extent a licensee stores, holds, or maintains
7 custody or control of digital currency on behalf of another
8 person, the licensee shall hold digital currency of the same
9 type and amount as that which is owed or obligated to that other
10 person.
- 11 (e) Each licensee shall be prohibited from selling,
12 transferring, assigning, lending, hypothecating, pledging, or
13 otherwise using or encumbering assets, including digital
14 currency, stored, held, or maintained by, or under the custody
15 or control of, the licensee on behalf of another person except
16 for the sale, transfer, or assignment of the assets at the
17 direction of that other person, unless clearly presented and
18 stated to the client that doing so is the intent of the product.

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

- 20 § -15 **Required disclosures.** (a) A licensee that
21 engages in digital currency business activity shall provide to a



1 person who uses the licensee's products or service the
2 disclosures required by subsection (b) and any additional
3 disclosure the commissioner determines reasonably necessary for
4 the protection of persons. The commissioner shall determine the
5 time and form required for disclosure. A disclosure required by
6 this section shall be made separately from any other information
7 provided by the licensee and in a clear and conspicuous manner
8 in a record the person may keep. A licensee may propose for the
9 commissioner's approval alternate disclosures as more
10 appropriate for its digital currency business activity.

11 (b) Before establishing a relationship with a person, a
12 licensee shall disclose, to the extent applicable to the digital
13 currency business activity the licensee will undertake with the
14 person:

15 (1) A schedule of fees and charges the licensee may
16 assess, how fees and charges will be calculated if
17 they are not set in advance and disclosed, and the
18 timing of the fees and charges;

19 (2) That the product or service provided by the licensee
20 is not covered by a form of insurance or is otherwise
21 guaranteed against loss by an agency of the United



1 States, including the Federal Deposit Insurance
2 Corporation, the Securities Investor Protection
3 Corporation; or the full United States dollar
4 equivalent of digital currency purchased from the
5 licensee or for control of digital currency by the
6 licensee; or private insurance against theft or loss,
7 including cyber theft or theft by other means;

8 (3) The irrevocability of a transfer or exchange;

9 (4) The method for the person to update the person's
10 contact information with the licensee;

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

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

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



1 (8) That digital currency is not money.

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

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

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

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

14 § -16 **Records, net worth requirement.** (a) A licensee
15 engaged in digital currency business activities shall maintain
16 at all times, a tangible net worth of not less than \$500,000, or
17 in an amount determined by the commissioner necessary to ensure
18 safe and sound operation.

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



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

4 (1) Each transaction of the licensee with or on behalf of
5 the person or for the licensee's or account in this
6 State, including:

7 (A) The identity of the person;

8 (B) The form of the transaction;

9 (C) The amount, date, and payment instructions given
10 by the person; and

11 (D) The account number, name, and United States
12 Postal Service address of the person, and, to the
13 extent feasible, other parties to the
14 transaction;

15 (2) The aggregate number of transactions and aggregate
16 value of transactions by the licensee with or on
17 behalf of the person and for the licensee's account in
18 this State, expressed in United States dollar
19 equivalent of digital currency for the previous twelve
20 calendar months;



- 1 (3) Each transaction in which the licensee exchanges one
2 form of digital currency for money or another form of
3 digital currency with or on behalf of the person;
- 4 (4) A general ledger posted at least monthly that lists
5 all assets, liabilities, capital, income, ownership
6 equity, and expenses of the licensee;
- 7 (5) Each business-call report the licensee is required to
8 create or provide to the division of financial
9 institutions or NMLS;
- 10 (6) Bank statements and bank reconciliation records for
11 the licensee and the name, account number, and United
12 States Postal Service address of each bank the
13 licensee uses in the conduct of its digital currency
14 business activity with or on behalf of the person;
- 15 (7) Communications and documentation related to
16 investigations of customer complaints; and
- 17 (8) A report of any digital currency business activity
18 transaction with or on behalf of a person, which the
19 licensee was unable to complete.
- 20 (d) A licensee shall maintain records required by
21 subsection (c) in a form that enables the commissioner to



1 determine whether the licensee is in compliance with this
2 chapter, any court order, and law of this State.

