
A BILL FOR AN ACT

RELATING TO VIRTUAL CURRENCY.

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

1 PART I

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

5 "CHAPTER

6 UNIFORM REGULATION OF VIRTUAL CURRENCY BUSINESSES ACT

7 PART I. LICENSURE

8 § -1 Conditions precedent to engaging in virtual
9 currency business activity. A person shall not engage in
10 virtual currency business activity, or hold itself out as being
11 able to engage in virtual currency business activity, with or on
12 behalf of a resident, unless the person is:

13 (1) Licensed in this State by the division under section

14 -2;

15 (2) Licensed in another state to conduct virtual currency

16 business activity by a state with which this State has



1 a reciprocity agreement and has qualified under
2 section -3; or

3 (3) Registered with the division and operating in
4 compliance with section -7.

5 § -2 License by application. (a) Except as otherwise
6 provided in section -3, an application for a license under
7 this chapter:

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

10 (2) Except as otherwise provided in subsection (b), shall
11 provide the following information relevant to the
12 applicant's proposed virtual currency business
13 activity:

14 (A) The legal name of the applicant, each current or
15 proposed business United States Postal Service
16 address of the applicant, and any fictitious or
17 trade name the applicant uses or plans to use in
18 conducting its virtual currency business activity
19 with or on behalf of a resident;

20 (B) The legal name, any former or fictitious name,
21 and the residential and business United States



1 Postal Service address of each executive officer
2 and responsible individual of the applicant, and
3 each person that has control of the applicant;

4 (C) A description of the current and former business
5 of the applicant for the five years before the
6 application is submitted or, if the business has
7 operated for less than five years, for the time
8 the business has operated, including its products
9 and services, associated website addresses and
10 social media pages, principal place of business,
11 projected user base, and specific marketing
12 targets;

13 (D) The name, United States Postal Service address,
14 and telephone number of a person that manages
15 each server the applicant expects to use in
16 conducting its virtual currency business activity
17 with or on behalf of a resident and a copy of any
18 agreement with that person;

19 (E) A list of:



- 1 (i) Each money service or money transmitter
2 license the applicant holds in another
3 state;
4 (ii) The date the license expires; and
5 (iii) Any license revocation, license suspension,
6 or other disciplinary action taken against
7 the licensee in another state and any
8 license applications rejected by another
9 state;
10 (F) A list of any criminal conviction, deferred
11 prosecution agreement, and pending criminal
12 proceeding in any jurisdiction against:
13 (i) The applicant;
14 (ii) Each executive officer of the applicant;
15 (iii) Each responsible individual of the
16 applicant;
17 (iv) Each person that has control over the
18 applicant; and
19 (v) Each person over which the applicant has
20 control;



1 (G) A list of any litigation, arbitration, or
2 administrative proceeding in any jurisdiction in
3 which the applicant, or an executive officer or a
4 responsible individual of the applicant, has been
5 a party for the five years before the application
6 is submitted, determined to be material in
7 accordance with generally accepted accounting
8 principles and, to the extent the applicant would
9 be required to disclose the litigation,
10 arbitration, or administrative proceeding in the
11 applicant's audited financial statements, reports
12 to equity owners, and similar statements or
13 reports;

14 (H) A list of any bankruptcy or receivership
15 proceeding in any jurisdiction for the ten years
16 before the application is submitted in which any
17 of the following was a debtor:

- 18 (i) The applicant;
19 (ii) Each executive officer of the applicant;
20 (iii) Each responsible individual of the
21 applicant;



1 (iv) Each person that has control over the
2 applicant; and

3 (v) Each person over which the applicant has
4 control;

5 (I) The name and United States Postal Service address
6 of each bank in which the applicant plans to
7 deposit funds obtained by its virtual currency
8 business activity;

9 (J) The source of funds and credit to be used by the
10 applicant to conduct virtual currency business
11 activity with or on behalf of a resident and
12 documentation demonstrating that the applicant
13 has the net worth and reserves required by
14 section -4;

15 (K) The United States Postal Service address and
16 electronic mail address to which communications
17 from the division may be sent;

18 (L) The name, United States Postal Service address,
19 and electronic mail address of the registered
20 agent of the applicant in this State;



- 1 (M) A copy of the certificate, or a detailed summary
2 acceptable to the division, of coverage for each
3 liability, casualty, business interruption, or
4 cybersecurity insurance policy maintained by the
5 applicant for itself, an executive officer, a
6 responsible individual, or the applicant's users;
- 7 (N) The date on which and the state where the
8 applicant is formed and a copy of a current
9 certificate of good standing by that state, if
10 applicable;
- 11 (O) If a person has control of the applicant and the
12 person's equity interests are publicly traded in
13 the United States, a copy of the audited
14 financial statement of the person for the most
15 recent fiscal year or most recent report of the
16 person filed under section 13 of the Securities
17 Exchange Act of 1934 (15 U.S.C. 78m), as amended;
- 18 (P) If a person has control of the applicant and the
19 person's equity interests are publicly traded
20 outside the United States, a copy of the audited
21 financial statement of the person for the most



1 recent fiscal year of the person or a copy of the
2 most recent documentation similar to that
3 required in subparagraph (O) filed with the
4 foreign regulator in the domicile of the person;

5 (Q) If the applicant is a partnership or a member-
6 managed limited liability company, the names and
7 United States Postal Service addresses of general
8 partners or members;

9 (R) If the applicant is required to register with the
10 Financial Crimes Enforcement Network of the
11 United States Department of the Treasury as a
12 money service business, evidence of the
13 registration;

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

16 (T) If available, for each executive officer and
17 responsible individual of the applicant, for the
18 five years before the application is submitted:

19 (i) Employment history; and



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

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

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

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

(b) The division may waive a requirement under subsection (a) or permit the applicant to submit other information instead of the required information for good cause.

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

(d) On receipt of a completed application:

(1) The division shall investigate:



1 (A) The financial condition and responsibility of the
2 applicant;

3 (B) The relevant financial and business experience,
4 character, and general fitness of the applicant;
5 and

6 (C) The competence, experience, character, and
7 general fitness of each executive officer, each
8 responsible individual, and any person that has
9 control of the applicant; and

10 (2) The division may conduct an investigation of the
11 business premises of an applicant.

12 (e) No later than thirty days after an application is
13 complete, the division shall send the applicant notice of its
14 decision to approve, conditionally approve, or deny the
15 application. If the division does not send the applicant notice
16 of its decision within thirty-one days of completion of the
17 application, the application is deemed denied. If the division
18 does not receive notice from the applicant that the applicant
19 accepts the conditions specified by the division within thirty-
20 one days following the division's notice of the conditions, the
21 application is deemed denied.



