



General Assembly

January Session, 2023

Raised Bill No. 6752

LCO No. 4693



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT CONCERNING DIGITAL ASSETS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, "commissioner" has the same meaning as provided in section
3 36a-2 of the general statutes.

4 (b) The commissioner may, in accordance with the provisions of
5 chapter 54 of the general statutes, adopt, amend and rescind regulations,
6 forms and orders governing the business use of digital assets, including,
7 but not limited to, cryptocurrencies and virtual currencies, by entities
8 that, and individuals who, are subject to regulation by the
9 commissioner, which regulations, forms and orders shall ensure
10 consumer protection.

11 (c) In prescribing regulations, forms and orders pursuant to
12 subsection (b) of this section, the commissioner may consult with federal
13 financial services regulators, financial services regulators of other states,
14 other stakeholders and industry professionals to ensure that digital
15 assets receive, to the extent practicable, consistent treatment.

16 Sec. 2. Section 36a-596 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2023*):

18 As used in sections 36a-595 to 36a-612, inclusive, and section 3 of this
19 act:

20 (1) "Advertise" or "advertising" has the same meaning as provided in
21 section 36a-485.

22 (2) "Authorized delegate" means a person designated by a person
23 licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide
24 money transmission services on behalf of such licensed person.

25 (3) "Control" means (A) the power to vote, directly or indirectly, at
26 least twenty-five per cent of the outstanding voting shares or voting
27 interests of a licensee or person in control of a licensee; (B) the power to
28 elect or appoint a majority of key individuals or executive officers,
29 managers, directors, trustees or other persons exercising managerial
30 authority of a person in control of a licensee; or (C) the power to exercise,
31 directly or indirectly, a controlling influence over the management or
32 policies of a licensee or person in control of a licensee. For purposes of
33 this subdivision: (i) A person is presumed to exercise a controlling
34 influence when the person holds the power to vote, directly or
35 indirectly, at least ten per cent of the outstanding voting shares or voting
36 interests of a licensee or person in control of a licensee, (ii) a person
37 presumed to exercise a controlling influence can rebut such
38 presumption if the person is a passive investor, and (iii) to determine
39 the percentage of control, a person's interest shall be aggregated with
40 the interest of any other immediate family member, including the
41 person's spouse, parent, child, sibling, mother-in-law, father-in-law,
42 son-in-law, daughter-in-law, brother-in-law, sister-in-law and any other
43 person who shares the person's home.

44 (4) "Control person" means any individual in control of a licensee or
45 applicant, any individual who seeks to acquire control of a licensee or a
46 key individual.

47 (5) "Electronic payment instrument" means a card or other tangible
48 object for the transmission of money or monetary value or payment of
49 money which contains a microprocessor chip, magnetic stripe, or other
50 means for the storage of information, that is prefunded and for which
51 the value is decremented upon each use, but does not include a card or
52 other tangible object that is redeemable by the issuer in the issuer's
53 goods or services.

54 (6) "Holder" means a person, other than a purchaser, who is either in
55 possession of a payment instrument and is the named payee thereon or
56 in possession of a payment instrument issued or endorsed to such
57 person or bearer or in blank. "Holder" does not include any person who
58 is in possession of a lost, stolen or forged payment instrument.

59 (7) "Key individual" means any individual ultimately responsible for
60 establishing or directing policies and procedures of the licensee,
61 including, but not limited to, an executive officer, manager, director or
62 trustee.

63 (8) "Licensee" means any person licensed or required to be licensed
64 pursuant to sections 36a-595 to 36a-612, inclusive.

65 (9) "Main office" has the same meaning as provided in section 36a-
66 485.

67 (10) "Monetary value" means a medium of exchange, whether or not
68 redeemable in money.

69 (11) "Money transmission" means engaging in the business of issuing
70 or selling payment instruments or stored value, receiving money or
71 monetary value for current or future transmission or the business of
72 transmitting money or monetary value within the United States or to
73 locations outside the United States by any and all means including, but
74 not limited to, payment instrument, wire, facsimile, [or] electronic
75 transfer or use of a virtual currency kiosk.

