

---

# 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 currencies  
2 are assets that are 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  
5 various governmental jurisdictions. Digital currency may be  
6 recorded on a decentralized ledger on the Internet or a  
7 centralized database 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, called the digital currency innovation lab,  
3 to study digital currency transactions. This study allows  
4 companies to conduct digital currency transactions without  
5 obtaining a money transmitter license while the division of  
6 financial 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:

8 (A) Goods, services, discounts, or purchases as part  
9 of a customer affinity or rewards program with  
10 the issuer or other designated merchants; or

11 (B) Digital units in another customer affinity or  
12 rewards program,

13 but cannot be converted into or redeemed for fiat  
14 currency or digital currency; or

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

16 "Digital currency administration" means issuing digital  
17 currency with the authority to redeem the currency for money,  
18 bank credit, or other digital currency.

19 "Digital currency business activity" means:

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



whether directly or through an agreement with a  
digital currency control-services vendor;

(2) Exchanging one or more digital representations of  
value used within one or more online games, game  
platforms, or family of games for money or bank credit  
outside the online game, game platform, or family of  
games offered by or on behalf of the same publisher  
from which the original digital representation of  
value was received;

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

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

(5) Performing exchange services as a business; or

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

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

"Division" means the division of financial institutions of  
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:

4 (1) Fiat currency or other value into digital currency;

5 (2) Digital currency into fiat currency or other value; or

6 (3) One form of digital currency into another form of  
7 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;



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

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

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

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

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

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

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

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

(3) Relinquish control of digital currency to another 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 chapter 2B, or the  
10 Commodity Exchange Act, title 7 United States Code  
11 chapter 1;

12 (2) Activity by a person that:

13 (A) Contributes only connectivity software or  
14 computing power to a:

15 (i) Decentralized digital currency; or

16 (ii) Protocol governing transfer of the digital  
17 representation of value;

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





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



1 (7) A digital currency control-services vendor;

2 (8) A person that:

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

4 (i) Providing digital currency products or  
5 services; or

6 (ii) Conducting digital currency business  
7 activity; or

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

10 (9) Non-custodial digital currency business activity by a  
11 person using a digital currency:

12 (A) Acknowledged as legal tender by the United States  
13 or a government recognized by the United States;  
14 or

15 (B) That has been determined to not be a security by  
16 a United States regulatory agency; or

17 (10) Banks, bank holding companies, credit unions, savings  
18 banks, financial services loan companies, and mutual  
19 banks organized under the laws of the United States or  
20 any state.



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

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

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

8 (2) Issue declaratory rulings or informal nonbinding  
9 interpretations;

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

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

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



1 appropriate payment of the applicable fee for each  
2 criminal history record check;

3 (6) Contract with or employ qualified persons, including  
4 accountants, attorneys, investigators, examiners,  
5 auditors, or other professionals who may be exempt  
6 from chapter 76 and who shall assist the commissioner  
7 in exercising the commissioner's powers and duties;

8 (7) Process and investigate complaints, subpoena witnesses  
9 and documents, administer oaths, receive affidavits  
10 and oral testimony, including telephonic  
11 communications, and do anything necessary or  
12 incidental to the exercise of the commissioner's power  
13 and duties, including the authority to conduct  
14 contested case proceedings under chapter 91;

15 (8) Require a licensee to comply with:

16 (A) Any rule, guidance, guideline, statement,  
17 supervisory policy or any similar proclamation  
18 issued or adopted by the Federal Deposit  
19 Insurance Corporation; or

20 (B) Any policy position of the Conference of State  
21 Bank Supervisors,



1 to the same extent and in the same manner as a bank  
2 chartered by the State;

3 (9) Enter into agreements or relationships with other  
4 government officials or regulatory associations to  
5 improve efficiencies and reduce regulatory burden by  
6 sharing resources, standardized or uniform methods or  
7 procedures, and documents, records, information, or  
8 evidence obtained under this chapter;

