

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

2 WHEREAS, the use of virtual currency kiosks, also known as crypto ATMs, has
3 expanded significantly, providing a convenient way for individuals to buy and sell virtual
4 currencies; and

5 WHEREAS, the growth of crypto ATMs has created a need for a clear and
6 comprehensive licensing framework to protect Kentucky consumers, prevent criminal
7 activities, and maintain the integrity of the financial system;

8 NOW, THEREFORE,

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

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

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

13 *(1) "Affiliate" means a person who controls, is controlled by, or is under common*
14 *control with another person;*

15 *(2) "Control" means one (1) or more of the following:*

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

18 *1. Direct or indirect; and*

19 *2. Obtained:*

20 *a. Through legal or beneficial ownership of voting power in the*
21 *person; or*

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

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

26 *(c) The power to elect or appoint a majority of a person's responsible*
27 *individuals;*

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

3 and

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

7 (3) "Fiat currency" means a government-issued currency that is:

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

9 (b) Not backed by a physical commodity;

10 (4) "Legal tender":

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

13 1. Issued by:

14 a. The United States; or

15 b. Another government; or

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

18 (b) Does not include any medium of exchange or unit of value authorized,
19 recognized, or adopted by a foreign government if the medium of exchange
20 or unit of value was a virtual currency before the government authorized,
21 recognized, or adopted the medium of exchange or unit of value;

22 (5) "License" means a license issued by the commissioner under this subtitle;

23 (6) "Resident":

24 (a) Means any of the following:

25 1. A person who is domiciled in this state;

26 2. A person who was physically located in this state for more than one
27 hundred eighty-three (183) days of the previous three hundred sixty-

1 five (365) days; or

2 3. A person who has a place of business in this state; and

3 (b) Includes a legal representative of a person referenced in paragraph (a) of
4 this subsection;

5 (7) "Responsible individual" means any natural person who is ultimately responsible
6 for establishing or directing the policies of an applicant or a licensee, including
7 but not limited to an executive officer, director, manager, partner, or trustee;

8 (8) "Virtual currency":

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

11 1. Used as a:

12 a. Medium of exchange;

13 b. Unit of account; or

14 c. Store of value; and

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

16 (b) Does not include:

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

20 2. A digital representation of value:

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

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

24 i. Sold by the same publisher; or

25 ii. Offered on the same game platform;

26 (9) (a) "Virtual currency kiosk" means a physical electronic terminal acting as a
27 mechanical agent of the owner or operator to enable the owner or operator

1 to facilitate the exchange of one (1) or more of the following:

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

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

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

10 (10) "Virtual currency kiosk operator" or "licensee" means a person that is licensed
 11 by the commissioner to engage in the activity regulated under this subtitle; and

12 (11) "Virtual currency kiosk transaction" means any transaction:

13 (a) Conducted or performed, in whole or in part, by electronic means via a
 14 virtual currency kiosk; or

15 (b) Made at a virtual currency kiosk to:

- 16 1. Purchase virtual currency with fiat currency; or
 17 2. Sell virtual currency for fiat currency.

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

20 (1) (a) The commissioner:

- 21 1. Shall enforce the provisions of this subtitle; and
 22 2. Subject to paragraph (b) of this subsection, may promulgate
 23 administrative regulations in accordance with KRS Chapter 13A that
 24 the commissioner determines are necessary to effectuate, or aid in the
 25 effectuation of, this subtitle.

26 (b) The discretion to promulgate administrative regulations under paragraph
 27 (a)2. of this subsection shall be supplemental to any other provisions of this

1 subtitle relating to the promulgation of administrative regulations.

2 (2) The commissioner may invoke the aid of the courts through injunction or other
3 proper process, mandatory or otherwise, to:

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

5 (b) Enforce any proper order or action issued, entered, or taken by the
6 commissioner.

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

8 (b) Nothing in this subtitle shall be construed to limit or restrict the powers,
9 duties, remedies, or penalties available to the commissioner or any other
10 person under any other statutory or common law.

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

13 (1) (a) A person shall not engage in virtual currency kiosk business in this state
14 unless the person is a virtual currency kiosk operator.

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

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

20 2. Engages in, or holds out as being able to engage in, a virtual currency
21 kiosk transaction with or on behalf of a virtual currency kiosk user in
22 this state.

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

27 (2) A virtual currency kiosk operator license shall:

- 1 (a) State:
- 2 1. The name and address of the licensee;
- 3 2. The licensee's initial date of licensure;
- 4 3. If the licensee is a partnership, limited liability company, or
 5 association, the name of each member of the partnership, limited
 6 liability company, or association; and
- 7 4. If the licensee is a corporation, the date and place of its incorporation;
- 8 (b) Be valid unless it is:
- 9 1. Revoked or suspended by the commissioner;
- 10 2. Surrendered by the licensee; or
- 11 3. Expired;
- 12 (c) Except as provided in Section 9 of this Act, not be transferred or assigned;
 13 and
- 14 (d) Expire on December 31 of the year in which it is issued, unless renewed or
 15 reinstated in accordance with Section 7 of this Act.

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

- 18 (1) As used in this section, "registry" means the State Regulatory Registry, LLC, or
 19 its successor organization.
- 20 (2) When an application, report, or approval request is required to be filed with the
 21 commissioner under this subtitle, the commissioner shall require that the filing,
 22 including any applicable fees and supporting documentation, be submitted to:
- 23 (a) The registry or its successor organization;
- 24 (b) The registry's parent, affiliate, or operating subsidiary; or
- 25 (c) Other agencies or authorities as part of a nationwide licensing system;
 26 which may act as an agent for receiving, requesting, and distributing information
 27 to and from any source directed by the commissioner.

1 (3) The commissioner:

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

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

7 (4) The commissioner shall annually request:

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

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

13 1. Whether the system has implemented and complied with the data
14 security guidelines set forth in the Gramm-Leach-Bliley Act, 15 U.S.C.
15 sec. 6801;

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

18 3. Whether any security breaches have occurred resulting in the
19 substantial likelihood that personal information may be misused or
20 stolen.

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

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

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

3 (1) (a) A person seeking to become a virtual currency kiosk operator shall file a
4 complete application for a license with the commissioner.

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

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

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

8 3. Contains, and is accompanied by, the information, documentation,
9 and evidence required under Section 6 of this Act;

10 4. Contains an attestation that the applicant will immediately report to
11 the department any material changes to any of the information
12 submitted by the applicant in the application;

13 5. Is accompanied by evidence that the requirements of Section 8 of this
14 Act have been satisfied; and

15 6. Is accompanied by a nonrefundable application fee that is determined
16 by the commissioner in accordance with Section 10 of this Act.

17 (2) Within sixty (60) days of receipt of a complete application for a license, the
18 commissioner shall:

19 (a) Review and investigate the application and all attachments for compliance
20 with the requirements of this subtitle;

21 (b) Consider all of the following:

22 1. The financial condition and responsibility of the applicant;

23 2. The applicant's:

24 a. Relevant financial and business experience;

25 b. Character; and

26 c. General fitness to conduct the activity regulated under this
27 subtitle; and

- 1 3. The following for each responsible individual and person who has
2 control of the applicant:
- 3 a. Competence;
4 b. Experience;
5 c. Character; and
6 d. General fitness to conduct the activity regulated under this
7 subtitle; and
- 8 (c) Subject to Section 20 of this Act and subsections (4) and (5) of this section,
9 do one (1) of the following:
- 10 1. Issue an unconditional license to the applicant;
11 2. Issue a notice of intent to issue a conditional license to the applicant;
12 or
13 3. Issue a notice of intent to deny the applicant's application for a
14 license.
- 15 (3) As part of the review and investigation of an application under subsection (2) of
16 this section, the commissioner may, in his or her discretion, investigate an
17 applicant's business premises.
- 18 (4) (a) The commissioner shall issue an unconditional license to an applicant if the
19 commissioner finds that the applicant:
- 20 1. Is in compliance with the requirements of this subtitle; and
21 2. Has reasonably demonstrated that it will conduct its business:
- 22 a. Honestly, fairly, and efficiently; and
23 b. In accordance with:
- 24 i. This subtitle; and
25 ii. All other applicable state and federal law.
- 26 (b) 1. The commissioner may issue a notice of intent to issue a conditional
27 license to an applicant if the commissioner determines that the

1 conditions, including any additional surety bond amount specified by
2 the commissioner under Section 8 of this Act, are necessary for the
3 applicant to satisfy the requirements of paragraph (a)1. and 2. of this
4 subsection.

