

ACT No. 341

2020 Regular Session

HOUSE BILL NO. 701

BY REPRESENTATIVE WRIGHT

1 AN ACT

2 To enact Chapter 21 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 6:1381 through 1394, relative to virtual currency businesses; to define key
4 terms; to provide for applicability; to require licensure of virtual currency businesses;
5 to establish requirements to apply for licensure; to authorize reciprocity of licensure;
6 to require security deposits from applicants for licensure; to provide for the issuance,
7 denial, and renewal of licenses; to provide for enforcement; to establish penalties for
8 violations; to require rulemaking; to provide for examinations; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 21 of Title 6 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 6:1381 through 1394, is hereby enacted to read as follows:

13 CHAPTER 21. VIRTUAL CURRENCY BUSINESSES

14 §1381. Short title

15 This Chapter shall be known and may be cited as the "Virtual Currency
16 Businesses Act".

17 §1382. Definitions

18 For the purposes of this Chapter:

19 (1) "Applicant" means a person that applies for a license pursuant to this
20 Chapter.

21 (2) "Control" means both of the following:

1 (a) When used in reference to a transaction or relationship involving virtual
2 currency, power to execute unilaterally or prevent indefinitely a virtual currency
3 transaction.

4 (b) When used in reference to a person, the direct or indirect power to direct
5 the management, operations, or policies of the person through legal or beneficial
6 ownership of voting power in the person or under a contract, arrangement, or
7 understanding.

8 (3) "Department" means the office of financial institutions.

9 (4) "Exchange", when used as a verb, means to assume control of virtual
10 currency from, or on behalf of, a resident, at least momentarily, to sell, trade, or
11 convert either of the following:

12 (a) Virtual currency for legal tender, bank credit, or one or more forms of
13 virtual currency.

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

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

17 (6) "Insolvent" means any of the following:

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

20 (b) Being unable to pay debts as they become due.

21 (c) Being insolvent within the meaning of federal bankruptcy law.

22 (7) "Legal tender" means a medium of exchange or unit of value, including
23 the coin or paper money of the United States, issued by the United States or by
24 another government.

25 (8) "Licensee" means a person licensed pursuant to this Chapter.

26 (9) "Person" means an individual, partnership, estate, business or nonprofit
27 entity, or other legal entity. The term shall not include a public corporation,
28 government, or governmental subdivision, agency, or instrumentality.

1 (10) "Reciprocity agreement" means an arrangement between the department
2 and the appropriate licensing agency of another state which permits a licensee
3 operating under a license granted by the other state to engage in virtual currency
4 business activity with or on behalf of a resident.

5 (11) "Registrant" means a person that registers with this state pursuant to
6 R.S. 6:1390 to conduct virtual currency business activity.

7 (12) "Registration" means the ability pursuant to R.S. 6:1389 to conduct
8 virtual currency business activity.

9 (13)(a) "Regulated financial institution" means a federally chartered or
10 state-chartered depository institution and its wholly-owned subsidiaries, a Louisiana
11 state-chartered trust company, a trust company chartered by another state, or a
12 federally chartered trust company.

13 (b) "Regulated financial institution" shall not include either of the following:

14 (i) An industrial loan company.

15 (ii) A trust company chartered by a state with which this state does not have
16 a reciprocity governing trust-company activities.

17 (14)(a) "Resident" means any of the following:

18 (i) A person who is domiciled in this state.

19 (ii) A person who is physically located in this state for more than one
20 hundred eighty-three days of the previous three hundred sixty-five days.

21 (iii) A person who has a place of business in this state.

22 (b) "Resident" shall include a legal representative of a person that meets one
23 of the criteria provided for in Subparagraph (a) of this Paragraph.

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

27 (16) "State" means a state of the United States, the District of Columbia,
28 Puerto Rico, the United States Virgin Islands, or any territory or insular possession
29 subject to the jurisdiction of the United States.

1 (17) "Store", except in the phrase "store of value", means to maintain control
2 of virtual currency on behalf of a resident by a person other than the resident.
3 "Storage" and "storing" have corresponding meanings.

