

1 AN ACT relating to the regulation of virtual currency kiosks.

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            1. 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           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                    c. 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.

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) "New virtual currency kiosk user":

27 1. Means a virtual currency kiosk user:

- 1                    a. On the day of the user's first virtual currency kiosk transaction  
2                    with the virtual currency kiosk operator; and
- 3                    b. For twenty-nine (29) calendar days thereafter; and
- 4                    2. Does not include a virtual currency kiosk user on any day that the  
5                    user enters a virtual currency kiosk transaction with the virtual  
6                    currency kiosk operator following twenty-nine (29) calendar days after  
7                    the user's first virtual currency kiosk transaction with the operator;
- 8                    (b) "Virtual currency kiosk operator" includes an agent of the virtual currency  
9                    kiosk operator;
- 10                   (c) "Virtual currency wallet" means a software application or other  
11                   mechanism providing a means to hold the keys necessary to access and  
12                   transfer virtual currency; and
- 13                   (d) "Virtual currency wallet address" means an alphanumeric identifier  
14                   associated with a virtual currency wallet that identifies the location to which  
15                   a virtual currency transaction can be sent.
- 16                   (2) A virtual currency kiosk operator shall:
- 17                   (a) Have maximum virtual currency kiosk transaction limits that do not exceed:
- 18                   1. Two thousand dollars (\$2,000), or the equivalent in virtual currency,  
19                   per day for all virtual currency kiosk transactions entered with a  
20                   virtual currency kiosk user; and
- 21                   2. Ten thousand five hundred dollars (\$10,500), or the equivalent in  
22                   virtual currency, for all virtual currency kiosk transactions entered  
23                   with a new virtual currency kiosk user;
- 24                   (b) Either:
- 25                   1. Wait seventy-two (72) hours before processing a virtual currency kiosk  
26                   transaction for a new virtual currency kiosk user; or
- 27                   2. At the operator's cost, allow a new virtual currency kiosk user to

1 cancel, and receive a full refund for, a virtual currency kiosk  
 2 transaction within seventy-two (72) hours after the transaction;

3 (c) Not collect, directly or indirectly, virtual currency kiosk charges from a  
 4 virtual currency kiosk user for any single virtual currency kiosk transaction  
 5 that exceeds the greater of:

6 1. Five dollars (\$5); or

7 2. Eighteen percent (18%) of the value, in United States dollars, of the  
 8 transaction;

9 (d) Provide live customer service via a toll-free telephone number during the  
 10 operating hours of each virtual currency kiosk in this state; and

11 (e) Provide the following notices at each virtual currency kiosk in this state:

12 1. The following warning, stating in substantially similar form:

13 "WARNING: This technology can be used to defraud you.

14 If someone asked you to deposit money in this machine and/or is on  
 15 the phone with you and claims to be a:

16 - Friend or family member;

17 - Government agent;

18 - Computer software representative;

19 - Bill collector;

20 - Law enforcement officer; or

21 - Anyone you do not know personally;

22 STOP THIS TRANSACTION IMMEDIATELY and contact your local  
 23 law enforcement and the virtual currency kiosk operator. This may be  
 24 a scam. NEVER SEND MONEY to someone you don't know.";

25 2. That virtual currency kiosk users can contact the following to report  
 26 fraud or suspected fraud:

27 a. Any relevant state and local law enforcement;

- 1                   **b. The department; and**  
2                   **c. The Attorney General;**  
3                   **3. The contact information, including a telephone number, for each of**  
4                   **the agencies referenced in subparagraph 2. of this paragraph;**  
5                   **4. The name, address, and toll-free customer service telephone number**  
6                   **of the virtual currency kiosk operator;**  
7                   **5. The days, times, and means by which a virtual currency kiosk user can**  
8                   **contact the virtual currency kiosk operator for assistance; and**  
9                   **6. The operator's dedicated United States telephone number or email**  
10                   **address for law enforcement, the department, and the Attorney**  
11                   **General, as required under subsection (6) of Section 18 of this Act.**

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

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

19 **(4) (a) Prior to entering a virtual currency kiosk transaction with a virtual**  
20 **currency kiosk user, a virtual currency kiosk operator shall:**

- 21                   **1. Provide accurate and appropriate disclosures to the user; and**  
22                   **2. Obtain an acknowledgment from the user that the user received the**  
23                   **disclosures.**

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

- 25                   **1. Describe the terms and conditions of the transaction, which shall**  
26                   **include but not be limited to:**  
27                   **a. The amount of the transaction;**

