



House of Representatives

General Assembly

File No. 328

February Session, 2022

Substitute House Bill No. 5320

House of Representatives, April 6, 2022

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING VIRTUAL CURRENCY.

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

1 Section 1. (NEW) (*Effective October 1, 2022*) For purposes of this
2 section and sections 2 to 10, inclusive, of this act:

3 (1) "Commissioner" has the same meaning as provided in section 36a-
4 2 of the general statutes;

5 (2) "Department" means the Department of Banking;

6 (3) "Virtual currency" has the same meaning as provided in section
7 36a-596 of the general statutes;

8 (4) "Virtual currency business activity" means any one of the
9 following activities: (A) Receiving virtual currency for transmission or
10 transmitting virtual currency, except where the transaction is
11 undertaken for nonfinancial purposes and does not involve the transfer
12 of more than a nominal amount of virtual currency; (B) storing, holding
13 or maintaining custody or control of virtual currency on behalf of others;

14 (C) buying or selling virtual currency as a customer business; (D)
15 performing exchange services as a customer business; and (E)
16 controlling or issuing virtual currency;

17 (5) "Exchange service" means: (A) The conversion or exchange of
18 government currency or other value into virtual currency; (B) the
19 conversion or exchange of virtual currency into government currency or
20 other value; or (C) the conversion or exchange of one form of virtual
21 currency into another form of virtual currency;

22 (6) "Government currency" means government-issued currency that
23 is designated as legal tender in its country of issuance through
24 government decree, regulation or law;

25 (7) "Principal beneficiary" means any person entitled to ten per cent
26 or more of the benefits of a trust;

27 (8) "Principal officer" means an executive officer of an entity,
28 including the chief executive, financial, operating and compliance
29 officers, president, managing partner, general partner, controlling
30 partner and trustee, as applicable;

31 (9) "Principal stockholder" means any person that directly or
32 indirectly owns, controls or holds with power to vote ten per cent or
33 more of any class of outstanding capital stock of a corporate entity or
34 possesses the power to direct or cause the direction of the management
35 or policies of the entity; and

36 (10) "Qualified trust company" means a bank, trust company, bank
37 holding company, credit union, building or loan association, savings or
38 loan association, savings bank or mutual bank organized under the laws
39 of any state or the United States, provided such bank, trust company,
40 bank holding company, credit union, building or loan association,
41 savings or loan association, savings bank or mutual bank organized
42 under the laws of any state or the United States does not issue or sell
43 any payment instrument through an authorized delegate who is not a
44 bank, trust company, bank holding company, credit union, building or

45 loan association, savings or loan association, savings bank or mutual
46 bank.

47 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) A person, except a
48 qualified trust company, engaging in virtual currency business activity
49 shall register under sections 1 to 9, inclusive, of this act.

50 (b) Such registration shall be in writing, under oath, and completed
51 in a form prescribed by the commissioner. The registration shall include
52 the following:

53 (1) The name of the registrant, including any business name, the form
54 of organization and the jurisdiction where the registrant is organized or
55 incorporated;

56 (2) A list of the registrant's affiliates and an organizational chart
57 illustrating the relationship between and among the registrant and its
58 affiliates;

59 (3) An organizational chart of the registrant and its management
60 structure, including its principal officers or senior management,
61 indicating lines of authority and the allocation of duties among its
62 principal officers or senior management;

63 (4) A business plan, including a description of the proposed, current
64 and historical business of the registrant, details on the products and
65 services provided and to be provided, all associated Internet web site
66 addresses, the jurisdictions in which the registrant is engaged in
67 business, the principal place of business, the primary markets of
68 operation, the projected customer base, any specific marketing targets
69 and the physical address of any place of operation in the state; and

70 (5) A registration fee to be established by the commissioner.

71 Sec. 3. (NEW) (*Effective October 1, 2022*) In the event of any material
72 change in the registration information submitted in accordance with
73 section 2 of this act, the registrant shall, within seven days of the change,
74 supplement or amend such registration by completing and submitting

75 a form as prescribed by the commissioner.

76 Sec. 4. (NEW) (*Effective October 1, 2022*) Each registrant shall maintain
77 and enforce confidential, written compliance policies, including policies
78 with respect to anti-fraud, anti-money laundering, cyber security,
79 privacy and information security, that shall be reviewed and approved
80 by the registrant's board of directors or an equivalent governing body.