5 2. A notice of intent to issue a conditional license shall specify the
6 additional conditions that are required for the applicant to obtain and
7 maintain a license.

8 (c) 1. Except as provided in paragraph (b) of this subsection, the
9 commissioner shall issue a notice of intent to deny an applicant's
10 application for a license if the commissioner determines that the
11 requirements of paragraph (a)1. and 2. of this subsection are not
12 satisfied.

13 2. A notice of intent to deny an applicant's application for a license shall
14 specify the requirements of paragraph (a)1. and 2. of this subsection
15 that are not satisfied.

16 (5) (a) The commissioner may issue a conditional license to an applicant if the
17 applicant files with the commissioner a written acceptance of the conditions
18 specified in the notice issued under subsection (4)(b) of this section to the
19 applicant within thirty (30) days of service of the notice.

20 (b) If the department does not receive an applicant's written acceptance of the
21 conditions specified in the notice issued under subsection (4)(b) of this
22 section to the applicant within thirty (30) days of service of the notice, the
23 commissioner shall issue a notice of intent to deny the applicant's
24 application for a license.

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

27 An application submitted under Section 5 of this Act shall provide all of the following

- 1 information, documentation, and evidence:
- 2 (1) The legal name, any former names, and physical address of the applicant;
- 3 (2) The physical address of each proposed virtual currency kiosk in this state;
- 4 (3) Any fictitious or trade name of the applicant;
- 5 (4) The legal name, any former or fictitious names, and the physical residential and
- 6 business addresses of each:
- 7 (a) Responsible individual; and
- 8 (b) Person in control of the applicant;
- 9 (5) A description of any current and former business of the applicant for the five (5)
- 10 years prior to submission of the application, including its:
- 11 (a) Products and services;
- 12 (b) Associated website addresses and social media pages;
- 13 (c) Principal places of business;
- 14 (d) Projected user base; and
- 15 (e) Specific marketing targets;
- 16 (6) The name, physical business address, and telephone number of a person that will
- 17 manage each proposed virtual currency kiosk in this state on behalf of the
- 18 applicant;
- 19 (7) A copy of any agreement between the applicant and the person named under
- 20 subsection (6) of this section;
- 21 (8) A copy of the applicant's business plan, which shall include:
- 22 (a) A three (3) year financial pro forma;
- 23 (b) The anticipated volume of virtual currency kiosk business;
- 24 (c) Business activities in this state for the past three (3) years; and
- 25 (d) The anticipated number of virtual currency kiosk locations in this state;
- 26 (9) The name, physical business address, and telephone number of each affiliate of
- 27 the applicant;

- 1 (10) A description of the control relationship between the applicant and each affiliate
2 of the applicant;
- 3 (11) A list of each license or other authorization the applicant holds to conduct money
4 service, money transmitter, or virtual currency business in any state or federal
5 jurisdiction and the date each license or authorization expires;
- 6 (12) A list of all regulatory revocations, suspensions, and other disciplinary actions
7 taken against the applicant in any state or federal jurisdiction, including all
8 rejected applications;
- 9 (13) A list of all criminal convictions, deferred prosecution agreements, and pending
10 criminal proceedings in any jurisdiction against any of the following:
- 11 (a) The applicant;
12 (b) A responsible individual;
13 (c) A person that has control of the applicant; or
14 (d) A person over which the applicant has control;
- 15 (14) A list of all litigation, arbitrations, and administrative proceedings in any
16 jurisdiction that satisfy the following conditions:
- 17 (a) The applicant or a responsible individual was a party to the litigation,
18 arbitration, or administrative proceeding during the past five (5) years; and
19 (b) The litigation, arbitration, or administrative proceeding:
- 20 1. Is material in accordance with the generally accepted accounting
21 principles; and
22 2. Would be required to be disclosed by the applicant in audited financial
23 statements, reports to equity owners, or similar statements or reports;
- 24 (15) A list of all bankruptcy and receivership proceedings in any jurisdiction for the
25 past ten (10) years in which any of the following was a debtor:
- 26 (a) The applicant;
27 (b) A responsible individual;

- 1 (c) A person that has control of the applicant; or
- 2 (d) A person over which the applicant has control;
- 3 (16) The name and physical business address of each financial institution in which
- 4 the applicant plans to deposit funds obtained by its virtual currency kiosk
- 5 business in this state;
- 6 (17) The source of funds and credit to be used by the applicant to conduct its virtual
- 7 currency kiosk business in this state;
- 8 (18) The physical address and electronic mail address to which communications from
- 9 the department may be sent;
- 10 (19) The name, physical address, and electronic mail address of the applicant's
- 11 registered agent for service of process in this state;
- 12 (20) With respect to the applicant's virtual currency kiosk business in this state, a copy
- 13 of the certificate of coverage for each liability, casualty, business interruption,
- 14 and cybersecurity insurance policy maintained by the applicant for:
- 15 (a) Itself;
- 16 (b) Any responsible individual;
- 17 (c) Any affiliate or agent of the applicant;
- 18 (d) Any person that has control of the applicant; and
- 19 (e) Any person over which the applicant has control;
- 20 (21) If applicable:
- 21 (a) The date on which, and the state where, the applicant is formed; and
- 22 (b) A copy of any current certificate of good standing issued by the state where
- 23 the applicant is formed;
- 24 (22) A copy of the applicant's most current audited financial statement that is
- 25 prepared in accordance with:
- 26 (a) The generally accepted accounting principles; or
- 27 (b) The Public Company Accounting Oversight Board standards;

- 1 (23) If a person has control of the applicant and the person's equity interests are
2 publicly traded in the United States, a copy of the:
- 3 (a) Audited financial statement of the person for the most recent fiscal year; or
4 (b) Most recent report filed by the person pursuant to 15 U.S.C. sec. 78m, as
5 amended;
- 6 (24) If a person has control of the applicant and the person's equity interests are
7 publicly traded outside the United States, a copy of the:
- 8 (a) Audited financial statement of the person for the most recent fiscal year; or
9 (b) Most recent documentation similar to that required in subsection (23)(b) of
10 this section filed by the person with the relevant foreign regulator in the
11 person's domicile;
- 12 (25) If the applicant is a partnership or a member-managed limited liability company,
13 the names and physical business addresses of all general partners or managers;
- 14 (26) If the applicant is required to register with the Financial Crimes Enforcement
15 Network of the United States Department of the Treasury as a money service
16 business, evidence of the registration;
- 17 (27) A set of fingerprints for each responsible individual and person who has control
18 of the applicant;
- 19 (28) If a responsible individual, or person who has control of the applicant, has
20 resided outside of the United States anytime within the past ten (10) years, an
21 investigative background report for the responsible individual or person that:
- 22 (a) Is prepared by an independent search firm that demonstrates that it:
- 23 1. Has sufficient knowledge and resources, and employs accepted and
24 reasonable methodologies, to conduct the research of the investigative
25 background report; and
- 26 2. Does not have an interest in, or affiliation with, the person who is the
27 subject of the investigative background report;

1 (b) Is written in the English language; and

2 (c) Contains all of the following:

3 1. If available in the person's current jurisdiction of residency, a
 4 comprehensive credit report or any equivalent information obtained or
 5 generated by the independent search firm that includes a search of
 6 court data in the countries, provinces, states, cities, towns, and
 7 contiguous areas where the person resided and worked;

8 2. Criminal records information for the past ten (10) years, including
 9 felonies, misdemeanors, and similar convictions;

10 3. Employment history;

11 4. Media history, including an electronic search of national and local
 12 publications, wire services, and business applications; and

13 5. Financial services-related regulatory history, including money
 14 transmission, securities, banking, insurance, and mortgage-related
 15 industries;

16 (29) The following information for the past five (5) years for each responsible
 17 individual and person who has control of the applicant:

18 (a) Employment history;

19 (b) History of any investigation of the individual or person; and

20 (c) A list of any legal proceedings to which the individual or person was a
 21 party; and

22 (30) Any other information, documentation, or evidence the commissioner reasonably
 23 requires.

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

26 (1) As used in this section, "United States dollar equivalent of virtual currency"
 27 means the equivalent value of virtual currency in United States dollars shown on

1 a virtual currency exchange based in the United States for a particular date or
2 period.

3 (2) (a) On or before December 31 of each year, each licensee shall file a complete
4 annual license renewal application with the commissioner.

5 (b) An annual license renewal application shall not be complete unless it:

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

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

8 3. Contains, and is accompanied by, any information, documentation,
9 and evidence that the commissioner determines is necessary and
10 appropriate for the purpose of determining whether the licensee
11 continues to satisfy the requirements of this subtitle for licensure;

12 4. Is accompanied by the annual renewal report required under
13 subsection (6) of this section; and

14 5. Is accompanied by a nonrefundable annual license fee that is
15 determined by the commissioner in accordance with Section 10 of this
16 Act.