- 1                   **b. A description of all virtual currency kiosk charges, which shall**  
2                   **be disclosed to the user in United States dollars; and**
- 3                   **c. The exchange rate of the virtual currency to the United States**  
4                   **dollar;**
- 5                   **2. Describe all material risks associated with the virtual currency kiosk**  
6                   **transaction, including the following:**
- 7                   **a. Virtual currency is not legal tender in the United States, is not**  
8                   **backed by the United States government, and accounts and value**  
9                   **balances are not subject to Federal Deposit Insurance**  
10                   **Corporation, National Credit Union Administration, or**  
11                   **Securities Investor Protection Corporation protections;**
- 12                   **b. Legislative and regulatory changes or actions at the state,**  
13                   **federal, or international level may adversely affect the value of**  
14                   **virtual currency;**
- 15                   **c. Virtual currency value relative to the United States dollar may**  
16                   **fluctuate significantly;**
- 17                   **d. Transactions in virtual currency may be irreversible, and**  
18                   **accordingly, losses due to fraudulent or accidental transactions**  
19                   **may not be recoverable;**
- 20                   **e. Some virtual currency transactions may be immediately effective**  
21                   **when recorded on a public ledger, which is not necessarily the**  
22                   **date or time that the user initiates the transaction;**
- 23                   **f. The value of virtual currency may be derived from the continued**  
24                   **willingness of market participants to exchange legal tender for**  
25                   **virtual currency, which may result in the potential for permanent**  
26                   **and total loss of value of a particular virtual currency if the**  
27                   **market for the virtual currency declines or collapses for an**

- 1                   extended period of time;
- 2           g. Any bond required by Section 9 of this Act for the benefit of
- 3                   virtual currency kiosk users may not be sufficient to cover all
- 4                   losses incurred by the users;
- 5           h. Virtual currency kiosk users should perform research before
- 6                   purchasing or investing in virtual currency; and
- 7           i. The circumstances under which the virtual currency kiosk
- 8                   operator will, in the ordinary course of business, disclose the
- 9                   user's financial and account information to third parties;
- 10          3. Include any other terms, conditions, or information the commissioner
- 11                   determines is necessary and appropriate to disclose to virtual currency
- 12                   kiosk users;
- 13          4. Be made separately from any other information provided by a virtual
- 14                   currency kiosk operator; and
- 15          5. Be clear, conspicuous, and in legible writing.
- 16   (5) (a) Upon completion of a virtual currency kiosk transaction, a virtual currency
- 17                   kiosk operator shall provide a receipt in paper or electronic retainable form,
- 18                   as designated under paragraph (b) of this subsection, to the virtual currency
- 19                   kiosk user that contains all of the following information:
- 20                   1. The name and toll-free customer service telephone number of the
- 21                   operator;
- 22                   2. The contact information required under subsection (2)(e)3. of this
- 23                   section to report fraud or suspected fraud;
- 24                   3. The type, value, date, and precise time of the transaction;
- 25                   4. Each applicable virtual currency wallet address and transaction hash,
- 26                   where available;
- 27                   5. A description of all virtual currency kiosk charges, which shall be

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

25                  ➔SECTION 18. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

26 IS CREATED TO READ AS FOLLOWS:

27                  (1) As used in this section:

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

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

5 1. Risk-specific information;

6 2. Tracing of virtual currency wallet addresses; and

7 3. Other information and services; and

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

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

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

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

16 a. Identifies and assesses fraud-related and money laundering-  
17 related risk areas;

18 b. Establishes procedures and controls to protect against identified  
19 risks;

20 c. Allocates responsibility for monitoring risks;

21 d. Establishes procedures for the periodic evaluation and revision  
22 of the policy's procedures, controls, and monitoring  
23 mechanisms; and

24 e. Requires compliance with the federal Bank Secrecy Act, codified  
25 at 31 U.S.C. sec. 5311 et seq.;

26 2. An enhanced due diligence policy that, at a minimum, establishes  
27 protocols to identify individuals who are at risk of fraud based on age

1 or mental capacity; and

2 3. Policies that address:

3 a. Cybersecurity, the privacy of personal information, and  
4 information security; and

5 b. Any other subjects required by the commissioner in an  
6 administrative regulation promulgated in accordance with KRS  
7 Chapter 13A.

8 (c) The policies required under paragraph (b) of this subsection shall:

9 1. Be in writing;

10 2. Apply to all employees and agents of the virtual currency kiosk  
11 operator; and

12 3. Be reviewed and approved by the virtual currency kiosk operator's  
13 board of directors or equivalent governing body.

14 (3) (a) Each virtual currency kiosk operator and its agents shall use blockchain  
15 analytics and tracing software to:

16 1. Assist in the prevention of sending virtual currency to a virtual  
17 currency wallet known or likely to be affiliated with fraudulent activity  
18 at the time of a virtual currency kiosk transaction; and

19 2. Detect virtual currency kiosk transaction patterns that are indicative  
20 of fraud or other illicit activities.

21 (b) A virtual currency kiosk operator and its agents shall block a virtual  
22 currency kiosk transaction to a virtual currency wallet that is associated  
23 with overseas exchanges that are not accessible for virtual currency kiosk  
24 users in the United States.

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

27 (4) (a) Prior to accepting payment from any virtual currency kiosk user in this

1 state, a virtual currency kiosk operator and its agents shall verify the  
2 identity of the user.

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

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

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

9 a. Name;

10 b. Date of birth;

11 c. Telephone number;

12 d. Physical address; and

13 e. Email address.