81 Sec. 5. (NEW) (*Effective October 1, 2022*) (a) No registrant shall
82 advertise its products, services or activities in the state or to any person
83 without including the legal name of the registrant and a legend stating
84 that the registrant is registered to engage in virtual currency business
85 activity in the state of Connecticut.

86 (b) Each registrant shall maintain, for examination by the
87 commissioner, all advertising and marketing materials for a period of
88 not less than seven years from the date of their creation, including, but
89 not limited to, print media, Internet media, including Internet web sites,
90 radio and television advertising, road show materials, presentations
91 and brochures. Each registrant shall maintain a hard copy, Internet web
92 site captures of material changes to Internet web site advertising and
93 marketing and audio and video scripts of such advertising and
94 marketing materials, as applicable.

95 Sec. 6. (NEW) (*Effective October 1, 2022*) Each registrant shall permit
96 the commissioner to examine the registrant whenever the commissioner
97 determines such examination to be necessary or advisable, including,
98 but not limited to, to determine compliance with the requirements set
99 forth in sections 1 to 9, inclusive, of this act, and shall assist the
100 commissioner in any such examination. The examination may include,
101 but shall not be limited to, the premises, books, records and any other
102 pertinent material of the registrant or its affiliates.

103 Sec. 7. (NEW) (*Effective October 1, 2022*) (a) (1) Each registrant shall,
104 prior to engaging in virtual currency business activity with any person,
105 disclose in clear, conspicuous writing all material risks to the person
106 associated with the particular virtual currency business activities in

107 which it engages. Such risks may include, but shall not be limited to:

108 (A) Virtual currency is not legal tender, is not backed by the United
109 States government and the virtual currency held by the registrant on
110 behalf of the person is not subject to Federal Deposit Insurance
111 Corporation protections;

112 (B) Transactions in the virtual currency held by the registrant on
113 behalf of the person may be irreversible, and, accordingly, losses due to
114 fraudulent or accidental transactions may not be recoverable;

115 (C) Laws determining the rights and obligations of virtual currency
116 users are not fully developed, and a court of law may find that the
117 elements of the transaction, including, but not limited to, the timing,
118 amount, identity or location of the parties, may not be the same as if the
119 transaction had occurred with government currency;

120 (D) The value of the virtual currency held by the registrant on behalf
121 of the person may change more quickly and unexpectedly than that of
122 government currency, and may in fact become zero; and

123 (E) Technological difficulties experienced by the registrant may
124 prevent the person from accessing the virtual currency held by the
125 registrant on behalf of the person.

126 (2) The commissioner shall post on the department's Internet web site
127 information substantially similar to the information required to be
128 disclosed pursuant to this subsection, including information about the
129 material risks described in this subsection.

130 (b) Each registrant shall, prior to engaging in virtual currency
131 business activity with any person, disclose in clear, conspicuous writing
132 all relevant terms and conditions associated with the registrant's virtual
133 currency business activity. Such disclosures may include, but need not
134 be limited to: (1) The person's liability for unauthorized transactions; (2)
135 the person's right to interrupt or prevent any transaction and the
136 procedure to initiate an interruption or prevention; (3) the
137 circumstances under which the registrant will, absent a court or

138 government order, disclose information concerning the person's
139 account to third parties; (4) the person's right to receive periodic account
140 statements and valuations from the registrant; (5) the person's right to
141 receive a receipt, trade ticket or other evidence of a transaction; and (6)
142 the person's right to prior notice of a change in the registrant's rules or
143 policies.

144 (c) Each registrant shall, prior to engaging in virtual currency
145 business activity with any person, disclose in clear, conspicuous writing
146 the terms and conditions of the transaction. The disclosures may
147 include, but need not be limited to: (1) The amount of the transaction;
148 (2) any fees, expenses and charges borne by the person, including
149 applicable exchange rates; (3) the type and nature of the transaction; and
150 (4) a warning that once executed the transaction may not be undone.

151 (d) Each registrant shall ensure that all disclosures required in this
152 section are acknowledged in writing as received by persons.

