

SENATE, No. 1304

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

“Digital Asset and Blockchain Technology Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning digital assets and blockchain technology, and
2 supplementing P.L.1967, c.93 (C.49:3-47 et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

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

9 b. P.L. , c. (C.) (pending before the Legislature as this
10 bill) shall be administered by the Bureau of Securities in the Division
11 of Consumer Affairs in the Department of Law and Public Safety.

12 c. P.L. , c. (C.) (pending before the Legislature as this
13 bill), shall apply to activity that occurs within this State, is directed
14 toward persons in this State, or is directed from this State.
15

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

18 “Agent” means a separate person from the principal that the
19 principal authorizes, through a written agreement or otherwise, to sell
20 its instruments or, in the case of funds transmission, to sell its send and
21 receive transfer services.

22 “Bureau chief” means the principal executive officer of the bureau, or
23 such officer’s designee.

24 “Bureau” means the Bureau of Securities in the Division of
25 Consumer Affairs in the Department of Law and Public Safety.

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

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

33 “Digital asset” means a representation of economic, proprietary, or
34 access rights that is stored in a machine-readable format, has a
35 transaction history that is recorded in a distributed, digital ledger or
36 digital data structure in which consensus is achieved through a
37 mechanism consistent with the underlying protocol, and includes, but
38 is not limited to, digital consumer assets and virtual currency. “Digital
39 asset” shall not include securities, whether in digital form or otherwise,
40 as defined pursuant to subsection m. of section 2 of P.L.1967, c.93
41 (C.49:3-49), or as defined pursuant to paragraph (1) of subsection (a)
42 in the federal “Securities Act of 1933,” 15 U.S.C. s.77b(a)(1), or
43 paragraph (10) of subsection (a) of the federal “Securities Exchange
44 Act of 1934,” 15 U.S.C. s.78c(a)(10).

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

1 “Digital consumer asset” means a digital asset that is primarily for
2 consumptive, personal, or household purposes.

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

9 “Licensee” means a person licensed under P.L. , c. (C.)
10 (pending before the Legislature as this bill) or an applicant for
11 licensure under P.L. , c. (C.) (pending before the Legislature as
12 this bill).

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

22 “Person” means, whether foreign or domestic, any individual,
23 corporation, company, association, society, firm, partnership, trust,
24 unincorporated organization, joint-stock company, government entity,
25 or any other entity however organized.

26 “Prepaid card” means an electronic payment device that: is usable
27 at a single merchant or an affiliated group of merchants that share the
28 same name, mark, or logo, or is usable at multiple, unaffiliated
29 merchants or service providers; is issued in and for a specified amount
30 of fiat currency; can be reloaded in and for only fiat currency, if at all;
31 is issued or reloaded on a prepaid basis for the future purchase or
32 delivery of goods or services; is honored upon presentation; and can be
33 redeemed in and for only fiat currency, if at all.

34 “Responsible individual” means an individual who has managerial
35 authority with respect to a licensee’s digital asset business activity.

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

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

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

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1 “Licensee” means a person licensed under P.L. , c. (C.)
2 (pending before the Legislature as this bill) or an applicant for
3 licensure under P.L. , c. (C.) (pending before the
4 Legislature as this bill).

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

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

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

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

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

30

31 3. a. A person shall not engage in a digital asset business activity,
32 or hold itself out as being able to engage in a digital asset business
33 activity, unless the person is licensed in this State by the bureau.

34 b. The bureau may license a person to carry on one or more of the
35 following digital asset business activities:

36 (1) receiving a digital asset for transmission or transmitting a
37 digital asset to a location inside or outside of the United States by any
38 means, including but not limited to wire, facsimile, or electronic
39 transfer, except where:

40 (a) the transaction is undertaken for non-financial purposes and
41 does not involve the transfer of more than a nominal amount of a
42 digital asset; or

43 (b) the transmission is otherwise governed under the “New Jersey
44 Money Transmitters Act,” P.L.1998, c.14, (C.17:15C-1 et seq.), is
45 conducted by a person or entity licensed under that act, and is
46 conducted into the country that has authorized or adopted the digital
47 asset as part of its currency and in which the digital asset is
48 customarily used and accepted as a medium of exchange;

1 (2) storing, holding, or maintaining custody of a digital asset on
2 behalf of others, exempting all custodians otherwise regulated as a
3 bank, trust, broker-dealer, or credit union in any state or by the United
4 States or money transmitter licensed in this State;

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

6 (4) performing exchange services of digital assets as a customer
7 business;

8 (5) issuing a digital asset, where the person has authority over its
9 initial dissemination or offering; or

10 (6) borrowing or lending of, or facilitating the borrowing or
11 lending of, a customer's digital assets.

12 c. (1) The bureau shall have the authority to determine whether a
13 person is required to be licensed pursuant to this section.

