A BILL FOR AN ACT RELATING TO VIRTUAL-CURRENCY BUSINESSES.

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

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

"CHAPTER

VIRTUAL-CURRENCY BUSINESSES

PART I. UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESSES ACT

SUBPART A. GENERAL PROVISIONS

§ -1 Short title. This part shall be known and cited as the Uniform Regulation of Virtual-Currency Businesses Act.

§ -2 Definitions. As used in this part, unless the context otherwise requires:

"Applicant" means a person that applies for a license under this chapter.

"Bank" means a federally chartered or state chartered depository institution or holder of a charter granted by the Office of the Comptroller of the Currency to a person engaged in
the business of banking other than accepting deposits. "Bank"
does not include:

(1) A financial services loan company, state-chartered
trust company, or a limited purpose trust company
unless the division has authorized the company to
engage in virtual-currency business activity; or

(2) A trust company or limited purpose trust company
chartered by a state with which this State does not
have a reciprocity agreement governing trust company
activities.

"Control" means:

(1) When used in reference to a transaction or
relationship involving virtual currency, power to
execute unilaterally or prevent indefinitely a
virtual-currency transaction; and

(2) When used in reference to a person, the direct or
indirect power to direct the management, operations,
or policies of the person through legal or beneficial
ownership of voting power in the person or under a
contract, arrangement, or understanding.
"Division" means the division of financial institutions of the department of commerce and consumer affairs.

"Exchange", used as a verb, means to assume control of virtual currency from or on behalf of a resident, at least momentarily, to sell, trade, or convert:

(1) Virtual currency for legal tender, bank credit, or one or more forms of virtual currency; or

(2) Legal tender or bank credit for one or more forms of virtual currency.

"Executive officer" means an individual who is a director, officer, manager, managing member, partner, or trustee of a person that is not an individual.

"Insolvent" means:

(1) Having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(2) Being unable to pay debts as they become due; or

(3) Being insolvent within the meaning of federal bankruptcy law.
"Legal tender" means a medium of exchange or unit of value, including the coin or paper money of the United States, issued by the United States or by another government.

"Licensee" means a person licensed under this part.

"Person" means an individual, partnership, estate, business or nonprofit entity, or other legal entity. "Person" does not include a public corporation, government, or governmental subdivision, agency, or instrumentality.

"Reciprocity agreement" means an arrangement between the division and the appropriate licensing agency of another state that permits a licensee operating under a license granted by the other state to engage in virtual-currency business activity with or on behalf of a resident.

"Record" means information that is inscribed on a tangible medium or stored in an electronic or other medium, and is retrievable in perceivable form.

"Registrant" means a person that has registered with this State in accordance with section -27 to conduct virtual-currency business activity.

"Registration" means the ability, pursuant to section -27, to conduct virtual-currency business activity.
"Registry" means the Nationwide Multistate Licensing System and Registry.

"Resident":

(1) Means a person that:

(A) Is domiciled in this State;

(B) Is physically located in this State for more than one hundred eighty-three days of the previous three hundred sixty-five days; or

(C) Has a place of business in this State; and

(2) Includes a legal representative of a person that satisfies paragraph (1).

"Responsible individual" means an individual who has managerial authority with respect to a licensee's or registrant's virtual currency business activity with, or on behalf of, a resident.

"Sign" means, with present intent to authenticate or adopt a record, to:

(1) Execute or adopt a tangible symbol; or

(2) Attach to, or logically associate with, the record an electronic symbol, sound, or process.
"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Store", "storage", or "storing", except in the phrase "store of value", means to maintain control of virtual currency on behalf of a resident by a person other than the resident.

"Transfer" means to assume control of virtual currency from, or on behalf of, a resident and to:

(1) Credit the virtual currency to the account of another person;

(2) Move the virtual currency from one account of a resident to another account of the same resident; or

(3) Relinquish control of virtual currency to another person.

"United States dollar equivalent of virtual currency" means the equivalent value of a particular virtual currency in United States dollars shown on a virtual-currency exchange based in the United States for a particular date or period specified in this chapter.
"Virtual currency" means a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and is not legal tender, regardless of whether denominated in legal tender. "Virtual currency" does not include:

1. A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from, or exchanged with, the merchant for legal tender, bank credit, or virtual currency; or
2. A digital representation of value issued by, or on behalf of, a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

"Virtual-currency administration" means issuing virtual currency with the authority to redeem the currency for legal tender, bank credit, or other virtual currency.

"Virtual-currency business activity" means:

1. Exchanging, transferring, or storing virtual currency, or engaging in virtual-currency administration,
whether directly or through an agreement with a virtual-currency control services vendor;

(2) Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals; or

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

(A) Virtual currency offered by, or on behalf of, the same publisher from which the original digital representation of value was received; or

(B) Legal tender or bank credit outside the online game, game platform, or family of games offered by, or on behalf of, the same publisher from which the original digital representation of value was received.

"Virtual-currency control services vendor" means a person that has control of virtual currency solely under an agreement
with a person that, on behalf of another person, assumes control
of virtual currency.

§ 3 Scope. (a) Except as otherwise provided in
subsection (b) or (c), this part governs the virtual-currency
business activity of a person, wherever located, that engages
in, or holds itself out as, engaging in the activity with, or on
behalf of, a resident.

(b) This part shall not apply to the exchange, transfer,
or storage of virtual currency or to virtual-currency
administration to the extent that the Electronic Fund Transfer
Act of 1978 (15 United States Code sections 1693 through 1693r),
as amended; the Securities Exchange Act of 1934 (15 United
States Code sections 78a through 78qq), as amended; the
Commodity Exchange Act of 1936 (7 United States Code sections 1
through 27f), as amended; or chapters 467B, 482E, and 485A
govern the activity. This part shall not apply to activity by:

(1) The United States, a state, political subdivision of a
state, agency or instrumentality of federal, state, or
local government, or a foreign government or a
subdivision, department, agency, or instrumentality of
a foreign government;
(2) A bank;

(3) A person engaged in money transmission who:
   (A) Holds a license under chapter 489D;
   (B) Is authorized by the division to engage in virtual-currency business activity; and
   (C) Complies with subparts B, C, E, and F;

(4) A person whose participation in a payment system is limited to providing processing, clearing, or performing settlement services solely for transactions between, or among, persons that are exempt from the licensing or registration requirements of this part;

(5) A person engaged in the business of dealing in foreign exchange to the extent the person's activity meets the definition of "foreign financial institution" in title 31 Code of Federal Regulations section 1010.605(f)(1)(iv), as amended;

(6) A person who:
   (A) Contributes only connectivity software or computing power to a decentralized virtual currency, or to a protocol governing transfer of the digital representation of value;
(B) Provides only data storage or security services for a business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or

(C) Provides virtual currency only to a person otherwise exempt from this part, as one or more enterprise solutions to be used solely with each other and has no agreement or relationship with a resident who is an end user of virtual currency;

