

1 AN ACT relating to measures to strengthen Kentucky's economic infrastructure.

2 WHEREAS, countries around the world, including the United States and its Federal
3 Reserve, have been considering the issuance of a central bank digital currency that is
4 widely available to the general public; and

5 WHEREAS, a central bank digital currency could fundamentally rewire our
6 banking and financial system by changing the relationship between citizens and the
7 federal government; and

8 WHEREAS, the availability of a central bank digital currency in the United States
9 could undermine the important role banks play in financial intermediation and limit credit
10 availability because funds could move from commercial banks to the Federal Reserve
11 where they cannot be lent back into the economy; and

12 WHEREAS, the inherent programmability of central bank digital currency could
13 jeopardize privacy rights, individual liberty, and the sovereignty of the several states by
14 enabling the surveillance, tracking, and control of citizens and transactions; and

15 WHEREAS, digital asset mining represents a rapidly growing sector of the digital
16 economy; and

17 WHEREAS, digital asset mining businesses offer opportunities for the development
18 of Kentucky's digital economy; and

19 WHEREAS, some countries and foreign parties, identified by the United States
20 Congress as threats to national security, have taken interests in United States businesses,
21 agricultural land, and natural resources and utilities; and

22 WHEREAS, the ownership and control of digital asset mining businesses by
23 prohibited foreign parties may pose security and state sovereignty risks that threaten
24 Kentucky's economic development; and

25 WHEREAS, protecting the integrity of Kentucky's economy is essential to
26 maintaining the prosperity of the Commonwealth; and

27 WHEREAS, inflation erodes the purchasing power of money held in state funds

1 and affects the state's financial stability and economic security; and

2 WHEREAS, the State Treasurer and the State Investment Commission have a
3 responsibility to safeguard the state's financial resources against the impacts of inflation
4 and other economic uncertainties; and

5 WHEREAS, investment diversification may preserve the state's financial resources
6 and purchasing power and protect against inflation; and

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

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

13 WHEREAS, several states have introduced or enacted legislation to recognize
14 transactional gold and silver; and

15 WHEREAS, the use of gold and silver as a medium of exchange has a historical
16 basis in fostering economic stability and individual liberty; and

17 WHEREAS, the Constitution of the United States under Article 1, Section 10,
18 allows for the states to declare gold and silver legal tender for use in payment of debts,
19 taxes, fees, and other obligations; and

20 WHEREAS, recognizing gold and silver as legal tender promotes economic justice
21 by allowing citizens of every economic stratus access to the ability to preserve their
22 wealth by hedging against inflation with precious metals; and

23 WHEREAS, establishing voluntary mechanisms for the use of precious metals in
24 transactions enhances Kentucky's economic resilience; and

25 WHEREAS, allowing the use of gold and silver as legal tender provides individuals
26 and businesses within Kentucky an alternative option for preserving and exchanging
27 wealth; and

1 WHEREAS, for all these reasons, it is necessary to strengthen Kentucky's economic
2 infrastructure by enacting measures to protect against inflation and preserve financial
3 integrity, well-being, and security;

4 NOW, THEREFORE,

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

6 ➔Section 1. KRS 369.130 is amended to read as follows:

7 As used in KRS 369.130 to 369.139:

8 (1) "Blockchain" means data that is:

9 (a) Shared across a peer-to-peer network to create a ledger of verified
10 transactions or information among linked network participants using
11 cryptography to:

12 1. Maintain the integrity of the ledger; or

13 2. Execute other functions; and

14 (b) Distributed in a concurrent, automated update to network participants on the
15 state of the ledger and any other functions;

16 (2) "Blockchain network" means a technical infrastructure that provides ledger and
17 smart contract services to applications;

18 (3) "Blockchain protocol" means any executable software:

19 (a) Deployed to a blockchain, including an additional standardized set of rules
20 that:

21 1. Uses an existing blockchain as a base;

22 2. Facilitates the transfer of data and electronic records;

23 3. Allows that data to be broadcast to nodes; and

24 4. Is governed by a set of predefined rules which execute autonomously
25 without human intervention and can be altered by a predetermined
26 mechanism; and

27 (b) Composed of a source code that is publicly available and accessible, including

1 a smart contract or any network of smart contracts;

2 **(4) "Central bank digital currency":**

3 **(a) Means a digital currency, a digital medium of exchange, or a digital**
4 **monetary unit of account that is:**

5 **1. Issued by any of the following:**

6 **a. The Board of Governors of the United States Federal Reserve**
7 **System;**

8 **b. The United States;**

9 **c. A state of the United States;**

10 **d. A foreign country or jurisdiction;**

11 **e. An intergovernmental organization; or**

12 **f. A government, agency, agent, instrumentality, central bank, or**
13 **other entity of an entity referenced in this subparagraph; and**

14 **2. Either:**

15 **a. Made directly available to a consumer; or**

16 **b. Processed or validated directly by an issuer referenced in**
17 **subparagraph 1. of this paragraph; and**

18 **(b) Does not include a digital asset that is:**

19 **1. Backed by:**

20 **a. Legal tender; or**

21 **b. Government treasuries; and**

22 **2. Issued by a private entity;**

23 ~~(5)(4)~~ "Cryptocurrency" has the same meaning as in KRS 139.516;

24 ~~(6)(5)~~ "Cryptography" means the practice of coding information to ensure only the
25 person that a message was written for can read and process that information;

26 ~~(7)(6)~~ "Digital asset":

27 **(a) Except as provided in paragraph (b) of this subsection, means any:**

1 ~~1.[(a)]~~ Virtual currency, **including cryptocurrency;**

2 ~~[(b)]~~ Cryptocurrency; and

3 ~~2.[(c)]~~ Natively electronic **asset**~~[assets]~~, including stablecoins, fungible
4 tokens, and nonfungible tokens; **or**

5 **3. Other digital-only asset;**

6 that **confers**~~[confer]~~ economic, proprietary, or access rights or powers; **and**

7 **(b) Does not include central bank digital currency;**

8 **(8) "Digital asset mining business" means a business that utilizes a group of**
9 **computers that:**

10 **(a) Work at a single site located in Kentucky;**

11 **(b) Consume more than one (1) megawatt hour of energy on an average annual**
12 **basis; and**

13 **(c) Operate for the purpose of generating digital assets by securing a**
14 **blockchain network;**

15 ~~(9) [(7)]~~ "Hardware wallet" means a physical device that:

16 (a) Stores private keys offline;

17 (b) Provides a way to sign transactions and interact with the blockchain; and

18 (c) Allows **its**~~[the]~~ owner to retain independent control over the digital
19 **assets**~~[asset]~~ contained therein;

20 ~~(10) [(8)]~~ "Natively electronic asset" means a purely digital asset that exists only on
21 **a**~~[the]~~ blockchain network;

22 ~~(11) [(9)]~~ "Node" means a computer which:

23 (a) Uses software to:

24 1. Communicate with other devices or participants on a blockchain to
25 maintain consensus and integrity of that blockchain;

26 2. Create and validate transaction blocks **on a blockchain**; or

27 3. Contain and update a copy of a blockchain; and

1 (b) Does not exercise discretion over transactions initiated by the end users of
2 ~~a[the]~~ blockchain protocol;

3 ~~(12)[(10)]~~ "Nonfungible token" means a digital asset on a blockchain that:

- 4 (a) Has unique identification codes and metadata that are recorded;
5 (b) Has been tokenized and cannot be replicated;
6 (c) Is used to certify ownership and authenticity; and
7 (d) Represents digital or physical items including artwork or real estate;

8 **(13) "Person" includes:**

9 **1. A natural person;**

10 **2. Any type or form of corporation, company, partnership, proprietorship,**
11 **association, or other legal entity; and**

12 **3. A government, governmental subdivision or agency, governing authority, or**
13 **other body politic;**

14 ~~(14)[(11)]~~ "Private key" means the access to manage digital assets at a specific internet
15 address and may be used for encryption and digital signature;

16 ~~(15)[(12)]~~ "Self-hosted wallet" means a digital interface that can:

- 17 (a) Secure and transfer digital assets; and
18 (b) Allow its owner to retain independent control of the secured digital assets and
19 private keys;

20 ~~(16)[(13)]~~ "Smart contract" has the same meaning as in KRS 42.747;

21 ~~(17)[(14)]~~ "Stablecoin" means a digital asset that is:

- 22 (a) Issued by a corporation;
23 (b) Backed by cash or high-quality liquid assets; and
24 (c) Redeemable on demand by the holder at par for a fixed monetary value in
25 equivalent United States dollars;

26 ~~(18)[(15)]~~ "Staking" means using a node to commit digital assets to a blockchain
27 network to:

1 (a) Validate transactions;

2 (b) Propose and attest to blocks contained in the blockchain; and

3 (c) Secure the network;

4 ~~(19)~~~~[(16) (a)]~~ "Staking as a service":

5 (a) Means the provision of technical staking services by a service provider on
6 behalf of an individual or business that owns the digital assets being staked;

7 and~~[-]~~

8 ~~(b) ["Staking as a service"]~~Includes the operation of nodes and the associated
9 infrastructure necessary to facilitate participation in blockchain protocols'
10 consensus mechanisms;

11 ~~(20)~~~~[(17)]~~ "Third-party wallet" means a wallet that:

12 (a) Is hosted and controlled by a party other than the owner ; and~~[-which]~~

13 (b) Contains the private keys for its owner's~~[-the owner of]~~ digital assets; and

14 ~~(21)~~~~[(18)]~~ "Wallet":

15 (a) Means a digital interface or a physical device which holds digital assets or
16 private keys;~~[-]~~ and

17 (b) May include a:

18 1.~~[(a)]~~ Hardware wallet;

19 2.~~[(b)]~~ Self-hosted wallet; and

20 3.~~[(c)]~~ Third-party wallet.

