

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

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

3 ➔Section 1. KRS 286.11-001 is amended to read as follows:

4 This subtitle may be cited as the Kentucky Money Transmitters **and Virtual Currency**
5 **Kiosk Operators** Act[~~of 2006~~].

6 ➔Section 2. KRS 286.11-003 is amended to read as follows:

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

8 (1) "Affiliate" means any person who directly or indirectly through one (1) or more
9 intermediaries controls, is controlled by, or is under common control with, another
10 person;

11 (2) "Agent" means a person authorized by written agreement and designated by the
12 licensee to act on behalf of a licensee under the provisions of this subtitle;

13 (3) "Applicant" means a person filing an application or renewal application for a
14 license under this subtitle;

15 (4) "Control" means:

16 (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent
17 (25%) or more of a class of voting securities or voting interests of a licensee
18 or applicant, or person in control of a licensee or applicant;

19 (b) The power to elect a majority of executive officers, managers, directors,
20 trustees, or other persons exercising managerial authority of a licensee or
21 applicant, or person in control of a licensee or applicant; or

22 (c) The power to exercise, directly or indirectly, a controlling influence over the
23 management or policies of a licensee or applicant, or person in control of a
24 licensee or applicant;

25 (5) "Controlling person" means any person in control of a licensee;

26 (6) "Director" means a member of a licensee's or applicant's board of directors if the
27 applicant or licensee is a corporation, or manager if the applicant or licensee is a

1 limited liability company, or a partner if the applicant or licensee is a partnership;

2 (7) "Electronic instrument" means a card or other tangible object for the transmission
3 or payment of money, including a stored value card or device, which contains a
4 microprocessor chip, magnetic stripe, or other means for storage of information,
5 that is prefunded and for which the value is decremented upon each use, but does
6 not include a card or other tangible object that is redeemable by the issuer in the
7 issuer's goods and services;

8 (8) ~~{"Commissioner" means the commissioner of the Department of Financial
Institutions;}~~

9 (9) "Executive officer" means the president, chairperson of the executive committee,
10 responsible individual, chief financial officer, and any other person who performs
11 similar functions;

12 (9)~~[(10)]~~ "Financial institution" means any person doing business under the laws of any
13 state or commonwealth or the United States relating to banks, bank holding
14 companies, savings banks, savings and loan associations, trust companies, or credit
15 unions;

16 (10)~~[(11)]~~ "Insolvent" means that appearing upon examination of any licensee or its
17 agent that its liabilities exceeds its assets or it cannot meet its obligations in the
18 usual and ordinary course of business for any reason;

19 (11)~~[(12)]~~ "Key shareholder" means any person, or group of persons acting in concert,
20 who is the owner of twenty percent (20%) or more of any voting class of an
21 applicant's or licensee's stock;

22 (12)~~[(13)]~~ "Licensee" means a person licensed under this subtitle;

23 (13)~~[(14)]~~ "Material litigation" means litigation that according to generally accepted
24 accounting principles is significant to an applicant's or a licensee's financial health,
25 and would be required to be disclosed in the applicant's or licensee's annual audited
26 financial statements, report to shareholders, or similar records, including any

1 adjudication against an applicant or licensee by a federal or state administrative or
2 regulatory agency relating to a violation of the Bank Secrecy Act, 31 U.S.C. secs.
3 5311-5332 and 31 C.F.R. pt. 103, regardless of whether the applicant or licensee
4 has admitted liability or fault;

5 (14){(15)} "Monetary value" means a medium of exchange whether or not redeemable in
6 money;

7 (15){(16)} "Money" means a medium of exchange that is authorized or adopted by the
8 United States or a foreign government or other recognized medium of exchange,
9 including a monetary unit of account established by an intergovernmental
10 organization or by agreement between two (2) governments;

11 (16){(17)} "Money transmission" means engaging in the business of receiving money or
12 monetary value to transmit, deliver, or instruct to be transmitted or delivered,
13 money or monetary value to another location inside or outside the United States by
14 any and all means, including but not limited to wire, facsimile, electronic transfer,
15 or issuing stored value;

16 (17){(18)} "Money transmitter" means a person that is engaged in money transmission;

17 (18){(19)} "Net worth" means the excess of assets over liabilities as determined by
18 generally accepted accounting principles;{

19 ~~(20) "Department" means the Kentucky Department of Financial Institutions;}~~

20 (19){(21)} "Outstanding payment instrument" means any payment instrument issued by
21 the licensee which has been sold or issued in the United States directly by the
22 licensee or any payment instrument issued by the licensee which has been sold by
23 an agent of the licensee in the United States, which has been reported to the licensee
24 as having been sold, and which has not yet been paid by or for the issuer;

25 (20){(22)} (a) "Payment instrument" means:
26 1. A check, draft, money order, traveler's check, or other written or
27 electronic instrument or order for the transmission or payment of

5 (b) "Payment instrument" does not include any credit card voucher, letter of
6 credit, or instrument that is redeemable by the issuer in goods or services;

7 **(21)-(23)** "Person" means any individual, corporation, business trust, estate, trust,
8 partnership, limited liability company, association, organization, joint venture,
9 government and any subdivision, agency or instrumentality thereof, or any other
10 legal or commercial entity;

11 (22)~~(24)~~ "Record" means information that is inscribed on a tangible medium, or that is
12 stored in an electronic or other medium, and is retrievable in perceivable form;

13 (23)~~(25)~~ "Remit" means either to make direct payment of the funds to the licensee or
14 its representatives authorized to receive those funds, or to deposit the funds in a
15 bank, credit union, or savings and loan association, or other similar financial
16 institution in an account specified by the licensee;

17 **(24)** "Responsible individual" means an individual who is employed by a licensee
18 and has principal managerial authority over ~~the provision of~~ money transmission
19 ***or virtual currency kiosk business*** by the licensee in this state;

20 (25)~~(27)~~ "State" means a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession that is subject to the jurisdiction of the United States;

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23 **(26)**[(28)] "Stored value" means monetary value that is evidenced by an electronic
24 record;[and]

25 (27){(29)} "Unsafe or unsound practice" means a practice or conduct by a
26 licensee~~person licensed to provide money transmission~~, or an agent of such a
27 person, which creates the likelihood of material loss, insolvency, or dissipation of

1 the licensee's assets, or otherwise materially prejudices the financial condition of
2 the licensee or the interests of its customers;.

3 (28) "Virtual currency" means a natively electronic asset that:

4 (a) Confers economic, proprietary, or access rights or powers; and

5 (b) Is recorded using cryptographically secured distributed ledger technology or
6 any similar analogue;

7 (29) "Virtual currency address" means an alphanumeric identifier associated with a
8 virtual currency wallet that identifies the location to which a virtual currency
9 transaction can be sent;

10 (30) (a) "Virtual currency kiosk" means a physical electronic terminal acting as a
11 mechanical agent of a virtual currency kiosk operator to enable the
12 operator to facilitate the exchange of one (1) or more of the following:

13 1. Money or bank credit for virtual currency;

14 2. Virtual currency for money or bank credit; and

15 3. Virtual currency for other virtual currency.

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

17 1. Connecting directly to a separate virtual currency exchanger that
18 performs the exchange; and

19 2. Drawing upon the virtual currency, money, or bank credit in the
20 possession or control of the virtual currency kiosk operator to perform
21 the exchange;

22 (31) "Virtual currency kiosk charges" means:

23 (a) Fees or expenses charged to a virtual currency kiosk user; and

24 (b) The difference between the market price of virtual currency and the price of
25 the virtual currency charged to a virtual currency kiosk user;

26 (32) "Virtual currency kiosk operator" or "operator" means a person, including a
27 licensee, that engages in virtual currency kiosk business in this state;

1 **(33) "Virtual currency kiosk transaction"** means any transaction:

2 (a) Conducted or performed, in whole or in part, by electronic means via a
3 virtual currency kiosk located in this state; or

4 (b) Made at a virtual currency kiosk located in this state to purchase, sell,
5 transfer, or otherwise exchange virtual currency;

6 **(34) "Virtual currency kiosk user"** or **"user"** means a person, other than a virtual
7 currency kiosk operator, that initiates, authorizes, completes, or engages in a
8 virtual currency kiosk transaction; and

9 **(35) "Virtual currency wallet"** means a software application or other mechanism
10 providing a means to hold the keys necessary to access and transfer virtual
11 currency.

