

1 AN ACT relating to the regulation of virtual currency kiosk business.

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

3 ➔SECTION 1. SUBTITLE 13 OF KRS CHAPTER 286 IS ESTABLISHED,
4 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this subtitle, unless the context requires otherwise:*

6 *(1) "Affiliate" means a person that, either directly or indirectly through one (1) or*
7 *more intermediaries, controls, is controlled by, or is under common control with*
8 *another person;*

9 *(2) "Agent":*

10 *(a) Means a person authorized by written agreement and designated by a*
11 *virtual currency kiosk operator to engage in virtual currency kiosk business*
12 *in this state on behalf of the operator;*

13 *(b) Includes, as the context requires, a person that an applicant proposes to*
14 *engage in virtual currency kiosk business in this state as an agent on behalf*
15 *of the applicant; and*

16 *(c) Does not include an employee of a virtual currency kiosk operator or*
17 *applicant;*

18 *(3) "Control" means one (1) or more of the following:*

19 *(a) The power to direct the management, operations, or policies of a person,*
20 *which power may be:*

21 *1. Direct or indirect; and*

22 *2. Obtained:*

23 *a. Through legal or beneficial ownership of voting power in the*
24 *person; or*

25 *b. Under a contract, arrangement, or understanding;*

26 *(b) The power to vote, directly or indirectly, at least twenty-five percent (25%) of*
27 *the outstanding voting shares or voting interests of a person or a person in*

1 control of the person;

2 (c) The power to elect or appoint a majority of a person's executive officers,
3 managers, directors, trustees, or other persons exercising managerial
4 authority of a person or a person in control of the person;

5 (d) The power to exercise, directly or indirectly, a controlling influence over the
6 management or policies of a person or a person in control of the person;

7 and

8 (e) Any other set of facts or circumstances, as determined by the commissioner
9 through promulgation of an administrative regulation in accordance with
10 KRS Chapter 13A, that constitutes control;

11 (4) "Director" means any of the following:

12 (a) A member of a corporation's board of directors;

13 (b) A manager of a limited liability company;

14 (c) A partner of a partnership; or

15 (d) A member of any other entity's governing body;

16 (5) "Executive officer" means:

17 (a) A president, chairperson of the executive committee, responsible individual,
18 or chief financial officer; or

19 (b) Any other natural person who performs similar functions for an applicant,
20 licensee, or agent;

21 (6) "Fiat currency" means a government-issued currency that is:

22 (a) Backed by the government's authority; and

23 (b) Not backed by a physical commodity;

24 (7) "Key shareholder" means any person, or group of persons acting in concert, that
25 is the owner of twenty percent (20%) or more of any voting class of the stock of
26 an applicant, licensee, or agent;

27 (8) "Legal tender":

1 (a) Means a medium of exchange or unit of value, including the coin or paper
2 money of the United States, that is:

3 1. Issued by:

4 a. The United States; or

5 b. Another government; or

6 2. Recognized by the Commonwealth of Kentucky, as permitted under
7 Article 1, Section 10, of the Constitution of the United States; and

8 (b) Does not include any medium of exchange or unit of value authorized,
9 recognized, or adopted by a foreign government if the medium of exchange
10 or unit of value was a virtual currency before the government authorized,
11 recognized, or adopted the medium of exchange or unit of value;

12 (9) "License" means a license issued by the commissioner under this subtitle;

13 (10) "Licensee" means a person issued a license;

14 (11) "Material litigation":

15 (a) Means litigation that according to generally accepted accounting principles:

16 1. Is significant to the financial health of an applicant, licensee, or
17 agent; and

18 2. Would be required to be disclosed in the applicant's, licensee's, or
19 agent's annual audited financial statements, report to shareholders, or
20 similar records; and

21 (b) Includes any adjudication against an applicant, licensee, or agent by a
22 federal or state administrative or regulatory agency relating to a violation of
23 the Bank Secrecy Act, 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. pt. 103,
24 regardless of whether liability or fault has been admitted;

25 (12) "Responsible individual":

26 (a) Means a natural person who:

27 1. Is employed by a virtual currency kiosk operator; and

1 2. Has principal managerial authority over the virtual currency kiosk
 2 operator's virtual currency kiosk business in this state; and

3 (b) Includes, as the context requires, a natural person who:

4 3. Is employed by an applicant; and

5 2. The applicant proposes to have principal managerial authority over its
 6 virtual currency kiosk business in this state;

7 (13) "Virtual currency":

8 (a) Except as provided in paragraph (b) of this subsection, means a digital
 9 representation of value that is:

10 1. Used as a:

11 a. Medium of exchange;

12 b. Unit of account; or

13 c. Store of value; and

14 2. Not legal tender, whether or not denominated in legal tender; and

15 (b) Does not include:

16 1. A transaction in which a merchant grants, as part of an affinity or
 17 rewards program, value that cannot be taken from or exchanged with
 18 a merchant for legal tender, bank credit, or virtual currency; or

19 2. A digital representation of value:

20 a. Issued by or on behalf of a publisher; and

21 b. Used solely within an online game, game platform, or family of
 22 games:

23 i. Sold by the same publisher; or

24 ii. Offered on the same game platform;

25 (14) (a) "Virtual currency kiosk" means a physical electronic terminal acting as a
 26 mechanical agent of a virtual currency kiosk operator to enable the
 27 operator to facilitate the exchange of one (1) or more of the following:

- 1 1. Fiat currency for virtual currency;
- 2 2. Virtual currency for fiat currency; and
- 3 3. Virtual currency for other virtual currency.

4 (b) As used in this subsection, "facilitate" includes:

- 5 1. Connecting directly to a separate virtual currency exchanger that
6 performs the exchange; and
- 7 2. Drawing upon the virtual currency or fiat currency in the possession
8 or control of the virtual currency kiosk operator to perform the
9 exchange;

10 (15) "Virtual currency kiosk charges" means all of the following:

- 11 (a) Fees and expenses charged to a virtual currency kiosk user; and
- 12 (b) The difference between the market price of virtual currency and the price of
13 the virtual currency charged to a virtual currency kiosk user;

14 (16) "Virtual currency kiosk operator" or "operator" means a person, including a
15 licensee, that engages in virtual currency kiosk business in this state;

16 (17) "Virtual currency kiosk transaction" means any transaction:

- 17 (a) Conducted or performed by electronic means via a virtual currency kiosk
18 located in this state; or
- 19 (b) Made at a virtual currency kiosk located in this state to purchase, sell,
20 transfer, or otherwise exchange virtual currency; and

21 (18) "Virtual currency kiosk user" or "user" means a person, other than a virtual
22 currency kiosk operator, that initiates, authorizes, completes, or engages in a
23 virtual currency kiosk transaction.

24 ➔SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
25 IS CREATED TO READ AS FOLLOWS:

26 This subtitle shall not apply to:

- 27 (1) The United States or any department, agency, or instrumentality thereof;

- 1 (2) A state or any agency, department, or political subdivision of a state;
 2 (3) A state-chartered or federally chartered bank, savings bank, savings and loan
 3 association, trust company, or credit union;
 4 (4) A bank holding company, as defined in 12 U.S.C. sec. 1841, as amended;
 5 (5) A subsidiary, affiliate, or service corporation of a person referenced in subsection
 6 (3) or (4) of this section;
 7 (6) An office of an international banking corporation;
 8 (7) A branch of a foreign bank;
 9 (8) A bank service company, as defined in 12 U.S.C. sec. 1861, as amended;
 10 (9) A corporation organized under the Edge Act, 12 U.S.C. sec. 611, et seq., as
 11 amended; or
 12 (10) A service provider that:
 13 (a) Pursuant to a written agreement, acts on behalf of an entity referenced in
 14 subsection (3), (4), (5), (6), (7), (8), or (9) of this section; and
 15 (b) Allows the state or federal regulators with regulatory jurisdiction over the
 16 entity on whose behalf the service provider is acting to examine and inspect
 17 the service provider's applicable records, books, and transactions.

18 ➔SECTION 3. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 19 IS CREATED TO READ AS FOLLOWS:

- 20 (1) (a) The commissioner:
 21 1. Shall enforce the provisions of this subtitle; and
 22 2. Subject to paragraph (b) of this subsection, may promulgate
 23 administrative regulations in accordance with KRS Chapter 13A that
 24 the commissioner determines are necessary to effectuate, or aid in the
 25 effectuation of, this subtitle.
 26 (b) The discretion to promulgate administrative regulations under paragraph
 27 (a)2. of this subsection shall be supplemental to any other provisions of this

1 subtitle relating to the promulgation of administrative regulations.

2 (2) (a) The commissioner may, by order, require licensees to file with the
3 commissioner any:

4 1. Special report that the commissioner determines is necessary for the
5 proper supervision of virtual currency kiosk business under this
6 subtitle; and

7 2. Regular report that is:

8 a. Developed as a uniform report by state regulators; and

9 b. Submitted in accordance with Section 5 of this Act.

10 (b) All reports filed under this subtitle shall contain a certification by an
11 executive officer or director of the licensee that attests to the truth and
12 correctness of the report.

13 (3) The commissioner may invoke the aid of the courts through injunction or other
14 proper process to:

15 (a) Enjoin any existing or threatened violation of this subtitle; or

16 (b) Enforce any proper order or action issued or taken by the commissioner.

17 (4) (a) The remedies and penalties set forth in this subtitle shall be cumulative.

18 (b) This subtitle shall not be construed to limit or restrict the powers, duties,
19 remedies, or penalties available to the commissioner or any other person
20 under any other statutory or common law.

21 ➔SECTION 4. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
22 IS CREATED TO READ AS FOLLOWS:

23 (1) (a) A person shall not engage in virtual currency kiosk business in this state
24 without:

25 1. A license; and

26 2. First obtaining, for each:

27 a. Agent, the written approval of the commissioner to designate the

1 agent to engage in virtual currency kiosk business in this state
2 on behalf of the person; and

3 b. Location at which the person, or an agent of the person, engages
4 in virtual currency kiosk business in this state:

5 i. Any license, permit, registration, or other authorization
6 required for the person, agent, or location under any
7 applicable local ordinance, resolution, or regulation; and

8 ii. The written approval of the commissioner to do business at
9 the location, as provided in Section 8 of this Act.

10 (b) Except as provided in paragraph (c) of this subsection, a person shall be
11 deemed to be engaged in virtual currency kiosk business in this state if the
12 person:

13 1. Owns, operates, solicits, markets, or advertises a virtual currency kiosk
14 located in this state; or

15 2. Engages in, or holds out as being able to engage in, a virtual currency
16 kiosk transaction with or on behalf of any virtual currency kiosk user.

17 (c) A person shall not be deemed to be engaged in virtual currency kiosk
18 business in this state solely because the person leases space to, or otherwise
19 contracts for or allows, a virtual currency kiosk operator to locate a virtual
20 currency kiosk at a store or locale in this state.

21 (2) A license shall:

22 (a) Be valid unless it is:

23 1. Revoked or suspended by the commissioner;

24 2. Surrendered by the licensee; or

25 3. Expired;

26 (b) Except as provided in Section 12 of this Act, not be transferred or assigned;
27 and

1 (c) Expire on December 31 of the year in which it is issued, unless renewed or
2 reinstated in accordance with Section 11 of this Act.

3 ➔SECTION 5. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
4 IS CREATED TO READ AS FOLLOWS:

5 (1) As used in this section, "registry" means the State Regulatory Registry, LLC, or
6 its successor organization.

7 (2) When an application, report, or approval request is required to be filed with the
8 commissioner under this subtitle, the commissioner may require that the filing,
9 including any applicable fees and supporting documentation, be submitted to:

10 (a) The registry or its successor organization;

11 (b) The registry's parent, affiliate, or operating subsidiary; or

12 (c) Other agencies or authorities as part of a nationwide licensing system;

13 which may act as an agent for receiving, requesting, and distributing information
14 to and from any source directed by the commissioner.

15 (3) The commissioner:

16 (a) May report violations of this subtitle, enforcement actions, and other
17 relevant information that the commissioner deems necessary to carry out
18 the purpose of this section to the registry or its affiliated entities; and

19 (b) Shall establish a process whereby licensees may challenge information
20 entered into the registry by the commissioner.

21 (4) The commissioner shall annually request:

22 (a) Audited financial reports, including inquiring as to the budget and fees
23 collected, both proposed and actual, from the registry; and

24 (b) Any nonconfidential protocols or reports for the security and safeguarding
25 of personal information maintained by the registry, including inquiring as
26 to:

27 1. Whether the system has implemented and complied with the data

1 security guidelines set forth in the Gramm-Leach-Bliley Act, 15 U.S.C.
 2 sec. 6801;

3 2. The results of any nonconfidential periodic data protection audits that
 4 the system may conduct; and

5 3. Whether any security breaches have occurred resulting in the
 6 substantial likelihood that personal information may be misused or
 7 stolen.

8 (5) The commissioner may establish relationships and contracts with other
 9 governmental agencies or entities affiliated with the registry that the
 10 commissioner deems necessary to carry out this section.

11 (6) For purposes of this section, the commissioner may use other governmental
 12 agencies or the registry or its affiliated entities as an agent for requesting
 13 information from, and distributing information to, the United States Department
 14 of Justice or other governmental agencies.

