
A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.

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

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

8 Digital currencies do not have physical form like banknotes
9 or minted coins. Digital currencies are also usually not issued
10 by a governmental body and are generally not considered legal
11 tender.

12 Although digital currency has grown in popularity and
13 acceptance worldwide, there is little regulation of the industry
14 in the United States, and many states treat digital currency
15 activities as within the scope of money transmitter laws. The
16 division of financial institutions of the department of commerce
17 and consumer affairs and the Hawaii technology development



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

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

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

16 "CHAPTER

17 SPECIAL PURPOSE DIGITAL CURRENCY LICENSING ACT

18 PART I. GENERAL PROVISIONS

19 § -1 Definitions. As used in this chapter, unless the
 20 context otherwise requires:



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

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

6 "Control" means ownership of, or the power to vote, twenty-
7 five per cent or more of the outstanding voting securities of a
8 licensee or controlling person. For purposes of determining the
9 percentage of a licensee controlled by any person, there shall
10 be aggregated with the controlling person's interest the
11 interest of any other person controlled by the person, or by any
12 spouse, parent, or child of the person.

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

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

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



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

3 "Digital currency" means any type of digital representation
4 of value that is used as a medium of exchange or a form of
5 digitally stored value. Digital currency shall be broadly
6 construed to include digital representations of value of
7 exchange that have a centralized repository or administrator;
8 are decentralized and have no centralized repository or
9 administrator; or may be created or obtained by computing or
10 manufacturing effort. "Digital currency" does not include any
11 of the following:

- 12 (1) Digital representations of value that:
- 13 (A) Are used solely within online gaming platforms;
 - 14 (B) Have no market or application outside of those
15 gaming platforms; and
 - 16 (C) Cannot be converted into, or redeemed for, fiat
17 currency or digital currency;
- 18 (2) Digital representations of value that can be redeemed
19 for goods, services, discounts, or purchases as part
20 of a customer affinity or rewards program with the
21 issuer or other designated merchants, or can be



1 redeemed for digital representations of value in
2 another customer affinity or rewards program, but
3 cannot be converted into or redeemed for fiat currency
4 or digital currency; or

5 (3) Digital representations of value used as part of
6 prepaid cards.

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

10 "Digital currency business activity" means:

11 (1) Exchanging, transferring, or storing digital currency
12 or engaging in digital currency administration,
13 whether directly or through an agreement with a
14 digital currency control-services vendor;

15 (2) Holding electronic certificates representing interests
16 in a thing of value on behalf of another person or
17 issuing shares; or

18 (3) Exchanging one or more digital representations of
19 value used within one or more online games, game
20 platforms, or family of games for:



1 (A) Digital currency offered by or on behalf of the
2 same publisher from which the original digital
3 representation of value was received; or

4 (B) Money or bank credit outside the online game,
5 game platform, or family of games offered by or
6 on behalf of the same publisher from which the
7 original digital representation of value was
8 received;

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

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

12 (6) Performing exchange services as a business; or

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

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

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



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

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

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

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

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

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



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

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

- 6 (1) Credit the digital currency to the account of another
7 person;
- 8 (2) Move the digital currency from one account of a person
9 to another account of the same person; or
- 10 (3) Relinquish control of digital currency to another
11 person.

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

16 § -2 Exclusions. This chapter shall not apply to:

- 17 (1) The exchange, transfer, or storage of digital currency
18 or to digital currency administration to the extent
19 regulated by the Electronic Fund Transfer Act of 1978,
20 15 U.S.C. sections 1693 through 1693r, the Securities
21 Exchange Act of 1934, 15 U.S.C. sections 78a through



1 7800, or the Commodity Exchange Act, 7 U.S.C.
2 sections 1 through 27f;
3 (2) Activity by a person that:
4 (A) Contributes only connectivity software or
5 computing power to a decentralized digital
6 currency, or to a protocol governing transfer of
7 the digital representation of value;
8 (B) Provides only data storage or security services
9 for a business engaged in digital currency
10 business activity and does not otherwise engage
11 in digital currency business activity on behalf
12 of another person; or
13 (C) Provides only to a person otherwise exempt from
14 this chapter digital currency as one or more
15 enterprise solutions used solely among each other
16 and has no agreement or relationship with a
17 person that is an end-user of digital currency;
18 (3) A person using digital currency, including creating,
19 investing, buying or selling, or obtaining digital
20 currency as payment for the purchase or sale of goods
21 or services, solely for academic purposes;



- 1 (4) A person whose digital currency business activity with
2 or on behalf of persons is reasonably expected to be
3 valued, in the aggregate, on an annual basis at \$5,000
4 or less, measured by the U.S. dollar equivalent of
5 digital currency;
- 6 (5) An attorney to the extent of providing escrow services
7 to a person;
- 8 (6) A securities intermediary, as defined in section
9 490:8-102; or a commodity intermediary, as defined in
10 section 490:9-102;
- 11 (7) A digital currency control services vendor; or
- 12 (8) A person that:
 - 13 (A) Does not receive compensation from a person for:
 - 14 (i) Providing digital currency products or
15 services; or
 - 16 (ii) Conducting digital currency business
17 activity;
 - 18 (B) Is engaged in testing products or services with
19 the person's own funds or digital currency;
- 20 (9) A financial institution chartered or licensed by
21 chapter 412; or



1 (10) 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 to not be a security by
7 a United States regulatory agency.

