
A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.

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

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

8 Digital currencies do not have physical form like banknotes
9 or minted coins. Digital currencies are also usually not issued
10 by a governmental body and are generally not considered legal
11 tender. Although digital currency has grown in popularity and
12 acceptance worldwide, there is little regulation of the industry
13 in the United States, with a few states treating digital
14 currency activities as within the scope of money transmitter
15 laws.

16 The legislature further finds that the division of
17 financial institutions of the department of commerce and



1 consumer affairs and the Hawaii technology development
2 corporation are currently conducting a sandbox pilot program,
3 called the digital currency innovation lab, to study digital
4 currency transactions. This study allows companies to conduct
5 digital currency transactions without obtaining a money
6 transmitter license while the division of financial institutions
7 evaluates the need for more permanent and comprehensive
8 oversight.

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

13 The purpose of this Act is to:

- 14 (1) Establish a licensing program for special purpose
15 digital currency companies that will replace the
16 digital currency innovation lab; and
- 17 (2) Allow, for six months, any company participating in
18 the digital currency innovation lab on June 30, 2023,
19 to continue operations if a complete application for
20 licensure is submitted to the division of financial
21 institutions by March 1, 2024.



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

4 **"CHAPTER**

5 **SPECIAL PURPOSE DIGITAL CURRENCY LICENSING ACT**

6 **PART I. GENERAL PROVISIONS**

7 § -1 **Definitions.** As used in this chapter, unless the
8 context otherwise requires:

9 "Commissioner" means the commissioner of financial
10 institutions.

11 "Consumer" means a natural person who engages in a
12 transaction that is primarily for that natural person's
13 personal, family, or household purposes.

14 "Control" means ownership of, or the power to vote, twenty-
15 five per cent or more of the outstanding voting securities of a
16 licensee or controlling person. For purposes of determining the
17 percentage of a licensee controlled by any person, there shall
18 be aggregated with the controlling person's interest the
19 interest of any other person controlled by the person or by any
20 spouse, parent, or child of the person.



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

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

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

9 "Digital currency" means any type of digital representation
10 of value that is used as a medium of exchange or a form of
11 digitally stored value. "Digital currency" includes any type of
12 digital representation of value that:

- 13 (1) Has a centralized repository or administrator;
- 14 (2) Is decentralized and has no centralized repository or
15 administrator; or
- 16 (3) May be created or obtained by computing or
17 manufacturing effort.

18 "Digital currency" does not include any of the following:

- 19 (1) Digital representations of value that:
 - 20 (A) Are used solely within online gaming platforms;



- 1 (B) Have no market or application outside of those
- 2 gaming platforms; and
- 3 (C) Cannot be converted into, or redeemed for, fiat
- 4 currency or digital currency;

5 (2) Digital representations of value that can be redeemed
6 for:

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

- 10 (B) Digital representations of value in another
- 11 customer affinity or rewards program,
- 12 but cannot be converted into or redeemed for fiat
- 13 currency or digital currency; or

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

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

18 "Digital currency business activity" means:

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



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

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

20 "Division" means the division of financial institutions of
21 the department.

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

3 "Exchange" means the conversion or change of:

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

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

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

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

10 "NMLS" means the Nationwide Multistate Licensing System and
11 Registry developed and maintained by the Conference of State
12 Bank Supervisors for the state licensing and registration of
13 state-licensed financial services providers.

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

18 "Special purpose digital currency company" means a person
19 holding a special purpose digital currency license under this
20 chapter.



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

3 "Tangible net worth" means total assets, excluding
4 intangible assets, less total liabilities, in accordance with
5 United States generally accepted accounting principles.

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

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

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

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

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

18 § -2 **Exclusions.** (a) This chapter shall not apply to:

19 (1) The exchange, transfer, or storage of digital currency
20 or to digital currency administration to the extent
21 regulated by the Securities Exchange Act of 1934 (15



1 U.S.C. chapter 2B) or Commodity Exchange Act (7 U.S.C.
2 chapter 1);

3 (2) Activity by a person that:

4 (A) Contributes only connectivity software or
5 computing power to a:

6 (i) Decentralized digital currency; or
7 (ii) Protocol governing transfer of the digital
8 representation of value;

9 (B) Provides only data storage or security services
10 for a business engaged in digital currency
11 business activity and does not otherwise engage
12 in digital currency business activity on behalf
13 of another person; or

14 (C) Provides only to a person, that is otherwise
15 exempt from this chapter, digital currency as one
16 or more enterprise solutions used solely among
17 each other and has no agreement or relationship
18 with a person that is an end-user of digital
19 currency;

20 (3) A person using digital currency, including creating,
21 investing, buying, selling, or obtaining digital



- 1 currency as payment for the purchase or sale of goods
2 or services, solely for academic purposes;
- 3 (4) A person whose digital currency business activity with
4 or on behalf of persons is reasonably expected to be
5 valued, in the aggregate, on an annual basis at \$5,000
6 or less, measured by the United States dollar
7 equivalent of digital currency;
- 8 (5) An attorney to the extent of providing escrow services
9 to a person;
- 10 (6) A securities intermediary, as defined in
11 section 490:8-102, or commodity intermediary, as
12 defined in section 490:9-102;
- 13 (7) A digital currency control-services vendor;
- 14 (8) A person that:
- 15 (A) Does not receive compensation from a person for:
- 16 (i) Providing digital currency products or
17 services; or
- 18 (ii) Conducting digital currency business
19 activity; or
- 20 (B) Is engaged in testing products or services with
21 the person's own funds or digital currency;



1 (9) Non-custodial digital currency business activity by a
2 person using a digital currency:

3 (A) Acknowledged as legal tender by the United States
4 or a government recognized by the United States;
5 or

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

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

12 (b) The commissioner may determine whether a person or
13 class of persons is to be exempt from this chapter.