15 ➔SECTION 6. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 16 IS CREATED TO READ AS FOLLOWS:

17 (1) (a) A person seeking to become a licensee shall file a complete application for a
 18 license with the commissioner.

19 (b) An application for a license shall not be complete unless it:

20 1. Is made in writing, under oath or affirmation;

21 2. Is in the format required by the commissioner;

22 3. Contains, and is accompanied by, the information, documentation,
 23 and evidence required under Section 7 of this Act;

24 4. Contains an attestation that the applicant is in, and will maintain,
 25 compliance with Section 10 of this Act;

26 5. Is accompanied by evidence that the requirements of Section 9 of this
 27 Act have been satisfied; and

- 1 6. Is accompanied by a nonrefundable application fee that is determined
2 by the commissioner in accordance with Section 13 of this Act.
- 3 (2) Within ninety (90) days after receipt of a complete application for a license,
4 which period may be extended by the commissioner for good cause, the
5 commissioner shall:
- 6 (a) Review the application and all attachments for compliance with the
7 requirements of this subtitle;
- 8 (b) Investigate the following of the applicant, including for each person in
9 control of the applicant and each responsible individual:
- 10 1. Competence;
11 2. Experience;
12 3. Character;
13 4. Financial condition; and
14 5. Responsibility; and
- 15 (c) Subject to Section 24 of this Act and subsection (4) of this section, issue:
- 16 1. An unconditional license to the applicant to engage in virtual
17 currency kiosk business at one (1) or more locations in this state;
18 2. A notice of intent to issue a conditional license to the applicant to
19 engage in virtual currency kiosk business at one (1) or more locations
20 in this state; or
21 3. A notice of intent to deny the applicant's application for a license.
- 22 (3) As part of the review and investigation of an application under subsection (2) of
23 this section, the commissioner may, in his or her discretion, investigate an
24 applicant's business premises.
- 25 (4) (a) The commissioner shall issue an unconditional license to an applicant to
26 engage in virtual currency kiosk business at one (1) or more locations in
27 this state if the commissioner determines that the applicant:

- 1 1. Is in compliance with the requirements of this subtitle;
- 2 2. Has reasonably demonstrated that it has the competence, experience,
- 3 character, financial condition, and responsibility to continue to satisfy
- 4 the requirements of this subtitle; and
- 5 3. Has satisfied the requirements of subsection (3)(a)1. and 2. of Section
- 6 8 of this Act for at least one (1) location in this state.
- 7 **(b) 1. The commissioner may issue a notice of intent to issue a conditional**
- 8 license to an applicant to engage in virtual currency kiosk business at
- 9 one (1) or more locations in this state if the commissioner determines
- 10 that the conditions, including any additional bond amount specified by
- 11 the commissioner under Section 9 of this Act, are necessary for the
- 12 applicant to satisfy the requirements of paragraph (a)1., 2., and 3. of
- 13 this subsection.
- 14 2. A notice of intent issued under subparagraph 1. of this paragraph
- 15 shall specify the additional conditions that are required for the
- 16 applicant to obtain and maintain a license.
- 17 3. The commissioner may issue a conditional license to an applicant to
- 18 engage in virtual currency kiosk business at one (1) or more locations
- 19 in this state if the applicant files with the commissioner a written
- 20 acceptance of the conditions specified in the notice issued under
- 21 subparagraph 1. of this paragraph to the applicant within thirty (30)
- 22 days after service of the notice.
- 23 4. If the department does not receive an applicant's written acceptance of
- 24 the conditions specified in the notice issued under subparagraph 1. of
- 25 this paragraph to the applicant within thirty (30) days after service of
- 26 the notice, the commissioner shall issue a notice of intent to deny the
- 27 applicant's application for a license.

1 (c) 1. Except as provided in paragraph (b) of this subsection, the
 2 commissioner shall issue a notice of intent to deny an applicant's
 3 application for a license if the commissioner determines that:

4 a. Denial of the license is warranted under Section 25 of this Act;

5 or

6 b. The requirements of paragraph (a)1., 2., and 3. of this subsection
 7 are not satisfied.

8 2. A notice of intent to deny an applicant's application for a license shall
 9 specify the reasons for the determination.

10 ➔SECTION 7. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 11 IS CREATED TO READ AS FOLLOWS:

12 An application filed under Section 6 of this Act shall provide all of the following
 13 information, documentation, and evidence unless the commissioner, for good cause,
 14 waives any requirement of this section with respect to a license application:

15 (1) The following for the applicant, each executive officer, director, key shareholder,
 16 and person in control of the applicant, and each responsible individual and
 17 agent, as applicable:

18 (a) Legal name;

19 (b) Any former names used, including former fictitious or trade names;

20 (c) Any fictitious or trade names used;

21 (d) Business addresses;

22 (e) Residential addresses;

23 (f) Social Security number;

24 (g) Employment history for the ten (10) year period preceding the application
 25 filing; and

26 (h) A description of the activities conducted by the person and a history of
 27 operations, including a description of any money or virtual currency

- 1 services, money transmission, or virtual currency kiosk business that has
2 been previously conducted in this state;
- 3 (2) The physical address of each proposed virtual currency kiosk in this state;
- 4 (3) A copy of any agreement between the applicant and each responsible individual
5 and agent;
- 6 (4) A list of each license or other authorization the applicant holds to conduct money
7 or virtual currency services, money transmission, or virtual currency kiosk
8 business in any state, federal, or foreign jurisdiction and the date each license or
9 authorization expires;
- 10 (5) A list of all regulatory revocations, suspensions, restrictions, and other
11 disciplinary actions in any state, federal, or foreign jurisdiction, including all
12 rejected applications, taken against any of the following:
- 13 (a) The applicant;
14 (b) A responsible individual; or
15 (c) An agent;
- 16 (6) (a) A list and description of all criminal convictions, deferred prosecution
17 agreements, and pending criminal proceedings, other than traffic violations,
18 in any jurisdiction for the ten (10) year period preceding the filing of the
19 application against any of the following:
- 20 1. The applicant;
21 2. A responsible individual;
22 3. An agent;
23 4. An executive officer of the applicant; or
24 5. A key shareholder of the applicant.
- 25 (b) The commissioner may request a copy of any criminal conviction, which
26 shall be promptly provided within ten (10) working days of the request;
- 27 (7) (a) A list and description of all material litigation for the ten (10) year period

- 1 preceding the filing of the application against any of the following:
- 2 1. The applicant;
- 3 2. A responsible individual;
- 4 3. An agent;
- 5 4. An executive officer of the applicant; or
- 6 5. A key shareholder of the applicant.
- 7 (b) The commissioner may request a copy of any material litigation, which
- 8 shall be promptly provided within ten (10) working days of the request;
- 9 (8) A list of all bankruptcy and receivership proceedings in any jurisdiction for the
- 10 past ten (10) years in which any of the following was a debtor:
- 11 (a) The applicant;
- 12 (b) A responsible individual;
- 13 (c) An agent;
- 14 (d) A person in control of the applicant; or
- 15 (e) A person over which the applicant has control;
- 16 (9) The name, business address, and telephone number of each financial institution
- 17 in which the applicant and its agents plan to deposit or clear funds obtained by or
- 18 through its virtual currency kiosk business in this state;
- 19 (10) A description of the source of funds and credit to be used by the applicant and its
- 20 agents to conduct virtual currency kiosk business in this state;
- 21 (11) A sample contract for an agent;
- 22 (12) A copy of the written procedures that will be provided by the applicant or licensee
- 23 to its responsible individuals and agents;
- 24 (13) The physical address and email address to which communications from the
- 25 department may be sent;
- 26 (14) The name, physical address, email address, and telephone number of the
- 27 applicant's registered agent for service of process in this state;

1 (15) The name, business address, email address, and telephone number of the
2 applicant's chief compliance officer for virtual currency kiosk business
3 conducted in this state;

4 (16) With respect to the applicant's virtual currency kiosk business in this state, a copy
5 of the certificate of coverage for each liability, casualty, business interruption,
6 and cybersecurity insurance policy maintained by the applicant for any of the
7 following:

8 (a) Itself;

9 (b) A responsible individual;

10 (c) An agent;

11 (d) An affiliate of the applicant;

12 (e) A person in control of the applicant; or

13 (f) A person over which the applicant has control;

14 (17) If applicable:

15 (a) The date on which, and the state where, the applicant is formed;

16 (b) A copy of any current certificate of good standing issued by the state where
17 the applicant is formed;

18 (c) A copy of the applicant's filed articles of incorporation;

19 (d) Evidence that the applicant is registered or qualified to do business in this
20 state;

21 (e) The name, business address, and telephone number of each affiliate of the
22 applicant;

23 (f) A description of the control relationship between the applicant and each
24 affiliate of the applicant; and

25 (g) A description of the corporate or business structure of the applicant,
26 including:

27 1. The identity of any parent and subsidiary of the applicant; and

- 1 2. Disclosure of whether any parent or subsidiary of the applicant is
2 publicly traded on any stock exchange;
- 3 (18) A copy of the following for the most recent fiscal year and, if available, for the
4 two (2) year period preceding filing of the application:
- 5 (a) The applicant's audited annual financial statements; or
6 (b) If the applicant is a wholly owned subsidiary of another corporation:
- 7 1. The audited consolidated annual financial statement of the parent
8 corporation; or
- 9 2. The applicant's audited consolidated annual financial statements;
- 10 (19) A copy of the applicant's unconsolidated financial statements, whether audited or
11 not, for:
- 12 (a) The current fiscal year; and
13 (b) If available, for the two (2) year period preceding the filing of the
14 application;
- 15 (20) If the applicant is publicly traded in the United States, a copy of the most recent
16 report filed by the person pursuant to 15 U.S.C. sec. 78m, as amended;
- 17 (21) If a person in control of the applicant is publicly traded in the United States, a
18 copy of the:
- 19 (a) Audited financial statements of the person for the most recent fiscal year; or
20 (b) Most recent report filed by the person pursuant to 15 U.S.C. sec. 78m, as
21 amended;
- 22 (22) If a person in control of the applicant is publicly traded outside the United States,
23 a copy of the most recent documentation filed by the person with a relevant
24 foreign regulator in the person's domicile that is similar to that required in
25 subsection (20) of this section;
- 26 (23) If the applicant or its agents are required to register with the Financial Crimes
27 Enforcement Network of the United States Department of the Treasury as a

1 money service business, evidence of the registration;

2 (24) Any substituted information, documentation, or evidence the commissioner, for
3 good cause, permits for any license application in lieu of the information,
4 documentation, or evidence required by this section; and

5 (25) Any other information, documentation, or evidence the commissioner reasonably
6 requires to determine whether an applicant satisfies the requirements of this
7 subtitle.

8 ➔SECTION 8. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
9 IS CREATED TO READ AS FOLLOWS:

10 (1) (a) An applicant or licensee seeking to engage in virtual currency kiosk
11 business at one (1) or more locations in this state, either directly or through
12 an agent, shall file a complete application for approval of the location or
13 locations with the commissioner.

14 (b) An applicant or licensee seeking to designate one (1) or more agents to
15 engage in virtual currency kiosk business on behalf of the applicant or
16 licensee in this state shall file a complete application for approval of the
17 agent or agents with the commissioner.

18 (2) (a) Subject to paragraph (b) of this subsection, an application for approval to
19 engage in virtual currency kiosk business at one (1) or more locations, or
20 through one (1) or more agents, in this state shall not be complete unless it:

21 1. Is made in writing, under oath or affirmation;

22 2. Is in a format required by the commissioner;

23 3. Contains, and is accompanied by, the information, documentation,
24 and evidence required or permitted under Section 7 of this Act that the
25 commissioner determines is necessary and appropriate for the purpose
26 of making the determination under subsection (3) of this section; and

27 4. Is accompanied by a nonrefundable fee for each location and agent

1 that is determined by the commissioner in accordance with Section 13
2 of this Act, except the commissioner may waive the nonrefundable fee
3 for any application that is made at the same time as a license
4 application under Section 6 of this Act.

5 **(b) When an applicant seeks approval to engage in virtual currency kiosk**
6 **business at one (1) or more locations, or through one (1) or more agents, in**
7 **this state at the same time as filing a license application under Section 6 of**
8 **this Act, the commissioner may:**

9 **1. Accept the license application as the complete application required**
10 **under this section; or**

11 **2. Require the applicant to submit additional information to the**
12 **commissioner as part of the license application for each location,**
13 **agent, or location and agent.**

14 **(3) Upon receipt of a complete application in accordance with subsection (2) of this**
15 **section, and subject to Section 24 of this Act, the commissioner shall do one (1) of**
16 **the following for each proposed location and agent:**

17 **(a) The commissioner shall issue an unconditional approval to the applicant or**
18 **licensee to engage in virtual currency kiosk business at the location, or**
19 **through the agent, in this state if, after investigation, the commissioner**
20 **determines that:**

21 **1. The applicant or licensee will conduct business at the location, or**
22 **through the agent, in a lawful and proper manner; and**

23 **2. The interest of the public will not be jeopardized by the applicant or**
24 **licensee conducting business at the location or through the agent;**

25 **(b) 1. The commissioner may issue a notice of intent to issue a conditional**
26 **approval to the applicant or licensee to engage in virtual currency**
27 **kiosk business at the location, or through the agent, in this state if the**

1 commissioner, after investigation, determines that the conditions,
2 including any additional bond amount specified by the commissioner
3 under Section 9 of this Act, are necessary for the applicant or licensee
4 to satisfy the requirements of paragraph (a)1. and 2. of this
5 subsection.