4 (18) "Transfer" means to assume control of virtual currency from, or on
5 behalf of, a resident and do any of the following:

6 (a) Credit the virtual currency to the account of another person.

7 (b) Move the virtual currency from one account of a resident to another
8 account of the same resident.

9 (c) Relinquish control of virtual currency to another person.

10 (19) "United States dollar equivalent of virtual currency" means the
11 equivalent value of a particular virtual currency in United States dollars shown on
12 a virtual currency exchange based in the United States for a particular date or period
13 specified in this Chapter.

14 (20)(a) "Virtual currency" means a digital representation of value that is used
15 as a medium of exchange, unit of account, or store of value, and that is not legal
16 tender, whether or not denominated in legal tender.

17 (b) "Virtual currency" shall not include either of the following:

18 (i) A transaction in which a merchant grants, as part of an affinity or rewards
19 program, value that cannot be taken from or exchanged with the merchant for legal
20 tender, bank credit, or virtual currency.

21 (ii) A digital representation of value issued by or on behalf of a publisher and
22 used solely within an online game, game platform, or family of games sold by the
23 same publisher or offered on the same game platform.

24 (21) "Virtual currency administration" means issuing virtual currency with
25 the authority to redeem the currency for legal tender, bank credit, or other virtual
26 currency.

27 (22) "Virtual currency business activity" means any of the following:

28 (a) Exchanging, transferring, or storing virtual currency or engaging in
29 virtual currency administration, whether directly or through an agreement with a
30 virtual currency control services vendor.

1 **(b) Holding electronic precious metals or electronic certificates representing**
2 **interests in precious metals on behalf of another person or issuing shares or**
3 **electronic certificates representing interests in precious metals.**

4 **(c) Exchanging one or more digital representations of value used within one**
5 **or more online games, game platforms, or family of games for either of the**
6 **following:**

7 **(i) Virtual currency offered by or on behalf of the same publisher from which**
8 **the original digital representation of value was received.**

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

12 **(23) "Virtual currency control services vendor" means a person that has**
13 **control of virtual currency solely under an agreement with a person that, on behalf**
14 **of another person, assumes control of virtual currency.**

15 **§1383. Applicability**

16 **A. Except as otherwise provided in Subsection B or C of this Section, the**
17 **provisions of this Chapter govern the virtual currency business activity of a person,**
18 **wherever located, who engages in or holds itself out as engaging in the activity with,**
19 **or on behalf of, a resident.**

20 **B. This Chapter shall not apply to the exchange, transfer, or storage of**
21 **virtual currency or to virtual currency administration to the extent the activity is**
22 **governed by any of the following federal or state laws:**

23 **(1) The Electronic Fund Transfer Act of 1978.**

24 **(2) The Securities Exchange Act of 1934.**

25 **(3) The Commodities Exchange Act of 1936.**

26 **(4) The Louisiana Securities Law, R.S. 51:701 et seq.**

27 **C. This Chapter shall not apply to activity by any of the following:**

28 **(1) The United States, a state, political subdivision of a state, agency, or**
29 **instrumentality of federal, state, or local government, or a foreign government or a**
30 **subdivision, department, agency, or instrumentality of a foreign government.**

1 (2) A regulated financial institution.

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

6 (4) A person engaged in the business of dealing in foreign exchange to the
7 extent the person's activity meets the definition in 31 C.F.R. 1010.605(f)(1)(iv).

8 (5) A person who does any of the following:

9 (a) Contributes only connectivity software or computing power to a
10 decentralized virtual currency or to a protocol governing transfer of the digital
11 representation of value.

12 (b) Provides only data storage or security services for a business engaged in
13 virtual currency business activity and does not otherwise engage in virtual currency
14 business activity on behalf of another person.

15 (c) Provides only to a person otherwise exempt from the provisions of this
16 Chapter virtual currency as one or more enterprise solutions used solely among each
17 other and that has no agreement or relationship with a resident that is an end-user of
18 virtual currency.

19 (6) A person using virtual currency, including creating, investing, buying or
20 selling, or obtaining virtual currency as payment for the purchase or sale of goods
21 or services, solely on the person's own behalf for personal, family, or household
22 purposes or for academic purposes.

