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

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

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

- 15 (1) Have a centralized repository or administrator;
16 (2) Are decentralized and have no centralized repository
17 or administrator; or
18 (3) May be created or obtained by computing or
19 manufacturing effort.

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

- 21 (1) Digital representations of value that:



1 (A) Are used solely within online gaming platforms;

2 (B) Have no market or application outside of those
3 gaming platforms; and

4 (C) Cannot be converted into, or redeemed for, fiat
5 currency or digital currency;

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

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

11 (B) Digital representations of value in another
12 customer affinity or rewards program,

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

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

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

19 "Digital currency business activity" means:

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



- 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 "Private key" means a unique element of cryptographic data,
19 or any substantially similar analogue, that is:

- 20 (1) Held by a person;



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

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

6 "Special purpose digital currency company" means a person
7 holding a special purpose digital currency license under this
8 chapter.

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

11 "Tangible net worth" means total assets, excluding
12 intangible assets, less total liabilities, in accordance with
13 United States generally accepted accounting principles.

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

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

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

20 (3) Relinquish control of digital currency to another
21 person.



1 "United States dollar equivalent of digital currency" means
2 the equivalent value of a particular digital currency in United
3 States dollars shown on a digital currency exchange based in the
4 United States for a particular date or specified period.

5 § -2 **Exclusions.** (a) This chapter shall not apply to:

6 (1) The exchange, transfer, or storage of digital currency
7 or to digital currency administration to the extent
8 regulated by the Securities Exchange Act of 1934 (15
9 U.S.C. chapter 2B) or Commodity Exchange Act (7 U.S.C.
10 chapter 1);

11 (2) Activity by a person that:

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

14 (i) Decentralized digital currency; or

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

17 (B) Provides only data storage or security services
18 for a business engaged in digital currency
19 business activity and does not otherwise engage
20 in digital currency business activity on behalf
21 of another person; or



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



- 1 (8) A person that:
- 2 (A) Does not receive compensation from a person for:
- 3 (i) Providing digital currency products or
- 4 services; or
- 5 (ii) Conducting digital currency business
- 6 activity; or
- 7 (B) Is engaged in testing products or services with
- 8 the person's own funds or digital currency;
- 9 (9) Non-custodial digital currency business activity by a
- 10 person using a digital currency:
- 11 (A) Acknowledged as legal tender by the United States
- 12 or a government recognized by the United States;
- 13 or
- 14 (B) That has been determined not to be a security by
- 15 a United States regulatory agency; or
- 16 (10) Banks, bank holding companies, credit unions, savings
- 17 banks, financial services loan companies, and mutual
- 18 banks organized under the laws of the United States or
- 19 any state.
- 20 (b) The commissioner may determine whether a person or
- 21 class of persons is to be exempt from this chapter.



1 § -3 Powers of commissioner. In addition to any other
2 powers provided by law, the commissioner may:

- 3 (1) Adopt rules pursuant to chapter 91 as the commissioner
4 deems necessary for the administration of this
5 chapter;
- 6 (2) Issue declaratory rulings or informal nonbinding
7 interpretations;
- 8 (3) Investigate and conduct hearings regarding any
9 violation of this chapter or any rule or order of, or
10 agreement with, the commissioner;
- 11 (4) Create fact-finding committees that may make
12 recommendations to the commissioner for the
13 commissioner's deliberations;
- 14 (5) Require an applicant or any of its control persons,
15 executive officers, directors, general partners, and
16 managing members to disclose their relevant criminal
17 history and request a criminal history record check to
18 be conducted by or through NMLS or pursuant to
19 chapter 846. The information shall be accompanied by
20 the appropriate payment of the applicable fee for each
21 criminal history record check;



- 1 (6) Contract with or employ qualified persons, including
2 accountants, attorneys, investigators, examiners,
3 auditors, or other professionals who may be exempt
4 from chapter 76 and who shall assist the commissioner
5 in exercising the commissioner's powers and duties;
- 6 (7) Process and investigate complaints, subpoena witnesses
7 and documents, administer oaths, receive affidavits
8 and oral testimony, including telephonic
9 communications, and do anything necessary or
10 incidental to the exercise of the commissioner's power
11 and duties, including the authority to conduct
12 contested case proceedings under chapter 91;
- 13 (8) Require a licensee to comply with:
- 14 (A) Any rule, guidance, guideline, statement,
15 supervisory policy, or any similar proclamation
16 issued or adopted by the Federal Deposit
17 Insurance Corporation; or
- 18 (B) Any policy position of the Conference of State
19 Bank Supervisors,
20 to the same extent and in the same manner as a bank
21 chartered by the State;