6 2. A notice of intent issued under subparagraph 1. of this paragraph
7 shall specify the additional conditions that are required for the
8 applicant or licensee to engage in the proposed activity.

9 3. The commissioner may issue a conditional approval to an applicant or
10 licensee to engage in virtual currency kiosk business at the location,
11 or through the agent, in this state if the applicant or licensee files a
12 written acceptance of the conditions specified in the notice issued
13 under subparagraph 1. of this paragraph to the applicant or licensee
14 within thirty (30) days after service of the notice.

15 4. If the department does not receive an applicant's or a licensee's
16 written acceptance of the conditions specified in the notice issued
17 under subparagraph 1. of this paragraph to the applicant or licensee
18 within thirty (30) days after service of the notice, the commissioner
19 shall issue a notice of intent to deny the applicant's or licensee's
20 application for approval to engage in the proposed activity; or

21 (c) 1. Except as provided in paragraph (b) of this subsection, the
22 commissioner shall issue a notice of intent to deny the applicant's or
23 licensee's application to engage in virtual currency kiosk business at
24 the location, or through the agent, in this state if, after investigation,
25 the commissioner determines that:

26 a. For a proposed agent, denial is warranted under Section 25 of
27 this Act; or

1 **b. The requirements of paragraph (a)1. and 2. of this subsection**
 2 **are not satisfied.**

3 **2. A notice of intent to deny an applicant's or licensee's application to**
 4 **engage in virtual currency kiosk business at a location, or through an**
 5 **agent, shall specify the reasons for the determination.**

6 ➔SECTION 9. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 7 IS CREATED TO READ AS FOLLOWS:

8 **(1) As used in this section:**

9 **(a) "Bond" means:**

10 **1. A surety bond; or**

11 **2. Another similar security acceptable to the commissioner;**

12 **(b) "Net worth" means assets less liabilities as determined by generally**
 13 **accepted accounting principles; and**

14 **(c) "Person" includes any applicant and licensee.**

15 **(2) (a) Except as otherwise provided in paragraph (b) of this subsection, an**
 16 **applicant shall submit with its license application, and a licensee shall at all**
 17 **times maintain, a bond in an amount that is not less than five hundred**
 18 **thousand dollars (\$500,000).**

19 **(b) The commissioner may require an applicant to submit before a license is**
 20 **issued, and a licensee to maintain at all times, a bond in an amount in**
 21 **excess of five hundred thousand dollars (\$500,000) but not exceeding five**
 22 **million dollars (\$5,000,000) if the commissioner determines the additional**
 23 **amount is necessary to cover the nature and extent of risks associated with**
 24 **the virtual currency kiosk business activity in this state of the:**

25 **1. Applicant and its proposed agents; or**

26 **2. The licensee and its agents.**

27 **(c) An applicant or a licensee that is required to increase its bond under**

1 paragraph (b) of this subsection shall submit to the commissioner evidence
2 that it has secured the additional bond amount not later than thirty (30)
3 days after the applicant or licensee is notified by the commissioner in
4 writing of the required increase.

5 (3) (a) The bond required under this section shall:

- 6 1. Be in a form satisfactory to the commissioner;
- 7 2. Hold and bind the principal and surety to the Commonwealth of
8 Kentucky for the benefit of any claimants against the person and its
9 agents to secure the faithful performance of the obligations of the
10 person and its agents in accordance with the requirements of this
11 subtitle, including the payment of unpaid fee amounts and civil
12 monetary penalties due to the department under this subtitle;
- 13 3. Except as provided in paragraph (e) of this subsection, cover claims
14 brought by a claimant for as long as the commissioner specifies, but
15 not less than five (5) years after the later of the following:
 - 16 a. The date of any violation of this subtitle by the person or its
17 agents; or
 - 18 b. The date the person ceases to do business in this state;
- 19 4. Be continuous and remain in effect until canceled;
- 20 5. Require the person and surety to provide the commissioner at least
21 thirty (30) days written notice of an intent to cancel the bond; and
- 22 6. Provide that cancellation of the bond shall not affect any liability
23 incurred or accrued under the bond during the thirty (30) day notice
24 period required under subparagraph 5. of this paragraph.

25 (b) The aggregate liability on a bond shall not exceed the principal sum of the
26 bond.

27 (c) A claimant may maintain a civil action on a bond.

1 (d) The commissioner may maintain a civil action on a bond on behalf of the
 2 department or any other claimant in the Franklin Circuit Court or in any
 3 other court of competent jurisdiction, either in one (1) action or successive
 4 actions.

5 (e) The commissioner may permit the amount of a bond to be reduced or
 6 eliminated after a person ceases to do business in this state to the extent the
 7 amount of a person's and its agents' outstanding obligations in this state are
 8 reduced.

9 (4) In addition to the bond required under this section, an applicant shall submit
 10 with its license application, and a licensee shall at all times maintain, evidence of
 11 a net worth that is not less than five hundred thousand dollars (\$500,000).

12 (5) The commissioner may promulgate an administrative regulation in accordance
 13 with KRS Chapter 13A or issue an order to:

14 (a) Exercise his or her discretion under this section; or

15 (b) Otherwise carry out the requirements of this section.

16 ➔SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 17 IS CREATED TO READ AS FOLLOWS:

18 Every applicant and licensee shall, at the time of filing a license application and at all
 19 times during the consideration of the application and licensure:

20 (1) Be in good standing in its state of incorporation or formation;

21 (2) Be registered or qualified to do business in this state;

22 (3) Maintain a registered agent for service of process in this state; and

23 (4) (a) File a written report with the commissioner within fifteen (15) business days
 24 of knowledge of any of the following events:

25 1. A material change in the information provided in:

26 a. A license application;

27 b. An application for approval to engage in virtual currency kiosk

- 1 business at one (1) or more locations, or through one (1) or more
 2 agents, in this state; or
 3 b. Any report filed under this subtitle;
 4 2. A failure to satisfy the requirements of Section 9 of this Act;
 5 3. Insolvency, the filing for bankruptcy, reorganization, dissolution, or
 6 receivership under the United States bankruptcy code or any other
 7 law, or the making of a general assignment for the benefit of creditors
 8 by:
 9 a. The applicant or licensee;
 10 b. A responsible individual;
 11 c. An agent;
 12 d. An executive officer of the applicant or licensee; or
 13 e. A director of the applicant or licensee;
 14 4. The filing of any material litigation against the applicant or licensee
 15 by any state, federal, or foreign governmental authority; or
 16 5. The applicant or licensee, a responsible individual or agent, or an
 17 executive officer or director of the applicant, the licensee, or an agent
 18 has been:
 19 a. Indicted for or convicted of any felony; or
 20 b. Convicted of a misdemeanor involving fraud, theft, breach of
 21 trust, or virtual currency kiosk business in this state.
 22 (b) The report required under paragraph (a) of this subsection shall describe
 23 the event and its expected impact on:
 24 1. The applicant's proposed activities in this state; or
 25 2. The licensee's activities in this state.

26 ➔SECTION 11. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 27 IS CREATED TO READ AS FOLLOWS:

- 1 (1) As used in this section, "United States dollar equivalent of virtual currency"
2 means the equivalent value of virtual currency in United States dollars shown on
3 a virtual currency exchange based in the United States for a particular date or
4 period.
- 5 (2) On or before December 31 of each year, each licensee shall:
- 6 (a) Pay a nonrefundable annual renewal fee to the department that is
7 determined by the commissioner in accordance with Section 13 of this Act;
8 and
- 9 (b) File the licensee's annual renewal report with the commissioner in
10 accordance with subsection (5) of this section.
- 11 (3) The failure of a licensee to comply with subsection (2) of this section shall result
12 in the expiration of the licensee's license by operation of law on January 1 of the
13 following year.
- 14 (4) (a) The commissioner may reinstate an expired license if, before February 1 of
15 the calendar year in which the license expired, the licensee:
- 16 1. Pays the annual renewal fee and files the annual renewal report
17 required under subsection (2) of this section; and
- 18 2. Pays a civil penalty to the department that is equal to the amount of
19 the annual renewal fee determined by the commissioner in accordance
20 with Section 13 of this Act.
- 21 (b) Any reinstatement of a license under paragraph (a) of this subsection shall
22 be retroactive to January 1 of the calendar year in which the license
23 expired.
- 24 (5) Except as provided in subsection (6) of this section, each licensee shall file an
25 annual renewal report with the commissioner that contains all of the following:
- 26 (a) A copy of:
- 27 1. The licensee's most recent audited annual financial statement; or

- 1 2. If the licensee is a wholly owned subsidiary of another corporation,
2 the:
3 a. Most recent audited consolidated annual financial statement of
4 the parent corporation; or
5 b. Licensee's most recent audited consolidated annual financial
6 statements;
- 7 (b) A description of the following, if the information has not been previously
8 reported to the commissioner on any other report filed under this subtitle:
9 1. Any material changes to any of the information submitted by the
10 licensee on its original application; and
11 2. Any data security breach involving the licensee;
- 12 (c) A list of the licensee's permissible investments under Section 16 of this Act;
13 (d) A certification from the licensee that the licensee continues to maintain
14 permissible investments in accordance with Section 16 of this Act;
- 15 (e) A list of each location where the licensee, or an agent of the licensee,
16 conducts virtual currency kiosk business in this state;
- 17 (f) For January 1 to December 31 of the preceding calendar year and January
18 1 to September 30 of the current year:
19 1. The number of virtual currency kiosk transactions at each location in
20 this state where the licensee, or an agent of the licensee, conducts
21 virtual currency kiosk business;
22 2. The United States dollar amount of virtual currency kiosk transactions
23 at each location in this state where the licensee, or an agent of the
24 licensee, conducts virtual currency kiosk business; and
25 3. The total number and dollar amount of refund requests received by
26 the licensee, or an agent of the licensee, from virtual currency kiosk
27 users that were:

1 a. Granted by the licensee or agent; and

2 b. Denied by the licensee or agent;

3 (g) As of December 31 of the preceding calendar year and September 30 of the
4 current year:

5 1. The amount of United States dollar equivalent of virtual currency in
6 the possession or control of the licensee or an agent of the licensee;

7 2. The number of virtual currency kiosk users for whom the licensee, or
8 an agent of the licensee, had possession or control of virtual currency;
9 and

10 3. The amount of United States dollar equivalent of virtual currency in
11 the possession or control of the licensee, or an agent of the licensee,
12 on behalf of virtual currency kiosk users;

13 (h) Evidence that the licensee continues to satisfy the requirements of Section 9
14 of this Act;

15 (i) The name, business address, email address, and telephone number of the
16 licensee's chief compliance officer for virtual currency kiosk business
17 conducted in this state; and

18 (j) Any other information the commissioner determines is necessary to aid in
19 the enforcement of this subtitle.

20 (6) A licensee that was not licensed in Kentucky at any time between January 1 and
21 October 31 of a calendar year shall not be required to file an annual renewal
22 report for the following year.

23 ➔SECTION 12. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
24 IS CREATED TO READ AS FOLLOWS:

25 (1) A person shall not take any action that results in a change of control of a licensee
26 without:

27 (a) Providing the notice required under subsection (2) of this section; and

1 (b) Obtaining the prior written approval of the commissioner in accordance
2 with subsection (3) of this section, except this paragraph shall not apply to:

3 1. A person that acts as a proxy for the sole purpose of voting at a
4 designated meeting of the security holders or holders of voting
5 interests of a licensee or person in control of a licensee;

6 2. A person that acquires control of a licensee by devise or descent;

7 3. A person that acquires control as a personal representative, custodian,
8 guardian, conservator, or trustee, or as an officer appointed by a court
9 of competent jurisdiction or by operation of law;

10 4. A public offering of securities under the laws of the United States; or

11 5. a. Any other person or circumstance that the commissioner
12 determines is exempted from compliance with this paragraph in
13 an administrative regulation promulgated in accordance with
14 KRS Chapter 13A.

15 b. The commissioner may promulgate an administrative regulation
16 to exempt a person or circumstance from compliance with this
17 paragraph if the commissioner determines that the exemption is
18 necessary to serve the public interest.

19 (2) (a) A licensee shall file a complete notice of a:

20 1. Change of control of the licensee under subsection (1)(b)1. to 5. of this
21 section with the commissioner within fifteen (15) days of learning of
22 the change of control; and

23 2. Proposed change of control of the licensee, other than a change of
24 control under subsection (1)(b)1. to 5. of this section, with the
25 commissioner:

26 a. Within fifteen (15) days of learning of the proposed change of
27 control; and

1 b. At least thirty (30) days prior to the proposed change of control.

2 (b) A notice of a change of control, or a proposed change of control, of a
3 licensee shall not be complete unless it:

4 1. Is made in writing, under oath or affirmation;

5 2. Is in a format required by the commissioner; and

6 3. Contains the information that the commissioner determines is
7 necessary to provide reasonable notice of the licensee's change of
8 control or proposed change of control.

9 (3) (a) Except as provided in subsection (1) of this section, a person seeking to
10 acquire control of a licensee shall file a complete application for approval of
11 the change of control with the commissioner at least thirty (30) days prior to
12 the proposed change of control.

