

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~~  
9 ~~Institutions;~~

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

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

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

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

23 ~~(12)~~~~(13)~~ "Licensee" means a person licensed under this subtitle;

24 ~~(13)~~~~(14)~~ "Material litigation" means litigation that according to generally accepted  
25 accounting principles is significant to an applicant's or a licensee's financial health,  
26 and would be required to be disclosed in the applicant's or licensee's annual audited  
27 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

1 money, sold or issued to one (1) or more persons, whether or not such  
2 instrument is negotiable; or

3 2. The purchase or the deposit of funds for the purchase of a check, draft,  
4 money order, traveler's check, or other written or electronic instrument;

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)~~[(26)]~~ "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  
21 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular  
22 possession that is subject to the jurisdiction of the United States;

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. Owns, 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;

2 (g) A list of any license revocations, suspensions, restrictions, or other  
3 disciplinary action taken against any money transmission or virtual currency  
4 kiosk business involving the proposed responsible individual;

5 (h) A description of the source of money, virtual currency, and credit to be used  
6 by the applicant to provide money transmissions or engage in virtual  
7 currency kiosk business;

8 (i) A sample form of contract for an agent;

9 (j) A sample form of payment instrument;

10 (k) Information concerning any bankruptcy, reorganization, or receivership  
11 proceedings involving or affecting the applicant or the proposed responsible  
12 individual;

13 (l) A list identifying the name, physical location or locations, and telephone  
14 number at which the applicant and its proposed agents intend to conduct  
15 money transmission or virtual currency kiosk business in the state at the time  
16 of the filing of the license application;

17 (m) The name, address, and telephone number of the clearing bank or banks on  
18 which the applicant's payment instruments will be drawn or through which  
19 such payment instruments will be payable;

20 (n) A copy of the written procedures that will be provided by the applicant or  
21 licensee to its agent or agents;

22 (o) That neither the applicant, nor any executive officer, nor person who exercises  
23 control over the applicant, nor key shareholder, nor any proposed agent, nor  
24 the proposed responsible individual, is listed on the specially designated  
25 nationals and blocked persons list prepared by the United States Department  
26 of the Treasury or the United States Department of State under Presidential  
27 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~~rule~~ 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

- 1           fiscal year or, if the applicant is a wholly owned subsidiary of another  
2           corporation, the most recent audited consolidated annual financial statement  
3           of the parent corporation or the applicant's most recent audited consolidated  
4           annual financial statements and, in each case, if available, for the two (2) year  
5           period preceding the filing of the application;
- 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~~<sup>the</sup> 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~~<sup>in</sup> 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

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

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

5 1. The gross revenue attributable to virtual currency kiosk transactions;

6 2. Copies of each complaint filed by a virtual currency kiosk user against  
7 the licensee with the Better Business Bureau or a state or federal  
8 agency other than the department;

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

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

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

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

16 a. Granted by the licensee; and

17 b. Denied by the licensee;

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

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

21 9. The total number and dollar amount of suspicious activity reports filed  
22 pursuant to the Bank Secrecy Act, 31 U.S.C. 5311 sec. et seq., as  
23 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 ~~the~~ **an expired** 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:

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

(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;

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

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

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

1           **kiosk business;**

2           (e) The licensee is conducting its business in an unsafe or unsound manner;

3           (f) The licensee **has engaged**~~[engages]~~ in an unfair and deceptive act or practice;

4           (g) The licensee **has engaged**~~[engages]~~ in fraud, intentional misrepresentation, or  
5           gross negligence;

6           (h) The licensee is insolvent;

7           (i) The licensee has suspended payment of its obligations or has made an  
8           assignment for the benefit of its creditors;

9           (j) The licensee has applied for an adjudication of bankruptcy, reorganization,  
10          arrangement, or other relief under the United States Bankruptcy Code, 11  
11          U.S.C. secs. 101-110;

12          (k) The licensee fails to cooperate in an examination, investigation, or subpoena  
13          issued by the commissioner;

14          (l) The licensee fails to make any report required by this subtitle;

15          (m) The licensee has been found to have violated any of the recordkeeping and  
16          reporting requirements of the United States government including 31 U.S.C.  
17          secs. 5311 to 5332 and 31 C.F.R. pt. 103;

18          (n) The competence, experience, character, financial condition, or responsibility  
19          of the licensee indicates that it is not in the public interest to permit the  
20          licensee to continue to provide money transmission **or virtual currency kiosk**  
21          services;

22          (o) The licensee has been convicted of a felony;

23          (p) The licensee has been convicted of a misdemeanor related to~~[the business of]~~  
24          money transmission **or virtual currency kiosk business;**

25          (q) The licensee has been convicted of a misdemeanor involving theft, fraud, or  
26          breach of trust;

27          (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.

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

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

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

- (a) The agent has violated~~[violates]~~ this subtitle or an administrative regulation~~[a rule]~~ adopted or an order issued under this subtitle;
- (b) The agent does not cooperate with an examination, investigation, or subpoena issued by the commissioner;
- (c) The agent has engaged in fraud, intentional misrepresentation, or gross negligence;
- (d) The agent has been convicted of a felony;
- (e) The agent has been convicted of a misdemeanor related to~~[the business of]~~ money transmission or virtual currency kiosk business;
- (f) The agent has been convicted of a misdemeanor involving theft, fraud, or breach of trust;
- (g) The competence, experience, character, or general fitness of the agent or a person in control of the agent indicates that it is not in the public interest to permit the agent to be engaged in~~[the business of]~~ money transmission or virtual currency kiosk business;
- (h) The agent has~~[is]~~ engaged in, or is engaging in, an unsafe or unsound 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 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~~an~~ 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



1 Department of State under Presidential Executive Order No. 13224 as a  
2 potential threat to commit terrorist acts or to finance terrorist acts; or

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:

26 1. Violates any provision of or administrative regulation promulgated  
27 under this subtitle; or

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~~[subsection]~~ (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.