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



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

5 **PART II. LICENSING**

6 § -11 **License required.** (a) A person shall not engage
7 in digital currency business activity, or hold itself out as
8 being able to engage in digital currency business activity, with
9 or on behalf of another person unless the person is:

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

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

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

16 § -12 **Payment of fees.** All fees, fines, penalties, and
17 other charges collected pursuant to this chapter or by rule
18 shall be deposited with the director of commerce and consumer
19 affairs to the credit of the compliance resolution fund
20 established pursuant to section 26-9(o). Payments shall be made
21 through NMLS, to the extent allowed by NMLS.



1 § -13 **License; application; issuance.** (a) The
2 commissioner shall require all licensees to register with NMLS.

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

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

7 (A) The applicant; and

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

12 (2) The applicant's principal place of business located in
13 the United States;

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

17 (4) Other data, financial statements, and pertinent
18 information as the commissioner may require with
19 respect to the applicant or, if an applicant is not an
20 individual, each of the applicant's control persons,



1 executive officers, directors, general partners, and
2 managing members.

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

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

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

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



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

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

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

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



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

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

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

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

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



1 (1) 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 never had a special
5 purpose digital currency license revoked in any
6 jurisdiction; provided that a subsequent formal
7 vacation of a revocation shall not be deemed a
8 revocation for purposes of this section;

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

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

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



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

3 (3) 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 demonstrated
7 financial responsibility, character, and general
8 fitness to command the confidence of the community and
9 to warrant a determination that the applicant shall
10 operate honestly, fairly, and efficiently, pursuant to
11 this chapter. For the purposes of this paragraph, a
12 person is not financially responsible when the person
13 has shown a disregard in the management of the
14 person's financial condition. A determination that a
15 person has shown a disregard in the management of the
16 person's financial condition may be based upon:

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

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



- 1 (C) Foreclosures within the preceding three years;
- 2 and
- 3 (D) A pattern of seriously delinquent accounts within
- 4 the preceding three years;
- 5 (4) The applicant or, in the case of an applicant that is
- 6 not an individual, each of the applicant's control
- 7 persons, executive officers, directors, general
- 8 partners, and managing members has not been convicted
- 9 of, pled guilty or nolo contendere to, or been granted
- 10 a deferred acceptance of a guilty plea under federal
- 11 law or the laws of any state to any misdemeanor
- 12 involving an act of fraud, dishonesty, breach of
- 13 trust, or money laundering;
- 14 (5) The applicant has satisfied the licensing requirements
- 15 of this chapter; and
- 16 (6) The applicant has provided the bond required by
- 17 section -17.
- 18 (b) The applicant or, in the case of an applicant that is
- 19 not an individual, each of the applicant's control persons,
- 20 executive officers, directors, general partners, and managing
- 21 members shall submit authorization to the commissioner for the



1 commissioner to conduct background checks to determine or verify
2 the information in subsection (a) in each state in which the
3 person has conducted digital currency business activity.

4 Authorization pursuant to this subsection shall include consent
5 to provide additional fingerprints, if necessary, to law
6 enforcement or regulatory bodies in other states.

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

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

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

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



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

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

7 § -15 **Anti-money laundering program.** (a) Each licensee
8 shall conduct an initial risk assessment that shall consider
9 legal, compliance, financial, and reputational risks associated
10 with the licensee's activities, services, customers,
11 counterparties, and geographic location and establish, maintain,
12 and enforce an anti-money laundering program based on the risk
13 assessment. The licensee shall conduct additional assessments
14 on an annual basis, or more frequently as risks change, and
15 shall modify its anti-money laundering program as appropriate to
16 reflect the changes.