13 (b) An application for approval of a change of control shall not be complete
14 unless it:

15 1. Is made in writing, under oath or affirmation;

16 2. Is in the format required by the commissioner;

17 3. Contains, and is accompanied by, any or all of the information,
18 documentation, and evidence required or permitted for an applicant
19 under Section 7 of this Act that the commissioner determines is
20 necessary and appropriate for the purpose of making the
21 determination under paragraph (c) of this subsection; and

22 4. Is accompanied by a nonrefundable investigation fee of one hundred
23 dollars (\$100).

24 (c) Upon receipt of a complete application for approval of a change of control
25 and subject to Section 24 of this Act, the commissioner shall:

26 1. Approve the application if the commissioner determines that the
27 person satisfies the requirements of this subtitle for obtaining a

- 1 license; or
- 2 2. a. Issue a notice of intent to deny the application if the
- 3 commissioner determines that the person does not satisfy the
- 4 requirements of this subtitle for obtaining a license.
- 5 b. A notice of intent to deny an application for approval of a
- 6 change of control shall specify the requirements of this subtitle
- 7 that the person does not satisfy.
- 8 (4) (a) The commissioner may determine whether any set of facts or a proposed
- 9 transaction constitutes, or would constitute, control for purposes of this
- 10 section.
- 11 (b) Any of the following may make a request to the commissioner for a
- 12 determination under paragraph (a) of this subsection:
- 13 1. A licensee; or
- 14 2. A person that seeks to enter a proposed transaction with a licensee.
- 15 (5) (a) A licensee shall file a complete notice of the termination or resignation of a
- 16 responsible individual or agent with the commissioner within fifteen (15)
- 17 days of the termination or resignation.
- 18 (b) A notice of termination or resignation of a licensee's responsible individual
- 19 or agent shall not be complete unless it:
- 20 1. Is made in writing, under oath or affirmation;
- 21 2. Is in a format required by the commissioner; and
- 22 3. Contains the information that the commissioner determines is
- 23 necessary to provide reasonable notice of the licensee's change in
- 24 responsible individual or agent.
- 25 (6) (a) A licensee shall obtain the prior written approval of the commissioner in
- 26 accordance with this subsection prior to adding or replacing a responsible
- 27 individual.

1 (b) A licensee shall file a complete application for approval of the addition or
 2 replacement of a responsible individual with the commissioner.

3 (c) An application for approval of the addition or replacement of a responsible
 4 individual shall not be complete unless it:

5 1. Is made in writing, under oath or affirmation;

6 2. Is in the format required by the commissioner; and

7 3. Contains, and is accompanied by, any or all of the information,
 8 documentation, and evidence required or permitted under Section 7 of
 9 this Act that the commissioner determines is necessary and
 10 appropriate for the purpose of making the determination under
 11 paragraph (d) of this subsection.

12 (d) Upon receipt of a complete application for approval of the addition or
 13 replacement of a responsible individual and subject to Section 24 of this
 14 Act, the commissioner shall:

15 1. Approve the application if the commissioner determines that the
 16 licensee will continue to satisfy the requirements of this subtitle for
 17 maintaining a license after the addition or replacement; or

18 2. a. Issue a notice of intent to deny the application if the
 19 commissioner determines that the addition or replacement will
 20 cause the licensee to no longer satisfy the requirements of this
 21 subtitle for maintaining a license.

22 b. A notice of intent to deny an application for approval of the
 23 addition or replacement of a responsible individual shall specify
 24 the requirements of this subtitle that the licensee will not satisfy
 25 if the addition or replacement is made.

26 ➔SECTION 13. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 27 IS CREATED TO READ AS FOLLOWS:

1 (1) Subject to subsection (2) of this section, the commissioner shall promulgate
 2 administrative regulations in accordance with KRS Chapter 13A to establish:

3 (a) The format of, and manner of submission for, applications, notices, and
 4 reports required under this subtitle;

5 (b) The nonrefundable application fees required under Sections 6 and 8 of this
 6 Act;

7 (c) The nonrefundable annual renewal fee required under Section 11 of this
 8 Act;

9 (d) Any additional information, documentation, or evidence that the
 10 commissioner may require under Section 7 of this Act; and

11 (e) The information, documentation, and evidence that shall be contained in or
 12 accompany an application or notice filed under Section 8 or 12 of this Act.

13 (2) (a) The nonrefundable fees required under Sections 6, 8, and 11 of this Act
 14 shall be determined based on a reasonable estimation of the amount
 15 required to cover the reasonable costs to the department to:

16 1. Review, investigate, and process the relevant applications and reports;

17 and

18 2. Enforce the requirements of this subtitle.

19 (b) The determination made under paragraph (a) of this subsection shall take
 20 into account any other costs, fees, and expenses that are otherwise payable
 21 to the commissioner under this subtitle.

22 ➔SECTION 14. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 23 IS CREATED TO READ AS FOLLOWS:

24 (1) Virtual currency kiosk operators desiring to engage in virtual currency kiosk
 25 business through agents shall authorize each agent to operate pursuant to an
 26 express written contract, which shall include the following provisions:

27 (a) That the operator designates the person as its agent with authority to

- 1 engage in virtual currency kiosk business on behalf of the operator as
2 authorized under this subtitle;
- 3 (b) That the agent shall operate in full compliance with this subtitle,
4 administrative regulations promulgated under this subtitle, and any order
5 issued by the commissioner pursuant to this subtitle;
- 6 (c) That both the operator and the agent shall not authorize subagents;
- 7 (d) That the agent shall timely remit all legal tender and virtual currency
8 legally due to the operator in accordance with the terms of the written
9 contract between the operator and the agent;
- 10 (e) That the operator and agent are subject to regulation by the commissioner;
11 and
- 12 (f) That the operator and agent shall comply with all applicable federal and
13 state laws.
- 14 (2) An agent shall not make any fraudulent statements or misrepresentations to:
- 15 (a) The virtual currency kiosk operator; or
- 16 (b) The commissioner, including any person acting under the commissioner's
17 authority.
- 18 (3) All virtual currency kiosk business conducted by agents shall be strictly
19 conducted in accordance with the virtual currency kiosk operator's written
20 procedures provided to the agent.
- 21 (4) (a) An agent shall timely remit all legal tender and virtual currency legally due
22 to the virtual currency kiosk operator in accordance with the terms of the
23 written contract between the licensee and the agent.
- 24 (b) The commissioner shall have the discretion to set, by administrative
25 regulation or order, the maximum remittance time.
- 26 (5) An agent shall act only as authorized under the written contract with the virtual
27 currency kiosk operator.

1 (6) (a) All funds, less fees, received by an agent of a virtual currency kiosk
 2 operator from virtual currency kiosk business shall, from the time the funds
 3 are received by the agent until such time when the funds or an equivalent
 4 amount are remitted by the agent to the operator, constitute trust funds
 5 owned by and belonging to the operator.

6 (b) If an agent commingles any of these funds with any other funds or property
 7 owned or controlled by the agent, then all commingled proceeds and other
 8 property shall be impressed with a trust in favor of the virtual currency
 9 kiosk operator in an amount equal to the amount of the proceeds due the
 10 operator.

11 (7) An agent shall report to the virtual currency kiosk operator the theft, forgery, or
 12 loss of the operator's or a virtual currency kiosk user's funds within twenty-four
 13 (24) hours from the time the agent learned of the theft, forgery, or loss.

14 ➔SECTION 15. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 15 IS CREATED TO READ AS FOLLOWS:

16 (1) Each virtual currency kiosk operator and its agents shall:

17 (a) Maintain the books, accounts, and records of its virtual currency kiosk
 18 business activities in this state that are required under subsection (2) of this
 19 section; and

20 (b) Keep the books, accounts, and records referenced in paragraph (a) of this
 21 subsection for:

22 1. A period of time determined by the commissioner in an administrative
 23 regulation promulgated in accordance with KRS Chapter 13A; or

24 2. For a period that is longer than the period referenced in subparagraph
 25 1. of this paragraph if required by:

26 a. Other state or federal law; or

27 b. The commissioner to resolve any examination, investigation, or

1 claim.

2 (2) The following books, accounts, and records shall be maintained:

3 (a) For each virtual currency kiosk transaction:

4 1. The amount, date, and precise time of the transaction;

5 2. Any payment instructions for the transaction;

6 3. The total amount of virtual currency kiosk charges received by and
7 paid to the virtual currency kiosk operator or agent, including any
8 virtual currency kiosk charges received on behalf of the operator or
9 agent;

10 4. The exchange rate of the virtual currency to the United States dollar;
11 and

12 5. The names, account numbers, and physical addresses of the parties to
13 the transaction;

14 (b) A general ledger containing all assets, liabilities, ownership equity, income,
15 and expense accounts;

16 (c) Bank statements and bank reconciliation records;

17 (d) Any receipts, statements, and valuations provided to virtual currency kiosk
18 users and account holders;

19 (e) Records or minutes of meetings of the board of directors or an equivalent
20 governing body of the virtual currency kiosk operator or agent;

21 (f) Records demonstrating compliance with applicable state and federal anti-
22 money laundering laws, including virtual currency kiosk user and account
23 holder identification and verification documents, records linking virtual
24 currency kiosk users and account holders to their respective accounts and
25 balances, and a record of any compliance breaches;

26 (g) Communications and documentation related to:

27 1. Investigations of virtual currency kiosk user and account holder

- 1 complaints; and
- 2 2. Transaction error resolutions;
- 3 (h) The policies required under Section 18 of this Act; and
- 4 (i) Any other books, accounts, or records that are required by the
- 5 commissioner in an administrative regulation promulgated in accordance
- 6 with KRS Chapter 13A for determining whether a virtual currency kiosk
- 7 operator or agent is in compliance with this subtitle, including whether an
- 8 operator or agent is in compliance with any administrative regulation
- 9 promulgated, or order issued, under this subtitle.
- 10 (3) The books, accounts, and records that are required to be maintained under this
- 11 section:
- 12 (a) May be maintained in any electronic format consistent with the virtual
- 13 currency kiosk operator's or agent's ordinary business practices unless the
- 14 operator or agent receives specific written instructions from the
- 15 commissioner to the contrary;
- 16 (b) Shall be maintained separate and apart from any other business in which
- 17 the virtual currency kiosk operator or agent is involved;
- 18 (c) Shall be kept at the virtual currency kiosk operator's or agent's principal
- 19 office or an office located in this state unless otherwise permitted in writing
- 20 by the commissioner; and
- 21 (d) Shall be made available for review or examination at a nonresidential
- 22 location approved by the commissioner.
- 23 (4) Books, accounts, or records of any person described in this section may be
- 24 maintained at a location outside of this state so long as they are made accessible
- 25 to the commissioner upon seven (7) business days' written notice.

26 ➔SECTION 16. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

27 IS CREATED TO READ AS FOLLOWS:

1 (1) Every virtual currency kiosk operator shall, at all times, maintain permissible
 2 investments that:

3 (a) Have a market value that is computed in accordance with generally
 4 accepted accounting principles; and

5 (b) Are not less than the aggregate amount of all of the operator's and its
 6 agents' outstanding virtual currency kiosk transactions in this state.

7 (2) Except to the extent otherwise limited in subsection (3) of this section, the
 8 investments permitted under KRS 286.11-015 are permissible for a virtual
 9 currency kiosk operator.

10 (3) The commissioner may:

11 (a) Limit the extent to which a type of investment within a class of permissible
 12 investments may be considered a permissible investment, except for money,
 13 time deposits, savings deposits, demand deposits, and certificates of deposit
 14 issued by a federally insured financial institution; and

15 (b) By administrative regulation or order allow other types of investments that
 16 the commissioner determines to be substantially equivalent to other
 17 permissible investments in regards to safety and soundness.

18 (4) Permissible investments, even if commingled with other assets of the virtual
 19 currency kiosk operator, shall be deemed by operation of law to be held in trust
 20 for the benefit of the purchasers and holders of the operator's outstanding virtual
 21 currency kiosk transactions in the event of the operator's insolvency or
 22 bankruptcy.

23 ➔SECTION 17. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 24 IS CREATED TO READ AS FOLLOWS:

25 (1) As used in this section:

26 (a) "Virtual currency kiosk operator" includes an agent of the virtual currency
 27 kiosk operator;

1 (b) "Virtual currency wallet" means a software application or other
2 mechanism providing a means to hold the keys necessary to access and
3 transfer virtual currency; and

4 (c) "Virtual currency wallet address" means an alphanumeric identifier
5 associated with a virtual currency wallet that identifies the location to which
6 a virtual currency transaction can be sent.

7 (2) A virtual currency kiosk operator shall:

8 (a) 1. Have maximum virtual currency kiosk transaction limits that do not
9 exceed:

10 a. Two thousand dollars (\$2,000), or the equivalent in virtual
11 currency, per day for all virtual currency kiosk transactions
12 entered with a virtual currency kiosk user; and

13 b. Ten thousand five hundred dollars (\$10,500), or the equivalent
14 in virtual currency, for all virtual currency kiosk transactions
15 entered with a virtual currency kiosk user during the thirty (30)
16 day period beginning on the day of the user's first virtual
17 currency kiosk transaction with the operator.