3 **§ -17 Advertising and marketing.** (a) Each licensee
4 engaged in digital currency business activity shall not
5 advertise its products, services, or activities in the State or
6 to consumers in the State without including the name of the
7 licensee and the legend that the licensee is "Licensed to engage
8 in Digital Currency Business Activity by the Hawaii Division of
9 Financial Institutions."

10 (b) Each licensee shall maintain, for examination by the
11 commissioner, all advertising and marketing materials for a
12 period of at least seven years from the date of their creation,
13 including but not limited to print media, internet media,
14 websites, radio and television advertising, road show materials,
15 presentations, and brochures. Each licensee shall maintain hard
16 copy, website captures of material changes to internet
17 advertising and marketing, and audio and video scripts of its
18 advertising and marketing materials, as applicable.

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



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

5 § -18 **Confidentiality.** (a) Except as otherwise
6 provided in title 12 United States Code section 5111, the
7 requirements under any federal or state law regarding the
8 privacy or confidentiality of any information or material
9 provided to NMLS, and any privilege arising under federal or
10 state law, including the rules of any federal or state court,
11 with respect to the information or material, shall continue to
12 apply to the information or material after the information or
13 material has been disclosed to NMLS. The information and
14 material may be shared with all state and federal regulatory
15 officials with oversight authority over transactions subject to
16 this chapter, without the loss of privilege or the loss of
17 confidentiality protections provided by federal or state law.

18 (b) For the purposes of this section, the commissioner
19 shall be authorized to enter into agreements or sharing
20 arrangements with other governmental agencies, the Conference of
21 State Bank Supervisors, or other associations representing



1 governmental agencies as established by rule or order of the
2 commissioner.

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

5 (1) Disclosure under chapter 92F; or

6 (2) Subpoena or discovery, or admission into evidence, in
7 any private civil action or administrative process,
8 unless any privilege is determined by NMLS to be
9 applicable to the information or material; provided
10 that the person to whom the information or material
11 pertains waives that privilege, in whole or in part,
12 in the discretion of the person.

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

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



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

5 **PART IV. ENFORCEMENT**

6 **§ -19 Enforcement authority; violations; penalties.** (a)

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

11 (1) The applicant or licensee has violated this chapter,
12 or any rule or order lawfully adopted pursuant to this
13 chapter;

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

19 (3) The applicant or licensee has failed to provide
20 information required by the commissioner within a
21 reasonable time, as specified by the commissioner;



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



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

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

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

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

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

20 (2) Revoke the license;



- 1 (3) Suspend or condition the license in accordance with
2 section -23;
- 3 (4) Issue an order to the licensee to cease and desist
4 from engaging in any act specified under subsection
5 (a) or in accordance with section -24;
- 6 (5) Order the licensee to make refunds to consumers of
7 excess charges under this chapter; or
- 8 (6) Impose penalties of up to \$10,000 for each violation
9 in accordance with section -26.
- 10 (c) The commissioner may issue a temporary cease and
11 desist order if the commissioner makes a finding that the
12 licensee, applicant, or person is engaging, has engaged, or is
13 about to engage in an illegal, unauthorized, unsafe, or unsound
14 practice in violation of this chapter. Whenever the
15 commissioner denies a license application or takes disciplinary
16 action pursuant to this subsection, the commissioner shall enter
17 an order to that effect and notify the licensee, applicant, or
18 person of the denial or disciplinary action. The notification
19 required by this subsection shall be given by personal service
20 or by certified mail to the last known address of the licensee



1 or applicant as shown on the application, license, or as
2 subsequently furnished in writing to the commissioner.

3 (d) The revocation, suspension, expiration, or surrender
4 of a license shall not affect the licensee's liability for acts
5 previously committed or impair the commissioner's ability to
6 issue a final agency order or take disciplinary action against
7 the licensee.

8 (e) No revocation, suspension, consent order, or surrender
9 of a license shall impair or affect the obligation of any
10 preexisting lawful contract between the licensee and any
11 consumer.

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

17 (g) The commissioner may impose an administrative fine on
18 a licensee or person subject to this chapter if the commissioner
19 finds on the record after notice and opportunity for hearing
20 that the licensee or person subject to this chapter has violated
21 or failed to comply with any requirement of this chapter or any



1 rule prescribed by the commissioner under this chapter or order
2 issued under the authority of this chapter.

