

JAN 26 2022

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# A BILL FOR AN ACT

RELATING TO DIGITAL CURRENCY LICENSING PROGRAM.

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

1       SECTION 1. The legislature finds that digital currency is  
2 any money-like asset that is primarily managed, stored, or  
3 exchanged using internet technology. Digital currency refers  
4 to, among others, cryptocurrency, e-money, network money, and  
5 e-cash. Digital currency may be recorded on a distributed  
6 ledger on the Internet, a centralized electronic database owned  
7 by a company, or a store-value card.

8       The legislature further finds that digital currency does  
9 not have a physical form like banknotes or minted coins, is not  
10 typically issued by a governmental body, and is not considered  
11 legal tender in most countries. However, ownership of digital  
12 currency is transferrable. Digital currencies may be used to  
13 purchase goods and services and can also be restricted to "gated  
14 communities" such as online games. Digital currency may be  
15 centralized, where there is a central point of control over the  
16 digital currency, or it may be decentralized, where the control  
17 of the supply is predetermined.



1        Digital currency is viewed and maintained in digital  
2        wallets, which are electronic applications that run on a  
3        smartphones or other electronic devices. The digital wallet  
4        stores payment information and allows users to easily store and  
5        receive digital currency. As such, a digital wallet has both  
6        software and information security risks. The two types of  
7        digital wallets are hot wallets and cold wallets and users can  
8        have both. Hot wallets are connected to the internet and used  
9        for transactions. Cold wallets are used for storing and holding  
10       digital currency and are not connected to the Internet. Digital  
11       wallets use keys to establish ownership of the address of the  
12       digital currency. Digital wallet users have a private key,  
13       known only to the user and the user's wallet, and a public key,  
14       which is available on the digital currency address.

15       The legislature additionally finds that digital currency  
16       has grown in popularity and acceptance nationwide. There is,  
17       however, little regulation of the industry. The department of  
18       commerce and consumer affairs' division of financial  
19       institutions and the Hawaii technology development corporation  
20       are currently conducting a two-year "sandbox" program to study  
21       digital currency transactions, known as the Digital Currency



1 Innovation Lab (DCIL). This study allows companies to conduct  
2 digital currency transactions, without obtaining a money  
3 transmitter license, while the division of financial  
4 institutions evaluates the need for more permanent and  
5 comprehensive oversight. The DCIL program found that digital  
6 currency transactions cannot be effectively regulated through  
7 existing money transmitter laws and concluded that a new  
8 regulatory framework is needed. Absent the legislative action  
9 proposed by this Act, however, transactions with customers in  
10 participating companies in the DCIL shall terminate on June 30,  
11 2022, followed by a wind-down period through the end of 2022.

12 Accordingly, the purpose of this Act is to:

- 13 (1) Create a digital currency licensing program, which  
14 shall replace the DCIL program and be regulated by the  
15 department of commerce and consumer affairs' division  
16 of financial institutions; and  
17 (2) Continue the study of use cases by the Hawaii  
18 technology development corporation.

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



1 "CHAPTER

2 SPECIAL PURPOSE DIGITAL CURRENCY LICENSE

3 PART I. GENERAL PROVISIONS

4 § -1 Definitions. As used in this chapter, unless the  
5 context otherwise requires:

6 "Commissioner" means the commissioner of financial  
7 institutions.

8 "Consumer" means a natural person who is the owner or user  
9 in a transaction that is primarily for that natural person's  
10 personal, family, or household purposes.

11 "Control of digital currency" means the power to execute  
12 unilaterally or prevent indefinitely a digital currency  
13 transaction, when used in reference to a transaction or  
14 relationship involving digital currency.

15 "Control person" means an individual who directly or  
16 indirectly exercises control over a licensee or applicant.

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

19 "Digital asset" means a representation of economic,  
20 proprietary, or access rights that is stored in a computer



1 readable format and is either a digital consumer asset, digital  
2 security, or digital currency.

3 "Digital currency business activity" means:

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

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

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

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

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



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

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

(6) Performing exchange services as a business; or

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

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

"Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format and is either a digital consumer asset, digital security, or digital currency.

