



Rep. Edgar González, Jr.

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LRB104 04637 BAB 24129 a

1 AMENDMENT TO HOUSE BILL 742

2 AMENDMENT NO. _____. Amend House Bill 742 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. General Provisions

5 Section 1-1. Short title. This Act may be cited as the
6 Digital Assets and Consumer Protection Act.

7 Section 1-5. Definitions.

8 (a) As used in this Act:

9 "Affiliate" means any person that controls, is controlled
10 by, or is under common control with another person. For
11 purposes of this definition, "control" means the possession,
12 direct or indirect, of the power to direct or cause the
13 direction of the management and policies of a person.

14 "Applicant" means a person that applies for registration
15 under this Act.

1 "Bank" means a bank, savings banks, savings and loan
2 association, savings association, or industrial loan company
3 chartered under the laws of this State or any other state or
4 under the laws of the United States.

5 "Confidential supervisory information" means information
6 or documents obtained by employees, agents, or representatives
7 of the Department in the course of any examination,
8 investigation, audit, visit, registration, certification,
9 review, licensing, or any other regulatory or supervisory
10 activity pursuant to this Act, and any record prepared or
11 obtained by the Department to the extent that the record
12 summarizes or contains information derived from any report,
13 document, or record described in this Act.

14 "Conflict of interest" means an interest that might
15 incline a covered person or an individual who is an associated
16 person of a covered person to make a recommendation that is not
17 disinterested.

18 "Corporate fiduciary" means a corporate fiduciary as
19 defined by Section 1-5.05 of the Corporate Fiduciary Act.

20 "Covered person" means a registrant or person required to
21 register pursuant to this Act.

22 "Covered exchange" means a covered person that exchanges
23 or holds itself out as being able to exchange a digital asset
24 for a resident.

25 "Credit union" means a credit union chartered under the
26 laws of this State or any other state or under the laws of the

1 United States.

2 "Department" means the Department of Financial and
3 Professional Regulation.

4 "Digital asset" means a digital representation of value
5 that is used as a medium of exchange, unit of account, or store
6 of value, and that is not fiat currency, whether or not
7 denominated in fiat currency. "Digital asset" does not include
8 any of the following:

9 (1) A digital representation of value which a merchant
10 grants, as part of an affinity or rewards program, and
11 that cannot be taken from or exchanged with the merchant
12 for fiat currency or a digital asset.

13 (2) A digital representation of value that is issued
14 by or on behalf of a game publisher, used solely within a
15 gaming platform, has no market or application outside of
16 such gaming platform, and cannot be converted into, or
17 redeemed for, fiat currency or digital assets.

18 (3) A digital representation of value that is used as
19 part of prepaid cards.

20 "Digital asset administration" means controlling,
21 administering, or issuing a digital asset.

22 "Digital asset business activity" means any of the
23 following:

24 (1) Exchanging, transferring, or storing a digital
25 asset.

26 (2) Engaging in digital asset administration.

1 (3) Any other business activity involving digital
2 assets designated by rule by the Department as may be
3 necessary and appropriate for the protection of residents.

4 "Digital asset business activity" does not include the
5 development and dissemination of software in and of itself.

6 "Exchange", when used as a verb, means to exchange, buy,
7 sell, trade, or convert, on behalf of a resident, either of the
8 following:

9 (1) A digital asset for fiat currency or one or more
10 forms of digital assets.

11 (2) Fiat currency for one or more forms of digital
12 assets.

13 "Exchange" does not include buying, selling, or trading
14 digital assets for a person's own account in a principal
15 capacity.

16 "Executive officer" includes, without limitation, an
17 individual who is a director, officer, manager, managing
18 member, partner, or trustee, or other functionally equivalent
19 responsible individual, of a person.

20 "Federally insured depository institution" means an
21 insured depository institution as defined by Section 3(c)(2)
22 of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c)(2), as
23 amended, or an insured credit union as defined by Section
24 101(7) of the Federal Credit Union Act, 12 U.S.C. 1752(7), as
25 amended.

26 "Fiat currency" means a medium of exchange or unit of

1 value issued by the United States or a foreign government that
2 is designated as legal tender in its country of issuance.

3 "Insolvent" means any of the following:

4 (1) Having generally ceased to pay debts in the
5 ordinary course of business other than as a result of a
6 bona fide dispute.

7 (2) Being unable to pay debts as they become due.

8 (3) Being insolvent within the meaning of federal
9 bankruptcy law.

10 "Person" includes, without limitation, any individual,
11 corporation, business trust, estate, trust, partnership,
12 proprietorship, syndicate, limited liability company,
13 association, joint venture, government, governmental
14 subsection, agency or instrumentality, public corporation or
15 joint stock company, or any other organization or legal or
16 commercial entity.

17 "Prepaid card" means an electronic payment device that,
18 subject to any rules adopted by the Department:

19 (1) is usable at a single merchant or an affiliated
20 group of merchants that share the same name, mark, or
21 logo, or is usable at multiple, unaffiliated merchants or
22 service providers;

23 (2) is issued in and for a specified amount of fiat
24 currency;

25 (3) can be reloaded in and for only fiat currency, if
26 at all;

1 (4) is issued or reloaded on a prepaid basis for the
2 future purchase or delivery of goods or services;

3 (5) is honored upon presentation;

4 (6) can be redeemed in and for only fiat currency, if
5 at all;

6 (7) is governed by the Uniform Money Transmission
7 Modernization Act; and

8 (8) complies with any other condition designated by
9 rule by the Department as may be necessary and appropriate
10 for the protection of residents.

11 "Qualified custodian" means a bank, credit union, or trust
12 company, subject to any rules adopted by the Department.

13 "Record" means information that is inscribed on a tangible
14 medium or that is stored in an electronic or other medium and
15 is retrievable in perceivable form.

16 "Registrant" means a person registered under this Act.

17 "Resident" means any of the following:

18 (1) A person who is domiciled in this State.

19 (2) A person who is physically located in this State
20 for more than 183 days of the previous 365 days.

21 (3) A person who has a place of business in this State.

22 (4) A legal representative of a person that is
23 domiciled in this State.

24 "Request for assistance" means all inquiries, complaints,
25 account disputes, and requests for documentation a covered
26 person receives from residents.

1 "Responsible individual" means an individual who has
2 direct control over, or significant management, policy, or
3 decision-making authority with respect to, a person's digital
4 asset business activity in this State.

5 "Secretary" means the Secretary of Financial and
6 Professional Regulation and any authorized representative of
7 the Secretary.

8 "Service provider" means any person that provides a
9 material service to a covered person in connection with the
10 offering or provision by that covered person of a digital
11 asset business activity in this State, including a person that
12 either:

13 (1) Participates in designing, operating, or
14 maintaining the digital asset business activity.

15 (2) Processes transactions relating to the digital
16 asset business activity, other than unknowingly or
17 incidentally transmitting or processing financial data in
18 a manner that the data is undifferentiated from other
19 types of data of the same form as the data the person
20 transmits or processes.

21 "State" means a state of the United States, the District
22 of Columbia, Puerto Rico, the United States Virgin Islands, or
23 any territory or insular possession subject to the
24 jurisdiction of the United States.

25 "Store," "storage", and "storing", except in the phrase
26 "store of value", means to store, hold, or maintain custody or

1 control of a digital asset on behalf of a resident by a person
2 other than the resident.

3 "Transfer" means to transfer or transmit a digital asset
4 on behalf of a resident, including by doing any of the
5 following:

6 (1) Crediting the digital asset to the account or
7 storage of another person.

8 (2) Moving the digital asset from one account or
9 storage of a resident to another account or storage of the
10 same resident.

11 (3) Relinquishing custody or control of a digital
12 asset to another person.

13 "United States dollar equivalent of digital assets" means
14 the equivalent value of a particular digital asset in United
15 States dollars shown on a covered exchange regulated in the
16 United States for a particular date or period specified in
17 this Act, subject to any rules adopted by the Department.

18 (b) Whenever the terms "include", "including", or terms of
19 similar import appear in this Act, unless the context requires
20 otherwise, such terms shall not be construed to imply the
21 exclusion of any person, class, or thing not specifically
22 included.

23 (c) A reference in this Act to any other law or statute of
24 this State, or of any other jurisdiction, means such law or
25 statute as amended to the effective date of this Act, and
26 unless the context otherwise requires, as amended thereafter.

1 Section 1-10. Applicability.

2 (a) This Act governs the digital asset business activity
3 of a person doing business in this State or, wherever located,
4 who engages in or holds itself out as engaging in the activity
5 with or on behalf of a resident, to the extent not preempted by
6 federal law and except as otherwise provided in subsections
7 (b), (c), (d), or (e).

8 (b) (1) This Act does not apply to the exchange, transfer,
9 or storage of a digital asset or to digital asset
10 administration to the extent that:

11 (A) the Securities Exchange Act of 1934, 15 U.S.C.
12 78a et seq., or the Illinois Securities Law of 1953
13 govern the activity as a security transaction and the
14 activity is actually regulated for the purpose of
15 investor protection by the U.S. Securities and
16 Exchange Commission or the Illinois Secretary of
17 State; or

18 (B) the Commodity Exchange Act, 7 U.S.C. 1 et
19 seq., governs the activity as a contract of sale of a
20 commodity for future delivery or a swap and the
21 activity is actually regulated for the purpose of
22 investor protection by the U.S. Commodity Futures
23 Trading Commission.

24 (2) This subsection shall be construed in a manner
25 consistent with affording the greatest protection to

1 residents and the Department's authority under subsection
2 (a) of Section 1-15 to exercise nonexclusive oversight and
3 enforcement under any federal law applicable to digital
4 asset business activity. This subsection shall not be
5 construed to exempt an activity solely because a financial
6 regulatory agency has anti-fraud and anti-manipulation
7 enforcement authority over the activity.

8 (c) This Act does not apply to the following persons:

9 (1) The United States, a State, political subdivision
10 of a State, agency, or instrumentality of federal, State,
11 or local government, or a foreign government or a
12 subdivision, department, agency, or instrumentality of a
13 foreign government.

14 (2) A federally insured depository institution.

15 (3) A corporate fiduciary acting as a fiduciary or
16 otherwise engaging in fiduciary activities.

17 (4) A merchant using digital assets solely for the
18 purchase or sale of goods or services, excluding the sale
19 of purchase of digital assets, in the ordinary course of
20 its business.

21 (5) A person using digital assets solely for the
22 purchase or sale of goods or services for the person's own
23 personal, family, or household purposes.

24 (6) A credit union with member share accounts insured
25 by an insurer approved by the credit union's primary
26 financial regulatory agency. An out-of-state credit union

1 may not conduct any activity in this State that is not
2 authorized for a credit union chartered under the laws of
3 this State.

4 Nothing in this Act grants persons described in this
5 subsection (c) authority to engage in any activity not
6 otherwise granted under existing law.

7 (d) The Department may by rule or order clarify whether an
8 activity is governed under this Act or another Act that
9 governs money transmissions. This subsection (d) shall not be
10 applied in a manner inconsistent with the protection of
11 residents.

12 (e) Notwithstanding any other provision of this Act, the
13 Department, by rule or order, may conditionally or
14 unconditionally exempt any person, digital asset, or
15 transaction, or any class or classes of persons, digital
16 assets, or transactions, from any provision of this Act or of
17 any rule adopted under this Act, to the extent that the
18 exemption is necessary or appropriate, in the public interest,
19 and consistent with the protection of residents.

20 Section 1-15. General powers and duties.

21 (a) The Department shall regulate digital asset business
22 activity in this State, unless it is exempt pursuant to
23 Section 1-10. To the extent permissible under federal law, the
24 Department shall exercise nonexclusive oversight and
25 enforcement under any federal law applicable to digital asset

1 business activity.

2 (b) The functions, powers, and duties conferred upon the
3 Department by this Act are cumulative to any other functions,
4 powers, and duties conferred upon the Department by other laws
5 applicable to digital asset business activity.

6 (c) The Department shall have the following functions,
7 powers, and duties in carrying out its responsibilities under
8 this Act and any other law applicable to digital asset
9 business activity in this State:

10 (1) to issue or refuse to issue any registration or
11 other authorization under this Act;

12 (2) to revoke or suspend for cause any registration or
13 other authorization under this Act;

14 (3) to keep records of all registrations or other
15 authorizations under this Act;

16 (4) to receive, consider, investigate, and act upon
17 complaints made by any person relating to any digital
18 asset business activity in this State;

19 (5) to prescribe the forms of and receive:

20 (A) applications for registrations or other
21 authorizations under this Act; and

22 (B) all reports and all books and records required
23 to be made under this Act;

24 (6) to subpoena documents and witnesses and compel
25 their attendance and production, to administer oaths, and
26 to require the production of any books, papers, or other

1 materials relevant to any inquiry authorized by this Act
2 or other law applicable to digital asset business activity
3 in this State;

4 (7) to issue orders against any person:

5 (A) if the Secretary has reasonable cause to
6 believe that an unsafe, unsound, or unlawful practice
7 has occurred, is occurring, or is about to occur;

8 (B) if any person has violated, is violating, or
9 is about to violate any law, rule, or written
10 agreement with the Secretary; or

11 (C) for the purpose of administering the
12 provisions of this Act or other law applicable to
13 digital asset business activity and any rule adopted
14 in accordance with this Act or other law applicable to
15 digital asset business activity;

16 (8) to address any inquiries to any covered person, or
17 the directors, officers, or employees of the covered
18 person, or the affiliates or service providers of the
19 covered person, in relation to the covered person's
20 activities and conditions or any other matter connected
21 with its affairs, and it shall be the duty of any person so
22 addressed to promptly reply in writing to those inquiries;
23 the Secretary may also require reports from any covered
24 person at any time the Secretary chooses;

25 (9) to examine the books and records of every covered
26 person, affiliate, or service provider;

1 (10) to enforce the provisions of this Act and any
2 state or federal law applicable to digital asset business
3 activity;

4 (11) to levy fees, fines, and civil penalties, charges
5 for services, and assessments to defray operating
6 expenses, including direct and indirect costs, of
7 administering this Act and other laws applicable to
8 digital asset business activity;

9 (12) to appoint examiners, supervisors, experts, and
10 special assistants as needed to effectively and
11 efficiently administer this Act and other laws applicable
12 to digital asset business activity;

13 (13) to conduct hearings for the purpose of carrying
14 out the purposes of this Act;

15 (14) to exercise visitorial power over a covered
16 person, affiliate, or service provider;

17 (15) to enter into cooperative agreements with federal
18 and state regulatory authorities and to accept reports of
19 examinations from federal and state regulatory
20 authorities;

21 (16) to assign on an emergency basis an examiner or
22 examiners to monitor the affairs of a covered person,
23 affiliate, or service provider with whatever frequency the
24 Secretary determines appropriate and to charge the covered
25 person for reasonable and necessary expenses of the
26 Secretary, if in the opinion of the Secretary, an

1 emergency exists or appears likely to occur;

2 (17) to impose civil penalties against a covered
3 person, affiliate, or service provider for failing to
4 respond to a regulatory request or reporting requirement;
5 and

6 (18) to conduct investigations, market surveillance,
7 and research, studies, and analyses of matters affecting
8 the interests of users of digital assets;

9 (19) to take such actions as the Secretary deems
10 necessary to educate and protect users of digital assets;

11 (20) to develop and implement initiatives and programs
12 to promote responsible innovation in digital asset
13 business activity; and

14 (21) to perform any other lawful acts necessary or
15 desirable to carry out the purposes and provisions of this
16 Act and other laws applicable to digital asset business
17 activity.