21 ➔SECTION 2. A NEW SECTION OF KRS 369.130 TO 369.139 IS CREATED
22 TO READ AS FOLLOWS:

23 (1) As used in this section:

24 (a) "Governing authority":

25 1. Means any government, agency, authority, board, bureau,
26 commission, committee, council, department, government corporation,
27 institution, legislative body, political subdivision, instrumentality, or

1 other entity of this state; and

2 2. Includes:

3 a. Any city, county, charter county government, urban-county
4 government, consolidated local government, unified local
5 government, public school district, public institution of
6 education, special district, or municipal corporation of this state;

7 and

8 b. Any government, agency, authority, board, bureau, department,
9 commission, council, committee, instrumentality, or other entity
10 of an entity referenced in subdivision a. of this subparagraph;

11 and

12 (b) "Legal tender" means a recognized medium of exchange for the payment of
13 debts, taxes, fees, and other obligations.

14 (2) The Commonwealth of Kentucky, or any governing authority, shall not:

15 (a) Issue, or recognize as legal tender, any central bank digital currency;

16 (b) Accept central bank digital currency as a method of payment to the
17 Commonwealth of Kentucky or a governing authority;

18 (c) Require a payment be made to the Commonwealth of Kentucky or a
19 governing authority using a central bank digital currency; or

20 (d) Participate in any test of central bank digital currency by:

21 1. The Board of Governors of the United States Federal Reserve System;

22 2. The United States;

23 3. A state of the United States;

24 4. A foreign country or jurisdiction;

25 5. An intergovernmental organization; or

26 6. A government, agency, agent, instrumentality, central bank, or other
27 entity of an entity referenced in this paragraph.

1 ➔SECTION 3. A NEW SECTION OF KRS 369.130 TO 369.139 IS CREATED
2 TO READ AS FOLLOWS:

3 (1) As used in this section:

4 (a) "Interest" means an ownership interest greater than zero percent (0%); and

5 (b) "Prohibited foreign party" means any of the following:

6 1. A citizen or resident of, or a government formed within, a country
7 subject to 22 C.F.R. sec. 126.1, as amended;

8 2. A person, other than a natural person, that is created or organized
9 under the laws of a country subject to 22 C.F.R. sec. 126.1, as
10 amended;

11 3. A person in which a significant interest is directly or indirectly held, or
12 over which substantial control is capable of being exercised, by one (1)
13 or more persons referenced in subparagraph 1. or 2. of this
14 paragraph;

15 4. An entity of particular concern designated by the President of the
16 United States in accordance with 22 U.S.C. sec. 6442a, as amended; or

17 5. An agent, trustee, or fiduciary of a person referenced in this
18 paragraph.

19 (2) Except as provided in subsection (3) of this section:

20 (a) A prohibited foreign party shall not acquire or hold, by grant, purchase,
21 devise, descent, or otherwise, an interest in a digital asset mining business;
22 and

23 (b) A digital asset mining business shall not grant, sell, devise, or otherwise
24 convey an interest in the business to a prohibited foreign party.

25 (3) (a) A prohibited foreign party with an interest in a digital asset mining business
26 on the effective date of this section shall divest the interest within one (1)
27 year of the effective date of this section.

1 **(b) A digital asset mining business with an interest referenced in paragraph (a)**
2 **of this subsection shall divest the interest within one (1) year of the effective**
3 **date of this section.**

4 **(4) (a) The Attorney General may conduct an investigation to determine if a**
5 **violation of this section has occurred.**

6 **(b) When conducting an investigation under this subsection, the Attorney**
7 **General may do any or all of the following:**

8 **1. Receive sworn statements; and**

9 **2. Issue subpoenas:**

10 **a. To compel the testimony of witnesses; and**

11 **b. For the production of records and other documents.**

12 **(5) As a result of an investigation conducted under subsection (4) of this section, the**
13 **Attorney General may:**

14 **(a) If the Attorney General concludes that a violation of subsection (2) of this**
15 **section has occurred, order any alleged violator to divest all prohibited**
16 **interests in the digital asset mining business within one (1) year of the date**
17 **the order is issued; and**

18 **(b) If the Attorney General concludes that a violation of subsection (3) of this**
19 **section, or an order issued under paragraph (a) of this subsection, has**
20 **occurred, commence a civil action in a court of competent jurisdiction**
21 **against any alleged violator to enforce the provisions of this section.**

22 **(6) In any action brought under subsection (5)(b) of this section, if the court finds**
23 **that:**

24 **(a) A violation of subsection (2) or (3) of this section has occurred, the court**
25 **may award the following to the Attorney General:**

26 **1. A civil penalty of twenty-five percent (25%) of the fair market value of**
27 **each prohibited foreign party's interest in the digital asset mining**

1 business, except any penalty shall not exceed one million dollars
2 (\$1,000,000);

3 2. The reasonable costs of investigation and litigation; and

4 3. Any other remedies authorized by law; and

5 (b) An interest held in violation of subsection (2) or (3) of this section has not
6 been divested prior to the commencement of a final hearing or other
7 proceeding by the court, the court shall enter an order declaring that the
8 property of the digital asset mining business is escheated to the
9 Commonwealth of Kentucky.

10 (7) Simultaneous with any order of escheat entered under subsection (6)(b) of this
11 section, the court shall do the following:

12 (a) If the digital asset mining business has any interests in real property, enter
13 an order of sale to liquidate the property in the manner provided by law for
14 the judicial foreclosure of a mortgage on real estate for default of payment;

15 (b) If the digital asset mining business has any interests in personal property,
16 enter an order of sale to liquidate the property in the manner provided by
17 law for judicial execution against property for enforcement of a lien; and

18 (c) Order that any proceeds resulting from a sale ordered under this subsection
19 be distributed in accordance with Section 4 of this Act.

20 (8) Receipt by a digital asset mining business of a permit or other authorization to do
21 business from a governing authority shall not be a defense to a civil action
22 brought under this section.

23 (9) Rights in property shall not be void or voidable solely because the property, or a
24 right in the property, was previously held in violation of this section.

25 (10) An attorney, lender, mortgage loan servicer, notary public, title insurer, title
26 insurance producer, real estate agent, real estate broker, real estate seller, or real
27 estate lessor shall not:

1 (a) Have a duty to make any investigation as to whether a party to a transaction
2 involving real property is or will be in violation of this section; or

3 (b) Be liable for failing to identify that a party to a transaction involving real
4 property is or will be in violation of this section.

5 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) As used in this section, "lienholder" means a holder of a mortgage, lien,
8 privilege, or other security interest or encumbrance that is:

9 (a) Filed or otherwise recorded in the public record; or

10 (b) Otherwise perfected in accordance with KRS Chapter 355.

11 (2) For any property escheated to the Commonwealth of Kentucky and liquidated
12 under Section 3 of this Act, the proceeds shall be distributed as follows:

13 (a) To the lienholders of the escheated property in order of priority;

14 (b) For any other proceeds remaining after disbursement under paragraph (a)
15 of this section, to the Attorney General for any awards, remedies, and civil
16 penalties ordered under Section 3 of this Act; and

17 (c) For any proceeds remaining after disbursement under paragraphs (a) and
18 (b) of this section, to the school district otherwise entitled to recover the
19 property under KRS 162.040.

20 ➔Section 5. KRS 45.345 is amended to read as follows:

21 (1) In addition to any payment method authorized by law~~[,]~~ and notwithstanding any
22 statute not referenced herein to the contrary, any state agency may, except as
23 provided in Section 2 of this Act, accept the following methods of payment to
24 secure funds for deposit into the State Treasury:

25 (a) Credit card;

26 (b) Debit card;

27 (c) Electronic check;

- 1 (d) Automated clearinghouse (ACH) debit; or
- 2 (e) Any other electronic payment method upon the prior written approval of both
- 3 the Finance and Administration Cabinet and the Office of the State Treasurer.
- 4 (2) Any fees charged to a state agency by the provider of the payment services listed in
- 5 subsection (1) of this section shall be deemed to represent collection expenses and
- 6 may be considered normal operating expenses of the agency, or the agency may
- 7 collect convenience fees from users to supplement agency costs of delivering
- 8 services.

9 ➔Section 6. KRS 42.500 is amended to read as follows:

- 10 (1) There shall be a State Investment Commission composed of:
- 11 (a) The State Treasurer who shall be chairperson~~chairman~~;
- 12 (b) The secretary of the Finance and Administration Cabinet;
- 13 (c) The state controller; and
- 14 (d) Two (2) persons appointed by the Governor.
- 15 (2) The individuals appointed by the Governor shall be selected as follows:
- 16 (a) One (1) to be selected from a list of five (5) submitted to the Governor by the
- 17 Kentucky Bankers Association~~;~~ and
- 18 (b) One (1) to be selected from a list of five (5) submitted to the Governor by the
- 19 Independent Community Bankers Association.
- 20 (3) (a) The~~State Investment~~ commission shall meet at least quarterly to review
- 21 investment performance and conduct other business.
- 22 (b) This subsection~~provision~~ shall not prohibit the commission from meeting
- 23 more frequently as the need arises.
- 24 (4) (a) The State Treasurer and secretary of the Finance and Administration Cabinet
- 25 shall each have the authority to designate, by an instrument in writing over his
- 26 or her signature and filed with the secretary of the commission as a public
- 27 record of the commission, an alternate with full authority to:

1 ~~1.(a)~~ Attend in the member's absence, for any reason, any properly
2 convened meeting of the commission; and

3 ~~2.(b)~~ Participate in the consideration of, and vote upon, business and
4 transactions of the commission.

5 **(b)** Each alternate **designated under this subsection** shall be a person on the staff
6 of the appointing member or in the employ of the appointing member's state
7 agency or department.

8 (5) Any designation of an alternate **under subsection (4) of this section** may, at the
9 appointing member's direction:

10 (a) Be limited upon the face of the appointing instrument to be effective for only
11 a specific meeting or specified business;

12 (b) Be shown on the face of the appointing instrument to be a continuing
13 designation, for a period of no more than four (4) years, whenever the
14 appointing member is unable to attend; or

15 (c) Be revoked at any time by the appointing member in an instrument in writing,
16 over his or her signature, filed with the secretary of the commission as a
17 public record of the commission.