9 (10) Use, hire, contract, or employ public or privately  
10 available analytical systems, methods, or software to  
11 investigate or examine a licensee or person subject to  
12 this chapter;

13 (11) Accept and rely on investigation or examination  
14 reports made by other government officials, within or  
15 outside of this State;

16 (12) Accept audit reports made by an independent certified  
17 public accountant for the licensee or person subject  
18 to this chapter during that part of the examination  
19 covering the same general subject matter as the audit  
20 and may incorporate the audit report in the report of



1 the examination, report of investigation, or other  
2 writing of the commissioner; and

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

7 **§ -4 License required.** (a) A person shall not engage  
8 in digital currency business activity, or hold itself out as  
9 being able to engage in digital currency business activity, with  
10 or on behalf of a person unless the person is:

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

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

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

17 **§ -5 Payment of fees.** All fees, fines, penalties, and  
18 other charges collected pursuant to this chapter or by rule  
19 shall be deposited with the director of commerce and consumer  
20 affairs to the credit of the compliance resolution fund



1 established pursuant to section 26-9(o). Payments shall be made  
2 through NMLS, to the extent allowed by NMLS.

3 **PART II. LICENSING**

4 **§ -6 License; application; issuance.** (a) The  
5 commissioner shall require all licensees to register with NMLS.

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

9 (1) The legal name, trade names, and business address of:

10 (A) The applicant; and

11 (B) Every member, officer, principal, or director  
12 thereof, if the applicant is a partnership,  
13 association, limited liability company, limited  
14 liability partnership, or corporation;

15 (2) The principal place of business located in the United  
16 States;

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

20 (4) Other data, financial statements, and pertinent  
21 information as the commissioner may require with



1           respect to the applicant or, if an applicant is not an  
2           individual, each of the applicant's control persons,  
3           executive officers, directors, general partners, and  
4           managing members.

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

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

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

19           (1) Fingerprints of the applicant or, if an applicant is  
20           not an individual, fingerprints of each of the  
21           applicant's control persons, executive officers,





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

- 9 (2) Personal history and experience of the applicant or,  
10 if an applicant is not an individual, the personal  
11 history and experience of each of the applicant's  
12 control persons, executive officers, directors,  
13 general partners, and managing members in a form  
14 prescribed by NMLS, including the submission of  
15 authorization for NMLS and the commissioner to obtain:
- 16 (A) An independent credit report obtained from a  
17 consumer reporting agency described in section  
18 603(p) of the Fair Credit Reporting Act, title 15  
19 United States Code section 1681a(p); and



1 (B) Information related to any administrative, civil,  
2 or criminal findings by any governmental  
3 jurisdiction;

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

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

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

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

18 **§ -7 Issuance of license; grounds for denial.** (a) The  
19 commissioner shall investigate every applicant to determine the  
20 financial responsibility, character, and general fitness of the  
21 applicant. The commissioner shall issue the applicant a license



1 to engage in digital currency business activity if the  
2 commissioner determines that:

3 (1) 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 never had a digital  
7 currency license revoked in any jurisdiction; provided  
8 that a subsequent formal vacation of a revocation  
9 shall not be deemed a revocation;

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

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



1 (B) At any time preceding the date of application, if  
2 the felony involved an act of fraud, dishonesty,  
3 breach of trust, or money laundering;

4 provided that any pardon of a conviction shall not be  
5 deemed a conviction for the purposes of this section;

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

20 (A) Current outstanding judgments, except judgments  
21 solely as a result of medical expenses;



(B) Current outstanding tax liens or other government  
liens and filings, subject to applicable  
disclosure laws and administrative rules;

(C) Foreclosures within the prior three years; and

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

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

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

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

(b) The applicant or, in the case of an applicant that is  
not an individual, each of the applicant's control persons,



1 executive officers, directors, general partners, and managing  
2 members shall submit authorization to the commissioner for the  
3 commissioner to conduct background checks to determine or verify  
4 the information in subsection (a) in each state where the person  
5 has conducted digital currency business activity. Authorization  
6 pursuant to this subsection shall include consent to provide  
7 additional fingerprints, if necessary, to law enforcement or  
8 regulatory bodies in other states.