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

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

20 (5) (a) Except as provided in paragraph (b) of this subsection, upon request of a  
21 virtual currency kiosk user, a virtual currency kiosk operator and its agents  
22 shall issue a refund of all virtual currency kiosk charges to the user for  
23 each virtual currency kiosk transaction that satisfies all of the following:

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

25 2. The user reported the fraud within ninety (90) days of the transaction  
26 to:

27 a. The operator or agent; and

- 1                    *b. One (1) of the following:*
- 2                    *i. The department;*
- 3                    *ii. The Attorney General; or*
- 4                    *iii. Any relevant state or local law enforcement agency; and*
- 5                    *3. The user submitted proof of the fraud to the operator or agent and the*
- 6                    *person referenced in subparagraph 2.b. of this paragraph, which may*
- 7                    *include one (1) of the following:*
- 8                    *a. A police report; or*
- 9                    *b. A sworn statement made to the department, Attorney General,*
- 10                    *operator, or agent;*
- 11                    *that details the fraudulent nature of the transaction.*
- 12                    *(b) 1. In addition to any other remedies and penalties available under this*
- 13                    *subtitle or any other statutory or common law, a virtual currency kiosk*
- 14                    *operator and its agents shall issue a refund to a virtual currency kiosk*
- 15                    *user in the full amount of any virtual currency kiosk transaction,*
- 16                    *including all virtual currency kiosk charges, if the user submits proof,*
- 17                    *which may be in the form of a police report or sworn statement, that*
- 18                    *the operator or agent, or an employee or other representative of the*
- 19                    *operator or agent, defrauded, deceived, or mislead the user in*
- 20                    *connection with the transaction.*
- 21                    *2. A virtual currency kiosk user shall submit the proof required under*
- 22                    *this paragraph in accordance with the requirements of paragraph (a)*
- 23                    *of this subsection, except the user shall be required to submit the proof*
- 24                    *within any applicable statute of limitations associated with the*
- 25                    *violation or offense, which shall not be less than one (1) year after the*
- 26                    *transaction.*
- 27                    *(c) The refund required under paragraph (a) or (b) of this subsection shall be:*

- 1           1. Paid in the originating currency; and
- 2           2. Made to a virtual currency kiosk user by the virtual currency kiosk
- 3           operator or agent within seventy-two (72) hours after the requirements
- 4           of paragraph (a) or (b) of this subsection, as applicable, are satisfied.
- 5       (6) (a) A virtual currency kiosk operator and its agents shall provide a dedicated
- 6           and frequently monitored communications line for law enforcement, the
- 7           department, and the Attorney General, via a United States telephone
- 8           number or email address posted on each virtual currency kiosk in
- 9           accordance with Section 17 of this Act, to be used by the agencies to
- 10          facilitate communications with the operator or agent in the event of a report
- 11          from a virtual currency kiosk user of fraud or suspected fraud.
- 12       (b) Upon request from law enforcement, the department, or the Attorney
- 13          General, a virtual currency kiosk operator and its agents shall:
- 14           1. Provide the agency with its trace findings; and
- 15           2. Grant the agency assistance with blockchain analytics to assist in any
- 16           fraud investigation.
- 17       (c) A virtual currency kiosk operator and its agents shall cooperate with law
- 18          enforcement, the department, and the Attorney General in the investigation
- 19          of fraud and other unlawful activity, which shall include without limitation:
- 20           1. Promptly complying with lawful subpoenas, court orders, and other
- 21           official requests for records or information relating to virtual currency
- 22           kiosk transactions or virtual currency kiosk users;
- 23           2. Responding in good faith to lawful requests relating to fraud involving
- 24           a virtual currency kiosk; and
- 25           3. Designating a point of contact for communication with law
- 26           enforcement, the department, and the Attorney General regarding
- 27           fraud-related matters.

1 (7) (a) Each virtual currency kiosk operator shall designate a qualified natural  
 2 person to serve as the operator's chief compliance officer for virtual  
 3 currency kiosk business conducted in this state.

4 (b) The chief compliance officer shall be responsible for coordinating,  
 5 monitoring, and ensuring the operator's and its agents' compliance with:

6 1. This section; and

7 2. All other applicable state and federal laws, including all  
 8 administrative regulations, rules, and orders promulgated or issued  
 9 thereunder.

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

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

14 (1) With regard to virtual currency kiosk business in this state, whether or not the  
 15 person is required to have a license:

16 (a) Directly or indirectly employ any scheme, device, or artifice to defraud or  
 17 mislead, when the applicant, licensee, operator, agent, or person should  
 18 have known that the scheme, device, or artifice was defrauding or  
 19 misleading; or

20 (b) Engage in any:

21 1. Unfair or deceptive practice; or

22 2. Other act or conduct that would warrant the denial, suspension, or  
 23 revocation of a license under Section 25 of this Act;

24 (2) Negligently make any false statement, or knowingly or willfully make any  
 25 omission of material fact, in connection with:

26 (a) Any information or reports relating to virtual currency kiosk business in  
 27 this state filed with:

- 1           1. A state or federal government agency;  
 2           2. The registry, as defined in Section 5 of this Act; or  
 3           3. Any agency or authority, as part of a nationwide licensing system, that  
 4           is designated by the commissioner to accept filings under Section 5 of  
 5           this Act; or  
 6           (b) Any investigation or examination conducted by the commissioner or any  
 7           other state or federal government agency relating to virtual currency kiosk  
 8           business in this state; or  
 9           (3) Fail to truthfully account for any assets in connection with any virtual currency  
 10           kiosk transaction.

