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ASSEMBLY, No. 2891

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

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District 7 (Burlington)

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District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Assemblywoman Vainieri Huttie, Assemblyman Johnson and Senator Greenstein

SYNOPSIS

“Digital Asset and Blockchain Technology Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 16, 2021, with amendments.



(Sponsorship Updated As Of: 12/20/2021)

AN ACT concerning digital assets and blockchain technology,
³amending P.L.2005, c.199,³ and supplementing Title 17 of the
 Revised Statutes and chapter 6 of Title 54A of the New Jersey
 Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
 of New Jersey:

1. This act shall be known and may be cited as the “Digital
 Asset and Blockchain Technology Act.”

2. ⁴**[³“Agent”]** **“Agent”**⁴ means a separate business entity from
the principal that the principal authorizes, through a written
agreement or otherwise, to sell its instruments or, in the case of
funds transmission, to sell its send and receive transfer services.³

“Control” means the ownership of, or the power to vote, 25
 percent or more of the outstanding voting interest of a licensee or
 controlling person. For purposes of determining the percentage of a
 licensee controlled by any person, there shall be aggregated with
 the person’s interest the interest of any other person controlled by
 that person or by any spouse, parent, or child of that person.

“Controlling person” means any person in control of a licensee.

“Department” means the Department of Banking and Insurance.

“Digital asset” means a representation of economic, proprietary,
 or access rights that is stored in a machine-readable format, has a
 transaction history that is recorded in a distributed, digital ledger or
 digital data structure in which consensus is achieved through a
 mathematically verifiable process, and includes digital consumer
 assets²**[, digital securities,]**² and virtual currency. ⁴**[²“Digital**
asset” shall not include securities subject to regulation by the
Bureau of Securities in the Division of Consumer Affairs in the
Department of Law and Public Safety, whether in digital form or
otherwise.²**]** **“Digital asset” shall not include securities, whether in**
digital form or otherwise, as defined pursuant to subsection m. of
section 2 of P.L.1967, c.93 (C.49:3-49), or as defined pursuant to
paragraph (1) of subsection (a) in the federal “Securities Act of
1933,” 15 U.S.C. s.77b(a)(1), or paragraph (10) of subsection (a) of
the federal “Securities Exchange Act of 1934,” 15 U.S.C.
s.78c(a)(10).⁴

“Digital asset business” means a business that engages in the
 activities listed in subsection b. of section 3 of this act.

“Digital consumer asset” means a digital asset that is used or
 bought primarily for consumptive, personal, or household purposes

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
 not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted February 24, 2021.

²Senate SCM committee amendments adopted May 13, 2021.

³Senate SBA committee amendments adopted December 6, 2021.

⁴Senate SBA committee amendments adopted December 16, 2021.

1 and includes any other digital asset that does not fall within the
2 ²~~terms digital security or~~ term² virtual currency.

3 ²~~“Digital security” means a digital asset that provides an~~
4 ~~interest or participation in any profit-sharing agreement, but shall~~
5 ~~not include a digital consumer asset or virtual currency.~~²

6 ³~~“Executive officer” means the licensee’s president, chairman~~
7 ~~of the executive committee, senior officer responsible for the~~
8 ~~licensee’s business in this State, chief financial officer, and any~~
9 ~~other person who performs similar functions.~~³

10 “Issuing” means being the person who has authority over the
11 initial creation and dissemination of a digital asset.

12 ³~~“Key individual” means any individual ultimately responsible~~
13 ~~for establishing or directing policies and procedures of the licensee,~~
14 ~~such as the licensee’s president, chairperson of the executive~~
15 ~~committee, senior officer responsible for the business of the~~
16 ~~licensee in the State, chief financial officer, an executive manager,~~
17 ~~director, trustee and any other person who performs similar~~
18 ~~functions.~~³

19 “Licensee” means a person licensed under this act or an applicant
20 for licensure under this act.