12 ➔Section 3. KRS 286.11-005 is amended to read as follows:

13 (1) A[On or after October 1, 2006, no] person shall not engage in[the business of]
14 money transmission or virtual currency kiosk business in this state without a
15 license, or without being an agent of a licensee, as provided in this subtitle.

16 (2) A person is deemed to be engaged in:[the business of]
17 (a) Money transmission in this state[under this subtitle] if the person advertises
18 those services, provides those services with or without compensation, solicits
19 to provide those services, or holds itself out as providing those services to or
20 from this state, even if the person has no physical presence in this state;and
21 (b) Virtual currency kiosk business in this state if the person:
22 1. Engages in, or holds out as being able to engage in, a virtual currency
23 kiosk transaction with or on behalf of any virtual currency kiosk user;
24 2. Provides custodial or non-custodial services for any virtual currency
25 kiosk transaction; or
26 3. Owes, operates, or manages a virtual currency kiosk located in this
27 state.

1 (3) A licensee may conduct its business in this state at one (1) or more locations,
2 directly or indirectly owned, or through one (1) or more agents, or both, pursuant to
3 the single license issued to the licensee, except a licensee shall not engage in
4 virtual currency kiosk business at any location in this state without first
5 obtaining:

6 (a) Any license, permit, registration, or other authorization required for the
7 licensee or location under any applicable local ordinance, resolution, or
8 regulation; and

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

11 (4) A license issued under this subtitle shall not be transferred or assigned.

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

13 This subtitle does not apply to the following persons, unless the person engages in
14 virtual currency kiosk business in this state:

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

16 (2) The United States Post Office or a contractor acting on behalf of the United States
17 Post Office;

18 (3) A state or any agency, department, or political subdivision of a state;

19 (4) A financial institution or its subsidiaries, affiliates, and service corporations, or any
20 office of an international banking corporation, branch of a foreign bank, or
21 corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C.
22 secs. 181 to 1867, or a corporation organized under the Edge Act, 12 U.S.C. secs.
23 611 to 633;

24 (5) A service provider that:

25 (a) Pursuant to a written agreement, acts on behalf of an entity exempt from
26 licensure as set forth in subsection (4) of this section; and

27 (b) Allows the state or federal regulators with regulatory jurisdiction over the

1 exempt entity to examine and inspect the service provider's applicable
2 records, books, and transactions;

3 (6) A service provider that receives money or monetary value on behalf of an entity
4 selling goods or services other than money transmission services if:
5 (a) The entity, upon receipt of funds by the service provider, immediately either:
6 1. Provides the purchased goods or services to the purchaser; or
7 2. Credits the purchaser for the full amount of money or monetary value
8 received by the service provider, which credit is not revocable by the
9 entity, and evidences this credit in writing; and
10 (b) The entity is obligated to provide the purchased goods or services to the
11 purchaser regardless of whether or not the service provider transmits the
12 money or monetary value to the entity;

13 (7) The provision of electronic transfer of government benefits for any federal, state, or
14 county governmental agency as defined in Federal Reserve Board Regulation E, by
15 a contractor for and on behalf of the United States or any department, agency, or
16 instrumentality thereof, or any state or any political subdivisions thereof; or
17 (8) (a) Any individual or business that:
18 1. Develops or deploys software on a blockchain protocol, even if the
19 software effectuates the exchange of one digital asset for another digital
20 asset;
21 2. Exchanges digital assets for other digital assets; or
22 3. Operates a node or series of nodes on a blockchain protocol.
23 (b) As used in this subsection, "blockchain protocol," "digital asset," and "node"
24 have the same meaning as in KRS 369.130.

25 ➔Section 5. KRS 286.11-009 is amended to read as follows:

26 (1) Each application for a license under this subtitle shall be made in writing and in a
27 form and medium prescribed by **administrative** regulation by the commissioner.

1 The application shall state or contain the following:

2 (a) The legal name of the applicant, business addresses, and residential addresses,
3 if applicable, of the applicant, and any fictitious or trade name used by the
4 applicant in conducting its business;

5 (b) The legal name, residential and business addresses, date of birth, Social
6 Security number, and employment history for the five (5) year period
7 preceding the filing of the application, of the applicant's proposed responsible
8 individual;

9 (c) A list and description of any criminal conviction, other than a traffic violation,
10 of the applicant and proposed responsible individual, for the ten (10) year
11 period preceding the filing of the application. The commissioner may request
12 a copy of any criminal conviction from the applicant, which shall be promptly
13 provided by the applicant to the commissioner within ten (10) working days
14 of the request;

15 (d) A list and description of any material litigation of the applicant and proposed
16 responsible individual, for the ten (10) year period preceding the filing of the
17 application. The commissioner may request a copy of any material litigation
18 from the applicant, which shall be promptly provided by the applicant to the
19 commissioner within ten (10) working days of the request;

20 (e) A description of the activities conducted by the applicant and a history of
21 operations, including, if applicable, a description of any money transmission
22 or virtual currency kiosk business that has been previously provided by the
23 applicant in this state;

24 (f) A list of other states or countries in which the applicant is licensed to engage
25 in money transmission, virtual currency kiosk business, or other similar
26 money services, and any license revocations, suspensions, restrictions, or
27 other disciplinary action taken against the applicant in another state or

1 country;

- (g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money transmission or virtual currency kiosk business involving the proposed responsible individual;
- (h) A description of the source of money, virtual currency, and credit to be used by the applicant to provide money transmissions or engage in virtual currency kiosk business;
- (i) A sample form of contract for an agent;
- (j) A sample form of payment instrument;
- (k) Information concerning any bankruptcy, reorganization, or receivership proceedings involving or affecting the applicant or the proposed responsible individual;
- (l) A list identifying the name, physical location or locations, and telephone number at which the applicant and its proposed agents intend to conduct money transmission or virtual currency kiosk business in the state at the time of the filing of the license application;
- (m) The name, address, and telephone number of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable;
- (n) A copy of the written procedures that will be provided by the applicant or licensee to its agent or agents;
- (o) That neither the applicant, nor any executive officer, nor person who exercises control over the applicant, nor key shareholder, nor any proposed agent, nor the proposed responsible individual, is 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 and to

1 finance terrorist acts; and

2 (p) Any other information regarding the background, experience, character,
3 financial responsibility, or general fitness of the applicant, the applicant's
4 responsible individual, or agent that the commissioner may require by
5 **administrative regulation** or order.

6 (2) If the applicant is a corporation, limited liability company, partnership, or other
7 entity, then the applicant shall also provide:
8 (a) A copy of the applicant's filed articles of incorporation;
9 (b) The name, address, and telephone number of the registered process agent of
10 the applicant in this state;
11 (c) If applicable, ~~then~~ a certificate of good standing from the state or country in
12 which the applicant was incorporated or formed;
13 (d) A description of the corporate structure of the applicant, including the identity
14 of any parent or subsidiary of the applicant, and the disclosure of whether any
15 parent or subsidiary is publicly traded on any stock exchange;
16 (e) The legal name, any fictitious or trade name, all business and residence
17 addresses, date of birth, Social Security number, and employment history for
18 the ten (10) year period preceding the filing of the application for each
19 executive officer, board director, key shareholder, or person that has control
20 of the applicant;
21 (f) Copies and description of material litigation for the ten (10) year period prior
22 to the filing date of the application of every executive officer or key
23 shareholder of the applicant;
24 (g) Copies and descriptions of criminal convictions, other than traffic violations,
25 for the ten (10) year period prior to the filing date of the application of every
26 executive officer or key shareholder of the applicant;
27 (h) A copy of the applicant's audited financial statements for the most recent

6 (i) A copy of the applicant's unconsolidated financial statements for the current
7 fiscal year, whether audited or not, and, if available, for the two (2) year
8 period preceding the filing of the application;

9 (j) If the applicant is publicly traded, ~~[then]~~ a copy of the most recent report filed
10 with the United States Securities and Exchange Commission pursuant to 15
11 U.S.C. sec. 78m; **and**

12 (k) If the applicant is a wholly owned subsidiary of:

13 1. A corporation publicly traded in the United States, ~~[then]~~ a copy of
14 audited financial statements for the parent corporation for the most
15 recent fiscal year or a copy of the parent corporation's most recent report
16 filed with the United States Securities and Exchange Commission
17 pursuant to 15 U.S.C. sec. 78m; or

18 2. A corporation publicly traded outside of the United States, a copy of
19 similar documentation for the most recent fiscal year filed with the
20 regulator of the parent corporation's domicile outside the United States.

