SYNOPSIS
“Digital Asset and Blockchain Technology Act.

CURRENT VERSION OF TEXT
As reported by the Assembly Science, Innovation and Technology Committee on March 14, 2022, with amendments.

(Sponsorship Updated As Of: 10/27/2022)
AN ACT concerning digital assets and blockchain technology,

amending P.L.2005, c.199, and supplementing Title 17 of
the Revised Statutes and chapter 6 of Title 54A of the New

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. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

“Agent” 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.

“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
assets and virtual currency. “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,”

“Digital asset business” means a business that engages in the
activities listed in subsection b. of section 3 of (this act) P.L.,
c. (C. ) (pending before the Legislature as this bill).

“Digital consumer asset” means a digital asset that is used or
bought primarily for consumptive, personal, or household purposes
and includes any other digital asset that does not fall within the
term virtual currency.

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:
Assembly AST committee amendments adopted March 14, 2022.
“Issuing” means being the person who has authority over the initial creation and dissemination of a digital asset.

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

“Licensee” means a person licensed under [this act] P.L. , c. (pending before the Legislature as this bill) or an applicant for licensure under [this act] P.L. , c. (pending before the Legislature as this bill).

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

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

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

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

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

3. [New section] a. A person shall not engage in a digital asset business activity, or hold itself out as being able to engage in a digital asset business activity, with or on behalf of a resident unless the person is licensed in this State by the department, or has filed a pending license with the department.

b. The department may license a person to carry on one or more of the following digital asset business activities:
(1) receiving a digital asset for transmission or transmitting a
digital asset, except where the transaction is undertaken for non-
financial purposes and does not involve the transfer of more than a
nominal amount of a digital asset;
(2) storing, holding, or maintaining custody of a digital asset on
behalf of others, exempting all custodians otherwise regulated as a
bank, trust, broker-dealer, or credit union in any state or by the
United States or money transmitter licensed in this State;
(3) buying and selling digital assets as a customer business;
(4) performing exchange services of digital assets as a customer
business;
(5) issuing a digital asset; or
(6) borrowing or lending of, or facilitating the borrowing or
lending of, customer digital assets.
c. A person who violates this section shall be liable for a
penalty of $500 per day, from the first day the department issues a
notice of failure to apply a license until a license application is filed
with the department.

4. {New section} a. An application for a license under {this
act} P.L. , c. (C.) (pending before the Legislature as this
bill) shall be submitted through the Nationwide Multistate
Licensing System made in the form and medium to be prescribed by
the department by regulation, utilizing the Nationwide Multistate
Licensing System. The department shall require each application to
be accompanied by a nonrefundable fee.
b. An applicant shall provide the following information
relevant to the applicant’s proposed digital asset business activity:
(1) the legal name of the applicant, each current or proposed
business address of the applicant, and any fictitious or trade name
the applicant uses or plans to use in conducting its digital asset
business activity with or on behalf of a resident;
(2) the legal name, any former or fictitious name, and the
residential and business address of each {executive officer} key
individual and responsible individual of the applicant, and each
controlling person of the applicant;
(3) a concise description of the current and former business of
the applicant for the five years before the application is submitted
or if the business has operated for less than five years, for the time
the business has operated, including its products and services and
the digital asset business services that the applicant seeks to provide
in this State;
(4) the name, address, and telephone number of a person who
manages each server the applicant expects to use in conducting its
digital asset business activity with or on behalf of a resident;
(5) a list of all other states in which the applicant is licensed to
engage in the digital asset business and any license revocation,
license suspension, or other disciplinary action taken against the
licensee in another state and any license applications rejected by
another state;

(6) a list of any criminal conviction, deferred prosecution
agreement, and pending criminal proceeding in any jurisdiction
against the applicant, any [executive officer] key individual,1
responsible individual, and controlling person of the applicant, and
each person over which the applicant has control;

(7) a list of any litigation, arbitration, or administrative
proceeding in any jurisdiction in which the applicant, or [an
executive officer] a key individual, responsible individual, or
controlling person of the applicant has been a party to for the five
years before the application is submitted, determined to be material
in accordance with generally accepted accounting principles and, to
the extent the applicant would be required to disclose the litigation,
arbitration, or administrative proceeding in the applicant’s audited
financial statements, reports to equity owners, and similar
statements or reports;

(8) a list of any bankruptcy or receivership proceeding in any
jurisdiction for the 10 years prior to the application’s submission in
which the applicant, any [executive officer] key individual,1
responsible individual, or controlling person of the applicant, or
person over which the applicant has control, was a debtor;