23 (7) A person whose virtual currency business activity with, or on behalf of,
24 residents is reasonably expected to be valued, in the aggregate, on an annual basis
25 at five thousand dollars or less, measured by the United States dollar equivalent of
26 virtual currency.

27 (8) An attorney to the extent of providing escrow services to a resident.

28 (9) A title insurance company to the extent of providing escrow services to
29 a resident.

1 (10) A securities intermediary, as defined in R.S. 10:8-102(a)(14), or a
2 commodity intermediary, as defined in R.S. 10:9-102(a)(17), that does not engage
3 in the ordinary course of business in virtual currency business activity with, or on
4 behalf of, a resident, in addition to maintaining securities accounts or commodities
5 accounts and is regulated as a securities intermediary or commodity intermediary
6 pursuant to federal law, law of this state other than the provisions of this Chapter, or
7 law of another state, and affords a resident protections comparable to those provided
8 in R.S. 10:8-501 et seq.

9 (11) A secured creditor pursuant to R.S. 10:9-101 et seq. or a creditor with
10 a judicial lien, or lien arising by operation of law, on collateral that is virtual
11 currency, if the virtual currency business activity of the creditor is limited to
12 enforcement of the security interest in compliance with R.S. 10:9-101 et seq. or lien
13 in compliance with the law applicable to the lien.

14 (12) A virtual currency control services vendor.

15 (13) A person who does not receive compensation from a resident for
16 providing virtual currency products or services or for conducting virtual currency
17 business activity, or that is engaged in testing products or services with the person's
18 own funds.

19 D. The department may determine that a person or class of persons, given
20 facts particular to the person or class, are exempt from the provisions of this Chapter,
21 whether the person or class is covered by requirements imposed pursuant to federal
22 law on a money-service business.

23 §1384. Licensure; general

24 A person shall not engage in virtual currency business activity, or hold itself
25 out as being able to engage in virtual currency business activity, with or on behalf
26 of a resident unless the person is one of the following:

27 (1) Licensed in this state by the department pursuant to R.S. 6:1385.

28 (2) Registered with the department and operating pursuant to R.S. 6:1390.

29 (3) Exempt from licensure or registration pursuant to R.S. 6:1383.

1 §1385. Requirements

2 A. An applicant for a license pursuant to the provisions of this Chapter shall
3 submit the application through the Nationwide Multi-State Licensing System
4 (NMLS) and satisfy all of the following:

5 (1) Except as otherwise provided in Subsection B of this Section, provide all
6 of the following information relevant to the applicant's proposed virtual currency
7 business activity:

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

12 (b) The legal name, any former or fictitious name, and the residential and
13 business United States Postal Service address of each executive officer and
14 responsible individual of the applicant, and each person that has control of the
15 applicant.

16 (c) A description of the current and former business of the applicant for the
17 five years before the application is submitted or, if the business has operated for less
18 than five years, for the time the business has operated, including its products and
19 services, associated internet website addresses and social media pages, principal
20 place of business, projected user base, and specific marketing targets.

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

25 (e) A list of both of the following:

26 (i) Each money service or money transmitter license the applicant holds in
27 another state and the date the license expires.

28 (ii) Any license revocation, license suspension, or other disciplinary action
29 taken against the licensee in another state and any license applications rejected by
30 another state.

1 (f) A list of any criminal conviction, deferred prosecution agreement, or
2 pending criminal proceeding in any jurisdiction against all of the following:

3 (i) The applicant.

4 (ii) Each executive officer of the applicant.

5 (iii) Each responsible individual of the applicant.

6 (iv) Each person that has control over the applicant.

7 (v) Each person over which the applicant has control.

8 (g) A list of any litigation, arbitration, or administrative proceeding in any
9 jurisdiction in which the applicant, or an executive officer or a responsible individual
10 of the applicant, has been a party for the five years before the application is
11 submitted, determined to be material in accordance with generally accepted
12 accounting principles and to the extent the applicant would be required to disclose
13 the litigation, arbitration, or administrative proceeding in the applicant's audited
14 financial statements, reports to equity owners, and similar statements or reports.