18 (6) **(a)** Any person transacting business with, or materially affected by, the business
19 of the commission may accept and rely upon a joint certificate of the secretary
20 of the commission and any member of the commission concerning the
21 designation of any alternate, the time and scope of the designation, and, if it is
22 of a continuing nature, whether and when the designation has been revoked.

23 **(b)** The joint certificate shall be made and delivered to the person requesting it
24 within a reasonable time after it has been requested in writing, with acceptable
25 identification of the business or transaction to which it refers and the
26 requesting person's interest in the business or transaction.

27 (7) **(a)** Any three (3) persons who are members of the commission or alternates

1 authorized under subsections (4) and (5) of this section shall constitute a
2 quorum and may, by majority vote, transact any business of the commission.

3 **(b)** Any three (3) members of the commission may call a meeting.

4 (8) The provisions of KRS 61.070 shall not apply to members of the commission.

5 (9) **Subject to subsection (11) of this section,** the commission shall have authority and
6 may, if in its opinion the cash in the State Treasury is in excess of the amount
7 required to meet current expenditures, invest any and all of the excess cash in:

8 (a) Obligations and contracts for future delivery of obligations backed by the full
9 faith and credit of the United States or a United States government agency,
10 including but not limited to:

- 11 1. United States Treasury;
- 12 2. Export-Import Bank of the United States;
- 13 3. ~~{Farmers Home Administration;~~
- 14 4. ~~—}Government National Mortgage Corporation; and~~
- 15 **4.**~~{5.}Merchant Marine bonds;~~

16 (b) Obligations of any corporation of the United States government or
17 government-sponsored enterprise, including but not limited to:

- 18 1. Federal Home Loan Mortgage Corporation;
- 19 2. Federal Farm credit banks **and** ~~{:~~
 - 20 a. ~~—}bank for cooperatives;{~~
 - 21 b. ~~—Federal Intermediate Credit Banks; and~~
 - 22 c. ~~—Federal Land Banks;}~~
- 23 3. Federal Home Loan Banks;
- 24 4. Federal National Mortgage Association; and
- 25 5. Tennessee Valley Authority obligations;

26 (c) Collateralized or uncollateralized certificates of deposit, issued by banks rated
27 in one (1) of the three (3) highest categories by a nationally recognized

- 1 statistical rating organization or other interest-bearing accounts in depository
2 institutions chartered by this state or by the United States, except for shares in
3 mutual savings banks;
- 4 (d) Bankers acceptances for banks rated in the highest short-term category by a
5 nationally recognized statistical rating organization;
- 6 (e) Commercial paper rated in the highest short-term category by a nationally
7 recognized statistical rating organization;
- 8 (f) Securities issued by a state or local government, or any instrumentality or
9 agency thereof, in the United States, and rated in one (1) of the three (3)
10 highest long-term categories by a nationally recognized statistical rating
11 organization;
- 12 (g) United States denominated corporate, Yankee, and Eurodollar securities,
13 excluding corporate stocks, issued by foreign and domestic issuers, including
14 sovereign and supranational governments, rated in one (1) of the three (3)
15 highest long-term categories by a nationally recognized statistical rating
16 organization;
- 17 (h) Asset-backed securities rated in the highest category by a nationally
18 recognized statistical rating organization;
- 19 (i) Shares of mutual funds, each of which shall have the following
20 characteristics:
- 21 1. The mutual fund shall be an open-end diversified investment company
22 registered under the federal Investment Company Act of 1940, as
23 amended;
- 24 2. The management company of the investment company shall have been
25 in operation for at least five (5) years;
- 26 3. The mutual fund shall be rated in the highest category by a nationally
27 recognized statistical rating organization; and

1 4. All of the securities in the mutual fund shall be eligible investments
2 pursuant to this section;~~[-and]~~

3 (j) State and local delinquent property tax claims which upon purchase shall
4 become certificates of delinquency secured by interests in real property not to
5 exceed twenty-five million dollars (\$25,000,000) in the aggregate. For any
6 certificates of delinquency that have been exonerated pursuant to KRS
7 132.220(5), the Department of Revenue shall offset the loss suffered by the
8 Finance and Administration Cabinet against subsequent local distributions to
9 the affected taxing districts as shown on the certificate of delinquency; and

10 (k) Bullion that is held:

11 1. In the form of an exchange traded product; or

12 2. In physical form by:

13 a. A qualified custodian;

14 b. The state; or

15 c. The state in conjunction with another state in accordance with
16 an administrative regulation promulgated by the commission
17 under Section 7 of this Act.

18 (10) As used in this section:

19 (a) "Bullion":

20 1. Means a bar, ingot, or coin that is:

21 a. Made of refined precious gold, silver, platinum, palladium, or a
22 combination of these metals; and

23 b. Valued primarily based on its metal content and not on its form
24 or function; and

25 2. Does not include medallions or coins that are incorporated into a
26 pendant or other jewelry;

27 (b) "Central bank digital currency" has the same meaning as in Section 1 of

1 this Act;

2 (c) "Exchange traded product" means any financial instrument that:

3 1. Is approved or registered:

4 a. By the United States Securities and Exchange Commission; or

5 b. Under KRS Chapter 292;

6 2. Is traded on an exchange regulated by the laws of the United States;

7 and

8 3. Derives its value from an underlying pool of assets; and

9 (d) "Qualified custodian" means any federal or state-chartered bank or trust
 10 company that is specifically authorized by the laws of this state or of the
 11 United States to hold, or receive on deposit and for safekeeping, personal
 12 property, which may include bullion~~[The State Investment Commission shall~~

13 ~~promulgate administrative regulations for the investment and reinvestment of~~
 14 ~~state funds in shares of mutual funds, and the regulations shall specify:~~

15 ~~(a) The long and short term goals of any investment;~~

16 ~~(b) The specification of moneys to be invested;~~

17 ~~(c) The amount of funds which may be invested per instrument;~~

18 ~~(d) The qualifications of instruments; and~~

19 ~~(e) The acceptable maturity of investments].~~

20 (11) (a) The total amount of excess cash invested under subsection (9)(k) of this
 21 section shall not, at the time the investment is made, exceed ten percent
 22 (10%) of the total amount of excess cash invested under subsection (9) of
 23 this section.

24 (b) Notwithstanding any other provision of this section or any other law, the
 25 commission shall not invest any excess cash or other funds in central bank
 26 digital currency.

27 (12) Any investment in obligations and securities pursuant to~~[subsection (9) of]~~ this

1 section may be ~~[shall satisfy this section if these obligations are]~~ subject to
2 repurchase agreements, provided that delivery of these obligations is taken either
3 directly or through an authorized custodian.

4 (13) ~~((12))~~ (a) Income earned from investments made pursuant to this section shall
5 accrue to the credit of the investment income account of the general fund,
6 except that interest from investments of excess cash in the road fund shall be
7 credited to the surplus account of the road fund and interest from investments
8 of excess cash in the game and fish fund shall be credited to the game and fish
9 fund, interest earned from investments of imprest cash funds and funds in the
10 trust and revolving fund for each state public university shall be credited to
11 the appropriate institutional account, and interest earned from the investment
12 of funds accumulated solely by means of contributions and gifts shall not be
13 diverted to any purpose other than that stipulated by the donor, when the
14 donor shall have designated the use to which the interest shall be placed.

15 (b) Except as otherwise provided by law, or by the obligations and covenants
16 contained in resolutions and trust indentures adopted or entered into for state
17 bond issues, interest earned from the investment of moneys appropriated to
18 the capital construction accounts, trust and agency accounts, and trust and
19 agency revolving accounts shall accrue to the capital construction investment
20 income account.

21 (c) 1. If there is a revenue shortfall, as defined in KRS 48.010, of five percent
22 (5%) or less, the secretary of the Finance and Administration Cabinet,
23 upon the recommendation of the state budget director, may direct the
24 transfer of excess unappropriated capital construction investment
25 income to the general fund investment income account.

26 2. The amount of the transfer shall not exceed the amount of the shortfall
27 in general fund revenues.

1 (d) 1. If the capital construction investment income is less than that amount
2 appropriated by the General Assembly, the secretary of the Finance and
3 Administration Cabinet may, upon recommendation of the state budget
4 director, direct the transfer of excess unappropriated general fund
5 investment income to the capital construction investment income
6 account.

7 2. The transfer of general fund investment income revenues to the capital
8 construction investment income account shall be made only when the
9 actual general fund revenues are in excess of the enacted estimates
10 under KRS 48.120 and shall be limited to the amount of the excess
11 general fund revenues.

12 3. The amount of the transfer shall not exceed the amount of the shortfall
13 in the capital construction fund revenues.

14 ~~(14)~~~~(13)~~ The authority granted by this section to the ~~State Investment~~ commission
15 shall not extend to any funds that are specifically provided by law to be invested by
16 some other officer or agency of the state government.

17 ~~(15)~~~~(14)~~ The authority granted by this section to the ~~State Investment~~ commission
18 shall only be exercised pursuant to the administrative regulations mandated by KRS
19 42.525.

20 ~~(16)~~~~(15)~~ Each member of the ~~State Investment~~ commission shall post bond for his or
21 her acts or omissions as a member thereof identical in amount and kind to that
22 posted by the State Treasurer.

23 ➔Section 7. KRS 42.525 is amended to read as follows:

24 (1) The State Investment Commission shall promulgate administrative regulations for
25 the investment and reinvestment of state funds and the acquisition, retention,
26 management, and disposition of investments.