(9) the United States Postal Service address and electronic mail
address to which communications from the department may be sent;

(10) the name, United States Postal Service address, and
electronic mail address of the registered agent of the applicant in
this State, if applicable;

(11) a copy of any certificate of coverage for each liability,
casualty, business-interruption, or cyber-security insurance policy
maintained by the applicant for itself or the applicant’s users;

(12) a description of the structure or organization of the
applicant, including any parent company or subsidiary of the
applicant, and whether any parent company or subsidiary is
publicly traded;

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

(14) policies and procedures to be adopted by the applicant to
meet any obligations required by anti-money laundering and anti-
terror financing laws;

(15) a copy of the applicant’s audited financial statements for the
most recent fiscal year and, if available, for the two-year period
next preceding the submission of the application;

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

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

(18) if a corporation has control of the applicant and the
corporation’s equity interests are publicly traded outside the United
States, a copy of the audited financial statement of the corporation
for the most recent documentation similar to that required in
paragraph (17) of this subsection, filed with the foreign regulator in
the domicile of the corporation;

(19) if available, for each key individual,
responsible individual, or controlling person of the applicant, for
the three years before the application is submitted, the employment
history, and the history of any enforcement action against the
individual or legal proceeding to which the individual was a party;

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

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

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

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

d. The department may conduct a criminal history records
check of the applicant, any controlling persons, key individuals, and responsible individuals of the
applicant and require the applicant to submit the fingerprints of
those persons as part of the application. The department is
authorized to exchange fingerprint data with and receive criminal
history record information from the State Bureau of Identification
in the Division of State Police and the Federal Bureau of
Investigation consistent with applicable State and federal laws,
rules, and regulations, for the purposes of facilitating
determinations concerning licensure eligibility for the applicant,
any controlling persons, key individuals, and
responsible individuals of the applicant. The applicant shall bear the
cost for the criminal history record background check, including all
costs of administering and processing the check. The Division of
State Police shall promptly notify the department in the event any
person who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed, whether the person is a prospective new licensee, or subsequently, a current license holder.

e. No license shall be issued by the department to an individual who has, within the five years preceding the submission of an application for a license, been convicted of embezzlement, forgery, fraud, or theft.

5. *(New section)* a. The department shall grant or deny any digital asset business license application within 120 days of completed application.

b. The department may refuse an application for a digital asset business license or license reciprocity application if:
   (1) the application is incomplete in a material respect;
   (2) the application includes false, misleading, or inaccurate information;
   (3) any applicant, controlling person, key individual, or responsible individual of an applicant has engaged in dishonest or unethical practices in a digital asset business or in the securities commodities, banking, insurance, or investment advisory business;
   or
   (4) any material aspect of the license application as represented by the application requirements contained in section 4 of *(this act)* P.L. __, c. __ (pending before the Legislature as this bill)*.

c. A license issued pursuant to *(this act)* P.L. __, c. __ (pending before the Legislature as this bill)* shall not be transferrable or assignable.

6. *(New section)* a. A licensee may apply for an annual renewal of a license by:
   (1) paying a renewal fee in an amount determined by the department pursuant to regulation;
   (2) submitting to the department through the Nationwide Multistate Licensing System the renewal report required pursuant to subsection b. of this section.

b. A license renewal report required pursuant to this section shall be submitted in a form and medium prescribed by the department by regulation. The report shall contain an update of all information required at initial licensing and a description of any:
   (1) material change in the financial condition of the licensee;
   (2) material litigation involving the licensee or *(an executive officer)* a *key individual*, responsible individual, or controlling person of the licensee;
   (3) license suspension or revocation proceeding commenced, or other action taken, involving a license to conduct digital asset
business activity issued by another state on which reciprocal licensing is based;
(4) federal or state action involving the licensee;
(5) material change in the business of the licensee; and
(6) changes to the key individuals of the licensee.

c. If a license is suspended for failure to file an annual renewal, the license shall be reinstated if the licensee files a renewal report and pays a fee, in an amount determined by the department pursuant to regulation.