3 (h) Each violation or failure to comply with any directive
4 or order of the commissioner shall be a separate and distinct
5 violation.

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

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

20 (b) For the purposes of investigating violations or
21 complaints arising under this chapter, or for the purposes of



1 examination, the commissioner may review, investigate, or
2 examine any licensee or person subject to this chapter as often
3 as necessary to carry out the purposes of this chapter. The
4 commissioner may direct, subpoena, or order the attendance of,
5 and examine under oath, all persons whose testimony may be
6 required about digital currency transactions or the business or
7 subject matter of any investigation or examination and may
8 direct, subpoena, or order the person to produce books,
9 accounts, records, files, and any other documents the
10 commissioner deems relevant to the inquiry.

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

20 (d) Each licensee or person subject to this chapter shall
21 make or compile reports or prepare other information, as



1 directed by the commissioner, to carry out the purposes of this
2 section, including:

3 (1) Accounting compilations;

4 (2) Information lists and data concerning digital currency
5 transactions in a format prescribed by the
6 commissioner; or

7 (3) Other information that the commissioner deems
8 necessary.

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



1 chapter, the licensee or owner of the documents and records
2 shall have access to the documents or records as necessary to
3 conduct its ordinary business affairs.

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

8 (g) No licensee or person subject to investigation or
9 examination under this section may knowingly withhold, abstract,
10 remove, mutilate, destroy, or secrete any books, records,
11 computer records, or other information.

12 (h) The commissioner may charge an investigation or
13 examination fee, payable to the commissioner, based upon the
14 cost per hour per examiner for all licensees and persons subject
15 to this chapter investigated or examined by the commissioner or
16 the commissioner's staff. The hourly fee shall be \$60 or an
17 amount as the commissioner shall establish by rule pursuant to
18 chapter 91. In addition to the investigation or examination
19 fee, the commissioner may charge any person who is investigated
20 or examined by the commissioner or the commissioner's staff
21 pursuant to this section additional amounts for travel, per



1 diem, mileage, and other reasonable expenses incurred in
2 connection with the investigation or examination, payable to the
3 commissioner.

4 (i) Any person having reason to believe that this chapter
5 or the rules adopted under this chapter have been violated, or
6 that a license issued under this chapter should be suspended or
7 revoked, may file a written complaint with the commissioner,
8 setting forth the details of the alleged violation or grounds
9 for suspension or revocation.

10 § -21 **Prohibited practices.** (a) It shall be a
11 violation of this chapter for a licensee, its control persons,
12 executive officers, directors, general partners, managing
13 members, employees, or independent contractors, or any other
14 person subject to this chapter to:

- 15 (1) Engage in any act that limits or restricts the
16 application of this chapter;
- 17 (2) Use a customer's digital currency account number to
18 prepare, issue, or create a digital currency
19 transaction on behalf of the consumer without the
20 customer's authorization;



- 1 (3) Charge, collect, or receive, directly or indirectly,
2 fees for negotiating digital currency transactions
3 except those explicitly authorized in this chapter;
- 4 (4) Fail to make disclosures as required by this chapter
5 and any other applicable state or federal law,
6 including rules or regulations adopted pursuant to
7 state or federal law;
- 8 (5) Directly or indirectly employ any scheme, device, or
9 artifice to defraud or mislead any consumer, or any
10 person;
- 11 (6) Directly or indirectly engage in unfair or deceptive
12 acts, practices, or advertising in connection with a
13 digital currency business activity toward any person;
- 14 (7) Directly or indirectly obtain digital assets by fraud
15 or misrepresentation;
- 16 (8) Conduct digital currency business activity to any
17 person physically located in the State through the use
18 of the Internet, facsimile, telephone, kiosk, or other
19 means without first obtaining a license under this
20 chapter;