76 (12) "Outstanding" means (A) in the case of a payment instrument or

77 stored value, that: (i) It is sold or issued in the United States; (ii) a report
78 of it has been received by a licensee from its authorized delegates; and
79 (iii) it has not yet been paid by the issuer, and (B) for all other money
80 transmissions, the value reported to the licensee for which the licensee
81 or any authorized delegate has received money or its equivalent value
82 from the customer for transmission, but has not yet completed the
83 money transmission by delivering the money or monetary value to the
84 person designated by the customer.

85 (13) "Passive investor" means a person that: (A) Does not have the
86 power to elect a majority of key individuals or executive officers,
87 managers, directors, trustees or other persons exercising managerial
88 authority of a person in control of a licensee; (B) is not employed by and
89 does not have any managerial duties of the licensee or person in control
90 of a licensee; (C) does not have the power to exercise, directly or
91 indirectly, a controlling influence over the management or policies of a
92 licensee or person in control of a licensee; and (D) attests to
93 subparagraphs (A), (B) and (C) of this subdivision in the form and
94 manner prescribed by the commissioner.

95 (14) "Payment instrument" means a check, draft, money order,
96 travelers check or electronic payment instrument that evidences either
97 an obligation for the transmission of money or monetary value or
98 payment of money, or the purchase or the deposit of funds for the
99 purchase of such check, draft, money order, travelers check or electronic
100 payment instrument.

101 (15) "Permissible investment" means: (A) Cash in United States
102 currency; (B) time deposits, as defined in section 36a-2, or other debt
103 instruments of a bank; (C) bills of exchange or bankers acceptances
104 which are eligible for purchase by member banks of the Federal Reserve
105 System; (D) commercial paper of prime quality; (E) interest-bearing
106 bills, notes, bonds, debentures or other obligations issued or guaranteed
107 by: (i) The United States or any of its agencies or instrumentalities, or (ii)
108 any state, or any agency, instrumentality, political subdivision, school
109 district or legally constituted authority of any state if such investment is

110 of prime quality; (F) interest-bearing bills or notes, or bonds, debentures
111 or preferred stocks, traded on any national securities exchange or on a
112 national over-the-counter market, if such debt or equity investments are
113 of prime quality; (G) receivables due from authorized delegates
114 consisting of the proceeds of the sale of payment instruments which are
115 not past due or doubtful of collection; (H) gold; and (I) any other
116 investments approved by the commissioner. Notwithstanding the
117 provisions of this subdivision, if the commissioner at any time finds that
118 an investment of a licensee is unsatisfactory for investment purposes,
119 the investment shall not qualify as a permissible investment.

120 (16) "Prime quality" of an investment means that it is within the top
121 four rating categories in any rating service recognized by the
122 commissioner unless the commissioner determines for any licensee that
123 only those investments in the top three rating categories qualify as
124 prime quality.

125 (17) "Purchaser" means a person who buys or has bought a payment
126 instrument or who has given money or monetary value for current or
127 future transmission.

128 (18) "Stored value" means monetary value that is evidenced by an
129 electronic record. For the purposes of this subdivision, "electronic
130 record" means information that is stored in an electronic medium and is
131 retrievable in perceivable form.

132 (19) "Travelers check" means a payment instrument for the payment
133 of money that contains a provision for a specimen signature of the
134 purchaser to be completed at the time of a purchase of the instrument
135 and a provision for a countersignature of the purchaser to be completed
136 at the time of negotiation.

137 (20) "Unique identifier" has the same meaning as provided in section
138 36a-485.

139 (21) "Virtual currency" means any type of digital unit that is used as
140 a medium of exchange or a form of digitally stored value or that is

141 incorporated into payment system technology. Virtual currency shall be
142 construed to include digital units of exchange that (A) have a centralized
143 repository or administrator; (B) are decentralized and have no
144 centralized repository or administrator; or (C) may be created or
145 obtained by computing or manufacturing effort. Virtual currency shall
146 not be construed to include digital units that are used (i) solely within
147 online gaming platforms with no market or application outside such
148 gaming platforms, or (ii) exclusively as part of a consumer affinity or
149 rewards program, and can be applied solely as payment for purchases
150 with the issuer or other designated merchants, but cannot be converted
151 into or redeemed for fiat currency.