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

10 § -3 Powers of commissioner. In addition to any other
11 powers provided by law, the commissioner may:

12 (1) Adopt rules pursuant to chapter 91 as the commissioner
13 deems necessary for the administration of this
14 chapter;

15 (2) Issue declaratory rulings or informal nonbinding
16 interpretations;

17 (3) Investigate and conduct hearings regarding any
18 violation of this chapter or any rule or order of, or
19 agreement with, the commissioner;



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



- 1 and duties, including the authority to conduct
2 contested case proceedings under chapter 91;
- 3 (8) Enter into agreements or relationships with other
4 government officials or regulatory associations to
5 improve efficiencies and reduce regulatory burden by
6 sharing resources, standardized or uniform methods or
7 procedures, and documents, records, information, or
8 evidence obtained under this chapter;
- 9 (9) Use, hire, contract, or employ public or privately
10 available analytical systems, methods, or software to
11 investigate or examine a licensee or person subject to
12 this chapter;
- 13 (10) Accept and rely on investigation or examination
14 reports made by other government officials, within or
15 outside of the State;
- 16 (11) Accept audit reports made by an independent certified
17 public accountant for the licensee or person subject
18 to this chapter during that part of the examination
19 covering the same general subject matter as the audit
20 and may incorporate the audit report in the report of



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

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

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

- 11 (1) Licensed in the State under this chapter; or
- 12 (2) Excluded from licensing under section -2.

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

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



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

3 **PART II. LICENSING**

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

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

- 9 (1) The legal name, trade names, and business address of
10 the applicant and, if the applicant is a partnership,
11 association, limited liability company, limited
12 liability partnership, or corporation, of every
13 member, officer, principal, or director thereof;
- 14 (2) The principal place of business located in the United
15 States;
- 16 (3) The complete address of any other branch offices at
17 which the applicant currently proposes to engage in
18 digital currency business activity; and
- 19 (4) Other data, financial statements, and pertinent
20 information as the commissioner may require with
21 respect to the applicant or, if an applicant is not an



1 individual, each of the applicant's control persons,
2 executive officers, directors, general partners, and
3 managing members.

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

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

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

18 (1) Fingerprints of the applicant or, if an applicant is
19 not an individual, each of the applicant's control
20 persons, executive officers, directors, general
21 partners, and managing members for submission to the



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

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

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

17 (B) Information related to any administrative, civil,
18 or criminal findings by any governmental
19 jurisdiction;

20 provided that the commissioner may use any information obtained
21 pursuant to this subsection or through NMLS to determine an



1 applicant's demonstrated financial responsibility, character,
2 and general fitness for licensure.

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

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

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

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

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

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

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

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



- 1 (3) 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 demonstrated
5 financial responsibility, character, and general
6 fitness to command the confidence of the community and
7 to warrant a determination that the applicant shall
8 operate honestly, fairly, and efficiently, pursuant to
9 this chapter. For the purposes of this paragraph, a
10 person is not financially responsible when the person
11 has shown a disregard in the management of the
12 person's financial condition. A determination that a
13 person has shown a disregard in the management of the
14 person's financial condition may be based upon:
- 15 (A) Current outstanding judgments, except judgments
16 solely because of medical expenses;
 - 17 (B) Current outstanding tax liens or other government
18 liens and filings, subject to applicable
19 disclosure laws and administrative rules;
 - 20 (C) Foreclosures within the past three years; or



1 (D) A pattern of seriously delinquent accounts within
2 the past three years;

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

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

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

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



1 Authorization pursuant to this subsection shall include consent
2 to provide additional fingerprints, if necessary, to law
3 enforcement or regulatory bodies in other states.

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

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

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

15 (3) Who has advertised directly and purposefully to Hawaii
16 consumers or conducted transactions in violation of
17 this chapter; or

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

20 (d) A license issued in accordance with this chapter shall
21 remain in force and effect until surrendered, suspended, or



1 revoked, or until the license expires because of nonpayment of
2 the annual license renewal fee as required by this chapter.

3 § -8 Anti-money laundering program. (a) Each licensee
4 shall conduct an initial risk assessment that will consider
5 legal, compliance, financial, and reputational risks associated
6 with the licensee's activities, services, customers,
7 counterparties, and geographic location and shall establish,
8 maintain, and enforce an anti-money laundering program based
9 thereon. The licensee shall conduct additional assessments on
10 an annual basis, or more frequently as risks change, and shall
11 modify its anti-money laundering program as appropriate to
12 reflect any changes.