11           ➔SECTION 20. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286  
 12 IS CREATED TO READ AS FOLLOWS:

13           In addition to the requirements of this subtitle, every virtual currency kiosk operator  
 14           and its agents shall comply with all applicable federal and state laws.

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

17           (1) Any person may file a written complaint with the commissioner relating to:

18           (a) Virtual currency kiosk business in this state; or

19           (b) The conduct of any person engaged or participating in virtual currency  
 20           kiosk business in this state.

21           (2) The commissioner may conduct an investigation, upon complaint or otherwise, of  
 22           any virtual currency kiosk operator or other person within or outside this state  
 23           that he or she deems necessary to:

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

26           or

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

- 1 (3) (a) The commissioner may conduct routine examinations of the virtual  
2 currency kiosk affairs, business, offices, books, accounts, and records of  
3 licensees and agents of licensees.
- 4 (b) A licensee shall pay a reasonable fee sufficient to cover the cost of each  
5 routine examination based upon fair compensation for time and actual  
6 expenses.
- 7 (c) Upon written notice of the amount assessed under paragraph (b) of this  
8 subsection, the licensee shall become liable for and pay the assessment to  
9 the department.
- 10 (4) To the extent necessary to conduct any investigation or examination authorized  
11 under this section, the commissioner may:
- 12 (a) Compel the attendance of any person or obtain any books, accounts, or  
13 records by subpoenas;
- 14 (b) Administer oaths and affirmations;
- 15 (c) Examine under oath or affirmation all persons whose testimony he or she  
16 may require; and
- 17 (d) To the extent permitted under federal law, access and review records and  
18 related information relating to compliance with federal anti-money  
19 laundering laws, including suspicious activity reports filed pursuant to the  
20 Bank Secrecy Act, 31 U.S.C. sec. 5311 et seq., as amended.
- 21 (5) As a condition of licensure under this subtitle, a licensee and its agents shall, by  
22 operation of law, be deemed to consent to any examination or investigation  
23 conducted under this section, whether or not prior notice is given to the licensee  
24 or agent.
- 25 (6) When conducting an investigation or examination, the commissioner may do any  
26 of the following:
- 27 (a) Conduct an on-site or off-site investigation or examination;

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

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

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

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

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

12 (b) A licensee:

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

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

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

22 (1) Except as otherwise provided in subsection (3) of this section, any document,  
 23 material, report, or other information in the possession or control of the  
 24 commissioner that is provided to the commissioner according to this subtitle  
 25 shall:

26 (a) Be confidential by law and privileged;

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

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

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

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

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

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

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

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

22       3. With the following, if the recipient agrees to maintain the  
23       confidentiality and privileged status of shared documents, materials,  
24       reports, and information:

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

26       b. Organizations made up of other state regulators of virtual  
27       currency businesses; and

- 1                    c. Local, state, federal, and international law enforcement  
2                    authorities;
- 3            (b) Report apparent violations of law to:
- 4                    1. Other state, federal, and international regulators of virtual currency  
5                    businesses;
- 6                    2. The registry, as defined in Section 5 of this Act; or
- 7                    3. Local, state, federal, and international law enforcement authorities;
- 8            (c) Disclose to the public:
- 9                    1. A list of licensees and agents;
- 10                   2. A licensee's registered agent for service of process in this state;
- 11                   3. The aggregate financial or other data of persons regulated under this  
12                   subtitle; or
- 13                   4. Violations of this subtitle, enforcement actions, and other relevant  
14                   information that the commissioner deems necessary to carry out the  
15                   requirements and purposes of this subtitle;
- 16            (d) Disclose and use documents, materials, reports, and other information in  
17                   the commissioner's possession or control, including otherwise confidential  
18                   and privileged documents, materials, reports, and other information, in  
19                   furtherance of any regulatory or legal action brought as part of the  
20                   commissioner's official duties;
- 21            (e) Receive any documents, materials, reports, or other information, including  
22                   otherwise confidential and privileged documents, materials, reports, or  
23                   other information, from any source;
- 24            (f) Agree to maintain the confidentiality and privileged status of any  
25                   documents, materials, reports, or information received;
- 26            (g) Enter into agreements or relationships with other government officials,  
27                   federal and state regulatory agencies, and regulatory associations;

- 1        (h) Use, hire, contract, or employ analytical systems, methods, or software;  
 2        (i) Consider, accept, and rely upon audit reports prepared by an independent  
 3            certified public accountant or other qualified third-party auditor for any  
 4            person subject to this subtitle; or  
 5        (j) Incorporate all or part of any audit report referenced in paragraph (i) of  
 6            this subsection into an examination or investigation report.
- 7        (4) A waiver of any applicable privilege or claim of confidentiality in documents,  
 8            materials, reports, or other information shall not occur as a result of a disclosure:  
 9            (a) To the commissioner under this section; or  
 10          (b) That is made under subsection (3)(a) of this section.

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

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

- 15        (1) The data received from virtual currency kiosk operators relating to virtual  
 16            currency kiosk business conducted in this state; and  
 17        (2) Information about the licensing of virtual currency kiosk business in this state,  
 18            including the following information, by calendar year:  
 19            (a) The number of applications made for a license;  
 20            (b) The number of applicants who have a license to engage in money  
 21            transmission;  
 22            (c) The number of licenses granted;  
 23            (d) The number of applicants who have been denied a license; and  
 24            (e) A list of fees that applicants are required to pay.