21 (3) Every corporate applicant, at the time of filing of an application for a license under
22 this subtitle and at all times after a license is issued, shall be in good standing in the
23 state of its incorporation.

24 (4) Every applicant shall, at the time of the filing of an application for a license under
25 this subtitle and at all times after a license is issued, be registered or qualified to do
26 business in this state.

27 (5) The commissioner is authorized, for good cause, to waive any requirement of this

1 section with respect to any license application or to permit a license applicant to
2 submit substituted information in its license application in lieu of the information
3 required by this section.

4 ➔Section 6. KRS 286.11-013 is amended to read as follows:

5 (1) Each application for a license shall be accompanied by a surety bond or other
6 similar security acceptable to the commissioner, in the amount of at least five
7 hundred thousand dollars (\$500,000). The commissioner may increase the amount
8 of the surety bond, or other similar security, to a maximum of five million dollars
9 (\$5,000,000), upon the basis of the financial condition of an applicant, as evidenced
10 by net worth, transaction volume, or other relevant criteria that the commissioner
11 may establish by order or administrative regulation[rule].

12 (2) The surety bond, or other similar security acceptable to the commissioner, shall be
13 in a form satisfactory to the commissioner and shall hold and bind the principal and
14 surety to the Commonwealth of Kentucky for the benefit of any claimants against
15 the licensee or its agents to secure the licensee's and its agents' faithful
16 performance of their[the] obligations in accordance with the requirements of this
17 subtitle[of the licensee with respect to the receipt, handling, transmission, and
18 payment of money in connection with the sale and issuance of payment instruments
19 or money transmissions by the licensee and its agent]. The aggregate liability of the
20 surety bond or other similar security accepted shall not exceed the principal sum of
21 the bond.

22 (3) A claimant may maintain a civil action on the surety bond, or other similar security
23 acceptable to the commissioner, against a licensee, or the commissioner may
24 maintain an action on behalf of the claimant, in the Franklin Circuit Court, or in any
25 other court of competent jurisdiction, either in one (1) action or in successive
26 actions.

27 (4) A licensee shall at all times maintain a surety bond, or other similar security

1 acceptable to the commissioner, in the amount and type required under subsections
2 (1) and (2) of this section. The commissioner may, at any time, accept a substitute
3 or replacement surety bond, or other acceptable similar security, from the licensee,
4 provided that the requirements of subsections (1) and (2) are met.

5 (5) The surety bond, or other similar security acceptable to the commissioner, shall be
6 continuous and remain in effect until canceled. The licensee shall provide the
7 commissioner with at least a thirty (30) day written notice of the intent to cancel the
8 surety bond or other similar security accepted by the commissioner. The
9 cancellation of the surety bond or other acceptable security shall not affect any
10 liability incurred or accrued during the thirty (30) day notice of cancellation period.

11 (6) A surety bond, or other security acceptable to the commissioner, shall remain in
12 place and cover claims for at least five (5) years after the date of any violation of
13 this subtitle by the licensee or its agent, or the date the licensee ceases providing
14 money transmission services **or virtual currency kiosk business** in this state,
15 whichever date occurs last. The commissioner may permit the licensee to reduce or
16 eliminate the surety bond, or other similar security approved by the commissioner,
17 prior to the expiration of the five (5) years, to the extent that the amount of the
18 licensee's payment instruments **or other obligations** outstanding in this state are
19 reduced.

20 ➔Section 7. KRS 286.11-019 is amended to read as follows:

21 (1) **(a)** Upon the filing of a complete application **for a license**, the commissioner
22 shall investigate the competence, experience, character, financial condition,
23 and responsibility of the applicant.

24 **(b)** The commissioner may conduct an on-site investigation of the applicant, the
25 reasonable cost of which shall be paid by the applicant.

26 **(c)** The commissioner shall review each application on a case-by-case basis.

27 **(d)** If the commissioner finds that the applicant has the competence, experience,

1 character, financial condition, and responsibility to satisfy, and has fulfilled,
2 the requirements of this subtitle, including, if applicable, the requirements of
3 Section 8 of this Act for at least one (1) location in this state, then the
4 commissioner shall issue a license to the applicant authorizing the applicant to
5 engage in one (1) or more of the following:

- 6 1. Money transmission in this state; or
- 7 2. Virtual currency kiosk business~~[the licensed activities]~~ in this state at
8 one (1) or more locations, as approved by the commissioner under
9 Section 8 of this Act.

10 (e) If any of these requirements has not been met, then the commissioner shall
11 deny the application, in writing setting out the reason for the denial.

12 (2) The commissioner shall approve, or deny in writing, every completed application
13 for a license within one hundred twenty (120) days from the date a complete
14 application is submitted, which period may be extended for good cause by the
15 commissioner.

16 (3) The commissioner may deny a license application:

17 (a) If~~[where]~~ the applicant does not meet the requirements of this subtitle,
18 including, if applicable, the requirements of Section 8 of this Act for at least
19 one (1) location; or

20 (b) For any of the grounds under KRS 286.11-039.

21 (4) The commissioner may probate, place conditions upon, or refuse to issue or renew:

22 (a) Any license issued under this subtitle; or

23 (b) An approval to engage in virtual currency kiosk business at one (1) or more
24 locations.

25 (5) The commissioner may in writing deny or refuse to renew the designation of an
26 agent by a licensee for any of the grounds found in KRS 286.11-041.

27 (6) A person is deemed to have received a copy of a written denial or other adverse

1 **action** issued by the commissioner under~~in~~ this section or Section 8 of this Act
2 within three (3) days of its mailing.

3 (7) Any applicant or licensee~~person~~ who is aggrieved~~has had his or her license~~
4 application or designation as an agent ~~denied~~ by an adverse action taken by the
5 commissioner under this section or Section 8 of this Act may file a written
6 application for an administrative hearing in accordance with KRS Chapter 13B. The
7 written application shall be filed with the commissioner within twenty (20) days of
8 the date of the adverse action~~denial~~.

9 (8) A written application for an appeal shall be made in good faith and shall briefly
10 state the reason or reasons the person is aggrieved, together with the grounds to be
11 relied upon as a basis for the relief to be sought at the hearing.

12 (9) Any person who has had his or her license application, ~~or~~ designation as an agent,
13 or application for approval to engage in virtual currency kiosk business at one (1)
14 or more locations denied by the commissioner may not file another application for
15 a license, ~~or~~ designation as an agent, or approval to engage in virtual currency
16 kiosk business at the location or locations, under this subtitle for one (1) year after
17 the date of the denial.

18 ➔SECTION 8. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286
19 IS CREATED TO READ AS FOLLOWS:

20 (1) **An applicant or a licensee seeking to engage in virtual currency kiosk business at**
21 **one (1) or more locations in this state shall file a complete application for**
22 **approval of the location or locations with the commissioner.**

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

26 1. **Is made in writing;**
27 2. **Is in a format required by the commissioner;**

1 3. Contains and is accompanied by any information, documentation, and
2 evidence the commissioner determines is necessary and appropriate
3 for the purpose of making the determination under subsection (3) of
4 this section; and
5 4. Is accompanied by a nonrefundable fee of one hundred dollars (\$100),
6 except the commissioner may waive the nonrefundable fee if the
7 application is made at the same time as a license application under
8 Section 5 of this Act.

9 (b) When an application is made under this section at the same time as a
10 license application under Section 5 of this Act, the commissioner may:
11 1. Accept the license application as the complete application required
12 under this section; or
13 2. Require the applicant to submit additional information to the
14 commissioner as part of the license application for each location at
15 which the applicant seeks to engage in virtual currency kiosk business.