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

- 14 (1) Establish an effective anti-money laundering
15 compliance program in accordance with the federal
16 Anti-Money Laundering Act of 2020, P.L. 116-283;
- 17 (2) Establish an effective customer due diligence system
18 and monitoring program;
- 19 (3) Screen against the Office of Foreign Assets Control
20 and other government lists;



- 1 (4) Maintain records of cash purchases or cash
- 2 transactions and report to the appropriate federal
- 3 regulatory agency, as required by the federal
- 4 Anti-Money Laundering Act of 2020, P.L. 116-283;
- 5 (5) Establish an effective suspicious activity monitoring
- 6 and reporting process; and
- 7 (6) Develop a risk-based anti-money laundering program.
- 8 (c) Each licensee shall have in place appropriate policies
- 9 and procedures to block or reject specific or impermissible
- 10 transactions that violate federal or state laws, rules, or
- 11 regulations.

12 § -9 **Cyber security program.** (a) Each licensee shall

13 establish and maintain an effective cyber security program to

14 ensure the availability and functionality of the licensee's

15 electronic systems and to protect those systems and any

16 sensitive data stored on those systems from unauthorized access,

17 use, or tampering. The cyber security program shall be designed

18 to perform the following five core cyber security functions:

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

- 1 information, and how and by whom the information may
2 be accessed;
- 3 (2) Protect the licensee's electronic systems, and the
4 information stored on those systems, from unauthorized
5 access, use, or other malicious acts through the use
6 of defensive infrastructure and the implementation of
7 policies and procedures;
- 8 (3) Detect systems intrusions, data breaches, unauthorized
9 access to systems or information, malware, and other
10 cyber security events;
- 11 (4) Respond to detected cyber security events to mitigate
12 any negative effects; and
- 13 (5) Recover from cyber security events and restore normal
14 operations and services.
- 15 (b) Each licensee shall implement a written cyber security
16 policy setting forth the licensee's policies and procedures for
17 the protection of its electronic systems and customer and
18 counterparty data stored on those systems, that shall be
19 reviewed and approved by the licensee's board of directors or
20 equivalent governing body at least annually. The cyber security
21 policy shall:



- 1 (1) Establish effective policies, procedures, and controls
- 2 to effectuate subsection (a);
- 3 (2) Designate a cybersecurity officer;
- 4 (3) Develop and implement employee training in accordance
- 5 with position responsibilities to keep abreast of the
- 6 changing cybersecurity risk and threats;
- 7 (4) Establish a method of independent testing; and
- 8 (5) Maintain records.

9 § -10 Fees; bond. (a) A special purpose digital
 10 currency company shall pay the following fees to the division
 11 through NMLS to obtain and maintain a valid license under this
 12 chapter:

- 13 (1) Initial nonrefundable application fee of \$9,000;
- 14 (2) Nonrefundable renewal application fee of \$1,000; and
- 15 (3) Fees collected by NMLS for the processing of the
- 16 application, including:
 - 17 (A) Applicable fees charged by the entities
 - 18 conducting the criminal history background check
 - 19 of each of the applicant's control persons,
 - 20 executive officers, directors, general partners,
 - 21 and managing members for submission to the



1 Federal Bureau of Investigation or any
2 governmental agency or entity authorized to
3 receive the fingerprints for a state, national,
4 and international criminal history background
5 check; and

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

11 (b) The applicant shall file and maintain a surety bond,
12 approved by the commissioner, executed by the applicant as
13 obligor and by a surety company authorized to operate as a
14 surety in the State, whose liability as a surety does not
15 exceed, in the aggregate, the penal sum of the bond. The penal
16 sum of the bond shall be a minimum of \$500,000 and not more than
17 \$1,000,000, based upon the annual U.S. dollar equivalent of
18 digital currency as reported in the annual renewal report.

19 (c) The bond required by subsection (b) shall run to the
20 State of Hawaii as obligee for the use and benefit of the State
21 and of any person or persons who may have a cause of action



1 against the licensee as obligor under this chapter. The bond
2 shall be conditioned upon the following:

3 (1) The licensee as obligor shall faithfully conform to
4 and abide by this chapter and all the rules adopted
5 under this chapter; and

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

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

18 (1) For licensees with a total value of transactions in
19 U.S. dollar equivalent of digital currency under
20 \$10,000.00, the quarterly assessment shall be \$2,500;