1 (f) A license takes effect on:

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

3 (2) The date the licensee provides the security required

4 by section -4,

5 whichever occurs later.

6 (g) An applicant shall pay the reasonable costs of the

7 division's investigation under this section.

8 § -3 License by reciprocity. (a) Notwithstanding

9 section -2, a person licensed by another state to conduct

10 virtual currency business activity in that state may file with

11 the registry an application under this section.

12 (b) When an application under this section is filed with

13 the registry, the applicant shall notify the division in a

14 record that the applicant has submitted the application to the

15 registry and shall submit to the division:

16 (1) A certification of license history from the agency

17 responsible for issuing a license in each state in

18 which the applicant has been licensed to conduct

19 virtual currency business activity;



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

(3) Documentation demonstrating that the applicant complies with the security and net worth reserve requirements of section -4; and

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

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

§ -4 Security, net worth, and reserves. (a) Before a license is issued under this chapter:

(1) An applicant shall deposit with the division funds or investment property, a letter of credit, a surety bond, or other security satisfactory to the division that:

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



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

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

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

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

18 (5) For good cause, the division may require the licensee
19 to increase the amount of security deposited under
20 this section, and the licensee shall deposit the
21 additional security no later than fifteen days after



1 the licensee receives notice in a record of the
2 required increase;

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

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

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

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

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

19 (2) Sufficient unencumbered reserves for winding down the
20 licensee's or registrant's operations as agreed to by
21 the division considering the nature and size of



1 expected virtual currency business activity with or on
2 behalf of residents.

3 (c) A licensee or registrant may include in its
4 calculation of net worth virtual currency, measured by the
5 average value of the virtual currency in United States dollar
6 equivalent over the prior six months, other than the virtual
7 currency over which it has control for a resident entitled to
8 the protections under section -32.

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

15 § -5 Issuance of license; appeal. (a) Absent good
16 cause, the division shall issue a license to an applicant if the
17 applicant complies with this part and pays the costs of the
18 investigation under section -2(g) and the initial licensee
19 fee under section -2(a)(3) in an amount required by law or
20 specified by the division by rule.



(b) An applicant may appeal a denial of its application under section -2 or -3, under chapter 91 no later than thirty days after:

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

(2) The application is deemed denied.

§ -6 Renewal of license. (a) Subject to subsection (g), no later than fifteen days before the anniversary date of issue of the license granted pursuant to this chapter, a licensee may apply for the renewal of the license by:

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

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

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

The report shall contain:

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

(A) Reviewed annual financial statement if the licensee's virtual currency business activity in this State was \$ or less for the fiscal year ending before the anniversary date of issue



1 of the license granted pursuant to this chapter;

2 or

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

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

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

15 (B) Audited consolidated annual financial statement
16 if the person's gross revenue was more than
17 \$ in the previous fiscal year, measured
18 as of the anniversary date of issue of the
19 license granted pursuant to this chapter;

20 (3) A description of any:



- 1 (A) Material change in the financial condition of the
2 licensee;
- 3 (B) Material litigation involving the licensee or an
4 executive officer, or responsible individual of
5 the licensee;
- 6 (C) License suspension or revocation proceeding
7 commenced, or other action taken, involving a
8 license to conduct virtual currency business
9 activity issued by another state on which
10 reciprocal licensing is based;
- 11 (D) Federal or state investigation involving the
12 licensee; and
- 13 (E) Data security breach involving the licensee;
- 14 (4) Information or records required by section -15 that
15 the licensee has not reported to the division;
- 16 (5) The number of virtual currency business activity
17 transactions with or on behalf of residents for the
18 period since, subject to subsection (g), the date the
19 license was issued or the date the last renewal report
20 was submitted, whichever occurred later;
- 21 (6) The:



- 1 (A) Amount of United States dollar equivalent of
2 virtual currency in the control of the licensee
3 at, subject to subsection (g), the end of the
4 last month that ends no later than thirty days
5 before the date of the renewal report; and
- 6 (B) Total number of residents for whom the licensee
7 had control of United States dollar equivalent of
8 virtual currency on that date;
- 9 (7) Evidence that the licensee continues to satisfy
10 section -32;
- 11 (8) Evidence that the licensee continues to satisfy
12 section -4;
- 13 (9) A list of each location where the licensee operates
14 its virtual currency business activity; and
- 15 (10) The name, United States Postal Service address, and
16 telephone number of each person that manages a server
17 used by the licensee in conducting its virtual
18 currency business activity with or on behalf of a
19 resident.
- 20 (c) If a licensee does not timely comply with subsection
21 (a), the division may use enforcement measures provided under



1 part III. Notice or hearing is not required for a suspension or
2 revocation of a license under this chapter for failure to pay a
3 renewal fee or file a renewal report.

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

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

11 (2) Pays any penalty assessed under section -23.

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

15 (f) Suspension or revocation of a license under this
16 section does not invalidate a transfer or exchange of virtual
17 currency for or on behalf of a resident made during the
18 suspension or revocation and does not insulate the licensee from
19 liability under this chapter.

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



1 (h) The division shall review the renewal of a license
2 issued under section -3 to ensure that the state that issued
3 the original license has not suspended, revoked, or limited the
4 license.

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

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

11 § -7 Registration in lieu of license. (a) A person
12 whose volume of virtual currency business activity in United
13 States dollar equivalent of virtual currency will not exceed
14 \$35,000 annually may engage in virtual currency business
15 activity with or on behalf of a resident under a registration
16 without first obtaining a license under this chapter if the
17 person:

18 (1) Files with the division a notice in the form and
19 medium prescribed by the division of its intention to
20 engage in virtual currency business activity with or
21 on behalf of a resident;



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



1 sufficient unencumbered reserves for winding down
2 operations;

3 (8) Provides the division with evidence that the person
4 has in place policies and procedures to comply with
5 parts II, IV, and V and other requirements of this
6 chapter designated by the division; and

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

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

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

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

20 (1) If the division denies the registrant's application
21 for a license under this chapter, one day after the



1 registrant receives notice in a record that the
2 division has denied the application;

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

10 (3) If the virtual currency business activity of the
11 registrant with or on behalf of residents exceeds
12 \$35,000 annually in United States dollar equivalent of
13 virtual currency and the registrant has not filed an
14 application for a license under this chapter; or

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

16 § -8 License or registration not assignable or
17 transferable. A license or registration under this chapter is
18 not transferable or assignable.

19 § -9 Rules and guidance. The division may adopt rules
20 in accordance with chapter 91 to implement this chapter and
21 issue guidance as appropriate.