27 (2) The administrative regulations required under subsection (1) of this section shall:

1 (a) Specify:

2 1.~~1.(a)~~ The long and short term goals of any investment;

3 2.~~1.(b)~~ The specification of moneys to be invested;

4 3.~~1.(c)~~ The amount of funds which may be invested per instrument;

5 4.~~1.(d)~~ The qualifications of instruments;

6 5.~~1.(e)~~ The acceptable maturity of investments;

7 6.~~1.(f)~~ The investment procedure with respect to in-state and out-of-state
 8 depositories provided that funds available for investment shall be
 9 offered first to qualified Kentucky depositories consistent with the
 10 investment guidelines; and

11 7.~~1.(g)~~ The distribution method of funds among types of institutions; and

12 (b) Set forth the requirements provided in paragraphs (a)1. to 5. of this
 13 subsection for the investment and reinvestment of state funds in shares of
 14 mutual funds.

15 (3) The commission may promulgate any other administrative regulations to carry
 16 out and effectuate subsections (9)(k), (10), and (11) of Section 6 of this Act.

17 ➔SECTION 8. SUBTITLE 13 OF KRS CHAPTER 286 IS ESTABLISHED,
 18 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

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

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

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

23 (a) The power to direct the management, operations, or policies of a person,
 24 which power may be:

25 1. Direct or indirect; and

26 2. Obtained:

27 a. Through legal or beneficial ownership of voting power in the

1 person; or

2 b. Under a contract, arrangement, or understanding;

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

6 (c) The power to elect or appoint a majority of a person's responsible
7 individuals;

8 (d) The power to exercise, directly or indirectly, a controlling influence over the
9 management or policies of a person or a person in control of the person;
10 and

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

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

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

16 (b) Not backed by a physical commodity;

17 (4) "Legal tender":

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

20 1. Issued by:

21 a. The United States; or

22 b. Another government; or

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

25 (b) Does not include any medium of exchange or unit of value authorized,
26 recognized, or adopted by a foreign government if the medium of exchange
27 or unit of value was a virtual currency before the government authorized,

1 recognized, or adopted the medium of exchange or unit of value;

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

3 (6) "Resident":

4 (a) Means any of the following:

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

6 2. A person who was physically located in this state for more than one
7 hundred eighty-three (183) days of the previous three hundred sixty-
8 five (365) days; or

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

10 (b) Includes a legal representative of a person referenced in paragraph (a) of
11 this subsection;

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

15 (8) "Virtual currency":

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

18 1. Used as a:

19 a. Medium of exchange;

20 b. Unit of account; or

21 c. Store of value; and

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

23 (b) Does not include:

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

27 2. A digital representation of value;

- 1 a. Issued by or on behalf of a publisher; and
- 2 b. Used solely within an online game, game platform, or family of
- 3 games:
- 4 i. Sold by the same publisher; or
- 5 ii. Offered on the same game platform;
- 6 (9) (a) "Virtual currency kiosk" means a physical electronic terminal acting as a
- 7 mechanical agent of the owner or operator to enable the owner or operator
- 8 to facilitate the exchange of one (1) or more of the following:
- 9 1. Fiat currency for virtual currency;
- 10 2. Virtual currency for fiat currency; and
- 11 3. Virtual currency for other virtual currency.
- 12 (b) As used in this subsection, "facilitate" includes:
- 13 1. Connecting directly to a separate virtual currency exchanger that
- 14 performs the exchange; and
- 15 2. Drawing upon the virtual currency or fiat currency in the possession
- 16 or control of the owner or operator to perform the exchange;
- 17 (10) "Virtual currency kiosk operator" or "licensee" means a person that is licensed
- 18 by the commissioner to engage in the activity regulated under this subtitle; and
- 19 (11) "Virtual currency kiosk transaction" means any transaction:
- 20 (a) Conducted or performed, in whole or in part, by electronic means via a
- 21 virtual currency kiosk; or
- 22 (b) Made at a virtual currency kiosk to:
- 23 1. Purchase virtual currency with fiat currency; or
- 24 2. Sell virtual currency for fiat currency.

25 ➔SECTION 9. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

26 IS CREATED TO READ AS FOLLOWS:

27 (1) (a) The commissioner:

- 1 1. Shall enforce the provisions of this subtitle; and
- 2 2. Subject to paragraph (b) of this subsection, may promulgate
- 3 administrative regulations in accordance with KRS Chapter 13A that
- 4 the commissioner determines are necessary to effectuate, or aid in the
- 5 effectuation of, this subtitle.
- 6 (b) The discretion to promulgate administrative regulations under paragraph
- 7 (a)2. of this subsection shall be supplemental to any other provisions of this
- 8 subtitle relating to the promulgation of administrative regulations.
- 9 (2) The commissioner may invoke the aid of the courts through injunction or other
- 10 proper process, mandatory or otherwise, to:
- 11 (a) Enjoin any existing or threatened violation of this subtitle; or
- 12 (b) Enforce any proper order or action issued, entered, or taken by the
- 13 commissioner.
- 14 (3) (a) The remedies and penalties set forth in this subtitle shall be cumulative.
- 15 (b) Nothing in this subtitle shall be construed to limit or restrict the powers,
- 16 duties, remedies, or penalties available to the commissioner or any other
- 17 person under any other statutory or common law.

18 ➔SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

19 IS CREATED TO READ AS FOLLOWS:

- 20 (1) A person shall not own, operate, solicit, market, advertise, or facilitate a virtual
- 21 currency kiosk in this state unless the person is a virtual currency kiosk operator.
- 22 (2) A virtual currency kiosk operator license shall:
- 23 (a) State:
- 24 1. The name and address of the licensee;
- 25 2. The licensee's initial date of licensure;
- 26 3. If the licensee is a partnership, limited liability company, or
- 27 association, the name of each member of the partnership, limited

1 liability company, or association; and

2 4. If the licensee is a corporation, the date and place of its incorporation;

3 (b) Be valid unless it is:

4 1. Revoked or suspended by the commissioner;

5 2. Surrendered by the licensee; or

6 3. Expired;

7 (c) Except as provided in Section 16 of this Act, not be transferred or assigned;

8 and

9 (d) Expire on December 31 of the year in which it is issued, unless renewed or
10 reinstated in accordance with Section 14 of this Act.

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

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

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

18 (a) The registry or its successor organization;

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

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

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

23 (3) The commissioner:

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

27 (b) Shall establish a process whereby licensees may challenge information

1 entered into the registry by the commissioner.

2 (4) The commissioner shall annually request:

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

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

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

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

13 3. Whether any security breaches have occurred resulting in the
14 substantial likelihood that personal information may be misused or
15 stolen.

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

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

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

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

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

- 1 1. Is made in writing, under oath or affirmation;
- 2 2. Is in the format required by the commissioner;
- 3 3. Contains, and is accompanied by, the information, documentation,
- 4 and evidence required under Section 13 of this Act;
- 5 4. Contains an attestation that the applicant will immediately report to
- 6 the department any material changes to any of the information
- 7 submitted by the applicant in the application;
- 8 5. Is accompanied by evidence that the requirements of Section 15 of this
- 9 Act have been satisfied; and
- 10 6. Is accompanied by a nonrefundable application fee that is determined
- 11 by the commissioner in accordance with Section 17 of this Act.
- 12 (2) Within sixty (60) days of receipt of a complete application for a license, the
- 13 commissioner shall:
- 14 (a) Review and investigate the application and all attachments for compliance
- 15 with the requirements of this subtitle;
- 16 (b) Consider all of the following:
- 17 1. The financial condition and responsibility of the applicant;
- 18 2. The applicant's:
- 19 a. Relevant financial and business experience;
- 20 b. Character; and
- 21 c. General fitness to conduct the activity regulated under this
- 22 subtitle; and
- 23 3. The following for each responsible individual and person who has
- 24 control of the applicant:
- 25 a. Competence;
- 26 b. Experience;
- 27 c. Character; and

1 d. General fitness to conduct the activity regulated under this
2 subtitle; and

3 (c) Subject to Section 27 of this Act and subsections (4) and (5) of this section,
4 do one (1) of the following:

5 1. Issue an unconditional license to the applicant;

6 2. Issue a notice of intent to issue a conditional license to the applicant;

7 or

8 3. Issue a notice of intent to deny the applicant's application for a
9 license.

10 (3) As part of the review and investigation of an application under subsection (2) of
11 this section, the commissioner may, in his or her discretion, investigate an
12 applicant's business premises.

13 (4) (a) The commissioner shall issue an unconditional license to an applicant if the
14 commissioner finds that the applicant:

15 1. Is in compliance with the requirements of this subtitle; and

16 2. Has reasonably demonstrated that it will conduct its business:

17 a. Honestly, fairly, and efficiently; and

18 b. In accordance with:

19 i. This subtitle; and

20 ii. All other applicable state and federal law.

21 (b) 1. The commissioner may issue a notice of intent to issue a conditional
22 license to an applicant if the commissioner determines that the
23 conditions, including any additional surety bond amount specified by
24 the commissioner under Section 15 of this Act, are necessary for the
25 applicant to satisfy the requirements of paragraph (a)1. and 2. of this
26 subsection.

27 2. A notice of intent to issue a conditional license shall specify the

1 additional conditions that are required for the applicant to obtain and
2 maintain a license.

3 (c) 1. The commissioner shall issue a notice of intent to deny an applicant's
4 application for a license if the commissioner determines that the
5 requirements of paragraph (a)1. and 2. of this subsection are not
6 satisfied.

