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## **OLR Bill Analysis**

### **sHB 6752**

#### ***AN ACT CONCERNING DIGITAL ASSETS.***

#### **SUMMARY**

This bill allows the banking commissioner to adopt regulations, forms, and orders governing the business use of digital assets by entities that, and individuals who, are under his regulatory jurisdiction (e.g., state-chartered banks and credit unions). Under the bill, digital assets include virtual currencies, stablecoins, and non-fungible tokens. The regulations, forms, and orders must ensure consumer protection and the commissioner may consult with federal and other states' financial services regulators, other stakeholders, and industry professionals to ensure that digital assets receive, to the extent practicable, consistent treatment.

Additionally, the bill specifies that the use of "virtual currency kiosks" that facilitate the exchange of virtual currency for fiat currency (government-backed currency, such as the U.S. dollar) or other virtual currency is a form of "money transmission" under state law, explicitly subjecting kiosk owners and operators to the licensing and other existing requirements under the state's Money Transmission Act (see BACKGROUND). (In practice, none appear to be currently licensed.)

The bill also imposes several disclosure and receipt requirements on virtual currency kiosk owners and operators. It further requires them to allow customers to cancel and receive a full refund for a virtual currency transaction within seven days afterwards if it is (1) a customer's first one with the owner or operator and (2) to a foreign "virtual currency wallet" or exchange. (It is not clear under the bill what constitutes a "foreign" wallet or exchange.) Lastly, the bill allows the banking commissioner to establish a schedule of maximum fees that an owner or operator of a virtual currency kiosk may charge for specific services.

EFFECTIVE DATE: Upon passage, except the virtual currency kiosk provisions take effect October 1, 2023.

## **§ 1 — SCOPE OF DIGITAL ASSET REGULATION**

The bill specifically limits its authorization for the banking commissioner to create digital asset regulations, forms, and orders to those who are already subject to regulation by him. Under existing law, he has broad, general authority to adopt regulations within the jurisdiction of his position (CGS § 36a-10). The banking commissioner administers and enforces laws that apply to, among others, state-chartered banks and credit unions; mortgage lenders and brokers; small loan lenders; consumer collection agencies; money transmission businesses; securities broker-dealers; and investment advisors (CGS Titles 36a & 36b).

## **§ 2 — VIRTUAL CURRENCY KIOSKS AND WALLETS DEFINED**

Under the bill, a “virtual currency kiosk” is an electronic terminal, acting as an owner’s or operator’s mechanical agent, that enables the owner or operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency, including by (1) connecting directly to a separate virtual currency exchanger that performs the actual virtual currency transmission or (2) drawing upon the virtual currency in the possession of the terminal’s owner or operator.

A “virtual currency wallet” is a software application or other mechanism that provides a means for holding, storing, and transferring virtual currency.

Under existing law and the bill for purposes of the kiosk provisions, “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. It includes digital units of exchange that have a centralized repository or administrator, are decentralized without a centralized repository or administrator, or may be created or obtained by computing or manufacturing effort.

Virtual currency does not include digital units used as follows:

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.

### **§ 3 — VIRTUAL CURRENCY KIOSK DISCLOSURE REQUIREMENTS**

#### ***Material Risks (§ 3(a))***

Before entering into an initial virtual currency transaction for, on behalf of, or with a customer, the bill requires virtual currency kiosk owners and operators to disclose in clear, conspicuous, and legibly written English all material risks generally associated with virtual currency. Under the bill, this includes at least the following:

1. Virtual currency is not backed or insured by the government, and accounts and value balances are not subject to Federal Deposit Insurance Corporation, National Credit Union Administration, or Securities Investor Protection Corporation protections.
2. Some virtual currency transactions are deemed to be made when recorded on a public ledger, which may not be the date or time when the customer initiates the transaction.
3. Virtual currency's value may be derived from market participants' continued willingness to exchange fiat currency for virtual currency, which may result in the permanent and total loss of a particular virtual currency's value if the market for it disappears.
4. There is no assurance that a person who accepts a virtual currency as payment today will do so in the future.
5. The volatility and unpredictability of the price of virtual currency relative to fiat currency may result in a significant loss over a short period.
6. The nature of virtual currency may lead to an increased risk of

fraud or cyber attack.