1 PART II. EXAMINATION; EXAMINATION FEES; DISCLOSURE OF
2 INFORMATION OBTAINED DURING EXAMINATION

3 § -11 Authority to conduct examination. (a) The
4 division may conduct an annual examination of a licensee or
5 registrant. For good cause, the division may conduct an
6 additional examination. The division may examine a licensee or
7 registrant without prior notice to the licensee or registrant.

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

10 (c) Information obtained during an examination under this
11 part may be disclosed only as provided in section -14.

12 § -12 Records. (a) A licensee or registrant shall
13 maintain, for all virtual currency business activity with or on
14 behalf of a resident five years after the date of the activity,
15 a record of:

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

19 (A) The identity of the resident;

20 (B) The form of the transaction;



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

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

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

14 (3) Each transaction in which the licensee or registrant
15 exchanges one form of virtual currency for legal
16 tender or another form of virtual currency with or on
17 behalf of the resident;

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



1 (5) Each business call report the licensee or registrant
2 is required to create or provide to the division or
3 registry;

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

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

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

14 (b) A licensee or registrant shall maintain records
15 required by subsection (a) in a form that enables the division
16 to determine whether the licensee or registrant is in compliance
17 with this chapter, any court order, and law of this State other
18 than this chapter.

19 (c) If a licensee or registrant maintains records outside
20 this State that pertain to transactions with or on behalf of a
21 resident, the licensee or registrant shall make the records



1 available to the division no later than three days after
2 request, or, on a determination of good cause by the division,
3 at a later time.

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

6 § -13 Rules; cooperation; data sharing authority. (a)
7 Subject to section -14 and law of this State other than this
8 chapter concerning privacy, consumer financial privacy, data
9 protection, privilege, and confidentiality, the division may
10 cooperate, coordinate, jointly examine, consult, and share
11 records and other information with the appropriate regulatory
12 agency of another state, a self-regulatory organization, federal
13 or state regulator of banking or nondepository providers, or a
14 regulator of a jurisdiction outside the United States,
15 concerning the affairs and conduct of a licensee or registrant
16 in this State.

17 (b) The division shall:

18 (1) Establish or participate in, with another state that
19 enacts a law substantially similar to this chapter, a
20 central depository for filings required by law of this
21 State other than this chapter;



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

4 (3) Formulate joint rules, forms, statements of policy,
5 and guidance and interpretative opinions and releases;
6 and

7 (4) Develop common systems and procedures.

8 (c) The division shall not establish or participate in a
9 central commercial depository that contains nonpublic personally
10 identifiable information that does not comply with section
11 502(e)(5) or (8) of the Gramm-Leach-Bliley Act (15 U.S.C.
12 6802(e)(5) or (8)), as amended, or with the Federal Right to
13 Financial Privacy Act (18 U.S.C. 3401 et seq.), as amended.

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

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



(2) Minimizing burdens on licensees and registrants

without adversely affecting protection for residents.

§ -14 Confidentiality. (a) Except as otherwise

provided in subsection (b) or (c), information not contained in

a report otherwise available to the public or reports obtained

by the division from an applicant, licensee, or registrant;

information contained in or related to an examination,

investigation, or operating or condition report prepared by, on

behalf of, or for the use of the division; and other financial

and operating information, are not subject to disclosure under

chapter 92F. If the division determines the information or

records are confidential under the open records law of a

reciprocal licensing state, the information or records shall not

be disclosed.

(b) A trade secret of an applicant, a licensee, or a

registrant is confidential and shall not be subject to

disclosure under chapter 92F. If the division determines a

trade secret is confidential under the open records law of a

reciprocal licensing state, the trade secret shall not be

disclosed.

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



(1) General information about a licensee's or registrant's virtual currency business activity with or on behalf of a resident;

(2) A list of persons licensed or registered under this chapter; or

(3) Aggregated financial data concerning licensees or registrants in this State.

§ -15 Interim report. (a) Each licensee and registrant shall file with the division a report of:

(1) A material change in information in the application for a license under this chapter or a registration or the most recent renewal report of the licensee under this chapter or for the registrant;

(2) A material change in the licensee's or registrant's business for the conduct of its virtual currency business activity with or on behalf of a resident; and

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

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



1 § -16 Change in control of licensee or registrant. (a)

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

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

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

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

14 (A) The person's voting power in another person
15 constitutes or will constitute at least ten per
16 cent of the total voting power of the other
17 person; and

18 (B) The other person's voting power in the licensee
19 or registrant constitutes at least twenty-five
20 per cent of the total voting power of the
21 licensee or registrant; and



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

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

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

9 (2) The information and records that section -2 would
10 require if the proposed person to be in control
11 already had control of the licensee;

12 (3) A license application under section -2 by the
13 proposed person to be in control;

14 (4) In the case of a registrant, the information that
15 section -7 would require if the proposed person to
16 be in control already had control of the registrant;
17 and

18 (5) In the case of a registration, a registration under
19 section -7 by the proposed person to be in control.

20 (d) The division, in accordance with section -2, shall
21 approve, approve with conditions, or deny an application for a



1 change in control of a licensee or registrant. The division, in
2 a record, shall send notice of its decision to the licensee or
3 registrant and the person that would be in control if the
4 division had approved the change in control. If the division
5 denies the application, the licensee or registrant shall abandon
6 the proposed change in control or cease virtual currency
7 business activity with or on behalf of residents.

8 (e) If the division applies a condition to approval of a
9 change in control of a licensee or registrant and the division
10 does not receive notice of the applicant's acceptance of the
11 condition specified by the division no later than thirty-one
12 days after the division sends notice of the condition, the
13 application is deemed denied. If the application is deemed
14 denied, the licensee or registrant shall abandon the proposed
15 change in control or cease virtual currency business activity
16 with or on behalf of residents.

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



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

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

§ -17 Merger or consolidation by licensee or registrant.

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

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



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

3 (3) In the case of a licensee, the information required by
4 section -2 concerning the person that would be the
5 surviving entity in the proposed merger or
6 consolidation; and

7 (4) In the case of a registrant, the information required
8 by section -7 concerning the person that would be
9 the surviving entity in the proposed merger or
10 consolidation.

11 (b) If a proposed merger or consolidation would change the
12 control of a licensee or registrant, the licensee or registrant
13 shall comply with section -16 and this section.

14 (c) The division, in accordance with section -2, shall
15 approve, conditionally approve, or deny an application for
16 approval of a merger or consolidation of a licensee or
17 registrant. The division, in a record, shall send notice of its
18 decision to the licensee or registrant and the person that would
19 be the surviving entity. If the division denies the
20 application, the licensee or registrant shall abandon the merger



1 or consolidation or cease virtual currency business activity
2 with or on behalf of residents.