"Digital consumer asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes, and includes:

(1) An open blockchain token constituting intangible personal property as otherwise provided by law; and

(2) Any other digital asset that does not fall within the definition of digital security.

"Digital currency" means:



(1) A digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not recognized as legal tender by the United States government; but

(2) Does not include:

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

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

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

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



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

3 "Digital security" means a digital asset that constitutes a  
4 security.

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

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

9 "Exchange" means to assume control of digital currency from  
10 or on behalf of a person, at least momentarily, to sell, trade,  
11 or convert:

12 (1) Digital currency for money, bank credit, or one or  
13 more forms of digital currency; or

14 (2) Money or bank credit for one or more forms of digital  
15 currency.

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

18 "NMLS" means the Nationwide Multistate Licensing System,  
19 which is a licensing system developed and maintained by the  
20 Conference of State Bank Supervisors for the state licensing and





1 registration of state-licensed financial services providers, or  
2 any system provided by the Consumer Financial Protection Bureau.

3 "Person" means an individual, sole proprietorship,  
4 partnership, corporation, limited liability company, limited  
5 liability partnership, or other association of individuals,  
6 however organized.

7 "Private key" means a unique element of cryptographic data,  
8 or any substantially similar analogue, which is:

- 9 (1) Held by a person;
- 10 (2) Paired with a unique, publicly available element of  
11 cryptographic data; and
- 12 (3) Associated with an algorithm that is necessary to  
13 carry out an encryption or decryption required to  
14 execute a transaction.

15 "Special purpose digital currency company" means a person  
16 or company that engages in digital currency business activity.

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

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



(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.

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

**§ -2 Exclusions.** (a) This chapter shall not apply to the exchange, transfer, or storage of digital currency, or to digital currency administration, to the extent of the Electronic Fund Transfer Act of 1978, title 15 United States Code sections 1693 through 1693r, as amended or recodified from time to time, the Securities Exchange Act of 1934, title 15 United States Code sections 78a through 78oo, as amended or recodified from time to time, the Commodities Exchange Act of 1936, title 7 United States Code sections 1 through 27f, as amended or recodified from time to time.

(b) This chapter shall not apply to activity by:

(1) A person that contributes only connectivity software or computing power to a decentralized digital



1           currency, or to a protocol governing transfer of the  
2           digital representation of value;

3           (2) A person that provides only data storage or security  
4           services for a business engaged in digital currency  
5           business activity and does not otherwise engage in  
6           digital currency business activity on behalf of  
7           another person;

8           (3) A person that provides only to a person otherwise  
9           exempt from this chapter digital currency as one or  
10          more enterprise solutions used solely among each other  
11          and has no agreement or relationship with a person  
12          that is an end-user of digital currency;

13          (4) A person using digital currency, including creating,  
14          investing, buying or selling, or obtaining digital  
15          currency as payment for the purchase or sale of goods  
16          or services, solely for academic purposes;

17          (5) A person whose digital currency business activity with  
18          or on behalf of persons is reasonably expected to be  
19          valued, in the aggregate, on an annual basis at \$5,000  
20          or less, measured by the U.S. Dollar equivalent of  
21          digital currency;



(6) An attorney to the extent of providing escrow services to a person;

(7) A securities intermediary, as defined by Uniform Commercial Code section 8-102, or a commodity intermediary, as defined by Uniform Commercial Code section 9-102;

(8) A digital currency control services vendor;

(9) A person that does not receive compensation from a person for:

(A) Providing virtual-currency products or services;

or

(B) Conducting virtual-currency business activity; or

(10) A person that is engaged in testing products or services with the person's own funds or digital currency.