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

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

14 (2) Whose license to conduct digital currency business  
15 activity has been revoked by an administrative order  
16 issued by the commissioner or the commissioner's  
17 designee, or the licensing authority of another state  
18 or jurisdiction, for the period specified in the  
19 administrative order;



(3) Who has advertised directly and purposefully to consumers in the State or conducted transactions in violation of this chapter; or

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

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

**§ -8 Anti-money laundering program.** (a) Each licensee shall conduct an initial risk assessment that shall consider legal, compliance, financial, and reputational risks associated with the licensee's activities, services, customers, counterparties, and geographic location and shall establish, maintain, and enforce an anti-money laundering program based thereon. The licensee shall conduct additional assessments on an annual basis, or more frequently as risks change, and shall modify its anti-money laundering program as appropriate to reflect the changes.

(b) Each licensee, at a minimum, shall:

- 1 (1) Establish an effective anti-money laundering  
2 compliance program in accordance with the federal  
3 Anti-Money Laundering Act of 2020;
- 4 (2) Establish an effective customer due diligence system  
5 and monitoring program;
- 6 (3) Screen against the Specially Designated Nationals and  
7 Blocked Persons List maintained by the Office of  
8 Foreign Assets Control and other government lists;
- 9 (4) Maintain records of cash purchases or cash  
10 transactions and report to the appropriate federal  
11 regulatory agency, as required by the federal  
12 Anti-Money Laundering Act of 2020;
- 13 (5) Establish an effective suspicious activity monitoring  
14 and reporting process; and
- 15 (6) Develop a risk-based anti-money laundering program
- 16 (c) Each licensee shall have in place appropriate policies  
17 and procedures to block or reject specific or impermissible  
18 transactions that violate federal or state laws, rules, or  
19 regulations.

20 **§ -9 Cybersecurity program.** (a) Each licensee shall  
21 establish and maintain an effective cybersecurity program to





1 ensure the availability and functionality of the licensee's  
2 electronic systems and to protect those systems and any  
3 sensitive data stored on those systems from unauthorized access,  
4 use, or tampering. The cybersecurity program shall be designed  
5 to perform the following five core cyber security functions:

- 6 (1) Identify internal and external cybersecurity risks by,  
7 at a minimum, identifying the information stored on  
8 the licensee's systems, the sensitivity of the  
9 information, and how and by whom the information may  
10 be accessed;
- 11 (2) Protect the licensee's electronic systems, and the  
12 information stored on those systems, from unauthorized  
13 access, use, or other malicious acts through the use  
14 of defensive infrastructure and the implementation of  
15 policies and procedures;
- 16 (3) Detect systems intrusions, data breaches, unauthorized  
17 access to systems or information, malware, and other  
18 cybersecurity events;
- 19 (4) Respond to detected cybersecurity events to mitigate  
20 any negative effects; and



1 (5) Recover from cybersecurity events and restore normal  
2 operations and services.

3 (b) Each licensee shall implement a written cybersecurity  
4 policy setting forth the licensee's policies and procedures for  
5 the protection of its electronic systems and customer and  
6 counterparty data stored on those systems, which shall be  
7 reviewed and approved by the licensee's board of directors or  
8 equivalent governing body at least annually. The cybersecurity  
9 policy shall:

10 (1) Establish effective policies, procedures, and controls  
11 to effectuate subsection (a);

12 (2) Designate a cybersecurity officer;

13 (3) Develop and implement employee training in accordance  
14 with position responsibilities to keep abreast of the  
15 changing cybersecurity risk and threats;

16 (4) Establish a method of independent testing; and

17 (5) Maintain records.