17 (3) Upon timely receipt of a complete annual license renewal application in
18 accordance with subsection (2) of this section, the commissioner shall:

19 (a) Approve the application if the commissioner determines that the licensee
20 continues to satisfy the requirements of this subtitle for licensure; or

21 (b) Commence proceedings to suspend or revoke the license under Section 21
22 of this Act if the commissioner determines that the licensee does not satisfy
23 the requirements of this subtitle for licensure.

24 (4) The failure of a licensee to comply with subsection (2) of this section shall result
25 in the expiration of the licensee's license by operation of law on January 1 of the
26 following year.

27 (5) (a) The commissioner may reinstate an expired license if, before March 1 of the

1 calendar year in which the license expired:

2 1. The licensee files a complete annual license renewal application in
3 accordance with subsection (2)(b) of this section with the
4 commissioner;

5 2. The licensee pays a late fee of one hundred dollars (\$100) to the
6 commissioner; and

7 3. The commissioner determines that the licensee continues to satisfy the
8 requirements of this subtitle for licensure.

9 (b) Any reinstatement of a license under paragraph (a) of this subsection shall
10 be retroactive to January 1 of the calendar year in which the license
11 expired.

12 (6) Except as provided in subsection (7) of this section, each licensee shall submit an
13 annual renewal report to the commissioner that contains all of the following:

14 (a) A copy of the licensee's current audited annual financial statement that is
15 prepared in accordance with:

16 1. The generally accepted accounting principles; or

17 2. The Public Company Accounting Oversight Board standards;

18 (b) If a person other than a natural person has control of the licensee, a copy of
19 either:

20 1. The person's current annual financial statement; or

21 2. The person's current audited consolidated annual financial statement;

22 (c) A description of the following that have occurred since the original
23 application for a license or the previous annual renewal report was filed,
24 whichever is later:

25 1. Any material change in the licensee's financial condition;

26 2. Any material litigation involving the licensee or a responsible
27 individual;

- 1 3. Any regulatory suspension or revocation, disciplinary proceeding
2 commenced, or other action taken in any state or federal jurisdiction
3 involving a license or other authorization the licensee holds to conduct
4 virtual currency business activity;
- 5 4. Any federal or state investigation or disciplinary action involving the
6 licensee; and
- 7 5. Any data security breach involving the licensee;
- 8 (d) A description of any material changes to the information submitted in the
9 licensee's original application for a license that have not been previously
10 reported to the department:
- 11 1. In the annual renewal report; or
12 2. On any application, report, or notice submitted by the licensee under
13 this subtitle;
- 14 (e) For January 1 to December 31 of the preceding calendar year and January
15 1 to September 30 of the current year:
- 16 1. The number of virtual currency kiosk transactions in this state; and
17 2. The United States dollar amount of virtual currency kiosk transactions
18 in this state;
- 19 (f) As of December 31 of the preceding calendar year and September 30 of the
20 current year:
- 21 1. The amount of United States dollar equivalent of virtual currency in
22 the licensee's possession or control;
- 23 2. The number of residents for whom the licensee had possession or
24 control of virtual currency; and
- 25 3. The amount of United States dollar equivalent of virtual currency in
26 the licensee's possession or control on behalf of residents;
- 27 (g) Evidence that the licensee continues to satisfy the requirements of Section 8

1 of this Act;

2 (h) A list of each location where the licensee conducts virtual currency kiosk
3 business in this state; and

4 (i) The name, physical business address, and telephone number of each person
5 that manages a virtual currency kiosk used by the licensee in conducting its
6 business in this state.

7 (7) A licensee that was not licensed in Kentucky at any time between January 1 and
8 October 31 of a calendar year shall not be required to submit an annual renewal
9 report with its annual license renewal application for the following year.

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

12 (1) As used in this section:

13 (a) "Person" includes any applicant or licensee; and

14 (b) 1. "Tangible net worth" means all business assets less liabilities and
15 intangible assets.

16 2. As used in this paragraph, "intangible assets" includes goodwill,
17 favorable leasehold rights, trademarks, trade names, internet domain
18 names, and noncompete agreements.

19 (2) (a) Except as otherwise provided in this subsection, an applicant shall submit
20 before a license is issued, and a licensee shall at all times maintain, a surety
21 bond in an amount that is not less than one hundred thousand dollars
22 (\$100,000).

23 (b) The commissioner may require an applicant to submit before a license is
24 issued, and a licensee to at all times maintain, a surety bond in an amount
25 in excess of one hundred thousand dollars (\$100,000) but not exceeding
26 seven million dollars (\$7,000,000) if the commissioner determines the
27 additional amount is necessary to cover the nature and extent of risks

1 associated with the person's business plan.

2 (c) A licensee shall increase the minimum amount of its surety bond if:

3 1. An increase is necessary to reflect the United States dollar amount of
4 virtual currency kiosk transactions it conducted in this state in the
5 preceding or current calendar year in accordance with paragraph (d)
6 of this subsection; or

7 2. The commissioner determines an increase is necessary to cover the
8 nature and extent of risks associated with the licensee's virtual
9 currency kiosk business activity in this state, except a licensee shall
10 not be required to maintain a surety bond in excess of seven million
11 dollars (\$7,000,000).

12 (d) United States Dollar Amount of Minimum Surety Bond

13 Virtual Currency Kiosk Transactions Required

14 \$0 to \$5,000,000 \$100,000

15 \$5,000,000.01 to \$10,000,000 \$200,000

16 \$10,000,000.01 to \$15,000,000 \$300,000

17 \$15,000,000.01 to \$20,000,000 \$400,000

18 \$20,000,000.01 to \$25,000,000 \$500,000

19 \$25,000,000.01 to \$30,000,000 \$600,000

20 \$30,000,000.01 to \$35,000,000 \$700,000

21 \$35,000,000.01 to \$40,000,000 \$800,000

22 \$40,000,000.01 to \$45,000,000 \$900,000

23 Over \$45,000,000 \$1,000,000

24 (e) A licensee that is required to increase its surety bond under paragraph (c) of
25 this subsection shall submit to the commissioner evidence that it has
26 secured the additional bond amount:

27 1. If the increase is required under paragraph (c)1. of this subsection,

1 with its annual renewal report submitted under Section 7 of this Act;

2 or

3 2. If the increase is required under paragraph (c)2. of this subsection,
4 not later than thirty (30) days after the licensee is notified by the
5 commissioner in writing of the required increase.

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

7 1. Be issued by an entity authorized to sell insurance in this state in a
8 form satisfactory to the commissioner;

9 2. Hold and bind the principal and surety to the Commonwealth of
10 Kentucky for the benefit of any claimants against the person to secure
11 the person's faithful performance of its obligations in accordance with
12 the requirements of this subtitle, including the payment of unpaid fee
13 amounts and civil monetary penalties due to the department under this
14 subtitle;

15 3. Except as provided in paragraph (e) of this subsection, cover claims
16 brought by a claimant for as long as the commissioner specifies, but
17 not less than five (5) years after the date a person ceases to do
18 business in this state; and

19 4. Be continuous and remain in effect until canceled.

20 (b) The aggregate liability on a surety bond shall not exceed the principal sum
21 of the bond.

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

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

27 (e) The commissioner may permit the amount of a surety bond to be reduced or

1 eliminated after a person ceases to do business in this state to the extent the
2 amount of a person's obligations outstanding in this state are reduced.

3 (4) (a) In addition to the surety bond required under this section and except as
4 provided in paragraph (c) of this subsection, an applicant shall submit
5 before a license is issued, and a licensee shall at all times maintain,
6 evidence of a tangible net worth that is not less than the greater of:

7 1. One hundred thousand dollars (\$100,000); or

8 2. The sum of:

9 a. Three percent (3%) of the person's total assets for the first one
10 hundred million dollars (\$100,000,000);

11 b. Two percent (2%) of the person's additional assets between one
12 hundred million dollars and one cent (\$100,000,000.01) and one
13 billion dollars (\$1,000,000,000); and

14 c. One-half percent (.5%) of the person's additional assets over one
15 billion dollars (\$1,000,000,000).

16 (b) The tangible net worth of an applicant or a licensee shall be clearly
17 evidenced by the audited financial statement submitted by the:

18 1. Applicant in the application for a license submitted under Section 5 of
19 this Act; or

20 2. Licensee in the most recent annual license renewal application
21 submitted under Section 7 of this Act.