16 (3) Upon receipt of a complete application in accordance with subsection (2) of this
17 section and subject to Section 7 of this Act, the commissioner may issue a written
18 approval to the applicant or licensee to engage in virtual currency kiosk business
19 at one (1) or more locations in this state if, after investigation, the commissioner
20 determines that:

21 (a) The applicant or licensee will conduct business at the proposed location or
22 locations in a lawful and proper manner; and
23 (b) The interest of the public will not be jeopardized by the applicant or licensee
24 conducting business at the proposed location or locations.

25 ➔ SECTION 9. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286
26 IS CREATED TO READ AS FOLLOWS:

27 (1) Within forty-five (45) days after the end of each calendar quarter, each virtual

1 currency kiosk operator shall file a written report with the commissioner on a
2 form, and containing the information, prescribed by the commissioner in an
3 administrative regulation promulgated in accordance with KRS Chapter 13A.

4 (2) The quarterly report required under subsection (1) of this section shall include
5 the following for each virtual currency kiosk location at which the virtual
6 currency kiosk operator or an agent of the operator engages in virtual currency
7 kiosk business in this state:

- 8 (a) Legal name of the location;
- 9 (b) Any fictitious or trade name of the location;
- 10 (c) Physical address of the location;
- 11 (d) Start date of virtual currency kiosk operation at the location;
- 12 (e) If applicable, the end date of virtual currency kiosk operation at the
13 location;
- 14 (f) The virtual currency addresses used by the operator or an agent of the
15 operator to service virtual currency kiosk users at each location;
- 16 (g) The number of virtual currency kiosk transactions declined at the location
17 due to a suspicion of illicit activity; and
- 18 (h) Any other information required by the commissioner.

19 (3) (a) The commissioner may, by order, require additional special reports from
20 virtual currency kiosk operators as the commissioner deems necessary for
21 the proper supervision of virtual currency kiosk business in this state.

22 (b) The special reports required under paragraph (a) of this subsection may
23 require virtual currency kiosk operators to report any information relating
24 to the operator's virtual currency kiosk business, including information
25 relating to the operator's:

- 26 1. Virtual currency kiosk transactions, including transactions that were
27 attempted but denied; and

1 2. Virtual currency kiosk users.

2 (4) The commissioner shall prepare and make available to the public an annual
3 report that details and summarizes, in composite form, the data received under
4 this section and Section 10 of this Act relating to virtual currency kiosk business
5 in this state.

6 → Section 10. KRS 286.11-021 is amended to read as follows:

7 (1) A licensee under this subtitle shall pay an annual renewal fee of five hundred
8 dollars (\$500) no later than September 20 of each year.

9 (2) The renewal fee shall be accompanied by a written renewal report, in a form
10 prescribed by the commissioner, which shall include:

11 (a) A copy of the licensee's most recent audited annual financial statement, or if
12 the licensee is a wholly owned subsidiary of another corporation, the most
13 recent audited consolidated annual financial statement of the parent
14 corporation, or the licensee's most recent audited financial statement;

15 (b) For the most recent quarter for which data is available prior to the date of the
16 filing of the renewal application, but in no event more than one hundred
17 twenty (120) days prior to the renewal date, a list of the number of payment
18 instruments sold by the licensee in the state, the dollar amount of those
19 instruments, and the dollar amount of those instruments currently outstanding;

20 (c) Any material changes to any of the information submitted by the licensee on
21 its original application which have not previously been reported to the
22 commissioner on any other report required to be filed under this subtitle;

23 (d) A list of the licensee's permissible investments under this subtitle and a
24 certification that the licensee continues to maintain permissible investments
25 according to the requirements set forth in KRS 286.11-015;[and]

26 (e) A list of the locations, including names, physical addresses, and telephone
27 numbers, in this state where the licensee or agent of the licensee engages in

money transmission or virtual currency kiosk business, including the physical address of each virtual currency kiosk; and

(f) A report on the licensee's virtual currency kiosk business, which shall include, at a minimum:

1. The gross revenue attributable to virtual currency kiosk transactions;
2. Copies of each complaint filed by a virtual currency kiosk user against the licensee with the Better Business Bureau or a state or federal agency other than the department;

3. A description of the resolution, if any, of each complaint reported under subparagraph 2. of this paragraph;

4. The total number and dollar amount of virtual currency kiosk transactions;

5. The total number of refunds requested by virtual currency kiosk users;

6. The total number of refunds requested by virtual currency kiosk users that were:

a. *Granted by the licensee; and*

b. Denied by the licensee;

7. The total dollar amount of refunds provided by the licensee to virtual currency kiosk users;

8. *The contact information of the licensee's compliance officer; and*

9. The total number and dollar amount of suspicious activity reports filed pursuant to the Bank Secrecy Act, 31 U.S.C. 5311 sec. et seq., as amended.

24 (3) **(a)** The failure of a licensee to pay the annual renewal fee or file the written
25 renewal report, by the renewal date of September 20, shall result in the
26 expiration of the licensee's license by operation of law by September 30 of the
27 same year.

1 **(b)** The commissioner may reinstate an expired[the] license if the licensee
2 becomes compliant with this subtitle and pays a civil penalty equal to the
3 amount of the annual renewal fee, as specified in this section, within thirty
4 (30) days of the expiration of the license.

5 ➔Section 11. KRS 286.11-023 is amended to read as follows:

6 A licensee shall file a written report with the commissioner within fifteen (15) business
7 days of its knowledge of the occurrence of any one (1) of the events listed below. In the
8 written report, the licensee shall describe the event and its expected impact on the
9 licensee's activities in the state:

10 (1) Any material change in information provided in a licensee's application, quarterly
11 report, or renewal report;

12 (2) The cancellation or other impairment of the licensee's bond or other similar security
13 accepted by the commissioner;

14 (3) Insolvency or the filing for bankruptcy or reorganization under the United States
15 Bankruptcy Code, 11 U.S.C. secs. 101 to 110, by the licensee, responsible
16 individual, any agent, or any key officers or directors;

17 (4) The filing of a petition by or against the licensee, or any agent of the licensee, for
18 receivership, the commencement of any other judicial or administrative proceeding
19 for its dissolution or reorganization, or the making of a general assignment for the
20 benefit of its creditors;

21 (5) The filing of any material litigation against the licensee by any state or federal
22 governmental authority, or by any country in which the licensee:

23 **(a)** Engages in[the business of] money transmission;

24 **(b)** Engages in virtual currency kiosk business; or

25 **(c)** Is licensed;

26 (6) Any felony indictment of the licensee, responsible individual, agent, or any of its
27 key officers or directors;

- 1 (7) Any felony conviction of the licensee, responsible individual, agent, or any of its
2 key officers or directors;
- 3 (8) Any misdemeanor conviction of the licensee, responsible individual, agent, or any
4 of its key officers or directors of any misdemeanor involving ~~the business of~~
5 money transmission **or virtual currency kiosk business**; and
- 6 (9) Any misdemeanor conviction of the licensee, responsible individual, agent, or any
7 of its key officers or directors of any misdemeanor involving fraud, theft, or breach
8 of trust.

9 ➔Section 12. KRS 286.11-027 is amended to read as follows:

- 10 (1) The commissioner may conduct an examination or investigation of a licensee or any
11 of its agents, as it relates to ~~the business of~~ money transmission **or virtual**
12 **currency kiosk business**.
- 13 (2) The commissioner may conduct an examination or investigation in conjunction with
14 representatives of other agencies of this state or agencies of another state or of the
15 federal government. Instead of an examination, the commissioner may accept the
16 examination report of an agency of this state or of another state or of the federal
17 government or a report prepared by an independent licensed or certified public
18 accountant. The reasonable expenses incurred by the department, other Kentucky
19 agencies, agencies of another state, agencies of the federal government, or an
20 independent licensed or certified accountant in making such examination,
21 investigation, or report shall be borne by the licensee.
- 22 (3) A joint examination or an acceptance of an examination report does not preclude
23 the commissioner from conducting an examination as provided by law. A joint
24 report or a report accepted under this subsection is an official report of the
25 commissioner for all purposes.
- 26 (4) A licensee or agent is deemed to consent to the commissioner's examination or
27 investigation, whether or not prior notice is given to the licensee or agent, of the

1 books, records, and business operations of the licensee or agent of the licensee.