18 (d) The Department may share any information obtained
19 pursuant to this Act or any other law applicable to digital
20 asset business activity with law enforcement officials or
21 other regulatory agencies.

22 Section 1-20. Funds.

23 (a) All moneys collected or received by the Department
24 under this Act shall be deposited into the Consumer Protection
25 Fund, which is hereby created as a special fund in the State

1 treasury. The amounts deposited into the Consumer Protection
2 Fund shall be used for the ordinary and contingent expenses of
3 the Department in administering this Act and other financial
4 laws; nothing in this Act shall prevent the continuation of
5 the practice of paying expenses involving salaries,
6 retirement, social security, and State-paid insurance of State
7 officers and employees by appropriation from the General
8 Revenue Fund or any other fund. Moneys deposited into the
9 Consumer Protection Fund may be transferred to the Professions
10 Indirect Cost Fund or any other Department fund.

11 (b) The expenses of administering this Act, including
12 investigations and examinations provided for in this Act,
13 shall be borne by and assessed against persons regulated by
14 this Act. The Department may establish fees by rule, including
15 in the following categories:

16 (1) investigation of registrants and registration
17 applicant fees;

18 (2) examination fees;

19 (3) contingent fees; and

20 (4) such other categories as may be required to
21 administer this Act.

22 (c) The Department shall charge and collect fees from
23 covered persons, which shall be nonrefundable unless otherwise
24 indicated, for the expenses of administering this Act as
25 follows:

26 (1) Each covered person shall pay \$150 for each hour

1 or part of an hour for each examiner or staff assigned to
2 the supervision of the covered person plus actual travel
3 costs for any examination of digital asset business
4 activity pursuant to the Act.

5 (2) Each covered person shall pay to the Department
6 its pro rata share of the cost for the administration of
7 this Act that exceeds other fees listed in this Act, as
8 estimated by the Department, for the current year and any
9 deficit actually incurred in the administration of the Act
10 in prior years. The total annual assessment for all
11 registrants shall initially be divided into a
12 transaction-based assessment and a custody-based
13 assessment, each equal to approximately half the cost for
14 administration of this Act. Each registrant's pro rata
15 share of the transaction-based assessment shall be the
16 percentage that the total volume of digital asset
17 transactions conducted on behalf of residents by the
18 registrant bears to the total volume of digital asset
19 transactions by all registrants in Illinois. Each
20 registrant's pro rata share of the custody-based
21 assessment shall be the percentage that the total United
22 States dollar value of digital assets held in custody or
23 controlled by the registrant for residents bears to the
24 total United States dollar value held in custody or
25 controlled by all registrants in Illinois for residents.

26 (3) Beginning one year after the effective date of

1 this Act, the Department may, by rule, amend the fees set
2 forth in this subsection in accordance with this Act. The
3 Department is authorized to consider setting fees for
4 digital asset business activity based on the value of
5 digital assets transacted by covered persons, volume of
6 digital assets transacted by covered persons, the value of
7 digital assets held in custody by covered person, and the
8 volume of digital assets held in custody by covered
9 persons.

10 Article 5. Customer Protections

11 Section 5-5. Customer disclosures.

12 (a) When engaging in digital asset business activity with
13 a resident, a covered person shall provide to a resident the
14 customer disclosures required by subsection (b) and any
15 additional disclosures the Department determines by rule to be
16 necessary and appropriate for the protection of residents. The
17 Department may determine by rule the time and form required
18 for disclosures. A disclosure required by this Section shall
19 be made separately from any other information provided by the
20 covered person and in a clear and conspicuous manner in a
21 record the resident may keep.

22 (b) Before engaging in digital asset business activity
23 with a resident, a covered person shall disclose, to the
24 extent applicable to the digital asset business activity the

1 covered person will undertake with the resident and subject to
2 any rule or order issued by the Department, all of the
3 following:

4 (1) A schedule of fees and charges the covered person
5 may assess, the manner by which fees and charges will be
6 calculated if they are not set in advance and disclosed,
7 and the timing of the fees and charges.

8 (2) Whether the product or service provided by the
9 covered person is covered by either of the following:

10 (A) A form of insurance or other guarantee against
11 loss by an agency of the United States as follows:

12 (i) Up to the full United States dollar
13 equivalent of digital assets placed under the
14 custody or control of, or purchased from, the
15 covered person as of the date of the placement or
16 purchase, including the maximum amount provided by
17 insurance under the Federal Deposit Insurance
18 Corporation or National Credit Union
19 Administration or otherwise available from the
20 Securities Investor Protection Corporation.

21 (ii) If not provided at the full United States
22 dollar equivalent of the digital assets placed
23 under the custody or control of or purchased from
24 the covered person, the maximum amount of coverage
25 for each resident expressed in the United States
26 dollar equivalent of the digital asset.

1 (iii) If not applicable to the product or
2 service provided by the covered person, a clear
3 and conspicuous statement that the product is not
4 insured, as applicable, by the Federal Deposit
5 Insurance Corporation, National Credit Union
6 Administration, or the Securities Investor
7 Protection Corporation.

8 (B) (i) Private insurance against loss or theft,
9 including cybertheft or theft by other means.

10 (ii) A covered person shall disclose the terms
11 of the insurance policy to the resident in a
12 manner that allows the resident to understand the
13 specific insured risks that may result in partial
14 coverage of the resident's assets.

15 (3) The irrevocability of a transfer or exchange and
16 any exception to irrevocability.

17 (4) A description of all of the following:

18 (A) The covered person's liability for an
19 unauthorized, mistaken, or accidental transfer or
20 exchange.

21 (B) The resident's responsibility to provide
22 notice to the covered person of an unauthorized,
23 mistaken, or accidental transfer or exchange.

24 (C) The basis for any recovery by the resident
25 from the covered person in case of an unauthorized,
26 mistaken, or accidental transfer or exchange.

1 (D) General error resolution rights applicable to
2 an unauthorized, mistaken, or accidental transfer or
3 exchange.

4 (E) The method for the resident to update the
5 resident's contact information with the covered
6 person.

7 (5) That the date or time when the transfer or
8 exchange is made and the resident's account is debited may
9 differ from the date or time when the resident initiates
10 the instruction to make the transfer or exchange.

11 (6) Whether the resident has a right to stop a
12 preauthorized payment or revoke authorization for a
13 transfer and the procedure to initiate a stop-payment
14 order or revoke authorization for a subsequent transfer.

15 (7) The resident's right to receive a receipt, trade
16 ticket, or other evidence of the transfer or exchange.

17 (8) The resident's right to at least 14 days' prior
18 notice of a change in the covered person's fee schedule,
19 other terms and conditions that have a material impact on
20 digital asset business activity with the resident, or the
21 policies applicable to the resident's account.

22 (9) That no digital asset is currently recognized as
23 legal tender by the State of Illinois or the United
24 States.

25 (10) (A) A list of instances in the past 12 months when
26 the covered person's service was unavailable to customers

1 seeking to engage in digital asset business activity due
2 to a service outage on the part of the covered person and
3 the causes of each identified service outage.

4 (B) As part of the disclosure required by this
5 paragraph, the covered person may list any steps the
6 covered person has taken to resolve underlying causes
7 for those outages.

8 (11) A disclosure, provided separately from the
9 disclosures provided pursuant to paragraphs (1) to (10) of
10 this subsection and written prominently in bold type, that
11 the State of Illinois has not approved or endorsed any
12 digital assets or determined if this customer disclosure
13 is truthful or complete.

14 (c) Except as otherwise provided in subsection (d), at the
15 conclusion of a digital asset transaction with or on behalf of
16 a resident, a covered person shall provide the resident a
17 confirmation in a record which contains all of the following:

18 (1) The name and contact information of the covered
19 person, including the toll-free telephone number required
20 under Section 5-20.

21 (2) The type, value, date, precise time, and amount of
22 the transaction.

23 (3) The fee charged for the transaction, including any
24 charge for conversion of a digital asset to fiat currency
25 or other digital asset, as well as any indirect charges.

26 (d) If a covered person discloses that it will provide a

1 daily confirmation in the initial disclosure under subsection
2 (c), the covered person may elect to provide a single, daily
3 confirmation for all transactions with or on behalf of a
4 resident on that day instead of a per transaction
5 confirmation.

6 Section 5-10. Custody and protection of customer assets.

7 (a) A covered person that stores, holds, or maintains
8 custody or control of a digital asset for one or more persons
9 shall:

10 (1) at all times maintain an amount of each type of
11 digital asset sufficient to satisfy the aggregate
12 entitlements of the persons to the type of digital asset;

13 (2) segregate such digital assets from the other
14 assets of the covered person; and

15 (3) not sell, transfer, assign, lend, hypothecate,
16 pledge, or otherwise use or encumber such digital assets,
17 except for the sale, transfer, or assignment of such
18 digital assets at the direction of such other persons.

19 (b) If a covered person violates subsection (a), then the
20 property interests of the persons in the digital asset are pro
21 rata property interests in the type of digital asset to which
22 the persons are entitled without regard to the time the
23 persons became entitled to the digital asset or the covered
24 person obtained control of the digital asset.

25 (c) A digital asset subject to this Section is:

1 (1) held for the persons entitled to the digital asset
2 under subsection (a);

3 (2) not the property of the covered person; and

4 (3) not subject to the claims of creditors of the
5 covered person.

6 (d) Digital assets subject to this Section, even if
7 commingled with other assets of the covered person, are held
8 in trust for the benefit of the persons entitled to the digital
9 assets under subsection (a), in the event of insolvency, the
10 filing of a petition by or against the covered person under the
11 United States Bankruptcy Code (11 U.S.C. 101 et seq.) for
12 bankruptcy or reorganization, the filing of a petition by or
13 against the covered person for receivership, the commencement
14 of any other judicial or administrative proceeding for its
15 dissolution or reorganization, or an action by a creditor
16 against the covered person who is not a beneficiary of this
17 statutory trust. No digital asset impressed with a trust
18 pursuant to this subsection shall be subject to attachment,
19 levy of execution, or sequestration by order of any court,
20 except for a beneficiary of this statutory trust.

21 (e) The Department may adopt rules applicable to covered
22 persons related to additional protections of customer assets,
23 including, but not limited to:

24 (1) rules requiring that digital assets and funds
25 controlled by the covered person on behalf of residents be
26 held in accounts segregated from the covered person's own

1 digital assets and funds;

2 (2) rules related to qualified custodians that may
3 hold such segregated accounts;

4 (3) rules related to titling of such segregated
5 accounts;

6 (4) rules related to audit requirements for customer
7 assets;

8 (5) rules requiring compliance with specific
9 provisions of the Uniform Commercial Code applicable to
10 digital assets;

11 (6) rules restricting selling, transferring,
12 assigning, lending, hypothecating, pledging, or otherwise
13 using or encumbering customer assets; and

14 (7) any rules as may be as may be necessary and
15 appropriate for the protection of residents or necessary
16 to effectuate the purposes of this Section.

17 Section 5-15. Covered exchanges.

18 (a) (1) Except as provided for under paragraph (2) of this
19 subsection, a covered exchange, before listing or offering a
20 digital asset that the covered exchange can exchange on behalf
21 of a resident, shall certify on a form provided by the
22 Department that the covered exchange has done the following:

23 (A) Identified the risk that the digital asset would
24 be deemed a security by federal or state regulators.

25 (B) Provided, in writing, full and fair disclosure of

1 all material facts relating to conflicts of interest that
2 are associated with the covered exchange and the digital
3 asset.

4 (C) Conducted a comprehensive risk assessment designed
5 to ensure consumers are adequately protected from
6 cybersecurity risk, risk of malfeasance, including theft,
7 risks related to code or protocol defects, market-related
8 risks, including price manipulation and fraud, and any
9 other material risks.

10 (D) Established policies and procedures to reevaluate
11 the appropriateness of the continued listing or offering
12 of the digital asset, including an evaluation of whether
13 material changes have occurred.

14 (E) Established policies and procedures to cease
15 listing or offering the digital asset, including
16 notification to affected consumers and counterparties.

17 (F) Any other requirement designated by rule by the
18 Department as may be necessary and appropriate for the
19 protection of residents.

20 (2) Certification by a covered exchange shall not be
21 required for any digital asset approved for listing, on or
22 before the effective date of this Act, by the New York
23 Department of Financial Services pursuant to Part 200 of Title
24 23 of the New York Code of Rules and Regulations, if the
25 covered exchange provides notification to the Department on a
26 form provided by the Department.

1 (3) After a finding that a covered exchange has listed or
2 offered a digital asset without appropriate certification or
3 after a finding that misrepresentations were made in the
4 certification process, the Department may require the covered
5 exchange to cease listing or offering the digital asset and
6 may take an enforcement action under Section 20-50 of this
7 Act.

8 (b)(1) A covered exchange shall make every effort to
9 execute a resident's request to exchange a digital asset that
10 the covered exchange receives fully and promptly.