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



1        §    -3   **Digital currency business activity; license**

2   **required.** No person shall engage in digital currency business  
3   activity, or hold itself out as being able to engage in digital  
4   currency business activity, with or on behalf of a person,  
5   unless the person is:

6        (1)   Licensed in the State pursuant to this chapter and  
7               rules adopted by the commissioner; or

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

9        §    -4   **Required disclosures.** (a) A licensee that engages  
10   in digital currency business activity shall provide to a person  
11   who uses the licensee's products or service the disclosures  
12   required by subsection (b) and any additional disclosure the  
13   commissioner deems reasonably necessary for the protection of  
14   those persons. The commissioner shall determine the time and  
15   form required for disclosure. A disclosure required by this  
16   section must be made separately from any other information  
17   provided by the licensee and in a clear and conspicuous manner  
18   in a record that the person may keep. A licensee may propose  
19   for the commissioner's approval alternate disclosures as more  
20   appropriate for its digital currency business activity with or  
21   on behalf of persons.



1 (b) Before establishing a relationship with a person under  
2 the purview of this chapter and to the extent applicable to the  
3 digital currency business activity the licensee will undertake  
4 with the person, a licensee shall disclose the following:

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

9 (2) That the product or service provided by the licensee  
10 is not:

11 (A) Covered by insurance of any form;

12 (B) Covered by private insurance against theft or  
13 loss, including cyber theft or theft by other  
14 means;

15 (C) Otherwise guaranteed against loss by any  
16 governmental entity, including the Federal  
17 Deposit Insurance Corporation, the Securities  
18 Investor Protection Corporation; and

19 (D) Insured or backed by the full U.S. Dollar  
20 equivalent of digital currency purchased from the



1                    licensee or for control of digital currency by  
2                    the licensee;

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

4            (4)    A description of the general error-resolution rights  
5                    applicable to the transfer or exchange;

6            (5)    The method for the person to update the person's  
7                    contact information with the licensee;

8            (6)    That the date or time when the transfer or exchange is  
9                    made, and the person's account is debited, may differ  
10                   from the date or time when the person initiates the  
11                   instruction to make the transfer or exchange;

12           (7)    Whether the person has a right to stop a pre-  
13                   authorized 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           (8)    The person's right to receive a receipt or other  
18                   evidence of the transfer or exchange;

19           (9)    The person's right to at least thirty days' prior  
20                   notice of a change in the licensee's fee schedule,  
21                   other terms and conditions of operating its digital



1 currency business activity with the person and the  
2 policies applicable to the person's account; and

3 (10) That digital currency is not legal tender.

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

8 (1) The name and contact information of the licensee,  
9 including information needed to ask a question or file  
10 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 (d) If a licensee discloses that it will provide a daily  
17 confirmation in the initial disclosure under subsection (c), the  
18 licensee may elect to provide a single, daily confirmation for  
19 all transactions with or on behalf of a person on that day  
20 instead of a per-transaction confirmation.





1        §    -5   **Ownership and control of digital currency.**    (a)    A

2    licensee that has control of digital currency for one or more  
3    persons shall maintain control of digital currency in each type  
4    of digital currency sufficient to satisfy the aggregate  
5    entitlements of the persons to the type of digital currency.

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

12        (c)    The digital currency referred to in this section  
13   shall:

14        (1)    Be held for the persons entitled to the digital  
15                currency;

16        (2)    Not property of the licensee;

17        (3)    Not subject to the claims of creditors of the  
18                licensee; and

19        (4)    Be deemed a permissible investment under this chapter.

20        §    -6   **Records; net worth requirement.**    (a)    A licensee

21   engaged in digital currency business activities must comply with



1 all provisions of this chapter to the extent applicable to the  
2 licensee's activities.

3 (b) A licensee engaged in digital currency business  
4 activities may include in its calculation of tangible net worth  
5 digital currency, measured by the average value of the digital  
6 currency in U.S. Dollar equivalent over the prior six months,  
7 excluding control of digital currency for a person entitled to  
8 the protections pursuant to section -5.