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

18 (1) Establish an effective anti-money laundering
19 compliance program in accordance with the federal
20 Anti-Money Laundering Act of 2020;



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

17 § -16 **Cybersecurity program.** (a) Each licensee shall

18 establish and maintain an effective cybersecurity program to

19 ensure the availability and functionality of the licensee's

20 electronic systems and to protect those systems and any

21 sensitive data stored on those systems from unauthorized access,



1 use, or tampering. The cybersecurity program shall be designed
2 to perform the following core cyber security functions:

3 (1) Identify internal and external cybersecurity risks by,
4 at a minimum, identifying the information stored on
5 the licensee's systems, the sensitivity of the
6 information, and how and by whom the information may
7 be accessed;

8 (2) Protect the licensee's electronic systems, and the
9 information stored on those systems, from unauthorized
10 access, use, or other malicious acts through the use
11 of defensive infrastructure and the implementation of
12 policies and procedures;

13 (3) Detect systems intrusions, data breaches, unauthorized
14 access to systems or information, malware, and other
15 cybersecurity events;

16 (4) Respond to detected cybersecurity events to mitigate
17 any negative effects; and

18 (5) Recover from cybersecurity events and restore normal
19 operations and services.

20 (b) Each licensee shall implement a written cybersecurity
21 policy setting forth the licensee's policies and procedures for



1 the protection of its electronic systems and customer and
2 counterparty data stored on those systems, which shall be
3 reviewed and approved by the licensee's board of directors or
4 equivalent governing body at least annually. The cybersecurity
5 policy shall:

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

14 § -17 **Fees; bond.** (a) A special purpose digital
15 currency company shall pay the following fees to the division
16 through NMLS to obtain and maintain a valid license under this
17 chapter:

- 18 (1) Initial nonrefundable application fee of \$9,000;
- 19 (2) Nonrefundable renewal application fee of \$1,000; and



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

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

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

17 (b) Every licensee shall be assessed quarterly fees based
18 on the total value of transactions in the State, in United
19 States dollar equivalent of digital currency, as reported in the
20 quarterly reports. The quarterly fees shall be assessed the



1 quarter after the applicant is licensed in accordance with the
2 following:

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

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

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

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

19 (5) For licensees with a total value of transactions, in
20 United States dollar equivalent of digital currency,



1 over \$35,000, the quarterly assessment shall be
2 \$12,500.

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

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

13 (e) The applicant shall file and maintain a surety bond
14 that is approved by the commissioner and executed by the
15 applicant as obligor and by a surety company authorized to
16 operate as a surety in the State, whose liability as a surety
17 does not exceed, in the aggregate, the penal sum of the bond.
18 The penal sum of the bond shall be a minimum of \$500,000, based
19 upon the annual United States dollar equivalent of digital
20 currency as reported in the annual renewal report.



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

6 (1) The licensee as obligor shall faithfully conform to
7 and abide by this chapter and all the rules adopted
8 under this chapter; and

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

14 § -18 **Renewal of license; annual report; quarterly**

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



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

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

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

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

9 (B) The number of transactions processed;

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

12 (D) The number of system outages;

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

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

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



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

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

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

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

8 (1) Continuing to meet the licensing requirements of
9 sections -13, -14, -15, -16, and -17;

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

12 (3) Paying a renewal fee; and

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

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



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

5 **§ -19 Principal place of business.** (a) Every special
6 purpose digital currency company licensed under this chapter
7 shall have and maintain a principal place of business in the
8 United States, regardless of whether the special purpose digital
9 currency company maintains its principal office outside of the
10 United States.

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

13 **§ -20 Sale or transfer of license; change of control.**

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

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



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

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



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

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

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

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

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

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

20 (f) Before filing an application requesting approval for a
21 change of control, a person may request, in writing, a



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

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

10 § -21 **Ownership and control of digital currency.** (a) A
11 licensee that has control of digital currency for one or more
12 persons shall maintain control of digital currency in each type
13 of digital currency sufficient to satisfy the aggregate
14 entitlements of the persons to the type of digital currency.

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



1 (c) The digital currency referred to in this section
2 shall:

3 (1) Be held for the persons entitled to the digital
4 currency;

5 (2) Not be considered property of the licensee; and

6 (3) Not be subject to the claims of creditors of the
7 licensee.