11 (2)(A) A covered exchange shall use reasonable diligence
12 to ensure that the outcome to the resident is as favorable as
13 possible under prevailing market conditions. Compliance with
14 this paragraph shall be determined by factors, including, but
15 not limited to, all of the following:

16 (i) The character of the market for the digital asset,
17 including price and volatility.

18 (ii) The size and type of transaction.

19 (iii) The number of markets checked.

20 (iv) Accessibility of appropriate pricing.

21 (v) Any other factor designated by rule by the
22 Department as may be necessary and appropriate for the
23 protection of residents.

24 (B) At least once every 6 months, a covered exchange shall
25 review aggregated trading records of residents against
26 benchmarks to determine execution quality, investigate the

1 causes of any variance, and promptly take action to remedy
2 issues identified in that review.

3 (3) In a transaction for or with a resident, the covered
4 exchange shall not interject a third party between the covered
5 exchange and the best market for the digital asset in a manner
6 inconsistent with this subsection.

7 (4) If a covered exchange cannot execute directly with a
8 market and employs other means in order to ensure an execution
9 advantageous to the resident, the burden of showing the
10 acceptable circumstances for doing so is on the covered
11 exchange.

12 Section 5-20. Customer service; requests for assistance.

13 (a) A covered person shall prominently display on its
14 website a toll-free telephone number through which a resident
15 can contact the covered person for requests for assistance and
16 receive live customer assistance, subject to any rules adopted
17 by the Department.

18 (b) A covered person shall implement reasonable policies
19 and procedures for accepting, processing, investigating, and
20 responding to requests for assistance in a timely and
21 effective manner. Such policies and procedures shall include
22 all of the following:

23 (1) A procedure for resolving disputes between the
24 covered person and a resident.

25 (2) A procedure for a resident to report an

1 unauthorized, mistaken, or accidental digital asset
2 business activity transaction.

3 (3) A procedure for a resident to file a complaint
4 with the covered person and for the resolution of the
5 complaint in a fair and timely manner with notice to the
6 resident as soon as reasonably practical of the resolution
7 and the reasons for the resolution.

8 (4) Any other procedure designated by rule by the
9 Department as may be necessary and appropriate for the
10 protection of residents.

11 Section 5-25. Collection of compensation. Unless exempt
12 from registration under this Act, no person engaged in or
13 offering to engage in any act or service for which a
14 registration under this Act is required may bring or maintain
15 any action in any court to collect compensation for the
16 performance of the registrable services without alleging and
17 proving that the person was the holder of a valid registration
18 under this Act at all times during the performance of those
19 services.

20 Article 10. Compliance

21 Section 10-5. General requirements.

22 (a) Each registrant is required to comply with the
23 provisions of this Act, any lawful order, rule, or regulation

1 made or issued under the provisions of this Act, and all
2 applicable federal and State laws, rules, and regulations.

3 (b) Each registrant shall designate a qualified individual
4 or individuals responsible for coordinating and monitoring
5 compliance with subsection (a).

6 (c) Each registrant shall maintain, implement, update, and
7 enforce written compliance policies and procedures, in
8 accordance with Section 10-10 and subject to any rules adopted
9 by the Department, which policies and procedures must be
10 reviewed and approved by the registrant's board of directors
11 or an equivalent governing body of the registrant.

12 Section 10-10. Required policies and procedures.

13 (a) An applicant, before submitting an application, shall
14 create and a registrant, during registration, shall maintain,
15 implement, update, and enforce, written compliance policies
16 and procedures for all of the following:

17 (1) A cybersecurity program.

18 (2) A business continuity program.

19 (3) A disaster recovery program.

20 (4) An anti-fraud program.

21 (5) An anti-money laundering and countering the
22 financing of terrorism program.

23 (6) An operational security program.

24 (7) (A) A program designed to ensure compliance with
25 this Act and other laws of this State or federal laws that

1 are relevant to the digital asset business activity
2 contemplated by the registrant with or on behalf of
3 residents and to assist the registrant in achieving the
4 purposes of other State laws and federal laws if violation
5 of those laws has a remedy under this Act.

6 (B) At a minimum, the program described by this
7 paragraph shall specify the policies and procedures that
8 the registrant undertakes to minimize the risk that the
9 registrant facilitates the exchange of unregistered
10 securities.

11 (8) A conflict of interest program.

12 (9) A request for assistance program to comply with
13 Section 5-20.

14 (10) Any other compliance program, policy, or
15 procedure the Department establishes by rule as necessary
16 for the protection of residents or for the safety and
17 soundness of the registrant's business or to effectuate
18 the purposes of this Act.

19 (b) A policy required by subsection (a) shall be
20 maintained in a record and designed to be adequate for a
21 registrant's contemplated digital asset business activity with
22 or on behalf of residents, considering the circumstances of
23 all participants and the safe operation of the activity. Any
24 policy and implementing procedure shall be compatible with
25 other policies and the procedures implementing them and not
26 conflict with policies or procedures applicable to the

1 registrant under other State law.

2 (c) A registrant's anti-fraud program shall include, at a
3 minimum, all of the following:

4 (1) Identification and assessment of the material
5 risks of its digital asset business activity related to
6 fraud, which shall include any form of market manipulation
7 and insider trading by the registrant, its employees, its
8 associated persons, or its customers.

9 (2) Protection against any material risk related to
10 fraud identified by the Department or the registrant.

11 (3) Periodic evaluation and revision of the anti-fraud
12 program, policies, and procedures.

13 (d) A registrant's anti-money laundering and countering
14 the financing of terrorism program shall include, at a
15 minimum, all of the following:

16 (1) Identification and assessment of the material
17 risks of its digital asset business activity related to
18 money laundering and financing of terrorist activity.

19 (2) Procedures, in accordance with federal law or
20 guidance published by federal agencies responsible for
21 enforcing federal law, pertaining to money laundering and
22 financing of terrorist activity.

23 (3) Filing reports under the Bank Secrecy Act, 31
24 U.S.C. 5311 et seq., or Chapter X of Title 31 of the Code
25 of Federal Regulations and other federal or State law
26 pertaining to the prevention or detection of money

1 laundering or financing of terrorist activity.

2 (e) A registrant's operational security program shall
3 include, at a minimum, reasonable and appropriate
4 administrative, physical, and technical safeguards to protect
5 the confidentiality, integrity, and availability of any
6 nonpublic information or digital asset it receives, maintains,
7 or transmits.

8 (f) (1) A registrant's cybersecurity program shall include,
9 at a minimum, all of the following:

10 (A) Maintaining, updating, and enforcing policies and
11 procedures designed to protect the confidentiality,
12 integrity, and availability of the registrant's
13 information systems and nonpublic information stored on
14 those information systems.

15 (B) Implementing and maintaining a written policy or
16 policies, approved at least annually by an executive
17 officer or the registrant's board of directors, or an
18 appropriate committee thereof, or an equivalent governing
19 body setting forth the registrant's policies and
20 procedures for the protection of its information systems
21 and nonpublic information stored on those information
22 systems.

23 (C) Designating a qualified individual responsible for
24 overseeing and implementing the registrant's cybersecurity
25 program and enforcing its cybersecurity policy. The
26 individual must have adequate authority to ensure

1 cybersecurity risks are appropriately managed, including
2 the ability to direct sufficient resources to implement
3 and maintain a cybersecurity program. The individual may
4 be employed by the registrant, one of its affiliates, or a
5 service provider.

6 (2) To assist in carrying out this subsection, the
7 Department may adopt rules to define terms used in this
8 subsection and to establish specific requirements for the
9 required cybersecurity program, including, but not limited to,
10 rules related to:

11 (A) penetration testing and vulnerability assessment;

12 (B) audit trails;

13 (C) access privileges;

14 (D) application security;

15 (E) risk assessment;

16 (F) cybersecurity personnel and intelligence;

17 (G) affiliates and service providers;

18 (H) authentication;

19 (I) data retention;

20 (J) training and monitoring;

21 (K) encryption;

22 (L) incident response;

23 (M) notice of cybersecurity events; and

24 (N) any other requirement necessary and appropriate
25 for the protection of residents or for the safety and
26 soundness of the registrant or to effectuate the purposes

1 of this subsection.

2 (g) The Department may require a registrant to file with
3 the Department a copy of any report it makes to a federal or
4 state authority.

5 (h) After the policies and procedures required under this
6 Article are created and approved by the registrant, the
7 registrant shall engage a qualified individual or individuals
8 with adequate authority and experience to monitor and
9 implement each policy and procedure, publicize it as
10 appropriate, recommend changes as necessary, and enforce it.

11 Article 15. Registration

12 Section 15-5. Registration required. A person shall not
13 engage in digital asset business activity, or hold itself out
14 as being able to engage in digital asset business activity,
15 with or on behalf of a resident unless the person is registered
16 in this State by the Department under this Article, or the
17 person is exempt from registration pursuant to Section 1-10.

18 Section 15-10. Application.

19 (a) An application for a registration under this Act shall
20 meet all of the following requirements:

21 (1) The application shall be in a form and medium
22 prescribed by the Department. The Department may require
23 the filing of the application through a multistate

1 licensing system.

2 (2) The application shall provide all of the following
3 information relevant to the applicant's proposed digital
4 asset business activity:

5 (A) The legal name of the applicant, any current
6 or proposed business United States Postal Service
7 address of the applicant, and any fictitious or trade
8 name the applicant uses or plans to use in conducting
9 the applicant's digital asset business activity with
10 or on behalf of a resident.

11 (B) The legal name, any former or fictitious name,
12 and the residential and business United States Postal
13 Service address of any executive officer and
14 responsible individual of the applicant and any person
15 that has control of the applicant.

16 (C) A description of the current and former
17 business of the applicant and any affiliate of the
18 applicant for the 5 years before the application is
19 submitted, or, if the business has operated for less
20 than 5 years, for the time the business has operated,
21 including its products and services, associated
22 website addresses and social media pages, principal
23 place of business, projected user base, and specific
24 marketing targets.

25 (D) A list of all of the following:

26 (i) Any digital asset, money service, or money

1 transmitter registration the applicant and any
2 affiliates hold in another state or from an agency
3 of the United States.

4 (ii) The date the registrations described in
5 subdivision (i) expire.

6 (iii) Any revocation, suspension, or other
7 disciplinary action taken against the applicant
8 and any affiliates in any state or by an agency of
9 the United States and any applications rejected by
10 any state or agency of the United States.

11 (E) A list of any criminal conviction, deferred
12 prosecution agreement, and pending criminal proceeding
13 in any jurisdiction against all of the following:

14 (i) The applicant.

15 (ii) Any executive officer of the applicant.

16 (iii) Any responsible individual of the
17 applicant.

18 (iv) Any person that has control over the
19 applicant.

20 (v) Any affiliate of the applicant.

21 (F) A list of any litigation, arbitration, or
22 administrative proceeding in any jurisdiction in which
23 the applicant or an executive officer, responsible
24 individual, or affiliate of the applicant has been a
25 party for the 10 years before the application is
26 submitted determined to be material in accordance with

1 generally accepted accounting principles and, to the
2 extent the applicant or such other person would be
3 required to disclose the litigation, arbitration, or
4 administrative proceeding in the applicant's or such
5 other person's audited financial statements, reports
6 to equity owners, and similar statements or reports.

7 (G) A list of any bankruptcy or receivership
8 proceeding in any jurisdiction for the 10 years before
9 the application is submitted in which any of the
10 following was a debtor:

11 (i) The applicant.

12 (ii) An executive officer of the applicant.

13 (iii) A responsible individual of the
14 applicant.

15 (iv) A person that has control over the
16 applicant.

17 (v) An affiliate of the applicant.

18 (H) The name and United States Postal Service
19 address of any bank or credit union in which the
20 applicant and any affiliates plan to deposit funds
21 obtained by digital asset business activity.

22 (I) The source of funds and credit to be used by
23 the applicant and any affiliate to conduct digital
24 asset business activity with or on behalf of a
25 resident.

26 (J) A current financial statement and other

1 documentation satisfactory to the Department
2 demonstrating that the applicant has the capital and
3 liquidity required by Section 20-5.

4 (K) The United States Postal Service address and
5 email address to which communications from the
6 Department can be sent.

7 (L) The name, United States Postal Service
8 address, and email address of the registered agent of
9 the applicant in this State.

10 (M) A copy of the certificate, or a detailed
11 summary acceptable to the Department, of coverage for
12 any liability, casualty, business interruption, or
13 cybersecurity insurance policy maintained by the
14 applicant for itself, an executive officer, a
15 responsible individual, an affiliate, or the
16 applicant's users.

17 (N) If applicable, the date on which and the state
18 in which the applicant is formed and a copy of a
19 current certificate of good standing issued by that
20 state.

21 (O) If a person has control of the applicant and
22 the person's equity interests are publicly traded in
23 the United States, a copy of the audited financial
24 statement of the person for the most recent fiscal
25 year or most recent report of the person filed under
26 Section 13 of the Securities Exchange Act of 1934, 15

1 U.S.C. 78m.

2 (P) If a person has control of the applicant and
3 the person's equity interests are publicly traded
4 outside the United States, a copy of the audited
5 financial statement of the person for the most recent
6 fiscal year of the person or a copy of the most recent
7 documentation similar to that required in subparagraph
8 (N) filed with the foreign regulator in the domicile
9 of the person.

10 (Q) If the applicant is a partnership or a
11 member-managed limited liability company, the names
12 and United States Postal Service addresses of any
13 general partner or member.

14 (R) If the applicant is required to register with
15 the Financial Crimes Enforcement Network of the United
16 States Department of the Treasury as a money service
17 business, evidence of the registration.

18 (S) A set of fingerprints for each executive
19 officer and responsible individual of the applicant.

20 (T) If available, for any executive officer and
21 responsible individual of the applicant, for the 10
22 years before the application is submitted, employment
23 history and history of any investigation of the
24 individual or legal proceeding to which the individual
25 was a party.

26 (U) The plans through which the applicant will

1 meet its obligations under Article 10.

2 (V) Any other information the Department requires
3 by rule.

4 (3) The application shall be accompanied by a
5 nonrefundable fee of \$5,000 or the amount determined by
6 the Department to cover the costs of application review,
7 whichever is greater.

8 (b)(1) On receipt of a completed application, the
9 Department shall investigate all of the following:

10 (A) The financial condition and responsibility of the
11 applicant and any affiliate of the applicant.