14 § -3 Powers of commissioner. In addition to any other
15 powers provided by law, the commissioner may:

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

19 (2) Issue declaratory rulings or informal nonbinding
20 interpretations;



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



1 and oral testimony, including telephonic
2 communications; and do anything necessary or
3 incidental to the exercise of the commissioner's power
4 and duties, including the authority to conduct
5 contested case proceedings under chapter 91;

6 (8) Require a licensee to comply with:

7 (A) Any rule, guidance, guideline, statement,
8 supervisory policy, or any similar proclamation
9 issued or adopted by the Federal Deposit
10 Insurance Corporation; or

11 (B) Any policy position of the Conference of State
12 Bank Supervisors,
13 to the same extent and in the same manner as a bank
14 chartered by the State;

15 (9) Enter into agreements or relationships with other
16 government officials or regulatory associations to
17 improve efficiencies and reduce regulatory burden by
18 sharing resources; standardized or uniform methods or
19 procedures; and documents, records, information, or
20 evidence obtained under this chapter;



- 1 (10) Use, hire, contract, or employ publicly or privately
2 available analytical systems, methods, or software to
3 investigate or examine a licensee or person subject to
4 this chapter;
- 5 (11) Accept and rely on investigation or examination
6 reports made by other government officials, within or
7 outside the State;
- 8 (12) Accept audit reports made by an independent certified
9 public accountant for the licensee or person subject
10 to this chapter during that part of the examination
11 covering the same general subject matter as the audit
12 and may incorporate the audit report in the report of
13 the examination, report of investigation, or other
14 writing of the commissioner; and
- 15 (13) Enter into agreements with, hire, retain, or contract
16 with private and governmental entities to develop and
17 create educational programs relating to special
18 purpose digital currency.

PART II. LICENSURE

20 § -11 **License required.** (a) A person shall not engage
21 in digital currency business activity, or hold itself out as



1 being able to engage in digital currency business activity, with
2 or on behalf of another person unless the person is:

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

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

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

9 § -12 **Deposits to compliance resolution fund.** All fees,
10 fines, penalties, and other charges collected pursuant to this
11 chapter or by rule shall be deposited with the director of
12 commerce and consumer affairs to the credit of the compliance
13 resolution fund established pursuant to section 26-9(o).
14 Payments shall be made through NMLS, to the extent allowed by
15 NMLS.

16 § -13 **License; application; issuance.** (a) The
17 commissioner shall require all licensees to register with NMLS.

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

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



- 1 (A) The applicant; and
- 2 (B) Every member, officer, principal, or director
- 3 thereof, if the applicant is a partnership,
- 4 association, limited liability company, limited
- 5 liability partnership, or corporation;
- 6 (2) The applicant's principal place of business located in
- 7 the United States;
- 8 (3) The complete address of any other branch offices at
- 9 which the applicant currently proposes to engage in
- 10 digital currency business activity in the State; and
- 11 (4) Other data, financial statements, and pertinent
- 12 information as the commissioner may require with
- 13 respect to the applicant or, if an applicant is not an
- 14 individual, each of the applicant's control persons,
- 15 executive officers, directors, general partners, and
- 16 managing members.
- 17 (c) To fulfill the purposes of this chapter, the
- 18 commissioner may enter into agreements or contracts with NMLS or
- 19 other entities to use NMLS to collect and maintain records and
- 20 process transaction fees or other fees related to licensees or
- 21 other persons subject to this chapter.



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

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

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



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

8 § -14 **Issuance of license; grounds for denial.** (a) The
9 commissioner shall investigate every applicant to determine the
10 financial responsibility, character, and general fitness of the
11 applicant. The commissioner shall issue the applicant a license
12 to engage in digital currency business activity if the
13 commissioner determines that:

14 (1) The applicant or, in the case of an applicant that is
15 not an individual, each of the applicant's control
16 persons, executive officers, directors, general
17 partners, and managing members has never had a special
18 purpose digital currency license revoked in any
19 jurisdiction; provided that a subsequent formal
20 vacation of a revocation shall not be deemed a
21 revocation for purposes of this section;



1 (2) The applicant or, in the case of an applicant that is
2 not an individual, each of the applicant's control
3 persons, executive officers, directors, general
4 partners, and managing members has not been convicted
5 of, pled guilty or nolo contendere to, or been granted
6 a deferred acceptance of a guilty plea under federal
7 law or the laws of any state to a felony in a
8 domestic, foreign, or military court:
9 (A) During the seven-year period preceding the date
10 of the application for licensing; or
11 (B) At any time preceding the date of application, if
12 the felony involved an act of fraud, dishonesty,
13 breach of trust, or money laundering;
14 provided that any pardon of a conviction shall not be
15 deemed a conviction for the purposes of this section;
16 (3) The applicant or, in the case of an applicant that is
17 not an individual, each of the applicant's control
18 persons, executive officers, directors, general
19 partners, and managing members has demonstrated
20 financial responsibility, character, and general
21 fitness to command the confidence of the community and



1 to warrant a determination that the applicant shall
2 operate honestly, fairly, and efficiently, pursuant to
3 this chapter. For the purposes of this paragraph, a
4 person is not financially responsible when the person
5 has shown a disregard in the management of the
6 person's financial condition. A determination that a
7 person has shown a disregard in the management of the
8 person's financial condition may be based upon:

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

18 (4) The applicant or, in the case of an applicant that is
19 not an individual, each of the applicant's control
20 persons, executive officers, directors, general
21 partners, and managing members has not been convicted



1 of, pled guilty or nolo contendere to, or been granted
2 a deferred acceptance of a guilty plea under federal
3 law or the laws of any state to any misdemeanor
4 involving an act of fraud, dishonesty, breach of
5 trust, or money laundering;

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

8 (6) The applicant has provided the bond required by
9 section -17.