22 (c) 1. If an applicant or a licensee materially violates any provision of this
23 subtitle, or any administrative regulation promulgated or order
24 entered or issued by the commissioner in accordance with this subtitle,
25 the commissioner may, at any time, require the applicant or licensee to
26 increase its tangible net worth as a condition to obtaining or
27 maintaining a license.

1 2. An applicant or a licensee that is required to increase its tangible net
 2 worth under this paragraph shall submit to the commissioner evidence
 3 that it has the required additional tangible net worth not later than
 4 thirty (30) days after the applicant or licensee is notified in writing of
 5 the required increase.

6 (d) In determining the additional tangible net worth required under paragraph
 7 (c) of this subsection, the commissioner may consider the following factors:

8 1. The actual and projected volume of the person's virtual currency kiosk
 9 transactions in this state;

10 2. Whether the person is currently licensed or regulated under Subtitle
 11 11 of KRS Chapter 286, and whether the person is in good standing in
 12 that capacity;

13 3. The amount of leverage employed by the person;

14 4. The liquidity position of the person; and

15 5. The products or services offered by the person.

16 (5) The commissioner may promulgate an administrative regulation in accordance
 17 with KRS Chapter 13A, or enter an order, to do any of the following:

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

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

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

22 (1) (a) Except as provided in paragraph (b) of this subsection, a person shall not
 23 take any action that results in a change of control of a licensee without:

24 1. Providing the notice required under subsection (2) of this section; and

25 2. Obtaining the prior written approval of the commissioner in
 26 accordance with subsection (3) of this section.

27 (b) This subsection shall not apply to a public offering of securities under the

1 laws of the United States.

2 (2) (a) A licensee shall file a complete notice of a proposed change of control of the
3 licensee with the commissioner:

4 1. Within fifteen (15) days of learning of the proposed change of control;

5 and

6 2. At least forty-five (45) days prior to the proposed change of control.

7 (b) A notice of a proposed change of control shall not be complete unless it:

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

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

10 3. Contains the name, address, and occupation of each new proposed
11 managing officer and director, general partner, or managing member,
12 as may be applicable; and

13 4. Contains any other information the commissioner determines is
14 necessary to provide reasonable notice of the licensee's proposed
15 change of control.

16 (3) (a) A person seeking to acquire control of a licensee shall file a complete
17 application for approval of the change of control with the commissioner at
18 least forty-five (45) days prior to the proposed change of control.

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

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

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

23 3. Contains, and is accompanied by, any or all of the information,
24 documentation, and evidence required for an applicant under Section
25 5 of this Act that the commissioner determines is necessary and
26 appropriate for the purpose of making the determination under
27 paragraph (c) of this subsection; and

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

3 (c) Upon receipt of a complete application for approval of a change of control
4 and subject to Section 20 of this Act, the commissioner shall:

5 1. Approve the application if the commissioner determines that the
6 person satisfies the requirements of this subtitle for obtaining a
7 license; or

8 2. a. Issue a notice of intent to deny the application if the
9 commissioner determines that the person does not satisfy the
10 requirements of this subtitle for obtaining a license.

11 b. A notice of intent to deny an application for approval of a
12 change of control shall specify the requirements of this subtitle
13 that the person does not satisfy.

14 (4) (a) The commissioner may determine whether any set of facts or circumstances
15 of a person constitutes, or would constitute, control for purposes of this
16 section.

17 (b) Any of the following may make a request to the commissioner for a
18 determination under paragraph (a) of this subsection:

19 1. A licensee; or

20 2. Any person that seeks to acquire control of a licensee.

21 (5) (a) A licensee shall provide the commissioner a complete notice of the
22 termination or resignation of a responsible individual within fifteen (15)
23 days of the termination or resignation.

24 (b) A notice of termination or resignation of a licensee's responsible individual
25 shall not be complete unless it:

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

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

- 1 3. Contains the information that the commissioner determines is
2 necessary to provide reasonable notice of the licensee's change in
3 responsible individual.
- 4 (6) (a) A licensee shall obtain the prior written approval of the commissioner in
5 accordance with this subsection prior to adding or replacing a responsible
6 individual.
- 7 (b) A licensee shall file a complete application for approval of the addition or
8 replacement of a responsible individual with the commissioner.
- 9 (c) An application for approval of the addition or replacement of a responsible
10 individual shall not be complete unless it:
- 11 1. Is made in writing, under oath or affirmation;
12 2. Is in the format required by the commissioner; and
13 3. Contains, and is accompanied by, any or all of the information,
14 documentation, and evidence relating to responsible individuals under
15 Section 6 of this Act that the commissioner determines is necessary
16 and appropriate for the purpose of making the determination under
17 paragraph (d) of this subsection.
- 18 (d) Upon receipt of a complete application for approval of the addition or
19 replacement of a responsible individual and subject to Section 20 of this
20 Act, the commissioner shall:
- 21 1. Approve the application if the commissioner determines that the
22 licensee will continue to satisfy the requirements of this subtitle for
23 obtaining a license after the addition or replacement; or
- 24 2. a. Issue a notice of intent to deny the application if the
25 commissioner determines that the addition or replacement will
26 cause the licensee to no longer satisfy the requirements of this
27 subtitle for obtaining a license.

1 *b. A notice of intent to deny an application for approval of the*
2 *addition or replacement of a responsible individual shall specify*
3 *the requirements of this subtitle that the licensee will not satisfy*
4 *if the addition or replacement is made.*

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

7 *(1) Subject to subsection (2) of this section, the commissioner shall promulgate*
8 *administrative regulations in accordance with KRS Chapter 13A to establish:*
9 *(a) The format of, and manner of submission for, applications, notices, and*
10 *reports required under this subtitle;*
11 *(b) The nonrefundable application fee required under Section 5 of this Act;*
12 *(c) The nonrefundable annual license fee required under Section 7 of this Act;*
13 *(d) Any additional information, documentation, or evidence that the*
14 *commissioner may require under Section 6 or 9 of this Act;*
15 *(e) The information, documentation, and evidence that shall be contained in, or*
16 *accompany:*
17 *1. An annual license renewal application submitted in accordance with*
18 *Section 7 of this Act; and*
19 *2. An application or notice submitted in accordance with Section 9 of*
20 *this Act;*
21 *(f) Any additional books, accounts, or records the commissioner may require*
22 *under Section 11 of this Act;*
23 *(g) Any additional information the commissioner may require to be contained*
24 *in a quarterly financial report under Section 12 of this Act;*
25 *(h) Any additional disclosures or information the commissioner may require*
26 *under Section 14 of this Act; and*
27 *(i) Any additional policies or procedures the commissioner may require under*

1 Section 16 of this Act.

2 (2) The nonrefundable fees required under Sections 5 and 7 of this Act shall be
 3 determined based on a reasonable estimation of the amount required to cover the
 4 reasonable costs to the department to review, investigate, and process the relevant
 5 applications.

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

8 (1) Each licensee, and any other person required to be licensed under this subtitle,
 9 shall:

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

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

15 1. A minimum of five (5) years after making the final entry with respect
 16 to any virtual currency kiosk transaction recorded therein; or

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

19 a. Other state or federal law; or

20 b. The commissioner to resolve any examination, investigation, or
 21 claim.

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

23 (a) For each virtual currency kiosk transaction:

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

25 2. Any payment instructions for the transaction;

26 3. The total amount of fees and charges received by and paid to the
 27 licensee or person, including any fees and charges received on behalf

- 1 of the licensee or person; and
- 2 4. The names, account numbers, and physical addresses of the parties to
- 3 the transaction;
- 4 (b) A general ledger containing all assets, liabilities, ownership equity, income,
- 5 and expense accounts;
- 6 (c) Bank statements and bank reconciliation records;
- 7 (d) Any statement and valuation provided to customers and account holders;
- 8 (e) Records or minutes of meetings of the board of directors or an equivalent
- 9 governing body of the licensee or person;
- 10 (f) Records demonstrating compliance with applicable state and federal anti-
- 11 money laundering laws, including customer and account holder
- 12 identification and verification documents, records linking customers and
- 13 account holders to their respective accounts and balances, and a record of
- 14 any compliance breaches;
- 15 (g) Communications and documentation related to:
- 16 1. Investigations of customer and account holder complaints; and
- 17 2. Transaction error resolutions;
- 18 (h) The policies and procedures required under Section 16 of this Act; and
- 19 (i) Any other books, accounts, or records that are required by the
- 20 commissioner for determining whether a licensee or person is in
- 21 compliance with this subtitle, including with any administrative regulation
- 22 promulgated, or order issued or entered, under this subtitle.
- 23 (3) The books, accounts, and records that are required to be maintained under this
- 24 section:
- 25 (a) May be maintained in any electronic format consistent with the licensee's or
- 26 person's ordinary business practices unless the licensee or person receives
- 27 specific written instructions from the commissioner to the contrary;

1 (b) Shall be maintained separate and apart from any other business in which
 2 the licensee or person is involved;

3 (c) Shall be kept at the licensee's or person's principal office or an office
 4 located in this state unless otherwise permitted in writing by the
 5 commissioner; and

6 (d) Shall be made available for review or examination at a nonresidential
 7 location approved by the commissioner.