8 (d) To the extent a licensee stores, holds, or maintains
9 custody or control of digital currency on behalf of another
10 person, the licensee shall hold digital currency of the same
11 type and amount as that which is owed or obligated to that other
12 person.

13 (e) Each licensee shall be prohibited from selling,
14 transferring, assigning, lending, hypothecating, pledging, or
15 otherwise using or encumbering assets, including digital
16 currency, stored, held, or maintained by, or under the custody
17 or control of, the licensee on behalf of another person except
18 for the sale, transfer, or assignment of the assets at the
19 direction of that other person, unless clearly presented and
20 stated to the client that doing so is the intent of the product.

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



1 § -31 **Required disclosures.** (a) A licensee that
2 engages in digital currency business activity shall provide to a
3 person who uses the licensee's products or service the
4 disclosures required by subsection (b) and any additional
5 disclosure the commissioner determines reasonably necessary for
6 the protection of persons. The commissioner shall determine the
7 time and form required for disclosure. A disclosure required by
8 this section shall be made separately from any other information
9 provided by the licensee and kept by the person in a clear and
10 conspicuous manner in a record. A licensee may propose for the
11 commissioner's approval alternate disclosures as more
12 appropriate for its digital currency business activity.

13 (b) Before establishing a relationship with a person, a
14 licensee shall disclose the following, to the extent applicable
15 to the digital currency business activity the licensee will
16 undertake with the person:

17 (1) A schedule of fees and charges the licensee may
18 assess, how fees and charges will be calculated if
19 they are not set in advance and disclosed, and the
20 timing of the fees and charges;



- 1 (2) Whether the product or service provided by the
- 2 licensee is covered by:
- 3 (A) A form of insurance or is otherwise guaranteed
- 4 against loss by an agency of the United States,
- 5 including the Federal Deposit Insurance
- 6 Corporation and Securities Investor Protection
- 7 Corporation, up to the United States dollar
- 8 equivalent of digital currency purchased from the
- 9 licensee or for control of digital currency by
- 10 the licensee; or
- 11 (B) Private insurance against theft or loss,
- 12 including cyber theft or theft by other means;
- 13 (3) The irrevocability of a transfer or exchange;
- 14 (4) The method by which the person can update the person's
- 15 contact information with the licensee;
- 16 (5) That the date or time when the transfer or exchange is
- 17 made, and when the person's account is debited, may
- 18 differ from the date or time when the person initiates
- 19 the instruction to make the transfer or exchange;
- 20 (6) The person's right to receive a receipt or other
- 21 evidence of the transfer or exchange;



1 (7) The person's right to at least thirty days notice of a
2 change in the licensee's fee schedule, other terms and
3 conditions of operating its digital currency business
4 activity with the person, and the policies applicable
5 to the person's account; and

6 (8) That digital currency is not money.

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

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

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

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

18 § -32 **Tangible net worth requirement; records.** (a) A
19 licensee engaged in digital currency business activity shall
20 maintain at all times, a tangible net worth of no less than



1 \$500,000, or an amount determined by the commissioner necessary
2 to ensure safe and sound operation.

3 (b) Each licensee shall make, keep, preserve, and make
4 available for inspection by the commissioner the books,
5 accounts, and other records required in subsection (c). A
6 licensee shall maintain records required by subsection (c) in a
7 form that enables the commissioner to determine whether the
8 licensee is in compliance with this chapter, any court order,
9 and the laws of the State.

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

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

16 (A) The identity of the person;

17 (B) The form of the transaction;

18 (C) The amount, date, and payment instructions given
19 by the person; and



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



1 licensee uses in the conduct of its digital currency
2 business activity with or on behalf of the person;

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

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

8 § -33 **Advertising and marketing.** (a) Each licensee
9 engaged in digital currency business activity shall not
10 advertise its products, services, or activities in the State or
11 to consumers in the State without including the name of the
12 licensee and the legend that the licensee is "Licensed to engage
13 in Digital Currency Business Activity by the State of Hawaii
14 Department of Commerce and Consumer Affairs' Division of
15 Financial Institutions."