(7) A person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

(A) On its own behalf;

(B) For personal, family, or household purposes; or

(C) For academic purposes;

(8) A person whose virtual-currency business activity with, or on behalf of, residents is reasonably expected to be valued, in the aggregate, on an annual
basis at $5,000 or less, measured by the United States
dollar equivalent of virtual currency;

(9) An attorney, to the extent of providing escrow
services to a resident;

(10) A title insurance company, to the extent of providing
escrow services to a resident;

(11) A securities intermediary, as defined in section
490:8-102, or a commodity intermediary, as defined in
section 490:9-102, that:

(A) Does not engage in the ordinary course of
business in virtual-currency business activity
with, or on behalf of, a resident in addition to
maintaining securities accounts or commodity
accounts and is regulated as a securities
intermediary or commodity intermediary under
federal law, the laws of this State other than
this part, or the laws of another state; and

(B) Affords a resident protection comparable to those
set forth in part II, the Uniform Supplemental
Commercial Law for the Uniform Regulation of
Virtual-Currency Businesses Act;
(12) A secured creditor under article 9 of chapter 490 or creditor with a judicial lien or lien arising by operation of law on collateral that is virtual currency, if the virtual-currency business activity of the creditor is limited to enforcement of the security interest in compliance with article 9 of chapter 490 or the lien in compliance with the law applicable to the lien;

(13) A virtual-currency control services vendor; or

(14) A person who:

(A) Does not receive compensation from a resident for:

(i) Providing virtual-currency products or services; or

(ii) Conducting virtual-currency business activity; or

(B) Is engaged in testing products or services with the person's own funds.

(c) The division may determine that a person or class of persons, given facts particular to the person or class, should be exempt from this part, and whether the person or class is
covered by requirements imposed under federal law on a money
service business.

§ -4 Supplementary law. Except as otherwise provided by
this part, the principles of law and equity shall supplement
this part.

SUBPART B. LICENSURE

§ -21 Conditions precedent to engaging in virtual-
currency business activity. A person shall not engage in
virtual-currency business activity, or hold oneself out as being
able to engage in virtual-currency business activity, with or on
behalf of a resident, unless the person is:

(1) Licensed in this State by the division under section
-22;

(2) Licensed in another state to conduct virtual-currency
business activity by a state with which this State has
a reciprocity agreement and has qualified under
section -23;

(3) Registered with the division and operating in
compliance with section -27; or

(4) Exempt from licensure or registration under this part
pursuant to section -3(b) or (c).
§ -22 License by application. (a) Except as otherwise provided in section -23, an application for a license under this part:

(1) Shall be made in a form and medium prescribed by the division or the registry;

(2) Except as otherwise provided in subsection (b), shall provide the following information relevant to the applicant's proposed virtual-currency business activity:

(A) The legal name of the applicant, each current or proposed business United States Postal Service address of the applicant, and any fictitious or trade name that the applicant uses or plans to use in conducting its virtual-currency business activity with, or on behalf of, a resident;

(B) The legal name, any former or fictitious name, and the residential and business United States Postal Service address of each executive officer and responsible individual of the applicant, and each person that has control of the applicant;
(C) A description of the current and former business of the applicant for the five years preceding the submission of the application or, if the business has operated for less than five years, for the time the business has operated, including its products and services, associated website addresses and social media pages, principal place of business, projected user base, and specific marketing targets;

(D) The name, United States Postal Service address, and telephone number of a person who manages each server that the applicant expects to use in conducting its virtual-currency business activity with, or on behalf of, a resident and a copy of any agreement with that person;

(E) A list of:

(i) Each money service or money transmitter license that the applicant holds in another state;

(ii) The date that the license expires; and
(iii) Any license revocation, license suspension, or other disciplinary action that was taken against the licensee in another state and any license applications that were rejected by another state;

(F) A list of any criminal conviction, deferred prosecution agreement, and pending criminal proceeding in any jurisdiction against:

(i) The applicant;

(ii) Each executive officer of the applicant;

(iii) Each responsible individual of the applicant;

(iv) Each person that has control over the applicant; and

(v) Each person over which the applicant has control;

(G) A list of any litigation, arbitration, or administrative proceeding in any jurisdiction in which the applicant, or an executive officer or a responsible individual of the applicant, has been a party for the five years preceding the
submission of the application, to the extent that
the applicant would be required to disclose the
litigation, arbitration, or administrative
proceeding in the applicant's audited financial
statements, reports to equity owners, and similar
statements or reports;

(H) A list of any bankruptcy or receivership
proceeding in any jurisdiction for the ten years
preceding the submission of the application in
which any of the following persons was a debtor:

(i) The applicant;

(ii) Any executive officer of the applicant;

(iii) Any responsible individual of the applicant;

(iv) Any person that has control over the
applicant; and

(v) Any person over whom the applicant has
control;

(I) The name and United States Postal Service address
of each bank in which the applicant plans to
deposit funds obtained by its virtual-currency
business activity;
The source of funds and credit to be used by the applicant to conduct virtual-currency business activity with, or on behalf of, a resident and documentation demonstrating that the applicant has the net worth and reserves required by section -24;

The United States Postal Service address and electronic mail address to which communications from the division may be sent;

The name, United States Postal Service address, and electronic mail address of the registered agent of the applicant in this State;

A copy of the certificate, or a detailed summary acceptable to the division, of coverage for each liability, casualty, business interruption, or cybersecurity insurance policy maintained by the applicant for itself, an executive officer, a responsible individual, or the applicant's users;

The date on which, and the state where, the applicant is formed and a copy of a current
certificate of good standing by that state, if applicable;

(O) If a person has control of the applicant and the person's equity interests are publicly traded in the United States, a copy of the audited financial statement of the person for the most recent fiscal year or most recent report of the person filed under section 13 of the Securities Exchange Act of 1934 (15 United States Code section 78m), as amended;

(P) If a person has control of the applicant and the person's equity interests are publicly traded outside the United States, a copy of the audited financial statement of the person for the most recent fiscal year of the person or a copy of the most recent documentation similar to that required in subparagraph (O) filed with the foreign regulator in the domicile of the person;

(Q) If the applicant is a partnership or a member-managed limited liability company, the names and
United States Postal Service addresses of general partners or members;

(R) If the applicant is required to register with the Financial Crimes Enforcement Network of the United States Department of the Treasury as a money service business, evidence of the registration;

(S) A set of fingerprints for each executive officer and responsible individual of the applicant;

(T) If available, for each executive officer and responsible individual of the applicant, for the five years prior to the submission of the application:

(i) Employment history; and

(ii) History of any investigation of the individual or legal proceeding to which the individual was a party;

(U) The plans through which the applicant will meet its obligations under subpart F; and
(V) Other information the division reasonably requires by rules adopted pursuant to chapter 91; and

(3) Shall be accompanied by a nonrefundable fee in the amount specified by rules adopted by the division pursuant to chapter 91.