18 2. Any virtual currency kiosk transactions entered by a virtual currency
19 kiosk user with the virtual currency kiosk operator after the thirty (30)
20 day period beginning on the day of the user's first virtual currency
21 kiosk transaction with the operator shall not be subject to
22 subparagraph 1.b. of this paragraph;

23 (b) Either:

24 1. Wait seventy-two (72) hours before processing a virtual currency kiosk
25 transaction; or

26 2. At the operator's cost, allow a virtual currency kiosk user to cancel,
27 and receive a full refund for, a virtual currency kiosk transaction

- 1 within seventy-two (72) hours after the transaction;
- 2 (c) Not collect, directly or indirectly, virtual currency kiosk charges from a
3 virtual currency kiosk user for any single virtual currency kiosk transaction
4 that exceeds the greater of:
- 5 1. Five dollars (\$5); or
6 2. Eighteen percent (18%) of the value, in United States dollars, of the
7 transaction;
- 8 (d) Provide live customer service via a toll-free telephone number during the
9 operating hours of each virtual currency kiosk in this state; and
- 10 (e) Provide a notice at each virtual currency kiosk in this state that:
- 11 1. Describes, in general terms, common scam tactics involving virtual
12 currency kiosks;
- 13 2. Advises virtual currency kiosk users not to proceed with a transaction
14 if the user:
- 15 a. Is being instructed or pressured by a third party; or
16 b. Suspects fraud;
- 17 3. States that a government agency or official will never request payment
18 using a virtual currency kiosk;
- 19 4. Directs virtual currency kiosk users to contact the following to report
20 fraud or suspected fraud:
- 21 a. Any relevant state and local law enforcement;
22 b. The department; and
23 c. The Attorney General;
- 24 5. Provides the contact information, including a telephone number, for
25 each of the agencies referenced in subparagraph 4. of this paragraph;
- 26 6. Provides the name, address, and toll-free customer service telephone
27 number of the virtual currency kiosk operator;

- 1 7. Provides the days, time, and means by which a virtual currency kiosk
2 user can contact the virtual currency kiosk operator for assistance;
3 and
4 8. Provides the operator's dedicated United States telephone number or
5 email address for law enforcement, the department, and the Attorney
6 General, as required under subsection (6) of Section 18 of this Act.

7 (3) The notices required under subsection (2)(e) of this section shall be:

- 8 (a) 1. On the virtual currency kiosk;
9 2. Near, and within readable sight of, the virtual currency kiosk; or
10 3. On the first screen of the virtual currency kiosk, which shall be
11 viewable by any person without requiring the person to input money,
12 virtual currency, data, or information; and
13 (b) Displayed prominently and in bold type.

14 (4) (a) Prior to entering a virtual currency kiosk transaction with a virtual
15 currency kiosk user, a virtual currency kiosk operator shall:

- 16 1. Provide accurate and appropriate disclosures to the user; and
17 2. Obtain an acknowledgment from the user that the user received the
18 disclosures.

19 (b) The disclosures required under paragraph (a) of this subsection shall:

- 20 1. Describe the terms and conditions of the transaction, which shall
21 include but not be limited to:
22 a. The amount of the transaction;
23 b. A description of all virtual currency kiosk charges, which shall
24 be disclosed to the user in United States dollars; and
25 c. The exchange rate of the virtual currency to the United States
26 dollar;
27 2. Describe all material risks associated with the virtual currency kiosk

- 1 transaction, including the following:
- 2 a. Virtual currency is not legal tender in the United States, is not
- 3 backed by the United States government, and accounts and value
- 4 balances are not subject to Federal Deposit Insurance
- 5 Corporation, National Credit Union Administration, or
- 6 Securities Investor Protection Corporation protections;
- 7 b. Virtual currency value relative to the United States dollar may
- 8 fluctuate significantly;
- 9 c. Transactions in virtual currency may result in losses due to
- 10 fraudulent or accidental transactions that are not recoverable;
- 11 and
- 12 d. The circumstances under which the virtual currency kiosk
- 13 operator will, in the ordinary course of business, disclose the
- 14 user's financial and account information to third parties;
- 15 3. Include any other terms, conditions, or information the commissioner
- 16 determines is necessary and appropriate to disclose to virtual currency
- 17 kiosk users;
- 18 4. Be made separately from any other information provided by a virtual
- 19 currency kiosk operator; and
- 20 5. Be clear, conspicuous, and in legible writing.
- 21 (5) (a) Upon completion of a virtual currency kiosk transaction, a virtual currency
- 22 kiosk operator shall provide a receipt in paper or electronic retainable form,
- 23 as designated under paragraph (b) of this subsection, to the virtual currency
- 24 kiosk user that contains all of the following information:
- 25 1. The name and toll-free customer service telephone number of the
- 26 operator;
- 27 2. The contact information required under subsection (2)(d)5. of this

- 1 section to report fraud or suspected fraud;
- 2 3. The type, value, date, and precise time of the transaction;
- 3 4. Each applicable virtual currency wallet address and transaction hash,
- 4 where available;
- 5 5. A description of all virtual currency kiosk charges, which shall be
- 6 disclosed in United States dollars;
- 7 6. The exchange rate of the virtual currency to the United States dollar;
- 8 7. The operator's liability for nondelivery or delayed delivery;
- 9 8. The operator's refund policy; and
- 10 9. Any additional information required by the commissioner.
- 11 (b) Each virtual currency kiosk user shall be provided the option to receive a
- 12 paper or electronic receipt for each virtual currency kiosk transaction.
- 13 (6) A virtual currency kiosk operator may provide additional notices or disclosures,
- 14 or information on a receipt provided, to a virtual currency kiosk user.
- 15 (7) A fraud victim's eligibility for a refund shall not be waived, affected, or prevented
- 16 by, or due to, a disclosure made in accordance with this section.
- 17 (8) The notices, disclosures, and receipts required under this section shall be in the
- 18 English language.
- 19 (9) The commissioner may promulgate an administrative regulation in accordance
- 20 with KRS Chapter 13A to:
- 21 (a) Establish the format and content of the notices required under subsection
- 22 (2)(e) of this section;
- 23 (b) Establish any additional disclosures or information the commissioner
- 24 requires under subsection (4) or (5) of this section; and
- 25 (c) Require virtual currency kiosk operators to comply with one (1) or more
- 26 specified industry standards or practices if the commissioner determines
- 27 that compliance with the standard or practice is necessary to:

- 1 1. Ensure the lawful conduct of business under this subtitle; or
 2 2. Protect the interest of the public.

3 ➔SECTION 18. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 4 IS CREATED TO READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Blockchain analytics" means the analysis of data from blockchains or
 7 publicly distributed ledgers, including associated transaction information;

8 (b) "Blockchain analytics and tracing software" means a software service that
 9 uses blockchain analytics data to provide:

10 1. Risk-specific information;

11 2. Tracing of virtual currency wallet addresses; and

12 3. Other information and services; and

13 (c) "Virtual currency wallet" and "virtual currency wallet address" have the
 14 same meanings as in Section 17 of this Act.

15 (2) (a) Each virtual currency kiosk operator shall take reasonable steps to detect
 16 and prevent fraud and money laundering associated with its virtual
 17 currency kiosk business in this state.

18 (b) The reasonable steps required under paragraph (a) of this subsection shall
 19 include establishing, implementing, maintaining, and enforcing:

20 1. An anti-fraud and anti-money laundering policy that, at a minimum:

21 a. Identifies and assesses fraud-related and money laundering-
 22 related risk areas;

23 b. Establishes procedures and controls to protect against identified
 24 risks;

25 c. Allocates responsibility for monitoring risks;

26 d. Establishes procedures for the periodic evaluation and revision
 27 of the policy's procedures, controls, and monitoring

- 1 mechanisms; and
- 2 e. Requires compliance with the federal Bank Secrecy Act, codified
- 3 at 31 U.S.C. sec. 5311 et seq.;
- 4 2. An enhanced due diligence policy that, at a minimum, establishes
- 5 protocols to identify individuals who are at risk of fraud based on age
- 6 or mental capacity; and
- 7 3. Policies that address:
- 8 a. Cybersecurity, the privacy of personal information, and
- 9 information security; and
- 10 b. Any other subjects required by the commissioner in an
- 11 administrative regulation promulgated in accordance with KRS
- 12 Chapter 13A.
- 13 (c) The policies required under paragraph (b) of this subsection shall:
- 14 1. Be in writing;
- 15 2. Apply to all employees and agents of the virtual currency kiosk
- 16 operator; and
- 17 3. Be reviewed and approved by the virtual currency kiosk operator's
- 18 board of directors or equivalent governing body.
- 19 (3) (a) Each virtual currency kiosk operator and its agents shall use blockchain
- 20 analytics and tracing software to:
- 21 1. Assist in the prevention of sending virtual currency to a virtual
- 22 currency wallet known or likely to be affiliated with fraudulent activity
- 23 at the time of a virtual currency kiosk transaction; and
- 24 2. Detect virtual currency kiosk transaction patterns that are indicative
- 25 of fraud or other illicit activities.
- 26 (b) A virtual currency kiosk operator and its agents shall block a virtual
- 27 currency kiosk transaction to a virtual currency wallet that is associated

1 with overseas exchanges that are not accessible for virtual currency kiosk
2 users in the United States.

3 (c) The department may request evidence from any virtual currency kiosk
4 operator or agent of current use of blockchain analytics.

5 (4) (a) Prior to accepting payment from any virtual currency kiosk user in this
6 state, a virtual currency kiosk operator and its agents shall verify the
7 identity of the user.

8 (b) To comply with paragraph (a) of this subsection, the virtual currency kiosk
9 operator or agent, or an authorized delegate of the operator or agent, shall:

10 1. Obtain a copy of a government-issued identification card that
11 identifies the virtual currency kiosk user; and

12 2. Collect additional information about the virtual currency kiosk user,
13 including the user's:

14 a. Name;

15 b. Date of birth;

16 c. Telephone number;

17 d. Physical address; and

18 e. Email address.

19 (c) A virtual currency kiosk operator and its agents shall not allow a virtual
20 currency kiosk user to engage in a virtual currency kiosk transaction under
21 or using any name, account, or identity that is not the user's own true name,
22 account, or identity.

23 (d) A virtual currency kiosk operator and its agents shall be strictly liable for
24 any violation of this subsection.

25 (5) (a) Except as provided in paragraph (b) of this subsection, upon request of a
26 virtual currency kiosk user, a virtual currency kiosk operator and its agents
27 shall issue a refund of all virtual currency kiosk charges to the user for

1 each virtual currency kiosk transaction that satisfies all of the following:

2 1. The user was fraudulently induced to engage in the transaction;

3 2. The user reported the fraud within ninety (90) days of the transaction

4 to:

5 a. The operator or agent; and

6 b. One (1) of the following:

7 i. The department;

8 ii. The Attorney General; or

9 iii. Any relevant state or local law enforcement agency; and

10 3. The user submitted proof of the fraud to the operator or agent and the
11 person referenced in subparagraph 2.b. of this paragraph, which may
12 include one (1) of the following:

13 a. A police report; or

14 b. A sworn statement made to the department, Attorney General,
15 operator, or agent;

16 that details the fraudulent nature of the transaction.

17 (b) 1. In addition to any other remedies and penalties available under this
18 subtitle or any other statutory or common law, a virtual currency kiosk
19 operator and its agents shall issue a refund to a virtual currency kiosk
20 user in the full amount of any virtual currency kiosk transaction,
21 including all virtual currency kiosk charges, if the user submits proof,
22 which may be in the form of a police report or sworn statement, that
23 the operator or agent, or an employee or other representative of the
24 operator or agent, defrauded, deceived, or mislead the user in
25 connection with the transaction.

26 2. A virtual currency kiosk user shall submit the proof required under
27 this paragraph in accordance with the requirements of paragraph (a)

1 of this subsection, except the user shall be required to submit the proof
2 within any applicable statute of limitations associated with the
3 violation or offense, which shall not be less than one (1) year after the
4 transaction.

5 (c) The refund required under paragraph (a) or (b) of this subsection shall be:

- 6 1. Paid in the originating currency; and
- 7 2. Made to a virtual currency kiosk user by the virtual currency kiosk
8 operator or agent within seventy-two (72) hours after the requirements
9 of paragraph (a) or (b) of this subsection, as applicable, are satisfied.

10 (6) (a) A virtual currency kiosk operator and its agents shall provide a dedicated
11 and frequently monitored communications line for law enforcement, the
12 department, and the Attorney General, via a United States telephone
13 number or email address posted on each virtual currency kiosk in
14 accordance with Section 17 of this Act, to be used by the agencies to
15 facilitate communications with the operator or agent in the event of a report
16 from a virtual currency kiosk user of fraud or suspected fraud.

17 (b) Upon request from law enforcement, the department, or the Attorney
18 General, a virtual currency kiosk operator and its agents shall:

- 19 1. Provide the agency with its trace findings; and
- 20 2. Grant the agency assistance with blockchain analytics to assist in any
21 fraud investigation.

22 (c) A virtual currency kiosk operator and its agents shall cooperate with law
23 enforcement, the department, and the Attorney General in the investigation
24 of fraud and other unlawful activity, which shall include without limitation:

- 25 1. Promptly complying with lawful subpoenas, court orders, and other
26 official requests for records or information relating to virtual currency
27 kiosk transactions or virtual currency kiosk users;

- 1 2. Responding in good faith to lawful requests relating to fraud involving
 2 a virtual currency kiosk; and
- 3 3. Designating a point of contact for communication with law
 4 enforcement, the department, and the Attorney General regarding
 5 fraud-related matters.
- 6 (7) (a) Each virtual currency kiosk operator shall designate a qualified natural
 7 person to serve as the operator's chief compliance officer for virtual
 8 currency kiosk business conducted in this state.
- 9 (b) The chief compliance officer shall be responsible for coordinating,
 10 monitoring, and ensuring the operator's and its agents' compliance with:
- 11 1. This section; and
- 12 2. All other applicable state and federal laws, including all
 13 administrative regulations, rules, and orders promulgated or issued
 14 thereunder.