12 (B) The relevant financial and business experience,
13 character, and general fitness of the applicant and any
14 affiliate of the applicant.

15 (C) The competence, experience, character, and general
16 fitness of each executive officer and director, each
17 responsible individual, and any person that has control of
18 the applicant.

19 (2) On receipt of a completed application, the Department
20 may investigate the business premises of an applicant or an
21 affiliate of the applicant or require the submission of any
22 other documents or information the Department deems relevant
23 to the application.

24 (3) The investigation required by this subsection must
25 allow the Secretary to issue positive findings stating that
26 the financial condition, financial responsibility, competence,

1 experience, character, and general fitness of the applicant,
2 each executive officer and director, each responsible
3 individual, any person that has control of the applicant, and
4 any affiliate of the applicant are such as to command the
5 confidence of the community and to warrant belief that the
6 business will be operated honestly, fairly, and efficiently
7 within the purpose of this Act; if the Secretary does not so
8 find, the Secretary shall not issue the registration, and the
9 Secretary shall notify the applicant of the denial.

10 (c) (1) After completing the investigation required by
11 subsection (b), the Department shall send the applicant notice
12 of its decision to approve, conditionally approve, or deny the
13 application. If the Department does not receive notice from
14 the applicant that the applicant accepts conditions specified
15 by the Department within 31 days following the Department's
16 notice of the conditions, the application shall be deemed
17 withdrawn.

18 (2) The Secretary may impose conditions on a registration
19 if the Secretary determines that those conditions are
20 necessary or appropriate. These conditions shall be imposed in
21 writing and shall continue in effect for the period prescribed
22 by the Secretary.

23 (d) A registration issued pursuant to this Act shall take
24 effect on the later of the following:

25 (1) The date the Department issues the registration.

26 (2) The date the registration provides the security

1 required by Section 20-5.

2 (e) In addition to the fee required by paragraph (3) of
3 subsection (a), an applicant shall pay the costs of the
4 Department's investigation under subsection (b).

5 (f) A registration issued pursuant to this Act shall
6 remain in full force and effect until it expires without
7 renewal, is surrendered by the registration, or revoked or
8 suspended as hereinafter provided.

9 (g) (1) The Department may issue a conditional registration
10 to an applicant who holds or maintains a registration to
11 conduct virtual currency business activity in the State of New
12 York pursuant to Part 200 of Title 23 of the New York Code of
13 Rules and Regulations, or a charter as a New York State limited
14 purpose trust company with approval to conduct virtual
15 currency business under the New York Banking Law, if the
16 registration or approval was issued no later than the
17 effective date of this Act and the applicant pays all
18 appropriate fees and complies with the requirements of this
19 Act.

20 (2) A conditional registration issued pursuant to this
21 subsection shall expire at the earliest of the following:

22 (A) upon issuance of an unconditional registration;

23 (B) upon denial of a registration;

24 (C) upon revocation of a registration issued pursuant
25 to Part 200 of Title 23 of the New York Code of Rules and
26 Regulations or disapproval or revocation of a charter as a

1 New York State limited purpose trust company with approval
2 to conduct virtual currency business under the New York
3 Banking Law.

4 Section 15-15. Renewal.

5 (a) Registrations shall be subject to renewal every year
6 using a common renewal period as established by the Department
7 by rule. A registrant may apply for renewal of the
8 registration by submitting a renewal application under
9 subsection (b) and paying all applicable fees due to the
10 Department.

11 (b) The renewal application required by subsection (a)
12 shall be submitted in a form and medium prescribed by the
13 Department. The application shall contain all of the
14 following:

15 (1) Either a copy of the registrant's most recent
16 reviewed annual financial statement, if the gross revenue
17 generated by the registrant's digital asset business
18 activity in this State was not more than \$2,000,000 for
19 the fiscal year ending before the anniversary date of
20 issuance of its registration under this Act, or a copy of
21 the registrant's most recent audited annual financial
22 statement, if the registrant's digital asset business
23 activity in this State amounted to more than \$2,000,000,
24 for the fiscal year ending before the anniversary date.

25 (2) If a person other than an individual has control

1 of the registrant, a copy of either of the following:

2 (A) The person's most recent reviewed annual
3 financial statement, if the person's gross revenue was
4 not more than \$2,000,000 in the previous fiscal year
5 measured as of the anniversary date of issuance of its
6 registration under this Act.

7 (B) The person's most recent audited consolidated
8 annual financial statement, if the person's gross
9 revenue was more than \$2,000,000 in the previous
10 fiscal year measured as of the anniversary date of
11 issuance of its registration under this Act.

12 (3) A description of any of the following:

13 (A) Any material change in the financial condition
14 of the registrant and any affiliate of the registrant.

15 (B) Any material litigation related to the
16 registrant's digital asset business activity and
17 involving the registrant or an executive officer,
18 responsible individual, or affiliate of the
19 registrant.

20 (C) Any federal, state, or foreign investigation
21 involving the registrant or an executive officer,
22 responsible individual, or affiliate of the
23 registrant.

24 (D) (i) Any data security breach or cybersecurity
25 event involving the registrant.

26 (ii) A description of a data security breach

1 pursuant to this subparagraph does not constitute
2 disclosure or notification of a security breach
3 for purposes of any other law.

4 (4) Information or records required by Section 20-25
5 that the registrant has not reported to the Department.

6 (5) The number of digital asset business activity
7 transactions with or on behalf of residents for the period
8 since the later of the date the registration was issued or
9 the date the last renewal application was submitted.

10 (6) (A) The amount of United States dollar equivalent
11 of digital assets in the custody or control of the
12 registrant at the end of the last month that ends not later
13 than 30 days before the date of the renewal application.

14 (B) The total number of residents for whom the
15 registrant had custody or control of United States
16 dollar equivalent of digital assets on that date.

17 (7) Evidence that the registrant is in compliance with
18 Section 5-10.

19 (8) Evidence that the registrant is in compliance with
20 Section 20-5.

21 (9) A list of all locations where the registrant
22 engages in digital asset business activity.

23 (10) Any other information the Department requires by
24 rule.

25 (c) If a registrant does not timely comply with this
26 Section, the Department may take enforcement actions provided

1 under Section 20-50. Notice or hearing is not required for a
2 suspension or revocation of a registration under this Act for
3 failure to pay a renewal fee, file a renewal application, or
4 otherwise comply with this Section.

5 (d) Suspension or revocation of a registration under this
6 Section does not invalidate a transfer or exchange of digital
7 assets for or on behalf of a resident made during the
8 suspension or revocation and does not insulate the registrant
9 from liability under this Act.

10 (e) For good cause, the Department, in its sole
11 discretion, may extend a period under this Section.

12 (f) A registrant that does not comply with this Section
13 shall cease digital asset business activities with or on
14 behalf of a resident. A registrant ceasing an activity or
15 activities regulated by this Act and desiring to no longer be
16 registered shall so inform the Department in writing and, at
17 the same time, convey any registration issued and all other
18 symbols or indicia of registration. The registrant shall
19 include a plan for the withdrawal from regulated business,
20 including a timetable for the disposition of the business, and
21 comply with the surrender guidelines or requirements of the
22 Department.

23 Section 15-20. Nontransferable registration. A
24 registration under this Act is not transferable or assignable.

1 Article 20. Supervision

2 Section 20-5. Surety bond; capital and liquidity
3 requirements.

4 (a) (1) (A) A registrant shall maintain a surety bond or
5 trust account in United States dollars in a form and amount as
6 determined by the Department for the protection of residents
7 that engage in digital asset business activity with the
8 registrant.

9 (B) If a registrant maintains a trust account
10 pursuant to this Section, that trust account shall be
11 maintained with a qualified custodian.

12 (2) Security deposited under this Section shall be for
13 the benefit of a claim against the registrant on account
14 of the registrant's digital asset business activity with
15 or on behalf of a resident.

16 (3) Security deposited under this Section shall cover
17 claims for the period the Department specifies by rule and
18 for an additional period the Department specifies after
19 the registrant ceases to engage in digital asset business
20 activity with or on behalf of a resident.

21 (4) The Department may require the registrant to
22 increase the amount of security deposited under this
23 Section, and the registrant shall deposit the additional
24 security not later than 15 days after the registrant
25 receives notice in a record of the required increase.

1 (5) The Department may permit a registrant to
2 substitute or deposit an alternate form of security
3 satisfactory to the Department if the registrant at all
4 times complies with this Section.

5 (b) In addition to the security required under subsection
6 (a), a registrant shall maintain at all times capital and
7 liquidity, each in an amount and form as the Department
8 determines is sufficient to ensure the financial integrity of
9 the registrant and its ongoing operations based on an
10 assessment of the specific risks applicable to the registrant.
11 In determining the minimum amount of capital and liquidity
12 that shall be maintained by a registrant, the Department may
13 consider factors, including, but not limited to, all of the
14 following:

15 (1) The composition of the registrant's total assets,
16 including the position, size, quality, liquidity, risk
17 exposure, and price volatility of each type of asset.

18 (2) The composition of the registrant's total
19 liabilities, including the size and repayment timing of
20 each type of liability.

21 (3) The actual and expected volume of the registrant's
22 digital asset business activity.

23 (4) The amount of leverage employed by the registrant.

24 (5) The liquidity position of the registrant.

25 (6) The financial protection that the registrant
26 provides pursuant to subsection (a).

1 (7) The types of entities to be serviced by the
2 registrant.

3 (8) The types of products or services to be offered by
4 the registrant.

5 (9) Arrangements adopted by the registrant for the
6 protection of its customers in the event of the
7 registrant's insolvency.

8 (c) A registrant shall hold liquidity required to be
9 maintained in accordance with this Section in the form of cash
10 or high-quality liquid assets, as defined by the Department
11 and in proportions determined by the Department.

12 (d) The Department may require a registrant to increase
13 the capital or liquidity required under this Section. A
14 registrant shall submit evidence satisfactory to the
15 Department that it has additional capital or liquidity
16 required pursuant to this subsection not later than 15 days
17 after the registrant receives notice in a record of the
18 required increase.

19 Section 20-10. Examination.

20 (a) (1) (A) The Department may, at any time and from time to
21 time, examine the business and any office, within or outside
22 this State, of any covered person, or any agent of a covered
23 person, in order to ascertain (i) the financial condition of
24 the covered person, (ii) the safety and soundness of the
25 conduct of its business, (iii) the policies of its management,

1 (iv) whether the business is being conducted in a lawful
2 manner, (v) whether all digital asset business activity is
3 properly accounted for, and (vi) such other matters as the
4 Department may determine, including, but not limited to, any
5 activities of the covered person outside the State, if in the
6 Department's judgment, such activities may affect the covered
7 person's digital asset business activity.

8 (B) The directors, officers, and employees of a
9 covered person, or agent of a covered person, being
10 examined by the Department shall exhibit to the
11 Department, on request, any or all of the covered
12 person's accounts, books, correspondence, memoranda,
13 papers, and other records and shall otherwise
14 facilitate the examination so far as it may be in their
15 power to do so.

16 (C) The covered person shall permit and assist the
17 Department to examine an affiliate or service provider
18 of the covered person when, in the Department's
19 judgment, it is necessary or advisable to do so.

20 (2) The Department may examine a covered person, its
21 affiliate, or service provider pursuant to this paragraph
22 without prior notice to the covered person, affiliate, or
23 service provider.

24 (b) A covered person shall pay the necessary costs of an
25 examination under this Section.

1 Section 20-15. Books and records.

2 (a) A registrant shall maintain, for all digital asset
3 business activity with or on behalf of a resident for 5 years
4 after the date of the activity, a record of all of the
5 following:

6 (1) Any transaction of the registrant with or on
7 behalf of the resident or for the registrant's account in
8 this State, including all of the following:

9 (A) The identity of the resident.

10 (B) The form of the transaction.

11 (C) The amount, date, and payment instructions
12 given by the resident.

13 (D) The account number, name, and physical address
14 of:

15 (i) the parties to the transaction that are
16 customers or account holders of the registrant;
17 and

18 (ii) to the extent practicable, any other
19 parties to the transaction.

20 (2) The aggregate number of transactions and aggregate
21 value of transactions by the registrant with or on behalf
22 of the resident and for the registrant's account in this
23 State expressed in United States dollar equivalent of
24 digital assets for the previous 12 calendar months.

25 (3) Any transaction in which the registrant exchanged
26 one form of digital asset for fiat currency or another

1 form of digital asset with or on behalf of the resident.

2 (4) A general ledger maintained at least monthly that
3 lists all assets, liabilities, capital, income, and
4 expenses of the registrant.

5 (5) Any report of condition or other reports to the
6 Department, at such times and in such form, as the
7 Department may request.

8 (6) Bank statements and bank reconciliation records
9 for the registrant and the name, account number, and
10 United States Postal Service address of any bank or credit
11 union the registrant uses in the conduct of its digital
12 asset business activity with or on behalf of the resident.

13 (7) A report of any dispute with a resident.

14 (b) A registrant shall maintain records required by
15 subsection (a) in a form that enables the Department to
16 determine whether the registrant is in compliance with this
17 Act, any court order, and the laws of this State.

18 (c) If a registrant maintains records outside this State
19 that pertain to transactions with or on behalf of a resident,
20 the registrant shall make the records available to the
21 Department not later than 3 days after request, or, on a
22 determination of good cause by the Department, in its sole
23 discretion, at a later time.

24 (d) All records maintained by a registrant, any affiliate,
25 or any service provider are subject to inspection by the
26 Department.

1 Section 20-20. Regulatory cooperation. The Department may
2 cooperate, coordinate, jointly examine, consult, and share
3 records and other information with the appropriate regulatory
4 agency of another state, a self-regulatory organization,
5 federal or state regulator of banking or non-depository
6 institutions, or a regulator of a jurisdiction outside the
7 United States, concerning the affairs and conduct of a covered
8 person, affiliate, or service provider in this State.

9 Section 20-25. Material business changes.

10 (a) A registrant shall file with the Department a report
11 of the following, as may be applicable:

12 (1) A material change in information in the
13 application for a registration under this Act or the most
14 recent renewal report of the registrant under this Act.

15 (2) A material change in the registrant's business for
16 the conduct of its digital asset business activity with or
17 on behalf of a resident.

18 (3) A change of an affiliate, executive officer,
19 responsible individual, or person in control of the
20 registrant.