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

- 27        (1) As used in this section:

1 (a) "Applicant" includes:

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

5 2. With respect to a denial of an application for approval of a change of  
6 control, a person that filed the application seeking the change of  
7 control; and

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

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

11 (a) Placing conditions on:

12 1. A license; or

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

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

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

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

22 1. Prior to doing any of the following:

23 a. Taking an adverse action against the person under subsection  
24 (1)(a)4. of Section 25 of this Act;

25 b. Issuing a cease and desist order against the person under  
26 Section 27 of this Act; or

27 c. Issuing an order that directs the person to:

- 1                    i. Pay any fee or civil penalty;  
2                    ii. Provide any remedy; or  
3                    iii. Be subject to a penalty; and  
4                    2. Simultaneous with the service of an emergency order on the person  
5                    under Section 26 of this Act.  
6                    (b) Except as provided in paragraph (c) of this subsection, a person that is  
7                    served an administrative complaint under paragraph (a) of this subsection  
8                    shall be entitled to an administrative hearing on the complaint conducted in  
9                    accordance with KRS Chapter 13B if the person files both of the following  
10                    with the commissioner within twenty (20) days of the date of service:  
11                    1. A written answer to the complaint; and  
12                    2. A request for hearing.  
13                    (c) A person that complies with paragraph (b) of this subsection in response to  
14                    an administrative complaint and emergency order issued under Section 25  
15                    of this Act shall be entitled to an emergency administrative hearing  
16                    conducted in accordance with KRS 13B.125.  
17                    (5) (a) Except as provided in paragraph (b) of this subsection, the commissioner  
18                    shall serve any notice, complaint, or emergency order referenced in this  
19                    section by certified mail or personal delivery to the person's last known  
20                    address or upon the person's agent for service of process.  
21                    (b) If the commissioner is unable to reasonably determine a person's last  
22                    known address or agent for service of process, the commissioner may serve  
23                    a notice, a complaint, or an emergency order by certified mail or personal  
24                    delivery to any owner or operator of the premises or real property upon  
25                    which the person's virtual currency kiosk or kiosks are located.  
26                    (6) Service by certified mail shall be complete as provided in KRS 13B.050(2).  
27                    (7) If any person fails to timely file a request for hearing under subsection (3) of this

1 section, or a written answer and request for hearing under subsection (4) of this  
 2 section, the commissioner may, as applicable and subject to KRS Chapter 13B,  
 3 issue a final order:

4 (a) Taking the action that was:

5 1. Set forth in the notice; or

6 2. Sought in the complaint; or

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

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

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

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

14 (1) As used in this section:

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

16 1. Deny or condition a license;

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

20 3. Condition an approval:

21 a. To engage in virtual currency kiosk business at a location in this  
 22 state; or

23 b. Of an agent to engage in virtual currency kiosk business in this  
 24 state on behalf of an applicant or licensee; or

25 4. Suspend, revoke, or refuse to renew:

26 a. A license;

27 b. An approval to engage in virtual currency kiosk business at a

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

- 1                    c. Consent order or compliance agreement entered into with the  
2                    commissioner;
- 3                    2. Engaged in:
- 4                    a. An unsafe or unsound act or practice;  
5                    b. An unfair, deceptive, or dishonest act or practice;  
6                    c. Fraud, an intentional misrepresentation, or gross negligence; or  
7                    d. A misappropriation of legal tender, virtual currency, or other  
8                    assets;
- 9                    3. Misrepresented material facts or made a false promise likely to  
10                    influence, persuade, or induce a virtual currency kiosk user to engage  
11                    in a virtual currency kiosk transaction;
- 12                    4. Misrepresented or concealed a material fact, term, or condition of a  
13                    virtual currency kiosk transaction;
- 14                    5. Knowingly engaged in a transaction, practice, or course of business  
15                    that perpetrates a fraud upon any person in connection with a virtual  
16                    currency kiosk transaction;
- 17                    6. Failed to exchange, transfer, or store, without just cause, any funds in  
18                    accordance with any agreement connected with a virtual currency  
19                    kiosk business;
- 20                    7. Failed to timely remit, account for, or deliver to any person any legal  
21                    tender, virtual currency, precious metals, electronic certificates, or  
22                    other assets legally due to the person;
- 23                    8. Failed to implement reasonable risk-mitigation measures to prevent  
24                    fraudulent activity by third parties in connection with a virtual  
25                    currency kiosk transaction;
- 26                    9. Been found to have violated any of the recordkeeping and reporting  
27                    requirements of the United States government, including 31 U.S.C.