14 (2) A license shall not be required pursuant to this section if the
15 subject of the digital asset business activity is a digital asset that:

16 (a) is a digital consumer asset;

17 (b) (i) is used solely within online gaming platforms;

18 (ii) has no market or application outside of those gaming
19 platforms; and

20 (iii) cannot be converted into, or redeemed for, fiat currency or
21 virtual currency;

22 (c) can be redeemed for goods, services, discounts, or purchases as
23 part of a customer affinity or rewards program with the issuer or other
24 designated merchants or can be redeemed for digital assets in another
25 customer affinity or rewards program, but cannot be converted into, or
26 redeemed for, fiat currency or virtual currency; or

27 (d) is used as part of prepaid cards.

28 d. In addition to any other applicable penalties, a person who
29 violates this section shall be liable for a penalty of \$500 per day, from
30 the first day the bureau issues a notice of failure to apply for a license
31 until a license application is filed with the bureau. Such person shall
32 be liable for a violation of any provision of P.L. , c. (C.)
33 (pending before the Legislature as this bill) for which the person
34 would otherwise be liable had the person properly been licensed.

35
36 4. a. An application for a license under P.L. , c. (C.)
37 (pending before the Legislature as this bill) shall be submitted in a form
38 and manner set forth by the bureau, which may include, if the bureau
39 so designates, through the Nationwide Multistate Licensing System.
40 The bureau shall require each application to be accompanied by a
41 nonrefundable fee.

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

44 (1) the legal name of the applicant, each current or proposed
45 business address of the applicant, and any fictitious or trade name the
46 applicant uses or plans to use in conducting its digital asset business
47 activity;

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

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- 1 (13) 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 (14) policies and procedures to be adopted by the applicant to
5 meet any obligations required by anti-money laundering and anti-terror
6 financing laws;
- 7 (15) a copy of the applicant's audited financial statements for the
8 most recent preceding fiscal year and, if available, for the two-year
9 period next preceding the submission of the application;
- 10 (16) a copy of the applicant's unconsolidated financial statements
11 for the current fiscal year, whether audited or not, and if available, for
12 the two-year period next preceding the submission of the application;
- 13 (17) if a corporation has control of the applicant and the
14 corporation's equity interests are publicly traded in the United States, a
15 copy of the audited financial statement of the corporation for the most
16 recent preceding fiscal year or most recent report of the corporation
17 filed under section 13 of the "Securities Exchange Act of 1934," 15
18 U.S.C. s.78m;
- 19 (18) if a corporation has control of the applicant and the
20 corporation's equity interests are publicly traded outside the United
21 States, a copy of the audited financial statement of the corporation for
22 the most recent documentation similar to that required in paragraph
23 (17) of this subsection, filed with the foreign regulator in the domicile
24 of the corporation;
- 25 (19) if available, for each key individual, responsible individual,
26 or controlling person of the applicant, for the three years before the
27 application is submitted, the employment history, and the history of
28 any enforcement action against the individual or legal proceeding to
29 which the individual was a party;
- 30 (20) a sample form of receipt for transactions that involve money
31 received for the digital asset business;
- 32 (21) disclosure of who maintains control, ownership, or access to
33 any private key related to a customer's digital asset account and
34 information where the private key is held and the manner in which the
35 private key is held;
- 36 (22) a list of all agents authorized to represent or conduct business
37 on behalf of the digital asset business; and
- 38 (23) such additional information as the bureau may require.
- 39 c. At the time of application and within 45 days after the end of
40 each calendar quarter, each digital asset business shall file with the
41 bureau in writing a list of all agents that have been added or terminated
42 by the licensee, if any. The list shall include the name and business
43 address of each location.
- 44 d. The bureau, or its designee, may conduct a criminal history
45 records check of the applicant, any controlling persons, key
46 individuals, and responsible individuals of the applicant and require
47 the applicant to submit the fingerprints of those persons as part of the
48 application. The bureau, or its designee, is authorized to exchange

1 fingerprint data with and receive criminal history record information
2 from the State Bureau of Identification in the Division of State Police
3 and the Federal Bureau of Investigation consistent with applicable
4 State and federal laws, rules, and regulations, for the purposes of
5 facilitating determinations concerning licensure eligibility for the
6 applicant, any controlling persons, key individuals, and responsible
7 individuals of the applicant. The applicant shall bear the cost for the
8 criminal history record background check, including all costs of
9 administering and processing the check. The Division of State Police
10 shall promptly notify the bureau in the event any person who was the
11 subject of a criminal history record background check pursuant to this
12 section, is arrested for a crime or offense in this State after the date the
13 background check was performed, whether the person is a prospective
14 new licensee, or subsequently, a current license holder. The bureau
15 may also utilize the Nationwide Multistate Licensing System or
16 similar system or entity to carry out the purposes of this subsection, as
17 authorized by section 13 of P.L. , c. (C.) (pending before the
18 Legislature as this bill).