21 (b) A report required by this Section shall be filed not
22 later than 15 days after the change described in subsection
23 (a).

1 Section 20-30. Change in control.

2 (a) As used in this Section, "proposed person to be in
3 control" means the person that would control a registrant
4 after a proposed transaction that would result in a change in
5 control of the registrant.

6 (b) The following rules apply in determining whether a
7 person has control over a registrant:

8 (1) A person has control over a registrant if a person
9 directly or indirectly owns, controls, holds with the
10 power to vote, or holds proxies representing, 10% or more
11 of the then outstanding voting securities issued by the
12 registrant.

13 (2) A person has control over a registrant if the
14 person's voting power in the registrant constitutes or
15 will constitute at least 25% of the total voting power of
16 the registrant.

17 (3) A person has control over a registrant if the
18 person's voting power in another person constitutes or
19 will constitute at least 10% of the total voting power of
20 the other person and the other person's voting power in
21 the registrant constitutes at least 10% of the total
22 voting power of the registrant.

23 (4) There is no presumption of control solely because
24 an individual is an executive officer of the registrant.

25 (c) Before a proposed change in control of a registrant,
26 the proposed person to be in control shall submit to the

1 Department in a record all of the following:

2 (1) An application in a form and medium prescribed by
3 the Department.

4 (2) The information and records that Section 15-10
5 would require if the proposed person to be in control
6 already had control of the registrant.

7 (d) The Department shall not approve an application unless
8 the Secretary finds all of the following:

9 (1) The proposed person to be in control and all
10 executive officers of the proposed person to be in
11 control, if any, are of good character and sound financial
12 standing.

13 (2) The proposed person to be in control is competent
14 to engage in digital asset business activity.

15 (3) It is reasonable to believe that, if the person
16 acquires control of the registrant, the proposed person to
17 be in control and the registrant will comply with all
18 applicable provisions of this Act and any rules or order
19 issued under this Act.

20 (4) Any plans by the proposed person to be in control
21 to change the business, corporate structure, or management
22 of the registrant are not detrimental to the safety and
23 soundness of the registrant.

24 (e) The Department, in accordance with Section 15-10,
25 shall approve, approve with conditions, or deny an application
26 for a change in control of a registrant. The Department, in a

1 record, shall send notice of its decision to the registrant
2 and the person that would be in control if the Department had
3 approved the change in control. If the Department denies the
4 application, the registrant shall abandon the proposed change
5 in control or cease digital asset business activity with or on
6 behalf of residents.

7 (f) If the Department applies a condition to approval of a
8 change in control of a registrant, and the Department does not
9 receive notice of the applicant's acceptance of the condition
10 specified by the Department not later than 31 days after the
11 Department sends notice of the condition, the application is
12 deemed denied. If the application is deemed denied, the
13 registrant shall abandon the proposed change in control or
14 cease digital asset business activity with or on behalf of
15 residents.

16 (g) The Department may revoke or modify a determination
17 under subsection (d), after notice and opportunity to be
18 heard, if, in its judgment, revocation or modification is
19 consistent with this Act.

20 (h) If a change in control of a registrant requires
21 approval of another regulatory agency, and the action of the
22 other agency conflicts with that of the Department, the
23 Department shall confer with the other agency. If the proposed
24 change in control cannot be completed because the conflict
25 cannot be resolved, the registrant shall abandon the change in
26 control or cease digital asset business activity with or on

1 behalf of residents.

2 Section 20-35. Mergers.

3 (a) Before a proposed merger or consolidation of a
4 registrant with another person, the registrant shall submit
5 all of the following, as applicable, to the Department:

6 (1) An application in a form and medium prescribed by
7 the Department.

8 (2) The plan of merger or consolidation in accordance
9 with subsection (e).

10 (3) In the case of a registrant, the information
11 required by Section 15-10 concerning the person that would
12 be the surviving entity in the proposed merger or
13 consolidation.

14 (b) If a proposed merger or consolidation would change the
15 control of a registrant, the registrant shall comply with
16 Section 20-30 and this Section.

17 (c) The Department, in accordance with Section 15-10,
18 shall approve, conditionally approve, or deny an application
19 for approval of a merger or consolidation of a registrant. The
20 Department, in a record, shall send notice of its decision to
21 the registrant and the person that would be the surviving
22 entity. If the Department denies the application, the
23 registrant shall abandon the merger or consolidation or cease
24 digital asset business activity with or on behalf of
25 residents.

1 (d) The Department may revoke or modify a determination
2 under paragraph (c), after notice and opportunity to be heard,
3 if, in its judgment, revocation or modification is consistent
4 with this Act.

5 (e) A plan of merger or consolidation of a registrant with
6 another person shall do all of the following:

7 (1) Describe the effect of the proposed transaction on
8 the registrant's conduct of digital asset business
9 activity with or on behalf of residents.

10 (2) Identify each person to be merged or consolidated
11 and the person that would be the surviving entity.

12 (3) Describe the terms and conditions of the merger or
13 consolidation and the mode of carrying it into effect.

14 (f) If a merger or consolidation of a registrant and
15 another person requires approval of another regulatory agency,
16 and the action of the other agency conflicts with that of the
17 Department, the Department shall confer with the other agency.
18 If the proposed merger or consolidation cannot be completed
19 because the conflict cannot be resolved, the registrant shall
20 abandon the merger or consolidation or cease digital asset
21 business activity with or on behalf of residents.

22 (g) The Department may condition approval of an
23 application under subsection (a). If the Department does not
24 receive notice from the parties that the parties accept the
25 Department's condition not later than 31 days after the
26 Department sends notice in a record of the condition, the

1 application is deemed denied. If the application is deemed
2 denied, the registrant shall abandon the merger or
3 consolidation or cease digital asset business activity with,
4 or on behalf of, residents.

5 (h) If a registrant acquires substantially all of the
6 assets of a person, whether or not the person's registration
7 was approved by the Department, the transaction is subject to
8 this Section.

9 Section 20-40. Investigation of complaints. The Secretary
10 shall be authorized at all times to maintain staff and
11 facilities adequate to receive, record, and investigate
12 complaints and inquiries made by any person concerning this
13 Act and any covered persons, affiliates, and service providers
14 under this Act. Each such person shall open their books,
15 records, documents, and offices wherever situated to the
16 Secretary or his or her appointees as needed to facilitate
17 such investigations.

18 Section 20-45. Additional investigation and examination
19 authority. In addition to any authority allowed under this Act
20 or other applicable law, the Secretary shall have the
21 authority to conduct investigations and examinations as
22 follows:

23 (1) For purposes of initial registration, renewal,
24 suspension, conditioning, revocation or termination, or

1 general or specific inquiry or investigation to determine
2 compliance with this Act, the Secretary shall have the
3 authority to access, receive, and use any books, accounts,
4 records, files, documents, information, or evidence,
5 including, but not limited to, the following:

6 (A) criminal, civil, and administrative history
7 information, including nonconviction data as specified
8 in the Criminal Code of 2012;

9 (B) personal history and experience information,
10 including independent credit reports obtained from a
11 consumer reporting agency described in Section 603(p)
12 of the federal Fair Credit Reporting Act; and

13 (C) any other documents, information, or evidence
14 the Secretary deems relevant to the inquiry or
15 investigation, regardless of the location, possession,
16 control, or custody of the documents, information, or
17 evidence.

18 (2) For the purposes of investigating violations or
19 complaints arising under this Act or for the purposes of
20 examination, the Secretary may review, investigate, or
21 examine any covered person, affiliate, service provider,
22 individual, or person subject to this Act as often as
23 necessary in order to carry out the purposes of this Act.
24 The Secretary may direct, subpoena, or order the
25 attendance of and examine under oath all persons whose
26 testimony may be required about the transactions or the

1 business or subject matter of any such examination or
2 investigation, and may direct, subpoena, or order the
3 person to produce books, accounts, records, files, and any
4 other documents the Secretary deems relevant to the
5 inquiry.

6 (3) Each covered person, affiliate, service provider,
7 individual, or person subject to this Act shall make
8 available to the Secretary upon request the books and
9 records relating to the operations of the registrant,
10 affiliate, individual, or person subject to this Act. The
11 Secretary shall have access to those books and records and
12 interview the officers, principals, employees, independent
13 contractors, agents, and customers of the covered person,
14 affiliate, service provider, individual, or person subject
15 to this Act concerning their business.

16 (4) Each covered person, affiliate, service provider,
17 individual, or person subject to this Act shall make or
18 compile reports or prepare other information as directed
19 by the Secretary in order to carry out the purposes of this
20 Section, including, but not limited to:

21 (A) accounting compilations;

22 (B) information lists and data concerning
23 transactions in a format prescribed by the Secretary;
24 or

25 (C) other information deemed necessary to carry
26 out the purposes of this Section.

1 (5) In making any examination or investigation
2 authorized by this Act, the Secretary may control access
3 to any documents and records of the covered person or
4 person under examination or investigation. The Secretary
5 may take possession of the documents and records or place
6 a person in exclusive charge of the documents and records
7 in the place where they are usually kept. During the
8 period of control, no person shall remove or attempt to
9 remove any of the documents or records, except pursuant to
10 a court order or with the consent of the Secretary. Unless
11 the Secretary has reasonable grounds to believe the
12 documents or records of the covered person or person under
13 examination or investigation have been or are at risk of
14 being altered or destroyed for purposes of concealing a
15 violation of this Act, the covered person or owner of the
16 documents and records shall have access to the documents
17 or records as necessary to conduct its ordinary business
18 affairs.

19 (6) In order to carry out the purposes of this
20 Section, the Secretary may:

21 (A) retain attorneys, accountants, or other
22 professionals and specialists as examiners, auditors,
23 or investigators to conduct or assist in the conduct
24 of examinations or investigations;

25 (B) enter into agreements or relationships with
26 other government officials, regulatory associations,

1 or self-regulatory organizations in order to improve
2 efficiencies and reduce regulatory burden by sharing
3 resources, standardized or uniform methods or
4 procedures, and documents, records, information, or
5 evidence obtained under this Section;

6 (C) use, hire, contract, or employ public or
7 privately available analytical systems, methods, or
8 software to examine or investigate the covered person,
9 affiliate, service provider, individual, or person
10 subject to this Act;

11 (D) accept and rely on examination or
12 investigation reports made by other government
13 officials, within or outside this State; or

14 (E) accept audit reports made by an independent
15 certified public accountant for the covered person,
16 affiliate, service provider, individual, or person
17 subject to this Act in the course of that part of the
18 examination covering the same general subject matter
19 as the audit and may incorporate the audit report in
20 the report of the examination, report of
21 investigation, or other writing of the Secretary.

22 (7) The authority of this Section shall remain in
23 effect, whether such a covered person, affiliate, service
24 provider, individual, or person subject to this Act acts
25 or claims to act under any licensing or registration law
26 of this State or claims to act without the authority.

1 (8) No covered person, affiliate, service provider,
2 individual, or person subject to investigation or
3 examination under this Section may knowingly withhold,
4 abstract, remove, mutilate, destroy, or secrete any books,
5 records, computer records, or other information.

6 Section 20-50. Enforcement actions.

7 (a) As used in this Article, "enforcement action" means an
8 action including, but not limited to, all of the following:

9 (1) Suspending or revoking a registration under this
10 Act.

11 (2) Ordering a person to cease and desist from doing
12 digital asset business activity with or on behalf of a
13 resident.

14 (3) Requesting the court to appoint a receiver for the
15 assets of a person doing digital asset business activity
16 with or on behalf of a resident.

17 (4) Requesting the court to issue temporary,
18 preliminary, or permanent injunctive relief against a
19 person doing digital asset business activity with or on
20 behalf of a resident.

21 (5) Assessing a civil penalty under Section 20-70.

22 (6) Recovering on the security under Section 20-5 and
23 initiating a plan to distribute the proceeds for the
24 benefit of a resident injured by a violation of this Act,
25 or law of this State other than this Act that applies to

1 digital asset business activity with or on behalf of a
2 resident.

3 (7) Imposing necessary or appropriate conditions on
4 the conduct of digital asset business activity with or on
5 behalf of a resident.

6 (8) Seeking restitution on behalf of a resident if the
7 Department shows economic injury due to a violation of
8 this Act.

9 (b) The Department may enter into a consent order with a
10 person regarding an enforcement action.

11 (c) This Section does not provide a private right of
12 action to a resident, provided this Section does not preclude
13 an action by a resident to enforce rights under Article 5 or
14 subsection (a) of Section 20-5.

15 Section 20-55. Violations.

16 (a) The Department may take an enforcement action against
17 a covered person or any person otherwise subject to this Act in
18 any of the following instances:

19 (1) The covered person or person violates this Act, a
20 rule adopted or order issued under this Act, or a State or
21 federal law or regulation that applies to digital asset
22 business activity of the violator with or on behalf of a
23 resident.

24 (2) The covered person or person does not cooperate
25 with an examination or investigation by the Department,

1 fails to pay a fee, or fails to submit a report or
2 documentation.

3 (3) The covered person or person, in the conduct of
4 its digital asset business activity with or on behalf of a
5 resident, has engaged, is engaging, or is about to engage
6 in any of the following:

7 (A) An unsafe, unsound, or unlawful act or
8 practice.

9 (B) An unfair, deceptive, or abusive act or
10 practice.

11 (C) Fraud, misrepresentation, deceit, or
12 negligence.

13 (D) Misappropriation of fiat currency, a digital
14 asset, or other value.

15 (4) An agency of the United States or another state
16 takes an action against the covered person or person that
17 would constitute an enforcement action if the Department
18 had taken the action.

19 (5) The covered person or person is convicted of a
20 crime related to its digital asset business activity with
21 or on behalf of a resident or involving fraud or felonious
22 activity that, as determined by the Department, makes the
23 covered person or person unsuitable to engage in digital
24 asset business activity.

25 (6) Any of the following occurs:

26 (A) The covered person or person becomes

1 insolvent.

2 (B) The covered person or person makes a general
3 assignment for the benefit of its creditors.

4 (C) The covered person or person becomes the
5 debtor, alleged debtor, respondent, or person in a
6 similar capacity in a case or other proceeding under
7 any bankruptcy, reorganization, arrangement,
8 readjustment, insolvency, receivership, dissolution,
9 liquidation, or similar law, and does not obtain from
10 the court, within a reasonable time, confirmation of a
11 plan or dismissal of the case or proceeding.