2 (5) A report of examination of a licensee under this section shall be considered

3 confidential and privileged and not subject to disclosure under the Kentucky Open

4 Records Act, KRS 61.870 to 61.884. However, a licensee may disclose a Kentucky

5 report of examination to a financial institution upon written request from the

6 financial institution for the purpose of assisting the financial institution in its

7 compliance with the Bank Secrecy Act, 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R.

8 pt. 103. The licensee shall provide written notice to the commissioner of the

9 disclosure of the Kentucky report of examination at the same time that disclosure is

10 made to the financial institution.

11 ➔Section 13. KRS 286.11-029 is amended to read as follows:

12 (1) Each licensee shall make, keep, and preserve the following books, accounts, and

13 other records for a period of five (5) years, and these records shall be open to

14 inspection by the commissioner:

15 (a) A record or records of each:

16 1. Payment instrument sold; *and*

17 2. *Virtual currency kiosk transaction;*

18 (b) A general ledger containing all assets, liability, capital, income, and expense

19 accounts, which general ledger shall be posted at least monthly;

20 (c) Bank statements and bank reconciliation records;

21 (d) Records of outstanding payment instruments;

22 (e) Records of each payment instrument paid within the five (5) year period;

23 (f) A list of the names, addresses, and telephone numbers of all of the licensee's

24 agents;

25 (g) Copies of all currency transaction reports and suspicious activity reports filed

26 in compliance with KRS 286.11-031; and

27 (h) Any other record the commissioner may reasonably require by order or

1 administrative regulation.

2 (2) Records required to be maintained under [in] this subtitle may be kept in an
3 electronic retrievable format or other similar form of medium.

4 (3) Records may be maintained by a licensee or agent at a location other than within
5 this state so long as they are made accessible to the commissioner upon seven (7)
6 business days' written notice.

7 ➔Section 14. KRS 286.11-035 is amended to read as follows:

8 Licensees desiring to conduct licensed activities through agents shall authorize each
9 agent to operate pursuant to an express written contract, which shall include the following
10 provisions:

11 (1) That the licensee designates the person as its agent with authority to engage in
12 money transmission or virtual currency kiosk business on behalf of the licensee as
13 authorized under this subtitle;

14 (2) That the agent shall operate in full compliance with this subtitle, [and]
15 administrative regulations [rules] promulgated under this subtitle, and any order
16 issued by the commissioner pursuant to this subtitle;

17 (3) That neither a licensee nor an agent of the licensee may authorize subagents;

18 (4) That the agent shall timely remit all money and virtual currency legally due to the
19 licensee in accordance with the terms of the written contract between the licensee
20 and the agent;

21 (5) That the licensee and agent are subject to regulation by the commissioner; and

22 (6) That the licensee and agent shall comply with applicable federal and state law.

23 ➔Section 15. KRS 286.11-037 is amended to read as follows:

24 (1) An agent shall not make any fraudulent statements or misrepresentations to a
25 licensee or to the commissioner.

26 (2) All money transmissions, [or sale, or issuance of] payment instrument activities,
27 and virtual currency kiosk business conducted by agents shall be strictly in

1 accordance with the licensee's written procedures provided to the agent.

2 (3) An agent shall timely remit all money and virtual currency legally due to the
3 licensee in accordance with the terms of the contract between the licensee and the
4 agent. The commissioner shall have the discretion to set, by administrative
5 regulation or order, the maximum remittance time.

6 (4) An agent shall act only as authorized under the contract with the licensee.

7 (5) All funds, including virtual currency, less fees, received by an agent of a licensee{
8 ~~from the sale or delivery of a payment instrument issued by a licensee or received~~
9 ~~by an agent for transmission~~} shall, from the time the funds are received by the
10 agent until such time when the funds or an equivalent amount are remitted by the
11 agent to the licensee, constitute trust funds owned by and belonging to the licensee.
12 If an agent commingles any of these funds with any other funds or property owned
13 or controlled by the agent, then all commingled proceeds and other property shall
14 be impressed with a trust in favor of the licensee in an amount equal to the amount
15 of the proceeds due the licensee.

16 (6) An agent shall report to the licensee the theft, forgery, or loss of payment
17 instruments, funds, or other property within twenty-four (24) hours from the time it
18 knew of the theft, forgery, or loss.

19 ➔ SECTION 16. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286
20 IS CREATED TO READ AS FOLLOWS:

21 (1) (a) A virtual currency kiosk operator shall have a virtual currency kiosk
22 transaction limit of:
23 1. Five hundred dollars (\$500), or the equivalent in virtual currency, per
24 day for each virtual currency kiosk user; and
25 2. Ten thousand dollars (\$10,000), or the equivalent in virtual currency,
26 in any thirty (30) day period for each virtual currency kiosk user.
27 (b) The requirements of this subsection shall apply to all products offered by a

1 virtual currency kiosk operator.

2 (c) A virtual currency kiosk operator shall not employ or use online purchasing
3 or over-the-counter platforms or other alternative products to circumvent or
4 exceed the limits set forth in this subsection.

5 (2) A virtual currency kiosk operator shall not collect, directly or indirectly, virtual
6 currency kiosk charges for any single virtual currency kiosk transaction from a
7 virtual currency kiosk user that exceeds three percent (3%) of the value, in United
8 States dollars, of the transaction.

9 (3) A virtual currency kiosk operator shall:

10 (a) Provide live customer service via a toll-free telephone number during
11 operating hours, which shall not be less than the hours between 8:00 a.m.
12 and 10:00 p.m. local time; and

13 (b) Adhere to all industry standards and practices that:

14 1. Exceed the requirements of this subtitle; or
15 2. Provide greater protections to virtual currency kiosk users than the
16 protections provided in this subtitle.

17 ➔ SECTION 17. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286
18 IS CREATED TO READ AS FOLLOWS:

19 (1) (a) Each virtual currency kiosk operator shall provide the following notices at
20 each virtual currency kiosk:

21 1. The following warning, stating in substantially similar form:
22 "WARNING: This technology can be used to defraud you.
23 If someone asked you to deposit money in this machine and/or is on
24 the phone with you and claims to be a:

25 - Friend or family member;
26 - Government agent;
27 - Computer software representative;

1 - *Bill collector;*

2 - *Law enforcement officer; or*

3 - *Anyone you do not know personally;*

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

7 *2. The contact information for the following to report fraud:*

8 *a. Any relevant state and local law enforcement;*

9 *b. The department; and*

10 *c. The Attorney General;*

11 *3. The name, address, and toll-free customer service telephone number*
12 *of the virtual currency kiosk operator;*

13 *4. The days, time, and means by which a virtual currency kiosk user can*
14 *contact the virtual currency kiosk operator for assistance; and*

15 *5. The dedicated United States telephone number or email address for*
16 *law enforcement, the department, and the Attorney General, as*
17 *required under subsection (8) of Section 18 of this Act.*

18 *(b) The notices required under paragraph (a) of this subsection shall be:*

19 *1. a. On the virtual currency kiosk;*

20 *b. Near, and within readable sight of, the virtual currency kiosk; or*

21 *c. On the first screen of the virtual currency kiosk, which shall be*
22 *viewable by any person without requiring the person to input*
23 *money, data, or information; and*

24 *2. Displayed prominently and in bold type.*

25 *(2) Prior to each virtual currency kiosk transaction with a virtual currency kiosk*
26 *user in this state, a virtual currency kiosk operator shall:*

27 *(a) Provide, in a clear, conspicuous, and easily readable manner in the chosen*

1 language of the user, all relevant terms, conditions, and other disclosures
2 generally associated with the:

3 1. Products, services, and activities of the operator; and

4 2. Virtual currency; and

5 (b) Obtain an acknowledgement, via confirmation of consent at the virtual
6 currency kiosk, from the user that the user received all disclosures required
7 under this section.