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

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

15 (A) Identity of the person;

16 (B) Form of the transaction;

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

19 (D) Account number, name, and U.S. Postal Service  
20 address of the resident, and, to the extent  
21 feasible, other parties to the transaction;



- 1           (2) The aggregate number of transactions and aggregate  
2           value of transactions by the licensee with or on  
3           behalf of the person and for the licensee's account in  
4           the State, expressed in U.S. Dollar equivalent of  
5           digital currency for the previous twelve calendar  
6           months;
- 7           (3) Each transaction in which the licensee exchanges one  
8           form of digital currency for money or another form of  
9           digital currency with or on behalf of the person;
- 10          (4) A general ledger posted at least monthly that lists  
11          all assets, liabilities, capital, income, and expenses  
12          of the licensee;
- 13          (5) Each business-call report the licensee is required to  
14          create or provide to the division of financial  
15          institutions or NMLS;
- 16          (6) Bank statements and bank reconciliation records for  
17          the licensee and the name, account number, and United  
18          States Postal Service address of each bank the  
19          licensee uses in the conduct of its digital currency  
20          business activity with or on behalf of the person;
- 21          (7) A report of any dispute with the person; and



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

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

## **PART II. SPECIAL PURPOSE DIGITAL CURRENCY COMPANIES**

**§ -7 License required.** (a) No person, unless exempted under this chapter, shall act as a special purpose digital currency company in the State unless licensed to do so by the commissioner.

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

**§ -8 Exemptions.** This chapter shall not apply to a financial institution chartered or licensed by chapter 412.

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



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

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

9 (2) The principal place of business;

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

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

19 (c) To fulfill the purposes of this chapter, the  
20 commissioner may enter into agreements or contracts with NMLS or  
21 other entities to use NMLS to collect and maintain records and



1 process transaction fees or other fees related to licensees or  
2 other persons subject to this chapter.

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

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

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



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

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

(B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; provided that the commissioner may use any information obtained pursuant to this subsection or through NMLS to determine an applicant's demonstrated financial responsibility, character, and general fitness for licensure.

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



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

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

9 § -10 **Issuance of license; grounds for denial.** (a) The  
10 commissioner shall conduct an investigation of every applicant  
11 to determine the financial responsibility, character, and  
12 general fitness of the applicant. The commissioner shall issue  
13 the applicant a license to engage in the digital currency  
14 business activity if the commissioner determines that:

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





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

3 (2) The applicant or, in the case of an applicant that is  
4 not an individual, each of the applicant's control  
5 persons, executive officers, directors, general  
6 partners, and managing members, has not been convicted  
7 of, pled guilty or nolo contendere to, or been granted  
8 a deferred acceptance of a guilty plea under federal  
9 law or under chapter 853 to a felony in a domestic,  
10 foreign, or military court:

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

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

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



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

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

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



1 persons, executive officers, directors, general  
2 partners, and managing members, has not been convicted  
3 of, pled guilty or nolo contendere to, or has been  
4 granted a deferred acceptance of a guilty plea under  
5 federal law or chapter 853 to any misdemeanor  
6 involving an act of fraud, dishonesty, breach of  
7 trust, or money laundering;

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

10 (6) The applicant has the bond required by section -11.

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

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

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



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

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

11          (3) Who has advertised directly and purposefully to Hawaii  
12                 consumers or made internet loans in violation of this  
13                 chapter; or

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

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



1       §    -11   **Fees; bond.**   (a)   A special purpose digital  
2   currency company shall pay the following fees to the division to  
3   obtain and maintain a valid license under this chapter:

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

5       (2)   Processing fee of \$35 for each control person;

6       (3)   Annual license renewal fee of \$7,000;

7       (4)   Applicable fee charged by the entities conducting the  
8       criminal history background check of each of the  
9       applicant's control persons, executive officers,

10      directors, general partners, and managing members for  
11      submission to the Federal Bureau of Investigation and  
12      any governmental agency or entity authorized to

13      receive the fingerprints for a state, national, and  
14      international criminal history background check; and

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



1 (b) Each branch office of a special purpose digital  
2 currency company shall pay the following fees to the division to  
3 obtain and maintain a valid license under this chapter:

4 (1) Nonrefundable initial application fee of \$600; and

5 (2) Annual license renewal fee of \$450.