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

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

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



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

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

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

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

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

20 § -15 **Anti-money laundering program.** (a) Each licensee
21 shall conduct an initial risk assessment that shall consider



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

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

- 10 (1) Establish an effective anti-money laundering
11 compliance program in accordance with the federal
12 Anti-Money Laundering Act of 2020;
- 13 (2) Establish an effective customer due diligence system
14 and monitoring program;
- 15 (3) Screen against the Specially Designated Nationals and
16 Blocked Persons List maintained by the Office of
17 Foreign Assets Control and other government lists;
- 18 (4) Maintain records of cash purchases or cash
19 transactions and report to the appropriate federal
20 regulatory agency, as required by the federal
21 Anti-Money Laundering Act of 2020;



1 (5) Establish an effective suspicious activity monitoring
2 and reporting process; and

3 (6) Develop a risk-based anti-money laundering program.

4 (c) Each licensee shall have in place appropriate policies
5 and procedures to block or reject specific or impermissible
6 transactions that violate federal or state laws, rules, or
7 regulations.

8 § -16 **Cybersecurity program.** (a) Each licensee shall
9 establish and maintain an effective cybersecurity program to
10 ensure the availability and functionality of the licensee's
11 electronic systems and to protect those systems and any
12 sensitive data stored on those systems from unauthorized access,
13 use, or tampering. The cybersecurity program shall be designed
14 to perform the following core cybersecurity functions:

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

20 (2) Protect the licensee's electronic systems, and the
21 information stored on those systems, from unauthorized



1 access, use, or other malicious acts through the use
2 of defensive infrastructure and the implementation of
3 policies and procedures;

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

7 (4) Respond to detected cybersecurity events to mitigate
8 any negative effects; and

9 (5) Recover from cybersecurity events and restore normal
10 operations and services.

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

18 (1) Establish effective policies, procedures, and controls
19 to effectuate subsection (a);

20 (2) Designate a cybersecurity officer;



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

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

5 (5) Maintain records.

6 § -17 Fees; bond. (a) A special purpose digital
7 currency company shall pay the following fees to the division
8 through NMLS to obtain and maintain a valid license under this
9 chapter:

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

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

12 (3) Fees collected by NMLS for the processing of the
13 application, including applicable fees charged by the
14 entities conducting:

15 (A) The criminal history background check of each of
16 the applicant's control persons, executive
17 officers, directors, general partners, and
18 managing members for submission to the Federal
19 Bureau of Investigation and any governmental
20 agency or entity authorized to receive the
21 fingerprints for a state, national, and



1 international criminal history background check;
2 and

3 (B) An independent credit report obtained from a
4 consumer reporting agency described in
5 section 603(p) of the Fair Credit Reporting Act,
6 title 15 United States Code section 1681a(p).

7 (b) Every licensee shall be assessed quarterly fees based
8 on the total value of transactions in the State, in United
9 States dollar equivalent of digital currency, as reported in the
10 quarterly reports. The quarterly fees shall be assessed the
11 quarter after the applicant is licensed in accordance with the
12 following:

13 (1) For licensees with a total value of transactions, in
14 United States dollar equivalent of digital currency,
15 not over \$10,000, the quarterly assessment shall be
16 \$2,500;

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



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

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

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

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

17 (d) The digital assets shall be based on the United States
18 dollar equivalent of digital currency assets held on behalf of
19 customers, calculated on United States dollars from the
20 company's quarterly report based on the trading price of the



1 asset on the licensee's platform as of 4:30 p.m. Hawaii Aleutian
2 Standard Time.

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

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

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

19 (2) The bond shall pay to the State and any person or
20 persons having a cause of action against the licensee
21 as obligor all moneys that may become due and owing to



1 the State and those persons under and by virtue of
2 this chapter.

3 § -18 **Renewal of license; annual report; quarterly**
4 **reports.** (a) An annual report shall be filed in accordance
5 with NMLS policy. The annual report shall include the
6 licensee's most recent audited annual financial statement,
7 including balance sheets, a statement of income or loss, a
8 statement of changes in shareholders' equity, and a statement of
9 cash flows or, if a licensee is a wholly owned subsidiary of
10 another corporation, the consolidated audited annual financial
11 statement of the parent corporation in lieu of the licensee's
12 audited annual financial statement.

13 (b) Quarterly reports shall be filed in a form prescribed
14 by the commissioner, which shall include:

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

- 18 (A) The number of stored value accounts opened;
19 (B) The number of transactions processed;
20 (C) The total value of transactions in United States
21 dollar equivalent of digital currency;



- 1 (D) The number of system outages;
- 2 (E) A chart of accounts, including a description of
- 3 each account; and
- 4 (F) Any other information that the commissioner may
- 5 require related to performance metrics and the
- 6 efficacy of the special purpose digital currency
- 7 license program;
- 8 (2) A report of any material changes to any of the
- 9 information submitted by the licensee on its original
- 10 application that have not previously been reported to
- 11 the commissioner on any other report required to be
- 12 filed under this chapter;
- 13 (3) Disclosure of any pending or final suspension,
- 14 revocation, or other enforcement action by any state
- 15 or governmental authority; and
- 16 (4) Any other information the commissioner may require.
- 17 (c) A licensee may renew its license by:
- 18 (1) Continuing to meet the licensing requirements of
- 19 sections -13, -14, -15, -16, and -17;
- 20 (2) Filing a completed renewal application on a form
- 21 prescribed by NMLS or by the commissioner;



1 (3) Paying a renewal fee; and
2 (4) Meeting all other requirements of this section.
3 (d) At renewal, a licensee that has not filed an
4 application deemed complete by the commissioner, an annual
5 report, or quarterly reports or paid the quarterly fees, and has
6 not been granted an extension of time by the commissioner, shall
7 have its license suspended on the renewal date. The licensee
8 shall have thirty days after its license is suspended to file
9 the annual report or quarterly reports, or pay the quarterly
10 fees, plus a late filing fee of \$250 for each day after
11 suspension that the commissioner does not receive the annual
12 report, quarterly reports, and the quarterly fee. The
13 commissioner, for good cause, may reduce or suspend the late
14 filing fee.