21 ³~~“Nationwide Multistate Licensing System” means the licensing~~
22 ~~system owned and operated by the State Regulatory Registry, LLC,~~
23 ~~a wholly-owned subsidiary of the Conference of State Bank~~
24 ~~Supervisors, which functions as a system of record for non-~~
25 ~~depository, financial services licensing or registration in~~
26 ~~participating state agencies, including the District of Columbia and~~
27 ~~the United States Territories of Puerto Rico, the US Virgin Islands,~~
28 ~~and Guam, where it is the official system for companies and~~
29 ~~individuals seeking to apply for, amend, renew, and surrender~~
30 ~~license authorities.~~³

31 “Resident” means a person that is: domiciled in New Jersey;
32 physically located in New Jersey for more than 183 days of the
33 previous 365 days; or a limited partnership, limited liability
34 partnership, limited liability company, or corporation formed or
35 incorporated in New Jersey.

36 “Responsible individual” means an individual who has
37 managerial authority with respect to a licensee’s digital asset
38 business activity with or on behalf of a resident.

39 “Transmission” means to engage in the business of receiving
40 monetary value for transmission to a location inside or outside of
41 the United States by any means, including, but not limited to, wire,
42 facsimile, or electronic transfer.

43 “Virtual currency” means a digital asset that is used as a medium
44 of exchange, unit of account, or store of value, and is not
45 recognized as legal tender by the United States government.

1 3. a. A person shall not engage in a digital asset business
2 activity, or hold itself out as being able to engage in a digital asset
3 business activity, with or on behalf of a resident unless the
4 person is³]:

5 (1)³ licensed in this State by the department, or has filed a
6 pending license with the department³]; or

7 (2) licensed in another state to conduct digital asset business
8 activity by a state with which this state has a reciprocity
9 agreement³.

10 b. The department may license a person to carry on one or
11 more of the following digital asset business activities:

12 (1) receiving a digital asset for transmission or transmitting a
13 digital asset, except where the transaction is undertaken for non-
14 financial purposes and does not involve the transfer of more than a
15 nominal amount of a digital asset;

16 (2) storing, holding, or maintaining custody of a digital asset on
17 behalf of others, exempting all custodians otherwise regulated as a
18 bank, trust, broker-dealer, or ³[financial institution] credit union³
19 in any state or by the United States ³or money transmitter licensed
20 in this State³;

21 (3) buying and selling digital assets as a customer business;

22 (4) performing exchange services of digital assets as a customer
23 business;

24 (5) issuing a digital asset; or

25 (6) borrowing or lending of, or facilitating the borrowing or
26 lending of, customer digital assets.

27 c. A person who violates this section shall be liable for a
28 penalty of \$500 per day, from the first day the department issues a
29 notice of failure to apply a license until a license application is filed
30 with the department.

31
32 4. a. An application for a license under this act shall be
33 ²submitted through the Nationwide Multistate Licensing System
34 ³[and²]³ made in the form and medium to be prescribed by the
35 department by regulation³, utilizing the Nationwide Multistate
36 Licensing System³. The department shall require each application
37 to be accompanied by a nonrefundable fee.

38 b. An applicant shall provide the following information
39 relevant to the applicant's proposed digital asset business activity:

40 (1) the legal name of the applicant, each current or proposed
41 business address of the applicant, and any fictitious or trade name
42 the applicant uses or plans to use in conducting its digital asset
43 business activity with or on behalf of a resident;

44 (2) the legal name, any former or fictitious name, and the
45 residential and business address of each executive officer and
46 responsible individual of the applicant, and each controlling person
47 of the applicant;