6 (c) The applicant shall file and maintain a surety bond,  
7 approved by the commissioner, executed by the applicant as  
8 obligor and by a surety company authorized to operate as a  
9 surety in the State, whose liability as a surety does not  
10 exceed, in the aggregate, the penal sum of the bond. The penal  
11 sum of the bond shall be a minimum of \$500,000, based upon the  
12 annual U.S. Dollar equivalent of digital currency as reported in  
13 the annual renewal report.

14 (d) The bond required by subsection (c) shall run to the  
15 State of Hawaii as obligee for the use and benefit of the State  
16 and of any person or persons who may have a cause of action  
17 against the licensee as obligor under this chapter. The bond  
18 shall be conditioned upon the following:

19 (1) The licensee as obligor shall faithfully conform to  
20 and abide by this chapter and all the rules adopted  
21 under this chapter; and



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

(e) Each special purpose digital currency company shall pay a nonrefundable fee of \$100 to the division for each branch office that is relocated.

**§ -12 Renewal of license; annual report.** (a) On or before December 31 of each year, each licensee shall pay a renewal fee pursuant to section -11.

(b) The annual renewal fee shall be accompanied by a report, in a form prescribed by the commissioner, that shall include:

(1) A copy of the licensee's most recent audited annual financial statement, including balance sheets, statement of income or loss, statement of changes in shareholders' equity, and statement of cash flows or, if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial



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

3 (2) A report detailing the special purpose digital  
4 currency company's activities in the State since the  
5 prior reporting period, including:

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

7 (B) The number of transactions processed;

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

10 (D) The number of system outages;

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

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

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





1           (4) A list of the principal place of business and branch  
2           locations, if any, within the State where business  
3           regulated by this chapter is being conducted by the  
4           licensee;

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

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

9           (c) A license may be renewed by continuing to meet the  
10          licensing requirements of sections       -9,       -10, and       -11,  
11          filing a completed renewal statement on a form prescribed by  
12          NMLS or as required by the commissioner, paying a renewal fee,  
13          and meeting the requirements of this section.

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



1 does not receive the annual report and the annual renewal fee.  
2 The commissioner, for good cause, may grant an extension of the  
3 renewal date or reduce or suspend the \$250 per day late filing  
4 fee.

5 **PART III. ENFORCEMENT**

6 **§ -13 Enforcement authorities; violations; penalties.**

7 (a) To ensure the effective supervision and enforcement of this  
8 chapter, the commissioner, pursuant to chapter 91, may take any  
9 disciplinary action as specified in subsection (b) against an  
10 applicant or licensee if the commissioner finds that:

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

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

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



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



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

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

(11) The applicant or licensee has failed, in a timely manner as specified by the commissioner, to take or provide proof of the corrective action required by the commissioner subsequent to an investigation or examination pursuant to section -19.

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

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

(2) Revoke the license;

(3) Suspend the license for a period of time;



1           (4)   Issue an order to the licensee to cease and desist  
2                from engaging in any act specified under subsection  
3                (a);

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

6           (6)   Impose penalties of up to \$10,000 for each violation;  
7                and

8           (7)   Prohibit a person from applying for or holding a  
9                license for a period of five years following  
10               revocation of the person's license.

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, or surrender of a license  
9 shall impair or affect the obligation of any preexisting lawful  
10 contract between the licensee and any consumer.

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

16 (g) The commissioner may impose an administrative fine on  
17 a licensee or person subject to this chapter if the commissioner  
18 finds from the record after notice and opportunity for hearing  
19 that the licensee or person subject to this chapter has violated  
20 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 § -14 Voluntary surrender of license. (a) A licensee  
12 may voluntarily cease business and surrender its license by  
13 giving written notice to the commissioner of its intent to  
14 surrender its license. Prior to the surrender date of a  
15 license, the licensee shall have either completed all pending  
16 digital currency transactions or assigned each pending digital  
17 currency transaction to another licensee or entity.