- 1                   secs. 5311 to 5332 and 31 C.F.R. pt. 103;
- 2                   10. Been convicted of, pled guilty to, or pled nolo contendere, or
- 3                   knowingly employed or contracted with a responsible individual that
- 4                   has been convicted of, pled guilty to, or pled nolo contendere, to a:
- 5                   a. Felony; or
- 6                   b. A misdemeanor:
- 7                         i. Related to money transmission or virtual currency kiosk
- 8                         business; or
- 9                         ii. Involving theft, fraud, or breach of trust; or
- 10                  11. Has had any license, registration, claim of exemption, or other
- 11                  authorization to do business relating to the financial services industry
- 12                  denied, revoked, suspended, conditioned, restricted, probated, or
- 13                  terminated by any state, federal, or foreign jurisdiction;
- 14                  (b) The regulated person:
- 15                         1. Is insolvent;
- 16                         2. Has suspended payment of its obligations or made a general
- 17                         assignment for the benefit of its creditors;
- 18                         3. Has:
- 19                                 a. Become the debtor, alleged debtor, respondent, or person in a
- 20                                 similar capacity in a case or other proceeding under any
- 21                                 bankruptcy, reorganization, arrangement, readjustment,
- 22                                 insolvency, receivership, dissolution, liquidation, or similar law;
- 23                                 and
- 24                                 b. Not obtained from a court, within a reasonable time,
- 25                                 confirmation of a plan or dismissal of the case or proceeding; or
- 26                         4. Has applied for, or has permitted the appointment of, a receiver,
- 27                         trustee, or other agent of a court for itself or for a substantial part of

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

1. The regulated person;

2. An executive officer of the regulated person;

3. A director of the regulated person;

- 1           4. A key shareholder of the regulated person;
- 2           5. A person in control of the regulated person; or
- 3           6. A responsible individual of the applicant or licensee;
- 4           (g) The competence, experience, character, or general fitness of an agent, or a
- 5           person in control of the agent, indicates that it is not in the public interest to
- 6           permit the agent to be engaged in virtual currency kiosk business in this
- 7           state;
- 8           (h) The applicant or licensee no longer meets the requirements of this subtitle
- 9           to:
- 10           1. Hold a license; or
- 11           2. Engage in virtual currency kiosk business at one (1) or more locations
- 12           in this state; or
- 13           (i) Any fact or condition exists that, if it existed at the time the applicant or
- 14           licensee applied for a license, or approval to engage in virtual currency
- 15           kiosk business at one (1) or more locations, or through one (1) or more
- 16           agents, in this state, would have been grounds for denying the application.
- 17           (3) Subsection (2)(a)1. of this section includes all of the following:
- 18           (a) Violating any administrative regulation promulgated, or order of general
- 19           application issued, under this subtitle;
- 20           (b) Failing to pay any fee, civil penalty, or remedy that is owed under this
- 21           subtitle;
- 22           (c) Violating the written conditions under which a license or approval was
- 23           issued, renewed, or maintained under this subtitle;
- 24           (d) Refusing to permit, or failing to cooperate substantially with, an
- 25           investigation or examination under this subtitle;
- 26           (e) Failing, within a reasonable time, to furnish any information or file any
- 27           notice or report required or otherwise requested by the commissioner under

1           this subtitle; and

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

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

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

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

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

20           (d) If the department does not receive a written acceptance of the conditions  
21           specified in a notice issued under paragraph (a) of this subsection to a  
22           licensee, agent, or both within thirty (30) days after service of the notice, the  
23           commissioner shall serve an administrative complaint on the licensee,  
24           agent, or both, as applicable, seeking to take an appropriate adverse action  
25           under subsection (1)(a)4. of this section relating to the license or approval.

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

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

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

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

8 2. For any subsequent revocation, permanently.

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

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

13 (1) As used in this section:

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

16 1. Suspends or conditions:

17 a. Any license; or

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

20 2. Directs any peace officer to:

21 a. Seize or impound a virtual currency kiosk, including any  
 22 contents thereof; or

23 b. Render a virtual currency kiosk inoperable; and

24 (b) "Person" means any licensee, virtual currency kiosk operator, agent, or  
 25 other person.

26 (2) Subject to Section 24 of this Act, the commissioner may issue an emergency order  
 27 against any person, pending further investigation, the entry of a final order, or

1 other final legal action, if the commissioner has reason to believe or determines  
2 one (1) or more of the following:

3 (a) The person is acting in violation of Section 4 of this Act;

4 (b) The licensee is not in compliance with Section 9 of this Act;

5 (c) The person has committed a material violation of this subtitle that poses an  
6 immediate and irreparable harm to the public health, safety, or welfare;

7 (d) Subject to KRS 335B.020, the licensee or agent has been convicted of, pled  
8 guilty to, or pled nolo contendere, or the licensee is knowingly employing or  
9 contracting with a responsible individual that has been convicted of, pled  
10 guilty to, or pled nolo contendere, to a:

11 1. Felony involving theft, fraud, or breach of trust; or

12 2. A crime under the USA PATRIOT Act of 2001, Pub. L. No. 107-56;

13 (e) The licensee has had any license, registration, claim of exemption, or other  
14 authorization to do business relating to money transmission or virtual  
15 currency kiosk business denied, revoked, suspended, or terminated by any  
16 state, federal, or foreign jurisdiction;

17 (f) The licensee, agent, the licensee's responsible individual, or any key  
18 shareholder, executive officer, director, or other person in control of the  
19 licensee or agent is listed or becomes listed on the specially designated  
20 nationals and blocked persons list prepared by the United States  
21 Department of the Treasury or United States Department of State under  
22 Presidential Executive Order No. 13224 as a potential threat to commit  
23 terrorist acts or to finance terrorist acts; or

24 (g) The licensee or agent is insolvent or otherwise satisfies one (1) of the  
25 grounds listed in subsection (2)(b) of Section 25 of this Act.