18 **§ -10 Fees; bond.** (a) A special purpose digital  
19 currency company shall pay the following fees to the division  
20 through NMLS to obtain and maintain a valid license under this  
21 chapter:



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

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

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

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

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

20 (b) The applicant shall file and maintain a surety bond  
21 that is approved by the commissioner and executed by the



1 applicant as obligor and by a surety company authorized to  
2 operate as a surety in this State, whose liability as a surety  
3 does not exceed, in the aggregate, the penal sum of the bond.  
4 The penal sum of the bond shall be a minimum of \$500,000, based  
5 upon the annual United States dollar equivalent of digital  
6 currency as reported in the annual renewal report.

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

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

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

20 **§ -11 Renewal of license; annual report; quarterly**

21 **reports.** (a) Every licensee shall be assessed quarterly fees



1 based on the total value of transactions in the State, in United  
2 States dollar equivalent of digital currency, as reported in the  
3 quarterly reports. The quarterly fees shall be assessed the  
4 quarter after the applicant is licensed in accordance with the  
5 following:

6 (1) For licensees with a total value of transactions, in  
7 United States dollar equivalent of digital currency,  
8 not over \$10,000, the quarterly assessment shall be  
9 \$2,500;

10 (2) For licensees with a total value of transactions, in  
11 United States dollar equivalent of digital currency,  
12 over \$10,000 but not over \$15,000, the quarterly  
13 assessment shall be \$3,750;

14 (3) For licensees with a total value of transactions, in  
15 United States dollar equivalent of digital currency,  
16 over \$15,000 but not over \$25,000, the quarterly  
17 assessment shall be \$6,250;

18 (4) For licensees with a total value of transactions, in  
19 United States dollar equivalent of digital currency,  
20 over \$25,000 but not over \$35,000, the quarterly  
21 assessment shall be \$8,750; and



1           (5) For licensees with a total value of transactions, in  
2           United States dollar equivalent of digital currency,  
3           over \$35,000, the quarterly assessment shall be  
4           \$12,500.

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

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

15          (d) An annual report shall be filed in accordance with  
16          NMLS policy. The annual report shall include the licensee's  
17          most recent audited annual financial statement, including  
18          balance sheets, a statement of income or loss, a statement of  
19          changes in shareholders' equity, and a statement of cash flows  
20          or, if a licensee is a wholly owned subsidiary of another  
21          corporation, the consolidated audited annual financial statement



1 of the parent corporation in lieu of the licensee's audited  
2 annual financial statement.

3 (e) Quarterly reports shall be filed in a form prescribed  
4 by the commissioner, which shall include:

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

8 (A) The number of stored value accounts opened;

9 (B) The number of transactions processed;

10 (C) The total value of transactions in United States  
11 dollar equivalent of digital currency;

12 (D) The number of system outages;

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

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

19 (2) A report of any material changes to any of the  
20 information submitted by the licensee on its original  
21 application that have not previously been reported to



1 the commissioner on any other report required to be  
2 filed under this chapter;

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

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

7 (f) A licensee may renew its license by:

8 (1) Continuing to meet the licensing requirements of  
9 sections -6, -7, -8, -9, and -10;

10 (2) Filing a completed renewal statement on a form  
11 prescribed by NMLS or by the commissioner;

12 (3) Paying a renewal fee; and

13 (4) Meeting all other requirements of this section.

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





1 each day after suspension that the commissioner does not receive  
2 the annual report, quarterly reports, and the quarterly fee.  
3 The commissioner, for good cause, may reduce or suspend the late  
4 filing fee.

5       **§ -12 Authorized places of business; principal office.**

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

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

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

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

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



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

18 (d) The commissioner shall approve a request for change of  
19 control under subsection (b) if, after investigation, the  
20 commissioner determines that the person or group of persons  
21 requesting approval has the competence, experience, character,



1 and general fitness to control the licensee or person in control  
2 of the licensee in a lawful and proper manner, and that the  
3 interests of the public will not be jeopardized by the change of  
4 control.