15 ➔SECTION 19. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 16 IS CREATED TO READ AS FOLLOWS:

17 It shall be a violation of this subtitle for an applicant, a licensee, a virtual currency
 18 kiosk operator, an agent, or any other person to do any of the following:

- 19 (1) With regard to virtual currency kiosk business in this state, whether or not the
 20 person is required to have a license:
- 21 (a) Directly or indirectly employ any scheme, device, or artifice to defraud or
 22 mislead, when the applicant, licensee, operator, agent, or person should
 23 have known that the scheme, device, or artifice was defrauding or
 24 misleading; or
- 25 (b) Engage in any:
- 26 1. Unfair or deceptive practice; or
- 27 2. Other act or conduct that would warrant the denial, suspension, or

- 1 revocation of a license under Section 25 of this Act;
- 2 (2) Negligently make any false statement, or knowingly or willfully make any
- 3 omission of material fact, in connection with:
- 4 (a) Any information or reports relating to virtual currency kiosk business in
- 5 this state filed with:
- 6 1. A state or federal government agency;
- 7 2. The registry, as defined in Section 5 of this Act; or
- 8 3. Any agency or authority, as part of a nationwide licensing system, that
- 9 is designated by the commissioner to accept filings under Section 5 of
- 10 this Act; or
- 11 (b) Any investigation or examination conducted by the commissioner or any
- 12 other state or federal government agency relating to virtual currency kiosk
- 13 business in this state; or
- 14 (3) Fail to truthfully account for any assets in connection with any virtual currency
- 15 kiosk transaction.
- 16 ➔SECTION 20. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
- 17 IS CREATED TO READ AS FOLLOWS:
- 18 In addition to the requirements of this subtitle, every virtual currency kiosk operator
- 19 and its agents shall comply with all applicable federal and state laws.
- 20 ➔SECTION 21. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
- 21 IS CREATED TO READ AS FOLLOWS:
- 22 (1) Any person may file a written complaint with the commissioner relating to:
- 23 (a) Virtual currency kiosk business in this state; or
- 24 (b) The conduct of any person engaged or participating in virtual currency
- 25 kiosk business in this state.
- 26 (2) The commissioner may conduct an investigation, upon complaint or otherwise, of
- 27 any virtual currency kiosk operator or other person within or outside this state

1 that he or she deems necessary to:

2 (a) Discover violations of this subtitle, including violations of any
3 administrative regulation promulgated, or order issued, under this subtitle;

4 or

5 (b) Secure information necessary for the proper enforcement of this subtitle.

6 (3) (a) The commissioner may conduct routine examinations of the virtual
7 currency kiosk affairs, business, offices, books, accounts, and records of
8 licensees and agents of licensees.

9 (b) A licensee shall pay a reasonable fee sufficient to cover the cost of each
10 routine examination based upon fair compensation for time and actual
11 expenses.

12 (c) Upon written notice of the amount assessed under paragraph (b) of this
13 subsection, the licensee shall become liable for and pay the assessment to
14 the department.

15 (4) To the extent necessary to conduct any investigation or examination authorized
16 under this section, the commissioner may:

17 (a) Compel the attendance of any person or obtain any books, accounts, or
18 records by subpoenas;

19 (b) Administer oaths and affirmations;

20 (c) Examine under oath or affirmation all persons whose testimony he or she
21 may require; and

22 (d) To the extent permitted under federal law, access and review records and
23 related information relating to compliance with federal anti-money
24 laundering laws, including suspicious activity reports filed pursuant to the
25 Bank Secrecy Act, 31 U.S.C. sec. 5311 et seq., as amended.

26 (5) As a condition of licensure under this subtitle, a licensee and its agents shall, by
27 operation of law, be deemed to consent to any examination or investigation

1 conducted under this section, whether or not prior notice is given to the licensee
 2 or agent.

3 (6) When conducting an investigation or examination, the commissioner may do any
 4 of the following:

5 (a) Conduct an on-site or off-site investigation or examination;

6 (b) Participate in a joint or concurrent investigation or examination with one
 7 (1) or more states or federal agencies, including a multistate investigation
 8 or examination; and

9 (c) Accept and rely upon an investigation or examination report of one (1) or
 10 more states or federal agencies, including a multistate investigation or
 11 examination report.

12 (7) (a) Except as provided in paragraph (b) of this subsection and Section 22 of
 13 this Act, a routine examination report, related correspondence, and
 14 examination-related information shall:

15 1. Be considered confidential by law and privileged; and

16 2. Not be subject to disclosure under KRS 61.870 to 61.884.

17 (b) A licensee:

18 1. May disclose a Kentucky routine examination report to a financial
 19 institution upon written request from the financial institution for the
 20 purpose of assisting the financial institution in its compliance with the
 21 Bank Secrecy Act, 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. pt. 103;
 22 and

23 2. Shall provide written notice to the commissioner of a disclosure made
 24 under this paragraph at the same time that the disclosure is made.

25 ➔SECTION 22. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 26 IS CREATED TO READ AS FOLLOWS:

27 (1) Except as otherwise provided in subsection (3) of this section, any document,

1 material, report, or other information in the possession or control of the
2 commissioner that is provided to the commissioner according to this subtitle
3 shall:

4 (a) Be confidential by law and privileged;

5 (b) Not be subject to disclosure under KRS 61.870 to 61.884; and

6 (c) Not be subject to subpoena or discovery, or admissible as evidence in any
7 civil action, unless the commissioner determines or, after notice to the
8 commissioner and a hearing, a court of competent jurisdiction determines
9 that the commissioner would not be prejudiced by disclosure of the
10 document, material, report, or information.

11 (2) (a) The commissioner shall not be required to testify in any civil action
12 concerning any document, material, report, or information that is
13 confidential under subsection (1) of this section.

14 (b) Any person who received documents, materials, reports, or other
15 information that is confidential under subsection (1) of this section while
16 acting under the authority of the commissioner shall not be required to
17 testify in any civil action concerning the documents, materials, reports, or
18 other information.

19 (3) In order to assist in the performance of the commissioner's duties, the
20 commissioner may do all of the following:

21 (a) Share or disclose documents, materials, reports, and other information in
22 the commissioner's possession or control, including otherwise confidential
23 and privileged documents, materials, reports, and other information:

24 1. In accordance with Section 5 of this Act;

25 2. In accordance with a joint, concurrent, or multistate investigation or
26 examination conducted under Section 21 of this Act; or

27 3. With the following, if the recipient agrees to maintain the

1 confidentiality and privileged status of shared documents, materials,
2 reports, and information:

3 a. Other state, federal, and international regulatory agencies;

4 b. Organizations made up of other state regulators of virtual
5 currency businesses; and

6 c. Local, state, federal, and international law enforcement
7 authorities;

8 (b) Report apparent violations of law to:

9 1. Other state, federal, and international regulators of virtual currency
10 businesses;

11 2. The registry, as defined in Section 5 of this Act; or

12 3. Local, state, federal, and international law enforcement authorities;

13 (c) Disclose to the public:

14 1. A list of licensees and agents;

15 2. A licensee's registered agent for service of process in this state;

16 3. The aggregate financial or other data of persons regulated under this
17 subtitle; or

18 4. Violations of this subtitle, enforcement actions, and other relevant
19 information that the commissioner deems necessary to carry out the
20 requirements and purposes of this subtitle;

21 (d) Disclose and use documents, materials, reports, and other information in
22 the commissioner's possession or control, including otherwise confidential
23 and privileged documents, materials, reports, and other information, in
24 furtherance of any regulatory or legal action brought as part of the
25 commissioner's official duties;

26 (e) Receive any documents, materials, reports, or other information, including
27 otherwise confidential and privileged documents, materials, reports, or

1 other information, from any source;

2 (f) Agree to maintain the confidentiality and privileged status of any
3 documents, materials, reports, or information received;

4 (g) Enter into agreements or relationships with other government officials,
5 federal and state regulatory agencies, and regulatory associations;

6 (h) Use, hire, contract, or employ analytical systems, methods, or software;

7 (i) Consider, accept, and rely upon audit reports prepared by an independent
8 certified public accountant or other qualified third-party auditor for any
9 person subject to this subtitle; or

10 (j) Incorporate all or part of any audit report referenced in paragraph (i) of
11 this subsection into an examination or investigation report.

12 (4) A waiver of any applicable privilege or claim of confidentiality in documents,
13 materials, reports, or other information shall not occur as a result of a disclosure:

14 (a) To the commissioner under this section; or

15 (b) That is made under subsection (3)(a) of this section.

16 ➔SECTION 23. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
17 IS CREATED TO READ AS FOLLOWS:

18 The commissioner shall prepare and publish for public distribution on the
19 department's website an annual report that details and summarizes, in composite form:

20 (1) The data received from virtual currency kiosk operators relating to virtual
21 currency kiosk business conducted in this state; and

22 (2) Information about the licensing of virtual currency kiosk business in this state,
23 including the following information, by calendar year:

24 (a) The number of applications made for a license;

25 (b) The number of applicants who have a license to engage in money
26 transmission;

27 (c) The number of licenses granted;

1 (d) The number of applicants who have been denied a license; and

2 (e) A list of fees that applicants are required to pay.

3 ➔SECTION 24. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
4 IS CREATED TO READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Applicant" includes:

7 1. With respect to conditions placed on, or denial of an application for,
8 an approval to engage in virtual currency kiosk business through an
9 agent in this state, a proposed agent; and

10 2. With respect to a denial of an application for approval of a change of
11 control, a person that filed the application seeking the change of
12 control; and

13 (b) "Person" means any applicant, licensee, virtual currency kiosk operator,
14 agent, or other person.

15 (2) The commissioner shall serve written notice on an applicant prior to:

16 (a) Placing conditions on:

17 1. A license; or

18 2. An approval to engage in virtual currency kiosk business at a location,
19 or through an agent, in this state; or

20 (b) Denying any license or application made under this subtitle.

21 (3) An applicant that is served a notice of intent to deny any license or application
22 made under this subtitle shall be entitled to an administrative hearing on the
23 notice conducted in accordance with KRS Chapter 13B if the applicant files a
24 written request for a hearing with the commissioner within twenty (20) days of
25 the date of service.

26 (4) (a) The commissioner shall serve an administrative complaint on a person:

27 1. Prior to doing any of the following:

- 1 a. Taking an adverse action against the person under subsection
2 (1)(a)4. of Section 25 of this Act;
- 3 b. Issuing a cease and desist order against the person under
4 Section 27 of this Act; or
- 5 c. Issuing an order that directs the person to:
- 6 i. Pay any fee or civil penalty;
7 ii. Provide any remedy; or
8 iii. Be subject to a penalty; and
- 9 2. Simultaneous with the service of an emergency order on the person
10 under Section 26 of this Act.
- 11 (b) Except as provided in paragraph (c) of this subsection, a person that is
12 served an administrative complaint under paragraph (a) of this subsection
13 shall be entitled to an administrative hearing on the complaint conducted in
14 accordance with KRS Chapter 13B if the person files both of the following
15 with the commissioner within twenty (20) days of the date of service:
- 16 1. A written answer to the complaint; and
17 2. A request for hearing.
- 18 (c) A person that complies with paragraph (b) of this subsection in response to
19 an administrative complaint and emergency order issued under Section 25
20 of this Act shall be entitled to an emergency administrative hearing
21 conducted in accordance with KRS 13B.125.
- 22 (5) (a) Except as provided in paragraph (b) of this subsection, the commissioner
23 shall serve any notice, complaint, or emergency order referenced in this
24 section by certified mail or personal delivery to the person's last known
25 address or upon the person's agent for service of process.
- 26 (b) If the commissioner is unable to reasonably determine a person's last
27 known address or agent for service of process, the commissioner may serve

1 a notice, a complaint, or an emergency order by certified mail or personal
 2 delivery to any owner or operator of the premises or real property upon
 3 which the person's virtual currency kiosk or kiosks are located.

4 (6) Service by certified mail shall be complete as provided in KRS 13B.050(2).

5 (7) If any person fails to timely file a request for hearing under subsection (3) of this
 6 section, or a written answer and request for hearing under subsection (4) of this
 7 section, the commissioner may, as applicable and subject to KRS Chapter 13B,
 8 issue a final order:

9 (a) Taking the action that was:

10 1. Set forth in the notice; or

11 2. Sought in the complaint; or

12 (b) Affirming the emergency action that was taken.

13 (8) All other requirements of and rights arising under KRS Chapter 13B shall apply
 14 to administrative hearings conducted and orders issued under this subtitle.

15 (9) The commissioner may, at any time, enter into a consent order with any person to
 16 resolve a matter arising under this subtitle.