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

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

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

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

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

16 (f) If a merger or consolidation of a licensee or
17 registrant and another person requires approval of an agency of
18 this State or another state with which this State has a
19 reciprocity agreement and the action of the other agency
20 conflicts with that of the division, the division shall confer
21 with the other agency. If the proposed merger or consolidation



1 cannot be completed because the conflict cannot be resolved, the
2 licensee or registrant shall abandon the merger or consolidation
3 or cease virtual currency business activity with or on behalf of
4 residents.

5 (g) The division may condition approval of an application
6 under subsection (a). If the division does not receive notice
7 from the parties that the parties accept the division's
8 condition no later than thirty-one days after the division sends
9 notice in a record of the condition, the application is deemed
10 denied. If the application is deemed denied, the licensee or
11 registrant shall abandon the merger or consolidation or cease
12 virtual currency business activity with or on behalf of
13 residents.

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

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



PART III. ENFORCEMENT

§ -21 Enforcement measure. For purposes of this part,
"enforcement measure" means an action to:

- (1) Suspend or revoke a license or a registration under this chapter;
- (2) Order a person to cease and desist from doing virtual currency business activity with or on behalf of a resident;
- (3) Request the court to appoint a receiver for the assets of a person doing virtual currency business activity with or on behalf of a resident;
- (4) Request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual currency business activity with or on behalf of a resident;
- (5) Assess a penalty under section -23;
- (6) Recover on the security under section -4 and initiate a plan to distribute the proceeds for the benefit of a resident injured by a violation of this chapter or law of this State other than this chapter



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

3 (7) Impose necessary or appropriate conditions on the
4 conduct of virtual currency business activity with or
5 on behalf of a resident.

6 § -22 Division authority to use enforcement measures.

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

11 (1) The licensee, registrant, or person materially
12 violates this chapter, a rule adopted or order issued
13 under this chapter, or law of this State other than
14 this chapter that applies to virtual currency business
15 activity of the violator with or on behalf of a
16 resident;

17 (2) The licensee, registrant, or person does not cooperate
18 substantially with an examination or investigation by
19 the division, fails to pay a fee, or fails to submit a
20 report or documentation;



- 1 (3) The licensee, registrant, or person, in the conduct of
2 its virtual currency business activity with or on
3 behalf of a resident, engages in:
- 4 (A) An unsafe or unsound act or practice;
5 (B) An unfair or deceptive act or practice;
6 (C) Fraud or intentional misrepresentation;
7 (D) Another dishonest act; or
8 (E) Misappropriation of legal tender, virtual
9 currency, or other value held by a fiduciary;
- 10 (4) An agency of the United States or another state takes
11 an action against the licensee, registrant, or person
12 that would constitute an enforcement measure if the
13 division had taken the action;
- 14 (5) The licensee, registrant, or person is convicted of a
15 crime related to its virtual currency business
16 activity with or on behalf of a resident or involving
17 fraud or felonious activity that, as determined by the
18 division, makes the licensee, registrant, or person
19 unsuitable to engage in virtual currency business
20 activity; or
- 21 (6) The licensee, registrant, or person:



- 1 (A) Becomes insolvent;
- 2 (B) Makes a general assignment for the benefit of its
- 3 creditors;
- 4 (C) Becomes the debtor, alleged debtor, respondent,
- 5 or person in a similar capacity in a case or
- 6 other proceeding under any bankruptcy,
- 7 reorganization, arrangement, readjustment,
- 8 insolvency, receivership, dissolution,
- 9 liquidation, or similar law, and does not obtain
- 10 from the court, within a reasonable time,
- 11 confirmation of a plan or dismissal of the case
- 12 or proceeding; or
- 13 (D) Applies for or permits the appointment of a
- 14 receiver, trustee, or other agent of a court for
- 15 itself or for a substantial part of its assets;
- 16 or
- 17 (7) The licensee, registrant, or person makes a material
- 18 misrepresentation to the division.
- 19 (b) On application and for good cause, the division may:
- 20 (1) Extend the due date for filing a document or report
- 21 under subsection (a)(2); or



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

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

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

§ -23 Civil penalty. (a) If a person other than a licensee or registrant engages in virtual currency business activity with or on behalf of a resident in violation of this chapter, the division may assess a civil penalty against the person in an amount not to exceed \$50,000 for each day of violation.



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

4 (c) A civil penalty under this section continues to accrue
5 until:

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

7 (2) A date specified by the division,
8 whichever occurs first.

9 § -24 Effective period of revocation, suspension, or
10 cease and desist order. (a) Revocation of a license under this
11 chapter is effective against a licensee one day after the
12 division sends notice in a record of the revocation to the
13 licensee, by a means reasonably selected for the notice to be
14 received by the recipient in one day, to the address provided
15 for receiving communications from the division.

16 (b) Suspension of a license under this chapter, suspension
17 of a registration, or an order to cease and desist is effective
18 against a licensee, registrant, or other person one day after
19 the division sends notice in a record of the suspension or order
20 to the licensee, registrant, or other person, by a means
21 reasonably selected for the notice to be received by the



1 recipient in one day, to the address provided for receiving
2 communications from the division or, if no address is provided,
3 to the recipient's last known address. A suspension or order to
4 cease and desist remains in effect until the earliest of:

5 (1) Entry of an order by the division pursuant to chapter
6 91 setting aside or limiting the suspension or order;

7 (2) Entry of a court order setting aside or limiting the
8 suspension or order to cease and desist; or

9 (3) A date specified by the division.

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

16 § -25 **Consent order.** The division may enter into a
17 consent order with a person regarding an enforcement measure.
18 The order may provide that it does not constitute an admission
19 of fact by a party.



1 § -26 Scope of right of action. (a) Except as
2 otherwise provided in this section, a person shall not have a
3 right of action for violation of this chapter.

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

7 (c) This section shall not preclude an action by a
8 resident to enforce rights under section -32 or law of this
9 State other than this chapter.

10 PART IV. DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS

11 § -31 Required disclosures. (a) A licensee or
12 registrant shall provide to a resident who uses the licensee's
13 or registrant's products or service the disclosures required by
14 subsection (b) and any additional disclosure the division by
15 rule determines reasonably necessary for the protection of
16 residents. The division shall determine by rule the time and
17 form required for disclosure. A disclosure required by this
18 section shall be made separately from any other information
19 provided by the licensee or registrant and in a clear and
20 conspicuous manner in a record the resident may keep. A
21 licensee or registrant may propose for the division's approval



1 alternate disclosures as more appropriate for its virtual
2 currency business activity with or on behalf of residents.