12 (D) The covered person or person applies for, or
13 permits the appointment of, a receiver, trustee, or
14 other agent of a court for itself or for a substantial
15 part of its assets.

16 (7) The covered person or person makes a
17 misrepresentation to the Department.

18 (b) If the Secretary finds, as the result of examination,
19 investigation, or review of reports submitted by a registrant,
20 that the business and affairs of a registrant are not being
21 conducted in accordance with this Act, the Secretary may
22 notify the registrant of the correction necessary. If a
23 registrant fails to correct such violations, the Secretary may
24 issue an order requiring immediate correction and compliance
25 with this Act and may specify a reasonable date for
26 performance.

1 Section 20-60. Hearings.

2 (a) Except as provided in subsection (b), the Department
3 may take an enforcement action only after notice and
4 opportunity for a hearing as appropriate in the circumstances.
5 All hearings provided for in this Act shall be conducted in
6 accordance with Title 38, Part 100 of the Illinois
7 Administrative Code, and the Secretary shall have all the
8 powers granted therein.

9 (b) (1) (A) The Department may take an enforcement action,
10 other than the imposition of a civil penalty under Section
11 20-70, without notice if the circumstances require action
12 before notice can be given.

13 (B) A person subject to an enforcement action
14 pursuant to this subsection shall have the right to an
15 expedited post-action hearing by the Department unless
16 the person has waived the hearing.

17 (2) (A) The Department may take an enforcement action,
18 other than the imposition of a civil penalty under Section
19 20-70, after notice and without a prior hearing if the
20 circumstances require action before a hearing can be held.

21 (B) A person subject to an enforcement action
22 pursuant to this subsection shall have the right to an
23 expedited post-action hearing by the Department unless
24 the person has waived the hearing.

25 (3) The Department may take an enforcement action

1 after notice and without a hearing if the person subject
2 to the enforcement action does not timely request a
3 hearing.

4 Section 20-65. Hearing rules.

5 (a) The Department may, in accordance with the Illinois
6 Administrative Procedure Act, adopt rules to provide for
7 review within the Department of the Secretary's decisions
8 affecting the rights of persons or entities under this Act.
9 The review shall provide for, at a minimum:

10 (1) appointment of a hearing officer;

11 (2) appropriate procedural rules, specific deadlines
12 for filings, and standards of evidence and of proof; and

13 (3) provision for apportioning costs among parties to
14 the appeal.

15 (b) All final administrative decisions of the Department
16 under this Act, all amendments and modifications of final
17 administrative decisions, and any rules adopted by the
18 Department pursuant to this Act shall be subject to judicial
19 review pursuant to the provisions of the Administrative Review
20 Law.

21 Section 20-70. Civil penalties.

22 (a) If a person other than a registrant has engaged, is
23 engaging, or is about to engage in digital asset business
24 activity with or on behalf of a resident in violation of this

1 Act, the Department may assess a civil penalty against the
2 person in an amount not to exceed \$100,000 for each day the
3 person is in violation of this Act.

4 (b) If a person violates a provision of this Act, the
5 Department may assess a civil penalty in an amount not to
6 exceed \$25,000 for each day of violation or for each act or
7 omission in violation, except that a fine may be imposed not to
8 exceed \$75,000 for each day of violation or for each act or
9 omission in violation related to fraud, misrepresentation,
10 deceit, or negligence.

11 (c) A civil penalty under this Section continues to accrue
12 until the date the violation ceases.

13 (d) A civil penalty under this Section is cumulative to
14 any civil penalties enforceable by the Department under any
15 other law.

16 Section 20-75. Subpoena power.

17 (a) The Secretary shall have the power to issue and to
18 serve subpoenas and subpoenas duces tecum to compel the
19 attendance of witnesses and the production of all books,
20 accounts, records, and other documents and materials relevant
21 to an examination or investigation. The Secretary, or his or
22 her duly authorized representative, shall have power to
23 administer oaths and affirmations to any person.

24 (b) In the event of noncompliance with a subpoena or
25 subpoena duces tecum issued or caused to be issued by the

1 Secretary, the Secretary may, through the Attorney General or
2 the State's Attorney of the county in which the person
3 subpoenaed resides or has its principal place of business,
4 petition the circuit court of the county for an order
5 requiring the subpoenaed person to appear and testify and to
6 produce such books, accounts, records, and other documents as
7 are specified in the subpoena duces tecum. The court may grant
8 injunctive relief restraining the person from advertising,
9 promoting, soliciting, entering into, offering to enter into,
10 continuing, or completing any digital asset business activity.
11 The court may grant other relief, including, but not limited
12 to, the restraint, by injunction or appointment of a receiver,
13 of any transfer, pledge, assignment, or other disposition of
14 the person's assets or any concealment, alteration,
15 destruction, or other disposition of books, accounts, records,
16 or other documents and materials as the court deems
17 appropriate, until the person has fully complied with the
18 subpoena or subpoena duces tecum and the Secretary has
19 completed an investigation or examination.

20 (c) If it appears to the Secretary that the compliance
21 with a subpoena or subpoena duces tecum issued or caused to be
22 issued by the Secretary pursuant to this Section is essential
23 to an investigation or examination, the Secretary, in addition
24 to the other remedies provided for in this Act, may, through
25 the Attorney General or the State's Attorney of the county in
26 which the subpoenaed person resides or has its principal place

1 of business, apply for relief to the circuit court of the
2 county. The court shall thereupon direct the issuance of an
3 order against the subpoenaed person requiring sufficient bond
4 conditioned on compliance with the subpoena or subpoena duces
5 tecum. The court shall cause to be endorsed on the order a
6 suitable amount of bond or payment pursuant to which the
7 person named in the order shall be freed, having a due regard
8 to the nature of the case.

9 (d) In addition, the Secretary may, through the Attorney
10 General or the State's Attorney of the applicable county, seek
11 a writ of attachment or an equivalent order from the circuit
12 court having jurisdiction over the person who has refused to
13 obey a subpoena, who has refused to give testimony, or who has
14 refused to produce the matters described in the subpoena duces
15 tecum.

16 Section 20-80. Civil actions.

17 (a) The Department may bring a civil action in accordance
18 with the following:

19 (1) If a person violates any provision of this Act, a
20 rule or final order, or condition imposed in writing by
21 the Department, the Department through the Attorney
22 General or the State's Attorney of the county in which any
23 such violation occurs may bring an action in the circuit
24 court to enjoin the acts or practices or to enforce
25 compliance with this Act or any rule or order adopted

1 pursuant to this Act. Upon a proper showing, a permanent
2 or preliminary injunction, restraining order, or writ of
3 mandate shall be granted and a receiver, monitor,
4 conservator, or other designated fiduciary or officer of
5 the court may be appointed for the defendant or the
6 defendant's assets, or any other ancillary relief may be
7 granted as appropriate. A receiver, monitor, conservator,
8 or other designated fiduciary or officer of the court
9 appointed by the circuit court pursuant to this Section
10 may, with the approval of the court, exercise any or all of
11 the powers of the defendant's officers, directors,
12 partners, trustees, or persons who exercise similar powers
13 and perform similar duties, including the filing of a
14 petition for bankruptcy. No action at law or in equity may
15 be maintained by any party against the Secretary, a
16 receiver, monitor, conservator, or other designated
17 fiduciary or officer of the court, by reason of their
18 exercising these powers or performing these duties
19 pursuant to the order of, or with the approval of, the
20 circuit court.

21 (2) The Secretary may include in any action relief
22 authorized by Section 20-50. The circuit court shall have
23 jurisdiction to award additional relief.

24 (3) In any action brought by the Department, the
25 Department may recover its costs and attorney's fees in
26 connection with prosecuting the action if the Department

1 is the prevailing party in the action.

2 (b) The Attorney General may enforce a violation of
3 Article 5 as an unlawful practice under the Consumer Fraud and
4 Deceptive Business Practices Act.

5 (c) A claim of violation of Article 5 may be asserted in a
6 civil action. Additionally, a prevailing resident may be
7 awarded reasonable attorney's fees and court costs.

8 Article 30. Additional Procedural Provisions

9 Section 30-5. Confidential supervisory information.

10 (a) Confidential supervisory information shall, unless
11 made a matter of public record, not be subject to disclosure
12 under the Freedom of Information Act, and shall only be
13 subject to disclosure pursuant to subpoena or court order as
14 provided in subsection (e).

15 (b) All records of communications or summaries of
16 communications between employees, agents, or representatives
17 of the Department and employees, agents, or representatives of
18 other governmental agencies, a provider of any multistate
19 licensing system, or associations or organizations
20 representing federal, state, or local law enforcement or
21 regulatory agencies or providers of any multistate licensing
22 system, pursuant to any regulatory or supervision activity
23 under this Act (1) shall not be subject to disclosure under the
24 Freedom of Information Act, and (2) to the extent the records

1 contain confidential supervisory information, shall only be
2 subject to disclosure pursuant to subpoena or court order as
3 provided in subsection (e).

4 (c) All confidential supervisory information received from
5 other governmental agencies, a multistate licensing system
6 provider, or associations or organizations consisting of
7 employees, agents, or representatives of such agencies or
8 providers, shall not be subject to disclosure under the
9 Freedom of Information Act, and only subject to disclosure
10 pursuant to subpoena or court order as provided in subsection
11 (e).

12 (d) The sharing of any confidential supervisory
13 information under this Act with governmental agencies,
14 providers of any multistate licensing system, or associations
15 or organizations consisting of employees, agents, or
16 representatives of such federal, state, or local law
17 enforcement or regulatory agencies, shall not result in the
18 loss of privilege arising under federal or state law, or the
19 loss of confidentiality protections provided by federal law or
20 state law, and are only subject to disclosure pursuant to
21 subpoena or court order as provided in subsection (e).

22 (e) Confidential supervisory information may not be
23 disclosed to anyone other than the regulated person, law
24 enforcement officials or other regulatory agencies that have
25 an appropriate regulatory interest as determined by the
26 Secretary, or to a party presenting a lawful subpoena, order,

1 or other judicial or administrative process to the Secretary.
2 The Secretary may immediately appeal to the court of
3 jurisdiction the disclosure of such confidential supervisory
4 information and seek a stay of the subpoena pending the
5 outcome of the appeal. Reports required of regulated persons
6 by the Secretary under this Act and results of examinations
7 performed by the Secretary under this Act shall be the
8 property of only the Secretary but may be shared with the
9 regulated person. Access under this Act to the books and
10 records of each regulated person shall be limited to the
11 Secretary and his agents as provided in this Act and to the
12 regulated person and its authorized agents and designees. No
13 other person shall have access to the books and records of a
14 regulated person under this Act. Any person upon whom a demand
15 for production of confidential supervisory information is
16 made, whether by subpoena, order, or other judicial or
17 administrative process, must withhold production of the
18 confidential supervisory information and must notify the
19 Secretary of the demand, at which time the Secretary is
20 authorized to intervene for the purpose of enforcing the
21 limitations of this Section or seeking the withdrawal or
22 termination of the attempt to compel production of the
23 confidential supervisory information. The Secretary may impose
24 any conditions and limitations on the disclosure of
25 confidential supervisory information that are necessary to
26 protect the confidentiality of such information. Except as

1 authorized by the Secretary, no person obtaining access to
2 confidential supervisory information may make a copy of the
3 confidential supervisory information. The Secretary may
4 condition a decision to disclose confidential supervisory
5 information on entry of a protective order by the court or
6 administrative tribunal presiding in the particular case or on
7 a written agreement of confidentiality. In a case in which a
8 protective order or agreement has already been entered between
9 parties other than the Secretary, the Secretary may
10 nevertheless condition approval for release of confidential
11 supervisory information upon the inclusion of additional or
12 amended provisions in the protective order. The Secretary may
13 authorize a party who obtained the records for use in one case
14 to provide them to another party in another case, subject to
15 any conditions that the Secretary may impose on either or both
16 parties. The requester shall promptly notify other parties to
17 a case of the release of confidential supervisory information
18 obtained and, upon entry of a protective order, shall provide
19 copies of confidential supervisory information to the other
20 parties.

21 (f) The Secretary is authorized to enter agreements or
22 sharing arrangements with other governmental agencies,
23 providers of any multistate licensing system, or associations
24 or organizations representing governmental agencies or
25 providers of any multistate licensing system. Notwithstanding
26 the foregoing, the provisions of this Section shall apply

1 regardless of the existence of any such agreement or sharing
2 arrangement.

3 (g) This Section in no way limits any right, privilege, or
4 authority that the Department has pursuant to any other
5 applicable law. This Section does not in any way limit any
6 privilege arising under federal or state law or other
7 exemption from disclosure pursuant to the Freedom of
8 Information Act.

9 (h) Notwithstanding the foregoing, whenever the Secretary
10 determines, in his or her sole discretion, that it is in the
11 public's interest, he or she may publicly disclose information
12 or documents obtained under this Act, unless otherwise
13 prohibited by law.

14 Section 30-10. Additional rulemaking authority.

15 (a) In addition to such powers and rulemaking authority as
16 may be prescribed elsewhere in this Act or other financial
17 laws administered by the Department, the Department is hereby
18 authorized and empowered to adopt rules consistent with the
19 purposes of this Act, including, but not limited to:

20 (1) rules in connection with the activities of covered
21 persons, affiliates, and service providers as may be
22 necessary and appropriate for the protection of residents;

23 (2) rules to define the terms used in this Act and as
24 may be necessary and appropriate to interpret and
25 implement the provisions of this Act;

1 (3) rules as may be necessary for the administration
2 and enforcement of this Act;

3 (4) rules to set and collect fees necessary to
4 administer and enforce this Act;

5 (5) rules in connection with the activities of covered
6 persons, affiliates, and service providers as may be
7 necessary and appropriate for the safety and soundness of
8 such covered persons and affiliates and the stability of
9 the financial system in this State.

10 (b) The Secretary is hereby authorized and empowered to
11 make specific rulings, demands, and findings that he or she
12 deems necessary for the proper conduct of the registrants and
13 affiliates thereof.

