



House of Representatives

General Assembly

File No. 168

January Session, 2023

Substitute House Bill No. 6752

House of Representatives, March 22, 2023

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 DIGITAL ASSETS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section, "commissioner" has the same meaning as provided in section
3 36a-2 of the general statutes.

4 (b) The commissioner may, in accordance with the provisions of
5 chapter 54 of the general statutes, adopt, amend and rescind regulations,
6 forms and orders governing the business use of digital assets, including,
7 but not limited to, virtual currencies, stablecoins and non-fungible
8 tokens, by entities that, and individuals who, are subject to regulation
9 by the commissioner, which regulations, forms and orders shall ensure
10 consumer protection.

11 (c) In adopting, amending or rescinding any regulation, form or order
12 pursuant to subsection (b) of this section, the commissioner may consult
13 with federal financial services regulators, financial services regulators of
14 other states, other stakeholders and industry professionals to ensure

15 that digital assets receive, to the extent practicable, consistent treatment.

16 Sec. 2. Section 36a-596 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2023*):

18 As used in sections 36a-595 to 36a-612, inclusive, and section 3 of this
19 act:

20 (1) "Advertise" or "advertising" has the same meaning as provided in
21 section 36a-485.

22 (2) "Authorized delegate" means a person designated by a person
23 licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide
24 money transmission services on behalf of such licensed person.

25 (3) "Control" means (A) the power to vote, directly or indirectly, at
26 least twenty-five per cent of the outstanding voting shares or voting
27 interests of a licensee or person in control of a licensee; (B) the power to
28 elect or appoint a majority of key individuals or executive officers,
29 managers, directors, trustees or other persons exercising managerial
30 authority of a person in control of a licensee; or (C) the power to exercise,
31 directly or indirectly, a controlling influence over the management or
32 policies of a licensee or person in control of a licensee. For purposes of
33 this subdivision: (i) A person is presumed to exercise a controlling
34 influence when the person holds the power to vote, directly or
35 indirectly, at least ten per cent of the outstanding voting shares or voting
36 interests of a licensee or person in control of a licensee, (ii) a person
37 presumed to exercise a controlling influence can rebut such
38 presumption if the person is a passive investor, and (iii) to determine
39 the percentage of control, a person's interest shall be aggregated with
40 the interest of any other immediate family member, including the
41 person's spouse, parent, child, sibling, mother-in-law, father-in-law,
42 son-in-law, daughter-in-law, brother-in-law, sister-in-law and any other
43 person who shares the person's home.

44 (4) "Control person" means any individual in control of a licensee or
45 applicant, any individual who seeks to acquire control of a licensee or a

46 key individual.

47 (5) "Electronic payment instrument" means a card or other tangible
48 object for the transmission of money or monetary value or payment of
49 money which contains a microprocessor chip, magnetic stripe, or other
50 means for the storage of information, that is prefunded and for which
51 the value is decremented upon each use, but does not include a card or
52 other tangible object that is redeemable by the issuer in the issuer's
53 goods or services.

54 (6) "Holder" means a person, other than a purchaser, who is either in
55 possession of a payment instrument and is the named payee thereon or
56 in possession of a payment instrument issued or endorsed to such
57 person or bearer or in blank. "Holder" does not include any person who
58 is in possession of a lost, stolen or forged payment instrument.

59 (7) "Key individual" means any individual ultimately responsible for
60 establishing or directing policies and procedures of the licensee,
61 including, but not limited to, an executive officer, manager, director or
62 trustee.

63 (8) "Licensee" means any person licensed or required to be licensed
64 pursuant to sections 36a-595 to 36a-612, inclusive.

65 (9) "Main office" has the same meaning as provided in section 36a-
66 485.

67 (10) "Monetary value" means a medium of exchange, whether or not
68 redeemable in money.