15 § -19 **Principal place of business.** (a) Every special
16 purpose digital currency company licensed under this chapter
17 shall have and maintain a principal place of business in the
18 United States, regardless of whether the special purpose digital
19 currency company maintains its principal office outside of the
20 United States.



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

3 § -20 Sale or transfer of license; change of control.

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

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

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



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

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

15 (e) A person:

16 (1) Who acts as a proxy for the sole purpose of voting at
17 a designated meeting of the security holders or
18 holders of voting interests of a licensee or person in
19 control of a licensee;

20 (2) Who acquires control of a licensee by devise or
21 descent;



1 (3) Who acquires control as a personal representative,
2 custodian, guardian, conservator, trustee, or as an
3 officer appointed by a court of competent jurisdiction
4 or by operation of law; or

5 (4) Whom the commissioner, by rule or order, exempts in
6 the public interest,

7 shall be exempt from the requirements of subsection (b);
8 provided that the licensee shall notify the commissioner when
9 control is assumed by the person.

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

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



1 § -21 **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 shall be pro
8 rata property interests in the type of digital currency to which
9 the 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 be considered property of the licensee; and

17 (3) Not be subject to the claims of creditors of the
18 licensee.

19 (d) To the extent a licensee stores, holds, or maintains
20 custody or control of digital currency on behalf of another
21 person, the licensee shall hold digital currency of the same



1 type and amount as that which is owed or obligated to that other
2 person.

3 (e) Each licensee shall be prohibited from selling,
4 transferring, assigning, lending, hypothecating, pledging, or
5 otherwise using or encumbering assets, including digital
6 currency, stored, held, or maintained by, or under the custody
7 or control of, the licensee on behalf of another person except
8 for the sale, transfer, or assignment of the assets at the
9 direction of that other person, unless clearly presented and
10 stated to the client that doing so is the intent of the product.

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

12 § -31 **Required disclosures.** (a) A licensee that
13 engages in digital currency business activity shall provide to a
14 person who uses the licensee's products or service the
15 disclosures required by subsection (b) and any additional
16 disclosure the commissioner determines reasonably necessary for
17 the protection of persons. The commissioner shall determine the
18 time and form required for disclosure. A disclosure required by
19 this section shall be made separately from any other information
20 provided by the licensee and made in a clear and conspicuous
21 manner in a record the person may keep. A licensee may propose



1 for the commissioner's approval alternate disclosures as more
2 appropriate for its digital currency business activity.

3 (b) Before establishing a relationship with a person, a
4 licensee shall disclose the following, to the extent applicable
5 to the digital currency business activity the licensee will
6 undertake with the person:

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

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

13 (A) A form of insurance or is otherwise guaranteed
14 against loss by an agency of the United States,
15 including the Federal Deposit Insurance
16 Corporation and Securities Investor Protection
17 Corporation, up to the United States dollar
18 equivalent of digital currency purchased from the
19 licensee or for control of digital currency by
20 the licensee; or



- 1 (B) Private insurance against theft or loss,
- 2 including cyber theft or theft by other means;
- 3 (3) The irrevocability of a transfer or exchange;
- 4 (4) The method by which the person can update the person's
- 5 contact information with the licensee;
- 6 (5) That the date or time when the transfer or exchange is
- 7 made, and when the person's account is debited, may
- 8 differ from the date or time when the person initiates
- 9 the instruction to make the transfer or exchange;
- 10 (6) The person's right to receive a receipt or other
- 11 evidence of the transfer or exchange;
- 12 (7) The person's right to at least thirty days' notice of
- 13 a change in the licensee's fee schedule, other terms
- 14 and conditions of operating its digital currency
- 15 business activity with the person, and the policies
- 16 applicable to the person's account; and
- 17 (8) That digital currency is not money.
- 18 (c) At the end of a digital currency transaction with or
- 19 on behalf of a person, a licensee shall provide the person a
- 20 confirmation in a record that contains:



- 1 (1) The name and contact information of the licensee,
2 including information the person may need to ask a
3 question or file a complaint;
- 4 (2) The type, value, date, precise time, and amount of the
5 transaction; and
- 6 (3) The fee charged for the transaction, including any
7 charge for conversion of digital currency to money,
8 bank credit, or other digital currency.

9 § -32 **Tangible net worth requirement; records.** (a) A
10 licensee engaged in digital currency business activity shall
11 maintain at all times a tangible net worth of no less than
12 \$500,000 or an amount determined by the commissioner necessary
13 to ensure safe and sound operation.

14 (b) Each licensee shall make, keep, preserve, and make
15 available for inspection by the commissioner the books,
16 accounts, and other records required in subsection (c). A
17 licensee shall maintain records required by subsection (c) in a
18 form that enables the commissioner to determine whether the
19 licensee is in compliance with this chapter, any court order,
20 and the laws of the State.



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

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

7 (A) The identity of the person;

8 (B) The form of the transaction;

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

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

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



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

19 § **-33 Advertising and marketing.** (a) Each licensee
20 engaged in digital currency business activity shall not
21 advertise its products, services, or activities in the State or



1 to consumers in the State without including the name of the
2 licensee and the legend that the licensee is "Licensed to engage
3 in Digital Currency Business Activity by the State of Hawaii
4 Department of Commerce and Consumer Affairs' Division of
5 Financial Institutions."