8 (4) If the books, accounts, and records of any licensee or person described in this
 9 section are located outside of this state, the licensee or person shall:

10 (a) Make the books, accounts, and records available to the commissioner at a
 11 nonresidential location within this state that is convenient to the
 12 commissioner; or

13 (b) Pay the reasonable and necessary expenses for the commissioner or the
 14 commissioner's designee to examine the books, accounts, and records at a
 15 nonresidential location outside of this state.

16 (5) The commissioner may designate representatives, including comparable officials
 17 of the state in which books, accounts, and records are located, to inspect a
 18 licensee's or person's books, accounts, and records on the commissioner's behalf.

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

21 (1) (a) Within forty-five (45) days following the close of each calendar quarter, a
 22 licensee shall file complete quarterly financial reports with the
 23 commissioner.

24 (b) A quarterly financial report required under paragraph (a) of this subsection
 25 shall not be complete unless the report:

26 1. Is in writing;

27 2. Is in a format prescribed by the commissioner; and

- 1 3. Contains:
- 2 a. A statement of the financial condition of the licensee that
- 3 includes, in United States dollars:
- 4 i. A balance sheet and income statement;
- 5 ii. Virtual currency kiosk transaction information; and
- 6 iii. Any investments;
- 7 b. Any other information required by the commissioner; and
- 8 c. A certification by an officer or member of the licensee's board of
- 9 directors or equivalent governing body that attests to the truth
- 10 and correctness of the report.

11 (2) The commissioner may, by order, require additional special reports from

12 licensees as the commissioner deems necessary for the proper supervision of

13 licensees under this subtitle.

14 ➔SECTION 13. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

15 IS CREATED TO READ AS FOLLOWS:

16 (1) To the extent a licensee stores, holds, or maintains custody or control of virtual

17 currency on behalf of a resident, the licensee shall hold virtual currency of the

18 same type and amount as that which is owed or obligated to the resident.

19 (2) A licensee shall not sell, transfer, assign, lend, hypothecate, pledge, or otherwise

20 use or encumber assets, including virtual currency, stored, held, or maintained

21 by, or under the custody or control of, the licensee on behalf of a resident, except

22 for the sale, transfer, or assignment of such assets at the direction of the resident.

23 (3) Except as provided in subsection (4) of this section, a licensee shall not do any of

24 the following:

25 (a) Commingle assets belonging to a resident with assets belonging to the

26 licensee;

27 (b) Use a resident's assets to secure or guarantee a transaction other than a

1 transaction involving, or on behalf of, the resident's contributing assets;

2 (c) Maintain a resident's assets in such a manner that the resident may be
 3 unable to fully withdraw his or her assets; or

4 (d) Invest in such a manner that would not allow for sufficient assets, including
 5 virtual currency, to fulfill all outstanding obligations to a resident.

6 (4) In order to ensure compliance with the requirements of subsection (3) of this
 7 section, a licensee may include the amount of its assets in the same account with
 8 the assets of residents if:

9 (a) The licensee's assets are solely for the:

10 1. Purpose of facilitating, selling, transferring, assigning, lending,
 11 hypothecating, pledging, using, or encumbering assets, including
 12 virtual currency, stored, held, or maintained by, or under the custody
 13 or control of, the licensee on behalf of residents; and

14 2. Operational needs related to the activities referenced in subparagraph
 15 1. of this paragraph;

16 (b) The licensee's assets are deemed resident assets; and

17 (c) The licensee, or any creditor of the licensee, may withdraw or assert a claim
 18 on the assets only to the extent of the amount that exceeds the amount of
 19 resident assets.

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

22 (1) As used in this section:

23 (a) "Existing virtual currency kiosk user" means a virtual currency kiosk user
 24 on any day that the user enters a virtual currency kiosk transaction with the
 25 licensee following six (6) calendar days after the user's first virtual currency
 26 kiosk transaction with the licensee;

27 (b) "New virtual currency kiosk user" means a virtual currency kiosk user:

- 1 1. On the day of the user's first virtual currency kiosk transaction with
2 the licensee; and
- 3 2. For six (6) calendar days thereafter;
- 4 (c) "Virtual currency kiosk charges" means all of the following:
- 5 1. Fees and expenses charged to a virtual currency kiosk user; and
6 2. The difference between the market price of virtual currency and the
7 price of the virtual currency charged to a virtual currency kiosk user;
- 8 (d) "Virtual currency wallet" means a software application or other
9 mechanism providing a means to hold the keys necessary to access and
10 transfer virtual currency; and
- 11 (e) "Virtual currency wallet address" means an alphanumeric identifier
12 associated with a virtual currency wallet that identifies the location to which
13 a virtual currency transaction can be sent.
- 14 (2) (a) With regard to virtual currency kiosk business in this state, a licensee shall:
- 15 1. Except as provided in paragraph (c) of this subsection, have maximum
16 virtual currency kiosk transaction limits that do not exceed the
17 following:
- 18 a. Three thousand dollars (\$3,000) per day for all virtual currency
19 kiosk transactions entered with a new virtual currency kiosk
20 user;
- 21 b. Ten thousand five hundred dollars (\$10,500) per day for all
22 virtual currency kiosk transactions entered with an existing
23 virtual currency kiosk user; and
- 24 c. i. Ten thousand five hundred dollars (\$10,500) for all virtual
25 currency kiosk transactions entered with a virtual currency
26 kiosk user during the thirty (30) day period beginning on
27 the day of the user's first virtual currency kiosk transaction

1 with the licensee.
2 ii. Any virtual currency kiosk transactions entered by a virtual
3 currency kiosk user with the licensee after the thirty (30)
4 day period beginning on the day of the user's first virtual
5 currency kiosk transaction with the licensee shall not be
6 subject to subpart i. of this subdivision;

7 2. Either:

8 a. Wait seventy-two (72) hours before processing a virtual currency
9 kiosk transaction in this state for a new virtual currency kiosk
10 user; or

11 b. At the licensee's cost, allow a new virtual currency kiosk user to
12 cancel, and receive a full refund for, a virtual currency kiosk
13 transaction in this state within seventy-two (72) hours after the
14 transaction;

15 3. Not collect, directly or indirectly, virtual currency kiosk charges from
16 a virtual currency kiosk user for any single virtual currency kiosk
17 transaction in this state that exceeds the greater of:

18 a. Five dollars (\$5); or

19 b. Fifteen percent (15%) of the value, in United States dollars, of
20 the transaction;

21 4. Provide live customer service via a toll-free telephone number during
22 the operating hours of each virtual currency kiosk; and

23 5. Provide the following notices at each virtual currency kiosk:

24 a. The following warning, stating in substantially similar form:

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

26 If someone asked you to deposit money in this machine and/or is

27 on the phone with you and claims to be a:

- 1 - Friend or family member;
 2 - Government agent;
 3 - Computer software representative;
 4 - Bill collector;
 5 - Law enforcement officer; or
 6 - Anyone you do not know personally;

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

11 b. The name, address, and toll-free customer service telephone
 12 number of the licensee;

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

15 d. The dedicated United States telephone number or email address
 16 for law enforcement and the department, as required under
 17 subsection (7) of Section 16 of this Act.

18 (b) The notices required under paragraph (a)5. of this subsection shall be:

19 1. Clear, conspicuous, and in legible writing;

20 2. In the English language; and

21 3. In at least twenty (20) point font.

22 (c) 1. The commissioner shall, by order, annually increase the maximum
 23 virtual currency kiosk transaction limits established in paragraph (a)1.
 24 of this subsection.

25 2. The adjustment required under subparagraph 1. of this paragraph
 26 shall be:

27 a. Calculated based on the percent change in the nonseasonally

1 adjusted annual average Consumer Price Index for all Urban
2 Consumers (CPI-U), U.S. City Average, All Items, between the
3 two (2) most recent calendar years available, as published by the
4 United States Bureau of Labor Statistics; and

5 b. Rounded up to the nearest ten dollars (\$10).