15 (h) A list of any bankruptcy or receivership proceeding in any jurisdiction
16 for the ten years before the application is submitted in which any of the following
17 was a debtor:

18 (i) The applicant.

19 (ii) Each executive officer of the applicant.

20 (iii) Each responsible individual of the applicant.

21 (iv) Each person who has control over the applicant.

22 (v) Each person over which the applicant has control.

23 (i) The name and United States Postal Service address of each bank in which
24 the applicant plans to deposit funds obtained by its virtual currency business activity.

25 (j) The source of funds and credit to be used by the applicant to conduct
26 virtual currency business activity with, or on behalf of, a resident and documentation
27 demonstrating that the applicant has the net worth and reserves required pursuant to
28 R.S. 6:1386.

29 (k) The United States Postal Service address and electronic mail address to
30 which communications from the department may be sent.

1 (l) The name, United States Postal Service address, and electronic mail
2 address of the registered agent of the applicant in this state.

3 (m) A copy of the certificate, or a detailed summary acceptable to the
4 department, of coverage for each liability, casualty, business-interruption, or
5 cyber-security insurance policy maintained by the applicant for itself, an executive
6 officer, a responsible individual, or the applicant's users.

7 (n) If applicable, the date on which, and the state where, the applicant is
8 formed and a copy of a current certificate of good standing issued by that state.

9 (o) If a person has control of the applicant and the person's equity interests
10 are publicly traded in the United States, a copy of the audited financial statement of
11 the person for the most recent fiscal year or most recent report of the person filed
12 pursuant to 15 U.S.C. 78.

13 (p) If a person has control of the applicant and the person's equity interests
14 are publicly traded outside the United States, a copy of the audited financial
15 statement of the person for the most recent fiscal year of the person or a copy of the
16 most recent documentation similar to that required in Subparagraph (o) of this
17 Paragraph filed with the foreign regulator in the domicile of the person.

18 (q) If the applicant is a partnership or a member-managed limited liability
19 company, the names and United States Postal Service addresses of all general
20 partners or members.

21 (r) If the applicant is required to register with the Financial Crimes
22 Enforcement Network of the United States Department of the Treasury as a money
23 service business, evidence of the registration.

24 (s) A set of fingerprints for each executive officer and responsible individual
25 of the applicant.

26 (t) If available, for each executive officer and responsible individual of the
27 applicant, for the five years before the application is submitted, employment history
28 and history of any investigation of the individual or legal proceeding to which the
29 individual was a party.

30 (u) Other information the department reasonably requires by rule.

1 (2) Be accompanied by a nonrefundable fee in the amount determined by the
2 department to cover the reasonable costs of regulation.

3 B. For good cause, the department may waive the fee required pursuant to
4 Paragraph (A)(2) of this Section or permit the applicant to submit other information
5 instead of the required information.

6 C. An application for a license pursuant to this Section shall not be complete
7 until the department receives all information required by the provisions of this
8 Chapter and completes its investigation pursuant to Subparagraph (d) of this
9 Paragraph.

10 D.(1) On receipt of a completed application, the department shall investigate
11 all of the following:

12 (a) The financial condition and responsibility of the applicant.

13 (b) The relevant financial and business experience, character, and general
14 fitness of the applicant.

15 (c) The competence, experience, character, and general fitness of each
16 executive officer, each responsible individual, and any person that has control of the
17 applicant.

18 (2) At the option the department, it may investigate the business premises
19 of an applicant.

20 E.(1) Not later than thirty days after an application is complete, the
21 department shall send the applicant notice of its decision to approve, conditionally
22 approve, or deny the application.

23 (2) If the department does not send the applicant notice of its decision
24 within thirty-one days of completion of the application, the application shall be
25 deemed denied.

26 (3) If the department does not receive notice from the applicant that the
27 applicant accepts conditions specified by the department within thirty-one days
28 following the department's notice of the conditions, the application shall be deemed
29 denied.