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

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

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



1 § **-34 Confidentiality.** (a) Except as otherwise
2 provided in title 12 United States Code section 5111, the
3 requirements under any federal or state law regarding the
4 privacy or confidentiality of any information or material
5 provided to NMLS, and any privilege arising under federal or
6 state law, including the rules of any federal or state court,
7 with respect to the information or material, shall continue to
8 apply to the information or material after the information or
9 material has been disclosed to NMLS. The information and
10 material may be shared with all federal and state regulatory
11 officials with oversight authority over transactions subject to
12 this chapter, without the loss of privilege or the loss of
13 confidentiality protections provided by federal or state law.

14 (b) For the purposes of this section, the commissioner may
15 enter into agreements or sharing arrangements with other
16 governmental agencies, the Conference of State Bank Supervisors,
17 or other associations representing governmental agencies as
18 established by rule or order of the commissioner.

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

21 (1) Disclosure under chapter 92F; or



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

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

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

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

20

PART IV. ENFORCEMENT

1 § **-41 Enforcement authority; violations; penalties.** (a)

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

6 (1) The applicant or licensee has violated this chapter,
7 or any rule or order lawfully adopted or issued
8 pursuant to this chapter;

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

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

17 (4) The applicant or licensee has failed to provide or
18 maintain proof of financial responsibility;

19 (5) The applicant or licensee is insolvent;

20 (6) The applicant or licensee has made, in any document or
21 statement filed with the commissioner, a false



- 1 representation of a material fact or has omitted to
2 state a material fact;
- 3 (7) The applicant, licensee, or, if an applicant or
4 licensee is not an individual, any of the applicant's
5 or licensee's control persons, executive officers,
6 directors, general partners, or managing members have
7 been convicted of or entered a plea of guilty or nolo
8 contendere to a crime involving fraud or deceit, or to
9 any similar crime under the jurisdiction of any
10 federal court or court of another state;
- 11 (8) The applicant or licensee has failed to make,
12 maintain, or produce records that comply with
13 section -42 or any rule adopted by the commissioner
14 pursuant to chapter 91;
- 15 (9) The applicant or licensee has been the subject of any
16 disciplinary action by any federal or state agency
17 that resulted in revocation of a license;
- 18 (10) A final judgment has been entered against the
19 applicant or licensee for violations of this chapter,
20 any federal or state law concerning a special purpose
21 digital currency license or money transmitter license,



1 or any federal or state law prohibiting unfair or
2 deceptive acts or practices; or
3 (11) The applicant or licensee has failed, in a timely
4 manner as specified by the commissioner, to take or
5 provide proof of the corrective action required by the
6 commissioner after an investigation or examination
7 pursuant to section -42.

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

- 11 (1) Deny an application for licensure, including an
12 application for a branch office license;
- 13 (2) Suspend or revoke the license in accordance with
14 section -45;
- 15 (3) Issue an order to the licensee to cease and desist in
16 accordance with section -46 from engaging in any
17 act specified under subsection (a);
- 18 (4) Order the licensee to make refunds to consumers of
19 excess charges under this chapter; or
- 20 (5) Impose penalties of up to \$10,000 for each violation
21 in accordance with section -48.



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

14 (d) The revocation, suspension, expiration, or surrender
15 of a license shall not affect the licensee's liability for acts
16 previously committed or impair the commissioner's ability to
17 issue a final agency order or take disciplinary action against
18 the licensee.

19 (e) No revocation, suspension, consent order, or surrender
20 of a license shall impair or affect the obligation of any



1 preexisting lawful contract between the licensee and any
2 consumer.

3 (f) The commissioner may reinstate a license, terminate a
4 suspension, or grant a new license to a person whose license has
5 been revoked or suspended if no fact or condition then exists
6 that would clearly justify the commissioner in revoking,
7 suspending, or refusing to grant a license.

8 (g) The commissioner may impose an administrative fine on
9 a licensee or person subject to this chapter if the commissioner
10 finds on the record after notice and opportunity for hearing
11 that the licensee or person subject to this chapter has violated
12 or failed to comply with any requirement of this chapter or any
13 rule adopted by the commissioner under this chapter or order
14 issued under the authority of this chapter.

15 (h) Each violation or failure to comply with any directive
16 or order of the commissioner shall be a separate and distinct
17 violation.

18 § -42 **Investigation and examination authority.** (a) In
19 addition to the authority granted under section -3, the
20 commissioner may conduct investigations and examinations in
21 accordance with this section. The commissioner may access,



1 receive, and use any books, accounts, records, files, documents,
2 information, or evidence that the commissioner deems relevant to
3 the investigation or examination, regardless of the location,
4 possession, control, or custody of the documents, information,
5 or evidence.

6 (b) For the purposes of investigating violations or
7 complaints arising under this chapter, or for the purposes of
8 examination, the commissioner may review, investigate, or
9 examine any licensee or person subject to this chapter as often
10 as necessary to carry out the purposes of this chapter. The
11 commissioner may direct, subpoena, or order the attendance of,
12 and examine under oath, all persons whose testimony may be
13 required about digital currency transactions or the business or
14 subject matter of any investigation or examination and may
15 direct, subpoena, or order the person to produce books,
16 accounts, records, files, and any other documents the
17 commissioner deems relevant to the inquiry.

18 (c) Each licensee or person subject to this chapter shall
19 provide to the commissioner, upon request, the books and records
20 relating to the operations of the licensee or person subject to
21 this chapter. The commissioner shall have access to the books



1 and records and shall be permitted to interview the control
2 persons, executive officers, directors, general partners,
3 managing members, principals, managers, employees, independent
4 contractors, agents, and consumers of the licensee or person
5 subject to this chapter concerning their business.

6 (d) Each licensee or person subject to this chapter shall
7 make or compile reports or prepare other information, as
8 directed by the commissioner, to carry out the purposes of this
9 section, including:

- 10 (1) Accounting compilations;
- 11 (2) Information lists and data concerning digital currency
12 transactions in a format prescribed by the
13 commissioner; or
- 14 (3) Other information that the commissioner deems
15 necessary.