153 (e) Each registrant shall, upon completion of any transaction, provide
154 to any person initiating the transaction, a receipt containing the
155 following information: (1) The name and contact information of the
156 registrant, including a telephone number established by the registrant
157 to answer questions and register complaints; (2) the type, value, date
158 and precise time of the transaction; (3) any fee charged; and (4) any
159 exchange rate applied.

160 Sec. 8. (NEW) (*Effective October 1, 2022*) (a) Each registrant shall
161 establish and maintain written policies and procedures to fairly and
162 timely resolve customer complaints.

163 (b) Each registrant shall provide, in a clear and conspicuous manner,
164 on such registrant's Internet web site or web sites, and in all physical
165 locations the following disclosures: (1) The registrant's mailing address,
166 electronic mail address and telephone number for the receipt of
167 complaints; (2) a statement that the complainant may also bring a
168 complaint to the attention of the Department of Banking; and (3) the
169 Department of Banking's mailing address, Internet web site address and

170 telephone number.

171 Sec. 9. (NEW) (Effective October 1, 2022) (a) If it appears to the
172 commissioner that any person has committed or is about to commit a
173 violation of any provision of this act or of any rule or order of the
174 commissioner, the commissioner may apply to the Superior Court for
175 an order temporarily or permanently restraining and enjoining that
176 person from violating or continuing to violate this act or any rule,
177 regulation or order of the commissioner and for injunctive or other relief
178 as the nature of the case may require.

179 (b) If, after notice and hearing, the commissioner finds that a person
180 has violated any provision of sections 1 to 9, inclusive, of this act or a
181 rule adopted under this act, the commissioner may order the person to
182 pay the commissioner a civil penalty in an amount specified by the
183 commissioner not exceeding five thousand dollars for each violation.
184 Each violation shall constitute a separate offense and the penalty under
185 this subsection shall be in addition to a suspension or revocation of a
186 registration. No proceeding shall be initiated and no penalty shall be
187 assessed pursuant to this subsection until such person is notified in
188 writing of the nature of the violation and is afforded a reasonable period
189 of time, as set forth in the notice, to correct the violation and fails to do
190 so.

191 (c) The commissioner may compromise, settle and collect civil
192 penalties for violations of any provision of sections 1 to 9, inclusive, of
193 this act, or of any rule, regulation or order issued or promulgated
194 pursuant to this act.

195 Sec. 10. (NEW) (Effective October 1, 2022) Each registrant may accept
196 credit cards and debit cards for the purchase of virtual currency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section
Sec. 2	October 1, 2022	New section
Sec. 3	October 1, 2022	New section

Sec. 4	October 1, 2022	New section
Sec. 5	October 1, 2022	New section
Sec. 6	October 1, 2022	New section
Sec. 7	October 1, 2022	New section
Sec. 8	October 1, 2022	New section
Sec. 9	October 1, 2022	New section
Sec. 10	October 1, 202	New section

Statement of Legislative Commissioners:

In Section 7(a)(2), "said subsection" was changed to "this subsection" for consistency with standard drafting conventions; in Section (7)(b) and (c), "may include, but shall not be limited to" was changed to "may include but need not be limited to" for clarity; and in Section 7(d), "all disclosures required in the section" was changed to "all disclosures required in this section" for accuracy.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Banking Dept.	BF - Cost	180,163	180,163
Banking Dept.	BF - Revenue Gain	Potential	Potential

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill requires people or businesses conducting virtual currency business activity to register with the Department of Banking (DOB) not later than October 1, 2022. This results in a staffing cost of \$180,163 to the DOB as this new area of regulation will impact each of the DOB operational divisions. There is also a potential revenue gain associated with a registration fee and any fines for violations.

Due to the complexity of this new area of regulation, it is anticipated that DOB would require an additional Staff Attorney 2¹. The salary range for a Staff Attorney 2 is \$90,203 - \$115,434. Based on the starting salary and fringe benefit rate charged to the Banking Fund², the Staff Attorney 2 has an annualized cost of approximately \$180,163 to the Banking Fund.

¹ The agency currently has 2 Staff Attorney 2 positions.

² The fringe benefit cost for employees funded out of other appropriated funds are budgeted within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 99.73% of payroll in FY 23.