30 F. A license shall be effective on the later of either of the following:

- 1 (1) The date on which the department issues the license.
- 2 (2) The date the licensee provides the security required pursuant to R.S.
- 3 6:1386.
- 4 G. An applicant shall pay the reasonable costs of the department's
- 5 investigation pursuant to this Section.
- 6 §1386. Required documents; securities
- 7 A. (1) Before a license is issued pursuant to the provisions of this Chapter,
- 8 an applicant shall submit a surety bond in the amount of one hundred thousand
- 9 dollars to the department that secures the applicant's faithful performance of its
- 10 duties pursuant to the provisions of this Chapter or in an amount the department
- 11 specifies based on the nature and extent of risks in the applicant's virtual currency
- 12 business model.
- 13 (2)(a) The licensee shall maintain or increase the amount of security to
- 14 reflect the dollar amount of all licensed money transmission activity in this state in
- 15 the preceding calendar year in accordance with the provisions of this Paragraph. A
- 16 licensee may decrease its security in accordance with the provisions of this
- 17 Paragraph if the security required is less than the amount of security on file with the
- 18 department.

<u>Dollar Amount of Virtual Currency Activity</u>	<u>Security Required</u>
<u>\$0 to \$5,000,000</u>	<u>\$ 100,000</u>
<u>\$5,000,000.01 to \$10,000,000</u>	<u>\$ 200,000</u>
<u>\$10,000,000.01 to \$15,000,000</u>	<u>\$ 300,000</u>
<u>\$15,000,000.01 to \$20,000,000</u>	<u>\$ 400,000</u>
<u>\$20,000,000.01 to \$25,000,000</u>	<u>\$ 500,000</u>
<u>\$25,000,000.01 to \$30,000,000</u>	<u>\$ 600,000</u>
<u>\$30,000,000.01 to \$35,000,000</u>	<u>\$ 700,000</u>
<u>\$35,000,000.01 to \$40,000,000</u>	<u>\$ 800,000</u>
<u>\$40,000,000.01 to \$45,000,000</u>	<u>\$ 900,000</u>
<u>Over \$45,000,000</u>	<u>\$1,000,000</u>

1 **(b) Security shall be in a form satisfactory to the department and payable to**
2 **the state for the benefit of any claimant against the licensee to secure the faithful**
3 **performance of the obligations of the licensee with respect to money transmission.**

4 **(c) The aggregate liability on a surety bond may not exceed the principal**
5 **sum of the bond. A claimant against a licensee may maintain an action on the bond,**
6 **or the department may maintain an action on behalf of the claimant.**

7 **(d) A surety bond shall cover claims for as long as the department specifies,**
8 **but for at least five years after the licensee ceases to provide money services in this**
9 **state. However, the department may permit the amount of security to be reduced or**
10 **eliminated before the expiration of that time to the extent the amount of the licensee's**
11 **obligations outstanding in this state is reduced. The department may permit a**
12 **licensee to substitute another form of security acceptable to the department for the**
13 **security effective at the time the licensee ceases to provide money services in this**
14 **state.**

15 **(e) The department may increase the amount of security required to a**
16 **maximum of seven million dollars.**

17 **(3) Security deposited pursuant to Subsection A of this Section shall cover**
18 **claims for the period the department specifies by rule and for an additional period**
19 **the department specifies after the licensee ceases to engage in virtual currency**
20 **business activity with or on behalf of a resident.**

21 **B. In addition to the security required pursuant to Subsection A of this**
22 **Section, a licensee and a registrant, at the time of the application for a license**
23 **pursuant to the provisions of this Chapter or filing of a registration, shall submit to**
24 **the department evidence of and maintain at all times a tangible net worth of the**
25 **greater of one hundred thousand dollars or three percent of total assets.**

26 **C. A licensee or registrant may include in its calculation of net worth virtual**
27 **currency, measured by the average value of the virtual currency in United States**
28 **dollar equivalent over the prior six months, other than the virtual currency over**
29 **which it has control for a resident entitled to the protections provided in R.S. 10:8-**
30 **501 et seq.**

1 D. For good cause, the department may require a licensee or registrant to
2 increase the net worth or reserves required under this Section. The licensee or
3 registrant shall submit to the department evidence that it has the additional net worth
4 or reserves not later than fifteen days after the licensee or registrant receives notice.