8 (3) The disclosures required under subsection (2) of this section shall include but not
9 be limited to:

10 (a) The material risks associated with virtual currency and virtual currency
11 kiosk transactions, including but not limited to:

12 1. Virtual currency is not backed by the United States government, is not
13 legal tender in the United States, and accounts and value balances are
14 not subject to the Federal Deposit Insurance Corporation, National
15 Credit Union Administration, or Securities Investor Protection
16 Corporation protections; and

17 2. Virtual currency value relative to the United States dollar may
18 fluctuate significantly;

19 (b) A description of all virtual currency kiosk charges;

20 (c) The exchange rate of the virtual currency to the United States dollar; and

21 (d) Any other terms, conditions, or other disclosures required by the
22 commissioner in an administrative regulation promulgated in accordance
23 with KRS Chapter 13A.

24 (4) Upon completion of a virtual currency kiosk transaction in this state, a virtual
25 currency kiosk operator shall provide both a paper and electronic receipt in
26 retainable form to the virtual currency kiosk user that contains the following
27 information:

1 (a) The name and toll-free customer service phone number of the virtual
2 currency kiosk operator;
3 (b) The contact information required under subsection (1)(a)2. of this section to
4 report fraud;
5 (c) The type, value, date, and precise time of the transaction;
6 (d) Each applicable virtual currency address and transaction hash, where
7 available;
8 (e) A description of all virtual currency kiosk charges;
9 (f) The exchange rate of the virtual currency to the United States dollar;
10 (g) The virtual currency kiosk operator's refund policy; and
11 (h) Any additional information required by the commissioner in an
12 administrative regulation promulgated in accordance with KRS Chapter
13 13A.

14 (5) A virtual currency kiosk operator may provide additional notices or disclosures,
15 or information on a receipt provided, to a virtual currency kiosk user.

16 (6) A fraud victim's eligibility for a refund shall not be waived, affected, or prevented
17 by, or due to, a disclosure made in accordance with this section.

18 ➔ SECTION 18. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286
19 IS CREATED TO READ AS FOLLOWS:

20 (1) As used in this section:

21 (a) "Blockchain analytics" means the analysis of data from blockchains or
22 publicly distributed ledgers, including associated transaction information;
23 and

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

26 1. Risk-specific information;
27 2. Tracing of virtual currency wallet addresses; and

1 3. Other information and services.

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

5 (3) The reasonable steps required under subsection (2) of this section shall include:

6 (a) Establishing and maintaining a written anti-fraud and anti-money
7 laundering policy that includes, at a minimum:

8 1. Identification and assessment of fraud-related and money laundering-
9 related risk areas;

10 2. Procedures and controls to protect against identified risks;

11 3. Allocation of responsibility for monitoring risks; and

12 4. Procedures for the periodic evaluation and revision of the policy's
13 procedures, controls, and monitoring mechanisms; and

14 (b) Complying with the federal Bank Secrecy Act, codified at 31 U.S.C. sec.
15 5311 et seq.

16 (4) (a) Each virtual currency kiosk operator shall use blockchain analytics and
17 tracing software to:

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

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

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

27 (c) The department may request evidence from any virtual currency kiosk

1 operator of current use of blockchain analytics.

2 (5) (a) Prior to accepting payment from any virtual currency kiosk user, a virtual
3 currency kiosk operator shall verify the identity of the user.

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

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

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

10 a. Name;

11 b. Date of birth;

12 c. Telephone number;

13 d. Physical address; and

14 e. Email address.

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

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

21 (6) (a) On an annual basis, a virtual currency kiosk operator shall provide the
22 store or locale where each virtual currency kiosk is located with staff
23 training materials that are approved by the department.

24 (b) The staff training materials referenced in paragraph (a) of this subsection
25 shall:

26 1. Outline how criminals may exploit virtual currency kiosks in illicit
27 activity; and

1 **2. Include:**

2 **a. Red flag indicators that a virtual currency kiosk user may be the**
3 **victim of fraud or scams; and**

4 **b. Signs of financial abuse and exploitation.**

5 **(c) A virtual currency kiosk operator shall not prohibit or prevent staff at the**
6 **store or locale where a virtual currency kiosk is located from warning**
7 **virtual currency kiosk users about fraud and scams.**

8 **(7) (a) A virtual currency kiosk operator shall issue a refund to a virtual currency**
9 **kiosk user for each virtual currency kiosk transaction in which the user is a**
10 **victim of fraud, regardless of any acknowledgements the user may have**
11 **made prior to finalizing any virtual currency kiosk transaction, if the**
12 **requirements of paragraph (b) of this subsection are satisfied.**

13 **(b) To receive a refund under this subsection, a virtual currency kiosk user**
14 **shall:**

15 **1. Have engaged in one (1) or more virtual currency kiosk transactions**
16 **that were affected by fraud, whether authorized or unauthorized;**

17 **2. Contact and inform the virtual currency kiosk operator of the**
18 **fraudulent nature of the virtual currency kiosk transaction or**
19 **transactions at issue within ninety (90) days of the first of the**
20 **following to occur:**

21 **a. The last transaction at issue; or**

22 **b. The user becoming aware of the fraud; and**

23 **3. Submit one (1) of the following, which details the fraudulent nature of**
24 **the virtual currency kiosk transaction or transactions, to the virtual**
25 **currency kiosk operator within one hundred twenty (120) days after**
26 **contacting and informing the operator under subparagraph 2. of this**
27 **paragraph:**

1 a. A police report;

2 b. A report made to the department or the Attorney General; or

3 c. A sworn statement.

4 (c) The refund required under paragraph (b) of this subsection shall be:

5 1. In the full amount of the virtual currency kiosk transaction or
6 transactions, including all virtual currency kiosk charges;

7 2. Paid in the originating currency; and

8 3. Made to a virtual currency kiosk user by the virtual currency kiosk
9 operator within seventy-two (72) hours after:

10 a. Being contacted and informed by the user in accordance with
11 paragraph (b)2. of this subsection; and

12 b. Receiving a copy of a report or sworn statement by the user in
13 accordance with paragraph (b)3. of this subsection.

14 (d) 1. Any written notices provided to a virtual currency kiosk user by a
15 virtual currency kiosk operator regarding the issuance or receipt of a
16 refund shall be provided in both the English and Spanish language.

17 2. Any oral communications by a virtual currency kiosk operator to a
18 virtual currency kiosk user regarding the issuance or receipt of a
19 refund shall be in the user's preferred language through:

20 a. Staff;

21 b. Oral interpretation services; or

22 c. Auxiliary aids and services.

23 (8) (a) A virtual currency kiosk operator shall provide a dedicated and frequently
24 monitored communications line for law enforcement, the department, and
25 the Attorney General, via a United States telephone number or email
26 address posted in accordance with subsection (1) of Section 17 of this Act,
27 to be used by the agencies to facilitate communications with the operator in

the event of a fraud report from a virtual currency kiosk user.

(b) Upon request from law enforcement, the department, or the Attorney

General, a virtual currency kiosk operator shall:

1. Provide the agency with its trace findings; and

2. Grant the agency assistance with blockchain analytics to assist in any fraud investigation.

➔ Section 19. KRS 286.11-039 is amended to read as follows:

8 (1) The commissioner may issue a written order to suspend or revoke a license issued
9 under this subtitle, *or an approval to engage in virtual currency kiosk business at*
10 *one (1) or more locations in this state,* if the commissioner finds that:

11 (a) The licensee no longer meets the requirements *of:*

1. *This subtitle* to hold a license[~~under this subtitle~~]; or

2. Section 8 of this Act to engage in virtual currency kiosk business at one (1) or more locations in this state;

15 (b) Any fact or condition exists that, if it had existed at the time the licensee
16 applied for its license, *or approval to engage in virtual currency kiosk*
17 *business at one (1) or more locations in this state,* would have been grounds
18 for denying the application;

19 (c) The licensee's net worth, as determined in accordance with generally accepted
20 accounting principles, falls below the required net worth as prescribed in KRS
21 286.11-011, and the licensee, after ten (10) days written notice from the
22 commissioner, fails to take such action as the commissioner deems necessary
23 to remedy such deficiency;

24 (d) The licensee has violated[violates] any provision of this subtitle, any
25 administrative regulation promulgated thereunder, or order of the
26 commissioner issued under authority of this subtitle, or any other state law or
27 regulation related to ~~the business of~~ money transmission ***or virtual currency***

kiosk business;