18 (b) Notice pursuant to this section shall be provided at  
19 least thirty days before the surrender of the license and shall  
20 include:

21 (1) The date of surrender;



- 1           (2) The name, address, telephone number, facsimile number,  
2           and electronic mail address of a contact individual  
3           with knowledge and authority sufficient to communicate  
4           with the commissioner regarding all matters relating  
5           to the licensee during the period that it was licensed  
6           pursuant to this chapter;
- 7           (3) The reason or reasons for surrender;
- 8           (4) Total dollar amount of the licensee's outstanding  
9           digital currency transactions in Hawaii and the  
10          individual amounts of each outstanding digital  
11          currency transactions, and the name, address, and  
12          contact telephone number of the licensee to whom each  
13          outstanding digital currency transaction was assigned;
- 14          (5) A list of the licensee's Hawaii authorized branch  
15          offices, if any, as of the date of surrender;
- 16          (6) Confirmation that the licensee has notified each of  
17          its Hawaii authorized branch offices, if any, that the  
18          branch offices may no longer conduct digital currency  
19          business activity on the licensee's behalf; and
- 20          (7) Confirmation that the licensee has notified each of  
21          its digital currency accounts, if any, that the





1 digital currency account is being transferred and the  
2 name, address, telephone number, and any other contact  
3 information of the licensee or entity described in  
4 section -14 to whom the digital currency was assigned.

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

10 § -15 **Special purpose digital currency company; sale or**  
11 **transfer of license; change of control.** (a) A special purpose  
12 digital currency company license shall not be transferred,  
13 except as provided in this section.

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

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



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

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



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

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

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

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

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

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

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



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

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

8 § -16 **Special purpose digital currency company;**  
9 **authorized places of business; principal office; branch offices;**  
10 **relocation; closure.** (a) Every special purpose digital  
11 currency company licensed under this chapter shall have and  
12 maintain a principal place of business in the State, regardless  
13 of whether the special purpose digital currency company  
14 maintains its principal office outside of the State.

15 (b) If a special purpose digital currency company has more  
16 than one place of business, each additional place of business in  
17 the State shall be licensed as a branch office with the  
18 commissioner. No business shall be conducted at a branch office  
19 until the branch office has been licensed by the commissioner.

20 (c) No special purpose digital currency company shall  
21 maintain any branch offices in the State in addition to its



1 principal place of business without the prior written approval  
2 of the commissioner. An application to establish a branch  
3 office shall be submitted through NMLS with a nonrefundable  
4 application fee as required by section -11.

5 (d) No special purpose digital currency company shall  
6 relocate any office in the State without the prior written  
7 approval of the commissioner. An application to relocate an  
8 office shall be submitted to the commissioner at least thirty  
9 days before relocating and shall set forth the reasons for the  
10 relocation, the street address of the proposed relocated office,  
11 and other information that may be required by the commissioner.  
12 An application to relocate an office pursuant to this subsection  
13 shall be submitted with a nonrefundable fee as required by  
14 section -11.

15 (e) A special purpose digital currency company shall give  
16 the commissioner notice of its intent to close a branch office  
17 at least thirty days before the closing. The notice shall:

18 (1) State the intended date of closing; and

19 (2) Specify the reasons for the closing.

20 (f) The principal place of business and each branch office  
21 of the special purpose digital currency company shall be



1 identified in NMLS to consumers as a location at which the  
2 licensee holds itself out as a special purpose digital currency  
3 company.

4 (g) A license issued under this chapter shall be  
5 prominently displayed in the principal place of business and  
6 each branch office.

7 § -17 **Payment of fees.** All fees collected pursuant to  
8 section -11, administrative fines, and other charges collected  
9 pursuant to this chapter shall be deposited into the compliance  
10 resolution fund established pursuant to section 26-9(o) and  
11 shall be payable through NMLS, to the extent allowed by NMLS.  
12 Fees not eligible for payment through NMLS shall be deposited  
13 into a separate account within the compliance resolution fund  
14 for use by the division.

15 § -18 **Advertising and marketing.** (a) No licensee  
16 engaged in digital currency business activity shall advertise  
17 its products, services, or activities in Hawaii or to Hawaii  
18 consumers without including the name of the Licensee and the  
19 legend that such Licensee is "Licensed to engage in Digital  
20 Currency Business Activity by the Hawaii Division of Financial  
21 Institutions".