- 1 (2) For licensees with a total value of transactions in
2 U.S. dollar equivalent of digital currency between
3 \$10,000.01 and \$15,000.00; the quarterly assessment
4 shall be \$3,750;
- 5 (3) For licensees with a total value of transactions in
6 U.S. dollar equivalent of digital currency between
7 15,000.01 and \$25,000.00, the quarterly assessment
8 shall be \$6,250;
- 9 (4) For licensees with a total value of transactions in
10 U.S. dollar equivalent of digital currency between
11 \$25,000.01 and \$35,000.00, the quarterly assessment
12 shall be \$8,750; and
- 13 (5) For licensees with a total value of transactions in
14 U.S. dollar equivalent of digital currency over
15 \$35,000.01, the quarterly assessment shall be \$12,500.
- 16 (b) The assessments shall be paid quarterly on
17 February 15, May 15, August 15, and November 15 of each year
18 based on the licensee's quarterly reports as of the previous
19 December 31, March 31, June 30, and September 30, respectively.
- 20 (c) The digital assets shall be based on the U.S. dollar
21 value of cryptocurrency assets held on behalf of customers,



1 calculated on U.S. dollars from the company's quarterly report
2 based on the trading price of the asset on the licensee's
3 platform as of 4:30 p.m. Hawaii standard time.

4 (d) The annual audited financial statement report shall be
5 filed in accordance with NMLS policy. The annual audited
6 financial report shall include balance sheets, a statement of
7 income or loss, a statement of changes in shareholders' equity,
8 and a statement of cash flows or, if a licensee is a wholly
9 owned subsidiary of another corporation, the consolidated
10 audited annual financial statement of the parent corporation in
11 lieu of the licensee's audited annual financial statement.

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

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

- 17 (A) The number of stored value accounts opened;
18 (B) The number of transactions processed;
19 (C) The total value of transactions in U.S. dollar
20 equivalent of digital currency;



1 (D) A chart of accounts, including a description of
2 each account; and

3 (E) Any other information that the commissioner may
4 require related to performance metrics;

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

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

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

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

19 (g) A licensee that has not filed an annual financial
20 statement or quarterly reports, deemed complete by the
21 commissioner, or paid the quarterly assessments, and the



1 licensee has not been granted an extension of time to do so by
 2 the commissioner, shall have its license suspended on the
 3 renewal date. The licensee shall have thirty days after its
 4 license is suspended to file the annual financial statement or
 5 quarterly reports or pay the quarterly assessments, plus a late
 6 filing fee of \$250 for each day after suspension that the
 7 commissioner does not receive the annual financial report,
 8 quarterly reports, and the quarterly fee. The commissioner, for
 9 good cause, may reduce or suspend the \$250 per day late filing
 10 fee.

11 § -12 Authorized places of business; principal office;
 12 branch offices; relocation; closure. (a) Every special purpose
 13 digital currency company licensed under this chapter shall have
 14 and maintain a principal place of business in the United States,
 15 regardless of whether the special purpose digital currency
 16 company maintains its principal office outside of the United
 17 States.

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



1 § -13 Sale or transfer of license; change of control.

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

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

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



1 principal of the licensee. Authorization shall also be given to
2 conduct criminal history record checks of those persons,
3 accompanied by the appropriate payment of the applicable fee for
4 each record check.

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

13 (e) The following persons shall be exempt from the
14 requirements of subsection (b), but the licensee regardless
15 shall notify the commissioner when a change of control results
16 in the following:

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



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

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

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

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

17 (g) Subsection (b) shall not apply to public offerings of
18 securities.

19 § -14 Ownership and control of digital currency. (a) A
20 licensee that has control of digital currency for one or more
21 persons shall maintain control of digital currency in each type



1 of digital currency sufficient to satisfy the aggregate
2 entitlements of the persons to the type of digital currency.

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

9 (c) This section shall apply to digital currency that is:

- 10 (1) Held for the persons entitled to the digital currency;
- 11 (2) Not property of the licensee; and
- 12 (3) Not subject to the claims of creditors of the
13 licensee.

14 (d) To the extent a licensee stores, holds, or maintains
15 custody or control of digital currency on behalf of another
16 person, the licensee shall hold digital currency of the same
17 type and amount as that which is owed or obligated to that other
18 person.

19 (e) Each licensee shall not sell, transfer, assign, lend,
20 hypothecate, pledge, or otherwise use or encumber assets,
21 including digital currency, stored, held, or maintained by, or



1 under the custody or control of, the licensee on behalf of
2 another person except for the sale, transfer, or assignment of
3 the assets at the direction of that other person.

4 PART III. DISCLOSURES, ADVERTISING, AND RECORDKEEPING

5 § -15 Required disclosures. (a) A licensee that
6 engages in digital currency business activity shall provide to a
7 person who uses the licensee's products or services the
8 disclosures required by subsection (b) and any additional
9 disclosure the commissioner determines reasonably necessary for
10 the protection of persons. The commissioner shall determine the
11 time and form required for disclosure. A disclosure required by
12 this section shall be made separately from any other information
13 provided by the licensee and in a clear and conspicuous manner
14 in a record the person may keep. A licensee may propose for the
15 commissioner's approval alternate disclosures as more
16 appropriate for its digital currency business activity.