17 ➔SECTION 25. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 18 IS CREATED TO READ AS FOLLOWS:

19 (1) As used in this section:

20 (a) "Adverse action" means to take any of the following actions:

21 1. Deny or condition a license;

22 2. Deny, in whole or in part, an application to engage in virtual currency
 23 kiosk business at one (1) or more locations, or through one (1) or
 24 more agents, in this state;

25 3. Condition an approval:

26 a. To engage in virtual currency kiosk business at a location in this
 27 state; or

- 1 b. Of an agent to engage in virtual currency kiosk business in this
2 state on behalf of an applicant or licensee; or
- 3 4. Suspend, revoke, or refuse to renew:
- 4 a. A license;
- 5 b. An approval to engage in virtual currency kiosk business at a
6 location in this state; or
- 7 c. An approval of an agent to engage in virtual currency kiosk
8 business in this state on behalf of a licensee;
- 9 (b) "Regulated person" means any applicant, licensee, or agent; and
- 10 (c) 1. "Unsafe or unsound act or practice" means an act or practice that:
- 11 a. Creates a likelihood of material loss, insolvency, or dissipation of
12 a regulated person's assets; or
- 13 b. Materially prejudices the:
- 14 i. Financial condition of a regulated person; or
15 ii. Interests of a regulated person's customers.
- 16 2. In determining whether a regulated person has engaged, or is
17 engaging, in an unsafe or unsound act or practice, the commissioner
18 may consider:
- 19 a. The size and condition of the person's business;
- 20 b. The magnitude of the loss;
- 21 c. The gravity of the violation of this subtitle;
- 22 d. Any action taken by another state or federal government against
23 the person; and
- 24 e. The previous conduct of the person.
- 25 (2) Subject to Section 24 of this Act and KRS 335B.020, the commissioner may take
26 an adverse action against a regulated person if the commissioner finds one (1) or
27 more of the following:

1 (a) The regulated person has:

2 1. Violated any:

3 a. Provision of this subtitle;

4 b. Other state or federal law related to money transmission or
5 virtual currency kiosk business; or

6 c. Consent order or compliance agreement entered into with the
7 commissioner;

8 2. Engaged in:

9 a. An unsafe or unsound act or practice;

10 b. An unfair, deceptive, or dishonest act or practice;

11 c. Fraud, an intentional misrepresentation, or gross negligence; or

12 d. A misappropriation of legal tender, virtual currency, or other
13 assets;

14 3. Misrepresented material facts or made a false promise likely to
15 influence, persuade, or induce a virtual currency kiosk user to engage
16 in a virtual currency kiosk transaction;

17 4. Misrepresented or concealed a material fact, term, or condition of a
18 virtual currency kiosk transaction;

19 5. Knowingly engaged in a transaction, practice, or course of business
20 that perpetrates a fraud upon any person in connection with a virtual
21 currency kiosk transaction;

22 6. Failed to exchange, transfer, or store, without just cause, any funds in
23 accordance with any agreement connected with a virtual currency
24 kiosk business;

25 7. Failed to timely remit, account for, or deliver to any person any legal
26 tender, virtual currency, precious metals, electronic certificates, or
27 other assets legally due to the person;

- 1 8. Failed to implement reasonable risk-mitigation measures to prevent
2 fraudulent activity by third parties in connection with a virtual
3 currency kiosk transaction;
- 4 9. Been found to have violated any of the recordkeeping and reporting
5 requirements of the United States government, including 31 U.S.C.
6 secs. 5311 to 5332 and 31 C.F.R. pt. 103;
- 7 10. Been convicted of, pled guilty to, or pled nolo contendere, or
8 knowingly employed or contracted with a responsible individual that
9 has been convicted of, pled guilty to, or pled nolo contendere, to a:
- 10 a. Felony; or
- 11 b. A misdemeanor:
- 12 i. Related to money transmission or virtual currency kiosk
13 business; or
- 14 ii. Involving theft, fraud, or breach of trust; or
- 15 11. Has had any license, registration, claim of exemption, or other
16 authorization to do business relating to the financial services industry
17 denied, revoked, suspended, conditioned, restricted, probated, or
18 terminated by any state, federal, or foreign jurisdiction;
- 19 (b) The regulated person:
- 20 1. Is insolvent;
- 21 2. Has suspended payment of its obligations or made a general
22 assignment for the benefit of its creditors;
- 23 3. Has:
- 24 a. Become the debtor, alleged debtor, respondent, or person in a
25 similar capacity in a case or other proceeding under any
26 bankruptcy, reorganization, arrangement, readjustment,
27 insolvency, receivership, dissolution, liquidation, or similar law;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

and

b. Not obtained from a court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding; or

4. Has applied for, or has permitted the appointment of, a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets;

(c) The regulated person has knowingly made or provided, or caused to be made or provided, to the commissioner one (1) or more of the following:

1. A material misrepresentation; or

2. A false or fraudulent:

a. Material fact; or

b. Financial statement;

(d) The applicant or licensee suppressed or withheld from the commissioner any information which, if submitted by the applicant or licensee, warrants or would have warranted the commissioner denying a license;

(e) The applicant or licensee failed to terminate or suspend the authority of its responsible individual or agent to act on its behalf when the applicant or licensee knew, or was given reasonable notice, that its responsible individual or agent:

1. Violated, or was about to violate, a material provision of this subtitle, including any administrative regulation or order promulgated or issued by the commissioner; or

2. Engaged in, or was about to engage in, an act or practice that would warrant an adverse action under this section;

(f) Any of the following are listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or the United States Department of State under Presidential

1 Executive Order No. 13224 as a potential threat to commit terrorist acts or
 2 to finance terrorist acts:

3 1. The regulated person;

4 2. An executive officer of the regulated person;

5 3. A director of the regulated person;

6 4. A key shareholder of the regulated person;

7 5. A person in control of the regulated person; or

8 6. A responsible individual of the applicant or licensee;

9 (g) The competence, experience, character, or general fitness of an agent, or a
 10 person in control of the agent, indicates that it is not in the public interest to
 11 permit the agent to be engaged in virtual currency kiosk business in this
 12 state;

13 (h) The applicant or licensee no longer meets the requirements of this subtitle
 14 to:

15 1. Hold a license; or

16 2. Engage in virtual currency kiosk business at one (1) or more locations
 17 in this state; or

18 (i) Any fact or condition exists that, if it existed at the time the applicant or
 19 licensee applied for a license, or approval to engage in virtual currency
 20 kiosk business at one (1) or more locations, or through one (1) or more
 21 agents, in this state, would have been grounds for denying the application.

22 (3) Subsection (2)(a)1. of this section includes all of the following:

23 (a) Violating any administrative regulation promulgated, or order of general
 24 application issued, under this subtitle;

25 (b) Failing to pay any fee, civil penalty, or remedy that is owed under this
 26 subtitle;

27 (c) Violating the written conditions under which a license or approval was

1 issued, renewed, or maintained under this subtitle;

2 (d) Refusing to permit, or failing to cooperate substantially with, an
3 investigation or examination under this subtitle;

4 (e) Failing, within a reasonable time, to furnish any information or file any
5 notice or report required or otherwise requested by the commissioner under
6 this subtitle; and

7 (f) Failing to comply with a lawful order or subpoena issued by the
8 commissioner.

9 (4) Subject to Section 24 of this Act:

10 (a) The commissioner may, at any time, issue a notice of intent to impose
11 conditions on a license, or approval to engage in virtual currency kiosk
12 business at one (1) or more locations, or through one (1) or more agents, in
13 this state if the commissioner finds that the conditions, including any
14 additional bond amount specified by the commissioner under Section 9 of
15 this Act, are necessary for a licensee to continue to satisfy the requirements
16 of this subtitle for licensure;

17 (b) A notice of intent issued under paragraph (a) of this subsection shall specify
18 the additional conditions that are required for the licensee and any agent;

19 (c) The commissioner may impose conditions on a license, or approval to
20 engage in virtual currency kiosk business at one (1) or more locations, or
21 through one (1) or more agents, in this state if the licensee, agent, or both,
22 as applicable, files a written acceptance of the conditions specified in the
23 notice issued under paragraph (a) of this subsection to the licensee, agent,
24 or both within thirty (30) days after service of the notice; and

25 (d) If the department does not receive a written acceptance of the conditions
26 specified in a notice issued under paragraph (a) of this subsection to a
27 licensee, agent, or both within thirty (30) days after service of the notice, the

1 commissioner shall serve an administrative complaint on the licensee,
 2 agent, or both, as applicable, seeking to take an appropriate adverse action
 3 under subsection (1)(a)4. of this section relating to the license or approval.

4 (5) Any person or person in control whose license, or agent or person in control of
 5 an agent whose approval as an agent, has been:

6 (a) Denied shall not be eligible to apply for a license, to serve as an agent, or to
 7 serve as a person in control of a licensee or agent for one (1) year after the
 8 date of denial; or

9 (b) Revoked shall not be eligible to apply for a license, to serve as an agent, or
 10 to serve as a person in control of a licensee or agent:

11 1. For the first revocation, until three (3) years after the date of
 12 revocation; and

13 2. For any subsequent revocation, permanently.

14 (6) The surrender or expiration of a license, or an agent designation, shall not affect
 15 a proceeding to suspend or revoke the license or approval of the agent.

16 ➔SECTION 26. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 17 IS CREATED TO READ AS FOLLOWS:

18 (1) As used in this section:

19 (a) "Emergency order" means an order that does one (1) or more the following
 20 without prior notice and hearing:

21 1. Suspends or conditions:

22 a. Any license; or

23 b. An approval to engage in virtual currency kiosk business at a
 24 location, or through an agent, in this state; or

25 2. Directs any peace officer to:

26 a. Seize or impound a virtual currency kiosk, including any
 27 contents thereof; or

- 1 *b. Render a virtual currency kiosk inoperable; and*
- 2 *(b) "Person" means any licensee, virtual currency kiosk operator, agent, or*
- 3 *other person.*
- 4 *(2) Subject to Section 24 of this Act, the commissioner may issue an emergency order*
- 5 *against any person, pending further investigation, the entry of a final order, or*
- 6 *other final legal action, if the commissioner has reason to believe or determines*
- 7 *one (1) or more of the following:*
- 8 *(a) The person is acting in violation of Section 4 of this Act;*
- 9 *(b) The licensee is not in compliance with Section 9 of this Act;*
- 10 *(c) The person has committed a material violation of this subtitle that poses an*
- 11 *immediate and irreparable harm to the public health, safety, or welfare;*
- 12 *(d) Subject to KRS 335B.020, the licensee or agent has been convicted of, pled*
- 13 *guilty to, or pled nolo contendere, or the licensee is knowingly employing or*
- 14 *contracting with a responsible individual that has been convicted of, pled*
- 15 *guilty to, or pled nolo contendere, to a:*
- 16 *1. Felony involving theft, fraud, or breach of trust; or*
- 17 *2. A crime under the USA PATRIOT Act of 2001, Pub. L. No. 107-56;*
- 18 *(e) The licensee has had any license, registration, claim of exemption, or other*
- 19 *authorization to do business relating to money transmission or virtual*
- 20 *currency kiosk business denied, revoked, suspended, or terminated by any*
- 21 *state, federal, or foreign jurisdiction;*
- 22 *(f) The licensee, agent, the licensee's responsible individual, or any key*
- 23 *shareholder, executive officer, director, or other person in control of the*
- 24 *licensee or agent is listed or becomes listed on the specially designated*
- 25 *nationals and blocked persons list prepared by the United States*
- 26 *Department of the Treasury or United States Department of State under*
- 27 *Presidential Executive Order No. 13224 as a potential threat to commit*

1 terrorist acts or to finance terrorist acts; or
 2 (g) The licensee or agent is insolvent or otherwise satisfies one (1) of the
 3 grounds listed in subsection (2)(b) of Section 25 of this Act.

4 (3) An emergency order issued under this section shall:

5 (a) Pursuant to KRS 13B.125, become effective when served by the
 6 commissioner; and

7 (b) Remain in effect until it is:

8 1. Stayed, withdrawn, suspended, or superseded by order of the
 9 commissioner; or

10 2. Terminated by court order.

11 ➔SECTION 27. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 12 IS CREATED TO READ AS FOLLOWS:

13 (1) Subject to Section 24 of this Act, the commissioner may issue a cease and desist
 14 order requiring an applicant, a licensee, a virtual currency kiosk operator, an
 15 agent, or any other person to cease and desist from violating one (1) or more
 16 identified provisions of the following, if the commissioner has reason to believe or
 17 determines that the violations have occurred or will occur:

18 (a) This subtitle;

19 (b) An administrative regulation promulgated under this subtitle;

20 (c) An order issued under this subtitle; or

21 (d) An agreement entered with the commissioner relating to compliance with
 22 this subtitle.

23 (2) A cease and desist order issued under this section shall remain in effect until it is:

24 (a) Stayed, withdrawn, suspended, or superseded by order of the commissioner;
 25 or

26 (b) Terminated by court order.

27 ➔SECTION 28. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

1 IS CREATED TO READ AS FOLLOWS:

2 (1) As used in this section, "person" means any applicant, licensee, virtual currency
3 kiosk operator, agent, or other person.