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

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

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

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

21 An application submitted under Section 12 of this Act shall provide all of the following
22 information, documentation, and evidence:

23 (1) The legal name, any former or fictitious names, and physical address of the
24 applicant;

25 (2) The physical address of each proposed virtual currency kiosk in this state;

26 (3) Any fictitious or trade name of the applicant;

27 (4) The legal name, any former or fictitious names, and the physical residential and

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

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

- 1 (17) The source of funds and credit to be used by the applicant to conduct its virtual
2 currency kiosk business in this state;
- 3 (18) The physical address and electronic mail address to which communications from
4 the department may be sent;
- 5 (19) The name, physical address, and electronic mail address of the applicant's
6 registered agent for service of process in this state;
- 7 (20) With respect to the applicant's virtual currency kiosk business in this state, a copy
8 of the certificate of coverage for each liability, casualty, business interruption,
9 and cybersecurity insurance policy maintained by the applicant for:
- 10 (a) Itself;
11 (b) Any responsible individual;
12 (c) Any affiliate or agent of the applicant;
13 (d) Any person that has control of the applicant; and
14 (e) Any person over which the applicant has control;
- 15 (21) If applicable:
- 16 (a) The date on which, and the state where, the applicant is formed; and
17 (b) A copy of any current certificate of good standing issued by the state where
18 the applicant is formed;
- 19 (22) A copy of the applicant's most current audited financial statement that is
20 prepared in accordance with:
- 21 (a) The generally accepted accounting principles; or
22 (b) The Public Company Accounting Oversight Board standards;
- 23 (23) If a person has control of the applicant and the person's equity interests are
24 publicly traded in the United States, a copy of the:
- 25 (a) Audited financial statement of the person for the most recent fiscal year; or
26 (b) Most recent report filed by the person pursuant to 15 U.S.C. sec. 78m, as
27 amended;

1 (24) If a person has control of the applicant and the person's equity interests are
2 publicly traded outside 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 documentation similar to that required in subsection (23)(b) of
5 this section filed by the person with the relevant foreign regulator in the
6 person's domicile;

7 (25) If the applicant is a partnership or a member-managed limited liability company,
8 the names and physical business addresses of all general partners or managers;

9 (26) If the applicant is required to register with the Financial Crimes Enforcement
10 Network of the United States Department of the Treasury as a money service
11 business, evidence of the registration;

12 (27) A set of fingerprints for each responsible individual and person who has control
13 of the applicant;

14 (28) If a responsible individual or person who has control of the applicant has resided
15 outside of the United States anytime within the past ten (10) years, an
16 investigative background report that:

17 (a) Is prepared by an independent search firm that demonstrates that it:

18 1. Has sufficient knowledge and resources, and employs accepted and
19 reasonable methodologies, to conduct the research of the investigative
20 background report; and

21 2. Does not have an interest in, or affiliation with, the person who is the
22 subject of the investigative background report;

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

24 (c) Contains all of the following:

25 1. If available in the person's current jurisdiction of residency, a
26 comprehensive credit report or any equivalent information obtained or
27 generated by the independent search firm that includes a search of

1 court data in the countries, provinces, states, cities, towns, and
2 contiguous areas where the person resided and worked;

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

5 3. Employment history;

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

8 5. Financial services-related regulatory history, including money
9 transmission, securities, banking, insurance, and mortgage-related
10 industries;

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

13 (a) Employment history;

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

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

17 (30) Any other information, documentation, or evidence the commissioner reasonably
18 requires.

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

21 (1) As used in this section, "United States dollar equivalent of virtual currency"
22 means the equivalent value of virtual currency in United States dollars shown on
23 a virtual currency exchange based in the United States for a particular date or
24 period.

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

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

- 1 1. Is made in writing, under oath or affirmation;
- 2 2. Is in a format required by the commissioner;
- 3 3. Contains, and is accompanied by, any information, documentation,
4 and evidence that the commissioner determines is necessary and
5 appropriate for the purpose of determining whether the licensee
6 continues to satisfy the requirements of this subtitle for licensure;
- 7 4. Is accompanied by the annual renewal report required under
8 subsection (6) of this section; and
- 9 5. Is accompanied by a nonrefundable annual license fee that is
10 determined by the commissioner in accordance with Section 17 of this
11 Act.
- 12 (3) Upon timely receipt of a complete annual license renewal application in
13 accordance with subsection (2) of this section, the commissioner shall:
14 (a) Approve the application if the commissioner determines that the licensee
15 continues to satisfy the requirements of this subtitle for licensure; or
16 (b) Commence proceedings to suspend or revoke the license under Section 28
17 of this Act if the commissioner determines that the licensee does not satisfy
18 the requirements of this subtitle for licensure.
- 19 (4) The failure of a licensee to comply with subsection (2) of this section shall result
20 in the expiration of the licensee's license by operation of law on January 1 of the
21 following year.
- 22 (5) (a) The commissioner may reinstate an expired license if, before March 1 of the
23 calendar year in which the license expired:
24 1. The licensee files a complete annual license renewal application in
25 accordance with subsection (2)(b) of this section with the
26 commissioner;
27 2. The licensee pays a late fee of one hundred dollars (\$100) to the

1 commissioner; and

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

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

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

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

11 1. The generally accepted accounting principles; or

12 2. The Public Company Accounting Oversight Board standards;

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

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

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

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

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

21 2. Any material litigation involving the licensee or a responsible
22 individual;

23 3. Any regulatory suspension or revocation, disciplinary proceeding
24 commenced, or other action taken in any state or federal jurisdiction
25 involving a license or other authorization the licensee holds to conduct
26 virtual currency business activity;

27 4. Any federal or state investigation or disciplinary action involving the

1 licensee; and

2 5. Any data security breach involving the licensee;

3 (d) A description of any material changes to the information submitted in the
4 licensee's original application for a license that have not been previously
5 reported to the department;

6 1. In the annual renewal report; or

7 2. On any application, report, or notice submitted by the licensee under
8 this subtitle;

9 (e) For January 1 to December 31 of the preceding calendar year and January
10 1 to September 30 of the current year;

11 1. The number of virtual currency kiosk transactions in this state; and

12 2. The United States dollar amount of virtual currency kiosk transactions
13 in this state;

14 (f) As of December 31 of the preceding calendar year and September 30 of the
15 current year;

16 1. The amount of United States dollar equivalent of virtual currency in
17 the licensee's possession or control;

18 2. The number of residents for whom the licensee had possession or
19 control of virtual currency; and

20 3. The amount of United States dollar equivalent of virtual currency in
21 the licensee's possession or control on behalf of residents;

22 (g) Evidence that the licensee continues to satisfy the requirements of Section
23 15 of this Act;

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

26 (i) The name, physical business address, and telephone number of each person
27 that manages a virtual currency kiosk used by the licensee in conducting its

1 business in this state.

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

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

7 (1) As used in this section:

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

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

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

14 (2) (a) Except as otherwise provided in this subsection, an applicant shall submit
15 before a license is issued, and a licensee shall at all times maintain, a surety
16 bond in an amount that is not less than one hundred thousand dollars
17 (\$100,000).

18 (b) The commissioner may require an applicant to submit before a license is
19 issued, and a licensee to at all times maintain, a surety bond in an amount
20 in excess of one hundred thousand dollars (\$100,000) but not exceeding
21 seven million dollars (\$7,000,000) if the commissioner determines the
22 additional amount is necessary to cover the nature and extent of risks
23 associated with the person's business plan.

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

25 1. An increase is necessary to reflect the United States dollar amount of
26 virtual currency kiosk transactions it conducted in this state in the
27 preceding or current calendar year in accordance with paragraph (d)

of this subsection; or

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

<u>(d) United States Dollar Amount of</u>	<u>Minimum Surety Bond</u>
<u>Virtual Currency Kiosk Transactions</u>	<u>Required</u>
<u>\$0 to \$5,000,000</u>	<u>\$100,000</u>
<u>\$5,000,000.01 to \$10,000,000</u>	<u>\$200,000</u>
<u>\$10,000,000.01 to \$15,000,000</u>	<u>\$300,000</u>
<u>\$15,000,000.01 to \$20,000,000</u>	<u>\$400,000</u>
<u>\$20,000,000.01 to \$25,000,000</u>	<u>\$500,000</u>
<u>\$25,000,000.01 to \$30,000,000</u>	<u>\$600,000</u>
<u>\$30,000,000.01 to \$35,000,000</u>	<u>\$700,000</u>
<u>\$35,000,000.01 to \$40,000,000</u>	<u>\$800,000</u>
<u>\$40,000,000.01 to \$45,000,000</u>	<u>\$900,000</u>
<u>Over \$45,000,000</u>	<u>\$1,000,000</u>

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

1. If the increase is required under paragraph (c)1. of this subsection, with its annual renewal report submitted under Section 14 of this Act;
or
2. If the increase is required under paragraph (c)2. of this subsection, not later than thirty (30) days after the licensee is notified by the commissioner in writing of the required increase.

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

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

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

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

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

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

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

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

22 (e) The commissioner may permit the amount of a surety bond to be reduced or
23 eliminated after a person ceases to do business in this state to the extent the
24 amount of a person's obligations outstanding in this state are reduced.

25 (4) (a) In addition to the surety bond required under this section and except as
26 provided in paragraph (c) of this subsection, an applicant shall submit
27 before a license is issued, and a licensee shall at all times maintain,

evidence of a tangible net worth that is not less than the greater of:

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

2. The sum of:

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

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

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

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

1. Applicant in the application for a license submitted under Section 12 of this Act; or

2. Licensee in the most recent annual license renewal application submitted under Section 14 of this Act.

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

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

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

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

5 2. Whether the person is currently licensed or regulated under Subtitle
6 11 of KRS Chapter 286, and whether the person is in good standing in
7 that capacity;

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

9 4. The liquidity position of the person; and

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

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

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

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

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

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

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

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

22 (b) This subsection shall not apply to a public offering of securities under the
23 laws of the United States.

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

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

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

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

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

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

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

8 4. Contains any other information the commissioner determines is
9 necessary to provide reasonable notice of the licensee's proposed
10 change of control.

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

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

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

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

18 3. Contains, and is accompanied by, any or all of the information,
19 documentation, and evidence required for an applicant under Section
20 12 of this Act that the commissioner determines is necessary and
21 appropriate for the purpose of making the determination under
22 paragraph (c) of this subsection; and

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

25 **(c) Upon receipt of a complete application for approval of a change of control**
26 and subject to Section 27 of this Act, the commissioner shall:

27 1. Approve the application if the commissioner determines that the

1 person satisfies the requirements of this subtitle for obtaining a
2 license; or

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

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

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

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

14 1. A licensee; or

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

16 (5) (a) A licensee shall provide the commissioner a complete notice of the
17 termination or resignation of a responsible individual within fifteen (15)
18 days of the termination or resignation.