19 Information provided to the bureau pursuant to an application for a
20 license under P.L. , c. (C.) (pending before the Legislature as
21 this bill) shall be protected from public disclosure, including, but not
22 limited to, disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.),
23 provided that nothing in this subsection shall be construed to prevent
24 public disclosure of the name, address, phone number, and email
25 address of a licensee, or information concerning the status of any
26 application for a license or license issued under P.L. , c. (C.)
27 (pending before the Legislature as this bill).

28
29 5. a. The bureau shall have the authority to grant or deny any
30 digital asset business license application. Beginning with applications
31 received on or after the first day of the 36th month next following
32 enactment, the bureau shall grant or deny any digital asset business
33 license application within 180 days of receipt of a completed
34 application.

35 b. The bureau may refuse an application for a digital asset
36 business license if:

- 37 (1) the application is incomplete in a material respect;
38 (2) the application includes false, misleading, or inaccurate
39 information; or
40 (3) any applicant, controlling person, key individual, or
41 responsible individual of an applicant has engaged in dishonest or
42 unethical practices in a digital asset business or in the securities
43 commodities, banking, insurance, or investment advisory business.

44 c. A license issued pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill) shall not be transferrable or
46 assignable.

47
48 6. a. A licensee may apply for an annual renewal of a license by:

- 1 (1) paying a renewal fee in an amount determined by the bureau
2 pursuant to regulation; and
- 3 (2) submitting to the bureau, in a form and manner set forth by the
4 bureau, the renewal report required pursuant to subsection b. of this
5 section.
- 6 b. A license renewal report required pursuant to this section shall
7 be submitted in a form and medium prescribed by the bureau by
8 regulation. The report shall contain an update of all information
9 required at initial licensing and a description of any:
- 10 (1) material change in the financial condition of the licensee;
11 (2) material litigation involving the licensee or a key individual,
12 responsible individual, or controlling person of the licensee;
13 (3) license suspension or revocation proceeding commenced, or
14 other action taken, involving a license to conduct digital asset business
15 activity issued by another state;
16 (4) federal or state action involving the licensee;
17 (5) material change in the business of the licensee; and
18 (6) changes to the key individuals of the licensee.
- 19 c. If a license is suspended for failure to file an annual renewal,
20 the license shall be reinstated if the licensee files a renewal report and
21 pays a fee, in an amount determined by the bureau pursuant to
22 regulation.
- 23
- 24 7. a. The bureau may deny, suspend or revoke a digital asset
25 business license upon finding that:
- 26 (1) the denial, suspension, or revocation is in the public interest;
27 and
- 28 (2) the licensee, or any controlling person, responsible individual,
29 key individual, or agent of a licensee, or any person occupying a
30 similar status or performing similar functions or any person directly or
31 indirectly controlling the digital asset business:
- 32 (a) has filed an application for licensure that, as of its effective
33 date or as of any date after filing in the case of an order denying
34 effectiveness, was incomplete in any material respect or contained any
35 statement or information that, in the light of the circumstances under
36 which it was made, was false, misleading, or inaccurate;
- 37 (b) has provided consumers with false, misleading, or inaccurate
38 information;
- 39 (c) has engaged in dishonest or unethical practice in a digital asset
40 business or in the securities, commodities, banking, insurance, or
41 investment advisory business;
- 42 (d) fails to provide documents requested by the bureau;
- 43 (e) fails to renew its license;
- 44 (f) has violated or failed to comply with any provision of
45 P.L. , c. (C.) (pending before the Legislature as this bill), or
46 any rule or order authorized by P.L. , c. (C.) (pending before
47 the Legislature as this bill) or has aided others in such conduct;