152 (22) "Virtual currency address" means an alphanumeric identifier
153 representing a potential destination for a virtual currency transfer that
154 is associated with a virtual currency wallet.

155 (23) "Virtual currency kiosk" means an electronic terminal acting as a
156 mechanical agent of the owner or operator, to enable the owner or
157 operator to facilitate the exchange of virtual currency for fiat currency
158 or other virtual currency, which may connect directly to a separate
159 virtual currency exchanger that performs the actual virtual currency
160 transmission, or draw upon the virtual currency in the possession of the
161 owner or operator of the electronic terminal.

162 (24) "Virtual currency wallet" means a software application or other
163 mechanism providing a means for holding, storing and transferring
164 virtual currency.

165 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) The owner or operator of
166 a virtual currency kiosk shall, in establishing a relationship with a
167 customer and prior to entering into an initial virtual currency
168 transaction for, on behalf of or with the customer, disclose in clear,
169 conspicuous and legible writing in the English language and any other
170 language predominantly spoken by the customers of such owner or
171 operator all material risks associated with the products, services and
172 activities of the owner or operator and virtual currency generally,

173 including, but not limited to, the following:

174 (1) Virtual currency is not legal tender, is not backed by the
175 government and accounts and value balances are not subject to Federal
176 Deposit Insurance Corporation or Securities Investor Protection
177 Corporation protections;

178 (2) Legislative and regulatory changes or actions at the state, federal
179 or international level may adversely affect the use, transfer, exchange or
180 value of virtual currency;

181 (3) Transactions in virtual currency may be irreversible, and losses
182 due to fraudulent or accidental transactions may not be recoverable;

183 (4) Some virtual currency transactions shall be deemed to be made
184 when recorded on a public ledger, which may not be the date or time
185 when the customer initiates the virtual currency transaction;

186 (5) The value of virtual currency may be derived from the continued
187 willingness of market participants to exchange fiat currency for virtual
188 currency, which may result in the permanent and total loss of the value
189 of a particular virtual currency, if the market for that virtual currency
190 disappears;

191 (6) There is no assurance that a person who accepts a virtual currency
192 as payment today will continue to do so in the future;

193 (7) The volatility and unpredictability of the price of virtual currency
194 relative to fiat currency may result in a significant loss over a short
195 period of time;

196 (8) The nature of virtual currency may lead to an increased risk of
197 fraud or cyber attack;

198 (9) The nature of virtual currency means that any technological
199 difficulties experienced by the owner or operator may prevent access to
200 or use of a customer's virtual currency; and

201 (10) Any bond or trust account maintained by the owner or operator
202 for the benefit of the customers of such owner or operator may not be
203 sufficient to cover all losses incurred by customers.

204 (b) The owner or operator of a virtual currency kiosk shall, when
205 opening an account for a new customer and prior to entering into an
206 initial virtual currency transaction for, on behalf of or with such
207 customer, disclose in clear, conspicuous and legible writing in the
208 English language and in any other language predominantly spoken by
209 the customers of the owner or operator, using not less than forty-eight
210 point sans-serif-type font, all relevant terms and conditions associated
211 with the products, services and activities of the owner or operator and
212 virtual currency generally, including, but not limited to, the following:

213 (1) The customer's liability for unauthorized virtual currency
214 transactions;

215 (2) The customer's right to stop payment of a preauthorized virtual
216 currency transfer and the procedure used to initiate a stop-payment
217 order;

218 (3) Under what circumstances the owner or operator will, absent a
219 court or government order, disclose information concerning the
220 customer's account to third parties;

221 (4) The customer's right to receive periodic account statements and
222 valuations from the owner or operator;

223 (5) The customer's right to receive a receipt, trade ticket or other
224 evidence of a virtual currency transaction;

225 (6) The customer's right to prior notice of a change in the rules or
226 policies of the owner or operator; and

227 (7) Other disclosures that are customarily provided in connection
228 with the opening of customer accounts.