16 (b) Each licensee shall maintain, for examination by the
17 commissioner, all advertising and marketing materials for a
18 period of at least five years from the date of their creation,
19 including but not limited to print media, internet media,
20 websites, radio and television advertising, road show materials,
21 presentations, and brochures. Each licensee shall maintain



1 website captures of material changes to internet advertising and
2 marketing, and audio and video transcripts of its advertising
3 and marketing materials, as applicable.

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

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

11 **§ -34 Confidentiality.** (a) Except as otherwise
12 provided in title 12 United States Code section 5111, the
13 requirements under any federal or state law regarding the
14 privacy or confidentiality of any information or material
15 provided to NMLS, and any privilege arising under federal or
16 state law, including the rules of any federal or state court,
17 with respect to the information or material, shall continue to
18 apply to the information or material after the information or
19 material has been disclosed to NMLS. The information and
20 material may be shared with all federal and state regulatory
21 officials with oversight authority over transactions subject to



1 this chapter, without the loss of privilege or the loss of
2 confidentiality protections provided by federal or state law.

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

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

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

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



1 (e) In the event of a conflict between this section and
2 any other section of law relating to the disclosure of
3 privileged or confidential information or material, this section
4 shall control.

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

9 **PART IV. ENFORCEMENT**

10 **§ -41 Enforcement authority; violations; penalties. (a)**

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

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

18 (2) The applicant has failed to disclose facts or
19 conditions that would have clearly justified the
20 commissioner in denying an application for licensure,



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



- 1 (8) The applicant or licensee has failed to make,
2 maintain, or produce records that comply with
3 section -42 or any rule adopted by the
4 commissioner pursuant to chapter 91;
- 5 (9) The applicant or licensee has been the subject of any
6 disciplinary action by any state or federal agency
7 that resulted in revocation of a license;
- 8 (10) A final judgment has been entered against the
9 applicant or licensee for violations of this chapter,
10 any state or federal law concerning a special purpose
11 digital currency license or money transmitter license,
12 or any state or federal law prohibiting unfair or
13 deceptive acts or practices; or
- 14 (11) The applicant or licensee has failed, in a timely
15 manner as specified by the commissioner, to take or
16 provide proof of the corrective action required by the
17 commissioner after an investigation or examination
18 pursuant to section -42.
- 19 (b) After a finding of one or more of the conditions under
20 subsection (a), the commissioner may take any or all the
21 following actions:



- 1 (1) Deny an application for licensure, including an
2 application for a branch office license;
- 3 (2) Suspend or revoke the license in accordance with
4 section -45;
- 5 (3) Issue an order to the licensee to cease and desist in
6 accordance with section -46 from engaging in any
7 act specified under subsection (a);
- 8 (4) Order the licensee to make refunds to consumers of
9 excess charges under this chapter; or
- 10 (5) Impose penalties of up to \$10,000 for each violation
11 in accordance with section -48.
- 12 (c) The commissioner may issue a temporary cease and
13 desist order if the commissioner makes a finding that the
14 licensee, applicant, or person is engaging, has engaged, or is
15 about to engage in an illegal, unauthorized, unsafe, or unsound
16 practice in violation of this chapter. Whenever the
17 commissioner denies a license application or takes disciplinary
18 action pursuant to this subsection, the commissioner shall enter
19 an order to that effect and notify the licensee, applicant, or
20 person of the denial or disciplinary action. The notification
21 required by this subsection shall be given by personal service



1 or by certified mail to the last known address of the licensee
2 or applicant as shown on the application or license, or as
3 subsequently furnished in writing to the commissioner.

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

9 (e) No revocation, suspension, consent order, or surrender
10 of a license shall impair or affect the obligation of any
11 preexisting lawful contract between the licensee and any
12 consumer.

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

18 (g) The commissioner may impose an administrative fine on
19 a licensee or person subject to this chapter if the commissioner
20 finds on the record after notice and opportunity for hearing
21 that the licensee or person subject to this chapter has violated



1 or failed to comply with any requirement of this chapter or any
2 rule adopted by the commissioner under this chapter or order
3 issued under the authority of this chapter.

4 (h) Each violation or failure to comply with any directive
5 or order of the commissioner shall be a separate and distinct
6 violation.