69 (11) "Money transmission" means engaging in the business of issuing
70 or selling payment instruments or stored value, receiving money or
71 monetary value for current or future transmission or the business of
72 transmitting money or monetary value within the United States or to
73 locations outside the United States by any and all means including, but
74 not limited to, payment instrument, wire, facsimile, [or] electronic
75 transfer or virtual currency kiosk.

76 (12) "Outstanding" means (A) in the case of a payment instrument or
77 stored value, that: (i) It is sold or issued in the United States; (ii) a report
78 of it has been received by a licensee from its authorized delegates; and
79 (iii) it has not yet been paid by the issuer, and (B) for all other money
80 transmissions, the value reported to the licensee for which the licensee
81 or any authorized delegate has received money or its equivalent value
82 from the customer for transmission, but has not yet completed the
83 money transmission by delivering the money or monetary value to the
84 person designated by the customer.

85 (13) "Passive investor" means a person that: (A) Does not have the
86 power to elect a majority of key individuals or executive officers,
87 managers, directors, trustees or other persons exercising managerial
88 authority of a person in control of a licensee; (B) is not employed by and
89 does not have any managerial duties of the licensee or person in control
90 of a licensee; (C) does not have the power to exercise, directly or
91 indirectly, a controlling influence over the management or policies of a
92 licensee or person in control of a licensee; and (D) attests to
93 subparagraphs (A), (B) and (C) of this subdivision in the form and
94 manner prescribed by the commissioner.

95 (14) "Payment instrument" means a check, draft, money order,
96 travelers check or electronic payment instrument that evidences either
97 an obligation for the transmission of money or monetary value or
98 payment of money, or the purchase or the deposit of funds for the
99 purchase of such check, draft, money order, travelers check or electronic
100 payment instrument.

101 (15) "Permissible investment" means: (A) Cash in United States
102 currency; (B) time deposits, as defined in section 36a-2, or other debt
103 instruments of a bank; (C) bills of exchange or bankers acceptances
104 which are eligible for purchase by member banks of the Federal Reserve
105 System; (D) commercial paper of prime quality; (E) interest-bearing
106 bills, notes, bonds, debentures or other obligations issued or guaranteed
107 by: (i) The United States or any of its agencies or instrumentalities, or (ii)
108 any state, or any agency, instrumentality, political subdivision, school

109 district or legally constituted authority of any state if such investment is
110 of prime quality; (F) interest-bearing bills or notes, or bonds, debentures
111 or preferred stocks, traded on any national securities exchange or on a
112 national over-the-counter market, if such debt or equity investments are
113 of prime quality; (G) receivables due from authorized delegates
114 consisting of the proceeds of the sale of payment instruments which are
115 not past due or doubtful of collection; (H) gold; and (I) any other
116 investments approved by the commissioner. Notwithstanding the
117 provisions of this subdivision, if the commissioner at any time finds that
118 an investment of a licensee is unsatisfactory for investment purposes,
119 the investment shall not qualify as a permissible investment.

120 (16) "Prime quality" of an investment means that it is within the top
121 four rating categories in any rating service recognized by the
122 commissioner unless the commissioner determines for any licensee that
123 only those investments in the top three rating categories qualify as
124 prime quality.

125 (17) "Purchaser" means a person who buys or has bought a payment
126 instrument or who has given money or monetary value for current or
127 future transmission.

128 (18) "Stored value" means monetary value that is evidenced by an
129 electronic record. For the purposes of this subdivision, "electronic
130 record" means information that is stored in an electronic medium and is
131 retrievable in perceivable form.

132 (19) "Travelers check" means a payment instrument for the payment
133 of money that contains a provision for a specimen signature of the
134 purchaser to be completed at the time of a purchase of the instrument
135 and a provision for a countersignature of the purchaser to be completed
136 at the time of negotiation.

137 (20) "Unique identifier" has the same meaning as provided in section
138 36a-485.