6 3. The maximum virtual currency kiosk transaction limits established in
7 paragraph (a)1. of this subsection shall not be decreased due to
8 deflation.

9 (3) (a) Prior to entering a virtual currency kiosk transaction with a virtual
10 currency kiosk user in this state, a licensee shall:

11 1. Provide accurate and appropriate disclosures to the user; and

12 2. Obtain an acknowledgment from the user that the user received the
13 disclosures.

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

15 1. Describe the terms and conditions of the transaction, including
16 without limitation:

17 a. The amount of the transaction; and

18 b. A description of all virtual currency kiosk charges;

19 2. Describe all material risks associated with the virtual currency kiosk
20 transaction, including without limitation:

21 a. Virtual currency is not legal tender in the United States, is not
22 backed by the United States government, and accounts and value
23 balances are not subject to Federal Deposit Insurance
24 Corporation or Securities Investor Protection Corporation
25 protections;

26 b. Legislative and regulatory changes or actions at the state,
27 federal, or international level may adversely affect the value of

- 1 virtual currency;
- 2 c. Transactions in virtual currency may be irreversible, and
- 3 accordingly, losses due to fraudulent or accidental transactions
- 4 may not be recoverable;
- 5 d. Some virtual currency transactions may be immediately effective
- 6 when recorded on a public ledger, which is not necessarily the
- 7 date or time that the user initiates the transaction;
- 8 e. The value of virtual currency may be derived from the continued
- 9 willingness of market participants to exchange legal tender for
- 10 virtual currency, which may result in the potential for permanent
- 11 and total loss of value of a particular virtual currency if the
- 12 market for the virtual currency declines or collapses for an
- 13 extended period of time;
- 14 f. Any surety bond required by Section 8 of this Act for the benefit
- 15 of virtual currency kiosk users may not be sufficient to cover all
- 16 losses incurred by the users;
- 17 g. Virtual currency kiosk users should perform research before
- 18 purchasing or investing in virtual currency; and
- 19 h. The circumstances under which the licensee will, in the ordinary
- 20 course of business, disclose the virtual currency kiosk user's
- 21 financial and account information to third parties;
- 22 3. Include any additional information the commissioner determines is
- 23 necessary and appropriate to disclose to virtual currency kiosk users;
- 24 4. Be made separately from any other information provided by a
- 25 licensee;
- 26 5. Be clear, conspicuous, and in legible writing; and
- 27 6. Be in the English language.

1 (4) (a) Upon completion of a virtual currency kiosk transaction in this state, a
 2 licensee shall provide a receipt in paper or electronic retainable form, as
 3 designated under paragraph (b) of this subsection, to the virtual currency
 4 kiosk user that contains all of the following information:

5 1. The name and toll-free customer service telephone number of the
 6 licensee;

7 2. That the licensee is available at the contact information provided on
 8 the receipt to answer questions and register complaints;

9 3. The type, value, date, and precise time of the transaction;

10 4. Each applicable virtual currency wallet address and transaction hash,
 11 where available;

12 5. A description of all virtual currency kiosk charges;

13 6. The exchange rate, if applicable;

14 7. The licensee's liability for nondelivery or delayed delivery;

15 8. The licensee's refund policy; and

16 9. Any additional information required by the commissioner.

17 (b) Each virtual currency kiosk user shall be provided the option to receive a
 18 paper or electronic receipt for each virtual currency kiosk transaction.

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

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

23 It shall be a violation of this subtitle for an applicant, a licensee, or any other person to
 24 do any of the following:

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

27 (a) Directly or indirectly employ any scheme, device, or artifice to defraud or

1 mislead, when the applicant, licensee, or person should have known that the
2 scheme, device, or artifice was defrauding or misleading; or

3 (b) Engage in any:

4 1. Unfair or deceptive practice; or

5 2. Other act or conduct that would warrant the denial, suspension, or
6 revocation of a license under Section 21 of this Act;

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

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

11 1. A state or federal government agency;

12 2. The registry, as defined in Section 4 of this Act; or

13 3. Any agency or authority, as part of a nationwide licensing system, that
14 is designated by the commissioner to accept filings under Section 4 of
15 this Act; or

16 (b) Any investigation or examination conducted by the commissioner or any
17 other state or federal government agency relating to virtual currency kiosk
18 business in this state; or

19 (3) Fail to truthfully account for any assets in connection with any virtual currency
20 kiosk transaction in this state.

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

23 (1) Each licensee shall:

24 (a) Adopt and implement appropriate compliance policies and procedures that:

25 1. Are in writing;

26 2. Are reviewed and approved by the licensee's board of directors or
27 equivalent governing body; and

- 1 **3. Address:**
- 2 **a. The prevention of fraud and money laundering;**
- 3 **b. Cybersecurity, the privacy of personal information, and**
- 4 **information security; and**
- 5 **c. Any other subjects required by the commissioner; and**
- 6 **(b) Designate one (1) or more qualified natural persons who are responsible for**
- 7 **coordinating and monitoring the licensee's compliance with this section and**
- 8 **all other applicable state and federal laws, including all administrative**
- 9 **regulations, rules, and orders promulgated, issued, or entered thereunder.**
- 10 **(2) (a) A licensee shall use blockchain analytics software to assist in the prevention**
- 11 **of sending purchased virtual currency from the licensee to a digital wallet**
- 12 **known to be affiliated with fraudulent activity at the time of a transaction.**
- 13 **(b) The commissioner may request evidence from any licensee of current use of**
- 14 **blockchain analytics.**
- 15 **(3) (a) A licensee shall take reasonable steps to detect and prevent fraud.**
- 16 **(b) The anti-fraud policy required under paragraph (a) of this subsection shall**
- 17 **include, at a minimum:**
- 18 **1. The identification and assessment of fraud-related risk areas;**
- 19 **2. Procedures, controls, and monitoring mechanisms to protect against**
- 20 **identified risks;**
- 21 **3. Allocation of responsibility for monitoring risks; and**
- 22 **4. Procedures for the periodic evaluation and revision of the anti-fraud**
- 23 **procedures, controls, and monitoring mechanisms.**
- 24 **(4) (a) Each licensee shall implement, maintain, and enforce a written enhanced**
- 25 **due diligence policy.**
- 26 **(b) The enhanced due diligence policy shall:**
- 27 **1. Be reviewed and approved by the licensee's board of directors or**

- 1 equivalent governing body; and
- 2 2. At a minimum, establish protocols to identify individuals who are at
- 3 risk of fraud based on age or mental capacity.
- 4 (5) (a) Prior to accepting payment from any virtual currency kiosk user in this
- 5 state, a licensee shall verify the identity of the user.
- 6 (b) To comply with paragraph (a) of this subsection, the licensee, or the
- 7 licensee's authorized delegate, shall:
- 8 1. Obtain a copy of a government-issued identification card that
- 9 identifies the virtual currency kiosk user; and
- 10 2. Collect additional information about the virtual currency kiosk user,
- 11 including the user's:
- 12 a. Name;
- 13 b. Date of birth;
- 14 c. Telephone number;
- 15 d. Physical address; and
- 16 e. Email address.
- 17 (c) A licensee shall not allow a virtual currency kiosk user to engage in a
- 18 virtual currency kiosk transaction under or using any name, account, or
- 19 identity that is not the user's own true name, account, or identity.
- 20 (6) (a) As used in this subsection, the following have the same meaning as in
- 21 Section 14 of this Act:
- 22 1. "Existing virtual currency kiosk user";
- 23 2. "New virtual currency kiosk user"; and
- 24 3. "Virtual currency kiosk charges."
- 25 (b) Upon request of a virtual currency kiosk user, a licensee shall issue a
- 26 refund to the user for each virtual currency kiosk transaction in this state
- 27 that satisfies all of the following:

- 1 1. The user was fraudulently induced to engage in the transaction;
- 2 2. The user reported the fraud within ninety (90) days of the transaction
- 3 to:
- 4 a. The licensee; and
- 5 b. One (1) of the following:
- 6 i. The department; or
- 7 ii. Any relevant state or local law enforcement agency; and
- 8 3. The user submitted proof of the fraud to the licensee and the person
- 9 referenced in subparagraph 2.b. of this paragraph, which may include
- 10 one (1) of the following:
- 11 a. A police report; or
- 12 b. A sworn statement made to the department or licensee;
- 13 that details the fraudulent nature of the transaction.
- 14 (c) The refund required under paragraph (b) of this subsection shall be:
- 15 1. In the following amounts:
- 16 a. For a new virtual currency kiosk user, in the full amount of the
- 17 virtual currency kiosk transaction, including all virtual currency
- 18 kiosk charges; and
- 19 b. For an existing virtual currency kiosk user, in the amount of the
- 20 virtual currency kiosk charges;
- 21 2. Paid in the originating currency; and
- 22 3. Made to a virtual currency kiosk user by the licensee within seventy-
- 23 two (72) hours after the requirements of paragraph (b) of this
- 24 subsection are satisfied.
- 25 (7) (a) A licensee shall provide a dedicated and frequently monitored
- 26 communications line for law enforcement and the department, via a United
- 27 States telephone number or email address posted on each virtual currency

1 kiosk in accordance with Section 14 of this Act, to be used by the agencies
 2 to facilitate communications with the licensee in the event of a report from a
 3 virtual currency kiosk user of fraud or suspected fraud.