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

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

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

23 3. Contains the information that the commissioner determines is
24 necessary to provide reasonable notice of the licensee's change in
25 responsible individual.

26 (6) (a) A licensee shall obtain the prior written approval of the commissioner in
27 accordance with this subsection prior to adding or replacing a responsible

1 individual.

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

4 (c) An application for approval of the addition or replacement of a responsible
5 individual 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; and

8 3. Contains, and is accompanied by, any or all of the information,
9 documentation, and evidence relating to responsible individuals under
10 Section 13 of this Act that the commissioner determines is necessary
11 and appropriate for the purpose of making the determination under
12 paragraph (d) of this subsection.

13 (d) Upon receipt of a complete application for approval of the addition or
14 replacement of a responsible individual and subject to Section 27 of this
15 Act, the commissioner shall:

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

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

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

27 ➔SECTION 17. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

1 IS CREATED TO READ AS FOLLOWS:

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

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

6 (b) The nonrefundable application fee required under Section 12 of this Act;

7 (c) The nonrefundable annual license fee required under Section 14 of this
8 Act;

9 (d) Any additional information, documentation, or evidence that the
10 commissioner may require under Section 13 or 16 of this Act;

11 (e) The information, documentation, and evidence that shall be contained in, or
12 accompany:

13 1. An annual license renewal application submitted in accordance with
14 Section 14 of this Act; and

15 2. An application or notice submitted in accordance with Section 16 of
16 this Act;

17 (f) Any additional books, accounts, or records the commissioner may require
18 under Section 18 of this Act;

19 (g) Any additional information the commissioner may require to be contained
20 in a quarterly financial report under Section 19 of this Act;

21 (h) Any additional disclosures or information the commissioner may require
22 under Section 21 of this Act; and

23 (i) Any additional policies or procedures the commissioner may require under
24 Section 23 of this Act.

25 (2) The nonrefundable fees required under Sections 12 and 14 of this Act shall be
26 determined based on a reasonable estimation of the amount required to cover the
27 reasonable costs to the department to review, investigate, and process the relevant

1 applications.

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

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

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

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

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

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

15 a. Other state or federal law; or

16 b. The commissioner to resolve any examination, investigation, or
17 claim.

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

19 (a) For each virtual currency kiosk transaction:

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

21 2. Any payment instructions for the transaction;

22 3. The total amount of fees and charges received by and paid to the
23 licensee or person, including any fees and charges received or paid on
24 behalf of the licensee or person; and

25 4. The names, account numbers, and physical addresses of the parties to
26 the transaction;

27 (b) A general ledger containing all assets, liabilities, ownership equity, income,

1 and expense accounts;

2 (c) Bank statements and bank reconciliation records;

3 (d) Any statement and valuation provided to customers and account holders;

4 (e) Records or minutes of meetings of the board of directors or an equivalent
5 governing body of the licensee or person;

6 (f) Records demonstrating compliance with applicable state and federal anti-
7 money laundering laws, including customer and account holder
8 identification and verification documents, records linking customers and
9 account holders to their respective accounts and balances, and a record of
10 any compliance breaches;

11 (g) Communications and documentation related to:

12 1. Investigations of customer and account holder complaints; and

13 2. Transaction error resolutions;

14 (h) The policies and procedures required under Section 23 of this Act; and

15 (i) Any other books, accounts, or records that are required by the
16 commissioner for determining whether a licensee or person is in
17 compliance with this subtitle, including with any administrative regulation
18 promulgated, or order issued or entered, under this subtitle.

19 (3) The books, accounts, and records that are required to be maintained under this
20 section:

21 (a) May be maintained in any electronic format consistent with the licensee's or
22 person's ordinary business practices unless the licensee or person receives
23 specific written instructions from the commissioner to the contrary;

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

26 (c) Shall be kept at the licensee's or person's principal office or an office
27 located in this state unless otherwise permitted in writing by the

1 commissioner; and

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

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

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

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

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

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

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

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

22 1. Is in writing;

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

24 3. Contains:

25 a. A statement of the financial condition of the licensee that
26 includes, in United States dollars:

27 i. A balance sheet and income statement;

1 ii. Virtual currency kiosk transaction information; and

2 iii. Any investments;

3 b. Any other information required by the commissioner; and

4 c. A certification by an officer or member of the licensee's board of
5 directors or equivalent governing body that attests to the truth
6 and correctness of the report.

7 (2) The commissioner may, by order, require additional special reports from
8 licensees as the commissioner deems necessary for the proper supervision of
9 licensees under this subtitle.

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

12 (1) To the extent a licensee stores, holds, or maintains custody or control of virtual
13 currency on behalf of a resident, the licensee shall hold virtual currency of the
14 same type and amount as that which is owed or obligated to the resident.

15 (2) A licensee shall not sell, transfer, assign, lend, hypothecate, pledge, or otherwise
16 use or encumber assets, including virtual currency, stored, held, or maintained
17 by, or under the custody or control of, the licensee on behalf of a resident, except
18 for the sale, transfer, or assignment of such assets at the direction of the resident.

19 (3) Except as provided in subsection (4) of this section, a licensee shall not do any of
20 the following:

21 (a) Commingle assets belonging to a resident with assets belonging to the
22 licensee;

23 (b) Use a resident's assets to secure or guarantee a transaction other than a
24 transaction involving, or on behalf of, the resident's contributing assets;

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

27 (d) Invest in such a manner that would not allow for sufficient assets, including

1 virtual currency, to fulfill all outstanding obligations to a resident.

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

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

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

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

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

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

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

18 (1) (a) A licensee shall:

19 1. Except as provided in paragraph (c) of this subsection, have a
20 maximum daily transaction limit of three thousand dollars (\$3,000)
21 for each virtual currency kiosk user;

22 2. Either:

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

25 b. At the licensee's cost, allow a virtual currency kiosk user to
26 cancel, and receive a full refund for, a virtual currency kiosk
27 transaction within seventy-two (72) hours after the transaction;

1 and

2 3. Post a notice on each virtual currency kiosk in this state that reads:

3 "WARNING: No state or government official will ever request that
4 cash be deposited into a Crypto ATM. Call your local sheriff or police
5 department before putting cash into this machine if you believe you
6 might be the victim of fraud or a scam."

7 (b) The notice required under paragraph (a)3. of this subsection shall be:

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

9 2. In the English language; and

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

11 (c) 1. The commissioner shall, by order, adjust the maximum daily
12 transaction limit established in paragraph (a)1. of this subsection
13 every two (2) years.

14 2. The adjustment required under subparagraph 1. of this paragraph
15 shall be calculated based on the percent change in the nonseasonally
16 adjusted annual average Consumer Price Index for all Urban
17 Consumers (CPI-U), U.S. City Average, All Items, between the two (2)
18 most recent calendar years available, as published by the United States
19 Bureau of Labor Statistics.

20 (2) (a) Prior to entering a virtual currency kiosk transaction with a virtual
21 currency kiosk user in this state, a licensee shall:

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

23 2. Obtain an acknowledgment from the user that the user received the
24 disclosures.

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

26 1. Describe the terms and conditions of the transaction, including
27 without limitation:

1 a. The amount of the transaction; and

2 b. Any fees, expenses, and charges borne by the user, including
3 applicable exchange rates;

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

6 a. Virtual currency is not legal tender in the United States, is not
7 backed by the United States government, and accounts and value
8 balances are not subject to Federal Deposit Insurance
9 Corporation or Securities Investor Protection Corporation
10 protections;

11 b. Legislative and regulatory changes or actions at the state,
12 federal, or international level may adversely affect the value of
13 virtual currency;

14 c. Transactions in virtual currency may be irreversible, and
15 accordingly, losses due to fraudulent or accidental transactions
16 may not be recoverable;

17 d. Some virtual currency transactions may be immediately effective
18 when recorded on a public ledger, which is not necessarily the
19 date or time that the user initiates the transaction;

20 e. The value of virtual currency may be derived from the continued
21 willingness of market participants to exchange legal tender for
22 virtual currency, which may result in the potential for permanent
23 and total loss of value of a particular virtual currency if the
24 market for the virtual currency declines or collapses for an
25 extended period of time;

26 f. Any surety bond required by Section 15 of this Act for the benefit
27 of users may not be sufficient to cover all losses incurred by the

- 1 users;
- 2 g. Users should perform research before purchasing or investing in
- 3 virtual currency; and
- 4 h. The circumstances under which the licensee will, in the ordinary
- 5 course of business, disclose the user's financial and account
- 6 information to third parties;
- 7 3. Include any additional information the commissioner determines is
- 8 necessary and appropriate to disclose to virtual currency kiosk users;
- 9 4. Be made separately from any other information provided by a
- 10 licensee;
- 11 5. Be clear, conspicuous, and in legible writing; and
- 12 6. Be in the English language.

13 (3) Upon completion of a virtual currency kiosk transaction in this state, a licensee

14 shall provide a receipt to the virtual currency kiosk user that contains the

15 following information:

- 16 (a) The name and contact information of the licensee;
- 17 (b) That the licensee is available at the contact information provided on the
- 18 receipt to answer questions and register complaints;
- 19 (c) The type, value, date, and precise time of the transaction;
- 20 (d) The transaction's fees, expenses, and charges;
- 21 (e) The exchange rate, if applicable;
- 22 (f) The licensee's liability for nondelivery or delayed delivery;
- 23 (g) The licensee's refund policy; and
- 24 (h) Any additional information required by the commissioner.

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

26 IS CREATED TO READ AS FOLLOWS:

27 It shall be a violation of this subtitle for an applicant, a licensee, or any other person to

1 do any of the following:

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

4 (a) Directly or indirectly employ any scheme, device, or artifice to defraud or
5 mislead, when the applicant, licensee, or person should have known that the
6 scheme, device, or artifice was defrauding or misleading; or

7 (b) Engage in any:

8 1. Unfair or deceptive practice; or

9 2. Other act or conduct that would warrant the denial, suspension, or
10 revocation of a license under Section 28 of this Act;

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

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

15 1. A state or federal government agency;

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

17 3. Any agency or authority, as part of a nationwide licensing system, that
18 is designated by the commissioner to accept filings under Section 11 of
19 this Act; or

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

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

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

27 (1) Each licensee shall:

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

1 (4) (a) Each licensee shall implement, maintain, and enforce a written enhanced
2 due diligence policy.