3 (b) Before establishing a relationship with a resident, a
4 licensee or registrant shall disclose, to the extent applicable
5 to the virtual currency business activity the licensee or
6 registrant will undertake with the resident:

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

12 (2) Whether the product or service provided by the
13 licensee or registrant is covered by:

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

16 (i) Up to the full United States dollar
17 equivalent of virtual currency placed under
18 the control of or purchased from the
19 licensee or registrant as of the date of the
20 placement or purchase, including the maximum
21 amount provided by insurance under the



1 Federal Deposit Insurance Corporation or
2 otherwise available from the Securities
3 Investor Protection Corporation; or

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

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

13 (3) The irrevocability of a transfer or exchange and any
14 exception to irrevocability;

15 (4) A description of:

16 (A) Liability for an unauthorized, mistaken, or
17 accidental transfer or exchange;

18 (B) The resident's responsibility to provide notice
19 to the licensee or registrant of the transfer or
20 exchange;



- 1 (C) The basis for any recovery by the resident from
2 the licensee or registrant;
- 3 (D) General error resolution rights applicable to the
4 transfer or exchange; and
- 5 (E) The method for the resident to update the
6 resident's contact information with the licensee
7 or registrant;
- 8 (5) That the date or time when the transfer or exchange is
9 made and the resident's account is debited may differ
10 from the date or time when the resident initiates the
11 instruction to make the transfer or exchange;
- 12 (6) Whether the resident has a right to stop a
13 preauthorized payment or revoke authorization for a
14 transfer and the procedure to initiate a stop-payment
15 order or revoke authorization for a subsequent
16 transfer;
- 17 (7) The resident's right to receive a receipt, trade
18 ticket, or other evidence of the transfer or exchange;
- 19 (8) The resident's right to at least thirty days' prior
20 notice of a change in the licensee's or registrant's
21 fee schedule, other terms and conditions of operating



1 its virtual currency business activity with the
2 resident and the policies applicable to the resident's
3 account; and

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

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

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

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

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

17 (d) If a licensee or registrant discloses that it will
18 provide a daily confirmation in the initial disclosure under
19 subsection (c), the licensee or registrant may elect to provide
20 a single, daily confirmation for all transactions with or on



1 behalf of a resident on that day instead of a per transaction
2 confirmation.

3 § -32 Property interests and entitlements to virtual
4 currency. (a) A licensee or registrant that has control of
5 virtual currency for one or more persons shall maintain in its
6 control an amount of each type of virtual currency sufficient to
7 satisfy the aggregate entitlements of the persons to the type of
8 virtual currency.

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

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

16 (1) Held for the persons entitled to the virtual currency;

17 (2) Not property of the licensee or registrant; and

18 (3) Not subject to the claims of creditors of the licensee
19 or registrant.



1 PART V. POLICIES AND PROCEDURES

2 § -41 Mandated compliance programs and monitoring. (a)

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

6 (1) An information security and operational security
7 program;

8 (2) A business continuity program;

9 (3) A disaster recovery program;

10 (4) An anti-fraud program;

11 (5) An anti-money laundering program;

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

13 and

14 (7) A program designed to:

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

12 (i) A licensee or registrant may:

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

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

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



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

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

8 § -42 Mandated compliance policy or procedure. (a) An
9 applicant, before submitting its application, and a registrant,
10 before registering, shall establish and maintain in a record a
11 policy or procedure designed to ensure compliance with:

12 (1) This chapter; and

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

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

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

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



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

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

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

(d) A licensee or registrant may:

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

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

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



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

5 **PART VI. MISCELLANEOUS PROVISIONS**

6 **§ -51 Uniformity of application and construction.** In
7 applying and construing this Act, consideration shall be given
8 to the need to promote uniformity of the law with respect to its
9 subject matter among the states that enact it.

10 **§ -52 Relation to Electronic Signatures in Global and**
11 **National Commerce Act.** This chapter modifies, limits, or
12 supersedes the Electronic Signatures in Global and National
13 Commerce Act (15 U.S.C. 7001, et seq.), but does not modify,
14 limit, or supersede section 101(c) of that Act (15 U.S.C.
15 7001(c)), or authorize electronic delivery of any of the notices
16 described in section 103(b) of that Act (15 U.S.C. 7003(b)).

17 **§ -53 Saving and transitional provisions.** (a) A
18 license issued under chapter 489D that is in effect immediately
19 before the effective date of this Act remains in effect as a
20 license for its duration unless revoked or suspended by the
21 licensing authority that issued it. A person licensed under



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

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

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

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



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

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

PART II

SECTION 2. Section 489D-4, Hawaii Revised Statutes, is amended as follows:

1. By adding five new definitions to be appropriately inserted and to read as follows:

"Exchange", in reference to virtual currency, means to assume control of virtual currency from, or on behalf of, a person in the State, at least momentarily, to sell, trade, or convert:

(1) Virtual currency for money, monetary value, or one or more forms of virtual currency; or

(2) Money or monetary value for one or more forms of virtual currency.

"Money" means a medium of exchange or unit of value, including coin or paper money, issued by the United States or by



1 another country or a union of countries recognized by the United
2 States.

3 "Store" or "storage", in reference to virtual currency,
4 means maintaining control of virtual currency on behalf of
5 another person.

6 "Transfer", in reference to virtual currency, means to
7 assume control of virtual currency from, or on behalf of, a
8 person in the State and to:

9 (1) Credit the virtual currency to the account of another
10 person;

11 (2) Move the virtual currency from one account of the
12 person to another account of the same person; or

13 (3) Relinquish control of the virtual currency to another
14 person.

15 "Virtual currency" means a digital representation of value
16 that:

17 (1) Is used as a medium of exchange, unit of account, or
18 store of value; and

19 (2) Is not money, whether or not denominated in money.

20 "Virtual currency" does not include:



1 (1) Units of value that are issued in affinity or rewards
2 programs that cannot be redeemed for either money or
3 virtual currencies; or

4 (2) Units of value that are used solely within online
5 gaming platforms that have no market or application
6 outside of the gaming platforms."

7 2. By amending the definitions of "control", "monetary
8 value", "money transmission", "outstanding payment obligation",
9 and "permissible investments" to read:

10 "Control" means:

11 (1) In reference to a person, ownership of, or the power
12 to vote, twenty-five per cent or more of the
13 outstanding voting securities of a licensee or
14 controlling person. For purposes of determining the
15 percentage of a licensee controlled by any person,
16 there shall be aggregated with the controlling
17 person's interest the interest of any other person
18 controlled by the person, or by any spouse, parent, or
19 child of the person[-]; and

20 (2) In reference to a transaction or relationship
21 involving virtual currency, the power to execute



1 unilaterally or prevent indefinitely a virtual
2 currency transaction.

3 "Monetary value" means a medium of exchange, whether or not
4 redeemable in money[-], and includes virtual currency.

