

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 4 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) (a) "Central bank digital currency" means a digital currency, a digital medium*

- 1 of exchange, or a digital monetary unit of account:
- 2 1. Issued and made directly available to the public; or
- 3 2. Processed or validated;
- 4 by the United States Federal Reserve System or a federal agency.
- 5 (b) "Central bank digital currency" does not mean a digital asset:
- 6 1. Backed by legal tender or government treasuries; and
- 7 2. Issued by a private entity;
- 8 (5) "Cryptocurrency" has the same meaning as in KRS 139.516;
- 9 (6) "Cryptography" means the practice of coding information to ensure only the
- 10 person that a message was written for can read and process that information;
- 11 (7) "Digital asset" means:
- 12 (a) Virtual currency;
- 13 (b) Cryptocurrency; and
- 14 (c) Natively electronic assets, including stablecoins, fungible tokens, and
- 15 nonfungible tokens;
- 16 that confer economic, proprietary, or access rights or powers;
- 17 (8) "Digital asset mining" means using computer hardware and software specifically
- 18 designed or utilized for the purpose of validating data and securing a blockchain
- 19 network;
- 20 (9) "Digital asset mining as a service" means and individual or business which runs,
- 21 maintains, and services digital asset mining devices on behalf of another
- 22 individual or business for monetary compensation;
- 23 (10) "Digital asset mining business" means a group of computers working together
- 24 that consume more than one (1) megawatt of energy for the purpose of securing a
- 25 blockchain protocol;
- 26 (11) "Hardware wallet" means a physical device that:
- 27 (a) Stores private keys offline;

1 (b) Provides a way to sign transactions and interact with the blockchain; and

2 (c) Allows the owner to retain independent control over the digital asset
3 contained therein;

4 (12) "Home digital asset mining" means using digital asset mining in an area zoned
5 for residential use;

6 (13) "Natively electronic asset" means a purely digital asset that exists only on the
7 blockchain network;

8 (14) "Node" means a computer which:

9 (a) Uses software to:

10 1. Communicate with other devices or participants on a blockchain to
11 maintain consensus and integrity of that blockchain;

12 2. Create and validates transaction blocks; or

13 3. Contain and update a copy of a blockchain; and

14 (b) Does not exercise discretion over transactions initiated by the end users of
15 the blockchain protocol;

16 (15) "Nonfungible token" means a digital asset on a blockchain that:

17 (a) Has unique identification codes and metadata that are recorded;

18 (b) Has been tokenized and cannot be replicated;

19 (c) Is used to certify ownership and authenticity; and

20 (d) Represents digital or physical items including artwork or real estate;

21 (16) "Private key" means the access to manage digital assets at a specific internet
22 address and may be used for encryption and digital signature;

23 (17) "Self-hosted wallet" means a digital interface that can:

24 (a) Secure and transfer digital assets; and

25 (b) Allow its owner to retain independent control of the secured digital assets
26 and private keys;

27 (18) "Smart contract" has the same meaning as in KRS 42.747;

1 (19) "Stablecoin" means a digital asset that is:

2 (a) Issued by a corporation;

3 (b) Backed by cash or high-quality liquid assets; and

4 (c) Redeemable on demand by the holder at par for a fixed monetary value in
5 equivalent United States dollars;

6 (20) "Staking" means using a node to commit digital assets to a blockchain network
7 to:

8 (a) Validate transactions;

9 (b) Propose and attest to blocks contained in the blockchain; and

10 (c) Secure the network;

11 (21) (a) "Staking as a service" means the provision of technical staking services by
12 a service provider on behalf of an individual or business that owns the
13 digital assets being staked.

14 (b) "Staking as a service" includes the operation of nodes and the associated
15 infrastructure necessary to facilitate participation in blockchain protocols'
16 consensus mechanisms;

17 (22) "Third-party wallet" means a wallet that is hosted and controlled by a party other
18 than the owner which contains the private keys for the owner of digital assets;
19 and

20 (23) "Wallet" means a digital interface or a physical device which holds digital assets
21 or private keys, and may include a:

22 (a) Hardware wallet;

23 (b) Self-hosted wallet; and

24 (c) Third-party wallet.

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

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

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

2 (b) The use of a wallet.

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

6 (3) This section shall not prohibit the imposition or collection of taxes, withholdings,
 7 assessments, or charges on digital assets used as the method of payment when the
 8 same imposition and collections of taxes, withholdings, assessments, or charges
 9 are made on similar transactions which use the legal tender of the United States
 10 as the method of payment.

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

13 The local zoning for a digital asset mining business:

14 (1) Shall not be changed from its original designation without going through the
 15 notice and comment process established by the local government;

16 (2) Shall not be changed to discriminate against a digital asset mining business;

17 (3) May be appealed to a proper court of jurisdiction; and

18 (4) Shall be reversed upon a finding by the court that the change occurred to
 19 discriminate against a digital asset mining business.

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

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

23 (a) Connect to a blockchain protocol and participate in the blockchain
 24 protocol's operations;

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

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

27 (2) The Attorney General may initiate any action under KRS 367.110 to 367.300

1 relating to the offering or providing to individuals or other businesses of:

2 (a) Digital asset mining; or

3 (b) Staking as a service.

4 (3) A person:

5 (a) Engaged in or providing digital asset mining;

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

7 (c) Providing staking as a service;

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

10 ➔Section 5. 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. Is engaged in home digital asset mining or a digital asset mining**
16 **business;**

17 **2. Develops or deploys software on a blockchain protocol, even if the**
18 **software effectuates the exchange of one digital asset for another**
19 **digital asset; or**

20 **3. Exchanges digital assets for other digital assets;**

21 **4. Operates a node or series of nodes on a blockchain protocol.**

22 **(b) As used in this subsection, the following terms have the same meaning as in**
23 **Section 1 of this Act:**

24 **1. "Digital asset mining business";**

25 **2. "Home digital asset mining"; and**

26 **3. "Node." ~~or~~**

27 ➔Section 6. KRS 292.340 is amended to read as follows:

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

4 **(2) (a)** **A business that offers to provide digital asset mining or staking as a service**
5 **to any person shall not be deemed to be offering or selling a security under**
6 **this chapter.**

7 **(b)** **As used in this subsection, the following terms have the same meaning as in**
8 **Section 1 of this Act:**

9 **1. "Digital asset mining"; and**

10 **2. "Staking as a service."**