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

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

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

**§ -19 Powers of commissioner.** (a) The commissioner may adopt rules pursuant to chapter 91 as the commissioner deems necessary for the administration of this chapter.



1 (b) In addition to any other powers provided by law, the  
2 commissioner shall have the authority to:

3 (1) Issue declaratory rulings or informal nonbinding  
4 interpretations;

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

8 (3) Create fact-finding committees that may make  
9 recommendations to the commissioner for the  
10 commissioner's deliberations;

11 (4) Require an applicant or any of its control persons,  
12 executive officers, directors, general partners, and  
13 managing members to disclose their relevant criminal  
14 history and request a criminal history record check in  
15 accordance with chapter 846;

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





- 1           (6) Process and investigate complaints, subpoena witnesses  
2           and documents, administer oaths, and receive  
3           affidavits and oral testimony, including telephonic  
4           communications, and do any and all things necessary or  
5           incidental to the exercise of the commissioner's power  
6           and duties, including the authority to conduct  
7           contested case proceedings under chapter 91;
- 8           (7) Require a licensee to comply with any rule, guidance,  
9           guideline, statement, supervisory policy or any  
10          similar proclamation issued or adopted by the Federal  
11          Deposit Insurance Corporation to the same extent and  
12          in the same manner as a bank chartered by the State  
13          or, in the alternative, any policy position of the  
14          Conference of State Bank Supervisors;
- 15          (8) Enter into agreements or relationships with other  
16          government officials or regulatory associations in  
17          order to improve efficiencies and reduce regulatory  
18          burden by sharing resources, standardized or uniform  
19          methods or procedures, and documents, records,  
20          information, or evidence obtained under this chapter;



1       (9) Use, hire, contract, or employ public or privately  
2       available analytical systems, methods, or software to  
3       investigate or examine a licensee or person subject to  
4       this chapter;

5       (10) Accept and rely on investigation or examination  
6       reports made by other government officials, within or  
7       without the State;

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

16      (12) Require that all fees, fines, and charges collected by  
17      the commissioner under this chapter, be deposited into  
18      the compliance resolution fund established pursuant to  
19      section 26-9(o); provided however, that after paying  
20      operating costs of implementing the chapter, up to  
21      \$125,000 of the fees collected may be allocated to the



Hawaii technology development corporation to implement

-23.

**§ -20 Investigation and examination authority.** (a) In

addition to the authority granted under section -19(b), the

commissioner shall have the authority to conduct investigations

and examinations in accordance with this section. The

commissioner may access, receive, and use any books, accounts,

records, files, documents, information, or any other material or

information that the commissioner deems relevant to the

investigation or examination, regardless of the location,

possession, control, or custody of the documents, information,

or evidence.

(b) For the purposes of investigating violations or

complaints arising under this chapter, or for the purposes of

examination, the commissioner may review, investigate, or

examine any licensee or person subject to this chapter as often

as necessary to carry out the purposes of this chapter. The

commissioner may direct, subpoena, or order the attendance of,

and examine under oath, all persons whose testimony may be

required about loans or the business or subject matter of any

investigation or examination and may direct, subpoena, or order



1 the person to produce books, accounts, records, files, and any  
2 other documents the commissioner deems relevant to the inquiry.

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

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

16 (1) Accounting compilations;

17 (2) Information lists and data concerning loan  
18 transactions in a format prescribed by the  
19 commissioner; and

20 (3) Any other information that the commissioner deems  
21 necessary.



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

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



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

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

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



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

3       **§ -21 Confidentiality.** (a) Except as otherwise  
4 provided in title 12 United States Code section 5111, the  
5 requirements under any federal or state law regarding the  
6 privacy or confidentiality of any information or material  
7 provided to NMLS, and any privilege arising under federal or  
8 state law, including the rules of any federal or state court,  
9 with respect to the information or material shall continue to  
10 apply to the information or material after the information or  
11 material has been disclosed to NMLS. The information and  
12 material may be shared with any state and federal regulatory  
13 officials with oversight authority over transactions subject to  
14 this chapter, without the loss of privilege or the loss of  
15 confidentiality protections provided by federal or state law.