- 1 (3) a concise description of the current and former business of
2 the applicant for the five years before the application is submitted
3 or if the business has operated for less than five years, for the time
4 the business has operated, including its products and services ³and
5 the digital asset business services that the applicant seeks to provide
6 in this State³;
- 7 (4) the name, address, and telephone number of a person who
8 manages each server the applicant expects to use in conducting its
9 digital asset business activity with or on behalf of a resident;
- 10 (5) a list of ³all other states in which the applicant is licensed to
11 engage in the digital asset business and³ any license revocation,
12 license suspension, or other disciplinary action taken against the
13 licensee in another state and any license applications rejected by
14 another state;
- 15 (6) a list of any criminal conviction, deferred prosecution
16 agreement, and pending criminal proceeding in any jurisdiction
17 against the applicant, any executive officer, responsible individual,
18 and controlling person of the applicant, and each person over which
19 the applicant has control;
- 20 (7) a list of any litigation, arbitration, or administrative
21 proceeding in any jurisdiction in which the applicant, or an
22 executive officer, responsible individual, or controlling person of
23 the applicant has been a party to for the five years before the
24 application is submitted, determined to be material in accordance
25 with generally accepted accounting principles and, to the extent the
26 applicant would be required to disclose the litigation, arbitration, or
27 administrative proceeding in the applicant's audited financial
28 statements, reports to equity owners, and similar statements or
29 reports;
- 30 (8) a list of any bankruptcy or receivership proceeding in any
31 jurisdiction for the 10 years prior to the application's submission in
32 which the applicant, any executive officer, responsible individual,
33 or controlling person of the applicant, or person over which the
34 applicant has control, was a debtor;
- 35 (9) the United ¹**[State]** States¹ Postal Service address and
36 electronic mail address to which communications from the
37 department may be sent;
- 38 (10) the name, United ¹**[State]** States¹ Postal Service address,
39 and electronic mail address of the registered agent of the applicant
40 in this State, if applicable;
- 41 (11) a copy of any certificate of coverage for each liability,
42 casualty, business-interruption, or cyber-security insurance policy
43 maintained by the applicant for itself or the applicant's users;
- 44 (12) ³a description of the structure or organization of the
45 applicant, including any parent or subsidiary of the applicant, and
46 whether any parent or subsidiary is publicly traded;

1 (13)³ if applicable, the date on which and the state in which the
2 applicant is formed, and a copy of a current certificate of good
3 standing issued by that state;

4 ³[(13)] (14)³ policies and procedures to be adopted by the
5 applicant to meet any obligations required by anti-money
6 laundering and anti-terror financing laws;

7 ³[(14)] (15) a copy of the applicant's audited financial
8 statements for the most recent fiscal year and, if available, for the
9 two-year period next preceding the submission of the application;

10 (16) a copy of the applicant's unconsolidated financial
11 statements for the current fiscal year, whether audited or not, and if
12 available, for the two-year period next preceding the submission of
13 the application;

14 (17)³ if a corporation has control of the applicant and the
15 corporation's equity interests are publicly traded in the United
16 States, a copy of the audited financial statement of the corporation
17 for the most recent fiscal year or most recent report of the
18 corporation filed under section 13 of the "Securities Exchange Act
19 of 1934," 15 U.S.C. s.78m;

20 ³[(15)] (18)³ if a corporation has control of the applicant and
21 the corporation's equity interests are publicly traded outside the
22 United States, a copy of the audited financial statement of the
23 corporation for the most recent documentation similar to that
24 required in paragraph ³[(14)] (17)³ of this subsection, filed with the
25 foreign regulator in the domicile of the corporation; ³[and

26 (16)] (19)³ if available, for each executive officer, responsible
27 individual, or controlling person of the applicant, for the three years
28 before the application is submitted, the employment history, and the
29 history of any ³[(investigation of)] enforcement action against³ the
30 individual or legal proceeding to which the individual was a party³;

31 (20) a sample form of receipt for transactions that involve
32 money received for the digital asset business;

33 (21) disclosure of who maintains control, ownership, or access
34 to any private key related to a digital assets consumer's account and
35 information where the private key is held and the manner in which
36 the private key is held; and

37 (22) a list of all agents authorized to represent or conduct
38 business on behalf of the digital asset business³.

39 c. ³At the time of application and within 45 days after the end
40 of each calendar quarter, each digital asset business shall file with
41 the department in writing a list of all agents that have been added or
42 terminated by the licensee, if any. The list shall include the name
43 and business address of each location.