- 1 (9) Make, in any manner, any false or deceptive statement
2 or representation, including with regard to the rates,
3 fees, or other financing terms or conditions for
4 digital currency activity, or engage in bait and
5 switch advertising;
- 6 (10) Make any false statement or knowingly make any
7 omission of material fact in connection with any
8 reports filed with the division by a licensee or in
9 connection with any investigation conducted by the
10 division;
- 11 (11) Conduct digital currency business activity from any
12 unlicensed location;
- 13 (12) Draft funds from any depository financial institution
14 without written approval of the consumer; provided
15 that nothing in this paragraph shall prohibit the
16 conversion of a negotiable instrument into an
17 electronic form for processing through the Automated
18 Clearing House or similar system;
- 19 (13) Fail to comply with all applicable state and federal
20 laws relating to the activities governed by this
21 chapter; or



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

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

6 § -22 **Voluntary surrender of license.** (a) A licensee
7 may voluntarily cease business and surrender its license by
8 giving written notice through NMLS to the commissioner of its
9 intent to surrender its license. Prior to the surrender date of
10 a license, the licensee shall have either completed all pending
11 digital currency transactions or assigned each pending digital
12 currency transaction to another licensee.

13 (b) Notice pursuant to this section shall be provided at
14 least thirty days before the surrender of the license and shall
15 include:

- 16 (1) The date of surrender;
- 17 (2) The name, address, telephone number, facsimile number,
18 and electronic mail address of a contact individual
19 with knowledge and authority sufficient to communicate
20 with the commissioner regarding all matters relating



- 1 to the licensee during the period that it was licensed
2 pursuant to this chapter;
- 3 (3) The reason or reasons for surrender;
- 4 (4) Total dollar amount of the licensee's outstanding
5 digital currency transactions in the State and the
6 individual amounts of each outstanding digital
7 currency transactions, and the name, address, and
8 contact telephone number of the licensee to whom each
9 outstanding digital currency transaction was assigned;
- 10 (5) A list of the licensee's authorized branch offices in
11 the State, if any, as of the date of surrender;
- 12 (6) Confirmation that the licensee has notified each of
13 its authorized branch offices in the State, if any,
14 that the branch offices may no longer conduct digital
15 currency business activity on the licensee's behalf;
16 and
- 17 (7) Confirmation that the licensee has notified each of
18 its digital currency accounts, if any, that the
19 digital currency account is being transferred and the
20 name, address, telephone number, and any other contact
21 information of the licensee or entity described in



1 section -13 to whom the digital currency was
2 assigned.

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

8 § -23 **Suspension or revocation of licenses.** The
9 commissioner may suspend or revoke a license if the commissioner
10 finds that:

11 (1) Any fact or condition exists that, if it had existed
12 at the time when the licensee applied for its license,
13 would have been grounds for denying the licensee's
14 application;

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

19 (3) The licensee knowingly violates any material provision
20 of this chapter or any rule or order duly adopted by
21 the commissioner under authority of this chapter;



- 1 (4) The licensee is conducting its business in an unsafe
2 or unsound manner;
- 3 (5) The licensee is insolvent;
- 4 (6) The licensee has suspended payment of its obligations,
5 has made an assignment for the benefit of its
6 creditors, or has admitted, in writing, its inability
7 to pay its debts as they become due;
- 8 (7) The licensee has filed for bankruptcy, reorganization,
9 arrangement, or other relief under any bankruptcy law;
- 10 (8) The licensee refuses to permit the commissioner to
11 make any examination authorized by this chapter; or
- 12 (9) The competence, experience, character, or general
13 fitness of the licensee indicates that it is not in
14 the public interest to allow the licensee to have a
15 license.

16 § -24 **Orders to cease and desist.** (a) If the
17 commissioner determines a violation of this chapter or a rule
18 adopted or an order issued under this chapter by a licensee or
19 authorized delegate is:



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

4 (2) Cause insolvency or significant dissipation of assets
5 of the licensee, the commissioner may issue an order
6 requiring the licensee to cease and desist from the
7 violation. The order becomes effective upon service
8 of the order upon the licensee.

9 (b) An order to cease and desist remains effective and
10 enforceable pending the completion of an administrative
11 proceeding pursuant to chapter 91.

12 (c) A licensee that is served with an order to cease and
13 desist may petition the circuit court for a judicial order
14 setting aside, limiting, or suspending the enforcement,
15 operation, or effectiveness of the order pending the completion
16 of an administrative proceeding pursuant to sections -29
17 or -30.