(b) For good cause, the division may waive a requirement under subsection (a) or permit the applicant to submit other information instead of the required information.

(c) An application for a license under this section is not complete until the division receives all information required by this part and completes its investigation under subsection (d).

(d) On receipt of a completed application:

(1) The division shall investigate:

(A) The financial condition and responsibility of the applicant;

(B) The relevant financial and business experience, character, and general fitness of the applicant; and

(C) The competence, experience, character, and general fitness of each executive officer, each
responsible individual, and any person that has control of the applicant; and

(2) The division may conduct an investigation of the business premises of an applicant.

(e) No later than thirty days after an application is complete, the division shall send the applicant notice of its decision to approve, conditionally approve, or deny the application. If the division does not send the applicant notice of its decision within thirty-one days of the completion of the application, the application is deemed denied. If the division does not receive notice from the applicant that the applicant accepts the conditions specified by the division within thirty-one days following the division's notice of the conditions, the application is deemed denied.

(f) A license takes effect on:

(1) The date on which the division issues the license; or

(2) The date the licensee provides the security required by section -24, whichever occurs later.

(g) An applicant shall pay the reasonable costs of the division's investigation under this section.
§ 23 License by reciprocity. (a) Notwithstanding section 22, a person licensed by another state to conduct virtual currency business activity in that state may file with the registry an application under this section.

(b) When an application under this section is filed with the registry, the applicant shall notify the division in a record that the applicant has submitted the application to the registry and shall submit to the division:

(1) A certification of license history from the agency responsible for issuing a license in each state in which the applicant has been licensed to conduct virtual-currency business activity;

(2) A nonrefundable reciprocal licensing application fee in the amount specified by rules adopted by the division pursuant to chapter 91;

(3) Documentation demonstrating that the applicant complies with the security and net worth reserve requirements of section 24; and

(4) A certification signed by an executive officer of the applicant affirming that the applicant will conduct
its virtual-currency business activity with, or on behalf of, a resident in compliance with this chapter.

(c) The division may permit conduct of virtual-currency business activity by an applicant that complies with this section.

§ 24 Security, net worth, and reserves. (a) Before a license is issued under this part:

(1) An applicant shall deposit with the division funds or investment property, a letter of credit, a surety bond, or other security satisfactory to the division that:

(A) Secures the applicant's faithful performance of its duties under this part; and

(B) Is in an amount that the division specifies based upon the nature and extent of risks in the applicant's virtual-currency business model;

(2) The division shall not require a surety bond as security under this part unless a surety bond is generally available in the State at a commercially reasonable cost;
(3) Security deposited under this section shall be payable to the State for the benefit of a claim against the licensee on account of the licensee's virtual-currency business activity with, or on behalf of, a resident;

(4) Security deposited under this section shall cover claims for the period that the division specifies by rule and for an additional period that the division specifies after the licensee ceases to engage in virtual-currency business activity with, or on behalf of, a resident;

(5) For good cause, the division may require the licensee to increase the amount of the security deposited under this section, and the licensee shall deposit the additional security no later than fifteen days after the licensee receives notice in a record of the required increase;

(6) For good cause, the division may permit a licensee to substitute or deposit an alternate form of security satisfactory to the division if the licensee at all times complies with this section;
(7) A claimant shall not have a direct right to recover against security deposited under this section; and
(8) Only the division may recover against the security, and the division may retain the recovery for no more than five years and may process claims and distribute recoveries to claimants in accordance with rules adopted by the division under chapter 489D.

(b) In addition to the security required under subsection (a), a licensee and a registrant, at the time of applying for a license under this part or filing a registration, shall submit to the division evidence of and maintain:

(1) A minimum net worth of $25,000; and
(2) Sufficient unencumbered reserves for winding down the licensee's or registrant's operations as agreed to by the division considering the nature and size of expected virtual-currency business activity with, or on behalf of, residents.

(c) A licensee or registrant may include in its calculation of net worth virtual currency, measured by the average value of the virtual currency in United States dollar equivalent over the prior six months, other than the virtual
currency over which it has control for a resident entitled to
the protections under part II.

(d) For good cause, the division may require a licensee or
registrant to increase the net worth or reserves required under
this section. The licensee or registrant shall submit to the
division evidence that it has the additional net worth or
reserves not later than fifteen days after the licensee or
registrant receives notice in a record of the required increase.

§ 25 Issuance of license; appeal. (a) Absent good
cause, the division shall issue a license to an applicant if the
applicant complies with this part and pays the costs of the
investigation under section 22(g) and the initial licensee
fee under section 22(a)(3) in an amount required by law or
specified by the division by rule.

(b) An applicant may appeal a denial of its application
under section 22 or 23, under chapter 91 no later than
thirty days after:

(1) The division notifies the applicant of the denial; or
(2) The application is deemed denied.

§ 26 Renewal of license. (a) Subject to subsection
g, no later than fifteen days before the anniversary date of
issue of the license granted pursuant to this part, a licensee may apply for the renewal of the license by:

(1) Paying a renewal fee in an amount specified by the division by rule adopted pursuant to chapter 91; and

(2) Submitting to the division a renewal report in accordance with subsection (b).

(b) A renewal report required by subsection (a)(2) shall be submitted in a form and medium prescribed by the division.

The report shall contain:

(1) A copy of the licensee's most recent:

(A) Reviewed annual financial statement if the licensee's virtual-currency business activity in this State was $ or less for the fiscal year ending before the anniversary date of issue of the license granted pursuant to this part; or

(B) Audited annual financial statement if the licensee's virtual-currency business activity in this State totaled more than $ for the fiscal year ending before the date of issue of the license granted pursuant to this part;
(2) If a person other than an individual has control of the licensee, a copy of the person's most recent:
   (A) Reviewed annual financial statement if the person's gross revenue was $ or less in the previous fiscal year, measured as of the anniversary date of issue of the license granted pursuant to this part; or
   (B) Audited consolidated annual financial statement if the person's gross revenue was more than $ in the previous fiscal year, measured as of the anniversary date of issue of the license granted pursuant to this part;

(3) A description of any:
   (A) Material change in the financial condition of the licensee;
   (B) Material litigation involving the licensee or an executive officer, or responsible individual of the licensee;
   (C) License suspension or revocation proceeding commenced, or other action taken, involving a license to conduct virtual-currency business
activity issued by another state on which reciprocal licensing is based;

(D) Federal or state investigation involving the licensee; and

(E) Data security breach involving the licensee;

(4) Information or records required by section 35 that the licensee has not reported to the division;

(5) The number of virtual-currency business activity transactions with, or on behalf of, residents for the period since, subject to subsection (g), the date the license was issued or the date the last renewal report was submitted, whichever occurred later;

(6) The:

(A) Amount of United States dollar equivalent of virtual currency in the control of the licensee at, subject to subsection (g), the end of the last month that ends no later than thirty days before the date of the renewal report; and

(B) Total number of residents for whom the licensee had control of United States dollar equivalent of virtual currency on that date;
(7) Evidence that the licensee continues to satisfy part

II;

(8) Evidence that the licensee continues to satisfy

section -24;

(9) A list of each location where the licensee operates

its virtual-currency business activity; and

(10) The name, United States Postal Service address, and

telephone number of each person that manages a server

used by the licensee in conducting its

virtual-currency business activity with, or on behalf

of, a resident.