- 1 (g) has been convicted of a crime involving a digital asset or any
2 aspect of the securities, commodities, banking, insurance or
3 investment advisory business, embezzlement, forgery, fraud, theft, or
4 any crime involving moral turpitude; provided however, that where the
5 licensee can show by proof satisfactory to the bureau that during the
6 10-year period preceding the application the licensee has conducted
7 itself in such a manner as to render the licensure consistent with all
8 other provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill), the conviction need not be a bar to licensure;
- 10 (h) is permanently enjoined or has in the past 10 years been
11 temporarily enjoined, by any court of competent jurisdiction from
12 engaging in or continuing any conduct or practice involving any aspect
13 of the digital assets, securities, commodities, banking, insurance or
14 investment advisory business;
- 15 (i) is the subject of an effective order of the bureau denying,
16 suspending, or revoking the license of a digital asset business, or
17 registration as a broker-dealer, agent, investment adviser, investment
18 adviser representative, securities offering registrant, or Internet site
19 operator;
- 20 (j) is the subject of an order entered within the past 10 years by
21 any federal or state digital asset, securities, commodities, banking,
22 insurance or investment advisory administrator or self-regulatory
23 organization denying or revoking a digital asset, securities,
24 commodities, banking, insurance or investment advisory license or
25 registration under federal or state securities, commodities, banking,
26 insurance or investment advisory law, including, but not limited to
27 registration as a broker-dealer, agent, investment adviser, investment
28 adviser representative or issuer, or the substantial equivalent of those
29 terms as defined in P.L. , c. (C.) (pending before the
30 Legislature as this bill), or is the subject of an order of the Securities
31 and Exchange Commission, a self-regulatory organization, the
32 Commodity Futures Trading Commission, an insurance regulator, or a
33 federal or state banking regulator, suspending or expelling the
34 applicant or licensee from a national securities or commodities
35 exchange or national securities or commodities association registered
36 under the "Securities Exchange Act of 1934," or the "Commodity
37 Exchange Act," or from engaging in the banking or insurance
38 business, or is the subject of a United States Post Office fraud order;
39 provided however that the bureau may not institute a revocation or
40 suspension proceeding under this subparagraph more than two years
41 from the date of the order relied on and the bureau may not deny,
42 suspend, or revoke under this subparagraph on the basis of an order
43 under another state's act unless that order was based on facts which
44 would currently constitute a ground for an order under New Jersey
45 law;
- 46 (k) is insolvent, either in the sense that its liabilities exceed its
47 assets or in the sense that it cannot meet its obligations as they mature;

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- 1 (l) is not qualified on the basis of such factors as character,
2 training, experience, or knowledge of the digital asset business; or
3 (m) has failed to pay the proper fees.
- 4 b. The bureau may provide a warning notice to a licensee if the
5 bureau suspects that a condition permitting suspension or revocation
6 has occurred.
- 7 c. Any warning notice, suspension, or revocation issued by the
8 bureau shall state the reasons for which it is given.
- 9 d. The bureau chief, for good cause shown, may by order
10 summarily suspend, revoke or deny any license pending final
11 determination of any proceeding under this section. The suspension or
12 revocation of a license issued by the bureau shall prominently indicate
13 that a right to a hearing is available. Upon entry of such an order, the
14 bureau chief shall promptly notify each person subject thereto that it
15 has been entered and of the reasons therefor.
- 16 The bureau chief shall entertain on no less than three days' notice
17 an application to lift the summary order on written application of the
18 person subject thereto and in connection therewith may, but need not,
19 hold a hearing and hear testimony, but shall provide to the person
20 subject thereto a written statement of the reasons for the summary
21 order.
- 22 Upon service of notice of the order issued by the bureau chief,
23 each person subject thereto shall have up to 15 days to respond to the
24 bureau in the form of a written answer and written request for a
25 hearing. The bureau chief shall, within five days of receiving the
26 answer and request for a hearing, either transmit the matter to the
27 Office of Administrative Law for a hearing, or schedule a hearing at
28 the Bureau of Securities. Orders issued pursuant to this section shall
29 be subject to an application to vacate upon 10 days' notice, and in any
30 event a preliminary hearing on the order shall be held within 20 days
31 after it is requested, and the filing of a motion to vacate the order shall
32 toll the time for filing an answer and written request for a hearing.
- 33 If a person subject to the order fails to respond by either filing a
34 written answer and written request for a hearing with the bureau or
35 moving to vacate the order within the 15-day prescribed period, that
36 person shall have waived the opportunity to be heard and the order
37 shall remain in effect as to that person until modified or vacated by the
38 bureau chief.
- 39 e. The bureau chief may by order summarily revoke a license or
40 deny an application if the bureau chief finds that a licensee is no
41 longer in existence, has ceased to do business as a digital asset
42 business, or cannot be located after a reasonable search.
- 43 f. (1) A licensee may submit an application to withdraw from
44 licensure. The withdrawal shall become effective on the 31st day
45 following receipt by the bureau of the application to withdraw or
46 within such other period of time as the bureau may determine by rule
47 or order.

1 (2) The bureau may institute any revocation or suspension
2 proceeding within two years after a withdrawal becomes effective and
3 may enter a revocation or suspension order effective as of the last date
4 on which the license was effective.

5 g. The bureau may issue general guidance to industry participants
6 on how to best protect the interests of customers.

7 h. (1) Whenever it appears to the bureau that any person has
8 violated, is violating or is about to violate any of the provisions of
9 P.L. , c. (C.) (pending before the Legislature as this bill), or any
10 regulation adopted pursuant to P.L. , c. (C.) (pending before
11 the Legislature as this bill), the bureau may take administrative action
12 or bring a civil action to enjoin the violation or potential violation,
13 seek penalties pursuant to paragraph (2) of this subsection, or both.

14 (2) Any person who violates any provision of P.L. , c. (C.)
15 (pending before the Legislature as this bill) shall be liable, in a civil or
16 administrative action brought by the bureau for a penalty of not more
17 than \$10,000 for the first violation, and \$20,000 for the second and
18 each subsequent offense. The penalty shall be entered, with the
19 requisite notice, and recovered by and in the name of the bureau chief
20 and shall be collected and enforced by summary proceeding pursuant
21 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
22 10 et seq.), or administratively. The court shall also award court costs
23 and reasonable attorneys' fees to the bureau.