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

27 (a) Pursuant to KRS 13B.125, become effective when served by the

1 commissioner; and

2 (b) Remain in effect until it is:

3 1. Stayed, withdrawn, suspended, or superseded by order of the  
4 commissioner; or

5 2. Terminated by court order.

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

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

13 (a) This subtitle;

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

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

16 (d) An agreement entered with the commissioner relating to compliance with  
17 this subtitle.

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

19 (a) Stayed, withdrawn, suspended, or superseded by order of the commissioner;  
20 or

21 (b) Terminated by court order.

22 ➔SECTION 28. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286  
23 IS CREATED TO READ AS FOLLOWS:

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

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

- 1        (a) Issue an order against any person to:
- 2            1. Refund any amount charged or collected in violation of this subtitle;
- 3                    or
- 4            2. Pay any fee or civil penalty, or provide any other remedy, authorized
- 5                    under this subtitle;
- 6        (b) Levy a civil penalty against any person that violates, or participates in the
- 7            violation of, any:
- 8            1. Provision of this subtitle;
- 9            2. Administrative regulation promulgated under this subtitle;
- 10           3. Order issued under this subtitle; or
- 11           4. Agreement with the commissioner relating to compliance with this
- 12                    subtitle; and
- 13        (c) For any virtual currency kiosk operator or its agent that is subject to a civil
- 14           penalty under paragraph (b) of this subsection, issue an order directing any
- 15           peace officer to:
- 16           1. Seize or impound the operator's or agent's virtual currency kiosk,
- 17                    including any contents thereof; or
- 18           2. Render the operator's or agent's virtual currency kiosk inoperable.
- 19        (3) The civil penalty levied under subsection (2)(b) of this section:
- 20           (a) Shall be not less than one thousand dollars (\$1,000) nor more than five
- 21                    thousand dollars (\$5,000) per violation; and
- 22           (b) May:
- 23                    1. Be assessed for each day the violation is outstanding; and
- 24                    2. Include an order for the person to pay the state's costs and expenses
- 25                    for the examination, investigation, and prosecution of the matter,
- 26                    including reasonable attorney's fees and court costs.

27        ➔SECTION 29. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

1 IS CREATED TO READ AS FOLLOWS:

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

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

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

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

15 (a) Are subject to:

- 16 1. The jurisdiction of the department; or
- 17 2. The provisions of this chapter;

18 (b) Are subject to the jurisdiction or regulatory supervision of the Board of  
 19 Governors of the Federal Reserve System, the Office of the Comptroller of  
 20 the Currency, the National Credit Union Administration, the Farm Credit  
 21 Administration, the Federal Deposit Insurance Corporation, or the United  
 22 States Department of Housing and Urban Development; or

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

27 (2) The requirements of this section shall apply to all ordinances, resolutions, or

1 regulations pertaining to financial or lending activities, including any ordinances,  
2 resolutions, or regulations that:

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

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

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

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

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

19 ➔Section 31. KRS 431.073 is amended to read as follows:

20 (1) Any person who has been:

21 (a) Convicted of a Class D felony violation of **Section 29 of this Act or** KRS  
22 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140,  
23 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439,  
24 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 218A.500,  
25 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675,  
26 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060,  
27 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140,

1           514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040,  
2           522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050,  
3           530.010, or 530.050;

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

6           (c) Granted a full pardon; or

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

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

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

20          (b) Upon the payment of the filing fee and the filing of the application, the Circuit  
21          Court clerk shall serve a notice of filing upon the office of the  
22          Commonwealth's attorney or county attorney that prosecuted the case and the  
23          county attorney of the county where the judgment was entered. The office of  
24          the Commonwealth's attorney or county attorney that prosecuted the case  
25          shall file a response within sixty (60) days after being served with the notice  
26          of filing. That time period may be extended for good cause, but the hearing on  
27          the application to vacate the judgment shall occur no later than one hundred

1 twenty (120) days following the filing of the application. The inability to  
2 determine the location of the crime victim shall constitute good cause for an  
3 extension of time. No hearing upon the merits of the application shall be  
4 scheduled until the Commonwealth's response has been filed, or if no  
5 response is received, no later than one hundred twenty (120) days after the  
6 filing of the application.