5 (e) The following persons shall be exempt from the  
6 requirements of subsection (b); provided that the licensee shall  
7 notify the commissioner when control is assumed by a person:

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

12 (2) Who acquires control of a licensee by devise or  
13 descent;

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

18 (4) Whom the commissioner, by rule or order, exempts in  
19 the public interest.

20 (f) Before filing a request for approval for a change of  
21 control, a person may request, in writing, a determination from



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

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

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

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

20 (c) The digital currency referred to in this section  
21 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, to the extent applicable to the digital currency  
13 business activity the licensee will undertake with the person,  
14 shall disclose:

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:



1 (A) A form of insurance or is otherwise guaranteed  
2 against loss by an agency of the United States,  
3 including the Federal Deposit Insurance  
4 Corporation and the Securities Investor  
5 Protection Corporation, for the United States  
6 dollar equivalent of digital currency purchased  
7 from the licensee or for control of digital  
8 currency by the licensee; or

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

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

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

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

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

20 (7) The person's right to at least thirty days' prior  
21 notice of a change in the licensee's fee schedule,



1 other terms and conditions of operating its digital  
2 currency business activity with the person, and the  
3 policies applicable to the person's account; and

4 (8) That digital currency is not money.

5 (c) At the end of a digital currency transaction with or  
6 on behalf of a person, a licensee shall provide the person a  
7 confirmation in a record that contains:

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

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

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

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





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

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

7 (1) Each transaction of the licensee with or on behalf of  
8 the person or for the licensee's account in this  
9 State, including:

10 (A) The identity of the person;

11 (B) The form of the transaction;

12 (C) The amount, date, and payment instructions given  
13 by the person; and

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

18 (2) The aggregate number of transactions and aggregate  
19 value of transactions by the licensee with or on  
20 behalf of the person and for the licensee's account in  
21 this State, expressed in United States dollar



1 equivalent of digital currency for the previous twelve  
2 calendar months;

3 (3) Each transaction in which the licensee exchanges one  
4 form of digital currency for money or another form of  
5 digital currency with or on behalf of the person;

6 (4) A general ledger posted at least monthly that lists  
7 all assets, liabilities, capital, income, ownership  
8 equity, and expenses of the licensee;

9 (5) Each business-call report the licensee is required to  
10 create or provide to the division of financial  
11 institutions or NMLS;

12 (6) Bank statements and bank reconciliation records for  
13 the licensee and the name, account number, and United  
14 States Postal Service address of each bank the  
15 licensee uses in the conduct of its digital currency  
16 business activity with or on behalf of the person;

17 (7) Communications and documentation related to  
18 investigations of customer complaints; and

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



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

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

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



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

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

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



1 (b) For the purposes of this section, the commissioner may  
2 enter into agreements or sharing arrangements with other  
3 governmental agencies, the Conference of State Bank Supervisors,  
4 or other associations representing governmental agencies as  
5 established by rule or order of the commissioner.

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

8 (1) Disclosure under chapter 92F; or

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

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

20 (e) In the event of a conflict between this section and  
21 any other section of law relating to the disclosure of



1 privileged or confidential information or material, this section  
2 shall control.

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

7 **PART IV. ENFORCEMENT**

8 **§ -19 Enforcement authority; violations; penalties. (a)**

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

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

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



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



1 section -20 or any rule adopted by the commissioner  
2 pursuant to chapter 91;

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

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

12 (11) The applicant or licensee has failed, in a timely  
13 manner as specified by the commissioner, to take or  
14 provide proof of the corrective action required by the  
15 commissioner after an investigation or examination  
16 pursuant to section -20.