4 (2) Subject to Section 24 of this Act, the commissioner may do one (1) or more of the
5 following:

6 (a) Issue an order against any person to:

7 1. Refund any amount charged or collected in violation of this subtitle;

8 or

9 2. Pay any fee or civil penalty, or provide any other remedy, authorized
10 under this subtitle;

11 (b) Levy a civil penalty against any person that violates, or participates in the
12 violation of, any:

13 1. Provision of this subtitle;

14 2. Administrative regulation promulgated under this subtitle;

15 3. Order issued under this subtitle; or

16 4. Agreement with the commissioner relating to compliance with this
17 subtitle; and

18 (c) For any virtual currency kiosk operator or its agent that is subject to a civil
19 penalty under paragraph (b) of this subsection, issue an order directing any
20 peace officer to:

21 1. Seize or impound the operator's or agent's virtual currency kiosk,
22 including any contents thereof; or

23 2. Render the operator's or agent's virtual currency kiosk inoperable.

24 (3) The civil penalty levied under subsection (2)(b) of this section:

25 (a) Shall be not less than one thousand dollars (\$1,000) nor more than five
26 thousand dollars (\$5,000) per violation; and

27 (b) May:

- 1 1. Be assessed for each day the violation is outstanding; and
 2 2. Include an order for the person to pay the state's costs and expenses
 3 for the examination, investigation, and prosecution of the matter,
 4 including reasonable attorney's fees and court costs.

5 ➔SECTION 29. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
 6 IS CREATED TO READ AS FOLLOWS:

7 (1) A person that intentionally or knowingly makes a false statement,
 8 misrepresentation, false certification, or false entry, or omits a material entry, in
 9 a record filed or required to be maintained under this subtitle is guilty of a Class
 10 D felony.

11 (2) A person that intentionally or knowingly engages in virtual currency kiosk
 12 business in this state for which a license is required under this subtitle without
 13 being licensed under this subtitle is guilty of a Class C felony.

14 ➔Section 30. KRS 286.2-015 is amended to read as follows:

15 (1) Except as provided in KRS 41.470 to 41.476 and 41.480, and
 16 subsections~~subsection~~ (3) and (4) of this section, all political subdivisions of the
 17 Commonwealth shall be prohibited from enacting and enforcing ordinances,
 18 resolutions, and regulations pertaining to the financial or lending activities of
 19 persons or entities that:

20 (a) Are subject to:

- 21 1. The jurisdiction of the department; or
 22 2. The provisions of this chapter;

23 (b) Are subject to the jurisdiction or regulatory supervision of the Board of
 24 Governors of the Federal Reserve System, the Office of the Comptroller of
 25 the Currency, the National Credit Union Administration, the Farm Credit
 26 Administration, the Federal Deposit Insurance Corporation, or the United
 27 States Department of Housing and Urban Development; or

1 (c) Originate, purchase, sell, assign, securitize, assist, facilitate, or service
2 property interests or obligations created by financial transactions or loans
3 made, executed, or originated by persons or entities referred to in paragraph
4 (a) or (b) of this subsection.

5 (2) The requirements of this section shall apply to all ordinances, resolutions, or
6 regulations pertaining to financial or lending activities, including any ordinances,
7 resolutions, or regulations that:

8 (a) Limit or disqualify persons or entities from doing business with a political
9 subdivision based upon financial or lending activities; or

10 (b) Impose additional reporting requirements or other obligations on persons or
11 entities referred to in subsection (1) of this section seeking to do business with
12 a political subdivision.

13 (3) Nothing in this section shall be interpreted as preventing the enforcement of
14 ordinances, regulations, or resolutions of political subdivisions of the
15 Commonwealth pertaining to civil rights.

16 **(4) (a) Political subdivisions of this Commonwealth may enact and enforce**
17 **ordinances, regulations, and resolutions pertaining to virtual currency**
18 **kiosk business that are not in direct conflict with state law.**

19 **(b) Ordinances, regulations, and resolutions of political subdivisions of the**
20 **Commonwealth that impose greater requirements or restrictions on virtual**
21 **currency kiosk business than the requirements or restrictions set forth in**
22 **Subtitle 13 of KRS Chapter 286 shall not be considered in direct conflict**
23 **with state law.**

24 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
25 READ AS FOLLOWS:

26 **(1) A violation of any provision of Subtitle 13 of KRS Chapter 286 by a person**
27 **subject to regulation as a virtual currency kiosk operator or agent under that**

1 subtitle shall be deemed an unfair, false, misleading, or deceptive act or practice
 2 in the conduct of trade or commerce in violation of KRS 367.170.

3 (2) All of the remedies, powers, and duties provided to the Attorney General or any
 4 other person under KRS 367.110 to 367.300, and the penalties provided in KRS
 5 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall
 6 apply with equal force and effect to a violation of any provision of Subtitle 13 of
 7 KRS Chapter 286 by a person subject to regulation as a virtual currency kiosk
 8 operator or agent under that subtitle.

9 (3) (a) The remedies and penalties prescribed in this section shall be cumulative.
 10 (b) This section shall not be construed to limit or restrict the powers, duties,
 11 remedies, or penalties available to the Attorney General, the
 12 Commonwealth, or any other person under any other statutory or common
 13 law.

14 ➔Section 32. KRS 431.073 is amended to read as follows:

15 (1) Any person who has been:

16 (a) Convicted of a Class D felony violation of Section 29 of this Act or KRS
 17 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140,
 18 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439,
 19 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 218A.500,
 20 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675,
 21 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060,
 22 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140,
 23 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040,
 24 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050,
 25 530.010, or 530.050;

26 (b) Convicted of a series of Class D felony violations of one (1) or more statutes
 27 enumerated in paragraph (a) of this subsection arising from a single incident;

1 (c) Granted a full pardon; or

2 (d) Convicted of a Class D felony, or an offense prior to January 1, 1975 which
3 was punishable by not more than five (5) years' incarceration, which was not a
4 violation of KRS 189A.010, 508.032, or 519.055, abuse of public office, a sex
5 offense, or an offense committed against a child, and did not result in serious
6 bodily injury or death; or of multiple felony offenses eligible under this
7 paragraph;

8 may file with the court in which he or she was convicted an application to have the
9 judgment vacated. The application shall be filed as a motion in the original criminal
10 case. The person shall be informed of the right at the time of adjudication.

11 (2) (a) A verified application to have the judgment vacated under this section shall be
12 filed no sooner than five (5) years after the completion of the person's
13 sentence, or five (5) years after the successful completion of the person's
14 probation or parole, whichever occurs later.

15 (b) Upon the payment of the filing fee and the filing of the application, the Circuit
16 Court clerk shall serve a notice of filing upon the office of the
17 Commonwealth's attorney or county attorney that prosecuted the case and the
18 county attorney of the county where the judgment was entered. The office of
19 the Commonwealth's attorney or county attorney that prosecuted the case
20 shall file a response within sixty (60) days after being served with the notice
21 of filing. That time period may be extended for good cause, but the hearing on
22 the application to vacate the judgment shall occur no later than one hundred
23 twenty (120) days following the filing of the application. The inability to
24 determine the location of the crime victim shall constitute good cause for an
25 extension of time. No hearing upon the merits of the application shall be
26 scheduled until the Commonwealth's response has been filed, or if no
27 response is received, no later than one hundred twenty (120) days after the

1 filing of the application.

2 (c) In any case in which the Commonwealth objects that the application is grossly
3 incomplete, the court shall order the person or agency originating the
4 application to supplement the application.

5 (3) Upon the filing of the Commonwealth's response to an application, or if no
6 response is received, no later than one hundred twenty (120) days after the filing of
7 the application, the court shall set a date for a hearing and the Circuit Court clerk
8 shall notify the office of the Commonwealth's attorney or county attorney that
9 prosecuted the case. The office of the Commonwealth's attorney or county attorney
10 that prosecuted the case shall notify the victim of the crime, if there was an
11 identified victim. The Commonwealth's attorney or county attorney shall be
12 authorized to obtain without payment of any fee information from the
13 Transportation Cabinet regarding the crime victim's address on file regarding any
14 vehicle operator's license issued to that person.

15 (4) (a) In an application pursuant to subsection (1)(d) of this section, upon the filing
16 of the Commonwealth's response objecting to the vacating of a judgment and
17 expungement of a record, the court shall schedule a hearing within one
18 hundred twenty (120) days of the Commonwealth's response. The prosecutor
19 shall specify in the objection the reasons for believing a denial of the
20 application is justified. At the hearing at which the applicant or his or her
21 attorney must be present, the applicant must prove by clear and convincing
22 evidence that:

- 23 1. Vacating the judgment and expunging the record is consistent with the
24 welfare and safety of the public;
- 25 2. The action is supported by his or her behavior since the conviction or
26 convictions, as evidenced that he or she has been active in rehabilitative
27 activities in prison and is living a law-abiding life since release;

- 1 3. The vacation and expungement is warranted by the interests of justice;
2 and
3 4. Any other matter deemed appropriate or necessary by the court to make
4 a determination regarding the petition for expungement is met.
- 5 (b) At the hearing, the applicant may testify as to the specific adverse
6 consequences he or she may be subject to if the application is denied. The
7 court may hear testimony of witnesses and any other matter the court deems
8 proper and relevant to its determination regarding the application. The
9 Commonwealth may present proof of any extraordinary circumstances that
10 exist to deny the application. A victim of any offense listed in the application
11 shall have an opportunity to be heard at any hearing held under this section.
- 12 (c) If the court determines that circumstances warrant vacation and expungement
13 and that the harm otherwise resulting to the applicant clearly outweighs the
14 public interest in the criminal history record information being publicly
15 available, then the original conviction or convictions shall be vacated and the
16 records shall be expunged. The order of expungement shall not preclude a
17 prosecutor's office from retaining a nonpublic record for law enforcement
18 purposes only.
- 19 (5) The court may order the judgment vacated, and if the judgment is vacated the court
20 shall dismiss with prejudice any charges which are eligible for expungement under
21 subsection (1) of this section or KRS 431.076 or 431.078, and, upon full payment of
22 the fee in subsection (11) of this section, order expunged all records in the custody
23 of the court and any records in the custody of any other agency or official, including
24 law enforcement records, if the court finds that:
- 25 (a) The person had not in the five (5) years prior to the filing of the application to
26 have the judgment vacated been convicted of a felony or a misdemeanor;
- 27 (b) No proceeding concerning a felony or misdemeanor is pending or being

1 instituted against the person; and

2 (c) For an application pursuant to subsection (1)(d) of this section, the person has
3 been rehabilitated and poses no significant threat of recidivism.

4 (6) If the court has received a response from the office of the Commonwealth's attorney
5 or county attorney that prosecuted the case stating no objection to the application to
6 have the judgment vacated, or if one hundred twenty (120) days have elapsed since
7 the filing of the application and no response has been received from the victim or
8 the office of the Commonwealth's attorney or county attorney that prosecuted the
9 case, the court may, without a hearing, vacate the judgment in the manner
10 established in subsection (5) of this section.

11 (7) Upon entry of an order vacating and expunging a conviction, the original conviction
12 shall be vacated and, upon full payment of the fee in subsection (11) of this section,
13 the record shall be expunged. The court and other agencies shall cause records to be
14 deleted or removed from their computer systems so that the matter shall not appear
15 on official state-performed background checks. The court and other agencies shall
16 reply to any inquiry that no record exists on the matter. The person whose record is
17 expunged shall not have to disclose the fact of the record or any matter relating
18 thereto on an application for employment, credit, or other type of application. If the
19 person is not prohibited from voting for any other reason, the person's ability to
20 vote shall be restored and the person may register to vote.

21 (8) An order vacating a conviction under this section shall not extend or revive an
22 expired statute of limitations, shall not constitute a finding of legal error regarding
23 the proceedings leading to or resulting in the conviction, shall not nullify any
24 findings of fact or conclusions of law made by the trial court or any appellate court
25 regarding the conviction, and shall not constitute a finding of innocence regarding
26 the conviction.

27 (9) The Administrative Office of the Courts shall establish a form application to be

1 used in filing an application to have judgment vacated and records expunged.

2 (10) The filing fee for an application to have judgment vacated and records expunged
3 shall be fifty dollars (\$50), which shall be deposited into a trust and agency account
4 for deputy clerks and shall not be refundable.

5 (11) (a) Upon the issuance of an order vacating and expunging a conviction pursuant
6 to this section, the applicant shall be charged an expungement fee of two
7 hundred fifty dollars (\$250), which may be payable by an installment plan in
8 accordance with KRS 534.020.

9 (b) When the order is issued, the court shall set a date, no sooner than eighteen
10 (18) months after the date of the order, by which the defendant must comply
11 with the installment payment plan. The applicant shall be given notice of the
12 total amount due, the payment frequency, and the date by which all payments
13 must be made. The notice shall state that the expungement cannot be
14 completed until full payment is received, and that if the applicant has not
15 completed the installment payment plan by the scheduled date, he or she shall
16 appear on that date to show good cause as to why he or she is unable to satisfy
17 the obligations. Notwithstanding provisions of KRS 534.020 to the contrary,
18 no applicant shall be ordered to jail for failure to complete an installment plan
19 ordered pursuant to this section.

20 (c) The revenues and interest from the expungement fee shall be deposited in the
21 expungement fund created in KRS 431.0795.

22 (12) This section shall be retroactive.

23 ➔Section 33. Sections 1 to 32 of this Act take effect April 30, 2027.

24 ➔Section 34. On or before January 1, 2027, the commissioner of the Kentucky
25 Department of Financial Institutions shall promulgate any emergency and ordinary
26 administrative regulations required under Sections 1 to 30 of this Act.