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



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

3 § -25 **Consent orders.** The commissioner may enter into a
4 consent order at any time with a person to resolve a matter
5 arising under this chapter. A consent order shall be signed by
6 the person to whom the order is issued or by the person's
7 authorized representative, and shall indicate agreement with the
8 terms contained in the order. A consent order may provide that
9 it does not constitute an admission by a person that this
10 chapter or a rule adopted or an order issued under this chapter
11 has been violated.

12 § -26 **Civil penalties.** The commissioner may assess a
13 fine against a person who violates this chapter or a rule
14 adopted or an order issued under this chapter in an amount not
15 to exceed \$10,000 per violation, plus the State's costs and
16 expenses for the investigation and prosecution of the matter,
17 including reasonable attorneys' fees.

18 § -27 **Criminal penalties.** (a) A person who
19 intentionally makes a false statement, misrepresentation, or
20 false certification in a record filed or required to be
21 maintained under this chapter, who intentionally makes a false



1 entry, or who omits a material entry in a record shall be guilty
2 of a class C felony, and be subject to a fine in an amount up to
3 \$10,000.

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

10 § -28 **Unlicensed persons.** (a) If the commissioner has
11 reason to believe that a person has violated or is violating
12 section -4, the commissioner may issue an order to show cause
13 why an order to cease and desist should not issue requiring that
14 the person cease and desist from the violation of section -4.

15 (b) If the commissioner has reason to believe that a
16 person has violated or is violating section -4, the
17 commissioner may petition the circuit court for the issuance of
18 a temporary restraining order if the public would be irreparably
19 harmed.

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



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

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

10 (f) The commissioner shall commence an administrative
11 proceeding within twenty days after issuing an order to cease
12 and desist.

13 § -29 **Administrative procedures.** All administrative
14 proceedings under this chapter shall be conducted in accordance
15 with chapter 91.

16 § -30 **Hearings.** Except as otherwise provided in
17 sections -11(g) and -23, the commissioner may not suspend or
18 revoke a license, issue an order to cease and desist, suspend or
19 revoke the designation of a licensee, or assess a civil penalty
20 without notice and an opportunity to be heard.



1 § **-31 Division functions.** (a) The division shall
2 exercise all administrative functions of the State in relation
3 to the regulation, supervision, and licensing of money
4 transmitters.

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

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

10 ""Monetary value" means a medium of exchange, whether or
11 not redeemable in money[-] except as defined as digital currency
12 under chapter _____."

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

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

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



- 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;



- 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
11 346-19.7;
- 12 (10) The department of human services or its designee on
13 applicants to operate child care facilities, household
14 members of the applicant, prospective employees of the
15 applicant, and new employees and household members of
16 the provider after registration or licensure as
17 provided by section 346-154, and persons subject to
18 section 346-152.5;
- 19 (11) The department of human services on persons exempt
20 pursuant to section 346-152 to be eligible to provide



- 1 child care and receive child care subsidies as
2 provided by section 346-152.5;
- 3 (12) The department of health on operators and employees of
4 home and community-based case management agencies and
5 operators and other adults, except for adults in care,
6 residing in community care foster family homes as
7 provided by section 321-15.2;
- 8 (13) The department of human services on staff members of
9 the Hawaii youth correctional facility as provided by
10 section 352-5.5;
- 11 (14) The department of human services on employees,
12 prospective employees, and volunteers of contracted
13 providers and subcontractors in positions that place
14 them in close proximity to youth when providing
15 services on behalf of the office or the Hawaii youth
16 correctional facility as provided by section 352D-4.3;
- 17 (15) The judiciary on employees and applicants at detention
18 and shelter facilities as provided by section 571-34;
- 19 (16) The department of public safety on employees and
20 prospective employees who are directly involved with
21 the treatment and care of persons committed to a



- 1 correctional facility or who possess police powers
2 including the power of arrest as provided by section
3 353C-5;
- 4 (17) The board of private detectives and guards on
5 applicants for private detective or private guard
6 licensure as provided by section 463-9;
- 7 (18) Private schools and designated organizations on
8 employees and prospective employees who may be in
9 positions that necessitate close proximity to
10 children; provided that private schools and designated
11 organizations receive only indications of the states
12 from which the national criminal history record
13 information was provided pursuant to section 302C-1;
- 14 (19) The public library system on employees and prospective
15 employees whose positions place them in close
16 proximity to children as provided by section
17 302A-601.5;
- 18 (20) The State or any of its branches, political
19 subdivisions, or agencies on applicants and employees
20 holding a position that has the same type of contact
21 with children, vulnerable adults, or persons committed