24 i. Each licensee shall maintain and enforce written compliance
25 policies, including policies with respect to anti-fraud, anti-money
26 laundering, cyber security, privacy and information security, which
27 shall be reviewed and approved by the licensee's board of directors or
28 an equivalent governing body.

29 j. It shall be unlawful for any person, in conducting digital
30 business activity or otherwise in connection with the offer, sale,
31 purchase, or trade of any digital asset, directly or indirectly, to:

- 32 (1) employ any device, scheme, or artifice to defraud;
33 (2) make any untrue statement of a material fact or to omit a
34 material fact necessary in order to make the statements made, in the
35 light of the circumstances under which they are made, not misleading;
36 or
37 (3) engage in any act, practice, or course of business which
38 operates or would operate as a fraud or deceit upon any person.

39
40 8. a. A licensee shall provide to the bureau in a reasonable
41 amount of time any document or record relating to the operations of
42 the licensee upon receiving a written request from the bureau.

43 b. A licensee shall give written notice to the bureau within five
44 days if there are any changes in the identities of the licensee's key
45 individuals, responsible individuals, or controlling persons.

46 c. A licensee shall maintain a record of all customer transactions,
47 and any accounts, correspondence, memoranda, and other records as
48 the bureau may prescribe, for a period of not less than six years from

1 the date the transaction occurred, unless the bureau by rule prescribes
2 otherwise. A licensee shall make any records available for inspection
3 by the bureau.

4 d. The bureau may conduct examinations to determine a
5 licensee's compliance with P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7
8 9. a. The terms and conditions of a licensee's digital asset
9 business activity involving a customer's account shall be disclosed as
10 part of establishing a relationship with a customer and prior to entering
11 into an initial transaction with the customer at the time the customer
12 contracts for a digital asset business service. A disclosure shall be full
13 and complete, contain no material misrepresentations, be in readily
14 understandable language and shall, at a minimum include, as
15 appropriate and to the extent applicable:

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

19 (2) whether a customer's account is protected by the Federal
20 Deposit Insurance Corporation;

21 (3) whether there is support for forked networks of each digital
22 asset;

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

25 (5) that investment in digital assets may result in total loss of
26 value;

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

29 (7) that customers should perform research before investing in
30 digital assets;

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

32 (9) how liability for an unauthorized, mistaken or accidental
33 transfer shall be apportioned;

34 (10) that digital assets are not legal tender in any jurisdiction;

35 (11) that digital assets may be subject to cyber theft or theft and
36 become unrecoverable;

37 (12) that losing private key information may result in permanent
38 total loss of access to digital assets;

39 (13) under what circumstances the digital asset business will in the
40 ordinary course of business disclose information concerning the
41 customer's account to third parties; and

42 (14) any other material investment risks.

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

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

5 d. Each licensee shall establish and maintain written policies and
6 procedures to fairly and timely resolve customer complaints.

7 e. Each licensee shall provide, in a clear and conspicuous manner,
8 on its website or websites, and in all physical locations the following
9 disclosures:

10 (1) the licensee's mailing address, e-mail address, and telephone
11 number for the receipt of complaints;

12 (2) a statement that the complainant may also bring a complaint to
13 the attention of the bureau; and

14 (3) the bureau mailing address, website, and telephone number.
15

16 10. a. It shall be unlawful for any person to make or cause to be
17 made, in any document filed with the bureau or in any proceeding,
18 investigation or examination conducted under P.L. , c. (C.)
19 (pending before the Legislature as this bill), any statement which is, at
20 the time and in the light of the circumstances under which it is made,
21 false or misleading in any material respect.

22 b. It shall be unlawful for any officer or employee of the bureau
23 to use for personal benefit any information which is filed with or
24 obtained by the bureau that is not made public.
25

26 11. a. The bureau chief in the bureau chief's discretion may:

27 (1) make such private investigations within or outside of this
28 State as the bureau chief deems necessary to determine whether any
29 person has violated or is about to violate any provision of
30 P.L. , c. (C.) (pending before the Legislature as this bill) or
31 any rule or order hereunder, or to aid in the enforcement of
32 P.L. , c. (C.) (pending before the Legislature as this bill) or
33 in the prescribing of rules and forms hereunder;

34 (2) require or permit any person to file a statement in writing,
35 under oath or otherwise as the bureau chief determines, as to all the
36 facts and circumstances concerning the matter to be investigated;
37 and

38 (3) publish information concerning any violation of
39 P.L. , c. (C.) (pending before the Legislature as this bill) or
40 any rule or order hereunder.