3 (b) The enhanced due diligence policy shall:

4 1. Be reviewed and approved by the licensee's board of directors or
5 equivalent governing body; and

6 2. At a minimum, establish protocols to identify individuals who are at
7 risk of fraud based on age or mental capacity.

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

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

12 (a) Discover violations of this subtitle, including violations of any
13 administrative regulation promulgated, or order issued or entered, under
14 this subtitle; or

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

16 (2) (a) The commissioner may conduct routine examinations of the virtual
17 currency kiosk affairs, business, offices, books, accounts, and records of
18 licensees.

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

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

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

27 (a) Compel the attendance of any person or obtain any books, accounts, or

1 records by subpoenas;

2 (b) Administer oaths and affirmations; and

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

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

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

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

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

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

17 (6) (a) Except as provided in paragraph (b) of this subsection and Section 25 of
18 this Act, a routine examination report, related correspondence, and
19 examination-related information shall be considered confidential by law,
20 privileged, and not subject to disclosure under KRS 61.870 to 61.884.

21 (b) A licensee:

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

27 2. Shall provide written notice to the commissioner of a disclosure made

1 under this paragraph at the same time that the disclosure is made.

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

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

8 (a) Be confidential by law and privileged;

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

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

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

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

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

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

- 1 1. In accordance with Section 11 of this Act;
- 2 2. In accordance with a joint, concurrent, or multistate investigation or
- 3 examination conducted under Section 24 of this Act; or
- 4 3. In accordance with a written cooperation, coordination, or
- 5 information-sharing contract or agreement that:
- 6 a. Assists in the performance of the commissioner's duties;
- 7 b. Improves efficiencies or reduces regulatory burden through
- 8 standardized methods, procedures, or information sharing;
- 9 c. Is entered into with one (1) or more of the following:
- 10 i. Other state or federal regulators of virtual currency
- 11 businesses; or
- 12 ii. Organizations made up of other state regulators of virtual
- 13 currency businesses; and
- 14 d. Maintains the confidentiality and privileged status of shared
- 15 documents, materials, reports, and information;
- 16 (b) Report apparent violations of law to:
- 17 1. Other state or federal regulators of virtual currency businesses;
- 18 2. The registry, as defined in Section 11 of this Act; or
- 19 3. Law enforcement agencies of this state, any other state, or the federal
- 20 government;
- 21 (c) Disclose to the public:
- 22 1. A list of licensees;
- 23 2. Licensure information for licensees as provided under Section 10 of
- 24 this Act;
- 25 3. A licensee's registered agent for service of process in this state;
- 26 4. The aggregate financial data of licensees; or
- 27 5. Violations of this subtitle, enforcement actions, and other relevant

1 information that the commissioner deems necessary to carry out the
2 purposes of this subtitle;

3 (d) Disclose and use documents, materials, reports, and other information in
4 the commissioner's possession or control, including otherwise confidential
5 and privileged documents, materials, reports, and other information, in
6 furtherance of any regulatory or legal action brought as part of the
7 commissioner's official duties;

8 (e) Receive any documents, materials, reports, or other information, including
9 otherwise confidential and privileged documents, materials, reports, or
10 other information, from any source;

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

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

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

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

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

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

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

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

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

27 (1) By July 1 of each year, the commissioner shall submit a written report on the

licensing of virtual currency kiosk businesses in Kentucky to the Legislative Research Commission for referral to the Interim Joint Committee on Banking and Insurance.

(2) The written report required under subsection (1) of this section shall contain, at a minimum, the following information, by calendar year:

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

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

(c) The number of licenses granted;

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

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

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

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

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

1. Conditionally issuing a license; or

2. Denying an application for any of the following:

a. A license;

b. A change of control; or

c. The replacement or addition of a responsible individual.

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

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

1. Prior to doing any of the following:

- 1 a. Suspending or revoking a person's license under Section 28 of
2 this Act;
- 3 b. Entering a cease and desist order against the person under
4 Section 30 of this Act; or
- 5 c. Entering an order against the person to pay any fee or penalty,
6 or provide any remedy, authorized under this subtitle; and
- 7 2. Simultaneous with the service of an emergency order on the person
8 under Section 29 of this Act.
- 9 (b) Except as provided in paragraph (c) of this subsection, a person that is
10 served an administrative complaint under paragraph (a) of this subsection
11 shall be entitled to an administrative hearing on the complaint conducted in
12 accordance with KRS Chapter 13B if the person files both of the following
13 with the commissioner within twenty (20) days of the date of service:
- 14 1. A written answer to the complaint; and
15 2. A request for hearing.
- 16 (c) A person that complies with paragraph (b) of this subsection in response to
17 an administrative complaint and emergency order entered under Section 29
18 of this Act shall be entitled to an emergency administrative hearing
19 conducted in accordance with KRS 13B.125.
- 20 (4) (a) Except as provided in paragraph (b) of this subsection, the commissioner
21 shall serve any notice, complaint, or emergency order referenced in this
22 section by certified mail or personal delivery to the person's last known
23 address of record or upon the person's agent for service of process.
- 24 (b) If the commissioner is unable to reasonably determine a person's last
25 known address of record or agent for service of process, the commissioner
26 may serve a notice, a complaint, or an emergency order by certified mail or
27 personal delivery to any owner or operator of the premises or real property

1 upon which the person's virtual currency kiosk or kiosks are located.

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

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

7 (a) Taking the action that was:

8 1. Set forth in the notice; or

9 2. Sought in the complaint; or

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

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

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

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

17 (1) As used in this section, "unsafe or unsound act or practice" means any of the
18 following:

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

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

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

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

26 (2) Subject to Section 27 of this Act and KRS 335B.020, the commissioner may deny,
27 suspend, or revoke a license if the commissioner finds one (1) or more of the

1 following:

2 (a) The applicant or licensee has:

3 1. Violated any provision of this subtitle;

4 2. Violated any consent order or compliance agreement entered into with
5 the commissioner;

6 3. Engaged in:

7 a. An unsafe or unsound act or practice;

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

9 c. Fraud or intentional misrepresentation; or

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

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

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

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

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

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

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

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

4 11. Knowingly employed or contracted with a responsible individual that
5 has been convicted of, pled guilty to, or pled nolo contendere to a
6 felony; or

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

11 (b) The applicant or licensee:

12 1. Is insolvent;

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

14 3. Has:

15 a. Become the debtor, alleged debtor, respondent, or person in a
16 similar capacity in a case or other proceeding under any
17 bankruptcy, reorganization, arrangement, readjustment,
18 insolvency, receivership, dissolution, liquidation, or similar law;
19 and

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

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

25 (c) The applicant or licensee has knowingly made or provided, or caused to be
26 made or provided, to the commissioner one (1) or more of the following:

27 1. A material misrepresentation; or

1 2. A false or fraudulent:

2 a. Material fact; or

3 b. Financial statement;

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

7 (e) Any fact or condition exists that warrants, or would have warranted, the
8 commissioner denying a license.

9 (3) Subsection (2)(a)1. of this section includes, without limitation, all of the
10 following:

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

13 (b) Failing to pay any fee, civil penalty, cost, or surety claim that is owed by the
14 applicant or licensee under this subtitle;

15 (c) Violating the written conditions under which a license was issued, renewed,
16 or maintained; and

17 (d) Failing to comply with a lawful order or subpoena entered by the
18 commissioner.

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

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

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

27 (5) Any person, responsible individual of a licensee, or person in control of a licensee

1 whose license has been revoked shall not be eligible to apply for a license, to serve
2 as a responsible individual, or to serve as a person in control of a licensee:

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

4 and

5 (b) For any subsequent revocation, permanently.

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

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

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

12 (a) Suspends any license; or

13 (b) Directs any peace officer to:

14 1. Seize or impound a virtual currency kiosk, including any contents
15 thereof; or

16 2. Render a virtual currency kiosk inoperable.

17 (2) Subject to Section 27 of this Act, the commissioner may enter an emergency order
18 against any licensee or other person, pending further investigation, the entry of a
19 final order, or other final legal action, if the commissioner has reason to believe,
20 or determines, one (1) or more of the following:

21 (a) The person is acting in violation of Section 10 of this Act;

22 (b) The licensee is not in compliance with Section 15 of this Act;

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

26 (d) The licensee has submitted a payment of any fee or penalty authorized
27 under this subtitle that was returned, declined, denied, dishonored, or

- 1 otherwise not paid in full for any reason;
- 2 (e) Subject to KRS 335B.020, the licensee is knowingly employing or
- 3 contracting with a responsible individual that has been convicted of, pled
- 4 guilty to, or pled nolo contendere to a felony; or
- 5 (f) The licensee has had any license, registration, claim of exemption, or other
- 6 authorization to do business relating to the financial services industry
- 7 denied, revoked, suspended, or terminated by any state or federal
- 8 jurisdiction.

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

- 10 (a) Pursuant to KRS 13B.125, become effective when served by the
- 11 commissioner; and
- 12 (b) Remain in effect until it is:
- 13 1. Stayed, withdrawn, suspended, or superseded by order of the
- 14 commissioner; or
- 15 2. Terminated by court order.

16 ➔SECTION 30. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286

17 IS CREATED TO READ AS FOLLOWS:

- 18 (1) Subject to Section 27 of this Act, the commissioner may enter a cease and desist
- 19 order requiring an applicant, a licensee, or any other person to cease and desist
- 20 from violating one (1) or more identified provisions of the following, if the
- 21 commissioner has reason to believe or determines that the violations have
- 22 occurred or will occur:
- 23 (a) This subtitle;
- 24 (b) An administrative regulation promulgated under this subtitle;
- 25 (c) An order issued or entered under this subtitle; or
- 26 (d) An agreement entered with the commissioner relating to compliance with
- 27 this subtitle.