44 d. The department may conduct a criminal history records
45 check of the applicant, any controlling persons, executive officers,
46 and responsible individuals of the applicant and require the
47 applicant to submit the fingerprints of those persons as part of the

1 application. The department is authorized to exchange fingerprint
2 data with and receive criminal history record information from the
3 State Bureau of Identification in the Division of State Police and the
4 Federal Bureau of Investigation consistent with applicable State and
5 federal laws, rules, and regulations, for the purposes of facilitating
6 determinations concerning licensure eligibility for the applicant,
7 any controlling persons, executive officers, and responsible
8 individuals of the applicant. The applicant shall bear the cost for the
9 criminal history record background check, including all costs of
10 administering and processing the check. The Division of State
11 Police shall promptly notify the department in the event any person
12 who was the subject of a criminal history record background check
13 pursuant to this section, is arrested for a crime or offense in this
14 State after the date the background check was performed, whether
15 the person is a prospective new licensee, or subsequently, a current
16 license holder.

17 e.³ ¹For good cause, the department may waive any
18 information required pursuant to subsection b. of this section, and
19 may permit an applicant to submit other information instead of the
20 required information.】 No license shall be issued by the department
21 to an individual who has, within the five years preceding the
22 submission of an application for a license, been convicted of
23 embezzlement, forgery, fraud, or theft.¹
24

25 ³**【5. a. A person licensed by another state to engage in digital**
26 **asset business activity in that state may engage in digital asset**
27 **business activity with or on behalf of a resident to the same extent**
28 **as a licensee if:**

29 (1) the department determines that the state in which the person
30 is licensed has in force laws regulating digital asset business
31 activity that are substantially similar to, or more protective of users
32 than, this act; and

33 (2) the person submits to the department ²through the
34 Nationwide Multistate Licensing System²:

35 (a) a notice containing a statement that the person will rely on
36 reciprocal licensing; a copy of the license to conduct digital asset
37 business activity issued by the other state;

38 (b) a nonrefundable reciprocal license fee, to be determined by
39 the department by regulation;

40 (c) a certification of license history from the agency
41 responsible for issuing the license to conduct digital asset business
42 activity in the other state; and

43 (d) a certification signed by the executive officer of the
44 applicant affirming that the applicant shall conduct its digital asset
45 business activity with or on behalf of a resident in compliance with
46 this act.】³
47

- 1 ³[6.] 5.³ a. The department shall grant or deny any digital asset
2 business license application ³[or license reciprocity application]³
3 within ³[30] 120³ days of ³[its receipt] completed application³.
- 4 b. The department may refuse an application for a digital asset
5 business license or license reciprocity application if:
- 6 (1) the application is incomplete in a material respect;
7 (2) the application includes false, misleading, or inaccurate
8 information; ³[or]³
- 9 (3) any applicant ³[or principal], controlling person, key
10 individual, or responsible individual³ of an applicant has engaged in
11 dishonest or unethical practices in a digital asset business or in the
12 securities commodities, banking, insurance, or investment advisory
13 business³; or
- 14 (4) any material aspect of the license application as represented
15 by the application requirements contained in section 4 of this act³.
- 16 c. A license issued pursuant to this act shall not be
17 transferrable or assignable.
- 18
- 19 ³[7.] 6.³ a. A licensee may apply for an annual renewal of a
20 license by:
- 21 (1) paying a renewal fee in an amount determined by the
22 department pursuant to regulation;
- 23 (2) submitting to the department ²through the Nationwide
24 Multistate Licensing System² the renewal report required pursuant
25 to subsection b. of this section.
- 26 b. A license renewal report required pursuant to this section
27 shall be submitted in a form and medium prescribed by the
28 department by regulation. The report shall contain an update of all
29 information required at initial licensing and a description of any:
- 30 (1) material change in the financial condition of the licensee;
31 (2) material litigation involving the licensee or an executive
32 officer, responsible individual, or controlling person of the licensee;
- 33 (3) license suspension or revocation proceeding commenced, or
34 other action taken, involving a license to conduct digital asset
35 business activity issued by another state on which reciprocal
36 licensing is based;
- 37 (4) federal or state ³[investigation] action³ involving the
38 licensee;
- 39 (5) material change in the business of the licensee; and
40 (6) changes to the executive officers of the licensee.
- 41 ³[c. The department shall send the licensee a notice that an
42 annual renewal is soon to be due. The notice shall be sent by
43 regular mail and electronic mail between 30 and 60 days before the
44 annual renewal is due. If a renewal is not filed within 15 days of
45 the date that the annual renewal is due, the department shall send a
46 second notice by regular mail and electronic mail notifying that

1 licensee that its license shall be suspended if a renewal is not filed
2 by the 30th day after the annual renewal is due.