5 §1387. Issuance of license; appeal

6 A. Absent good cause, the department shall issue a license to an applicant
7 if the applicant complies with the provisions of this Chapter and pays the costs of the
8 investigation pursuant to R.S. 6:1385(G) and the initial licensee fee pursuant to R.S.
9 6:1385(A)(3) in an amount specified by the department.

10 B. An applicant may appeal a denial of its application pursuant to R.S.
11 6:1385, in accordance with the Administrative Procedure Act, not later than thirty
12 days after the department notifies the applicant of the denial or the application is
13 deemed denied.

14 §1388. Renewal of license; procedure; denial

15 A. Subject to Subsection G of this Section, not later than fifteen days before
16 the anniversary date of issuance of a license pursuant to the provisions of this
17 Chapter, a licensee may apply for renewal of the license by paying a renewal fee
18 determined by the department, not to exceed the reasonable costs of regulation, and
19 submitting to the department a renewal report pursuant to Subsection B of this
20 Section.

21 B.(1) The renewal report required by Subsection A of this Section shall be
22 submitted in a form and medium prescribed by the department.

23 (2) The report shall contain all of the following:

24 (a) Either a copy of the licensee's most recent reviewed annual financial
25 statement, if the licensee's virtual currency business activity in this state was less
26 than an amount, to be determined by the department, for the fiscal year ending before
27 the anniversary date of issuance of its license under this Chapter, or audited annual
28 financial statement if the licensee's virtual currency business activity in this state
29 amounted to more than the amount determined by the department for the fiscal year
30 ending before the anniversary date.

1 **(b) If a person other than an individual has control of the licensee, a copy of**
2 **either of the following:**

3 **(i) The person's most recent reviewed annual financial statement if the**
4 **person's gross revenue was less than an amount, to be determined by the department,**
5 **in the previous fiscal year, measured as of the anniversary date of issuance of its**
6 **license pursuant to the provisions of this Chapter.**

7 **(ii) The person's most recent audited consolidated annual financial statement**
8 **if the person's gross revenue was more than an amount, to be determined by the**
9 **department in the previous fiscal year, measured as of the anniversary date of**
10 **issuance of its license pursuant to the provisions of this Chapter.**

11 **(c) A description of any of the following:**

12 **(i) Material change in the financial condition of the licensee.**

13 **(ii) Material litigation involving the licensee or an executive officer or**
14 **responsible individual of the licensee.**

15 **(iii) License suspension or revocation proceeding commenced, or other**
16 **action taken, involving a license to conduct virtual currency business activity issued**
17 **by another state on which reciprocal licensing is based.**

18 **(iv) Federal or state investigation involving the licensee.**

19 **(v) Data security breach involving the licensee.**

20 **(d) The number of virtual currency business activity transactions with, or on**
21 **behalf of, residents for the period since, subject to Subsection G of this Section, the**
22 **later of the date the license was issued or the date the last renewal report was**
23 **submitted.**

24 **(e)(i) The amount of United States dollar equivalent of virtual currency in**
25 **the control of the licensee at, subject to Subsection G of this Section, the end of the**
26 **last month that ends not later than thirty days before the date of the renewal report.**

27 **(ii) The total number of residents for whom the licensee had control of**
28 **United States dollar equivalent of virtual currency on that date.**

29 **(f) Evidence that the licensee continues to satisfy the requirements provided**
30 **for in R.S. 6:1386.**

1 (g) A list of each location where the licensee operates its virtual currency
2 business activity.

3 (h) The name, United States Postal Service address, and telephone number
4 of each person that manages a server used by the licensee in conducting its virtual
5 currency business activity with or on behalf of a resident.

6 C.(1) If a licensee does not timely comply with Subsection A of this Section,
7 the department may use any enforcement measure provided for in R.S. 6:1392.

8 (2) No notice or hearing shall be required for a suspension or revocation of
9 a license pursuant to the provisions of this Chapter for failure to pay a renewal fee
10 or file a renewal report.