7 § -42 Investigation and examination authority. (a) In
8 addition to the authority granted under section -3, the
9 commissioner may conduct investigations and examinations in
10 accordance with this section. The commissioner may access,
11 receive, and use any books, accounts, records, files, documents,
12 information, or evidence that the commissioner deems relevant to
13 the investigation or examination, regardless of the location,
14 possession, control, or custody of the documents, information,
15 or evidence.

16 (b) For the purposes of investigating violations or
17 complaints arising under this chapter, or for the purposes of
18 examination, the commissioner may review, investigate, or
19 examine any licensee or person subject to this chapter as often
20 as necessary to carry out the purposes of this chapter. The
21 commissioner may direct, subpoena, or order the attendance of,



1 and examine under oath, all persons whose testimony may be
2 required about digital currency transactions or the business or
3 subject matter of any investigation or examination and may
4 direct, subpoena, or order the person to produce books,
5 accounts, records, files, and any other documents the
6 commissioner deems relevant to the inquiry.

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

16 (d) Each licensee or person subject to this chapter shall
17 make or compile reports or prepare other information, as
18 directed by the commissioner, to carry out the purposes of this
19 section, including:

20 (1) Accounting compilations;



1 (2) Information lists and data concerning digital currency
2 transactions in a format prescribed by the
3 commissioner; or

4 (3) Other information that the commissioner deems
5 necessary.

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



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

5 (g) No licensee or person subject to investigation or
6 examination under this section may knowingly withhold, abstract,
7 remove, mutilate, destroy, or conceal any books, records,
8 computer records, or other information.

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



1 (i) Any person having reason to believe that this chapter
2 or the rules adopted under this chapter have been violated, or
3 that a license issued under this chapter should be suspended or
4 revoked, may file a written complaint with the commissioner,
5 setting forth the details of the alleged violation or grounds
6 for suspension or revocation.

7 § -43 **Prohibited practices.** (a) It shall be a
8 violation of this chapter for a licensee, its control persons,
9 executive officers, directors, general partners, managing
10 members, employees, or independent contractors, or any other
11 person subject to this chapter to:

- 12 (1) Engage in any act that limits or restricts the
13 application of this chapter;
- 14 (2) Use a customer's digital currency account number to
15 prepare, issue, or create a digital currency
16 transaction on behalf of the consumer without the
17 customer's authorization;
- 18 (3) Charge, collect, or receive, directly or indirectly,
19 fees for negotiating digital currency transactions
20 except those explicitly authorized in this chapter;



- 1 (4) Fail to make disclosures as required by this chapter
2 and any other applicable federal or state law,
3 including rules or regulations adopted pursuant to
4 federal or state law;
- 5 (5) Directly or indirectly employ any scheme, device, or
6 artifice to defraud or mislead any consumer or person;
- 7 (6) Directly or indirectly engage in unfair or deceptive
8 acts, practices, or advertising in connection with a
9 digital currency business activity toward any person;
- 10 (7) Directly or indirectly obtain digital currency by
11 fraud or misrepresentation;
- 12 (8) Conduct digital currency business activity with or on
13 behalf of any person physically located in the State
14 through the use of the Internet, facsimile, telephone,
15 kiosk, or other means without first obtaining a
16 license under this chapter;
- 17 (9) Make, in any manner, any false or deceptive statement
18 or representation, including with regard to the rates,
19 fees, or other financing terms or conditions for
20 digital currency business activity, or engage in bait
21 and switch advertising;



- 1 (10) Make any false statement or knowingly make any
2 omission of material fact in connection with any
3 reports filed with the division by a licensee or in
4 connection with any investigation conducted by the
5 division;
- 6 (11) Conduct digital currency business activity from any
7 unlicensed location;
- 8 (12) Draft funds from any depository financial institution
9 without written approval of the consumer; provided
10 that nothing in this paragraph shall prohibit the
11 conversion of a negotiable instrument into an
12 electronic form for processing through the Automated
13 Clearing House or similar system;
- 14 (13) Fail to comply with all applicable federal and state
15 laws relating to the activities governed by this
16 chapter; or
- 17 (14) Fail to pay any fee, assessment, or moneys due to the
18 department.
- 19 (b) In addition to any other penalties provided for under
20 this chapter, any digital currency transaction in violation of
21 subsection (a) shall be void and unenforceable.



