

1 AN ACT relating to blockchain digital assets.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 3 of this Act:*

6 *(1) "Blockchain" means data that is:*

7 *(a) Shared across a peer-to-peer network to create a ledger of verified*
8 *transactions or information among linked network participants using*
9 *cryptography to:*

10 *1. Maintain the integrity of the ledger; or*

11 *2. Execute other functions; and*

12 *(b) Distributed in a concurrent, automated update to network participants on*
13 *the state of the ledger and any other functions;*

14 *(2) "Blockchain network" means a technical infrastructure that provides ledger and*
15 *smart contract services to applications;*

16 *(3) "Blockchain protocol" means any executable software:*

17 *(a) Deployed to a blockchain, including an additional standardized set of rules*
18 *that:*

19 *1. Uses an existing blockchain as a base;*

20 *2. Facilitates the transfer of data and electronic records;*

21 *3. Allows that data to be broadcast to nodes; and*

22 *4. Is governed by a set of predefined rules which execute autonomously*
23 *without human intervention and can be altered by a predetermined*
24 *mechanism; and*

25 *(b) Composed of a source code that is publicly available and accessible,*
26 *including a smart contract or any network of smart contracts;*

27 *(4) "Cryptocurrency" has the same meaning as in KRS 139.516;*

- 1 (5) "Cryptography" means the practice of coding information to ensure only the
2 person that a message was written for can read and process that information;
- 3 (6) "Digital asset" means:
4 (a) Virtual currency;
5 (b) Cryptocurrency; and
6 (c) Natively electronic assets, including stablecoins, fungible tokens, and
7 nonfungible tokens;
8 that confer economic, proprietary, or access rights or powers;
- 9 (7) "Hardware wallet" means a physical device that:
10 (a) Stores private keys offline;
11 (b) Provides a way to sign transactions and interact with the blockchain; and
12 (c) Allows the owner to retain independent control over the digital asset
13 contained therein;
- 14 (8) "Natively electronic asset" means a purely digital asset that exists only on the
15 blockchain network;
- 16 (9) "Node" means a computer which:
17 (a) Uses software to:
18 1. Communicate with other devices or participants on a blockchain to
19 maintain consensus and integrity of that blockchain;
20 2. Create and validate transaction blocks; or
21 3. Contain and update a copy of a blockchain; and
22 (b) Does not exercise discretion over transactions initiated by the end users of
23 the blockchain protocol;
- 24 (10) "Nonfungible token" means a digital asset on a blockchain that:
25 (a) Has unique identification codes and metadata that are recorded;
26 (b) Has been tokenized and cannot be replicated;
27 (c) Is used to certify ownership and authenticity; and

- 1 (d) Represents digital or physical items including artwork or real estate;
- 2 (11) "Private key" means the access to manage digital assets at a specific internet
- 3 address and may be used for encryption and digital signature;
- 4 (12) "Self-hosted wallet" means a digital interface that can:
- 5 (a) Secure and transfer digital assets; and
- 6 (b) Allow its owner to retain independent control of the secured digital assets
- 7 and private keys;
- 8 (13) "Smart contract" has the same meaning as in KRS 42.747;
- 9 (14) "Stablecoin" means a digital asset that is:
- 10 (a) Issued by a corporation;
- 11 (b) Backed by cash or high-quality liquid assets; and
- 12 (c) Redeemable on demand by the holder at par for a fixed monetary value in
- 13 equivalent United States dollars;
- 14 (15) "Staking" means using a node to commit digital assets to a blockchain network
- 15 to:
- 16 (a) Validate transactions;
- 17 (b) Propose and attest to blocks contained in the blockchain; and
- 18 (c) Secure the network;
- 19 (16) (a) "Staking as a service" means the provision of technical staking services by
- 20 a service provider on behalf of an individual or business that owns the
- 21 digital assets being staked.
- 22 (b) "Staking as a service" includes the operation of nodes and the associated
- 23 infrastructure necessary to facilitate participation in blockchain protocols'
- 24 consensus mechanisms;
- 25 (17) "Third-party wallet" means a wallet that is hosted and controlled by a party other
- 26 than the owner which contains the private keys for the owner of digital assets;
- 27 and

1 (18) "Wallet" means a digital interface or a physical device which holds digital assets
2 or private keys, and may include a:

3 (a) Hardware wallet;

4 (b) Self-hosted wallet; and

5 (c) Third-party wallet.