11 D. If the department suspends or revokes a license pursuant to the provisions
12 of this Chapter for noncompliance with Subsection A of this Section, the department
13 may end the suspension or rescind the revocation and notify the licensee of the action
14 if, subject to Subsection G of this Subsection, not later than twenty days after the
15 license was suspended or revoked, the licensee files a renewal report and pays a
16 renewal fee and pays any penalty assessed by the department.

17 E. The department shall give prompt notice to a licensee of the lifting of a
18 suspension or rescission of a revocation after the licensee complies with Subsection
19 D of this Section.

20 F. Suspension or revocation of a license pursuant to the provisions of this
21 Section shall not invalidate a transfer or exchange of virtual currency for, or on
22 behalf of, a resident made during the suspension or revocation and shall not insulate
23 the licensee from liability pursuant to the provisions of this Chapter.

24 G. For good cause, the department may extend a period of time provided for
25 in this Section.

26 H. A licensee that does not comply with the provisions of this Section shall
27 cease operations with, or on behalf of, a resident on or before the anniversary date
28 of issuance of its license pursuant to the provisions of this Chapter.

29 I. A licensee shall pay the reasonable and necessary costs of the department's
30 investigation under this Section.

1 §1389. Exceptions to licensure requirement; conditions

2 A. A person whose volume of virtual currency business activity in United
3 States dollar equivalent of virtual currency will not exceed thirty-five thousand
4 dollars annually may engage in virtual currency business activity with, or on behalf
5 of, a resident under a registration without first obtaining a license pursuant to the
6 provisions of this Chapter if the person does all of the following:

7 (1) Files with the department a notice in the form and medium prescribed by
8 the department of its intention to engage in virtual currency business activity with,
9 or on behalf of, a resident.

10 (2) Provides the information for an investigation pursuant to R.S. 6:1385.

11 (3) States the anticipated virtual currency business activity for its next fiscal
12 quarter.

13 (4) Pays the department a registration fee in an amount determined by the
14 department, not to exceed the reasonable costs of regulation.

15 (5) If required to register with the Financial Crimes Enforcement Network
16 of the United States Department of the Treasury as a money service business,
17 provides the department evidence of the registration.

18 (6) Provides evidence that the person has policies and procedures to comply
19 with the federal Bank Secrecy Act and other applicable laws.

20 (7) Describes the source of funds and credit to be used by the person to
21 conduct virtual currency business activity with, or on behalf of, a resident and
22 provides evidence of, and agrees to maintain, the minimum net worth and reserves
23 required pursuant to R.S. 6:1386 and sufficient unencumbered reserves for winding
24 down operations.

25 (8) Provides the department with evidence that the person has in place
26 policies and procedures to comply with the provisions of this Chapter.

27 (9) Provides the department with a copy of its most recent financial
28 statement, whether reviewed or audited.

29 B. Before the virtual currency business activity of a registrant with, or on
30 behalf of, residents exceeds thirty-five thousand dollars annually in United States

1 dollar equivalent of virtual currency, the registrant shall file an application for a
2 license pursuant to the provisions of this Chapter and may continue to operate after
3 the activity exceeds thirty-five thousand dollars annually while the application for
4 license is pending.

5 C. For good cause, the department may suspend or revoke a registration
6 without a prior hearing or opportunity to be heard.

7 D. A registrant shall cease all virtual currency business activity with, or on
8 behalf of, residents in the event of any of the following:

9 (1) If the department denies the registrant's application for a license pursuant
10 to the provisions of this Chapter, one day after the registrant receives notice that the
11 department has denied the application.

12 (2) If the department suspends or revokes the registration, one day after the
13 department sends notice of the suspension or revocation to the registrant by a means
14 reasonably selected for the notice to be received by the recipient in one day, to the
15 address provided for receiving communications from the department.

16 (3) If the virtual currency business activity of the registrant with, or on
17 behalf of, residents exceeds thirty-five thousand dollars annually in United States
18 dollar equivalent of virtual currency and the registrant has not filed an application
19 for a license pursuant to the provisions of this Chapter.

20 (4) The second anniversary date of the registration.