- (e) The licensee is conducting its business in an unsafe or unsound manner;
- (f) The licensee has engaged[engages] in an unfair and deceptive act or practice;
- (g) The licensee has engaged[engages] in fraud, intentional misrepresentation, or gross negligence;
- (h) The licensee is insolvent;
- (i) The licensee has suspended payment of its obligations or has made an assignment for the benefit of its creditors;
- (j) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the United States Bankruptcy Code, 11 U.S.C. secs. 101-110;
- (k) The licensee fails to cooperate in an examination, investigation, or subpoena issued by the commissioner;
- (l) The licensee fails to make any report required by this subtitle;
- (m) The licensee has been found to have violated any of the recordkeeping and reporting requirements of the United States government including 31 U.S.C. secs. 5311 to 5332 and 31 C.F.R. pt. 103;
- (n) The competence, experience, character, financial condition, or responsibility of the licensee indicates that it is not in the public interest to permit the licensee to continue to provide money transmission **or virtual currency kiosk** services;
- (o) The licensee has been convicted of a felony;
- (p) The licensee has been convicted of a misdemeanor related to[the business of] money transmission **or virtual currency kiosk business;**
- (q) The licensee has been convicted of a misdemeanor involving theft, fraud, or breach of trust;
- (r) The licensee has failed to terminate or suspend its agent's authority to act on

1 its behalf when the licensee knew, or has been given reasonable notice that its
2 agent violated, or is about to violate, a material provision of this subtitle, an
3 administrative regulation promulgated thereunder, or an order of the
4 commissioner, or any grounds that are found in KRS 286.11-041; or

5 (s) The licensee, its responsible individual, or any agent, key shareholder,
6 executive officer, director, or other person in control of the licensee are listed
7 or become listed on the specially designated nationals and blocked persons list
8 prepared by the United States Department of the Treasury or United States
9 Department of State under Presidential Executive Order No. 13224 as a
10 potential threat to commit terrorist acts or to finance terrorist acts.

11 (2) A licensee who has had his or her license, or approval to engage in virtual
12 currency kiosk business at one (1) or more locations in this state, revoked or
13 suspended by the commissioner may file a written application for an administrative
14 hearing in accordance with KRS Chapter 13B.

15 (3) A person is deemed to have received a copy of the written order of revocation or
16 suspension with three (3) days of its mailing.

17 (4) A written application for an appeal shall be made with the commissioner within
18 twenty (20) days of the date of the order of suspension or revocation and shall be
19 made in good faith and shall briefly state the reason or reasons the person is
20 aggrieved, together with the grounds to be relied upon.

21 (5) (a) The commissioner shall not issue a license, or approval to engage in virtual
22 currency kiosk business at one (1) or more locations in this state, again
23 under this subtitle to any person whose license or approval has been revoked
24 until three (3) years after the date of the revocation, and thereafter, not until
25 the person again qualifies under the applicable provisions of this subtitle.

26 **(b)** A person whose license has been revoked twice shall be deemed permanently
27 revoked and shall not again be eligible for a license under this subtitle.

1 (6) In determining whether a licensee has engaged, or is engaging, in an unsafe or
2 unsound practice under subsection (1)(e) of this section, the commissioner may
3 consider the size and condition of the licensee's business~~provision of money~~
4 transmissions], the magnitude of the loss, the gravity of the violation of this subtitle,
5 the administrative regulation adopted, or order issued under this subtitle, any action
6 taken by another state or federal government against the licensee, or the previous
7 conduct of the licensee.

8 ➔Section 20. KRS 286.11-041 is amended to read as follows:

9 (1) The commissioner may issue a written order suspending or revoking the
10 designation of an agent if the commissioner finds that:

11 (a) The agent has violated~~violates~~ this subtitle or an administrative
12 regulation~~a rule~~ adopted or an order issued under this subtitle;

13 (b) The agent does not cooperate with an examination, investigation, or subpoena
14 issued by the commissioner;

15 (c) The agent has engaged in fraud, intentional misrepresentation, or gross
16 negligence;

17 (d) The agent has been convicted of a felony;

18 (e) The agent has been convicted of a misdemeanor related to~~the business of~~
19 money transmission or virtual currency kiosk business;

20 (f) The agent has been convicted of a misdemeanor involving theft, fraud, or
21 breach of trust;

22 (g) The competence, experience, character, or general fitness of the agent or a
23 person in control of the agent indicates that it is not in the public interest to
24 permit the agent to be engaged in~~the business of~~ money transmission or
25 virtual currency kiosk business;

26 (h) The agent has~~is~~ engaged in, or is engaging in, an unsafe or unsound
27 practice;

- 1 (i) The agent has~~is~~ engaged in, or is engaging in, an unfair and deceptive act or
2 practice~~as~~ that~~act or practice~~ relates to~~the business of~~ money
3 transmission **or virtual currency kiosk business;**
- 4 (j) The agent is insolvent;
- 5 (k) The agent has applied for an adjudication of bankruptcy, reorganization,
6 arrangement, or other relief under the United States Bankruptcy Code, 11
7 U.S.C. secs. 101 to 110; or
- 8 (l) The agent fails to timely remit all money **or virtual currency** legally due to its
9 licensee as required by this subtitle; or
- 10 (m) The agent, any executive officer, or other person in control of the agent is
11 listed or become listed on the specially designated nationals and blocked
12 persons list prepared by the United States Department of the Treasury or
13 United States Department of State under Presidential Executive Order No.
14 13224 as a potential threat to commit terrorist acts or to finance terrorist acts.
- 15 (2) In determining whether an agent **has engaged, or** is engaging~~in~~ in an unsafe or
16 unsound practice under subsection (1)(h) of this section, the commissioner may
17 consider the size and condition of the agent's **business**~~provision of money~~
18 ~~transmissions~~, the magnitude of the loss, the gravity of the violation of this subtitle,
19 the administrative regulation adopted, or order issued under this subtitle, any action
20 taken by another state or federal government against the agent, or the previous
21 conduct of the agent.
- 22 (3) Any person who has his or her designation as an agent revoked or suspended by the
23 commissioner may file a written application for an administrative hearing in
24 accordance with KRS Chapter 13B.
- 25 (4) An agent is deemed to have received a copy of the written order of revocation or
26 suspension within three (3) days of its mailing.
- 27 (5) A written application for an appeal shall be made with the commissioner within

1 twenty (20) days of the date of the order of suspension or revocation in good faith
2 and shall briefly state the reason or reasons the agent is aggrieved, together with the
3 grounds to be relied upon.

4 (6) The commissioner shall not designate a person as an agent again under this subtitle
5 where the designation of an agent has been revoked, until after three (3) years after
6 the date of revocation, and thereafter, not until the person again qualifies under the
7 applicable provisions of this subtitle. Any person whose designation as an agent has
8 been revoked twice by the commissioner shall be deemed permanently revoked and
9 shall not again be eligible for designation as an agent under this subtitle.

10 ➔Section 21. KRS 286.11-043 is amended to read as follows:

11 (1) If the commissioner has reason to believe or determines that a violation of this
12 subtitle, administrative regulation adopted, or an order issued under this subtitle, by
13 any person, licensee, or agent has occurred or will occur, then the commissioner
14 may issue an order to show cause why an order to cease and desist should not be
15 issued requiring the person, licensee, or agent to cease and desist from the violation.

16 (2) The commissioner may enter an order to cease and desist if the person, licensee, or
17 agent fails to show cause for the violation of the subtitle, administrative regulation,
18 or order within ten (10) days of the date of the receipt of the order of show cause.

19 (3) The commissioner may petition the Franklin Circuit Court, or any court of
20 competent jurisdiction, for an issuance of a temporary or permanent injunction, or
21 any other appropriate judicial order, against any person, licensee, or agent that
22 violates this subtitle, administrative regulation adopted, or order issued.

23 (4) An order issued under this section becomes effective when signed by the
24 commissioner. The order shall be delivered by certified mail to the last known
25 address of the person, licensee, or agent. The order shall be deemed received by the
26 person, licensee, or agent within three (3) days of its mailing with the United States
27 Postal Service.