4 (b) Upon request from law enforcement or the department, a licensee shall:

5 1. Provide the agency with its trace findings; and

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

8 (c) A licensee shall cooperate with law enforcement and the department in the
 9 investigation of fraud and other unlawful activity, which shall include
 10 without limitation:

11 1. Promptly complying with lawful subpoenas, court orders, and other
 12 official requests for records or information relating to virtual currency
 13 kiosk transactions or virtual currency kiosk users;

14 2. Responding in good faith to lawful requests relating to fraud involving
 15 a virtual currency kiosk; and

16 3. Designating a point of contact for communication with law
 17 enforcement and the department regarding fraud-related matters.

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

20 (1) The commissioner may conduct an investigation of any licensee or other person
 21 within or outside this state that he or she deems necessary to:

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

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

26 (2) (a) The commissioner may conduct routine examinations of the virtual
 27 currency kiosk affairs, business, offices, books, accounts, and records of

1 licensees.

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

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

8 (3) To the extent necessary to conduct any investigation or examination authorized
9 under this section, the commissioner may:

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

12 (b) Administer oaths and affirmations; and

13 (c) Examine under oath or affirmation all persons whose testimony he or she
14 may require.

15 (4) As a condition of licensure under this subtitle, a licensee shall, by operation of
16 law, be deemed to consent to any examination or investigation conducted under
17 this section, whether or not prior notice is given to the licensee.

18 (5) When conducting an investigation or examination, the commissioner may do any
19 of the following:

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

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

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

27 (6) (a) Except as provided in paragraph (b) of this subsection and Section 18 of

1 this Act, a routine examination report, related correspondence, and
 2 examination-related information shall be considered confidential by law,
 3 privileged, and not subject to disclosure under KRS 61.870 to 61.884.

4 (b) A licensee:

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

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

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

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

18 (a) Be confidential by law and privileged;

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

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

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

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

6 (3) In order to assist in the performance of the commissioner's duties, the
7 commissioner may do one (1) or more of the following:

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

11 1. In accordance with Section 4 of this Act;

12 2. In accordance with a joint, concurrent, or multistate investigation or
13 examination conducted under Section 17 of this Act; or

14 3. In accordance with a written cooperation, coordination, or
15 information-sharing contract or agreement that:

16 a. Assists in the performance of the commissioner's duties;

17 b. Improves efficiencies or reduces regulatory burden through
18 standardized methods, procedures, or information sharing;

19 c. Is entered into with one (1) or more of the following:

20 i. Other state or federal regulators of virtual currency
21 businesses; or

22 ii. Organizations made up of other state regulators of virtual
23 currency businesses; and

24 d. Maintains the confidentiality and privileged status of shared
25 documents, materials, reports, and information;

26 (b) Report apparent violations of law to:

27 1. Other state or federal regulators of virtual currency businesses;

- 1 2. The registry, as defined in Section 4 of this Act; or
- 2 3. Law enforcement agencies of this state, any other state, or the federal
- 3 government;
- 4 (c) Disclose to the public:
- 5 1. A list of licensees;
- 6 2. Licensure information for licensees as provided under Section 3 of
- 7 this Act;
- 8 3. A licensee's registered agent for service of process in this state;
- 9 4. The aggregate financial data of licensees; or
- 10 5. Violations of this subtitle, enforcement actions, and other relevant
- 11 information that the commissioner deems necessary to carry out the
- 12 purposes of this subtitle;
- 13 (d) Disclose and use documents, materials, reports, and other information in
- 14 the commissioner's possession or control, including otherwise confidential
- 15 and privileged documents, materials, reports, and other information, in
- 16 furtherance of any regulatory or legal action brought as part of the
- 17 commissioner's official duties;
- 18 (e) Receive any documents, materials, reports, or other information, including
- 19 otherwise confidential and privileged documents, materials, reports, or
- 20 other information, from any source;
- 21 (f) Agree to maintain the confidentiality and privileged status of any
- 22 documents, materials, reports, or information received;
- 23 (g) Enter into agreements or relationships with other government officials,
- 24 federal and state regulatory agencies, and regulatory associations;
- 25 (h) Use, hire, contract, or employ analytical systems, methods, or software;
- 26 (i) Consider, accept, and rely upon audit reports prepared by an independent
- 27 certified public accountant or other qualified third-party auditor for any

- 1 person subject to this subtitle; or
- 2 (j) Incorporate all or part of any audit report referenced in paragraph (i) of
- 3 this subsection into an examination or investigation report.
- 4 (4) A waiver of any applicable privilege or claim of confidentiality in documents,
- 5 materials, reports, or other information shall not occur as a result of a disclosure:
- 6 (a) To the commissioner under this section; or
- 7 (b) That is made under subsection (3)(a) of this section.

8 ➔SECTION 19. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

9 IS CREATED TO READ AS FOLLOWS:

- 10 (1) By July 1 of each year, the commissioner shall submit a written report on the
- 11 licensing of virtual currency kiosk businesses in Kentucky to the Legislative
- 12 Research Commission for referral to the Interim Joint Committee on Banking
- 13 and Insurance.
- 14 (2) The written report required under subsection (1) of this section shall contain, at a
- 15 minimum, the following information, by calendar year:
- 16 (a) The number of applications made for a license;
- 17 (b) The number of applicants who have a license to engage in money
- 18 transmission;
- 19 (c) The number of licenses granted;
- 20 (d) The number of applicants who have been denied a license; and
- 21 (e) A list of fees that applicants are required to pay.

22 ➔SECTION 20. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

23 IS CREATED TO READ AS FOLLOWS:

- 24 (1) As used in this section, "person" includes any applicant or licensee.
- 25 (2) (a) The commissioner shall serve written notice on an applicant prior to:
- 26 1. Conditionally issuing a license; or
- 27 2. Denying an application for any of the following:

- 1 a. A license;
2 b. A change of control; or
3 c. The replacement or addition of a responsible individual.

4 (b) An applicant that is served a notice under paragraph (a) of this subsection
5 shall be entitled to an administrative hearing on the notice conducted in
6 accordance with KRS Chapter 13B if the applicant files a written request
7 for a hearing with the commissioner within twenty (20) days of the date of
8 service.

9 (3) (a) The commissioner shall serve an administrative complaint on a person:

10 1. Prior to doing any of the following:

11 a. Suspending or revoking a person's license under Section 21 of
12 this Act;

13 b. Entering a cease and desist order against the person under
14 Section 23 of this Act; or

15 c. Entering an order against the person to pay any fee or penalty,
16 or provide any remedy, authorized under this subtitle; and

17 2. Simultaneous with the service of an emergency order on the person
18 under Section 22 of this Act.

19 (b) Except as provided in paragraph (c) of this subsection, a person that is
20 served an administrative complaint under paragraph (a) of this subsection
21 shall be entitled to an administrative hearing on the complaint conducted in
22 accordance with KRS Chapter 13B if the person files both of the following
23 with the commissioner within twenty (20) days of the date of service:

24 1. A written answer to the complaint; and

25 2. A request for hearing.

26 (c) A person that complies with paragraph (b) of this subsection in response to
27 an administrative complaint and emergency order entered under Section 22

1 of this Act shall be entitled to an emergency administrative hearing
 2 conducted in accordance with KRS 13B.125.

3 (4) (a) Except as provided in paragraph (b) of this subsection, the commissioner
 4 shall serve any notice, complaint, or emergency order referenced in this
 5 section by certified mail or personal delivery to the person's last known
 6 address of record or upon the person's agent for service of process.

7 (b) If the commissioner is unable to reasonably determine a person's last
 8 known address of record or agent for service of process, the commissioner
 9 may serve a notice, a complaint, or an emergency order by certified mail or
 10 personal delivery to any owner or operator of the premises or real property
 11 upon which the person's virtual currency kiosk or kiosks are located.