139 (21) "Virtual currency" means any type of digital unit that is used as

140 a medium of exchange or a form of digitally stored value or that is
141 incorporated into payment system technology. Virtual currency shall be
142 construed to include digital units of exchange that (A) have a centralized
143 repository or administrator; (B) are decentralized and have no
144 centralized repository or administrator; or (C) may be created or
145 obtained by computing or manufacturing effort. Virtual currency shall
146 not be construed to include digital units that are used (i) solely within
147 online gaming platforms with no market or application outside such
148 gaming platforms, or (ii) exclusively as part of a consumer affinity or
149 rewards program, and can be applied solely as payment for purchases
150 with the issuer or other designated merchants, but cannot be converted
151 into or redeemed for fiat currency.

152 (22) "Virtual currency address" means an alphanumeric identifier
153 representing a destination for a virtual currency transfer that is
154 associated with a virtual currency wallet.

155 (23) "Virtual currency kiosk" means an electronic terminal acting as a
156 mechanical agent of the owner or operator to enable the owner or
157 operator to facilitate the exchange of virtual currency for fiat currency
158 or other virtual currency, including, but not limited to, by (A)
159 connecting directly to a separate virtual currency exchanger that
160 performs the actual virtual currency transmission, or (B) drawing upon
161 the virtual currency in the possession of the owner or operator of the
162 electronic terminal.

163 (24) "Virtual currency wallet" means a software application or other
164 mechanism providing a means for holding, storing and transferring
165 virtual currency.

166 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) The owner or operator of
167 a virtual currency kiosk shall, in establishing a relationship with a
168 customer and prior to entering into an initial virtual currency
169 transaction for, on behalf of or with the customer, disclose in clear,
170 conspicuous and legible writing in the English language all material
171 risks associated with virtual currency generally, including, but not
172 limited to, the following:

173 (1) A disclosure, which shall be acknowledged by the customer,
174 provided separately from the disclosures provided pursuant to
175 subdivisions (2) to (9), inclusive, of this subsection and written
176 prominently and in bold type, stating the following: "WARNING:
177 LOSSES DUE TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS
178 MAY NOT BE RECOVERABLE AND TRANSACTIONS IN VIRTUAL
179 CURRENCY ARE IRREVERSIBLE.";

180 (2) Virtual currency is not backed or insured by the government and
181 accounts and value balances are not subject to Federal Deposit
182 Insurance Corporation, National Credit Union Administration or
183 Securities Investor Protection Corporation protections;

184 (3) Some virtual currency transactions shall be deemed to be made
185 when recorded on a public ledger, which may not be the date or time
186 when the customer initiates the virtual currency transaction;

187 (4) The value of virtual currency may be derived from the continued
188 willingness of market participants to exchange fiat currency for virtual
189 currency, which may result in the permanent and total loss of the value
190 of a particular virtual currency, if the market for that virtual currency
191 disappears;

192 (5) There is no assurance that a person who accepts a virtual currency
193 as payment today will continue to do so in the future;

194 (6) The volatility and unpredictability of the price of virtual currency
195 relative to fiat currency may result in a significant loss over a short
196 period of time;

197 (7) The nature of virtual currency may lead to an increased risk of
198 fraud or cyber attack;

199 (8) The nature of virtual currency means that any technological
200 difficulties experienced by the owner or operator may prevent access to
201 or use of a customer's virtual currency; and

202 (9) Any bond maintained by the owner or operator for the benefit of

203 the customers of such owner or operator may not be sufficient to cover
204 all losses incurred by such customers.