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

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





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



1 mileage, and other reasonable expenses incurred in connection  
2 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 person;
- 10 (6) Directly or indirectly engage in unfair or deceptive  
11 acts, practices, or advertising in connection with a  
12 digital currency business activity toward any person;
- 13 (7) Directly or indirectly obtain digital assets by fraud  
14 or misrepresentation;
- 15 (8) Conduct digital currency business activity with or on  
16 behalf of any person physically located in the State  
17 through the use of the Internet, facsimile, telephone,  
18 kiosk, or other means without first obtaining a  
19 license under this chapter;
- 20 (9) Make, in any manner, any false or deceptive statement  
21 or representation, including with regard to the rates,





1 fees, or other financing terms or conditions for  
2 digital currency business activity, or engage in bait  
3 and switch advertising;

4 (10) Make any false statement or knowingly make any  
5 omission of material fact in connection with any  
6 reports filed with the division by a licensee or in  
7 connection with any investigation conducted by the  
8 division;

9 (11) Conduct digital currency business activity from any  
10 unlicensed location;

11 (12) Draft funds from any depository financial institution  
12 without written approval of the consumer; provided  
13 that nothing in this paragraph shall prohibit the  
14 conversion of a negotiable instrument into an  
15 electronic form for processing through the Automated  
16 Clearing House or similar system;

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

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



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

4 **§ -22 Voluntary surrender of license.** (a) A licensee  
5 may voluntarily cease business and surrender its license by  
6 giving written notice through NMLS to the commissioner of its  
7 intent to surrender its license. Prior to the surrender date,  
8 the licensee shall have either completed all pending digital  
9 currency transactions or assigned each pending digital currency  
10 transaction to another licensee.

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

14 (1) The date of surrender;

15 (2) The name, address, telephone number, facsimile number,  
16 and electronic mail address of a contact individual  
17 with knowledge and authority sufficient to communicate  
18 with the commissioner regarding all matters relating  
19 to the licensee during the period that it was licensed  
20 pursuant to this chapter;

21 (3) The reason or reasons for surrender;



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



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

6 **§ -23 Suspension or revocation of licenses.** The  
7 commissioner may suspend or revoke a license if the commissioner  
8 finds that:

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

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

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

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



1 (5) The licensee is insolvent;

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

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

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

10 (9) The competence, experience, character, or general  
11 fitness of the licensee indicates that it is not in  
12 the public interest to allow the licensee to have a  
13 license.

14 **§ -24 Orders to cease and desist.** (a) If the

15 commissioner determines a violation of this chapter or a rule  
16 adopted or an order issued under this chapter by a licensee is:

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

20 (2) Cause insolvency or significant dissipation of assets  
21 of the licensee,



1 the commissioner may issue an order requiring the licensee to  
2 cease and desist from the violation. The order becomes  
3 effective upon service of the order upon the licensee.

4 (b) An order to cease and desist remains effective and  
5 enforceable pending the completion of an administrative  
6 proceeding pursuant to chapter 91.

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

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

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

18 **§ -25 Consent orders.** The commissioner may enter into a  
19 consent order at any time with a person to resolve a matter  
20 arising under this chapter. A consent order shall be signed by  
21 the person to whom the order is issued or by the person's



1 authorized representative, and shall indicate agreement with the  
2 terms contained in the order. A consent order may provide that  
3 it does not constitute an admission by a person that this  
4 chapter or a rule adopted or an order issued under this chapter  
5 has been violated.

6       **§ -26 Civil penalties.** The commissioner may assess a  
7 fine against a person who violates this chapter or a rule  
8 adopted or an order issued under this chapter in an amount not  
9 to exceed \$10,000 per violation, plus the State's costs and  
10 expenses for the investigation and prosecution of the matter,  
11 including reasonable attorneys' fees.

12       **§ -27 Criminal penalties.** (a) A person who  
13 intentionally makes a false statement, misrepresentation, or  
14 false certification in a record filed or required to be  
15 maintained under this chapter, who intentionally makes a false  
16 entry, or who omits a material entry in a record shall be guilty  
17 of a class C felony, and be subject to a fine in an amount up to  
18 \$10,000.

19       (b) An individual or person who knowingly engages in any  
20 activity for which a license is required under this chapter,  
21 without being licensed under this chapter, shall be guilty of a



1 misdemeanor, and be subject to a fine in an amount not to exceed  
2 \$1,000, imprisonment of not more than one year, or both, and  
3 each day a violation exists shall be deemed a separate offense.