(c) If a licensee does not timely comply with subsection

(a), the division may use enforcement measures provided under

subpart D. Notice or hearing is not required for a suspension

or revocation of a license under this part for failure to pay a

renewal fee or file a renewal report.

(d) If the division suspends or revokes a license under

this part for noncompliance with subsection (a), the division

may end the suspension or rescind the revocation and notify the

licensee of the action if, subject to subsection (g), no later
than twenty days after the license was suspended or revoked, the licensee:

(1) Files a renewal report and pays a renewal fee; and

(2) Pays any penalty assessed under section -43.

(e) The division shall give prompt notice to a licensee of
the lifting of a suspension or rescission of a revocation after
the licensee complies with subsection (d).

(f) Suspension or revocation of a license under this
section does not invalidate a transfer or exchange of virtual
currency for or on behalf of a resident made during the
suspension or revocation and does not insulate the licensee from
liability under this part.

(g) For good cause, the division may extend any period of
time under this section.

(h) The division shall review the renewal of a license
issued under section -23 to ensure that the state that issued
the original license has not suspended, revoked, or limited the
license.

(i) A licensee that does not comply with this section
shall cease operations with, or on behalf of, a resident on or
before the anniversary date of issue of the license granted 
pursuant to this part.

(j) A licensee shall pay the reasonable and necessary 
costs of the division's investigation under this section.

§ -27 Registration in lieu of license. (a) A person 
whose volume of virtual-currency business activity in United 
States dollar equivalent of virtual currency will not exceed 
$35,000 annually may engage in virtual-currency business 
activity with, or on behalf of, a resident under a registration 
without first obtaining a license under this part if the person:

(1) Files with the division a notice in the form and 
medium prescribed by the division of its intention to 
engage in virtual-currency business activity with, or 
on behalf of, a resident;

(2) Provides the information for an investigation under 
section -22;

(3) States the anticipated virtual-currency business 
activity for its next fiscal quarter;

(4) Pays the division a registration fee in the amount 
specified by the division by rule adopted pursuant to 
chapter 91;
If required to register with the Financial Crimes Enforcement Network of the United States Department of the Treasury as a money service business, provides the division evidence of the registration;

Provides evidence that the person has policies and procedures to comply with the Bank Secrecy Act, title 31 United States Code section 5311 et seq., as amended, and other applicable laws;

Describes the source of funds and credit to be used by the person to conduct virtual-currency business activity with, or on behalf of, a resident and provides evidence of, and agrees to, maintain the minimum net worth and reserves required by section 24 and sufficient unencumbered reserves for winding down operations;

Provides the division with evidence that the person has in place policies and procedures to comply with subparts C, E, and F and other requirements of this part designated by the division; and

Provides the division with a copy of its most recent financial statement, whether reviewed or audited.
(b) Before the virtual-currency business activity of a registrant with or on behalf of residents exceeds $35,000 annually in United States dollar equivalent of virtual currency, the registrant shall file an application for a license under this part and may continue to operate after the activity exceeds $35,000 annually while its application for license is pending.

(c) For good cause, the division may suspend or revoke a registration without a prior hearing or opportunity to be heard.

(d) A registrant shall cease all virtual-currency business activity with, or on behalf of, residents:

(1) If the division denies the registrant's application for a license under this part, one day after the registrant receives notice in a record that the division has denied the application;

(2) If the division suspends or revokes the registration, one day after the division sends notice of the suspension or revocation to the registrant in a record by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the division;
(3) If the virtual-currency business activity of the registrant with, or on behalf of, residents exceeds $35,000 annually in United States dollar equivalent of virtual currency and the registrant has not filed an application for a license under this part; or

(4) On the second anniversary date of the registration.

§ -28 License or registration not assignable or transferable. A license or registration under this part is not transferable or assignable.

§ -29 Rules and guidance. The division may adopt rules in accordance with chapter 91 to implement this part and issue guidance as appropriate.

SUBPART C. EXAMINATION; EXAMINATION FEES; DISCLOSURE OF INFORMATION OBTAINED DURING EXAMINATION

§ -31 Authority to conduct examination. (a) The division may conduct an annual examination of a licensee or registrant. For good cause, the division may conduct an additional examination. The division may examine a licensee or registrant without prior notice to the licensee or registrant.

(b) A licensee or registrant shall pay the reasonable and necessary costs of an examination under this section.
(c) Information obtained during an examination under this part may be disclosed only as provided in section -34.

§ -32 Records. (a) A licensee or registrant shall maintain, for all virtual-currency business activity with, or on behalf of, a resident five years after the date of the activity, a record of:

1. Each transaction of the licensee or registrant with, or on behalf of, the resident, or for the licensee's or registrant's account in this State, including:
   (A) The identity of the resident;
   (B) The form of the transaction;
   (C) The amount, date, and payment instructions given by the resident; and
   (D) The account number, name, and United States Postal Service address of the resident, and, to the extent feasible, other parties to the transaction;

2. The aggregate number of transactions and aggregate value of transactions by the licensee or registrant with, or on behalf of, the resident, and for the licensee's or registrant's account in this State,
expressed in United States dollar equivalent of
virtual currency for the previous twelve calendar
months;

(3) Each transaction in which the licensee or registrant
exchanges one form of virtual currency for legal
tender or another form of virtual currency with, or on
behalf of, the resident;

(4) A general ledger posted at least monthly that lists
all assets, liabilities, capital, income, and expenses
of the licensee or registrant;

(5) Each business call report that the licensee or
registrant is required to create or provide to the
division or registry;

(6) Bank statements and bank reconciliation records for
the licensee or registrant and the name, account
number, and United States Postal Service address of
each bank that the licensee or registrant uses in the
conduct of its virtual-currency business activity
with, or on behalf of, the resident;

(7) A report of any dispute with the resident; and
(8) A report of any virtual-currency business activity transaction with, or on behalf of, a resident that the licensee or registrant was unable to complete.

(b) A licensee or registrant shall maintain records required by subsection (a) in a form that enables the division to determine whether the licensee or registrant is in compliance with this part, any court order, and any law of this State other than this part.

(c) If a licensee or registrant maintains records outside this State that pertain to transactions with, or on behalf of, a resident, the licensee or registrant shall make the records available to the division no later than three days after request, or, on a determination of good cause by the division, at a later time.

(d) All records maintained by a licensee or registrant are subject to inspection by the division.