41 b. For the purpose of any investigation or proceeding under
42 P.L. , c. (C.) (pending before the Legislature as this bill),
43 the bureau chief or any officer designated by the bureau chief may
44 administer oaths and affirmations, subpoena witnesses, compel their
45 attendance, take evidence and require the production of any books,
46 papers, correspondence, memoranda, agreements or other
47 documents or records which the bureau chief deems relevant or
48 material to the inquiry. At the bureau chief's discretion, the bureau

1 chief may make available private investigative materials to
2 representatives of domestic or foreign governmental authorities,
3 self-regulatory organizations, state or federal law enforcement
4 officers, state securities, banking and insurance administrators, and
5 trustees in bankruptcy.

6 The bureau may also disclose that information:

- 7 (1) in court proceedings;
8 (2) if ordered to do so by a court of competent jurisdiction; or
9 (3) if appropriate, in furtherance of any ongoing investigation or
10 proceeding. The bureau chief may also request and use private
11 investigative materials provided to it by other federal and state
12 authorities, including authorities of other states and foreign
13 countries.

14 c. In case of contumacy by, or refusal to obey a subpoena or
15 order issued to, any person, the Superior Court, upon application by
16 the bureau chief, may issue to the person an order requiring the
17 person to appear before the bureau chief, or the officer designated
18 by the bureau chief, there to produce documentary evidence if so
19 ordered or to give evidence touching the matter under investigation
20 or in question. The court may grant injunctive relief restraining
21 engaging in any digital asset business activity, or holding itself out
22 as being able to engage in any digital asset business activity by a
23 person, licensee, controlling person, responsible individual, key
24 individual, or agent of a licensee until such person has fully
25 complied with such subpoena or order and the bureau has
26 completed its investigation. The court may proceed in the action in
27 a summary manner or otherwise.

28 d. No person is excused from attending and testifying or from
29 producing any document or record before the bureau or in
30 obedience to the subpoena or order of the bureau chief or any
31 officer designated by the bureau chief, or in any proceeding
32 instituted by the bureau, on the ground that the testimony or
33 evidence (documentary or otherwise) required of the person may
34 tend to incriminate the person or subject the person to a penalty or
35 forfeiture; but the testimony or evidence (documentary or
36 otherwise) compelled from an individual who has claimed their
37 privilege against self-incrimination, or the fruits thereof, shall not
38 be used to prosecute that individual or to subject that individual to
39 any penalty or forfeiture, except that the individual testifying is not
40 exempt from prosecution and punishment for perjury, false
41 swearing or contempt committed in testifying.

42 e. When it appears to the bureau chief that the testimony of any
43 person is essential to an investigation instituted by the bureau chief
44 as provided by P.L. , c. (C.) (pending before the
45 Legislature as this bill), and that the failure of such person to appear
46 and testify may defeat the proper and effective conduct thereof, the
47 bureau chief, in addition to the other remedies provided for herein,
48 may, by petition verified generally, setting forth the facts, apply to

1 the Superior Court for a writ of ne exeat against such person. The
2 court shall thereupon direct the issuance of the writ against such
3 person requiring the person to give sufficient bail conditioned to
4 insure the person's appearance before the bureau chief for
5 examination under oath in such investigation and that the person
6 will continue their appearance therein from time to time until the
7 completion of the investigation and will appear before the court if
8 the bureau chief shall institute any proceeding therein as a result of
9 the bureau chief's investigation.

10 The court shall cause to be indorsed on the writ of ne exeat, in
11 words at length, a suitable amount of bail upon which the person
12 named in the writ shall be freed, having a due regard to the nature
13 of the case and the value of the digital assets involved. All
14 applications to be freed on bail shall be on notice to the bureau
15 chief and the sufficiency of the bail given on the writ shall be
16 approved by the court. All recognizances shall be to the State and
17 all forfeitures thereof shall be declared by the court. The proceeds
18 of the forfeitures shall be paid into the State treasury.

19

20 12. Restraints ordered by bureau chief.

21 a. In case of contumacy by, or refusal to obey a subpoena or order
22 issued to, any person, the bureau chief may, in the bureau chief's
23 discretion, summarily order restraints on engaging in any digital asset
24 business activity, or holding itself out as being able to engage in any
25 digital asset business activity by a person, licensee, controlling person,
26 responsible individual, key individual, or agent of a licensee, until that
27 person has fully complied with that subpoena or order and the bureau
28 has completed its investigation. The bureau chief may proceed in an
29 action in a summary manner or otherwise, by issuing a cease and
30 desist order, by denying, revoking or suspending any license under
31 P.L. , c. (C.) (pending before the Legislature as this bill), by
32 assessing civil monetary penalties, or by any combination of these
33 actions the bureau chief deems appropriate. Upon entry of such an
34 order, the bureau chief shall promptly notify each person subject
35 thereto that it has been entered and of the reasons therefor.