1 (5) The commissioner may issue an order against a licensee to cease and desist from
2 ~~conducting money transmission or virtual currency kiosk business~~^{[providing}
3 ~~money transmission]~~ through an agent that is subject of a separate order from the
4 commissioner.

5 (6) An order to cease and desist remains effective and enforceable pending the
6 completion of an administrative proceeding.

7 ➔Section 22. KRS 286.11-045 is amended to read as follows:

8 (1) If the commissioner has reason to believe or determines that a violation of this
9 subtitle or of an administrative^[a] regulation adopted, or an order issued under this
10 subtitle, by a licensee or agent will cause immediate or irreparable harm to the
11 public health, safety, or welfare, then the commissioner may enter an emergency
12 order suspending, limiting, or restricting the licensee's license or the designation of
13 an agent, without prior notice or hearing.

14 (2) One (1) or more of the following circumstances shall be considered grounds for an
15 emergency order suspending, limiting, or restricting a license or designation of an
16 agent under this section:

17 (a) The licensee's or agent's indictment or conviction of a felony for a crime
18 involving theft, fraud, or breach of trust;

19 (b) The licensee's or agent's indictment or conviction under the USA PATRIOT
20 Act of 2001, Pub. L. No. 107-56;

21 (c) The suspension or revocation of any other money transmitter or virtual
22 currency kiosk business license or equivalent license held by the licensee, or
23 designation held by the agent in another state or country;

24 (d) The licensee, its responsible individual, or any agent, key shareholder,
25 executive officer, director, or other person in control of the licensee are listed
26 or become listed on the specially designated nationals and blocked persons list
27 prepared by the United States Department of the Treasury or United States

3 (e) Insolvency, or the filing of an application of bankruptcy, reorganization,
4 arrangement, or other relief under bankruptcy, or an adjudication under the
5 United States Bankruptcy Code, 11 U.S.C. secs. 101 to 110 by the licensee or
6 agent.

7 (3) An emergency order issued under this section becomes effective when signed by
8 the commissioner. The emergency order shall be delivered by certified mail to the
9 last known address of the licensee or agent. The order shall be deemed received by
10 the licensee or agent within three (3) days of its mailing with the United States
11 Postal Service.

12 (4) A licensee or agent aggrieved by an emergency order issued by the commissioner
13 under this section may file with the commissioner a written appeal for an
14 emergency hearing. The application for a hearing shall be filed with the
15 commissioner within twenty (20) days of the date of the emergency order.

16 (5) Upon receipt of a written appeal by any licensee or agent aggrieved by an
17 emergency order issued under this section, the commissioner shall conduct an
18 emergency hearing as required under KRS 13B.125, within ten (10) working days
19 from the date of receipt of the appeal, unless the parties agree otherwise. The
20 hearing officer shall render a written decision affirming, modifying, or reversing the
21 emergency order within five (5) working days of the completion of the hearing. The
22 emergency order shall be affirmed if there is substantial evidence of a violation of
23 law that constitutes an immediate danger to the public health, safety, or welfare.

24 ➔Section 23. KRS 286.11-047 is amended to read as follows:

25 (1) (a) The commissioner may levy a civil penalty against a person that:

1 2. Order issued by the commissioner under this subtitle.

2 (b) The civil penalty shall be not less than one thousand dollars (\$1,000) nor more

3 than five thousand dollars (\$5,000) per day for each day the violation is

4 outstanding, plus the state's costs and expenses for the examination,

5 investigation, and prosecution of this matter, including reasonable attorney's

6 fees and court costs.

7 (2) In addition to the civil penalty authorized under subsection (1) of this section, the

8 commissioner may enter an order against any virtual currency kiosk operator

9 that is subject to a civil penalty under subsection (1) of this section to:

10 (a) Refund any or all amounts of a virtual currency kiosk transaction,

11 including any or all virtual currency kiosk charges; and

12 (b) Direct any peace officer to:

13 1. Seize or impound a virtual currency kiosk, including any contents

14 thereof; or

15 2. Render a virtual currency kiosk inoperable.

16 ➔ Section 24. KRS 286.11-061 is amended to read as follows:

17 (1) The department shall exercise all administrative functions of the state in relation to

18 the regulation, supervision, and licensing of money transmitters and virtual

19 currency kiosk operators.

20 (2) The commissioner may promulgate, amend, and repeal any administrative

21 regulations, forms, and orders as are necessary to interpret and enforce the

22 provisions of this subtitle.

23 (3) The commissioner may request any additional information as the commissioner

24 deems necessary to interpret and carry out any of the provisions of this subtitle from

25 any applicant, licensee, agent, responsible individual, controlling person, executive

26 officer, or key shareholder.

27 ➔ Section 25. KRS 286.11-067 is amended to read as follows:

1 It is the intent of the General Assembly to establish a state system of licensure and
2 regulation to ensure the safe and sound operation of money transmission and virtual
3 currency kiosk business to ensure that these businesses are~~this business is~~ not used for
4 criminal purposes, to promote confidence in the state's financial system, and to protect
5 the public interest.

6 ➔Section 26. KRS 286.2-015 is amended to read as follows:

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

12 (a) Are subject to:

- 13 1. The jurisdiction of the department; or
- 14 2. The provisions of this chapter;

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

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

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

27 (a) Limit or disqualify persons or entities from doing business with a political

1 subdivision based upon financial or lending activities; or

2 (b) Impose additional reporting requirements or other obligations on persons or

3 entities referred to in subsection (1) of this section seeking to do business with

4 a political subdivision.

5 (3) Nothing in this section shall be interpreted as preventing the enforcement of

6 ordinances, regulations, or resolutions of political subdivisions of the

7 Commonwealth pertaining to civil rights.

8 (4) (a) *Political subdivisions of this Commonwealth may enact and enforce*

9 *ordinances, regulations, and resolutions pertaining to virtual currency*

10 *kiosk business that are not in direct conflict with state law.*

11 (b) *Ordinances, regulations, and resolutions of political subdivisions of the*

12 *Commonwealth that impose greater requirements or restrictions on virtual*

13 *currency kiosk business than the requirements or restrictions set forth in*

14 *Subtitle 11 of KRS Chapter 286 shall not be considered in direct conflict*

15 *with state law.*

16 ➔ SECTION 27. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) *A violation of any provision of Subtitle 11 of KRS Chapter 286 by a virtual*

19 *currency kiosk operator shall be deemed an unfair, false, misleading, or deceptive*

20 *act or practice in the conduct of trade or commerce in violation of KRS 367.170.*

21 (2) *All of the remedies, powers, and duties provided to the Attorney General or any*

22 *other person under KRS 367.110 to 367.300, and the penalties provided in KRS*

23 *367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall*

24 *apply with equal force and effect to a violation of any provision of Subtitle 11 of*

25 *KRS Chapter 286 by a virtual currency kiosk operator.*

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

27 (b) *Nothing in this section shall be construed to limit or restrict the powers,*

1 *duties, remedies, or penalties available to the Attorney General, the*
2 *Commonwealth, or any other person under any other statutory or common*
3 *law.*

4 ➔ Section 28. The following KRS section is repealed:

5 286.11-065 Licenses issued under provisions of former KRS Chapter 366 to remain in
6 force.

7 ➔ Section 29. The commissioner of the Kentucky Department of Financial
8 Institution shall promulgate, within 30 days after the effective date of this Act,
9 emergency and ordinary administrative regulations that are necessary to implement
10 Sections 1 to 26 of this Act.

11 ➔ Section 30. Notwithstanding any provision of this Act to the contrary:

12 (1) A person shall not be required to obtain a license to engage in virtual currency
13 kiosk business in this state until the earlier of the following:

14 (a) January 1, 2027; or

15 (b) The date the person is provided notice from the commissioner of the
16 Kentucky Department of Financial Institutions (KDFI) of the commissioner's intent to
17 deny, or denial of, the person's application for a license to engage in virtual currency
18 kiosk business in this state; and

19 (2) A virtual currency kiosk operator shall not be required to use the form
20 required under Section 9 of this Act until the commissioner of the KDFI prescribes the
21 form in an administrative regulation promulgated in accordance with KRS Chapter 13A.