5 "Money transmission" means to engage in the business of:

6 (1) Selling or issuing payment instruments; or

7 (2) Receiving money or monetary value for transmission,
8 transfer, exchange, or delivery to a location within
9 or outside the United States by any and all means,
10 including wire, internet, facsimile, or electronic
11 transfer.

12 Money transmission does not apply to courier services. Money
13 transmission does not include the sole provision of internet
14 connection services, telecommunications services, or network
15 access.

16 "Outstanding payment obligation" means:

17 (1) Any payment instrument issued by the licensee that has
18 been sold in the United States:

19 (A) Directly by the licensee; or



1 (B) By an authorized delegate of the licensee in the
2 United States, which has been reported to the
3 licensee as having been sold,
4 and that has not yet been paid by or for the licensee;
5 and

- 6 (2) All other [~~outstanding~~] money transmission obligations
7 [~~of~~] that the licensee has issued, or has agreed to
8 transmit, deliver, or instruct to be delivered, in the
9 United States[-] that have not been fully performed by
10 the licensee.

11 "Permissible investments" means:

- 12 (1) Cash;
13 (2) Certificates of deposit or other debt obligations of a
14 financial institution, either domestic or foreign;
15 (3) Bills of exchange or time drafts drawn on and accepted
16 by a commercial bank, known as bankers' acceptances,
17 that are eligible for purchase by member banks of the
18 Federal Reserve System;
19 (4) Any investment bearing a rating of one of the three
20 highest grades as defined by a nationally recognized
21 organization that rates securities;



- 1 (5) Investment securities that are obligations of the
2 United States, its agencies, or its instrumentalities,
3 obligations that are guaranteed fully as to principal
4 and interest by the United States, or any obligations
5 of any state, municipality, or any political
6 subdivision thereof;
- 7 (6) Shares in a money market mutual fund, interest-bearing
8 bills, notes, or bonds, debentures or stock traded on
9 any national securities exchange or on a national
10 over-the-counter market, mutual funds primarily
11 composed of these securities, or a fund composed of
12 one or more permissible investments as set forth in
13 paragraphs (1) to (5);
- 14 (7) Any demand borrowing agreement or agreements made with
15 a corporation or a subsidiary of a corporation whose
16 capital stock is listed on a national exchange;
- 17 (8) Receivables that are due to a licensee from its
18 authorized delegates pursuant to a contract under
19 section 489D-21, that are not past due or doubtful of
20 collection; [ex]
- 21 (9) Virtual currency; or



1 ~~[+9+]~~ (10) Any other investments or security device
2 approved by the commissioner."

3 SECTION 3. Section 489D-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§489D-8 Permissible investments and statutory trust.** (a)

6 A licensee, at all times, shall possess permissible investments
7 having an aggregate market value, calculated in accordance with
8 generally accepted accounting principles, of not less than the
9 aggregate amount of all outstanding payment obligations. This
10 requirement may be waived by the commissioner if the dollar
11 volume of a licensee's outstanding payment obligations does not
12 exceed the bond or other security devices posted by the licensee
13 pursuant to section 489D-7.

14 (b) In lieu of the permissible investments required under
15 subsection (a), a licensee, in connection with the storage or
16 transfer of virtual currency, may possess like-kind virtual
17 currency of the same volume as the outstanding payment
18 obligations to be completed in virtual currency pursuant to the
19 contract with the licensee.



1 (c) A licensee transmitting both money and virtual
2 currency shall maintain applicable levels and types of
3 permissible investments as described in subsections (a) and (b).

4 (d) The commissioner, with respect to any money
5 transmitter licensee, may limit the extent to which a type of
6 investment within a class of permissible investments may be
7 considered a permissible investment, except for money, time
8 deposits, savings deposits, demand deposits, and certificates of
9 deposit issued by a federally insured financial institution.

10 The commissioner may prescribe by rule, or allow by order, other
11 types of investments that the commissioner determines to have a
12 safe and sound equivalent to other permissible investments.

13 ~~[(b)]~~ (e) Permissible investments, even if commingled with
14 other assets of the licensee, shall be held in trust for the
15 benefit of the purchasers and holders of the licensee's
16 outstanding payment obligations in the event of the bankruptcy
17 of the licensee."

18 SECTION 4. Section 489D-9, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:



1 "(d) An application for a license under this chapter shall
2 be made in writing, and in a form prescribed by NMLS or by the
3 commissioner. Each application shall contain the following:

4 (1) For all applicants:

5 (A) The exact name of the applicant, any fictitious
6 or trade name used by the applicant in the
7 conduct of its business, the applicant's
8 principal address, and the location of the
9 applicant's business records;

10 (B) The history of the applicant's material
11 litigation and criminal convictions for the five-
12 year period prior to the date of the application;

13 (C) A description of the business activities
14 conducted by the applicant and a history of
15 operations;

16 (D) A description of the business activities in which
17 the applicant seeks to engage within the State;

18 (E) A list identifying the applicant's proposed
19 authorized delegates in the State, if any, at the
20 time of the filing of the license application;



- 1 (F) A sample authorized delegate contract, if
2 applicable;
- 3 (G) A sample form of payment instrument, if
4 applicable;
- 5 (H) The locations where the applicant and its
6 authorized delegates, if any, propose to conduct
7 their licensed activities in the State;
- 8 (I) The name and address of the clearing bank or
9 banks on which the applicant's payment
10 instruments will be drawn or through which
11 payment instruments will be payable;
- 12 (J) Disclosure of any pending or final suspension,
13 revocation, or other enforcement action by any
14 state or governmental authority for the five-year
15 period prior to the date of the application; and
- 16 (K) Any other information the commissioner may
17 require;
- 18 (2) If the applicant is a corporation, the applicant shall
19 also provide:
- 20 (A) The date of the applicant's incorporation and
21 state of incorporation;



- 1 (B) A certificate of good standing from the state in
2 which the applicant was incorporated;
- 3 (C) A description of the corporate structure of the
4 applicant, including the identity of any parent
5 or subsidiary company of the applicant, and the
6 disclosure of whether any parent or subsidiary
7 company is publicly traded on any stock exchange;
- 8 (D) The name, business and residence address, and
9 employment history, for the past five years, of
10 the applicant's principals, and each person who
11 upon approval of the application will be a
12 principal of the licensee;
- 13 (E) For the five-year period prior to the date of the
14 application, the history of material litigation
15 involving, and criminal convictions of, each
16 principal of the applicant;
- 17 (F) A copy of the applicant's most recent audited
18 financial statement, including balance sheets,
19 statements of income or loss, statements of
20 changes in shareholder equity and statements of
21 changes in financial position, and, if available,