17 (b) Before establishing a relationship with a person, a
18 licensee shall disclose to the extent applicable to the digital
19 currency business activity the licensee will undertake with the
20 person:



- 1 (1) A schedule of fees and charges the licensee may
2 assess, how fees and charges will be calculated if
3 they are not set in advance and disclosed, and the
4 timing of the fees and charges;
- 5 (2) That the product or service provided by the licensee
6 is not covered by a form of insurance or is otherwise
7 guaranteed against loss by an agency of the United
8 States, including the Federal Deposit Insurance
9 Corporation, the Securities Investor Protection
10 Corporation; or the full U.S. dollar equivalent of
11 digital currency purchased from the licensee or for
12 control of digital currency by the licensee; or
13 private insurance against theft or loss, including
14 cyber theft or theft by other means;
- 15 (3) The irrevocability of a transfer or exchange;
- 16 (4) The method for the person to update the person's
17 contact information with the licensee;
- 18 (5) That the date or time when the transfer or exchange is
19 made and the person's account is debited may differ
20 from the date or time when the person initiates the
21 instruction to make the transfer or exchange;



- 1 (6) The person's right to receive a receipt or other
- 2 evidence of the transfer or exchange;
- 3 (7) The person's right to notice of the licensee's fee
- 4 schedule prior to execution of transactions and at
- 5 least thirty days' prior notice of a change in the
- 6 licensee's other terms and conditions of operating its
- 7 digital currency business activity with the person and
- 8 the policies applicable to the person's account; and
- 9 (8) That digital currency is not money.
- 10 (c) At the end of a digital currency transaction with or
- 11 on behalf of a person, a licensee shall provide the person a
- 12 confirmation in a record that contains:
- 13 (1) The name and contact information of the licensee,
- 14 including information the person may need to ask a
- 15 question or file a complaint;
- 16 (2) The type, value, date, precise time, and amount of the
- 17 transaction; and
- 18 (3) The fee charged for the transaction, including any
- 19 charge for conversion of digital currency to money,
- 20 bank credit, or other digital currency.



1 § -16 Records, tangible net worth requirement. (a) A
2 licensee engaged in digital currency business activities may
3 include in its calculation of tangible net worth digital
4 currency, measured by the average value of the digital currency
5 in U.S. dollar equivalent over the prior six months, excluding
6 control of digital currency for a person entitled to the
7 protections pursuant to section -14.

8 (b) Each licensee shall make, keep, preserve, and make
9 available for inspection by the commissioner the books,
10 accounts, and other records required in subsection (c) in a form
11 that enables the commissioner to determine whether the licensee
12 is in compliance with this chapter, any court order, and law of
13 this State other than this chapter.

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

17 (1) Each transaction of the licensee with or on behalf of
18 the person or for the licensee's account in the State,
19 including:

- 20 (A) The identity of the person;
- 21 (B) The form of the transaction;



- 1 (C) The amount, date, and payment instructions given
- 2 by the person; and
- 3 (D) The account number, name, and United States
- 4 Postal Service or foreign address of the
- 5 resident; and, to the extent feasible, other
- 6 parties to the transaction;
- 7 (2) The aggregate number of transactions and aggregate
- 8 value of transactions by the licensee with or on
- 9 behalf of the person and for the licensee's account in
- 10 the State, expressed in U.S. dollar equivalent of
- 11 digital currency for the previous twelve calendar
- 12 months;
- 13 (3) Each transaction in which the licensee exchanges one
- 14 form of digital currency for money or another form of
- 15 digital currency with or on behalf of the person;
- 16 (4) A general ledger posted at least monthly that lists
- 17 all assets, liabilities, capital, income, ownership
- 18 equity, and expenses of the licensee;
- 19 (5) Each business-call report the licensee is required to
- 20 create or provide to the division of financial
- 21 institutions or NMLS;



1 (6) Bank statements and bank reconciliation records for
 2 the licensee and the name, account number, and United
 3 States Postal Service or foreign address of each bank
 4 the licensee uses in the conduct of its digital
 5 currency business activity with or on behalf of the
 6 person;

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

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

12 § -17 Advertising and marketing. (a) Each licensee
 13 engaged in digital currency business activity shall not
 14 advertise its products, services, or activities in Hawaii or to
 15 Hawaii consumers without including the name of the licensee and
 16 statement that the licensee is "Licensed to engage in Digital
 17 Currency Business Activity by the Hawaii Division of Financial
 18 Institutions."

19 (b) Each licensee shall maintain, for examination by the
 20 commissioner, all advertising and marketing materials for a
 21 period of at least five years from the date of their creation,



1 including but not limited to print media, internet media
 2 (including websites), radio and television advertising, road
 3 show materials, presentations, and brochures. Each licensee
 4 shall maintain website captures of material changes to internet
 5 advertising and marketing, and audio and video transcripts of
 6 its advertising and marketing materials, as applicable.