16 (e) In conducting any investigation or examination
17 authorized by this chapter, the commissioner may control access
18 to any documents and records of the licensee or person under
19 investigation or examination. The commissioner may take
20 possession of the documents and records or place a person in
21 exclusive charge of the documents and records. During the



1 period of control, no person shall remove or attempt to remove
2 any of the documents and records except pursuant to a court
3 order or with the consent of the commissioner. Unless the
4 commissioner has reasonable grounds to believe the documents or
5 records of the licensee or person under investigation or
6 examination have been, or are at risk of being, altered or
7 destroyed for the purposes of concealing a violation of this
8 chapter, the licensee or owner of the documents and records
9 shall have access to the documents or records as necessary to
10 conduct its ordinary business affairs.

11 (f) The authority of this section shall remain in effect,
12 whether a licensee or person subject to this chapter acts or
13 claims to act under any licensing or registration law of this
14 State or claims to act without this authority.

15 (g) No licensee or person subject to investigation or
16 examination under this section may knowingly withhold, abstract,
17 remove, mutilate, destroy, or conceal any books, records,
18 computer records, or other information.

19 (h) The commissioner may charge an investigation or
20 examination fee, payable to the commissioner, based upon the
21 cost per hour per examiner for all licensees and persons subject



1 to this chapter investigated or examined by the commissioner or
2 the commissioner's staff. The hourly fee shall be \$60 or an
3 amount as the commissioner shall establish by rule pursuant to
4 chapter 91. In addition to the investigation or examination
5 fee, the commissioner may charge any person who is investigated
6 or examined by the commissioner or the commissioner's staff
7 pursuant to this section additional fees for travel, per diem,
8 mileage, and other reasonable expenses incurred in connection
9 with the investigation or examination, payable to the
10 commissioner.

11 (i) Any person having reason to believe that this chapter
12 or the rules adopted under this chapter have been violated, or
13 that a license issued under this chapter should be suspended or
14 revoked, may file a written complaint with the commissioner,
15 setting forth the details of the alleged violation or grounds
16 for suspension or revocation.

17 § -43 **Prohibited practices.** (a) It shall be a
18 violation of this chapter for a licensee, its control persons,
19 executive officers, directors, general partners, managing
20 members, employees, or independent contractors, or any other
21 person subject to this chapter to:



- 1 (1) Engage in any act that limits or restricts the
2 application of this chapter;
- 3 (2) Use a customer's digital currency account number to
4 prepare, issue, or create a digital currency
5 transaction on behalf of the consumer without the
6 customer's authorization;
- 7 (3) Charge, collect, or receive, directly or indirectly,
8 fees for negotiating digital currency transactions
9 except those explicitly authorized in this chapter;
- 10 (4) Fail to make disclosures as required by this chapter
11 and any other applicable federal or state law,
12 including rules or regulations adopted pursuant to
13 federal or state law;
- 14 (5) Directly or indirectly employ any scheme, device, or
15 artifice to defraud or mislead any consumer or person;
- 16 (6) Directly or indirectly engage in unfair or deceptive
17 acts, practices, or advertising in connection with a
18 digital currency business activity toward any person;
- 19 (7) Directly or indirectly obtain digital currency by
20 fraud or misrepresentation;



- 1 (8) Conduct digital currency business activity with or on
2 behalf of any person physically located in the State
3 through the use of the Internet, facsimile, telephone,
4 kiosk, or other means without first obtaining a
5 license under this chapter;
- 6 (9) Make, in any manner, any false or deceptive statement
7 or representation, including with regard to the rates,
8 fees, or other financing terms or conditions for
9 digital currency business activity, or engage in bait
10 and switch advertising;
- 11 (10) Make any false statement or knowingly make any
12 omission of material fact in connection with any
13 reports filed with the division by a licensee or in
14 connection with any investigation conducted by the
15 division;
- 16 (11) Conduct digital currency business activity from any
17 unlicensed location;
- 18 (12) Draft funds from any depository financial institution
19 without written approval of the consumer; provided
20 that nothing in this paragraph shall prohibit the
21 conversion of a negotiable instrument into an



1 electronic form for processing through the Automated
2 Clearing House or similar system;

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

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

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

11 § **-44 Voluntary surrender of license.** (a) A licensee
12 may voluntarily cease business and surrender its license by
13 giving written notice through NMLS to the commissioner of the
14 licensee's intent to surrender its license. Prior to the
15 surrender date, the licensee shall have either completed all
16 pending digital currency transactions or assigned each pending
17 digital currency transaction to another licensee.

18 (b) Notice to the commissioner shall be provided at least
19 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) The total dollar amount of the licensee's outstanding
9 digital currency transactions in the State 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 authorized branch offices in
15 the State, if any, as of the date of surrender;
- 16 (6) Confirmation that the licensee has notified each of
17 its authorized branch offices in the State, if any,
18 that the branch offices shall no longer conduct
19 digital currency business activity on the licensee's
20 behalf; and



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

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

12 § -45 **Suspension or revocation of licenses.** The
13 commissioner may suspend or revoke a license if the commissioner
14 finds that:

15 (1) Any fact or condition exists that, if it had existed
16 at the time at which the licensee applied for its
17 license, would have been grounds for denying the
18 licensee's application;

19 (2) The licensee's tangible net worth becomes inadequate
20 and the licensee, after ten days' written notice from



- 1 the commissioner, fails to take steps as the
2 commissioner deems necessary to remedy a deficiency;
- 3 (3) The licensee knowingly violates any material provision
4 of this chapter or any rule adopted or order issued by
5 the commissioner under authority of this chapter;
- 6 (4) The licensee is conducting its business in an unsafe
7 or unsound manner;
- 8 (5) The licensee is insolvent;
- 9 (6) The licensee has suspended payment of its obligations,
10 has made an assignment for the benefit of its
11 creditors, or has admitted, in writing, its inability
12 to pay its debts as they become due;
- 13 (7) The licensee has filed for bankruptcy, reorganization,
14 arrangement, or other relief under any bankruptcy law;
- 15 (8) The licensee refuses to permit the commissioner to
16 make any investigation or examination authorized by
17 this chapter; or
- 18 (9) The competence, experience, character, or general
19 fitness of the licensee indicates that it is not in
20 the public interest to allow the licensee to have a
21 license.