7. The nature of virtual currency means that any technological difficulties experienced by the owner or operator may prevent access to or use of a customer's virtual currency.
8. Any bond maintained by the owner or operator for the benefit of customers may not cover all losses the customers incur.

The bill further requires that a specific disclosure be given to and acknowledged by the customer, written prominently and in bold type, and provided separately from the disclosures above, stating: **"WARNING: LOSSES DUE TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS MAY NOT BE RECOVERABLE AND TRANSACTIONS IN VIRTUAL CURRENCY ARE IRREVERSIBLE."**

***Products', Services', and Activities' Terms and Conditions (§ 3(b))***

When opening an account for a new customer and before entering into an initial virtual currency transaction for, on behalf of, or with the customer, the bill requires kiosk owners and operators to disclose all relevant terms and conditions generally associated with the products, services, and activities of the owner or operator and virtual currency. They must do so in clear, conspicuous, and legibly written English, using at least 48-point sans-serif-type font. Under the bill, these disclosures must address at least the following:

1. the customer's liability for unauthorized virtual currency transactions;
2. the customer's right to (a) stop payment of a preauthorized virtual currency transfer and the procedure to do so; (b) receive periodic account statements and valuations from the owner or operator; (c) receive a receipt, trade ticket, or other evidence of a transaction; and (d) prior notice of a change in the rules or policies of the owner or operator;
3. under what circumstances the owner or operator will, without a court or government order, disclose customer account

information to third parties; and

4. other disclosures that are customarily provided in connection with the opening of customer accounts.

***Transactions' Terms and Conditions (§ 3(c))***

Before each virtual currency transaction for, on behalf of, or with a customer, kiosk owners and operators must disclose the transaction's terms and conditions in clear, conspicuous, and legibly written English, using at least 48-point sans-serif-type font. Under the bill, these disclosures must address at least the following:

1. the amount of the transaction;
2. any customer fees, expenses, and charges, including applicable exchange rates;
3. the type and nature of the transaction;
4. a warning that, once completed, the transaction may not be undone, if applicable;
5. a daily virtual currency transaction limit of no more than \$500;
6. the difference in the virtual currency's sale price versus the current market price; and
7. other disclosures that are customarily given in connection with a virtual currency transaction.

***Receipts (§ 3(d) & (e))***

Under the bill, kiosk owners and operators must ensure that each customer acknowledges that they have received all the above disclosures. Additionally, upon a transaction's completion, they must provide customers a receipt containing the following information:

1. the owner's or operator's name and contact information, including a telephone number to answer questions and register complaints;

2. the type, value, date, and precise time of the transaction and each “virtual currency address” (i.e., an alphanumeric identifier representing a destination for a virtual currency transfer that is associated with a “virtual currency wallet” (see above));
3. the fee charged;
4. the exchange rate, if applicable;
5. a statement of the owner’s or operator’s liability for non-delivery or delayed delivery;
6. a statement of the owner’s or operator’s refund policy; and
7. any additional information the banking commissioner may require.

## **BACKGROUND**

### ***Money Transmission Act***

Generally, the Money Transmission Act regulates businesses, other than banks or credit unions, that receive and transmit money. It requires these businesses to be licensed, imposes financial conditions on them, and subjects them to the Banking Department oversight (CGS §§ 36a-595 to -612).

Under certain circumstances, the Banking Department has determined that businesses engaging in virtual currency-related transactions are subject to licensure under the Money Transmission Act.

## **COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute

Yea 12    Nay 0    (03/07/2023)