7. (New section) a. The department may suspend or revoke a digital asset business license upon finding that:
(1) the department has been provided with false, misleading, or inaccurate information by or on behalf of the licensee;
(2) the clients of a licensee have been provided with false, misleading, or inaccurate information by or on behalf of the licensee;
(3) any controlling person, responsible individual, key individual, or agent of a licensee has engaged in dishonest or unethical practice in a digital asset business or in the securities, commodities, banking, insurance, or investment advisory business;
(4) the licensee fails to provide documents requested by the department;
(5) the licensee fails to renew its license; or
(6) the licensee fails safety and soundness as prescribed by the department.
b. The department may provide a warning notice to a licensee if the department suspects that a condition permitting suspension or revocation has occurred.
c. Any warning notice, suspension, or revocation issued by the department shall state the reasons for which it is given.
d. The department may issue general guidance to industry participants on how to best protect the interests of clients.
e. (1) Whenever it appears to the department that any person has violated, is violating or is about to violate any of the provisions of this act, or any regulation adopted pursuant to this act, or any licensee or any owner, director, officer, member, partner, shareholder, trustee, employee or agent of a licensee has committed any fraud, engaged in dishonest activities or made any misrepresentation, the department may bring a civil suit in a court of competent jurisdiction to enjoin the violation or potential violation, seek civil penalties pursuant to paragraph (2) of this subsection, or both.
(2) Any person who violates any provision of \{this act\} P.L., c. (C.) (pending before the Legislature as this bill)\} shall be liable, in a civil action brought by the department in a court of competent jurisdiction, for a penalty of not more than $10,000 for the first violation, and $20,000 for the second and each subsequent offense. The penalty shall be paid to the department to be used in accordance with \{this act\} P.L., c. (C.) (pending before the Legislature as this bill)\} and shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The court shall also award court costs and reasonable attorneys’ fees to the department.

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

8. \{New section\}\} Any denial, suspension, or revocation of a license, or warning notice issued by the department shall prominently indicate that a right of appeal is available. A licensee or prospective licensee which is aggrieved by a decision of the department may appeal the decision by filing a request for a hearing before the Office of Administrative Law.

9. \{New section\}\} a. (1) A licensee shall provide to the department in a reasonable amount of time any document relating to the operations of the licensee upon receiving a written request from the department.

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

b. A licensee shall give written notice to the department within five days if there are any changes in the identities of the licensee’s \{executive officers\} key individuals\}, responsible individuals, or controlling persons.

c. A licensee shall maintain a record of all client transactions for a period of not less than six years from the date the transaction occurred.

10. \{New section\}\} a. The terms and conditions of a digital asset business involving a consumer’s account shall be disclosed as part of establishing a relationship with a customer and prior to entering into an initial transaction with the customer at the time the consumer contracts for a digital asset business service. A disclosure shall be full and complete, contain no material misrepresentations, be in readily understandable language and may include, as appropriate and to the extent applicable:
(1) a schedule of fees and charges the licensee may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;
(2) whether a consumer’s account is protected by the Federal Deposit Insurance Corporation;
(3) whether there is support for forked networks of each digital asset;
(4) that investment in digital assets is volatile and subject to market loss;
(5) that investment in digital assets may result in total loss of value;
(6) that legal, legislative and regulatory changes may impair the value of digital assets;
(7) that consumers should perform research before investing in digital assets;
(8) that transfers of digital assets are irrevocable, if applicable;
(9) how liability for an unauthorized, mistaken or accidental transfer shall be apportioned;
(10) that digital assets are not legal tender in any jurisdiction;
(11) that digital assets may be subject to cyber theft or theft and become unrecoverable;
(12) that losing private key information may result in permanent loss of access to digital assets;
(13) under what circumstances the digital asset business will in the ordinary course of business disclose information concerning the consumer’s account to third parties; and
(14) any other material investment risks.

b. All disclosures required by [this act] P.L. c. (C.) (pending before the Legislature as this bill) shall be displayed and individually agreed to by a consumer before any digital asset transaction at an electronic kiosk. Any fee to be charged shall be displayed and individually agreed to by a consumer before any digital asset transaction or digital asset balance inquiry at an electronic kiosk.

c. A licensee that has custody of digital assets for one or more persons shall maintain in its custody an amount of each type of digital assets sufficient to satisfy the aggregate entitlements of the persons to the type of digital asset.

d. Each licensee shall establish and maintain written policies and procedures to fairly and timely resolve customer complaints.
e. Each licensee shall provide, in a clear and conspicuous manner, on its website or websites, and in all physical locations the following disclosures:
(1) the licensee’s mailing address, e-mail address, and telephone number for the receipt of complaints;
(2) a statement that the complainant may also bring a complaint to the attention of the department; and
(3) the department’s mailing address, website, and telephone number.

f. The department may audit a licensee’s compliance with this section.