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

9       (b) If the commissioner has reason to believe that a  
10 person has violated or is violating section -4, the  
11 commissioner may petition the circuit court for the issuance of  
12 a temporary restraining order if the public would be irreparably  
13 harmed.

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

16       (d) An order to cease and desist remains effective and  
17 enforceable pending the completion of an administrative  
18 proceeding pursuant to section -24.

19       (e) A person who is served with an order to cease and  
20 desist for violating section -4 may petition the circuit court  
21 for a judicial order setting aside, limiting, or suspending the





1 enforcement, operation, or effectiveness of the order to cease  
2 and desist pending the completion of an administrative  
3 proceeding pursuant to section -24.

4 (f) The commissioner shall commence an administrative  
5 proceeding within twenty days after issuing an order to cease  
6 and desist.

7 **§ -29 Administrative procedures.** All administrative  
8 proceedings under this chapter shall be conducted in accordance  
9 with chapter 91.

10 **§ -30 Hearings.** Except as otherwise provided in  
11 sections -11(g) and -24, the commissioner may not suspend or  
12 revoke a license, issue an order to cease and desist, or assess  
13 a civil penalty without notice and an opportunity to be heard.

14 **§ -31 Division functions.** (a) The division shall  
15 exercise all administrative functions of the State in relation  
16 to the regulation, supervision, and licensing of special purpose  
17 digital currency companies.

18 (b) The division shall interpret and enforce this  
19 chapter."



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

4 "Monetary value" means a medium of exchange, whether or  
5 not redeemable in money[~~-~~], except as defined as digital  
6 currency under chapter \_\_\_\_\_."

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

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

10 (1) The department of health or its designee on operators  
11 of adult foster homes for individuals with  
12 developmental disabilities or developmental  
13 disabilities domiciliary homes and their employees, as  
14 provided by section 321-15.2;

15 (2) The department of health or its designee on  
16 prospective employees, persons seeking to serve as  
17 providers, or subcontractors in positions that place  
18 them in direct contact with clients when providing  
19 non-witnessed direct mental health or health care  
20 services as provided by section 321-171.5;



- 1           (3) The department of health or its designee on all  
2           applicants for licensure or certification for,  
3           operators for, prospective employees, adult  
4           volunteers, and all adults, except adults in care, at  
5           healthcare facilities as defined in section 321-15.2;
- 6           (4) The department of education on employees, prospective  
7           employees, and teacher trainees in any public school  
8           in positions that necessitate close proximity to  
9           children as provided by section 302A-601.5;
- 10          (5) The counties on employees and prospective employees  
11          who may be in positions that place them in close  
12          proximity to children in recreation or child care  
13          programs and services;
- 14          (6) The county liquor commissions on applicants for liquor  
15          licenses as provided by section 281-53.5;
- 16          (7) The county liquor commissions on employees and  
17          prospective employees involved in liquor  
18          administration, law enforcement, and liquor control  
19          investigations;
- 20          (8) The department of human services on operators and  
21          employees of child caring institutions, child placing



1 organizations, and foster boarding homes as provided  
2 by section 346-17;

3 (9) The department of human services on prospective  
4 adoptive parents as established under section  
5 346-19.7;

6 (10) The department of human services or its designee on  
7 applicants to operate child care facilities, household  
8 members of the applicant, prospective employees of the  
9 applicant, and new employees and household members of  
10 the provider after registration or licensure as  
11 provided by section 346-154, and persons subject to  
12 section 346-152.5;

13 (11) The department of human services on persons exempt  
14 pursuant to section 346-152 to be eligible to provide  
15 child care and receive child care subsidies as  
16 provided by section 346-152.5;

17 (12) The department of health on operators and employees of  
18 home and community-based case management agencies and  
19 operators and other adults, except for adults in care,  
20 residing in community care foster family homes as  
21 provided by section 321-15.2;