1 § **-46 Orders to cease and desist.** (a) If the
2 commissioner determines that a licensee's violation of this
3 chapter or a rule adopted or an order issued under this chapter
4 is:

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

8 (2) Cause insolvency or significant dissipation of assets
9 of the licensee,

10 the commissioner may issue an order requiring the licensee to
11 cease and desist from the violation. The order shall become
12 effective upon service of the order upon the licensee.

13 (b) An order to cease and desist shall remain effective
14 and enforceable pending the completion of an administrative
15 proceeding pursuant to chapter 91.

16 (c) A licensee that is served with an order to cease and
17 desist may petition the circuit court for a judicial order
18 setting aside, limiting, or suspending the enforcement,
19 operation, or effectiveness of the order pending the completion
20 of an administrative proceeding pursuant to sections -51
21 or -52.



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

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

6 § -47 **Consent orders.** The commissioner may enter into a
7 consent order at any time with a person to resolve a matter
8 arising under this chapter. A consent order shall be signed by
9 the person to whom the order is issued or by the person's
10 authorized representative and shall indicate agreement with the
11 terms contained in the order. A consent order may provide that
12 it does not constitute an admission by a person that this
13 chapter or a rule adopted or an order issued under this chapter
14 has been violated.

15 § -48 **Civil penalties.** (a) The commissioner may assess
16 a fine against a person who violates this chapter or a rule
17 adopted or an order issued under this chapter in an amount not
18 to exceed \$10,000 per violation, plus the State's costs and
19 expenses for the investigation and prosecution of the matter,
20 including reasonable attorneys' fees.



1 (b) Any violation of this chapter that is directed toward,
2 targets, or injures an elder may be subject to an additional
3 civil penalty of no more than \$10,000 for each violation, in
4 addition to any other fines or penalties assessed for the
5 violation.

6 § -49 **Criminal penalties.** (a) A person who
7 intentionally makes a false statement, misrepresentation, or
8 false certification in a record filed or required to be
9 maintained under this chapter, who intentionally makes a false
10 entry, or who omits a material entry in a record shall be guilty
11 of a class C felony and shall be subject to a fine of no more
12 than \$10,000.

13 (b) An individual or person who knowingly engages in any
14 activity for which a license is required under this chapter,
15 without being licensed under this chapter, shall be guilty of a
16 misdemeanor and shall be subject to a fine of no more than
17 \$1,000, imprisonment of no more than one year, or both. Each
18 day a violation exists shall be deemed a separate offense.

19 § -50 **Unlicensed persons.** (a) If the commissioner has
20 reason to believe that a person has violated or is violating
21 section -11, the commissioner may issue an order to show



1 cause why an order to cease and desist should not issue
2 requiring that the person cease and desist from the violation of
3 section -11.

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

9 (c) An order to cease and desist shall become effective
10 upon service of the order upon the person.

11 (d) An order to cease and desist shall remain effective
12 and enforceable pending the completion of an administrative
13 proceeding pursuant to section -46.

14 (e) A person who is served with an order to cease and
15 desist for violating section -11 may petition the circuit
16 court for a judicial order setting aside, limiting, or
17 suspending the enforcement, operation, or effectiveness of the
18 order to cease and desist pending the completion of an
19 administrative proceeding pursuant to section -46.



1 (f) The commissioner shall commence an administrative
2 proceeding within twenty days after issuing an order to cease
3 and desist.

4 § -51 **Administrative procedures.** All administrative
5 proceedings under this chapter shall be conducted in accordance
6 with chapter 91.

7 § -52 **Hearings.** Except as otherwise provided in
8 sections -18(d) and -45, the commissioner shall not
9 suspend or revoke a license, issue an order to cease and desist,
10 or assess a civil penalty without notice and an opportunity to
11 be heard.

12 § -53 **Division functions.** (a) The division shall
13 exercise all administrative functions of the State in relation
14 to the regulation, supervision, and licensing of special purpose
15 digital currency companies.

16 (b) The division shall interpret and enforce this
17 chapter."

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



1 "Monetary value" means a medium of exchange, whether or
2 not redeemable in money[~~r~~], except as defined as digital
3 currency under section -1."

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

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

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

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

18 (3) The department of health or its designee on all
19 applicants for licensure or certification for,
20 operators for, prospective employees, adult



- 1 volunteers, and all adults, except adults in care, at
2 healthcare facilities as defined in section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The county liquor commissions on employees and
14 prospective employees involved in liquor
15 administration, law enforcement, and liquor control
16 investigations;
- 17 (8) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;



- 1 (9) The department of human services on prospective
2 adoptive parents as established under
3 section 346-19.7;
- 4 (10) The department of human services or its designee on
5 applicants to operate child care facilities, household
6 members of the applicant, prospective employees of the
7 applicant, and new employees and household members of
8 the provider after registration or licensure as
9 provided by section 346-154, and persons subject to
10 section 346-152.5;
- 11 (11) The department of human services on persons exempt
12 pursuant to section 346-152 to be eligible to provide
13 child care and receive child care subsidies as
14 provided by section 346-152.5;
- 15 (12) The department of health on operators and employees of
16 home and community-based case management agencies and
17 operators and other adults, except for adults in care,
18 residing in community care foster family homes as
19 provided by section 321-15.2;