§ -33 Rules; cooperation; data sharing authority. (a) Subject to section -34 and law of this State other than this part concerning privacy, consumer financial privacy, data protection, privilege, and confidentiality, the division may cooperate, coordinate, jointly examine, consult, and share
records and other information with the appropriate regulatory
agency of another state, a self-regulatory organization, federal
or state regulator of banking or nondepository providers, or a
regulator of a jurisdiction outside the United States,
concerning the affairs and conduct of a licensee or registrant
in this State.

(b) The division shall:

(1) Establish or participate in, with another state that
enacts a law substantially similar to this part, a
central depository for filings required by law of this
State other than this part;

(2) Cooperate in developing and implementing uniform forms
for applications and renewal reports and the conduct
of joint administrative proceedings and civil actions;

(3) Formulate joint rules, forms, statements of policy,
and guidance and interpretative opinions and releases;

and

(4) Develop common systems and procedures.

(c) The division shall not establish, or participate in, a
central commercial depository that contains nonpublic personally
identifiable information that does not comply with section
502(e)(5) or (8) of the Gramm-Leach-Bliley Act (15 United States Code section 6802(e)(5) or (8)), as amended, or with the federal Right to Financial Privacy Act (12 United States Code section 3401 et seq.), as amended.

(d) In deciding whether and how to cooperate, coordinate, jointly examine, consult, or share records and other information under subsection (a), the division shall consider:

(1) Maximizing effectiveness and uniformity of regulation, examination, implementation, and enforcement for the benefit of residents and licensees and registrants;

and

(2) Minimizing burdens on licensees and registrants without adversely affecting protection for residents.

§ -34 Confidentiality. (a) Except as otherwise provided in subsection (b) or (c):

(1) Information not contained in a report otherwise available to the public or reports obtained by the division from an applicant, licensee, or registrant;

(2) Information contained in, or related to, an examination, investigation, or operating or condition
report prepared by, on behalf of, or for the use of
the division; and

(3) Other financial and operating information,
are not subject to disclosure under chapter 92F. If the
division determines that the information or records are
confidential under the open records law of a reciprocal
licensing state, the information or records shall not be
disclosed.

(b) A trade secret of an applicant, a licensee, or a
registrant is confidential and shall not be subject to
disclosure under chapter 92F. If the division determines a
trade secret is confidential under the open records law of a
reciprocal licensing state, the trade secret shall not be
disclosed.

(c) Subsection (a) does not prohibit the disclosure of:

(1) General information about a licensee's or registrant's
virtual-currency business activity with, or on behalf
of, a resident;

(2) A list of persons licensed or registered under this
part; or
(3) Aggregated financial data concerning licensees or registrants in this State.

§ -35 Interim report. (a) Each licensee and registrant shall file with the division a report of:

(1) A material change in information in the application for a license under this part or a registration or the most recent renewal report of the licensee under this part or for the registrant;

(2) A material change in the licensee's or registrant's business for the conduct of its virtual-currency business activity with, or on behalf of, a resident; and

(3) A change of an executive officer, responsible individual, or person in control of the licensee or registrant.

(b) Absent good cause, a report required by subsection (a) shall be filed no later than fifteen days after the change.

§ -36 Change in control of licensee or registrant. (a) For purpose of this section, "proposed person to be in control" means the person that would control a licensee or registrant
after a proposed transaction that would result in a change in
control of the licensee or registrant.

(b) The following shall apply in determining whether a
person has control over a licensee or registrant:

(1) There is a rebuttable presumption of control if the
person's voting power in the licensee or registrant
constitutes, or will constitute, at least twenty-five
per cent of the total voting power of the licensee or
registrant;

(2) There is a rebuttable presumption of control if:

(A) The person's voting power in another person
constitutes, or will constitute, at least ten per
cent of the total voting power of the other
person; and

(B) The other person's voting power in the licensee
or registrant constitutes at least twenty-five
per cent of the total voting power of the
licensee or registrant; and

(3) There is no presumption of control solely because an
individual is an executive officer of the licensee or
registrant.
(c) At least thirty days before a proposed change in control of a licensee or registrant, the proposed person to be in control shall submit to the division in a record:

(1) An application in a form and medium to be prescribed by the division;

(2) The information and records that section -22 would require if the proposed person to be in control already had control of the licensee;

(3) A license application under section -22 by the proposed person to be in control;

(4) In the case of a registrant, the information that section -27 would require if the proposed person to be in control already had control of the registrant; and

(5) In the case of a registration, a registration under section -27 by the proposed person to be in control.

(d) The division, in accordance with section -22, shall approve, approve with conditions, or deny an application for a change in control of a licensee or registrant. The division, in a record, shall send notice of its decision to the licensee or
registrant and the person that would be in control if the
division had approved the change in control. If the division
denies the application, the licensee or registrant shall abandon
the proposed change in control or cease virtual-currency
business activity with, or on behalf of, residents.

(e) If the division applies a condition to the approval of
a change in control of a licensee or registrant and the division
does not receive notice of the applicant's acceptance of the
condition specified by the division no later than thirty-one
days after the division sends notice of the condition, the
application is deemed denied. If the application is deemed
denied, the licensee or registrant shall abandon the proposed
change in control or cease virtual-currency business activity
with, or on behalf of, residents.

(f) Submission in good faith of records required by
subsection (c) relieves the proposed person to be in control
from any obligation imposed by this section other than
subsections (d), (e), and (h) until the division has acted on
the application.

(g) The division may revoke or modify a determination
under subsection (d), after notice and opportunity to be heard,
if, in its judgment, revocation or modification is consistent with this part.

(h) If a change in control of a licensee or registrant requires approval of an agency of this State or another state with which this State has a reciprocity agreement and the action of the other agency conflicts with that of the division, the division shall confer with the other agency. If the proposed change in control cannot be completed because the conflict cannot be resolved, the licensee or registrant shall abandon the change in control or cease virtual-currency business activity with, or on behalf of, residents.

§ -37 Merger or consolidation by licensee or registrant.

(a) At least thirty days before a proposed merger or consolidation of a licensee or registrant with another person, the licensee or registrant shall submit to the division in a record:

(1) An application in a form and medium prescribed by the division;

(2) The plan of merger or consolidation in accordance with subsection (e);
In the case of a licensee, the information required by section -22 concerning the person that would be the surviving entity in the proposed merger or consolidation; and

In the case of a registrant, the information required by section -27 concerning the person that would be the surviving entity in the proposed merger or consolidation.

If a proposed merger or consolidation would change the control of a licensee or registrant, the licensee or registrant shall comply with section -36 and this section.

(c) The division, in accordance with section -22, shall approve, conditionally approve, or deny an application for approval of a merger or consolidation of a licensee or registrant. The division, in a record, shall send notice of its decision to the licensee or registrant and the person that would be the surviving entity. If the division denies the application, the licensee or registrant shall abandon the merger or consolidation or cease virtual-currency business activity with, or on behalf of, residents.
(d) The division may revoke or modify a determination under subsection (c), after notice and opportunity to be heard, if, in its judgment, revocation or modification is consistent with this part.