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

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

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

- 1           1.    Vacating the judgment and expunging the record is consistent with the  
2                    welfare and safety of the public;
  - 3           2.    The action is supported by his or her behavior since the conviction or  
4                    convictions, as evidenced that he or she has been active in rehabilitative  
5                    activities in prison and is living a law-abiding life since release;
  - 6           3.    The vacation and expungement is warranted by the interests of justice;  
7                    and
  - 8           4.    Any other matter deemed appropriate or necessary by the court to make  
9                    a determination regarding the petition for expungement is met.
- 10       (b) At the hearing, the applicant may testify as to the specific adverse  
11           consequences he or she may be subject to if the application is denied. The  
12           court may hear testimony of witnesses and any other matter the court deems  
13           proper and relevant to its determination regarding the application. The  
14           Commonwealth may present proof of any extraordinary circumstances that  
15           exist to deny the application. A victim of any offense listed in the application  
16           shall have an opportunity to be heard at any hearing held under this section.
- 17       (c) If the court determines that circumstances warrant vacation and expungement  
18           and that the harm otherwise resulting to the applicant clearly outweighs the  
19           public interest in the criminal history record information being publicly  
20           available, then the original conviction or convictions shall be vacated and the  
21           records shall be expunged. The order of expungement shall not preclude a  
22           prosecutor's office from retaining a nonpublic record for law enforcement  
23           purposes only.
- 24       (5) The court may order the judgment vacated, and if the judgment is vacated the court  
25           shall dismiss with prejudice any charges which are eligible for expungement under  
26           subsection (1) of this section or KRS 431.076 or 431.078, and, upon full payment of  
27           the fee in subsection (11) of this section, order expunged all records in the custody

1 of the court and any records in the custody of any other agency or official, including  
2 law enforcement records, if the court finds that:

3 (a) The person had not in the five (5) years prior to the filing of the application to  
4 have the judgment vacated been convicted of a felony or a misdemeanor;

5 (b) No proceeding concerning a felony or misdemeanor is pending or being  
6 instituted against the person; and

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

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

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

26 (8) An order vacating a conviction under this section shall not extend or revive an  
27 expired statute of limitations, shall not constitute a finding of legal error regarding

1 the proceedings leading to or resulting in the conviction, shall not nullify any  
2 findings of fact or conclusions of law made by the trial court or any appellate court  
3 regarding the conviction, and shall not constitute a finding of innocence regarding  
4 the conviction.

5 (9) The Administrative Office of the Courts shall establish a form application to be  
6 used in filing an application to have judgment vacated and records expunged.

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

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

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

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

27 (12) This section shall be retroactive.

1       ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO  
2 READ AS FOLLOWS:

3       *(1) Any of the following shall be deemed an unfair, false, misleading, or deceptive act*  
4       *or practice in the conduct of trade or commerce in violation of KRS 367.170:*

5       *(a) On and after April 30, 2027, a violation of any provision of Subtitle 13 of*  
6       *KRS Chapter 286 by a person subject to regulation as a virtual currency*  
7       *kiosk operator or agent under that subtitle; and*

8       *(b) A violation of Section 33 of this Act.*

9       *(2) All of the remedies, powers, and duties provided to the Attorney General or any*  
10       *other person under KRS 367.110 to 367.300, and the penalties provided in KRS*  
11       *367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall*  
12       *apply with equal force and effect to any of the following:*

13       *(a) On and after April 30, 2027, a violation of any provision of Subtitle 13 of*  
14       *KRS Chapter 286 by a person subject to regulation as a virtual currency*  
15       *kiosk operator or agent under that subtitle; and*

16       *(b) A violation of Section 33 of this Act.*

17       *(3) (a) The remedies and penalties prescribed in this section shall be cumulative.*

18       *(b) This section shall not be construed to limit or restrict the powers, duties,*  
19       *remedies, or penalties available to the Attorney General, the*  
20       *Commonwealth, or any other person under any other statutory or common*  
21       *law.*

22       ➔SECTION 33. A NEW SECTION OF KRS 369.130 TO 369.139 IS CREATED  
23 TO READ AS FOLLOWS:

24       *(1) As used in this section, "hardware wallet provider" or "provider" means a*  
25       *person that offers or provides a hardware wallet.*

26       *(2) A hardware wallet provider:*

27       *(a) Shall:*

- 1            1. Provide live customer service via a toll-free telephone number during  
2            operating hours, which shall not be less than the hours between 8 a.m.  
3            and 10 p.m. local time within the Commonwealth; and
- 4            2. Provide a mechanism for, and assist any person who owns a hardware  
5            wallet that was provided by the provider with, resetting any password,  
6            pin, seed phrase, or other similar information that is necessary to  
7            access the contents of the hardware wallet; and
- 8            (b) May require any person requesting assistance under paragraph (a)2. of this  
9            subsection to verify the person's identity prior to providing the assistance by  
10           means other than providing the password, pin, seed phrase, or other  
11           information.
- 12           (3) A violation of this section shall be deemed unlawful as provided in Section 32 of  
13           this Act.
- 14           (4) (a) The remedies and penalties prescribed in this section shall be cumulative.
- 15           (b) This section shall not be construed to limit or restrict the powers, duties,  
16           remedies, or penalties available to the Attorney General, the  
17           Commonwealth, or any other person under any other statutory or common  
18           law.
- 19           (5) The Attorney General may promulgate administrative regulations in accordance  
20           with KRS Chapter 13A necessary to effectuate, or as an aid to the effectuation of,  
21           the proper enforcement of this section.
- 22           ➔Section 34. Sections 1 to 31 of this Act take effect April 30, 2027.
- 23           ➔Section 35. On or before January 1, 2027, the commissioner of the Kentucky  
24 Department of Financial Institutions shall promulgate any emergency and ordinary  
25 administrative regulations required under Sections 1 to 30 of this Act.