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

13 (6) If any person fails to timely file a request for hearing under subsection (2) of this
 14 section, or a written answer and request for hearing under subsection (3) of this
 15 section, the commissioner may, as applicable and subject to KRS Chapter 13B,
 16 enter a final order:

17 (a) Taking the action that was:

18 1. Set forth in the notice; or

19 2. Sought in the complaint; or

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

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

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

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

27 (1) As used in this section, "unsafe or unsound act or practice" means any of the

1 following:

2 (a) An act or practice that creates a likelihood of material loss, insolvency, or
3 dissipation of assets that materially prejudices the:

4 1. Financial condition of an applicant or a licensee; or

5 2. Interests of an applicant's or a licensee's customers; or

6 (b) Any other act or practice determined by the commissioner to be unsafe or
7 unsound in accordance with the requirements of this subtitle or other
8 applicable law.

9 (2) Subject to Section 20 of this Act and KRS 335B.020, the commissioner may deny,
10 suspend, or revoke a license if the commissioner finds one (1) or more of the
11 following:

12 (a) The applicant or licensee has:

13 1. Violated any provision of this subtitle;

14 2. Violated any consent order or compliance agreement entered into with
15 the commissioner;

16 3. Engaged in:

17 a. An unsafe or unsound act or practice;

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

19 c. Fraud or intentional misrepresentation; or

20 d. A misappropriation of legal tender, virtual currency, or other
21 value held by a fiduciary;

22 4. Misrepresented material facts or made a false promise likely to
23 influence, persuade, or induce a resident to engage in a virtual
24 currency kiosk transaction;

25 5. Misrepresented or concealed a material fact, term, or condition of a
26 virtual currency kiosk transaction;

27 6. Knowingly engaged in a transaction, practice, or course of business

1 that perpetrates a fraud upon any person in connection with a virtual
2 currency kiosk transaction;

3 7. Failed to exchange, transfer, or store, without just cause, any funds in
4 accordance with any agreement connected with a virtual currency
5 kiosk business;

6 8. Failed to account for or deliver to any person any legal tender, virtual
7 currency, precious metals, electronic certificates, or other assets
8 obtained in connection with a virtual currency kiosk business;

9 9. Refused to permit, or failed to cooperate substantially with, an
10 investigation or examination under this subtitle;

11 10. Failed, within a reasonable time, to furnish any information or file
12 any report required, or otherwise requested by the commissioner,
13 under this subtitle;

14 11. Knowingly employed or contracted with a responsible individual that
15 has been convicted of, pled guilty to, or pled nolo contendere to a
16 felony; or

17 12. Has had any license, registration, claim of exemption, or other
18 authorization to do business relating to the financial services industry
19 denied, revoked, suspended, conditioned, restricted, probated, or
20 terminated by any state or federal jurisdiction;

21 (b) The applicant or licensee:

22 1. Is insolvent;

23 2. Has made a general assignment for the benefit of its creditors;

24 3. Has:

25 a. Become the debtor, alleged debtor, respondent, or person in a
26 similar capacity in a case or other proceeding under any
27 bankruptcy, reorganization, arrangement, readjustment,

- 1 insolvency, receivership, dissolution, liquidation, or similar law;
2 and
3 b. Not obtained from a court, within a reasonable time,
4 confirmation of a plan or dismissal of the case or proceeding; or
5 4. Has applied for, or has permitted the appointment of, a receiver,
6 trustee, or other agent of a court for itself or for a substantial part of
7 its assets;
8 (c) The applicant or licensee has knowingly made or provided, or caused to be
9 made or provided, to the commissioner one (1) or more of the following:
10 1. A material misrepresentation; or
11 2. A false or fraudulent:
12 a. Material fact; or
13 b. Financial statement;
14 (d) The applicant or licensee suppressed or withheld from the commissioner
15 any information which, if submitted by the applicant or licensee, warrants
16 or would have warranted the commissioner denying a license; or
17 (e) Any fact or condition exists that warrants, or would have warranted, the
18 commissioner denying a license.
19 (3) Subsection (2)(a)1. of this section includes, without limitation, all of the
20 following:
21 (a) Violating any administrative regulation promulgated, or order of general
22 application issued, under this subtitle;
23 (b) Failing to pay any fee, civil penalty, cost, or surety claim that is owed by the
24 applicant or licensee under this subtitle;
25 (c) Violating the written conditions under which a license was issued, renewed,
26 or maintained; and
27 (d) Failing to comply with a lawful order or subpoena entered by the

1 commissioner.

2 (4) (a) The commissioner may, at any time, impose conditions on a license if the
 3 commissioner finds that the conditions are necessary for a licensee to
 4 continue to satisfy the requirements of this subtitle for licensure.

5 (b) The licensee shall file a written acceptance of the conditions imposed under
 6 paragraph (a) of this subsection with the commissioner within thirty (30)
 7 days of being served notice of the conditions.

8 (c) The commissioner shall suspend or revoke the license of a licensee that fails
 9 to comply with paragraph (b) of this subsection.

10 (5) Any person, responsible individual of a licensee, or person in control of a licensee
 11 whose license has been revoked shall not be eligible to apply for a license, to serve
 12 as a responsible individual, or to serve as a person in control of a licensee:

13 (a) For the first revocation, until three (3) years after the date of revocation;

14 and

15 (b) For any subsequent revocation, permanently.

16 (6) The surrender or expiration of a license shall not affect a proceeding to suspend
 17 or revoke a license.

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

20 (1) As used in this section, "emergency order" means an order that does one (1) or
 21 more the following without prior notice and hearing:

22 (a) Suspends any license; or

23 (b) Directs any peace officer to:

24 1. Seize or impound a virtual currency kiosk, including any contents
 25 thereof; or

26 2. Render a virtual currency kiosk inoperable.

27 (2) Subject to Section 20 of this Act, the commissioner may enter an emergency order

1 against any licensee or other person, pending further investigation, the entry of a
 2 final order, or other final legal action, if the commissioner has reason to believe,
 3 or determines, one (1) or more of the following:

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

5 (b) The licensee is not in compliance with Section 8 of this Act;

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

9 (d) The licensee has submitted a payment of any fee or penalty authorized
 10 under this subtitle that was returned, declined, denied, dishonored, or
 11 otherwise not paid in full for any reason;

12 (e) Subject to KRS 335B.020, the licensee is knowingly employing or
 13 contracting with a responsible individual that has been convicted of, pled
 14 guilty to, or pled nolo contendere to a felony; or

15 (f) The licensee has had any license, registration, claim of exemption, or other
 16 authorization to do business relating to the financial services industry
 17 denied, revoked, suspended, or terminated by any state or federal
 18 jurisdiction.

19 (3) An emergency order entered under this section shall:

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

22 (b) Remain in effect until it is:

23 1. Stayed, withdrawn, suspended, or superseded by order of the
 24 commissioner; or

25 2. Terminated by court order.

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

1 (1) Subject to Section 20 of this Act, the commissioner may enter a cease and desist
 2 order requiring an applicant, a licensee, or any other person to cease and desist
 3 from violating one (1) or more identified provisions of the following, if the
 4 commissioner has reason to believe or determines that the violations have
 5 occurred or will occur:

6 (a) This subtitle;

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

8 (c) An order issued or entered under this subtitle; or

9 (d) An agreement entered with the commissioner relating to compliance with
 10 this subtitle.

11 (2) A cease and desist order entered under this section shall remain in effect until it
 12 is:

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

14 or

15 (b) Terminated by court order.

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

18 (1) As used in this section, "person" includes any applicant or licensee.

19 (2) Subject to Section 20 of this Act, the commissioner may do one (1) or more of the
 20 following:

21 (a) Enter an order against any person to:

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

23 or

24 2. Pay any fee, or provide any other remedy, authorized under this
 25 subtitle; and

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

- 1 1. Provision of this subtitle;
- 2 2. Administrative regulation promulgated under this subtitle;
- 3 3. Order issued or entered under this subtitle; or
- 4 4. Agreement with the commissioner relating to compliance with this
- 5 subtitle.

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

7 (a) Shall be not less than one thousand dollars (\$1,000) nor more than five

8 thousand dollars (\$5,000) per violation; and

9 (b) May:

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

14 ➔Section 25. Sections 1 to 24 of this Act take effect March 31, 2027.

15 ➔Section 26. On or before January 1, 2027, the commissioner of the Kentucky

16 Department of Financial Institutions shall promulgate any emergency and ordinary

17 administrative regulations required under Sections 1 to 24 of this Act.