1 the applicant's audited financial statements for
2 the preceding two-year period or, if the
3 applicant is a wholly owned subsidiary of another
4 corporation, either the parent corporation's
5 consolidated audited financial statements for the
6 current year and for the preceding two-year
7 period, or the parent corporation's Form 10-K
8 reports filed with the United States Securities
9 and Exchange Commission for the prior three years
10 in lieu of the applicant's financial statements,
11 or if the applicant is a wholly owned subsidiary
12 of a corporation having its principal place of
13 business outside the United States, similar
14 documentation filed with the parent corporation's
15 non-United States regulator;

16 (G) Copies of all filings, if any, made by the
17 applicant with the United States Securities and
18 Exchange Commission, or with a similar regulator
19 in a country other than the United States, within
20 the year preceding the date of filing of the
21 application; and



1 (H) Information necessary to conduct a criminal
2 history record check in accordance with section
3 846-2.7 of each person who upon approval of the
4 application will be a principal of the licensee,
5 accompanied by the appropriate payment of the
6 applicable fee for each record check; ~~and~~

7 (3) If the applicant is not a corporation, the applicant
8 shall also provide:

9 (A) The name, business and residence address,
10 personal financial statement, and employment
11 history, for the past five years, of each
12 principal of the applicant;

13 (B) The name, business and residence address, and
14 employment history, for the past five years, of
15 any other persons who upon approval of the
16 application will be a principal of the licensee;

17 (C) The place and date of the applicant's
18 registration or qualification to do business in
19 this State;

20 (D) The history of material litigation and criminal
21 convictions for the five-year period before the



1 date of the application for each principal of the
2 applicant;

3 (E) Copies of the applicant's audited financial
4 statements, including balance sheets, statements
5 of income or loss, and statements of changes in
6 financial position for the current year and, if
7 available, for the preceding two-year period; and

8 (F) Information necessary to conduct a criminal
9 history record check in accordance with section
10 846-2.7 of each principal of the applicant,
11 accompanied by the appropriate payment of the
12 applicable fee for each record check[-]; and

13 (4) If the applicant's business model transfers or stores
14 virtual currency on behalf of others, the applicant
15 shall also provide a third-party security audit of all
16 electronic information and data systems acceptable to
17 the commissioner."

18 SECTION 5. Section 489D-12, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:



1 "(b) The annual license fee shall be accompanied by a
2 report, in a form prescribed by the commissioner, which shall
3 include:

4 (1) A copy of the licensee's most recent audited annual
5 financial statement, including balance sheets,
6 statement of income or loss, statement of changes in
7 shareholder's equity, and statement of cash flows or,
8 if a licensee is a wholly owned subsidiary of another
9 corporation, the consolidated audited annual financial
10 statement of the parent corporation in lieu of the
11 licensee's audited annual financial statement[+]. If
12 the applicant's business model transfers or stores
13 virtual currency on behalf of others, the applicant
14 shall also provide a third-party security audit of all
15 electronic information and data systems acceptable to
16 the commissioner;

17 (2) For the most recent quarter for which data is
18 available prior to the date of filing the annual
19 report, but in no event more than one hundred twenty
20 days prior to the renewal date, the licensee shall
21 provide the number of money transmissions sold,



1 issued, or received for transmission, transfer,
2 exchange, or delivery by the licensee in the State,
3 and as applicable, the dollar amount and monetary
4 value of those transmissions, and the dollar amounts
5 and monetary value of outstanding payment obligations;

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

11 (4) For the most recent quarter for which data is
12 available prior to the date of filing the annual
13 report, but in no event more than one hundred twenty
14 days prior to the renewal date, a list of the
15 licensee's permissible investments, including the
16 total market value of each type of permissible
17 investment, and the total [~~dollar amount~~] amounts, in
18 money and monetary value, as applicable, of all
19 outstanding payment obligations;

20 (5) A list of the locations, if any, within this State
21 where business regulated by this chapter is being



1 conducted by either the licensee or the licensee's
2 authorized delegates;

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

6 (7) The licensee's evidence of a valid bond or other
7 security device as required pursuant to section
8 489D-7; and

9 (8) Any other information the commissioner may require.

10 A license may be renewed by filing a renewal statement on a
11 form prescribed by NMLS or by the commissioner and paying a
12 renewal fee at least four weeks prior to the renewal date for
13 licensure for the following year."

14 SECTION 6. Section 489D-18, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Each licensee shall make, keep, preserve, and make
17 available for inspection by the commissioner the following
18 books, accounts, and other records for a period of three years:

19 (1) A record or records of each payment instrument [7] and
20 other money transmission;



(2) A general ledger containing all assets, liability, capital, income, and expense accounts that shall be posted at least monthly;

(3) Bank statements and bank reconciliation records;

(4) Records of all outstanding payment obligations;

(5) Records of each payment instrument paid within the three-year period;

(6) A list of the names and addresses of all of the licensee's authorized delegates; and

(7) Any other records the commissioner reasonably requires by rule adopted pursuant to chapter 91."

SECTION 7. Section 489D-20, Hawaii Revised Statutes, is amended to read as follows:

"[+]§489D-20[+] Money transmitter receipts and refunds.

(a) Each licensee who receives money or monetary value for transmission and the licensee's authorized delegates shall transmit the monetary equivalent of all money or equivalent value received from a customer for transmission, net of any fees, or issue instructions committing the money or its monetary equivalent, to the person designated by the customer within ten business days after receiving the money or equivalent value,



1 unless otherwise ordered by the customer or unless the licensee
2 or its authorized delegate has reason to believe that a crime
3 has occurred, is occurring, or may occur as a result of
4 transmitting the money.

5 (b) Each licensee who receives money or monetary value for
6 transmission and the licensee's authorized delegates shall
7 provide a receipt to the customer that clearly states the amount
8 of money or equivalent value presented for transmission and the
9 total of the fees charged by the licensee. If the rate of
10 exchange for a money transmission to be paid in the currency of
11 another country is fixed by the licensee for that transaction at
12 the time the money transmission is initiated, the receipt
13 provided to the customer shall disclose the rate of exchange for
14 that transaction, and the duration, if any, for the payment to
15 be made at that fixed rate of exchange. If the rate of exchange
16 for a money transmission to be paid in the currency of another
17 country is not fixed at the time the money transmission is sent,
18 the receipt provided to the customer shall disclose that the
19 rate of exchange for that transaction will be set at the time
20 the recipient of the money transmission picks up the funds in
21 the foreign country.