3 d.] c.³ If a license is suspended for failure to file an annual
4 renewal, the license shall be reinstated if the licensee files a renewal
5 report and pays a fee, in an amount determined by the
6 ³[commissioner] department³ pursuant to regulation.

7
8 ³[8.] 7.³ a. ³[The department may audit any digital asset
9 business licensee.

10 b.]³ The department may suspend or revoke a digital asset
11 business license upon finding that:

12 (1) the department has been provided with false, misleading, or
13 inaccurate information by or on behalf of the licensee;

14 (2) the clients of a licensee have been provided with false,
15 misleading, or inaccurate information by or on behalf of the
16 licensee;

17 (3) any ³[principal] controlling person, responsible individual,
18 key individual^{3 4 4}, or agent of a licensee has engaged in dishonest
19 or unethical practice in a digital asset business or in the securities,
20 commodities, banking, insurance, or investment advisory business;

21 (4) the licensee fails to provide documents requested by the
22 department; ³[or]³

23 (5) the licensee fails to renew its license³; or

24 (6) the licensee fails safety and soundness as prescribed by the
25 department³.

26 c. The department may provide a warning notice to a licensee
27 if the department suspects that a condition permitting suspension or
28 revocation has occurred.

29 d. Any warning notice, suspension, or revocation issued by the
30 department shall state the reasons for which it is given.

31 e. The department may issue general guidance to industry
32 participants on how to best protect the interests of clients.

33 ³f. (1) Whenever it appears to the department that any person
34 has violated, is violating or is about to violate any of the provisions
35 of this act, or any regulation adopted pursuant to this act, or any
36 licensee or any owner, director, officer, member, partner,
37 shareholder, trustee, employee or agent of a licensee has committed
38 any fraud, engaged in dishonest activities or made any
39 misrepresentation, the department may bring a civil suit in a court
40 of competent jurisdiction to enjoin the violation or potential
41 violation, seek civil penalties pursuant to paragraph (2) of this
42 subsection, or both.

43 (2) Any person who violates any provision of this act shall be
44 liable, in a civil action brought by the department in a court of
45 competent jurisdiction, for a penalty of not more than \$10,000 for
46 the first violation, and \$20,000 for the second and each subsequent
47 offense. The penalty shall be paid to the department to be used in

1 accordance with this act and shall be collected pursuant to the
2 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
3 et seq.). The court shall also award court costs and reasonable
4 attorneys' fees to the department.

5 g. Each licensee shall maintain and enforce confidential,
6 written compliance policies, including policies with respect to anti-
7 fraud, anti-money laundering, cyber security, privacy and
8 information security, which shall be reviewed and approved by the
9 licensee's board of directors or an equivalent governing body.³

10
11 ³~~10.1~~ 9.³ a. (1) A licensee shall provide to the department in
12 a reasonable amount of time any document relating to the operations
13 of the licensee upon receiving a written request from the department.

14 (2) Any notice requiring the production of documents pursuant
15 to this section shall include the reasons for which it is given.

16 b. A licensee shall give written notice to the department within
17 five days if there are any changes in the identities of the licensee's
18 executive officers, responsible individuals, or controlling persons.

19 c. A ¹~~license~~ licensee¹ shall maintain a record of all client
20 transactions for a period of not less than ¹~~one year~~ six years¹ from
21 the date the transaction occurred.