21 §1390. Transferability

22 A license or registration pursuant to the provisions of this Chapter shall not
23 be transferable or assignable.

24 §1391. Examinations

25 A.(1) Each person required to be licensed under this Chapter shall maintain
26 in his office the books, records, and accounts of its virtual currency business
27 activities as the commissioner may reasonably require in order to determine whether
28 the person is complying with the provisions of this Chapter and the rules and
29 regulations promulgated under the provisions of this Chapter. Required records may
30 be maintained in any electronic format consistent with the person's ordinary business

1 practices unless the person receives specific written instructions from the
2 commissioner to the contrary. The books, records, and accounts shall be maintained
3 separate and apart from any other business in which the person is involved and shall
4 be kept at the location in the state at which the virtual currency business activities
5 occurred or at the person's principal office unless otherwise permitted in writing by
6 the commissioner. Records shall be made available for review or examination at a
7 nonresidential location approved by the commissioner.

8 (2) If the books and records of any person described in this Subsection are
9 located outside of the state, he shall make them available to the commissioner at a
10 location within this state convenient to the commissioner or pay the reasonable and
11 necessary expenses for the commissioner or his representative to examine them at
12 the place where they are maintained. The commissioner may designate
13 representatives, including comparable officials of the state in which the records are
14 located, to inspect the records on his behalf.

15 (3) The licensee shall pay the reasonable cost of the examination as the
16 commissioner shall prescribe by rule. If the examination fee is not paid within thirty
17 days of its assessment, the person examined shall be subject to an administrative
18 penalty.

19 §1392. Enforcement

20 For purposes of this Chapter, "enforcement measure" means an action to do
21 any of the following:

22 (1) Suspend or revoke a license or a registration pursuant to the provisions
23 of this Chapter.

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

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

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

1 (5) Assess penalties.

2 (6) Recover on the security provided pursuant to R.S. 6:1386 and initiate a
3 plan to distribute the proceeds for the benefit of a resident injured by a violation of
4 any provision of this Chapter, or law of this state other than this Chapter, which
5 applies to virtual currency business activity with, or on behalf of, a resident.

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

8 §1393. Violations

9 The department may take an enforcement measure against a licensee,
10 registrant, or person that is neither a licensee nor registrant but is engaging in virtual
11 currency business activity with, or on behalf of, a resident in any of the following
12 instances:

13 (1) The licensee, registrant, or person materially violates any provision of
14 this Chapter, a rule adopted or order issued pursuant to any provision of this Chapter,
15 or law of this state other than this Chapter which applies to virtual currency business
16 activity of the violator with, or on behalf of, a resident.

17 (2) The licensee, registrant, or person does not cooperate substantially with
18 an investigation by the department, fails to pay a fee, or fails to submit a report or
19 documentation.

20 (3) The licensee, registrant, or person, in the conduct of its virtual currency
21 business activity with, or on behalf, of a resident, engages in any of the following:

22 (a) An unsafe or unsound act or practice.

23 (b) An unfair or deceptive act or practice.

24 (c) Fraud or intentional misrepresentation.

25 (d) Another dishonest act.

26 (e) Misappropriation of legal tender, virtual currency, or other value held by
27 a fiduciary.

28 (4) An agency of the United States or another state takes an action against
29 the licensee, registrant, or person, which would constitute an enforcement measure
30 if the department had taken the action.

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

5 (6) Any of the following occurs:

6 (a) The licensee, registrant, or person becomes insolvent.

7 (b) The licensee, registrant, or person makes a general assignment for the
8 benefit of its creditors.

9 (c) The licensee, registrant, or person becomes the debtor, alleged debtor,
10 respondent, or person in a similar capacity in a case or other proceeding under any
11 bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership,
12 dissolution, liquidation, or similar law, and does not obtain from the court, within a
13 reasonable time, confirmation of a plan or dismissal of the case or proceeding.

14 (d) The licensee, registrant, or person applies for, or permits the appointment
15 of, a receiver, trustee, or other agent of a court for itself or for a substantial part of
16 its assets.

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

19 §1394. Implementation

20 The department shall adopt rules, in accordance with the Administrative
21 Procedure Act, to implement and enforce the provisions of this Chapter and issue
22 guidance as appropriate.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____