36 b. The bureau chief shall entertain on no less than three days'
37 notice an application to lift the summary order on written application
38 of the person subject thereto and in connection therewith may, but
39 need not, hold a hearing and hear testimony, but shall provide to the
40 person subject thereto a written statement of the reasons for the
41 summary order.

42 c. Upon service of notice of the order issued by the bureau chief,
43 each person subject thereto shall have up to 15 days to respond to the
44 bureau in the form of a written answer and written request for a
45 hearing. The bureau chief shall, within five days of receiving the
46 answer and request for a hearing, either transmit the matter to the
47 Office of Administrative Law for a hearing, or schedule a hearing at
48 the Bureau of Securities. Orders issued pursuant to this section shall

1 be subject to an application to vacate upon 10 days' notice, and in any
2 event a preliminary hearing on the order shall be held within 20 days
3 after it is requested, and the filing of a motion to vacate the order shall
4 toll the time for filing an answer and written request for a hearing.

5 d. If a person subject to the order fails to respond by either filing
6 a written answer and written request for a hearing with the bureau or
7 moving to vacate the order within the 15-day prescribed period, that
8 person shall have waived the opportunity to be heard and the order
9 shall remain in effect as to that person until modified or vacated by the
10 bureau chief.

11

12 13. a. In order to carry out the purposes of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the bureau is authorized to
14 establish relationships or to contract with the Nationwide Multistate
15 Licensing System, or similar system or entity, and other entities
16 designated thereby to collect and maintain records and process
17 transaction fees or other fees related to licensees or other persons
18 subject to P.L. , c. (C.) (pending before the Legislature as this
19 bill).

20 b. The bureau may require any person subject to the provisions of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 including any applicant, key individual, responsible individual,
23 controlling person, or person over whom the applicant has control, to
24 participate in a multistate licensing system, including, if so designated,
25 the Nationwide Multistate Licensing System.

26 c. The bureau is authorized to waive or modify, in whole or in
27 part, by rule, regulation, or order, any requirement set forth in
28 P.L. , c. (C.) (pending before the Legislature as this bill), and
29 to establish new requirements, as reasonably necessary for the purpose
30 of participation in the Nationwide Multistate Licensing System or
31 similar system or entity including: payment of nonrefundable fees to
32 apply for, maintain, and renew licenses through the system; renewal or
33 reporting dates; procedures for amending or surrendering a license;
34 and requirements pertaining to any other activity necessary for
35 participation in the system.

36

37 14. There is established in the Division of Consumer Affairs in
38 the Department of Law and Public Safety the "Digital Asset
39 Enforcement Fund," which shall continue as a dedicated,
40 nonlapsing, revolving fund. All fees, penalties, costs, fines and
41 other moneys collected pursuant to P.L. , c. (C.) (pending
42 before the Legislature as this bill), shall be deposited in the fund.
43 Moneys in the fund shall be appropriated for use by the Director of
44 the Division of Consumer Affairs to administer and enforce the
45 provisions of P.L. , c. (C.) (pending before the Legislature
46 as this bill) and to conduct any investigations related thereto. There
47 shall be made available from the General Fund such additional

1 amounts as may be required to carry out the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 15. a. The bureau may adopt, amend, or rescind any guidance,
5 guidelines, forms and orders and, pursuant to the “Administrative
6 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
7 regulations as are necessary to effectuate the purposes of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 including those governing applications, forms, and reports, and
10 defining any terms, whether or not used in P.L. , c. (C.)
11 (pending before the Legislature as this bill), insofar as the definitions
12 are not inconsistent with the provisions of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14 b. The bureau may prescribe the form, manner, and medium in
15 which any application, form, report, statement, or any other document
16 shall be prepared, including whether in accordance with generally
17 accepted accounting principles or practices.

18 c. The bureau may set fees by order, which shall remain in effect
19 until applicable rules and regulations are promulgated.

20
21 16. P.L. , c. (C.) (pending before the Legislature as this
22 bill), shall not be construed to limit the authority of the Department
23 of Banking and Insurance over any financial institution, insurance
24 company or other entity chartered, licensed or regulated by the
25 department pursuant to Title 17 of the Revised Statutes or Title 17B
26 of the New Jersey Statutes.

27
28 17. This act shall take effect immediately, except that section 3
29 shall take effect on the first day of the 25th month next following
30 enactment, but the Director of the Division of Consumer Affairs and
31 the bureau chief may take any anticipatory administrative action in
32 advance as shall be necessary for the implementation of this act.

33
34

35 STATEMENT

36
37 This bill, the “Digital Asset and Blockchain Technology Act,”
38 regulates digital asset business activity. The bill defines “digital asset”
39 to mean a representation of economic, proprietary, or access rights that
40 is stored in a machine-readable format and has a transaction history
41 that is recorded in a distributed, digital ledger or digital data structure
42 in which consensus is achieved through a mechanism consistent with
43 the underlying protocol. Examples of digital assets include, but are
44 not limited to, digital consumer assets, digital securities, and virtual
45 currency. “Digital asset” does not include securities, whether in digital
46 form or otherwise, as defined pursuant to law.