22
23 ³~~11.1~~ 10.³ a. The terms and conditions of a digital asset
24 business involving a consumer's account shall be disclosed ³~~as part~~
25 of establishing a relationship with a customer and prior to entering
26 into an initial transaction with the customer³ at the time the
27 consumer contracts for a digital asset business service. A disclosure
28 shall be full and complete, contain no material misrepresentations,
29 be in readily understandable language and may include, as
30 appropriate and to the extent applicable:

31 (1) a schedule of fees and charges the licensee may assess, the
32 manner by which fees and charges will be calculated if they are not
33 set in advance and disclosed, and the timing of the fees and charges;

34 (2) whether a consumer's account is protected by the Federal
35 Deposit Insurance Corporation;

36 (3) whether there is support for forked networks of each digital
37 asset;

38 (4) that investment in digital assets is volatile and subject to
39 market loss;

40 (5) that investment in digital assets may result in total loss of
41 value;

42 (6) that legal, legislative and regulatory changes may impair the
43 value of digital assets;

44 (7) that consumers should perform research before investing in
45 digital assets;

46 (8) that transfers of digital assets are irrevocable, if applicable;

- 1 (9) how liability for an unauthorized, mistaken or accidental
2 transfer shall be apportioned;
- 3 (10) that digital assets are not legal tender in any jurisdiction;
- 4 (11) that digital assets may be subject to cyber theft or theft and
5 become unrecoverable;
- 6 ³[(12) who maintains control, ownership and/or access to any
7 private key related to a digital assets consumer's account;
- 8 (13)] (12)³ that losing private key information may result in
9 permanent total loss of access to digital assets;
- 10 ³[(14)] (13)³ under what circumstances the digital asset
11 business will in the ordinary course of business disclose
12 information concerning the consumer's account to third parties; and
- 13 ³[(15)] (14)³ any other material investment risks.
- 14 b. All disclosures required by this act shall be displayed and
15 individually agreed to by a consumer before any digital asset
16 transaction at an electronic kiosk. Any fee to be charged shall be
17 displayed and individually agreed to by a consumer before any
18 digital asset transaction or digital asset balance inquiry at an
19 electronic kiosk.
- 20 c. A licensee ³[or registrant]³ that has custody of digital assets
21 for one or more persons shall maintain in its custody an amount of
22 each type of digital assets sufficient to satisfy the aggregate
23 entitlements of the persons to the type of digital asset.
- 24 d. ³Each licensee shall establish and maintain written policies
25 and procedures to fairly and timely resolve customer complaints.
- 26 e. Each licensee shall provide, in a clear and conspicuous
27 manner, on its website or websites, and in all physical locations the
28 following disclosures:
- 29 (1) the licensee's mailing address, e-mail address, and telephone
30 number for the receipt of complaints;
- 31 (2) a statement that the complainant may also bring a complaint
32 to the attention of the department; and
- 33 (3) the department's mailing address, website, and telephone
34 number.
- 35 f. ³The department may audit a licensee's compliance with this
36 section.
- 37
- 38 ³11. Authority of department.
- 39 a. The department shall have the authority to conduct
40 investigations and examinations as follows:
- 41 (1) for purposes of initial licensing, license renewal, license
42 suspension, license conditioning, license revocation or termination, or
43 general or specific inquiry or investigation to determine compliance
44 with this act, the department may access, receive and use any books,
45 accounts, records, files, documents, information or evidence including,
46 but not limited to:
- 47 (a) criminal, civil, and administrative history information:

1 **(b) financial statements and any other records of financial**
2 **condition of the licensee, any control person of the licensee, and any**
3 **business entity exerting control over the licensee;**

4 **(c) personal history and experience information, including**
5 **independent credit reports obtained from a consumer reporting agency**
6 **described in section 603(p) of the “Fair Credit Reporting Act,”** ⁴**15**
7 **U.S.C. s.1681】 15 U.S.C. s.1681a(p)**⁴; and

8 **(d) any other documents,, information or evidence the department**
9 **deems relevant to the inquiry or investigation regardless of the**
10 **location, possession, control or custody of the documents, information**
11 **or evidence; and**