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

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

4 or

5 (b) Terminated by court order.

6 ➔SECTION 31. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 286
7 IS CREATED TO READ AS FOLLOWS:

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

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

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

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

13 or

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

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

18 1. Provision of this subtitle;

19 2. Administrative regulation promulgated under this subtitle;

20 3. Order issued or entered under this subtitle; or

21 4. Agreement with the commissioner relating to compliance with this
22 subtitle.

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

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

26 (b) May:

27 1. Be assessed for each day the violation is outstanding; and

- 1 2. Include an order for the person to pay the state's costs and expenses
2 for the examination, investigation, and prosecution of the matter,
3 including reasonable attorney's fees and court costs.

4 ➔ SECTION 32. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) As used in this section:

7 (a) "Bullion depository" means an entity providing vault facilities within the
8 United States for the storage of gold bullion and silver bullion that:

9 1. Complies with the prescribed London Bullion Market Association or
10 equivalent best practice guidelines; and

11 2. Provides accounts that:

12 a. Hold gold bullion and silver bullion; and

13 b. Allow account holders to buy, sell, save, and spend gold bullion
14 and silver bullion;

15 (b) "Depository agent" means a private entity authorized by the State Treasurer
16 to operate a bullion depository or perform related services under this
17 section;

18 (c) "Electronic payment system" means an electronic platform or payment
19 system that enables participating vendors to receive and process a payment
20 from an account holder of a bullion depository using gold specie and silver
21 specie held in the bullion depository as the basis for the payment
22 transaction;

23 (d) "Gold bullion" and "silver bullion":

24 1. Means, as applicable, refined precious gold or silver metal that is:

25 a. In any shape or form; and

26 b. Valued primarily based on its metal content and not on its form
27 or function; and

- 1 2. Includes, as applicable, gold coin and silver coin;
- 2 (e) "Gold coin" and "silver coin" means, as applicable, gold or silver metal
- 3 that is:
- 4 1. In bars or other physical forms certified at least:
- 5 a. For gold metal, ninety-nine and one-half percent (99.5%) pure;
- 6 and
- 7 b. For silver metal, ninety-nine and nine-tenths percent (99.9%)
- 8 pure; and
- 9 2. Coined, stamped, or imprinted with its weight and purity;
- 10 (f) "Gold specie" and "silver specie" means, as applicable, gold or silver
- 11 bullion that:
- 12 1. Has intrinsic value; and
- 13 2. Is used or intended for use as money;
- 14 (g) "Governing authority":
- 15 1. Means any government, agency, authority, board, bureau,
- 16 commission, committee, council, department, government corporation,
- 17 institution, legislative body, political subdivision, instrumentality, or
- 18 other entity of this state; and
- 19 2. Includes:
- 20 a. Any city, county, charter county government, urban-county
- 21 government, consolidated local government, unified local
- 22 government, public school district, public institution of
- 23 education, special district, or municipal corporation of this state;
- 24 and
- 25 b. Any government, agency, authority, board, bureau, department,
- 26 commission, council, committee, instrumentality, or other entity
- 27 of an entity referenced in subdivision a. of this subparagraph;

1 (h) "Legal tender" means a recognized medium of exchange for the payment of
2 debts, taxes, fees, and other obligations;

3 (i) "Person" includes:

4 1. A natural person;

5 2. Any type or form of corporation, company, partnership,
6 proprietorship, association, or other legal entity; and

7 3. A government, governmental subdivision or agency, governing
8 authority, or other body politic; and

9 (j) "Social credit scoring system" means a system of recordkeeping, data
10 collection, or scoring that:

11 1. Evaluates, monitors, or ranks an individual's or entity's behavior,
12 beliefs, associations, or compliance with government or corporate
13 standards; and

14 2. Conditions access to services, benefits, or opportunities based on an
15 evaluation, monitoring, or ranking referenced in subparagraph 1. of
16 this paragraph.

17 (2) (a) Subject to paragraphs (b) and (c) of this subsection, gold specie and silver
18 specie are recognized as legal tender by the Commonwealth of Kentucky.

19 (b) Gold specie or silver specie may be used for the payment of:

20 1. Debts between private parties, if the parties mutually agree to use of
21 the specie; and

22 2. Taxes, fees, or other obligations owed to the Commonwealth of
23 Kentucky or a governing authority, if the Commonwealth of Kentucky
24 or governing authority agrees to accept the specie as payment.

25 (c) Except as provided in paragraph (b) of this subsection, a person shall not be
26 required to accept gold specie or silver specie as payment.

27 (3) Subject to subsections (4) and (9) of this section, the State Treasurer:

- 1 (a) Shall promulgate administrative regulations in accordance with KRS
2 Chapter 13A:
3 1. To designate or establish a bullion depository for the secure storage of
4 gold bullion and silver bullion to facilitate transactions under this
5 section;
6 2. To authorize and approve one (1) or more electronic payment systems
7 to facilitate transactions under this section; and
8 3. That are otherwise necessary to implement this section; and
9 (b) May:
10 1. Operate the bullion depository directly or contract with a depository
11 agent; and
12 2. Contract with one (1) or more private entities to develop or operate
13 any electronic payment system.
14 (4) The administrative regulations promulgated by the State Treasurer under
15 subsection (3) of this section shall establish requirements for ensuring:
16 (a) The designated or established bullion depository is:
17 1. Secure;
18 2. Transparent to account holders; and
19 3. Accessible for use by any person;
20 (b) Each authorized and approved electronic payment system:
21 1. Is reliable; and
22 2. Complies with applicable state and federal laws, including this section
23 and any lawful administrative regulations promulgated under this
24 section;
25 (c) That any depository agent or contracted entity operates in the best interests
26 of the Commonwealth of Kentucky and the account holders of the
27 designated or established bullion depository;

1 (d) With respect to the designated or established bullion depository, that the
2 following is regularly verified:

3 1. The gold bullion and silver bullion held by the depository; and

4 2. Compliance with this section by the depository, including any lawful
5 administrative regulations promulgated under this section;

6 (e) That each authorized and approved electronic payment system and any
7 participating vendors are:

8 1. Authorized to do business in this state; and

9 2. Compliant with state and federal money transmitter laws;

10 (f) That appropriate fraud prevention measures are implemented by:

11 1. The designated or established bullion depository;

12 2. Any depository agent or contracted entity;

13 3. Each authorized and approved electronic payment system; and

14 4. Each participating vendor of an authorized and approved electronic
15 payment system; and

16 (g) 1. The privacy of the bullion depository's account holders and the
17 participants of each authorized and approved electronic payment
18 system, which shall include, at a minimum, that transaction
19 information shall not, except to the extent the State Treasurer deems
20 necessary to enforce and effectuate this section, be:

21 a. Shared with any person other than the account holder or
22 participant without proper court authorization; or

23 b. Used in any sort of social credit scoring system implemented or
24 maintained by the United States, a state of the United States, a
25 foreign country or jurisdiction, an intergovernmental
26 organization, or any government, agency, agent, instrumentality,
27 central bank, or other entity thereof.

- 1 2. a. The United States, a state of the United States, a foreign country
2 or jurisdiction, an intergovernmental organization, or any
3 government, agency, agent, instrumentality, central bank, or
4 other entity thereof shall not use an account holder's or
5 participant's transaction information in violation of
6 subparagraph 1.b. of this paragraph.
- 7 b. Any account holder or participant aggrieved by a violation of
8 subdivision a. of this subparagraph shall have a cause of action
9 against the alleged violator in any court of competent
10 jurisdiction to obtain all appropriate relief, which shall include,
11 without limitation:
- 12 i. Injunctive relief;
13 ii. Declaratory relief;
14 iii. Compensatory damages;
15 iv. Costs; and
16 v. Attorney's fees.
- 17 (5) A bullion depository designated or established by the State Treasurer under this
18 section shall have a contractual relationship with each electronic payment system
19 that is authorized and approved by the State Treasurer under this section to
20 provide services for deposits of gold bullion and silver bullion as provided by the
21 State Treasurer under this section.
- 22 (6) For each deposit made in a bullion depository designated or established by the
23 State Treasurer under this section, the bullion depository shall insure the deposit
24 under an all-risk insurance policy issued by a nongovernmental operated insurer
25 for one hundred percent (100%) of the full replacement value of the deposit.
- 26 (7) A deposit made in a bullion depository designated or established by the State
27 Treasurer under this section shall:

- 1 (a) Be the sole property of the account holder; and
2 (b) Not be subject to appropriation by any state or the United States without due
3 process of law.

4 (8) By July 1 of each year, the State Treasurer shall submit an annual written report
5 to the Legislative Research Commission for referral to the appropriate interim
6 joint committees or other appropriate committees that details the following:

- 7 (a) The status and operations of the designated or established bullion
8 depository;
9 (b) The implementation and usage of authorized and approved electronic
10 payment systems; and
11 (c) The economic impact of recognizing gold specie and silver specie as legal
12 tender.

13 (9) The State Treasurer shall implement this section within one (1) year of the
14 effective date of this section.

15 (10) Nothing in this section shall be construed to authorize, endorse, create, or
16 implement:

- 17 (a) A central bank digital currency; or
18 (b) Any mechanism for surveillance, social credit scoring, or behavioral
19 conditioning, or any other form of social or economic control, by the
20 Commonwealth of Kentucky or a governing authority.

21 ➔Section 33. Section 32 of this Act may be cited as the Kentucky Transactional
22 Gold and Silver Act.

23 ➔Section 34. Sections 8 to 31 of this Act take effect March 31, 2027.

24 ➔Section 35. On or before January 1, 2027, the commissioner of the Kentucky
25 Department of Financial Institutions shall promulgate any emergency and ordinary
26 administrative regulations required under Sections 8 to 31 of this Act.