(e) A plan of merger or consolidation of a licensee or a registrant with another person shall:

(1) Describe the effect of the proposed transaction on the licensee's or registrant's conduct of virtual-currency business activity with, or on behalf of, residents;

(2) Identify each person to be merged or consolidated and the person that would be the surviving entity; and

(3) Describe the terms and conditions of the merger or consolidation and the mode of carrying it into effect.

(f) If a merger or consolidation of a licensee or registrant and another person requires approval of an agency of this State or another state with which this State has a reciprocity agreement and the action of the other agency conflicts with that of the division, the division shall confer with the other agency. If the proposed merger or consolidation cannot be completed because the conflict cannot be resolved, the licensee or registrant shall abandon the merger or consolidation.
or cease virtual-currency business activity with, or on behalf
of, residents.

(g) The division may condition approval of an application
under subsection (a). If the division does not receive notice
from the parties that the parties accept the division's
condition no later than thirty-one days after the division sends
notice in a record of the condition, the application is deemed
denied. If the application is deemed denied, the licensee or
registrant shall abandon the merger or consolidation or cease
virtual-currency business activity with, or on behalf of,
residents.

(h) If a licensee or registrant acquires substantially all
the assets of a person, regardless of whether the person's
license was approved by, or registration was filed with, the
division, the transaction is subject to this section.

(i) Submission in good faith of the records required by
subsection (e) relieves the proposed surviving entity from any
obligation imposed by this section, other than subsections (c),
(f), and (g), until the division has acted on the application.
SUBPART D. ENFORCEMENT

§ -41 Enforcement measure. For purposes of this subpart, "enforcement measure" means an action to:

(1) Suspend or revoke a license or a registration under this part;

(2) Order a person to cease and desist from doing virtual-currency business activity with, or on behalf of, a resident;

(3) Request the court to appoint a receiver for the assets of a person doing virtual-currency business activity with, or on behalf of, a resident;

(4) Request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual-currency business activity with, or on behalf of, a resident;

(5) Assess a penalty under section -43;

(6) Recover on the security under section -24 and initiate a plan to distribute the proceeds for the benefit of a resident who is injured by a violation of this part or law of this State other than this part.
that applies to virtual-currency business activity
with, or on behalf of, a resident; or

(7) Impose necessary or appropriate conditions on the
conduct of virtual-currency business activity with, or
on behalf of, a resident.

§ -42 Division authority to use enforcement measures.

(a) The division may take an enforcement measure against a
licensee, registrant, or person that is neither a licensee nor
registrant, but is engaging in virtual-currency business
activity with, or on behalf of, a resident if:

(1) The licensee, registrant, or person materially
violates this part, a rule adopted or order issued
under this part, or a law of this State other than
this part that applies to virtual-currency business
activity of the violator with, or on behalf of, a
resident;

(2) The licensee, registrant, or person does not cooperate
substantially with an examination or investigation by
the division, fails to pay a fee, or fails to submit a
report or documentation;
(3) The licensee, registrant, or person, in the conduct of its virtual-currency business activity with, or on behalf of, a resident, engages in:

(A) An unsafe or unsound act or practice;

(B) An unfair or deceptive act or practice;

(C) Fraud or intentional misrepresentation;

(D) Another dishonest act; or

(E) Misappropriation of legal tender, virtual currency, or other value held by a fiduciary;

(4) An agency of the United States or another state takes an action against the licensee, registrant, or person that would constitute an enforcement measure if the division had taken the action;

(5) The licensee, registrant, or person is convicted of a crime related to its virtual-currency business activity with, or on behalf of, a resident or involving fraud or felonious activity that, as determined by the division, makes the licensee, registrant, or person unsuitable to engage in virtual-currency business activity;

(6) The licensee, registrant, or person:
(A) Becomes insolvent;
(B) Makes a general assignment for the benefit of its creditors;
(C) Becomes the debtor, alleged debtor, respondent, or person in a similar capacity in a case or other proceeding under any bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership, dissolution, liquidation, or similar law, and does not obtain from the court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding; or
(D) Applies for, or permits the appointment of, a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets; or

(7) The licensee, registrant, or person makes a material misrepresentation to the division.

(b) On application and for good cause, the division may:

(1) Extend the due date for filing a document or report under subsection (a)(2); or
(2) Waive to the extent warranted by circumstances, such as a bona fide error notwithstanding reasonable procedures designed to prevent error, an enforcement measure under subsection (a) if the division determines that the waiver will not adversely affect the likelihood of compliance with this part.

(c) In an enforcement action related to operating without a license under this part or registration in this State, it is a defense to the action that the person has in effect a customer identification program that is reasonably designed to identify whether a customer is a resident, but the program failed to identify the particular customer as a resident.

(d) A proceeding under this part is subject to chapter 91.

§ 43 Civil penalty. (a) If a person other than a licensee or registrant engages in virtual-currency business activity with, or on behalf of, a resident in violation of this part, the division may assess a civil penalty against the person in an amount not to exceed $50,000 for each day of violation.

(b) If a licensee or registrant materially violates this part, the division may assess a civil penalty in an amount not to exceed $10,000 for each day of violation.
A civil penalty under this section continues to accrue until:

1. The date on which the violation ceases; or
2. A date specified by the division,

whichever occurs first.

§ 44 Effective period of revocation, suspension, or cease and desist order. (a) Revocation of a license under this part is effective against a licensee one day after the division sends notice in a record of the revocation to the licensee, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the division.

(b) Suspension of a license under this part, suspension of a registration, or an order to cease and desist is effective against a licensee, registrant, or other person one day after the division sends notice in a record of the suspension or order to the licensee, registrant, or other person, by a means reasonably selected for the notice to be received by the recipient in one day, to the address provided for receiving communications from the division or, if no address is provided,
to the recipient’s last known address. A suspension or order to cease and desist remains in effect until the earliest of:

(1) Entry of an order by the division pursuant to chapter 91 setting aside or limiting the suspension or order;

(2) Entry of a court order setting aside or limiting the suspension or order to cease and desist; or

(3) A date specified by the division.

(c) If, without reason to know of the division’s notice sent under subsection (a) or (b), a licensee, registrant, or other person does not comply in accordance with the notice until the notice is actually received at the address provided, the division may consider the delay in compliance in imposing a sanction for the failure.

§ -45 Consent order. The division may enter into a consent order with a person regarding an enforcement measure. The order may provide that it does not constitute an admission of fact by a party.

§ -46 Scope of right of action. (a) Except as otherwise provided in this section, no person shall have a right of action for a violation of this part.
(b) The division may bring an action for restitution on behalf of a resident if the division proves economic injury due to a violation of this part.

(c) This section shall not preclude an action by a resident to enforce rights under part II or a law of this State other than this part.