The bill requires the DOB Commissioner to establish a registration fee for any person engaging in virtual currency business activity. The potential revenue gain is dependent on the fee that is established and the number of registrations. Currently, 182 companies who engage in virtual currency money transmission are registered with the DOB for an annual license fee of \$1,000. It is unclear how many other security firms may need to register under the requirements of this bill. The bill also specifies a civil penalty of \$5,000 as a per violation fine which may result in revenue gain to the extent that fines are levied.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Core-CT Financial Accounting System

OLR Bill Analysis**sHB 5320*****AN ACT CONCERNING VIRTUAL CURRENCY.*****SUMMARY**

This bill requires people conducting virtual currency business activity (e.g., receiving, storing, holding, buying, selling, issuing, or exchanging virtual currencies) to register with the Department of Banking, for a fee the banking commissioner sets. In doing so, the bill requires these people or businesses (“registrants”) to:

1. disclose to consumers the costs and material risks associated with virtual currency transactions;
2. provide consumers with detailed transaction receipts;
3. put their registration status on all advertisements, and keep associated marketing materials available for the commissioner’s inspection; and
4. allow the commissioner to examine them for compliance with the bill’s provisions as necessary.

Under the bill, the commissioner can impose a civil penalty of up to \$5,000 per violation on registrants violating the bill’s provisions.

The bill also specifically allows these businesses to accept credit or debit cards for virtual currency purchases (§ 10).

EFFECTIVE DATE: October 1, 2022

§1 — DEFINITIONS***Virtual Currency***

Under existing law and the bill, “virtual currency” is a digital unit (1)

used as a medium of exchange or form of digitally stored value or (2) incorporated into payment system technology (e.g., Bitcoin). It includes digital units of exchange that:

1. have a centralized repository or administrator,
2. are decentralized without a centralized repository or administrator, or
3. may be created or obtained by computing or manufacturing effort.

However, it excludes digital units used:

1. solely in online gaming platforms with no other market or application or
2. exclusively in a consumer affinity or rewards program that (a) can be used only as payment for purchases with the issuer or another designated merchant and (b) cannot be converted into, or redeemed for, fiat currency (i.e., government-backed currency, such as the U. S. dollar).

Virtual Currency Business Activity

The bill's requirements apply to people conducting "virtual currency business activity," which is any of the following activities:

1. receiving virtual currency for transmission or transmitting virtual currency, except if the transaction has a nonfinancial purpose and is for a nominal amount of virtual currency;
2. storing, holding, or maintaining custody or control of virtual currency on behalf of others;
3. buying or selling virtual currency as a customer business;
4. performing exchange services as a customer business; and
5. controlling or issuing virtual currency.

Qualified Trust Companies

The bill's requirements do not apply to "qualified trust companies" engaging in virtual currency business activity. These companies are state- or nationally chartered- banks, trust companies, bank holding companies, credit unions, building or loan associations, savings or loan associations, or savings or mutual banks, as long as they do not issue or sell payment instruments through an authorized delegate who is not one of these entities.

§§ 2 & 3 — REGISTRATION

The bill requires virtual currency businesses to register, in writing and under oath, with the department in a form the commissioner prescribes. The registration must include the:

1. registrant's name, including any business name, its form of organization, and jurisdiction where it is organized or incorporated;
2. registrant's affiliates and an organizational chart showing their relationship to the registrant; and
3. organizational chart of the registrant's management structure, including its principal officers or senior management and their lines of authority and allocation of duties.

The registration must also include specified information about the registrant's business plan, including:

1. a description of its proposed, current, and historical business and the products and services it provides or will provide;
2. all associated websites;
3. its principal place of business and any jurisdiction in which it conducts business;
4. its primary markets, projected customer base, and any specific marketing targets; and

5. the physical address for any of its Connecticut operations.

Under the bill, a registrant must change, supplement, or amend its registration on a form the commissioner prescribes within seven days of a material change to any of the above information.

§§ 4 & 8 — POLICIES, PROCEDURES, AND CONSUMER COMPLAINTS

The bill requires registrants to maintain and enforce confidential, written compliance policies, including those related to anti-fraud, anti-money laundering, cyber security, privacy, and information security. These policies must be reviewed and approved by the registrant's board of directors or equivalent governing body.

The bill also requires registrants to set and maintain written policies and procedures to fairly and timely resolve customer complaints. Accordingly, registrants must disclose in all physical locations and on their website:

1. their mailing address, email address, and telephone number for complaints; and
2. a statement that a person may complain to the department, along with the department's mailing address, website, and telephone number.