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

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

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

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

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



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



1 subcontracted service providers and their employees,
2 and adult volunteers as provided by section 321-15.2;
3 (22) The department of human services on purchase of
4 service contracted and subcontracted service providers
5 and their employees serving clients of the adult
6 protective and community services branch, as provided
7 by section 346-97;
8 (23) The department of human services on foster grandparent
9 program, senior companion program, and respite
10 companion program participants as provided by
11 section 346-97;
12 (24) The department of human services on contracted and
13 subcontracted service providers and their current and
14 prospective employees that provide home and
15 community-based services under section 1915(c) of the
16 Social Security Act, title 42 United States Code
17 section 1396n(c), or under any other applicable
18 section or sections of the Social Security Act for the
19 purposes of providing home and community-based
20 services, as provided by section 346-97;



- 1 (25) The department of commerce and consumer affairs on
- 2 proposed directors and executive officers of a bank,
- 3 savings bank, savings and loan association, trust
- 4 company, and depository financial services loan
- 5 company as provided by section 412:3-201;
- 6 (26) The department of commerce and consumer affairs on
- 7 proposed directors and executive officers of a
- 8 nondepository financial services loan company as
- 9 provided by section 412:3-301;
- 10 (27) The department of commerce and consumer affairs on the
- 11 original chartering applicants and proposed executive
- 12 officers of a credit union as provided by
- 13 section 412:10-103;
- 14 (28) The department of commerce and consumer affairs on:
- 15 (A) Each principal of every non-corporate applicant
- 16 for a money transmitter license;
- 17 (B) Each person who upon approval of an application
- 18 by a corporate applicant for a money transmitter
- 19 license will be a principal of the licensee; and
- 20 (C) Each person who upon approval of an application
- 21 requesting approval of a proposed change in



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

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

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

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

18 (40) The department of commerce and consumer affairs on:
19 (A) Applicants for real estate appraiser licensure or
20 certification as provided by chapter 466K;



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



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

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

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

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

15 as provided by chapter 449;

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



- 1 (46) The department of labor and industrial relations on
2 current or prospective employees or contractors who
3 have access to federal tax information in order to
4 comply with requirements of federal law, regulation,
5 or procedure, as provided by section 383-110;
- 6 (47) The department of human services on current or
7 prospective employees or contractors who have access
8 to federal tax information in order to comply with
9 requirements of federal law, regulation, or procedure,
10 as provided by section 346-2.5;
- 11 (48) The child support enforcement agency on current or
12 prospective employees or contractors who have access
13 to federal tax information in order to comply with
14 federal law, regulation, or procedure, as provided by
15 section 576D-11.5;
- 16 (49) The department of the attorney general on current or
17 prospective employees or employees or agents of
18 contractors who have access to federal tax information
19 to comply with requirements of federal law,
20 regulation, or procedure, as provided by
21 section 28-17;



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

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

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

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

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



1 and Hawaii technology development corporation shall be allowed
2 to continue operations until their applications are acted upon
3 by the division of financial institutions of the department of
4 commerce and consumer affairs; provided that the complete
5 application is submitted to the division of financial
6 institutions of the department of commerce and consumer affairs
7 by March 1, 2024.

8 (b) A company authorized to participate in the digital
9 currency innovation lab as of June 30, 2023, and whose
10 application for licensure under section 2 of this Act has been
11 submitted to the division of financial institutions of the
12 department of commerce and consumer affairs on or before
13 March 1, 2024, shall be exempt from the requirements in
14 section -11, Hawaii Revised Statutes, as established by this
15 Act for a period of six months from the date the application is
16 deemed complete or until the commissioner of financial
17 institutions approves or denies the application, whichever
18 occurs first. The commissioner of financial institutions, for
19 good cause, may reduce or extend the six-month period.
20 Submission of an application for licensure shall be evidenced
21 through the nationwide multi-state licensing and registry system



1 developed and maintained by the Conference of State Bank
2 Supervisors for the state licensing and registration of state-
3 licensed financial services providers to the commissioner of
4 financial institutions.

5 SECTION 6. The department of commerce and consumer affairs
6 may employ necessary personnel without regard to chapter 76,
7 Hawaii Revised Statutes, including three full-time equivalent
8 (3.0 FTE) positions for examiners, to assist with the
9 implementation and continuing function of this Act.

10 SECTION 7. There is appropriated out of the compliance
11 resolution fund established pursuant to section 26-9(o), Hawaii
12 Revised Statutes, the sum of \$ or so much thereof as
13 may be necessary for fiscal year 2023-2024 and the same sum or
14 so much thereof as may be necessary for fiscal year 2024-2025 to
15 establish and hire three full-time equivalent (3.0 FTE)
16 permanent examiners, without regard to chapter 76, Hawaii
17 Revised Statutes, to carry out the purposes of the special
18 purpose digital currency license program established by section
19 2 of this Act; provided that the positions may be added to the
20 position count for the division of financial institutions of the
21 department of commerce and consumer affairs.



1 The sums appropriated shall be expended by the department
2 of commerce and consumer affairs for the purposes of this Act.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect on June 30, 3000;
6 provided that the special purpose digital currency licensing
7 requirements established by section 2 of this Act shall take
8 effect on January 1, 2024.



Report Title:

DCCA; Division of Financial Institutions; Special Purpose
Digital Currency Companies; Licensure; Digital Currency
Innovation Lab; Appropriation

Description:

Beginning 1/1/2024, establishes a program for the licensure,
regulation, and oversight of special purpose digital currency
companies. Extends operations of companies in the digital
currency innovation lab under certain circumstances.
Appropriates funds for three full-time equivalent (3.0 FTE)
permanent examiners. Effective 6/30/3000. (HD2)

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