1 to a correctional facility as other public employees
2 who hold positions that are authorized by law to
3 require criminal history record checks as a condition
4 of employment as provided by section 78-2.7;

5 (21) The department of health on licensed adult day care
6 center operators, employees, new employees,
7 subcontracted service providers and their employees,
8 and adult volunteers as provided by section 321-15.2;

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

14 (23) The department of human services on foster grandparent
15 program, senior companion program, and respite
16 companion program participants as provided by section
17 346-97;

18 (24) The department of human services on contracted and
19 subcontracted service providers and their current and
20 prospective employees that provide home and community-
21 based services under section 1915(c) of the Social



1 Security Act, title 42 United States Code section
2 1396n(c), or under any other applicable section or
3 sections of the Social Security Act for the purposes
4 of providing home and community-based services, as
5 provided by section 346-97;

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

11 (26) The department of commerce and consumer affairs on
12 proposed directors and executive officers of a
13 nondepository financial services loan company as
14 provided by section 412:3-301;

15 (27) The department of commerce and consumer affairs on the
16 original chartering applicants and proposed executive
17 officers of a credit union as provided by section
18 412:10-103;

19 (28) The department of commerce and consumer affairs on:
20 (A) Each principal of every non-corporate applicant
21 for a money transmitter license;



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

4 (C) Each person who upon approval of an application
5 requesting approval of a proposed change in
6 control of licensee will be a principal of the
7 licensee,

8 as provided by sections 489D-9 and 489D-15;

9 (29) The department of commerce and consumer affairs on
10 applicants for licensure and persons licensed under
11 title 24;

12 (30) The Hawaii health systems corporation on:

13 (A) Employees;

14 (B) Applicants seeking employment;

15 (C) Current or prospective members of the corporation
16 board or regional system board; or

17 (D) Current or prospective volunteers, providers, or
18 contractors,

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

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



- 1 (A) An applicant for a mortgage loan originator
2 license, or license renewal; and
- 3 (B) Each control person, executive officer, director,
4 general partner, and managing member of an
5 applicant for a mortgage loan originator company
6 license or license renewal,
7 as provided by chapter 454F;
- 8 (32) The state public charter school commission or public
9 charter schools on employees, teacher trainees,
10 prospective employees, and prospective teacher
11 trainees in any public charter school for any position
12 that places them in close proximity to children, as
13 provided in section 302D-33;
- 14 (33) The counties on prospective employees who work with
15 children, vulnerable adults, or senior citizens in
16 community-based programs;
- 17 (34) The counties on prospective employees for fire
18 department positions that involve contact with
19 children or vulnerable adults;



- 1 (35) The counties on prospective employees for emergency
2 medical services positions that involve contact with
3 children or vulnerable adults;
- 4 (36) The counties on prospective employees for emergency
5 management positions and community volunteers whose
6 responsibilities involve planning and executing
7 homeland security measures including viewing,
8 handling, and engaging in law enforcement or
9 classified meetings and assisting vulnerable citizens
10 during emergencies or crises;
- 11 (37) The State and counties on employees, prospective
12 employees, volunteers, and contractors whose position
13 responsibilities require unescorted access to secured
14 areas and equipment related to a traffic management
15 center;
- 16 (38) The State and counties on employees and prospective
17 employees whose positions involve the handling or use
18 of firearms for other than law enforcement purposes;
- 19 (39) The State and counties on current and prospective
20 systems analysts and others involved in an agency's
21 information technology operation whose position



1 responsibilities provide them with access to
2 proprietary, confidential, or sensitive information;
3 (40) The department of commerce and consumer affairs on:
4 (A) Applicants for real estate appraiser licensure or
5 certification as provided by chapter 466K;
6 (B) Each person who owns more than ten per cent of an
7 appraisal management company who is applying for
8 registration as an appraisal management company,
9 as provided by section 466L-7; and
10 (C) Each of the controlling persons of an applicant
11 for registration as an appraisal management
12 company, as provided by section 466L-7;
13 (41) The department of health or its designee on all
14 license applicants, licensees, employees, contractors,
15 and prospective employees of medical cannabis
16 dispensaries, and individuals permitted to enter and
17 remain in medical cannabis dispensary facilities as
18 provided under sections 329D-15(a)(4) and
19 329D-16(a)(3);
20 (42) The department of commerce and consumer affairs on
21 applicants for nurse licensure or license renewal,