1 (c) For purposes of this section:

2 (1) Money is considered to have been transmitted when it
3 is available to the person designated by the customer,
4 whether or not the designated person has taken
5 possession of the money;

6 (2) "Monetary equivalent", when used in connection with a
7 money transmission in which the customer provides the
8 licensee or its authorized delegate with the money of
9 one government, and the designated recipient is to
10 receive the money of another government, means the
11 amount of money, in the currency of the government
12 that the designated recipient is to receive, as
13 converted at the retail exchange rate offered by the
14 licensee or its authorized delegate to the customer in
15 connection with the transaction; and

16 (3) "Fees" do not include revenue that a licensee or its
17 authorized delegate generates, in connection with a
18 money transmission, in converting the money of one
19 government into the money of another government.

20 (d) Each licensee who receives money or monetary value for
21 a money transmission and the licensee's authorized delegates



1 shall refund to a customer all moneys received for transmittal
2 within ten days of receipt of a written request for a refund
3 unless any of the following occurs:

4 (1) The moneys have been transmitted and delivered to the
5 person designated by the customer prior to receipt of
6 the written request for a refund;

7 (2) Instructions have been given committing an equivalent
8 amount of money to the person designated by the
9 customer prior to receipt of a written request for a
10 refund;

11 (3) The licensee or its authorized delegate has reason to
12 believe that a crime has occurred, is occurring, or
13 may occur as a result of transmitting the money as
14 requested by the customer or refunding the money as
15 requested by the customer; or

16 (4) The licensee is otherwise barred by law from making a
17 refund.

18 (e) Before entering into any agreement to perform a money
19 transmission involving virtual currency, a licensee shall obtain
20 the customer's agreement to the following notice and retain it
21 as a record pursuant to section 489D-18:



1 "Most virtual currencies are based upon computer
2 cryptography and derive their value solely from the
3 market's perception of their value, which can
4 experience great swings. These currencies are:

5 NOT backed by any physical commodity, such as
6 gold or silver;

7 NOT backed by the United States or any other
8 national government;

9 NOT legal tender for debts; and

10 NOT insured by the Federal Deposit Insurance
11 Corporation or any government agency.

12 You should be aware that there is a potential for you
13 as a consumer to lose all of your virtual currency.
14 Though cash can also be lost, with virtual currency
15 this loss can occur because of a computer failure;
16 malicious software attack; an attack, closure, or
17 disappearance of a virtual currency exchange company;
18 lack of security; loss of your private key; or a
19 sudden or dramatic change in value. These are just a
20 few examples. Some virtual currency users have been
21 unable to access their legitimate virtual currency



1 account because of heavy traffic by other users or a
2 prevalence of criminal activity in virtual currency
3 use. To protect yourself, become educated as to the
4 potential risks before deciding whether you want to
5 transact in virtual currency."

6 SECTION 8. Section 489D-22.5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Notice pursuant to this section shall be provided at
9 least thirty days before the surrender of the license and shall
10 include:

- 11 (1) The date of surrender;
- 12 (2) The name, address, telephone number, facsimile number,
13 and electronic address of a contact individual with
14 knowledge and authority sufficient to communicate with
15 the commissioner regarding all matters relating to the
16 licensee during the period that it was licensed
17 pursuant to this chapter;
- 18 (3) The reason or reasons for surrender;
- 19 (4) Total [~~dollar amount~~] amounts, in money and monetary
20 value, as applicable, of the licensee's outstanding
21 payment obligations sold in Hawaii and the individual



1 amounts of each outstanding payment obligation, and
2 the name, address, and contact phone number of the
3 licensee to which each outstanding payment obligation
4 was assigned;

5 (5) A list of the licensee's Hawaii authorized delegates,
6 if any, as of the date of surrender; and

7 (6) Confirmation that the licensee has notified each of
8 its Hawaii authorized delegates, if any, that they may
9 no longer conduct money transmissions on the
10 licensee's behalf.

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

16 SECTION 9. Section 489D-23, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§489D-23[+] Prohibited practices. It is a violation
19 of this chapter for a licensee to:

20 (1) Directly or indirectly employ any scheme, device, or
21 artifice to defraud or mislead any person, including,



1 but not limited to, bait and switch advertising or
2 sales practices;

3 (2) Directly or indirectly engage in any unfair or
4 deceptive act or practice toward any person, including
5 but not limited to any false or deceptive statement
6 about fees or other terms of a money transmission or
7 currency exchange;

8 (3) Directly or indirectly obtain property by fraud or
9 misrepresentation;

10 (4) Knowingly make, publish, or disseminate any false,
11 deceptive, or misleading information in the provision
12 of money [~~services;~~] transmission;

13 (5) Knowingly receive or take possession for personal use
14 any property of any money [~~services~~] transmission
15 business, other than in payment for services rendered,
16 and with intent to defraud, and omit to make, or cause
17 or direct to omit to make, a full and true entry in
18 the books and accounts of the regulated business;

19 (6) Concur in making any false entry, or omit or concur in
20 omitting any material entry in the books or accounts
21 of the business;



1 (7) Knowingly make or publish to the commissioner or
2 commissioner's designee, or concur in making or
3 publishing to the commissioner or commissioner's
4 designee, any written report, exhibit, or statement of
5 the licensee's affairs or pecuniary condition
6 containing any material statement that is false, or
7 omit or concur in omitting any statement required by
8 law to be contained therein; or

9 (8) Fail to make any report or statement lawfully required
10 by the commissioner."

11 SECTION 10. Section 489D-25, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) The commissioner may issue an order suspending or
14 revoking the designation of an authorized delegate, if the
15 commissioner finds that:

16 (1) The authorized delegate violates this chapter or a
17 rule adopted or an order issued under this chapter;

18 (2) The authorized delegate does not cooperate with an
19 examination or investigation by the commissioner;

20 (3) The authorized delegate engages in fraud, intentional
21 misrepresentation, or gross negligence;



1 (4) The authorized delegate is convicted of a violation of
2 a federal or state anti-money laundering statute;

3 (5) The competence, experience, character, or general
4 fitness of the authorized delegate or a person in
5 control of the delegate indicates that it is not in
6 the public interest to permit the delegate to provide
7 money [~~services,~~] transmission; or

8 (6) The authorized delegate is engaging in an unsafe or
9 unsound practice.

10 (b) In determining whether an authorized delegate is
11 engaging in an unsafe or unsound practice, the commissioner may
12 consider the size and condition of the delegate's provision of
13 money [~~services,~~] transmissions, the magnitude of the loss, the
14 gravity of the violation of this chapter, and the previous
15 conduct of the delegate."

16 PART III

17 SECTION 11. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 12. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 13. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 14. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Adopts certain operative provisions of the Uniform Regulation of Virtual Currency Businesses Act. Extends the money transmitters act to expressly apply to persons engaged in the transmission of virtual currency. Requires licensees dealing with virtual currency to provide a warning to consumers prior to entering into an agreement with them. Effective 7/1/3000. (HD2)

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