14 Article 35. Miscellaneous Provisions

15 Section 35-5. No evasion.

16 (a) It shall be unlawful to engage in any device,
17 subterfuge, or pretense to willfully evade or attempt to evade
18 the requirements of this Act or any rule or order issued by the
19 Department hereunder.

20 (b) Any financial product, service, or transaction that is
21 willfully structured to evade or attempt to evade the
22 definitions of digital asset or digital asset business
23 activity is a digital asset or digital asset business
24 activity, respectively, for purposes of this Act.

1 Section 35-10. Construction; severability.

2 (a) The provisions of this Act shall be liberally
3 construed to effectuate its purposes.

4 (b) The provisions of this Act are severable under Section
5 1.31 of the Statute on Statutes.

6 (c) To the extent that any provision of this Act is
7 preempted by federal law, the provision shall not apply and
8 shall not be enforced solely as to the extent of the preemption
9 and not as to other circumstances, persons, or applications.

10 Section 35-15. Transition period.

11 (a) A covered person engaging in digital asset business
12 activity without a registration under this Act shall not be
13 considered in violation of Section 15-5 or 5-25 until July 1,
14 2027.

15 (b) A covered person engaging in digital asset business
16 activity shall not be considered in violation of Sections 5-5,
17 5-10, and 5-20 until January 1, 2027.

18 (c) A covered exchange shall not be considered in
19 violation of Section 5-15 until January 1, 2027.

20 (d) Notwithstanding the foregoing, the Department may
21 adopt rules pursuant to this Act upon this Act becoming law
22 with such rules not to take effect earlier than January 1,
23 2026.

1 Article 90. Amendatory provisions

2 Section 90-5. The Freedom of Information Act is amended by
3 changing Section 7.5 as follows:

4 (5 ILCS 140/7.5)

5 Sec. 7.5. Statutory exemptions. To the extent provided for
6 by the statutes referenced below, the following shall be
7 exempt from inspection and copying:

8 (a) All information determined to be confidential
9 under Section 4002 of the Technology Advancement and
10 Development Act.

11 (b) Library circulation and order records identifying
12 library users with specific materials under the Library
13 Records Confidentiality Act.

14 (c) Applications, related documents, and medical
15 records received by the Experimental Organ Transplantation
16 Procedures Board and any and all documents or other
17 records prepared by the Experimental Organ Transplantation
18 Procedures Board or its staff relating to applications it
19 has received.

20 (d) Information and records held by the Department of
21 Public Health and its authorized representatives relating
22 to known or suspected cases of sexually transmitted
23 infection or any information the disclosure of which is
24 restricted under the Illinois Sexually Transmitted

1 Infection Control Act.

2 (e) Information the disclosure of which is exempted
3 under Section 30 of the Radon Industry Licensing Act.

4 (f) Firm performance evaluations under Section 55 of
5 the Architectural, Engineering, and Land Surveying
6 Qualifications Based Selection Act.

7 (g) Information the disclosure of which is restricted
8 and exempted under Section 50 of the Illinois Prepaid
9 Tuition Act.

10 (h) Information the disclosure of which is exempted
11 under the State Officials and Employees Ethics Act, and
12 records of any lawfully created State or local inspector
13 general's office that would be exempt if created or
14 obtained by an Executive Inspector General's office under
15 that Act.

16 (i) Information contained in a local emergency energy
17 plan submitted to a municipality in accordance with a
18 local emergency energy plan ordinance that is adopted
19 under Section 11-21.5-5 of the Illinois Municipal Code.

20 (j) Information and data concerning the distribution
21 of surcharge moneys collected and remitted by carriers
22 under the Emergency Telephone System Act.

23 (k) Law enforcement officer identification information
24 or driver identification information compiled by a law
25 enforcement agency or the Department of Transportation
26 under Section 11-212 of the Illinois Vehicle Code.

1 (l) Records and information provided to a residential
2 health care facility resident sexual assault and death
3 review team or the Executive Council under the Abuse
4 Prevention Review Team Act.

5 (m) Information provided to the predatory lending
6 database created pursuant to Article 3 of the Residential
7 Real Property Disclosure Act, except to the extent
8 authorized under that Article.

9 (n) Defense budgets and petitions for certification of
10 compensation and expenses for court appointed trial
11 counsel as provided under Sections 10 and 15 of the
12 Capital Crimes Litigation Act (repealed). This subsection
13 (n) shall apply until the conclusion of the trial of the
14 case, even if the prosecution chooses not to pursue the
15 death penalty prior to trial or sentencing.

16 (o) Information that is prohibited from being
17 disclosed under Section 4 of the Illinois Health and
18 Hazardous Substances Registry Act.

19 (p) Security portions of system safety program plans,
20 investigation reports, surveys, schedules, lists, data, or
21 information compiled, collected, or prepared by or for the
22 Department of Transportation under Sections 2705-300 and
23 2705-616 of the Department of Transportation Law of the
24 Civil Administrative Code of Illinois, the Regional
25 Transportation Authority under Section 2.11 of the
26 Regional Transportation Authority Act, or the St. Clair

1 County Transit District under the Bi-State Transit Safety
2 Act (repealed).

3 (q) Information prohibited from being disclosed by the
4 Personnel Record Review Act.

5 (r) Information prohibited from being disclosed by the
6 Illinois School Student Records Act.

7 (s) Information the disclosure of which is restricted
8 under Section 5-108 of the Public Utilities Act.

9 (t) (Blank).

10 (u) Records and information provided to an independent
11 team of experts under the Developmental Disability and
12 Mental Health Safety Act (also known as Brian's Law).

13 (v) Names and information of people who have applied
14 for or received Firearm Owner's Identification Cards under
15 the Firearm Owners Identification Card Act or applied for
16 or received a concealed carry license under the Firearm
17 Concealed Carry Act, unless otherwise authorized by the
18 Firearm Concealed Carry Act; and databases under the
19 Firearm Concealed Carry Act, records of the Concealed
20 Carry Licensing Review Board under the Firearm Concealed
21 Carry Act, and law enforcement agency objections under the
22 Firearm Concealed Carry Act.

23 (v-5) Records of the Firearm Owner's Identification
24 Card Review Board that are exempted from disclosure under
25 Section 10 of the Firearm Owners Identification Card Act.

26 (w) Personally identifiable information which is

1 exempted from disclosure under subsection (g) of Section
2 19.1 of the Toll Highway Act.

3 (x) Information which is exempted from disclosure
4 under Section 5-1014.3 of the Counties Code or Section
5 8-11-21 of the Illinois Municipal Code.

6 (y) Confidential information under the Adult
7 Protective Services Act and its predecessor enabling
8 statute, the Elder Abuse and Neglect Act, including
9 information about the identity and administrative finding
10 against any caregiver of a verified and substantiated
11 decision of abuse, neglect, or financial exploitation of
12 an eligible adult maintained in the Registry established
13 under Section 7.5 of the Adult Protective Services Act.

14 (z) Records and information provided to a fatality
15 review team or the Illinois Fatality Review Team Advisory
16 Council under Section 15 of the Adult Protective Services
17 Act.

18 (aa) Information which is exempted from disclosure
19 under Section 2.37 of the Wildlife Code.

20 (bb) Information which is or was prohibited from
21 disclosure by the Juvenile Court Act of 1987.

22 (cc) Recordings made under the Law Enforcement
23 Officer-Worn Body Camera Act, except to the extent
24 authorized under that Act.

25 (dd) Information that is prohibited from being
26 disclosed under Section 45 of the Condominium and Common

1 Interest Community Ombudsperson Act.

2 (ee) Information that is exempted from disclosure
3 under Section 30.1 of the Pharmacy Practice Act.

4 (ff) Information that is exempted from disclosure
5 under the Revised Uniform Unclaimed Property Act.

6 (gg) Information that is prohibited from being
7 disclosed under Section 7-603.5 of the Illinois Vehicle
8 Code.

9 (hh) Records that are exempt from disclosure under
10 Section 1A-16.7 of the Election Code.

11 (ii) Information which is exempted from disclosure
12 under Section 2505-800 of the Department of Revenue Law of
13 the Civil Administrative Code of Illinois.

14 (jj) Information and reports that are required to be
15 submitted to the Department of Labor by registering day
16 and temporary labor service agencies but are exempt from
17 disclosure under subsection (a-1) of Section 45 of the Day
18 and Temporary Labor Services Act.

19 (kk) Information prohibited from disclosure under the
20 Seizure and Forfeiture Reporting Act.

21 (ll) Information the disclosure of which is restricted
22 and exempted under Section 5-30.8 of the Illinois Public
23 Aid Code.

24 (mm) Records that are exempt from disclosure under
25 Section 4.2 of the Crime Victims Compensation Act.

26 (nn) Information that is exempt from disclosure under

1 Section 70 of the Higher Education Student Assistance Act.

2 (oo) Communications, notes, records, and reports
3 arising out of a peer support counseling session
4 prohibited from disclosure under the First Responders
5 Suicide Prevention Act.

6 (pp) Names and all identifying information relating to
7 an employee of an emergency services provider or law
8 enforcement agency under the First Responders Suicide
9 Prevention Act.

10 (qq) Information and records held by the Department of
11 Public Health and its authorized representatives collected
12 under the Reproductive Health Act.

13 (rr) Information that is exempt from disclosure under
14 the Cannabis Regulation and Tax Act.

15 (ss) Data reported by an employer to the Department of
16 Human Rights pursuant to Section 2-108 of the Illinois
17 Human Rights Act.

18 (tt) Recordings made under the Children's Advocacy
19 Center Act, except to the extent authorized under that
20 Act.

21 (uu) Information that is exempt from disclosure under
22 Section 50 of the Sexual Assault Evidence Submission Act.

23 (vv) Information that is exempt from disclosure under
24 subsections (f) and (j) of Section 5-36 of the Illinois
25 Public Aid Code.

26 (ww) Information that is exempt from disclosure under

1 Section 16.8 of the State Treasurer Act.

2 (xx) Information that is exempt from disclosure or
3 information that shall not be made public under the
4 Illinois Insurance Code.

5 (yy) Information prohibited from being disclosed under
6 the Illinois Educational Labor Relations Act.

7 (zz) Information prohibited from being disclosed under
8 the Illinois Public Labor Relations Act.

9 (aaa) Information prohibited from being disclosed
10 under Section 1-167 of the Illinois Pension Code.

11 (bbb) Information that is prohibited from disclosure
12 by the Illinois Police Training Act and the Illinois State
13 Police Act.

14 (ccc) Records exempt from disclosure under Section
15 2605-304 of the Illinois State Police Law of the Civil
16 Administrative Code of Illinois.

17 (ddd) Information prohibited from being disclosed
18 under Section 35 of the Address Confidentiality for
19 Victims of Domestic Violence, Sexual Assault, Human
20 Trafficking, or Stalking Act.

21 (eee) Information prohibited from being disclosed
22 under subsection (b) of Section 75 of the Domestic
23 Violence Fatality Review Act.

24 (fff) Images from cameras under the Expressway Camera
25 Act. This subsection (fff) is inoperative on and after
26 July 1, 2025.

1 (ggg) Information prohibited from disclosure under
2 paragraph (3) of subsection (a) of Section 14 of the Nurse
3 Agency Licensing Act.

4 (hhh) Information submitted to the Illinois State
5 Police in an affidavit or application for an assault
6 weapon endorsement, assault weapon attachment endorsement,
7 .50 caliber rifle endorsement, or .50 caliber cartridge
8 endorsement under the Firearm Owners Identification Card
9 Act.

10 (iii) Data exempt from disclosure under Section 50 of
11 the School Safety Drill Act.

12 (jjj) Information exempt from disclosure under Section
13 30 of the Insurance Data Security Law.

14 (kkk) Confidential business information prohibited
15 from disclosure under Section 45 of the Paint Stewardship
16 Act.

17 (lll) Data exempt from disclosure under Section
18 2-3.196 of the School Code.

19 (mmm) Information prohibited from being disclosed
20 under subsection (e) of Section 1-129 of the Illinois
21 Power Agency Act.

22 (nnn) Materials received by the Department of Commerce
23 and Economic Opportunity that are confidential under the
24 Music and Musicians Tax Credit and Jobs Act.

25 (ooo) ~~(nnn)~~ Data or information provided pursuant to
26 Section 20 of the Statewide Recycling Needs and Assessment

1 Act.

2 (ppp) ~~(nnn)~~ Information that is exempt from disclosure
3 under Section 28-11 of the Lawful Health Care Activity
4 Act.

5 (qqq) ~~(nnn)~~ Information that is exempt from disclosure
6 under Section 7-101 of the Illinois Human Rights Act.

7 (rrr) ~~(mmm)~~ Information prohibited from being
8 disclosed under Section 4-2 of the Uniform Money
9 Transmission Modernization Act.

10 (sss) ~~(nnn)~~ Information exempt from disclosure under
11 Section 40 of the Student-Athlete Endorsement Rights Act.

12 (ttt) Data exempt from disclosure under Section 50 of
13 the School Safety Drill Act.

14 (uuu) Information prohibited from being disclosed
15 under Section 30-5 of the Digital Assets Regulation Act.

16 (Source: P.A. 102-36, eff. 6-25-21; 102-237, eff. 1-1-22;
17 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff.
18 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22;
19 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; 103-8, eff.
20 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372,
21 eff. 1-1-24; 103-472, eff. 8-1-24; 103-508, eff. 8-4-23;
22 103-580, eff. 12-8-23; 103-592, eff. 6-7-24; 103-605, eff.
23 7-1-24; 103-636, eff. 7-1-24; 103-724, eff. 1-1-25; 103-786,
24 eff. 8-7-24; 103-859, eff. 8-9-24; 103-991, eff. 8-9-24;
25 103-1049, eff. 8-9-24; revised 11-26-24.)

1 Section 90-10. The State Finance Act is amended by adding
2 Section 5.1030 as follows:

3 (30 ILCS 105/5.1030 new)

4 Sec. 5.1030. The Consumer Protection Fund.

5 Section 90-15. The Illinois Banking Act is amended by
6 changing Sections 2 and 30 as follows:

7 (205 ILCS 5/2) (from Ch. 17, par. 302)

8 Sec. 2. General definitions. In this Act, unless the
9 context otherwise requires, the following words and phrases
10 shall have the following meanings:

11 "Accommodation party" shall have the meaning ascribed to
12 that term in Section 3-419 of the Uniform Commercial Code.