SUBPART E. DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS

§ 51 Required disclosures. (a) A licensee or registrant shall provide to a resident who uses the licensee's or registrant's products or service the disclosures required by subsection (b) and any additional disclosure that the division by rule determines to be reasonably necessary for the protection of residents. The division shall determine by rule the time and form required for disclosure. A disclosure required by this section shall be made separately from any other information provided by the licensee or registrant and in a clear and conspicuous manner in a record that the resident may keep. A licensee or registrant may propose for the division's approval alternate disclosures as being more appropriate for its virtual-currency business activity with, or on behalf of, residents.
(b) Before establishing a relationship with a resident, a licensee or registrant shall disclose, to the extent applicable to the virtual-currency business activity that the licensee or registrant will undertake with the resident:

(1) A schedule of fees and charges that the licensee or registrant may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;

(2) Whether the product or service that is provided by the licensee or registrant is covered by:

   (A) A form of insurance or is otherwise guaranteed against loss by an agency of the United States:

       (i) Up to the full United States dollar equivalent of virtual currency placed under the control of, or purchased from, the licensee or registrant as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or
otherwise available from the Securities Investor Protection Corporation; or

(ii) If not provided at the full United States dollar equivalent of virtual currency placed under the control of, or purchased from, the licensee or registrant, the maximum amount of coverage for each resident expressed in the United States dollar equivalent of the virtual currency; or

(B) Private insurance against theft or loss, including cyber theft or theft by other means;

(3) The irrevocability of a transfer or exchange and any exception to irrevocability;

(4) A description of:

(A) Any liability for an unauthorized, mistaken, or accidental transfer or exchange;

(B) The resident's responsibility to provide notice to the licensee or registrant of the transfer or exchange;

(C) The basis for any recovery by the resident from the licensee or registrant;
(D) General error resolution rights applicable to the transfer or exchange; and

(E) The method for the resident to update the resident's contact information with the licensee or registrant;

(5) That the date or time when the transfer or exchange is made and the resident's account is debited may differ from the date or time when the resident initiates the instruction to make the transfer or exchange;

(6) Whether the resident has a right to stop a preauthorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;

(7) The resident's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;

(8) The resident's right to at least thirty days' prior notice of a change in the licensee's or registrant's fee schedule, other terms and conditions of operating its virtual currency business activity with the
resident and the policies applicable to the resident's
account; and

(9) That virtual currency is not legal tender.

(c) Except as otherwise provided in subsection (d), at the
conclusion of a virtual-currency transaction with, or on behalf
of, a resident, a licensee or registrant shall provide the
resident a confirmation in a record that contains:

(1) The name and contact information of the licensee or
registrant, including information that the resident
may need to ask a question or file a complaint;

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

(3) The fee charged for the transaction, including any
charge for the conversion of virtual currency to legal
tender, bank credit, or other virtual currency.

(d) If a licensee or registrant discloses that it will
provide a daily confirmation in the initial disclosure under
subsection (c), the licensee or registrant may elect to provide
a single, daily confirmation for all transactions with, or on
behalf of, a resident on that day instead of a per transaction
confirmation.
SUBPART F. POLICIES AND PROCEDURES

§ 61 Mandated compliance programs and monitoring. (a)

An applicant, before submitting an application, and registrant, before registering, shall create and, during licensure or registration, maintain in a record policies and procedures for:

(1) An information security and operational security program;

(2) A business continuity program;

(3) A disaster recovery program;

(4) An anti-fraud program;

(5) An anti-money laundering program;

(6) A program to prevent funding of terrorist activity;

and

(7) A program designed to:

(A) Ensure compliance with this part, the laws of this State other than this part, and federal law, which are relevant to the virtual-currency business activity contemplated by the licensee or registrant with, or on behalf of, residents; and

(B) Assist the licensee or registrant in achieving the purposes of the laws of this State other than
this chapter and federal law if violation of
those laws has a remedy under this part.

(b) Each policy required by subsection (a) shall be in a
record and designed to be adequate for a licensee's or
registrant's contemplated virtual-currency business activity
with, or on behalf of, residents, considering the circumstances
of all participants and the safe operation of the activity.
Each policy and implementing procedure shall be compatible with
other policies and the procedures implementing them and not
conflict with policies or procedures applicable to the licensee
or registrant under the laws of this State other than this part.
A policy and implementing procedure may be one in existence in
the licensee's or registrant's virtual-currency business
activity with, or on behalf of, residents.

(c) A licensee's or registrant's policy for detecting
fraud shall include:

(1) Identification and assessment of the material risks of
its virtual-currency business activity related to
fraud;
(2) Protection against any material risk related to fraud identified by the division or the licensee or registrant; and

(3) Periodic evaluation and revision of the anti-fraud procedure.

(d) A licensee's or registrant's policy for preventing money laundering and financing of terrorist activity shall include:

(1) Identification and assessment of the material risks of its virtual-currency business activity that is related to money laundering and the financing of terrorist activity;

(2) Procedures, in accordance with federal law or guidance published by federal agencies responsible for enforcing federal law, pertaining to money laundering and the financing of terrorist activity; and

(3) Filing reports under the Bank Secrecy Act (31 United States Code section 5311 et seq.), as amended, or title 31 Code of Federal Regulations subtitle B, chapter X, as amended, and other federal or state laws.
pertaining to the prevention or detection of money laundering or the financing of terrorist activity.

(e) A licensee's or registrant's information security and operational security policy shall include reasonable and appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of any nonpublic personal information or virtual currency that it receives, maintains, or transmits.

(f) A licensee or registrant is not required to file with the division a copy of a report that it makes to a federal authority unless the division specifically requires the filing.

(g) A licensee's or registrant's protection policy under subsection (e) for residents shall include:

(1) Any action or system of records required to comply with this part and the laws of this State other than this part applicable to the licensee or registrant with respect to virtual-currency business activity with, or on behalf of, a resident;

(2) A procedure for resolving disputes between the licensee or registrant and a resident;
(3) A procedure for a resident to report an unauthorized, mistaken, or accidental virtual-currency business activity transaction; and
(4) A procedure for a resident to file a complaint with the licensee or registrant and for the resolution of the complaint in a fair and timely manner with notice to the resident as soon as reasonably practical of the resolution and the reasons for the resolution.

(h) After the policies and procedures required under this section are created and approved by the division and the licensee or registrant, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy and procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.

(i) A licensee or registrant may:

(1) Request advice from the division as to compliance with this section; and

(2) With the division's approval, outsource functions, other than compliance, required under this section.

(j) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is
not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored properly. Repeated failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.

(k) Policies and procedures adopted under this section shall be disclosed separately from other disclosures made available to a resident, in a clear and conspicuous manner and in the medium through which the resident contacted the licensee or registrant.