1 § **-44 Voluntary surrender of license.** (a) A licensee
2 may voluntarily cease business and surrender its license by
3 giving written notice through NMLS to the commissioner of the
4 licensee's intent to surrender its license. Prior to the
5 surrender date, the licensee shall have either completed all
6 pending digital currency transactions or assigned each pending
7 digital currency transaction to another licensee.

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

- 11 (1) The date of surrender;
- 12 (2) The name, address, telephone number, facsimile number,
13 and electronic mail address of a contact individual
14 with knowledge and authority sufficient to communicate
15 with the commissioner regarding all matters relating
16 to the licensee during the period that it was licensed
17 pursuant to this chapter;
- 18 (3) The reason or reasons for surrender;
- 19 (4) The total dollar amount of the licensee's outstanding
20 digital currency transactions in the State and the
21 individual amounts of each outstanding digital



1 currency transactions and the name, address, and
2 contact telephone number of the licensee to whom each
3 outstanding digital currency transaction was assigned;

4 (5) A list of the licensee's authorized branch offices in
5 the State, if any, as of the date of surrender;

6 (6) Confirmation that the licensee has notified each of
7 its authorized branch offices in the State, if any,
8 that the branch offices shall no longer conduct
9 digital currency business activity on the licensee's
10 behalf; and

11 (7) Confirmation that the licensee has notified each of
12 its digital currency accounts, if any, that the
13 digital currency account is being transferred and the
14 name, address, telephone number, and any other contact
15 information of the licensee or entity described in
16 section -30 to whom the digital currency was
17 assigned.

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



1 **§ -45 Suspension or revocation of licenses.** The
2 commissioner may suspend or revoke a license if the commissioner
3 finds that:

- 4 (1) Any fact or condition exists that, if it had existed
5 at the time at which the licensee applied for its
6 license, would have been grounds for denying the
7 licensee's application;
- 8 (2) The licensee's tangible net worth becomes inadequate
9 and the licensee, after ten days' written notice from
10 the commissioner, fails to take steps as the
11 commissioner deems necessary to remedy a deficiency;
- 12 (3) The licensee knowingly violates any material provision
13 of this chapter or any rule adopted or order issued by
14 the commissioner under authority of this chapter;
- 15 (4) The licensee is conducting its business in an unsafe
16 or unsound manner;
- 17 (5) The licensee is insolvent;
- 18 (6) The licensee has suspended payment of its obligations,
19 has made an assignment for the benefit of its
20 creditors, or has admitted, in writing, its inability
21 to pay its debts as they become due;



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

3 (8) The licensee refuses to permit the commissioner to
4 make any investigation or examination authorized by
5 this chapter; or

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

10 § -46 **Orders to cease and desist.** (a) If the
11 commissioner determines that a licensee's violation of this
12 chapter or a rule adopted or an order issued under this chapter
13 is:

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

17 (2) Cause insolvency or significant dissipation of assets
18 of the licensee,

19 the commissioner may issue an order requiring the licensee to
20 cease and desist from the violation. The order shall become
21 effective upon service of the order upon the licensee.



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

4 (c) A licensee that is served with an order to cease and
5 desist may petition the circuit court for a judicial order
6 setting aside, limiting, or suspending the enforcement,
7 operation, or effectiveness of the order pending the completion
8 of an administrative proceeding pursuant to sections -51
9 or -52.

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

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

15 § -47 **Consent orders.** The commissioner may enter into a
16 consent order at any time with a person to resolve a matter
17 arising under this chapter. A consent order shall be signed by
18 the person to whom the order is issued or by the person's
19 authorized representative and shall indicate agreement with the
20 terms contained in the order. A consent order may provide that
21 it does not constitute an admission by a person that this



1 chapter or a rule adopted or an order issued under this chapter
2 has been violated.

3 **§ -48 Civil penalties.** (a) The commissioner may assess
4 a fine against a person who violates this chapter or a rule
5 adopted or an order issued under this chapter in an amount not
6 to exceed \$10,000 per violation, plus the State's costs and
7 expenses for the investigation and prosecution of the matter,
8 including reasonable attorneys' fees.