12 **(2) for the purposes of investigating violations or complaints**
13 **arising under this act, or for the purposes of examination, the**
14 **department may review, investigate, or examine any digital asset**
15 **business licensee or person subject to this act as often as necessary in**
16 **order to carry out the purposes of this act. The commissioner may**
17 **direct, subpoena, or order the attendance of and examine under oath all**
18 **persons whose testimony may be required about digital assets, digital**
19 **consumer assets, virtual currency, or the business or subject matter of**
20 **any examination or investigation, and may direct, subpoena or order**
21 **the person to produce books, accounts, records, files and any other**
22 **documents the department deems relevant to the inquiry.**

23 **b. A digital asset business licensee or any person subject to this**
24 **act shall make or compile reports or prepare other information as**
25 **directed by the department in order to carry out the purposes of this**
26 **section including accounting compilations, information lists, and data**
27 **concerning digital asset, digital consumer asset, or virtual currency**
28 **transactions in a format prescribed by the commissioner or any other**
29 **information the department deems necessary to carry out the purposes**
30 **of this act.**

31 **c. In making an examination or investigation authorized by this**
32 **section, the department may control access to any documents and**
33 **records of the digital asset business or person under examination or**
34 **investigation. The commissioner may take possession of the**
35 **documents and records or place a person in exclusive charge of the**
36 **documents and records in the place where they are usually kept.**
37 **During the period of control, no person shall remove or attempt to**
38 **remove any of the documents and records except pursuant to a court**
39 **order or with the consent of the department. Unless the commissioner**
40 **has reasonable grounds to believe the documents or records of the**
41 **digital asset business or person have been, or are at risk of being,**
42 **altered or destroyed for purposes of concealing a violation of this act,**
43 **the digital asset business or owner of the documents and records shall**
44 **have access to the documents or records as necessary to conduct its**
45 **ordinary business affairs.**

46 **d. For purposes of conducting the authority of the department,**
47 **addition of required resources as follows: 4 examiners, 2 licensing**
48 **investigators and 2 enforcement investigators.**³

1 ³12. a. Notwithstanding any other provision of law, all
2 information or reports obtained by the department from an
3 applicant, licensee or agent, whether obtained through reports,
4 applications, examinations, audits, investigations, or otherwise,
5 including, but not limited to, (1) all information contained in or
6 related to examination, investigation, operating or condition reports
7 prepared by, or on behalf of, or for the use of the department; or (2)
8 financial statements, balance sheets, or authorized delegate
9 information, are confidential and may not be disclosed or
10 distributed outside the department by the department or any officer
11 or employee of the department. The department, however, may
12 provide for the release of information to representatives of state or
13 federal agencies and foreign countries having regulatory or
14 supervisory authority over the activities of the licensee or similar
15 licensees if those representatives, upon request of the
16 commissioner, disclose similar information respecting those
17 licensees under their regulation or supervision, or to those
18 representatives who state in writing under oath that they shall
19 maintain the confidentiality of that information.

20 b. The department may:

21 (1) disclose the fact of filing of applications with the department
22 pursuant to this act, give notice of a hearing, if any, regarding those
23 applications, and announce an action thereon;

24 (2) disclose final decisions in connection with proceedings for
25 the suspension or revocation of licenses issued pursuant to this act;

26 (3) prepare and circulate reports reflecting the assets and
27 liabilities of digital asset businesses in general, including other
28 information considered pertinent to the purpose of each report for
29 general statistical information; and

30 (4) prepare and circulate reports as provided by law.

31 c. Every official report of the department is prima facie
32 evidence of the facts therein stated in any action or proceeding
33 wherein the department is a party.

34 d. Nothing in this section shall be construed to prevent the
35 disclosure of information that is admissible in evidence in any civil
36 or criminal proceeding brought by or at the request of the
37 department or this State to enforce or prosecute violations of this
38 act or the rules, regulations or orders issued or promulgated
39 pursuant to this act.³

40
41 ³13. Section 2 of P.L.2005, c.199 (C.17:1C-34) is amended to
42 read as follows:

43 2. For the purposes of this act:

44 "Assessment" means the assessment imposed pursuant to section
45 3 of this act for the special functions of the division as provided in
46 that section.

47 "Commissioner" means the Commissioner of Banking and
48 Insurance.

1 "Department" means the Department of Banking and Insurance.