47 The bill provides that a person is not to engage in a digital asset
48 business activity, or hold themselves out as being able to engage in a

1 digital asset business activity, unless the person is licensed in this State
2 by the New Jersey Bureau of Securities (bureau), or has filed a
3 pending license with the bureau.

4 The bill provides the bureau may license a person to carry on one
5 or more digital asset business activities described in the bill. The
6 bureau shall have the authority to exempt persons from the provisions
7 of the bill concerning engaging in digital asset business activity
8 without a license and to determine whether a person is subject to a
9 license pursuant to the bill.

10 The bill provides that a person who violates the provisions
11 requiring licensure is liable for a penalty of \$500 per day, from the
12 first day the bureau issues a notice of failure to apply for a license until
13 a license application is filed with the bureau.

14 The bill provides that an application for a license is to be submitted
15 in a form and manner set forth by the bureau. Each application is to be
16 accompanied by a nonrefundable fee.

17 Applicants are to provide certain information relevant to the
18 applicant's proposed digital asset business activity. Certain
19 information provided to the bureau pursuant to an application for a
20 license is to be protected from public disclosure. The bill requires
21 applicants to provide a list of any litigation, arbitration, or
22 administrative proceedings to which the applicant, or certain other
23 individuals, has been a party to for 10 years prior to submission of the
24 application. This bill also permits the bureau to use the Nationwide
25 Multistate Licensing System, or a similar system, to conduct criminal
26 history records checks on applicants and certain other individuals.

27 The bill requires the bureau to grant or deny any digital asset
28 business license application within 180 days of receipt of a completed
29 application. The bureau may refuse an application for a digital asset
30 business license application if a licensee or applicant fails to meet
31 certain standards specified in the bill.

32 Licensees are required to submit a renewal of a license that
33 contains an update of all information required at initial licensing as
34 well as certain other information described in the bill.

35 The bill provides that the bureau may audit any digital asset
36 business licensee. The bill stipulates that each licensee is to maintain
37 and enforce confidential, written compliance policies which are to be
38 reviewed and approved by the licensee's board of directors or an
39 equivalent governing body. The bureau may suspend or revoke a
40 digital asset business license upon certain findings that are provided in
41 the bill.

42 The bill provides the bureau chief with the authority to, for good
43 cause shown, summarily suspend, revoke, or deny any license pending
44 final determination of a proceeding. Under the bill, notice of any
45 suspension or revocation of a license issued by the bureau is to
46 prominently indicate that a right to a hearing is available.

47 A licensee, under the bill, is to provide the bureau with any
48 document relating to the operations of the licensee upon receiving

1 written notice from the bureau. The licensee is to maintain records of
2 all client transactions and any accounts, correspondences, memoranda,
3 and other records as the bureau may require, for no less than six years
4 from the date of a transaction's occurrence, unless the bureau by rule
5 prescribes another timeframe. The bureau has the authority to conduct
6 examinations to determine a licensee's compliance with the provisions
7 of the bill.

8 The bill requires the terms and conditions of a digital asset
9 business involving a customer's account to be disclosed at the time the
10 customer contracts for a digital asset business service. The disclosure
11 is to be full and complete, contain no material misrepresentations, be
12 in readily understandable language and may include, as appropriate
13 and to the extent applicable, certain information concerning fees and
14 charges, risks to the customer, and any protections or securities that
15 are in place.

16 The disclosures required by the bill are to be displayed and
17 individually agreed to by a customer before any digital asset
18 transaction at an electronic kiosk. Any fee to be charged is required to
19 be displayed and individually agreed to by a customer before any
20 digital asset transaction or digital asset balance inquiry at an electronic
21 kiosk.

22 Under the bill, it is a violation for any person to make or cause to
23 be made, in any document filed with the bureau or in any proceeding,
24 investigation or examination conducted under the bill, any statement
25 which is, at the time and in the light of the circumstances under which
26 it is made, false or misleading in any material respect. In addition, the
27 bill provides the bureau chief with certain investigatory authority to
28 determine whether any person has violated or is about to violate any
29 provision of the bill or to otherwise aid in the enforcement of the bill.
30 The bill makes it unlawful for any officer or employee of the bureau to
31 use for personal benefit any information which is filed with or
32 obtained by the bureau that is not made public.

33 Lastly, the bill establishes the "Digital Asset Enforcement Fund" in
34 the Division of Consumer Affairs (division) of the Department of Law
35 and Public Safety is to continue as a dedicated, nonlapsing, revolving
36 fund. All fees, penalties, costs, fines, and other collected moneys are to
37 be deposited in the fund and used by the director of the division to
38 administer and enforce the provisions of the bill, and to conduct
39 investigations related to the bill.