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

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

14 § -18 Confidentiality. (a) Except as otherwise
 15 provided in title 12 U.S.C. section 5111, the requirements under
 16 any federal or state law regarding the privacy or
 17 confidentiality of any information or material provided to NMLS,
 18 and any privilege arising under federal or state law, including
 19 the rules of any federal or state court, with respect to the
 20 information or material shall continue to apply to the
 21 information or material after the information or material has



1 been disclosed to NMLS. The information and material may be
2 shared with all state and federal regulatory officials with
3 oversight authority over transactions subject to this chapter,
4 without the loss of privilege or the loss of confidentiality
5 protections provided by federal or state law.

6 (b) For the purposes of this section, the commissioner
7 shall be authorized to enter into agreements or sharing
8 arrangements with other governmental agencies, the Conference of
9 State Bank Supervisors, or other associations representing
10 governmental agencies as established by rule or order of the
11 commissioner.

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

- 14 (1) Disclosure under chapter 92F; or
15 (2) Subpoena or discovery, or admission into evidence, in
16 any private civil action or administrative process,
17 unless any privilege is determined by NMLS to be
18 applicable to the information or material; provided
19 that the person to whom the information or material
20 pertains waives, in whole or in part, in the
21 discretion of the person, that privilege.



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

5 (e) In the event of a conflict between this section and
6 any other section of law relating to the disclosure of
7 privileged or confidential information or material, this section
8 shall control.

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

13 **PART IV. ENFORCEMENT**

14 **§ -19 Enforcement authority; violations; penalties. (a)**
15 To ensure the effective supervision and enforcement of this
16 chapter, the commissioner may take any disciplinary action as
17 specified in subsection (b) against an applicant or licensee if
18 the commissioner finds that:

19 (1) The applicant or licensee has violated this chapter,
20 or any rule or order lawfully made pursuant to this
21 chapter;



- 1 (2) The applicant has failed to disclose facts or
- 2 conditions that would clearly have justified the
- 3 commissioner in denying an application for licensure,
- 4 had these facts or conditions been known to exist at
- 5 the time the application was made;
- 6 (3) The applicant or licensee has failed to provide
- 7 information required by the commissioner within a
- 8 reasonable time, as specified by the commissioner;
- 9 (4) The applicant or licensee has failed to provide or
- 10 maintain proof of financial responsibility;
- 11 (5) The applicant or licensee is insolvent;
- 12 (6) The applicant or licensee has made, in any document or
- 13 statement filed with the commissioner, a false
- 14 representation of a material fact or has omitted to
- 15 state a material fact;
- 16 (7) The applicant, licensee, or, if an applicant or
- 17 licensee is not an individual, any of the applicant's
- 18 or licensee's control persons, executive officers,
- 19 directors, general partners, and managing members,
- 20 have been convicted of or entered a plea of guilty or
- 21 nolo contendere to a crime involving fraud or deceit,



- 1 or to any similar crime under the jurisdiction of any
2 federal court or court of another state;
- 3 (8) The applicant or licensee has failed to make,
4 maintain, or produce records that comply with
5 section -20 or any rule adopted by the commissioner
6 pursuant to chapter 91;
- 7 (9) The applicant or licensee has been the subject of any
8 disciplinary action by any state or federal agency
9 that resulted in revocation of a license;
- 10 (10) A final judgment has been entered against the
11 applicant or licensee for violations of this chapter,
12 any state or federal law concerning a digital currency
13 license or money transmitters, or any state or federal
14 law prohibiting unfair or deceptive acts or practices;
15 or
- 16 (11) The applicant or licensee has failed, in a timely
17 manner as specified by the commissioner, to take or
18 provide proof of the corrective action required by the
19 commissioner after an investigation or examination
20 pursuant to section -3.



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

- 4 (1) Deny an application for licensure, including an
5 application for a branch office license;
- 6 (2) Revoke the license;
- 7 (3) Suspend or condition the license in accordance
8 with section 23;
- 9 (4) Issue an order to the licensee to cease and desist
10 from engaging in any act specified under subsection
11 (a) or in accordance with section 24;
- 12 (5) Order the licensee to make refunds to consumers of
13 excess charges under this chapter; or
- 14 (6) Impose penalties of up to \$10,000 for each violation
15 in accordance with section 26.

16 (c) The commissioner may issue a temporary cease and
17 desist order if the commissioner makes a finding that the
18 licensee, applicant, or person is engaging, has engaged, or is
19 about to engage in an illegal, unauthorized, unsafe, or unsound
20 practice in violation of this chapter. Whenever the
21 commissioner denies a license application or takes disciplinary



1 action pursuant to this subsection, the commissioner shall enter
2 an order to that effect and notify the licensee, applicant, or
3 person of the denial or disciplinary action. The notification
4 required by this subsection shall be given by personal service
5 or by certified mail to the last known address of the licensee
6 or applicant as shown on the application, license, or as
7 subsequently furnished in writing to the commissioner.