1 reactivation, or restoration as provided by sections
2 457-7, 457-8, 457-8.5, and 457-9;

3 (43) The county police departments on applicants for
4 permits to acquire firearms pursuant to section 134-2
5 and on individuals registering their firearms pursuant
6 to section 134-3;

7 (44) The department of commerce and consumer affairs on:

8 (A) Each of the controlling persons of the applicant
9 for licensure as an escrow depository, and each
10 of the officers, directors, and principals who
11 will be in charge of the escrow depository's
12 activities upon licensure; and

13 (B) Each of the controlling persons of an applicant
14 for proposed change in control of an escrow
15 depository licensee, and each of the officers,
16 directors, and principals who will be in charge
17 of the licensee's activities upon approval of the
18 application,

19 as provided by chapter 449;

20 (45) The department of taxation on current or prospective
21 employees or contractors who have access to federal



1 tax information in order to comply with requirements
2 of federal law, regulation, or procedure, as provided
3 by section 231-1.6;

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

9 (47) The department of human services on current or
10 prospective employees or contractors who have access
11 to federal tax information in order to comply with
12 requirements of federal law, regulation, or procedure,
13 as provided by section 346-2.5;

14 (48) The child support enforcement agency on current or
15 prospective employees or contractors who have access
16 to federal tax information in order to comply with
17 federal law, regulation, or procedure, as provided by
18 section 576D-11.5;

19 (49) The department of the attorney general on current or
20 prospective employees or employees or agents of
21 contractors who have access to federal tax information



1 to comply with requirements of federal law,
2 regulation, or procedure, as provided by section
3 28-17;

4 [+] (50) [+] The department of commerce and consumer affairs on
5 each control person, executive officer, director,
6 general partner, and managing member of an installment
7 loan licensee, or an applicant for an installment loan
8 license, as provided in chapter 480J;

9 [+] (51) [+] The University of Hawaii on current and prospective
10 employees and contractors whose duties include
11 ensuring the security of campus facilities and
12 persons; [~~and~~]

13 (52) The department of commerce and consumer affairs on
14 each control person, executive officer, director,
15 general partner, and managing member of a special
16 purpose digital currency company licensee, or an
17 applicant for a special purpose digital currency
18 license, as provided in chapter ; and

19 [~~+(52)+~~] (53) Any other organization, entity, or the State,
20 its branches, political subdivisions, or agencies as
21 may be authorized by state law."



1 SECTION 5. The department of commerce and consumer affairs
2 may employ necessary personnel without regard to chapter 76,
3 Hawaii Revised Statutes, including three full-time equivalent
4 (3.0 FTE) positions for examiners, to assist with the
5 implementation and continuing function of this Act.

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

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

13 SECTION 7. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on July 1, 2022;
16 provided that:

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

20 (2) The participating companies in the digital currency
21 innovation lab shall be allowed to continue operations



1 until their applications are acted upon by the
2 division of financial institutions if the complete
3 application is submitted to the division of financial
4 institutions by March 1, 2023; and

- 5 (3) A company authorized to participate in the digital
6 currency innovation lab as of June 30, 2022, and whose
7 application for licensure under section 2 of this Act
8 has been submitted to the division of financial
9 institutions on or before March 1, 2023, is exempt
10 from the requirements in section -4 of section 2
11 of this Act for a period of six months from the date
12 the application is deemed complete or until the
13 commissioner approves or denies the application,
14 whichever occurs first. The commissioner of financial
15 institutions, for good cause, may reduce or extend the
16 six-month period. Submission of an application for
17 licensure shall be evidenced through NMLS to the
18 commissioner.



Report Title:

Digital Currency Companies; Licensure; Division of Financial Institutions

Description:

Establishes a program for the licensure, regulation, and oversight of digital currency companies. (SD1)

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