229 (c) The owner or operator of a virtual currency kiosk shall, prior to

230 each transaction in virtual currency for, on behalf of or with a customer,
231 disclose to such customer in clear, conspicuous and legible writing in
232 the English language and in any other language predominantly spoken
233 by the customers of the owner or operator, using not less than forty-
234 eight point sans-serif-type font, the terms and conditions of the virtual
235 currency transaction, including, but not limited to, the following:

236 (1) The amount of the transaction;

237 (2) Any fees, expenses and charges borne by the customer, including,
238 but not limited to, applicable exchange rates;

239 (3) The type and nature of the virtual currency transaction;

240 (4) A warning that, once executed, the virtual currency transaction
241 may not be undone, if applicable;

242 (5) A daily virtual currency transaction limit not to exceed five
243 hundred dollars;

244 (6) Any requested virtual currency transaction to exceed five
245 hundred dollars shall be verified using appropriate know your
246 customer identification procedures beyond short message service or
247 messaging;

248 (7) The difference in the sale price of the virtual currency versus the
249 current market price; and

250 (8) Other disclosures that are customarily given in connection with
251 such a virtual currency transaction.

252 (d) The owner or operator of a virtual currency kiosk shall ensure that
253 each customer acknowledges receipt of all disclosures required under
254 this section.

255 (e) The owner or operator of a virtual currency kiosk shall, upon the
256 completion of any virtual currency transaction, provide to the customer
257 a receipt containing the following information:

258 (1) The name of, and contact information for, the owner or operator,
259 including a telephone number established by the owner or operator to
260 answer questions and register complaints;

261 (2) The type, value, date and precise time of such virtual currency
262 transaction, and each virtual currency address;

263 (3) The fee charged;

264 (4) The exchange rate, if applicable;

265 (5) A statement of the liability of the owner or operator for
266 nondelivery or delayed delivery;

267 (6) A statement of the refund policy of the owner or operator; and

268 (7) Any additional information the Banking Commissioner may
269 require.

270 (f) Each owner or operator of a virtual currency kiosk shall make
271 available to the Department of Banking, upon request, the form of the
272 receipts such owner or operator is required to provide to customers
273 pursuant to subdivision (e) of this section.

274 (g) No owner or operator of a virtual currency kiosk shall engage in
275 fraudulent activity. Each such owner or operator shall take reasonable
276 steps to detect and prevent fraud, including, but not limited to,
277 establishing and maintaining a written antifraud policy. The antifraud
278 policy shall include, but need not be limited to, the following:

279 (1) The identification and assessment of fraud-related risks;

280 (2) Procedures and controls to protect against such identified fraud-
281 related risks;

282 (3) An allocation of responsibility for monitoring risks; and

283 (4) Procedures for the periodic evaluation and revision of antifraud
284 procedures, controls and monitoring mechanisms.

285 (h) (1) The owner or operator of a virtual currency kiosk shall freeze
286 a virtual currency transaction, and verify such virtual currency
287 transaction with the customer by phone, if such virtual currency
288 transaction: (A) Is the customer's first virtual currency transaction; and
289 (B) is to a foreign virtual currency wallet or exchange.

290 (2) The owner or operator of a virtual currency kiosk shall take
291 additional measures to verify the legitimacy of a virtual currency
292 transaction when the customer is identified as an "elderly person", as
293 defined in section 17b-450 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2023</i>	36a-596
Sec. 3	<i>October 1, 2023</i>	New section

Statement of Purpose:

To: (1) Authorize the Banking Commissioner to adopt, amend and rescind regulations, forms and orders governing the business use of digital assets; (2) define "virtual currency address", "virtual currency kiosk" and "virtual currency wallet"; and (3) establish certain requirements applicable to owners or operators of virtual currency kiosks.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]