8 (d) The revocation, suspension, expiration, or surrender
9 of a license shall not affect the licensee's liability for acts
10 previously committed or impair the commissioner's ability to
11 issue a final agency order or take disciplinary action against
12 the licensee.

13 (e) No revocation, suspension, consent order, or surrender
14 of a license shall impair or affect the obligation of any
15 preexisting lawful contract between the licensee and any
16 consumer.

17 (f) The commissioner may reinstate a license, terminate a
18 suspension, or grant a new license to a person whose license has
19 been revoked or suspended if no fact or condition then exists
20 that clearly would justify the commissioner in revoking,
21 suspending, or refusing to grant a license.



1 (g) The commissioner may impose an administrative fine on
2 a licensee or person subject to this chapter if the commissioner
3 finds on the record after notice and opportunity for hearing
4 that the licensee or person subject to this chapter has violated
5 or failed to comply with any requirement of this chapter or any
6 rule prescribed by the commissioner under this chapter or order
7 issued under the authority of this chapter.

8 (h) Each violation or failure to comply with any directive
9 or order of the commissioner shall be a separate and distinct
10 violation.

11 (i) Any violation of this chapter that is directed toward,
12 targets, or injures a person who is sixty-two years of age or
13 older may be subject to an additional civil penalty not to
14 exceed \$10,000 for each violation in addition to any other fines
15 or penalties assessed for the violation.

16 § -20 Investigation and examination authority. (a) In
17 addition to the authority granted under section -3, the
18 commissioner may conduct investigations and examinations in
19 accordance with this section. The commissioner may access,
20 receive, and use any books, accounts, records, files, documents,
21 information, or evidence that the commissioner deems relevant to



1 the investigation or examination, regardless of the location,
2 possession, control, or custody of the documents, information,
3 or evidence.

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

16 (c) Each licensee or person subject to this chapter shall
17 provide to the commissioner, upon request, the books and records
18 relating to the operations of the licensee or person subject to
19 this chapter. The commissioner shall have access to the books
20 and records and shall be permitted to interview the control
21 persons, executive officers, directors, general partners,



1 managing members, principals, managers, employees, independent
2 contractors, agents, and consumers of the licensee or person
3 subject to this chapter concerning their business.

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

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

14 (e) In conducting any investigation or examination
15 authorized by this chapter, the commissioner may control access
16 to any documents and records of the licensee or person under
17 investigation or examination. The commissioner may take
18 possession of the documents and records or place a person in
19 exclusive charge of the documents and records. During the
20 period of control, no person shall remove or attempt to remove
21 any of the documents and records except pursuant to a court



1 order or with the consent of the commissioner. Unless the
2 commissioner has reasonable grounds to believe the documents or
3 records of the licensee or person under investigation or
4 examination have been, or are at risk of being, altered or
5 destroyed for the purposes of concealing a violation of this
6 chapter, the licensee or owner of the documents and records
7 shall have access to the documents or records as necessary to
8 conduct its ordinary business affairs.

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

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

17 (h) The commissioner may charge an investigation or
18 examination fee, payable to the commissioner, based upon the
19 cost per hour per examiner for all licensees and persons subject
20 to this chapter investigated or examined by the commissioner or
21 the commissioner's staff. The hourly fee shall be \$60 or an



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

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

15 § -21 Prohibited practices. (a) It shall be a
 16 violation of this chapter for a licensee, its control persons,
 17 executive officers, directors, general partners, managing
 18 members, employees, or independent contractors, or any other
 19 person subject to this chapter to:

20 (1) Engage in any act that limits or restricts the
 21 application of this chapter;



- 1 (2) Use a customer's digital currency account number to
2 prepare, issue, or create a digital currency
3 transaction on behalf of the consumer without the
4 customer's authorization;
- 5 (3) Charge, collect, or receive, directly or indirectly,
6 charges for negotiating digital currency transactions
7 except those explicitly authorized in this chapter;
- 8 (4) Fail to make disclosures as required by this chapter
9 and any other applicable state or federal law,
10 including rules or regulations adopted pursuant to
11 state or federal law;
- 12 (5) Directly or indirectly employ any scheme, device, or
13 artifice to defraud or mislead any consumer, or any
14 person;
- 15 (6) Directly or indirectly obtain digital currency by
16 fraud or misrepresentation;
- 17 (7) Conduct digital currency business activity to any
18 person physically located in the State through the use
19 of the Internet, facsimile, telephone, kiosk, or other
20 means without first obtaining a license under this
21 chapter;



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



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

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

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

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

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



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



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

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

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

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

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

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



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

16 § -24 Orders to cease and desist. (a) If the

17 commissioner determines a violation of this chapter or a rule

18 adopted or an order issued under this chapter by a licensee or

19 authorized delegate is:



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

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

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

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

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



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

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

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

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



1 entry, or who omits a material entry in a record shall be guilty
2 of a class C felony, and be subject to a fine in an amount not
3 to exceed \$10,000.