§ 5 — ADVERTISING REQUIREMENTS

The bill prohibits registrants from advertising products, services, or activities in Connecticut without including their legal name and a legend stating that they are registered to engage in virtual currency business activity in Connecticut.

Additionally, the bill requires registrants to maintain, for examination by the commissioner, all advertising and marketing materials for at least seven years from their creation (e.g., print media, internet media including websites, radio and television advertising, road show materials, presentations, and brochures). The bill requires registrants to maintain hard copies, website captures of material

changes to online advertising, and marketing and audio and video transcripts, as applicable.

§ 6 — EXAMINATIONS

The bill requires registrants to allow the commissioner to examine them whenever he deems it necessary or advisable, including to determine compliance with the bill's provisions. Registrants must assist the commissioner in these exams, which may include examinations of the premises, books, records, and any other pertinent material, including that of their affiliates.

§ 7 — CONSUMER DISCLOSURES

The bill requires registrants, before engaging in virtual currency business activity, to disclose in clear conspicuous writing (1) all material risks associated with a particular virtual currency business activity; (2) the consumer terms and conditions, including a consumer's rights and potential liability; and (3) the terms and conditions of virtual currency transactions. Registrants must ensure that consumers acknowledge in writing they received these disclosures.

The bill specifies that these disclosures may include specified information, as noted below.

Material Risks

The risks that must be disclosed may include that:

1. virtual currency is not (a) legal tender, (b) backed by the U. S. government, or (c) insured by the Federal Deposit Insurance Corporation;
2. virtual currency transactions may be irreversible and losses due to fraudulent or accidental transactions may not be recoverable;
3. laws determining the rights and obligations of virtual currency users are not fully developed, and courts may find that certain transaction elements (such as the timing, amount, identity, or location of the parties involved) may not be the same as if the

transaction occurred with a government currency;

4. the value of the virtual currency the registrant holds may change more quickly and unexpectedly than that of government currency, and may become zero; and
5. technological difficulties may prevent a person from accessing their virtual currency.

The bill requires the commissioner to post on the department's website information substantially similar to the information that must be disclosed to consumers, including the material risks described above.

Consumer Terms and Conditions

The consumer terms and conditions that must be disclosed may include:

1. a person's liability for unauthorized transactions;
2. a person's right to interrupt or prevent any transaction and the associated procedures to do so;
3. the circumstances under which the registrant will, absent a court or government order, disclose a person's information to third parties;
4. the person's right to receive periodic account statements and valuations;
5. the person's right to receive a receipt, trade ticket, or other evidence of a transaction; and
6. the person's right to prior notice of a change in the registrant's rules or policies.

Transactions

The terms and conditions of transactions that must be disclosed may include:

1. the transaction's amount, including any fees, expenses, and charges (including applicable exchange rates) borne by the person;
2. the transaction's type and nature; and
3. a warning that, once executed, transactions may not be undone.

Under the bill, registrants must provide a receipt of a completed transaction to the person who initiated it. The receipt must include:

1. the registrant's name and contact information, including a telephone number the registrant establishes to answer questions and register complaints;
2. the transaction's type, value, date, and precise time; and
3. any fee charged or exchange rate applied.

§ 9 — ENFORCEMENT

The bill allows the banking commissioner to apply to the Superior Court for an order to temporarily or permanently restrain or enjoin a person from violating the bill's provisions or any of the commissioner's associated rules, regulations, or orders. He may also apply for injunctive or other relief as necessary.

If, after notice and hearing, the commissioner finds a person has violated the bill's provisions, he may order them to pay a civil penalty of up to \$5,000 per violation. Each violation constitutes a separate offense. The bill specifies that the civil penalty is in addition to any registration suspension or revocation he imposes.

Under the bill, no disciplinary proceeding can start, and no civil penalty can be assessed, until the registrant first receives written notice of the violation and is afforded reasonable time, as the notice establishes, to correct it.

The bill authorizes the commissioner to compromise, settle, and

collect civil penalties for violations of the bill’s provisions or any act, rule, regulation, or order issued under it.

BACKGROUND

Related Bill

SB 353, reported favorably by the Commerce Committee, defines a “digital asset,” which may include virtual currency, and establishes the legal nature of these assets.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/22/2022)