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

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

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

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

18 (17) The board of private detectives and guards on  
19 applicants for private detective or private guard  
20 licensure as provided by section 463-9;



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



1 subcontracted service providers and their employees,  
2 and adult volunteers as provided by section 321-15.2;

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

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

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



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

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

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

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

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

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

20 (C) Each person who upon approval of an application  
21 requesting approval of a proposed change in





1 control of licensee will be a principal of the  
2 licensee,

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

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

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

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

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

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

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

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

19 (B) Each control person, executive officer, director,  
20 general partner, and managing member of an



1 applicant for a mortgage loan originator company  
2 license or license renewal,  
3 as provided by chapter 454F;

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

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

13 (34) The counties on prospective employees for fire  
14 department positions that involve contact with  
15 children or vulnerable adults;

16 (35) The counties on prospective employees for emergency  
17 medical services positions that involve contact with  
18 children or vulnerable adults;

19 (36) The counties on prospective employees for emergency  
20 management positions and community volunteers whose  
21 responsibilities involve planning and executing



1 homeland security measures including viewing,  
2 handling, and engaging in law enforcement or  
3 classified meetings and assisting vulnerable citizens  
4 during emergencies or crises;

5 (37) The State and counties on employees, prospective  
6 employees, volunteers, and contractors whose position  
7 responsibilities require unescorted access to secured  
8 areas and equipment related to a traffic management  
9 center;

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

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

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

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



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

5 (C) Each of the controlling persons of an applicant  
6 for registration as an appraisal management  
7 company, as provided by section 466L-7;

8 (41) The department of health or its designee on all  
9 license applicants, licensees, employees, contractors,  
10 and prospective employees of medical cannabis  
11 dispensaries, and individuals permitted to enter and  
12 remain in medical cannabis dispensary facilities as  
13 provided under sections 329D-15(a)(4) and  
14 329D-16(a)(3);

15 (42) The department of commerce and consumer affairs on  
16 applicants for nurse licensure or license renewal,  
17 reactivation, or restoration as provided by sections  
18 457-7, 457-8, 457-8.5, and 457-9;

19 (43) The county police departments on applicants for  
20 permits to acquire firearms pursuant to section 134-2



1 and on individuals registering their firearms pursuant  
2 to section 134-3;

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

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

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

15 as provided by chapter 449;

16 (45) The department of taxation on current or prospective  
17 employees or contractors who have access to federal  
18 tax information in order to comply with requirements  
19 of federal law, regulation, or procedure, as provided  
20 by section 231-1.6;



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

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

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

16      (49) The department of the attorney general on current or  
17          prospective employees or employees or agents of  
18          contractors who have access to federal tax information  
19          to comply with requirements of federal law,  
20          regulation, or procedure, as provided by section  
21          28-17;



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

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

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

16    ~~[(+)(52)]~~   (53)    Any other organization, entity, or the State,  
17                   its branches, political subdivisions, or agencies as  
18                   may be authorized by state law."

19       SECTION 5.   (a)   Notwithstanding any law to the contrary,  
20   the participating companies in the digital currency innovation  
21   lab operated by the department of commerce and consumer affairs



1 and the Hawaii technology development corporation shall be  
2 allowed to continue operations until their applications are  
3 acted upon by the division of financial institutions of the  
4 department of commerce and consumer affairs; provided that the  
5 complete application is submitted to the division of financial  
6 institutions of the department of commerce and consumer affairs  
7 by March 1, 2023.

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





1       SECTION 6. 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 7. 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 8. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15       SECTION 9. This Act shall take effect on July 1, 2022;  
16 provided that the special purpose digital currency licensing  
17 requirements established by section 2 of this Act shall take  
18 effect on January 1, 2023.



**Report Title:**

Digital Currency Companies; Licensure; Division of Financial Institutions

**Description:**

Establishes a program for the licensure, regulation, and oversight of digital currency companies. (SD2)

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