2 "Depository institution" means any entity holding a state charter
3 for a bank, savings bank, savings and loan association or credit
4 union, irrespective of whether the entity accepts deposits.

5 "Division" means the Division of Banking in the Department of
6 Banking and Insurance.

7 **["Nationwide Mortgage Licensing System and Registry" means**
8 the mortgage licensing system developed and maintained by the
9 Conference of State Bank Supervisors and the American
10 Association of Residential Mortgage Regulators, or their
11 successors, and utilized in this State pursuant to the provisions of
12 the "New Jersey Residential Mortgage Lending Act," sections 1
13 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).**"]**

14 "Nationwide Multistate Licensing System" means the licensing
15 system owned and operated by the State Regulatory Registry, LLC,
16 a wholly-owned subsidiary of the Conference of State Bank
17 Supervisors, which functions as a system of record for non-
18 depository, financial services licensing or registration in
19 participating state agencies, including the District of Columbia and
20 the United States Territories of Puerto Rico, the US Virgin Islands,
21 and Guam, where it is the official system for companies and
22 individuals seeking to apply for, amend, renew, and surrender
23 license authorities.

24 "Other financial entity" means a person who is licensed or
25 registered pursuant to: the "New Jersey Consumer Finance
26 Licensing Act," sections 1 through 49 of P.L.1996, c.157
27 (C.17:11C-1 et seq.); the "New Jersey Residential Mortgage
28 Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-
29 51 et seq.), other than a financial entity with respect to the payment
30 of required fees to the Nationwide **[Mortgage]** Multistate Licensing
31 System [and Registry] as set forth by that nationwide system and
32 registry; "The Check Cashers Regulatory Act of 1993," P.L.1993,
33 c.383 (C.17:15A-30 et seq.); the "New Jersey Money Transmitters
34 Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the "Insurance Premium
35 Finance Company Act," P.L.1968, c.221 (C.17:16D-1 et seq.); the
36 "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1
37 et seq.); the "Door-to-Door Retail Installment Sales Act of 1968,"
38 P.L.1968, c.223 (C.17:16C-61.1 et seq.); the "Home Repair
39 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); the "Door-to-
40 Door Home Repair Sales Act of 1968," P.L.1968, c.224 (C.17:16C-
41 95 et seq.); P.L.1979, c.16 (C.17:16G-1 et seq.); the "Foreclosure
42 Rescue Fraud Prevention Act," P.L.2011, c.146 (C.46:10B-53 et
43 al.); the "Mortgage Servicers Licensing Act," P.L.2019, c.65
44 (C.17:16F-27 et al.); the provisions of P.L.2019, c.200 (C.17:16ZZ-
45 1 et al.); or the "pawnbroking law," R.S.45:22-1 et seq; or the
46 "Digital Asset and Blockchain Technology Act" P.L. _____, c.
47 (C. _____) (pending before the Legislature as this bill).

1 "Regulated entity" means a depository institution, other financial
2 entity or person chartered, licensed or registered by the Division of
3 Banking or who should be chartered, licensed or registered.³
4 (cf: P.L.2019, c.200, s.17)
5

6 ²**[12.** a. Gross income shall not include up to \$1,000 of gains
7 or income from the sale or exchange of digital assets for other than
8 legal tender, except that following the first taxable year that this
9 section is in effect, the \$1,000 limit shall be increased annually by
10 \$50.

11 b. Gross income shall not include up to \$250 of dividend
12 distributions in the form of digital assets arising from the ownership
13 of digital assets, except that following the first taxable year that this
14 section is in effect, the \$250 limit shall be increased annually by
15 \$20.

16 c. As used in this section "digital asset" shall mean the same as
17 that term is defined pursuant to section 1 of P.L. , c. (C.)
18 (pending before the Legislature as this bill).²
19

20 ²**[13.]** ³**[12.²]** ^{14.}³ This act shall take effect on the first day of
21 the ³**[fourth]** sixth³ month next following enactment, except the
22 commissioner may take any anticipatory administrative action in
23 advance as shall be necessary for the implementation of this act.