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

14 **§ -49 Criminal penalties.** (a) A person who
15 intentionally makes a false statement, misrepresentation, or
16 false certification in a record filed or required to be
17 maintained under this chapter, who intentionally makes a false
18 entry, or who omits a material entry in a record shall be guilty
19 of a class C felony and shall be subject to a fine of no more
20 than \$10,000.



1 (b) An individual or person who knowingly engages in any
2 activity for which a license is required under this chapter,
3 without being licensed under this chapter, shall be guilty of a
4 misdemeanor and shall be subject to a fine of no more than
5 \$1,000, imprisonment of no more than one year, or both. Each
6 day a violation exists shall be deemed a separate offense.

7 § -50 **Unlicensed persons.** (a) If the commissioner has
8 reason to believe that a person has violated or is violating
9 section -11, the commissioner may issue an order to show
10 cause why an order to cease and desist should not issue
11 requiring that the person cease and desist from the violation of
12 section -11.

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

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



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

4 (e) A person who is served with an order to cease and
5 desist for violating section -11 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 -46.

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

13 § -51 **Administrative procedures.** All administrative
14 proceedings under this chapter shall be conducted in accordance
15 with chapter 91.

16 § -52 **Hearings.** Except as otherwise provided in
17 sections -18(g) and -45, the commissioner shall not
18 suspend or revoke a license, issue an order to cease and desist,
19 or assess a civil penalty without notice and an opportunity to
20 be heard.



1 § -53 **Division functions.** (a) The division shall
2 exercise all administrative functions of the State in relation
3 to the regulation, supervision, and licensing of special purpose
4 digital currency companies.

5 (b) The division shall interpret and enforce this
6 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
12 currency 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
11 section 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
- 3 section 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
- 17 section 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
17 section 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
21 community-based services under section 1915(c) of the



1 Social Security Act, title 42 United States Code
2 section 1396n(c), or under any other applicable
3 section or sections of the Social Security Act for the
4 purposes of providing home and community-based
5 services, as 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
18 section 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
2 sections 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
3 section 28-17;

4 ~~[(+) (50) (+)]~~ The department of commerce and consumer affairs
5 on 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
10 prospective employees and contractors whose duties
11 include 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. (a) Notwithstanding any law to the contrary,
2 the companies participating in the digital currency innovation
3 lab operated by the department of commerce and consumer affairs
4 and Hawaii technology development corporation shall be allowed
5 to continue operations until their applications are acted upon
6 by the division of financial institutions of the department of
7 commerce and consumer affairs; provided that the complete
8 application is submitted to the division of financial
9 institutions of the department of commerce and consumer affairs
10 by March 1, 2024.

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



1 six-month period. Submission of an application for licensure
2 shall be evidenced through the nationwide multi-state licensing
3 and registry system developed and maintained by the Conference
4 of State Bank Supervisors for the state licensing and
5 registration of state-licensed financial services providers to
6 the commissioner of financial institutions.

7 SECTION 6. The department of commerce and consumer affairs
8 may employ necessary personnel without regard to chapter 76,
9 Hawaii Revised Statutes, including three full-time equivalent
10 (3.0 FTE) positions for examiners, to assist with the
11 implementation and continuing function of this Act.

12 SECTION 7. There is appropriated out of the compliance
13 resolution fund established pursuant to section 26-9(o), Hawaii
14 Revised Statutes, the sum of \$500,000 or so much thereof as may
15 be necessary for fiscal year 2023-2024 and the same sum or so
16 much thereof as may be necessary for fiscal year 2024-2025 to
17 establish and hire three full-time equivalent (3.0 FTE)
18 permanent examiners, without regard to chapter 76, Hawaii
19 Revised Statutes, to carry out the purposes of the special
20 purpose digital currency license program established by section
21 2 of this Act; provided that the positions may be added to the



1 position count for the division of financial institutions of the
2 department of commerce and consumer affairs.

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

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

7 SECTION 9. This Act shall take effect on July 1, 2023;
8 provided that the special purpose digital currency licensing
9 requirements established by section 2 of this Act shall take
10 effect on January 1, 2024.

11



Report Title:

Department of Commerce and Consumer Affairs; 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. (HD1)

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not legislation or evidence of legislative intent.*