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) An individual shall not be prohibited from:

9 (a) Accepting digital assets for payment for legal goods or services; or

10 (b) The use of a wallet.

11 (2) Digital assets used as a method of payment shall not be subject to additional
12 taxes, withholdings, assessments, or charges that are based solely on the use of
13 the digital asset as the method of payment.

14 (3) This section shall not:

15 (a) Prohibit the imposition or collection of taxes, withholdings, assessments, or
16 charges on digital assets used as the method of payment when the same
17 imposition and collections of taxes, withholdings, assessments, or charges
18 are made on similar transactions which use the legal tender of the United
19 States as the method of payment; or

20 (b) Require any person to accept digital assets for payment for legal goods or
21 services.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) The operation of a node shall be allowed to:

25 (a) Connect to a blockchain protocol and participate in the blockchain
26 protocol's operations;

27 (b) Transfer digital assets on a blockchain protocol; or

1 (c) Participate in staking on a blockchain protocol.

2 (2) The Attorney General may initiate any action under KRS 367.110 to 367.300
 3 relating to the offering or providing staking as a service to individuals or other
 4 businesses.

5 (3) A person:

6 (a) Operating a node or series of nodes on a blockchain network; or

7 (b) Providing staking as a service;

8 shall have no liability for a specific transaction if the person only validates the
 9 transaction.

10 ➔Section 4. KRS 286.11-007 is amended to read as follows:

11 This subtitle does not apply to:

- 12 (1) The United States or any department, agency, or instrumentality thereof;
- 13 (2) The United States Post Office or a contractor acting on behalf of the United States
 14 Post Office;
- 15 (3) A state or any agency, department, or political subdivision of a state;
- 16 (4) A financial institution or its subsidiaries, affiliates, and service corporations, or any
 17 office of an international banking corporation, branch of a foreign bank, or
 18 corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C.
 19 secs. 181 to 1867, or a corporation organized under the Edge Act, 12 U.S.C. secs.
 20 611 to 633;
- 21 (5) A service provider that:
- 22 (a) Pursuant to a written agreement, acts on behalf of an entity exempt from
 23 licensure as set forth in subsection (4) of this section; and
- 24 (b) Allows the state or federal regulators with regulatory jurisdiction over the
 25 exempt entity to examine and inspect the service provider's applicable
 26 records, books, and transactions;
- 27 (6) A service provider that receives money or monetary value on behalf of an entity

1 selling goods or services other than money transmission services if:

2 (a) The entity, upon receipt of funds by the service provider, immediately either:

3 1. Provides the purchased goods or services to the purchaser; or

4 2. Credits the purchaser for the full amount of money or monetary value
5 received by the service provider, which credit is not revocable by the
6 entity, and evidences this credit in writing; and

7 (b) The entity is obligated to provide the purchased goods or services to the
8 purchaser regardless of whether or not the service provider transmits the
9 money or monetary value to the entity;~~or~~

10 (7) The provision of electronic transfer of government benefits for any federal, state, or
11 county governmental agency as defined in Federal Reserve Board Regulation E, by
12 a contractor for and on behalf of the United States or any department, agency, or
13 instrumentality thereof, or any state or any political subdivisions thereof; or

14 (8) (a) Any individual or business that:

15 1. Develops or deploys software on a blockchain protocol, even if the
16 software effectuates the exchange of one digital asset for another
17 digital asset;

18 2. Exchanges digital assets for other digital assets; or

19 3. Operates a node or series of nodes on a blockchain protocol.

20 (b) As used in this subsection, "blockchain protocol," "digital asset," and
21 "node" have the same meaning as in Section 1 of this Act.

22 ➔Section 5. KRS 292.340 is amended to read as follows:

23 (1) It is unlawful for any person to offer or sell any security in this state, unless the
24 security is registered under this chapter, or the security or transaction is exempt
25 under this chapter, or the security is a covered security.

26 (2) (a) A business that offers to provide staking as a service to any person shall not
27 be deemed to be offering or selling a security under this chapter.

1 (b) As used in this subsection, "staking as a service" has the same meaning as
2 in Section 1 of this Act.