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



- 1 (2) The department of health or its designee on
2 prospective employees, persons seeking to serve as
3 providers, or subcontractors in positions that place
4 them in direct contact with clients when providing
5 non-witnessed direct mental health or health care
6 services as provided by section 321-171.5;
- 7 (3) The department of health or its designee on all
8 applicants for licensure or certification for,
9 operators for, prospective employees, adult
10 volunteers, and all adults, except adults in care, at
11 healthcare facilities as defined in section 321-15.2;
- 12 (4) The department of education on employees, prospective
13 employees, and teacher trainees in any public school
14 in positions that necessitate close proximity to
15 children as provided by section 302A-601.5;
- 16 (5) The counties on employees and prospective employees
17 who may be in positions that place them in close
18 proximity to children in recreation or child care
19 programs and services;
- 20 (6) The county liquor commissions on applicants for liquor
21 licenses as provided by section 281-53.5;



- 1 (7) The county liquor commissions on employees and
2 prospective employees involved in liquor
3 administration, law enforcement, and liquor control
4 investigations;
- 5 (8) The department of human services on operators and
6 employees of child caring institutions, child placing
7 organizations, and foster boarding homes as provided
8 by section 346-17;
- 9 (9) The department of human services on prospective
10 adoptive parents as established under section
11 346-19.7;
- 12 (10) The department of human services or its designee on
13 applicants to operate child care facilities, household
14 members of the applicant, prospective employees of the
15 applicant, and new employees and household members of
16 the provider after registration or licensure as
17 provided by section 346-154, and persons subject to
18 section 346-152.5;
- 19 (11) The department of human services on persons exempt
20 pursuant to section 346-152 to be eligible to provide



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



1 correctional facility or who possess police powers
2 including the power of arrest as provided by section
3 353C-5;

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

7 (18) Private schools and designated organizations on
8 employees and prospective employees who may be in
9 positions that necessitate close proximity to
10 children; provided that private schools and designated
11 organizations receive only indications of the states
12 from which the national criminal history record
13 information was provided pursuant to section 302C-1;

14 (19) The public library system on employees and prospective
15 employees whose positions place them in close
16 proximity to children as provided by section
17 302A-601.5;

18 (20) The State or any of its branches, political
19 subdivisions, or agencies on applicants and employees
20 holding a position that has the same type of contact
21 with children, vulnerable adults, or persons committed



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

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

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

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

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



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

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

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

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

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



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

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

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

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

12 (30) The Hawaii health systems corporation on:

13 (A) Employees;

14 (B) Applicants seeking employment;

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

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

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

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



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



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



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



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

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

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

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

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

19 as provided by chapter 449;

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



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

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

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

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

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



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

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

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

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

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



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

6 SECTION 6. There is appropriated out of the compliance
7 resolution fund established pursuant to section 26-9(o), Hawaii
8 Revised Statutes, the sum of \$500,000 or so much thereof as may
9 be necessary for fiscal year 2023-2024 and the same sum or so
10 much thereof as may be necessary for fiscal year 2024-2025 to
11 establish and hire three full-time equivalent (3.0 FTE)
12 permanent examiners, without regard to chapter 76, Hawaii
13 Revised Statutes, to carry out the purposes of the special
14 purpose digital currency license program established by section
15 2 of this Act; provided that the positions may be added to the
16 position count for the division of financial institutions of the
17 department of commerce and consumer affairs.

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

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2050;
2 provided that:

3 (1) The special purpose digital currency licensing
4 requirements established by section 2 of this Act
5 shall take effect on January 1, 2025;

6 (2) The participating companies in the digital currency
7 innovation lab shall be allowed to continue operations
8 until their applications are acted upon by the
9 division of financial institutions if the complete
10 application is submitted to the division of financial
11 institutions by March 1, 2025;

12 (3) A company authorized to participate in the digital
13 currency innovation lab as of June 30, 2023, and whose
14 application for licensure under chapter has been
15 submitted to the division of financial institutions on
16 or before March 1, 2025, shall be exempt from the
17 requirements of section -4 in section 2 of this Act
18 for a period of six months from the date the
19 application is deemed complete or until the
20 commissioner approves or denies the application,
21 whichever occurs first. The commissioner of financial



1 institutions, for good cause, may reduce or extend the
2 six-month period. Submission of an application for
3 licensure shall be evidenced through NMLS to the
4 commissioner; and

5 (4) The amendments made to section 846-2.7, Hawaii Revised
6 Statutes, by section 4 of this Act shall not be
7 repealed when section 28 of Act 278, Session Laws of
8 Hawaii 2022, takes effect.



Report Title:

Digital Currency Companies; Licensure; Division of Financial Institutions

Description:

Establishes a program for the licensure, regulation, and oversight of digital currency companies. Effective 7/1/2050. (SD1)

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