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



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

3 (1) Disclosure under chapter 92F or any other law  
4 governing the disclosure to the public of information  
5 held by an officer or an agency of the state; or

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

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

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





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

**§ -22 Prohibited practices.** (a) It shall be a violation of this chapter for a licensee, its control persons, executive officers, directors, general partners, managing members, employees, or independent contractors, or any other person subject to this chapter to:

- (1) Engage in any act that limits or restricts the application of this chapter;
- (2) Use a consumer's account number to prepare, issue, or create a digital currency transaction on behalf of the consumer;
- (3) Charge, collect, or receive, directly or indirectly, charges for negotiating digital currency transactions except those explicitly authorized in this chapter;
- (4) Fail to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations adopted pursuant to state or federal law;



1 (5) Directly or indirectly employ any scheme, device, or  
2 artifice to defraud or mislead any consumer, any  
3 lender, or any person;

4 (6) Directly or indirectly engage in unfair or deceptive  
5 acts, practices, or advertising in connection with a  
6 digital currency business activity toward any person;

7 (7) Directly or indirectly obtain digital assets by fraud  
8 or misrepresentation;

9 (8) Conduct digital currency business activity for any  
10 person physically located in the State through the use  
11 of the Internet, facsimile, telephone, kiosk, or other  
12 means without first obtaining a license under this  
13 chapter;

14 (9) Make, in any manner, any false or deceptive statement  
15 or representation, including with regard to the rates,  
16 fees, or other financing terms or conditions for  
17 digital currency activity, or engage in bait and  
18 switch advertising;

19 (10) Make any false statement or knowingly and wilfully  
20 make any omission of material fact in connection with  
21 any reports filed with the division by a licensee or



1 in connection with any investigation conducted by the  
2 division;

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

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

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

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

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

18 SECTION 3. The Hawaii technology development corporation  
19 shall coordinate with the division to develop and create  
20 programs relevant to meet the changing digital currency business



1 activity use cases and to develop and produce education sessions  
2 for applicants, consumers, and licensees.

3 SECTION 4. The Digital Currency Innovation Lab  
4 participants shall be allowed to continue operations until their  
5 application, for a license under the licensing regime created  
6 under section 2 of this Act, is approved or denied by the  
7 department of commerce and consumer affairs' division of  
8 financial institutions; provided that the participating company  
9 applies, by March 1, 2023, for a license under the licensing  
10 regime created under section 2 of this Act.

11 SECTION 5. There is appropriated out of the compliance  
12 resolution fund the sum of \$500,000 or so much thereof as may be  
13 necessary for fiscal year 2022-2023 for the following purposes:

- 14 (1) To establish and hire three full-time equivalent (3.0  
15 FTE) permanent examiners, without regard to chapter  
16 76, Hawaii Revised Statutes, to carry out the purposes  
17 of the digital currency licensing program established  
18 by section 2 of this Act and to be placed within the  
19 department of commerce and consumer affairs' division  
20 of financial institutions; and



1           (2) For resources necessary to implement section 2 of this  
2           this Act, including the procurement of an electronic  
3           system to assist in the regulation of the digital  
4           currency licensing program.

5           The sum appropriated shall be expended by the department of  
6 commerce and consumer affairs' division of financial  
7 institutions for the purposes of this Act.

8           SECTION 6. This Act shall take effect on July 1, 2022;  
9 provided that the digital currency licensing requirements  
10 established by section 2 of this Act shall take effect on  
11 January 1, 2023.

12  
INTRODUCED BY: 



**Report Title:**

Digital Currency Licensing; Program; Appropriation

**Description:**

Creates a licensing scheme for digital currency companies to be regulated by the Department of Commerce and Consumer Affairs' Division of Financial Institutions. Continues the study of use cases by the Hawaii Technology Development Corporation. Appropriates funds.

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