205 (b) The owner or operator of a virtual currency kiosk shall, when
206 opening an account for a new customer and prior to entering into an
207 initial virtual currency transaction for, on behalf of or with such
208 customer, disclose in clear, conspicuous and legible writing in the
209 English language, using not less than forty-eight point sans-serif-type
210 font, all relevant terms and conditions associated with the products,
211 services and activities of the owner or operator and virtual currency
212 generally, including, but not limited to, the following:

213 (1) The customer's liability for unauthorized virtual currency
214 transactions;

215 (2) The customer's right to stop payment of a preauthorized virtual
216 currency transfer and the procedure used to initiate a stop-payment
217 order;

218 (3) Under what circumstances the owner or operator will, absent a
219 court or government order, disclose information concerning the
220 customer's account to third parties;

221 (4) The customer's right to receive periodic account statements and
222 valuations from the owner or operator;

223 (5) The customer's right to receive a receipt, trade ticket or other
224 evidence of a virtual currency transaction;

225 (6) The customer's right to prior notice of a change in the rules or
226 policies of the owner or operator; and

227 (7) Other disclosures that are customarily provided in connection
228 with the opening of customer accounts.

229 (c) The owner or operator of a virtual currency kiosk shall, prior to
230 each transaction in virtual currency for, on behalf of or with a customer,
231 disclose to such customer in clear, conspicuous and legible writing in

232 the English language, using not less than forty-eight point sans-serif-
233 type font, the terms and conditions of the virtual currency transaction,
234 including, but not limited to, the following:

235 (1) The amount of the transaction;

236 (2) Any fees, expenses and charges borne by the customer, including,
237 but not limited to, applicable exchange rates;

238 (3) The type and nature of the virtual currency transaction;

239 (4) A warning that, once executed, the virtual currency transaction
240 may not be undone, if applicable;

241 (5) A daily virtual currency transaction limit not to exceed five
242 hundred dollars;

243 (6) The difference in the sale price of the virtual currency versus the
244 current market price; and

245 (7) Other disclosures that are customarily given in connection with
246 such a virtual currency transaction.

247 (d) The owner or operator of a virtual currency kiosk shall ensure that
248 each customer acknowledges receipt of all disclosures required under
249 this section.

250 (e) The owner or operator of a virtual currency kiosk shall, upon the
251 completion of any virtual currency transaction, provide to the customer
252 a receipt containing the following information:

253 (1) The name of, and contact information for, the owner or operator,
254 including a telephone number established by the owner or operator to
255 answer questions and register complaints;

256 (2) The type, value, date and precise time of such virtual currency
257 transaction, and each virtual currency address;

258 (3) The fee charged;

- 259 (4) The exchange rate, if applicable;
- 260 (5) A statement of the liability of the owner or operator for
261 nondelivery or delayed delivery;
- 262 (6) A statement of the refund policy of the owner or operator; and
- 263 (7) Any additional information the Banking Commissioner may
264 require.
- 265 (f) The Banking Commissioner may establish a schedule of maximum
266 fees that an owner or operator of a virtual currency kiosk may charge
267 for specific services.
- 268 (g) The owner or operator of a virtual currency kiosk shall, within
269 seven days after a virtual currency transaction, allow the customer to
270 cancel and receive a full refund for the virtual currency transaction if
271 such virtual currency transaction: (1) Is the customer's first virtual
272 currency transaction with such owner or operator; and (2) is to a foreign
273 virtual currency wallet or exchange.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2023</i>	36a-596
Sec. 3	<i>October 1, 2023</i>	New section

Statement of Legislative Commissioners:

In Section 1(c), "In prescribing regulations, forms and orders" was changed to "In adopting, amending or rescinding any regulation, form or order" for internal consistency; in Section 2(23), "by (A)" and "(B)" were added for clarity; Section 3(a)(1) was redrafted for clarity; in Section 3(a)(9), "by customers" was changed to "by such customers" for clarity; and in Section 3(g), "seven days of" was changed to "seven days after" for clarity and "such virtual currency transaction," was changed to "the virtual currency transaction" for internal consistency.

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: None

Municipal Impact: None

Explanation

The bill allows the banking commissioner to adopt regulations on the business use of digital assets, resulting in no fiscal impact to the state, as the Department of Banking has the expertise to create such regulations.

The Out Years

State Impact: None

Municipal Impact: None

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)