§ 62 Mandated compliance policy or procedure. (a) An applicant, before submitting its application, and a registrant, before registering, shall establish and maintain in a record a policy or procedure designed to ensure compliance with:

(1) This part; and

(2) The laws of this State other than this part if:

(A) The other law is relevant to the virtual-currency business activity contemplated by the licensee or registrant or the scope of this part; or
(B) This chapter could assist in the purpose of the other law because violation of the other law has a remedy under this part.

(b) A policy or procedure under subsection (a):

(1) Shall be compatible, and not conflict, with requirements applicable to a licensee or registrant under the laws of this State other than this part and under federal law; and

(2) May be a policy or procedure in existence for the licensee's or registrant's virtual-currency business activity with, or on behalf of, a resident.

(c) After the policies and procedures required under this section are created by the licensee or registrant and approved by the division, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy or procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.

(d) A licensee or registrant may:

(1) Request advice from the division regarding compliance with this section; and
(2) With the division's approval, outsource functions, other than compliance, required under this section.

(e) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored properly. Repeated failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.

PART II. UNIFORM SUPPLEMENTAL COMMERCIAL LAW FOR THE UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESSES ACT

§ -71 Short title. This part shall be known and cited as the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act.

§ -72 Definitions. (a) As used in this part, unless the context otherwise requires:

"Article 8" means article 8 of chapter 490.

"Control" has the meaning provided in section -2 of part I.

"Uniform Commercial Code jurisdiction" means a state that has enacted article 8.

"Uniform Regulation of Virtual-Currency Businesses Act" means part I.

"User" means a person for which a licensee or registrant has control of virtual currency.

(b) Other definitions applying to this part are the following definitions in section 2 of part I:

"Licensee";

"Person";

"Record";

"Registrant";

"Resident";

"Sign";

"State"; and

"Virtual currency".

(c) Other definitions applying to this part and the sections of article 8 in which they appear are:
"Entitlement holder" -- section 490:8-102(a);
"Financial asset" -- section 490:8-102(a);
"Securities intermediary" -- section 490:8-102(a);
"Security" -- section 490:8-102(a); and
"Securities account" -- section 490:8-501.

(d) The definition of "agreement" applying to this part appears in section 490:1-201(b).

§ 73 Scope. This part applies to:

(1) A person or transaction governed by part I, the Uniform Regulation of Virtual-Currency Businesses Act;

and

(2) A user that is not a resident if the user or transaction with the user would be governed by part I if the user were a resident.

§ 74 Incorporation of article 8. (a) The relationship between a licensee or registrant and a user shall be evidenced by an agreement in a record signed by the licensee or registrant and by the user. The agreement:

(1) Shall specify the jurisdiction whose law governs the agreement;
If governed by the law of a jurisdiction that is not a Uniform Commercial Code jurisdiction, shall:

(A) Specify a Uniform Commercial Code jurisdiction as the securities intermediary's jurisdiction for the purpose of article 8; and

(B) State that the law in force in the Uniform Commercial Code jurisdiction under subparagraph (A) applies to all issues specified in article 2(1) of the Hague Securities Convention;

(3) Shall state that:

(A) The licensee or registrant is a securities intermediary;

(B) The control of virtual currency by the licensee or registrant for the benefit of the user creates a securities account of which the user is the entitlement holder;

(C) The parties agree that the virtual currency is to be treated as a financial asset credited or held for credit to the securities account of the user;
The licensee or registrant shall not grant a security interest in virtual currency that the licensee or registrant is obligated to maintain under section 490:8-504(a);

(4) Shall not provide a standard for the licensee or registrant to comply with its duties under part 5 of article 8 that is less protective of the user than the standard that would apply under part 5 of article 8 in the absence of an agreement concerning the standard;

and

(5) Shall not provide that:

(A) The securities intermediary’s jurisdiction for the purpose of article 8 is a jurisdiction that is not a Uniform Commercial Code jurisdiction; or

(B) The law in force in a jurisdiction that is not a Uniform Commercial Code jurisdiction applies to all issues specified in article 2(1) of the Hague Securities Convention.

(b) To the extent that there is no agreement that complies with subsection (a), the relationship between a licensee or registrant and a user is determined as if the licensee or
registrant and the user have an agreement that complies with subsection (a) and specifies that the law of this State governs the agreement.

(c) The effect of this section shall not be varied by agreement.

§ -75 Qualifying office under Hague Securities Convention. (a) A licensee or registrant shall maintain in a state an office that complies with the second sentence of article 4(1) of the Hague Securities Convention.

(b) The effect of this section shall not be varied by agreement.

§ -76 Effect of failure to comply with this part. Failure to comply with this part is a violation of part I, the Uniform Regulation of Virtual-Currency Businesses Act.

§ -77 No inference as to characterization under other statute or rule. Treatment of virtual currency as a financial asset credited to a securities account under this part and article 8 does not determine the characterization or treatment of the virtual currency under any other statute or rule.
§ -78 Supplementary law. Unless displaced by the particular provisions of this part, the principles of law and equity supplement this part.

PART III. MISCELLANEOUS PROVISIONS

§ -81 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 United States Code section 7001, et seq.), but does not modify, limit, or supersede section 101(c) of that Act (15 United States Code section 7001(c)), or authorize electronic delivery of any of the notices described in section 103(b) of that Act (15 United States Code section 7003(b)).

§ -82 Saving and transitional provisions. (a) A license issued under chapter 489D that is in effect immediately before the effective date of this chapter remains in effect as a license for its duration unless revoked or suspended by the licensing authority that issued it. A person licensed under chapter 489D that does not intend to engage in virtual-currency business activity is not required to inform the division of its intention.
(b) If the division denies, suspends, or revokes a license under part I or suspends or revokes a registration to conduct virtual-currency business activity with, or on behalf of, a resident, the denial, suspension, or revocation may not be used as a ground for suspension or revocation of a license granted under chapter 489D unless that chapter independently provides a basis for action against the licensee or registrant.

(c) This chapter applies to virtual-currency business activity with, or on behalf of, a resident on, or after, the effective date of this chapter.

(d) A person is deemed to be conducting unlicensed virtual-currency business activity with, or on behalf of, a resident in violation of part I if the person engages in virtual-currency business activity on, or after, the effective date of this chapter and the person does not hold a license issued or recognized under part I, is not exempt from part I, and has not applied for a license or filed a registration. This subsection includes a person that:

(1) Has obtained a license under chapter 489D, regardless of whether that chapter covers virtual-currency
business activity, or holds a charter as a trust company from this State; and

(2) Does not have permission to engage in virtual-currency business activity with or on behalf of a resident."

SECTION 2. This Act, upon its approval, shall take effect on July 1, 2020.

INTRODUCED BY: 

[Signature]

[Signature]

[Signature]
Report Title:
Virtual Currency; Regulation; Uniform Regulation of Virtual Currencies Businesses Act

Description:
Adopts the Uniform Regulation of Virtual-Currencies Businesses Act and the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act.

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