



House of Representatives

File No. 754

General Assembly

January Session, 2023

(Reprint of File No. 168)

Substitute House Bill No. 6752
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 8, 2023

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 and stablecoins, by entities that,
8 and individuals who, are subject to regulation by the commissioner,
9 which regulations, forms and orders shall ensure consumer protection.

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

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

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 Section 36a-596 of the general statutes is repealed and the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

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

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

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

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

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

45 key individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

171 limited to, the following:

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

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

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

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

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

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

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

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

201 (9) Any bond maintained by the owner or operator for the benefit of
202 the customers of such owner or operator may not be sufficient to cover
203 all losses incurred by such customers.

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

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

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

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

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

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

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

226 (c) The owner or operator of a virtual currency kiosk shall, prior to
227 each transaction in virtual currency for, on behalf of or with a customer,
228 disclose to such customer in clear, conspicuous and legible writing in
229 the English language, using not less than twenty-four point sans-serif-
230 type font, the terms and conditions of the virtual currency transaction,

231 including, but not limited to, the following:

232 (1) The amount of the transaction;

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

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

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

238 (5) A daily virtual currency transaction limit in accordance with
239 subsection (g) of this section; and

240 (6) The difference in the sale price of the virtual currency versus the
241 current market price.

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

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

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

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

253 (3) The fee charged;

254 (4) The exchange rate, if applicable;

255 (5) A statement of the liability of the owner or operator for
256 nondelivery or delayed delivery;

257 (6) A statement of the refund policy of the owner or operator; and

258 (7) Any additional information the Banking Commissioner may
259 require.

260 (f) The Banking Commissioner may establish a schedule of maximum
261 fees that an owner or operator of a virtual currency kiosk may charge
262 for specific services.

263 (g) There is established a maximum daily transaction limit of two
264 thousand five hundred dollars for each customer of a virtual currency
265 kiosk.

266 (h) The owner or operator of a virtual currency kiosk shall, at such
267 owner's or operator's cost and within seventy-two hours after a virtual
268 currency transaction, allow the customer to cancel and receive a full
269 refund for the virtual currency transaction if such virtual currency
270 transaction: (1) Is the customer's first virtual currency transaction with
271 such owner or operator; and (2) is to a virtual currency wallet or
272 exchange located outside of the United States.

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

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 no fiscal impact to the state, as the Department of Banking has the expertise to create such regulations.

House "A" removes non-fungible tokens from the list of assets subject to regulation and makes various changes to the requirements of virtual currency kiosk owners, resulting in no fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6752 (as amended by House "A")******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). 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 creates a maximum daily transaction limit of \$2,500 for each virtual currency kiosk customer. Additionally, it imposes several disclosure and receipt requirements on virtual currency kiosk owners and operators. The bill further requires them to allow customers to cancel and receive a full refund, at the owner's or operator's cost, for a virtual currency transaction within 72 hours afterwards if it is (1) a customer's first one with the owner or operator and (2) to a "virtual currency wallet" or exchange located outside of the United States.

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.

*House Amendment "A" (1) removes non-fungible tokens as an explicit example of digital assets; (2) creates a maximum daily transaction limit of \$2,500 for each virtual currency kiosk customer and makes a related change to a disclosure requirement; (3) limits virtual currency kiosk refunds to within 72 hours of an eligible transaction rather than seven days; (4) specifies that virtual currency kiosk refunds are at the kiosk owner or operator's cost and apply to transactions to virtual currency wallets and exchanges located outside the U.S.; (5) reduces the minimum font size for certain disclosures to virtual currency kiosk customers from 48 to 24-point sans-serif-type; and (6) eliminates a requirement that virtual currency kiosk owners and operators give other disclosures that are customarily given in connection with the opening of customer accounts.

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

§ 1 — SCOPE OF DIGITAL ASSET REGULATION

Under the bill, digital assets include virtual currencies and stablecoins. The bill does not define virtual currency or stablecoin for the purposes of regulating digital assets. The Federal Reserve has referred to stablecoins as cryptocurrencies that peg their value to a real-world asset, typically the U.S. dollar.

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 a customer incurs.

The bill further requires that a specific disclosure be given to and

acknowledged by the customer, written prominently and in bold type, and given 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 24-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; and
3. under what circumstances the owner or operator will, without a court or government order, disclose customer account information to third parties.

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 24-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. the daily virtual currency transaction limit of no more than \$2,500; and
6. the difference in the virtual currency's sale price versus the current market price.

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 give customers a receipt with 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)