11. *(New section)* Authority of department.

a. The department shall have the authority to conduct investigations and examinations as follows:

(1) for purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with *[this act]* [P.L. , c. (C. )](pending before the Legislature as this bill), the department may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to:

(a) criminal, civil, and administrative history information:

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

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

(d) any other documents, *[.] information or evidence the department deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of the documents, information or evidence; and

(2) for the purposes of investigating violations or complaints arising under *[this act]* [P.L. , c. (C. )](pending before the Legislature as this bill), or for the purposes of examination, the department may review, investigate, or examine any digital asset business licensee or person subject to *[this act]* [P.L. , c. (C. )](pending before the Legislature as this bill) as often as necessary in order to carry out the purposes of *[this act]* [P.L. , c. (C. )](pending before the Legislature as this bill). The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about digital assets, digital consumer assets, virtual currency, or the business or subject matter of any examination or investigation, and may direct, subpoena or order the person to produce books, accounts, records, files and any other documents the department deems relevant to the inquiry.

b. A digital asset business licensee or any person subject to *[this act]* [P.L. , c. (C. )](pending before the Legislature as this bill) shall make or compile reports or prepare other information as directed by the department in order to carry out the purposes of this section including accounting compilations,
information lists, and data concerning digital asset, digital consumer asset, or virtual currency transactions in a format prescribed by the commissioner or any other information the department deems necessary to carry out the purposes of [(this act)] P.L. , c. (C. ) (pending before the Legislature as this bill)

In making an examination or investigation authorized by this section, the department may control access to any documents and records of the digital asset business or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the department. Unless the commissioner has reasonable grounds to believe the documents or records of the digital asset business or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of [(this act)] P.L. , c. (C. ) (pending before the Legislature as this bill)

For purposes of conducting the authority of the department, addition of required resources as follows: 4 examiners, 2 licensing investigators and 2 enforcement investigators.

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

b. The department may:

(1) disclose the fact of filing of applications with the department pursuant to [(this act)] P.L. , c. (C. ) (pending before the
Legislature as this bill)¹, give notice of a hearing, if any, regarding
those applications, and announce an action thereon;
(2) disclose final decisions in connection with proceedings for
the suspension or revocation of licenses issued pursuant to ¹[this
act] P.L. , c. (C. ) (pending before the Legislature as this
bill)¹;
(3) prepare and circulate reports reflecting the assets and
liabilities of digital asset businesses in general, including other
information considered pertinent to the purpose of each report for
general statistical information; and
(4) prepare and circulate reports as provided by law.
c. Every official report of the department is prima facie
evidence of the facts therein stated in any action or proceeding
wherein the department is a party.
d. Nothing in this section shall be construed to prevent the
disclosure of information that is admissible in evidence in any civil
or criminal proceeding brought by or at the request of the
department or this State to enforce or prosecute violations of ¹[this
act] P.L. , c. (C. ) (pending before the Legislature as this
bill)¹ or the rules, regulations or orders issued or promulgated
pursuant to ¹[this act] P.L. , c. (C. ) (pending before the
Legislature as this bill)¹.

13. Section 2 of P.L.2005, c.199 (C.17:1C-34) is amended to
read as follows:
2. For the purposes of this act:
"Assessment" means the assessment imposed pursuant to section
3 of this act for the special functions of the division as provided in
that section.
"Commissioner" means the Commissioner of Banking and
Insurance.
"Department" means the Department of Banking and Insurance.
"Depository institution" means any entity holding a state charter
for a bank, savings bank, savings and loan association or credit
union, irrespective of whether the entity accepts deposits.
"Division" means the Division of Banking in the Department of
Banking and Insurance.
"Nationwide Mortgage Licensing System and Registry" means
the mortgage licensing system developed and maintained by the
Conference of State Bank Supervisors and the American
Association of Residential Mortgage Regulators, or their
successors, and utilized in this State pursuant to the provisions of
the "New Jersey Residential Mortgage Lending Act," sections 1
through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).
"Nationwide Multistate Licensing System" means the licensing
system owned and operated by the State Regulatory Registry, LLC,
a wholly-owned subsidiary of the Conference of State Bank
Supervisors, which functions as a system of record for non-depository, financial services licensing or registration in participating state agencies, including the District of Columbia and the United States Territories of Puerto Rico, the US Virgin Islands, and Guam, where it is the official system for companies and individuals seeking to apply for, amend, renew, and surrender license authorities.


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

14. This act shall take effect on the first day of the sixth month next following enactment, except the commissioner may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.