

ACT No. 509

2022 Regular Session

HOUSE BILL NO. 802

BY REPRESENTATIVE WRIGHT

1 AN ACT

2 To enact Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 6:1401 and 1402, relative to digital assets; to provide definitions; to allow
4 financial institutions and trust companies to serve as custodians of digital assets; to
5 provide for parameters and procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950,
8 comprised of R.S. 6:1401 and 1402, is hereby enacted to read as follows:

9 CHAPTER 22. VIRTUAL CURRENCY CUSTODY SERVICES

10 §1401. Definitions

11 As used in this Chapter, the following words have the following meanings:

12 (1) "Custody services" means the safekeeping or custody of virtual currency
13 or other assets by a financial institution or trust company.

14 (2) "Financial institution" means a federally insured depository institution
15 chartered pursuant to the laws of this state, another state, or the United States.

16 (3) "Self-assessment" means either of the following:

17 (a) A financial institution's or trust company's voluntary, self-initiated
18 internal assessment, audit, or review of the financial institution or trust company and
19 its practices, policies, and procedures.

20 (b) A financial institution's or trust company's voluntary, self-initiated
21 assessment, audit, or review of the practices, policies, and procedures of a person
22 acting under contract, directly or indirectly, as the financial institution's or trust

1 company's service provider, including mortgage servicers and subservicers, credit
2 and debit card processors, and providers of loan document systems.

3 (4) "Trust company" means a corporation or a limited liability trust company
4 organized in accordance with this Title, the laws of another state, or pursuant to the
5 laws of the United States, including a trust company organized pursuant to the laws
6 of this state before June 27, 2003, or an entity chartered to act as a fiduciary that is
7 neither a depository institution nor a foreign bank.

8 (5) "Virtual currency" has the same meaning as provided for in R.S. 6:1382.
9 §1402. Provision of virtual currency custody services

10 A. A financial institution or trust company may provide its customers with
11 virtual currency custody services if the financial institution or trust company has
12 adequate protocols in place to effectively manage risks and comply with applicable
13 laws. A financial institution or trust company may provide virtual currency custody
14 services through third-party service providers. Prior to a financial institution or trust
15 company offering virtual currency custody services, the financial institution or trust
16 company shall carefully examine the risks involved in offering such services through
17 a methodical self-assessment process. If a financial institution or trust company
18 decides to offer such services, the financial institution or trust company shall do all
19 of the following:

20 (1) Implement effective risk management systems and controls to measure,
21 monitor, and control relevant risks associated with custody of digital assets such as
22 virtual currency.

23 (2) Confirm that it has adequate insurance coverage for such services.

24 (3) Maintain a service provider oversight program to address risks to service
25 provider relationships as a result of engaging in virtual currency custody services.

26 B.(1) Consistent with authority provided through the entity's charter, a
27 financial institution or trust company may provide virtual currency custody services
28 in either a nonfiduciary or fiduciary capacity.

29 (2) In providing such services in a nonfiduciary capacity, the financial
30 institution or trust company shall take possession of the customer's asset for

1 safekeeping while legal title remains with the customer. The customer shall retain
2 direct control over the keys associated with his virtual currency.

3 (3) In providing such services in a fiduciary capacity, a financial institution
4 or trust company is required to possess trust powers as provided for in R.S. 6:241,
5 575, and 731. Acting in a fiduciary capacity, the financial institution or trust
6 company shall require customers to transfer their virtual currencies to the control of
7 the financial institution or trust company by creating new private keys to be held by
8 the financial institution or trust company. In its fiduciary capacity, a financial
9 institution or trust company shall have authority to manage virtual currency assets
10 as it would any other type of asset held in such capacity.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____