13 "Action" in the sense of a judicial proceeding includes
14 recoupments, counterclaims, set-off, and any other proceeding
15 in which rights are determined.

16 "Affiliate facility" of a bank means a main banking
17 premises or branch of another commonly owned bank. The main
18 banking premises or any branch of a bank may be an "affiliate
19 facility" with respect to one or more other commonly owned
20 banks.

21 "Appropriate federal banking agency" means the Federal
22 Deposit Insurance Corporation, the Federal Reserve Bank of
23 Chicago, or the Federal Reserve Bank of St. Louis, as

1 determined by federal law.

2 "Bank" means any person doing a banking business whether
3 subject to the laws of this or any other jurisdiction.

4 A "banking house", "branch", "branch bank", or "branch
5 office" shall mean any place of business of a bank at which
6 deposits are received, checks paid, or loans made, but shall
7 not include any place at which only records thereof are made,
8 posted, or kept. A place of business at which deposits are
9 received, checks paid, or loans made shall not be deemed to be
10 a branch, branch bank, or branch office if the place of
11 business is adjacent to and connected with the main banking
12 premises, or if it is separated from the main banking premises
13 by not more than an alley; provided always that (i) if the
14 place of business is separated by an alley from the main
15 banking premises there is a connection between the two by
16 public or private way or by subterranean or overhead passage,
17 and (ii) if the place of business is in a building not wholly
18 occupied by the bank, the place of business shall not be within
19 any office or room in which any other business or service of
20 any kind or nature other than the business of the bank is
21 conducted or carried on. A place of business at which deposits
22 are received, checks paid, or loans made shall not be deemed to
23 be a branch, branch bank, or branch office (i) of any bank if
24 the place is a terminal established and maintained in
25 accordance with paragraph (17) of Section 5 of this Act, or
26 (ii) of a commonly owned bank by virtue of transactions

1 conducted at that place on behalf of the other commonly owned
2 bank under paragraph (23) of Section 5 of this Act if the place
3 is an affiliate facility with respect to the other bank.

4 "Branch of an out-of-state bank" means a branch
5 established or maintained in Illinois by an out-of-state bank
6 as a result of a merger between an Illinois bank and the
7 out-of-state bank that occurs on or after May 31, 1997, or any
8 branch established by the out-of-state bank following the
9 merger.

10 "Bylaws" means the bylaws of a bank that are adopted by the
11 bank's board of directors or shareholders for the regulation
12 and management of the bank's affairs. If the bank operates as a
13 limited liability company, however, "bylaws" means the
14 operating agreement of the bank.

15 "Call report fee" means the fee to be paid to the
16 Commissioner by each State bank pursuant to paragraph (a) of
17 subsection (3) of Section 48 of this Act.

18 "Capital" includes the aggregate of outstanding capital
19 stock and preferred stock.

20 "Cash flow reserve account" means the account within the
21 books and records of the Commissioner of Banks and Real Estate
22 used to record funds designated to maintain a reasonable Bank
23 and Trust Company Fund operating balance to meet agency
24 obligations on a timely basis.

25 "Charter" includes the original charter and all amendments
26 thereto and articles of merger or consolidation.

1 "Commissioner" means the Commissioner of Banks and Real
2 Estate, except that beginning on April 6, 2009 (the effective
3 date of Public Act 95-1047), all references in this Act to the
4 Commissioner of Banks and Real Estate are deemed, in
5 appropriate contexts, to be references to the Secretary of
6 Financial and Professional Regulation.

7 "Commonly owned banks" means 2 or more banks that each
8 qualify as a bank subsidiary of the same bank holding company
9 pursuant to Section 18 of the Federal Deposit Insurance Act;
10 "commonly owned bank" refers to one of a group of commonly
11 owned banks but only with respect to one or more of the other
12 banks in the same group.

13 "Community" means a city, village, or incorporated town
14 and also includes the area served by the banking offices of a
15 bank, but need not be limited or expanded to conform to the
16 geographic boundaries of units of local government.

17 "Company" means a corporation, limited liability company,
18 partnership, business trust, association, or similar
19 organization and, unless specifically excluded, includes a
20 "State bank" and a "bank".

21 "Consolidating bank" means a party to a consolidation.

22 "Consolidation" takes place when 2 or more banks, or a
23 trust company and a bank, are extinguished and by the same
24 process a new bank is created, taking over the assets and
25 assuming the liabilities of the banks or trust company passing
26 out of existence.

1 "Continuing bank" means a merging bank, the charter of
2 which becomes the charter of the resulting bank.

3 "Converting bank" means a State bank converting to become
4 a national bank, or a national bank converting to become a
5 State bank.

6 "Converting trust company" means a trust company
7 converting to become a State bank.

8 "Court" means a court of competent jurisdiction.

9 "Director" means a member of the board of directors of a
10 bank. In the case of a manager-managed limited liability
11 company, however, "director" means a manager of the bank and,
12 in the case of a member-managed limited liability company,
13 "director" means a member of the bank. The term "director"
14 does not include an advisory director, honorary director,
15 director emeritus, or similar person, unless the person is
16 otherwise performing functions similar to those of a member of
17 the board of directors.

18 "Director of Banking" means the Director of the Division
19 of Banking of the Department of Financial and Professional
20 Regulation.

21 "Eligible depository institution" means an insured savings
22 association that is in default, an insured savings association
23 that is in danger of default, a State or national bank that is
24 in default or a State or national bank that is in danger of
25 default, as those terms are defined in this Section, or a new
26 bank as that term is defined in Section 11(m) of the Federal

1 Deposit Insurance Act or a bridge bank as that term is defined
2 in Section 11(n) of the Federal Deposit Insurance Act or a new
3 federal savings association authorized under Section
4 11(d)(2)(f) of the Federal Deposit Insurance Act.

5 "Fiduciary" means trustee, agent, executor, administrator,
6 committee, guardian for a minor or for a person under legal
7 disability, receiver, trustee in bankruptcy, assignee for
8 creditors, or any holder of similar position of trust.

9 "Financial institution" means a bank, savings bank,
10 savings and loan association, credit union, or any licensee
11 under the Consumer Installment Loan Act or the Sales Finance
12 Agency Act and, for purposes of Section 48.3, any proprietary
13 network, funds transfer corporation, or other entity providing
14 electronic funds transfer services, or any corporate
15 fiduciary, its subsidiaries, affiliates, parent company, or
16 contractual service provider that is examined by the
17 Commissioner. For purposes of Section 5c and subsection (b) of
18 Section 13 of this Act, "financial institution" includes any
19 proprietary network, funds transfer corporation, or other
20 entity providing electronic funds transfer services, and any
21 corporate fiduciary.

22 "Foundation" means the Illinois Bank Examiners' Education
23 Foundation.

24 "General obligation" means a bond, note, debenture,
25 security, or other instrument evidencing an obligation of the
26 government entity that is the issuer that is supported by the

1 full available resources of the issuer, the principal and
2 interest of which is payable in whole or in part by taxation.

3 "Guarantee" means an undertaking or promise to answer for
4 payment of another's debt or performance of another's duty,
5 liability, or obligation whether "payment guaranteed" or
6 "collection guaranteed".

7 "In danger of default" means a State or national bank, a
8 federally chartered insured savings association, or an
9 Illinois state chartered insured savings association with
10 respect to which the Commissioner or the appropriate federal
11 banking agency has advised the Federal Deposit Insurance
12 Corporation that:

13 (1) in the opinion of the Commissioner or the
14 appropriate federal banking agency,

15 (A) the State or national bank or insured savings
16 association is not likely to be able to meet the
17 demands of the State or national bank's or savings
18 association's obligations in the normal course of
19 business; and

20 (B) there is no reasonable prospect that the State
21 or national bank or insured savings association will
22 be able to meet those demands or pay those obligations
23 without federal assistance; or

24 (2) in the opinion of the Commissioner or the
25 appropriate federal banking agency,

26 (A) the State or national bank or insured savings

1 association has incurred or is likely to incur losses
2 that will deplete all or substantially all of its
3 capital; and

4 (B) there is no reasonable prospect that the
5 capital of the State or national bank or insured
6 savings association will be replenished without
7 federal assistance.

8 "In default" means, with respect to a State or national
9 bank or an insured savings association, any adjudication or
10 other official determination by any court of competent
11 jurisdiction, the Commissioner, the appropriate federal
12 banking agency, or other public authority pursuant to which a
13 conservator, receiver, or other legal custodian is appointed
14 for a State or national bank or an insured savings
15 association.

16 "Insured savings association" means any federal savings
17 association chartered under Section 5 of the federal Home
18 Owners' Loan Act and any State savings association chartered
19 under the Illinois Savings and Loan Act of 1985 or a
20 predecessor Illinois statute, the deposits of which are
21 insured by the Federal Deposit Insurance Corporation. The term
22 also includes a savings bank organized or operating under the
23 Savings Bank Act.

24 "Insured savings association in recovery" means an insured
25 savings association that is not an eligible depository
26 institution and that does not meet the minimum capital

1 requirements applicable with respect to the insured savings
2 association.

3 "Issuer" means for purposes of Section 33 every person who
4 shall have issued or proposed to issue any security; except
5 that (1) with respect to certificates of deposit, voting trust
6 certificates, collateral-trust certificates, and certificates
7 of interest or shares in an unincorporated investment trust
8 not having a board of directors (or persons performing similar
9 functions), "issuer" means the person or persons performing
10 the acts and assuming the duties of depositor or manager
11 pursuant to the provisions of the trust, agreement, or
12 instrument under which the securities are issued; (2) with
13 respect to trusts other than those specified in clause (1)
14 above, where the trustee is a corporation authorized to accept
15 and execute trusts, "issuer" means the entrusters, depositors,
16 or creators of the trust and any manager or committee charged
17 with the general direction of the affairs of the trust
18 pursuant to the provisions of the agreement or instrument
19 creating the trust; and (3) with respect to equipment trust
20 certificates or like securities, "issuer" means the person to
21 whom the equipment or property is or is to be leased or
22 conditionally sold.

23 "Letter of credit" and "customer" shall have the meanings
24 ascribed to those terms in Section 5-102 of the Uniform
25 Commercial Code.

26 "Main banking premises" means the location that is

1 designated in a bank's charter as its main office.

2 "Maker or obligor" means for purposes of Section 33 the
3 issuer of a security, the promisor in a debenture or other debt
4 security, or the mortgagor or grantor of a trust deed or
5 similar conveyance of a security interest in real or personal
6 property.

7 "Merged bank" means a merging bank that is not the
8 continuing, resulting, or surviving bank in a consolidation or
9 merger.

10 "Merger" includes consolidation.

11 "Merging bank" means a party to a bank merger.

12 "Merging trust company" means a trust company party to a
13 merger with a State bank.

14 "Mid-tier bank holding company" means a corporation that
15 (a) owns 100% of the issued and outstanding shares of each
16 class of stock of a State bank, (b) has no other subsidiaries,
17 and (c) 100% of the issued and outstanding shares of the
18 corporation are owned by a parent bank holding company.

19 "Municipality" means any municipality, political
20 subdivision, school district, taxing district, or agency.

21 "National bank" means a national banking association
22 located in this State and after May 31, 1997, means a national
23 banking association without regard to its location.

24 "Out-of-state bank" means a bank chartered under the laws
25 of a state other than Illinois, a territory of the United
26 States, or the District of Columbia.

1 "Parent bank holding company" means a corporation that is
2 a bank holding company as that term is defined in the Illinois
3 Bank Holding Company Act of 1957 and owns 100% of the issued
4 and outstanding shares of a mid-tier bank holding company.

5 "Person" means an individual, corporation, limited
6 liability company, partnership, joint venture, trust, estate,
7 or unincorporated association.

8 "Public agency" means the State of Illinois, the various
9 counties, townships, cities, towns, villages, school
10 districts, educational service regions, special road
11 districts, public water supply districts, fire protection
12 districts, drainage districts, levee districts, sewer
13 districts, housing authorities, the Illinois Bank Examiners'
14 Education Foundation, the Chicago Park District, and all other
15 political corporations or subdivisions of the State of
16 Illinois, whether now or hereafter created, whether herein
17 specifically mentioned or not, and shall also include any
18 other state or any political corporation or subdivision of
19 another state.

20 "Public funds" or "public money" means current operating
21 funds, special funds, interest and sinking funds, and funds of
22 any kind or character belonging to, in the custody of, or
23 subject to the control or regulation of the United States or a
24 public agency. "Public funds" or "public money" shall include
25 funds held by any of the officers, agents, or employees of the
26 United States or of a public agency in the course of their

1 official duties and, with respect to public money of the
2 United States, shall include Postal Savings funds.

3 "Published" means, unless the context requires otherwise,
4 the publishing of the notice or instrument referred to in some
5 newspaper of general circulation in the community in which the
6 bank is located at least once each week for 3 successive weeks.
7 Publishing shall be accomplished by, and at the expense of,
8 the bank required to publish. Where publishing is required,
9 the bank shall submit to the Commissioner that evidence of the
10 publication as the Commissioner shall deem appropriate.

11 "Qualified financial contract" means any security
12 contract, commodity contract, forward contract, including spot
13 and forward foreign exchange contracts, repurchase agreement,
14 swap agreement, and any similar agreement, any option to enter
15 into any such agreement, including any combination of the
16 foregoing, and any master agreement for such agreements. A
17 master agreement, together with all supplements thereto, shall
18 be treated as one qualified financial contract. The contract,
19 option, agreement, or combination of contracts, options, or
20 agreements shall be reflected upon the books, accounts, or
21 records of the bank, or a party to the contract shall provide
22 documentary evidence of such agreement.

23 "Recorded" means the filing or recording of the notice or
24 instrument referred to in the office of the Recorder of the
25 county wherein the bank is located.

26 "Resulting bank" means the bank resulting from a merger or

1 conversion.

2 "Secretary" means the Secretary of Financial and
3 Professional Regulation, or a person authorized by the
4 Secretary or by this Act to act in the Secretary's stead.

5 "Securities" means stocks, bonds, debentures, notes, or
6 other similar obligations.

7 "Special purpose trust company" means a special purpose
8 trust company under Article IIA of the Corporate Fiduciary
9 Act.

10 "Stand-by letter of credit" means a letter of credit under
11 which drafts are payable upon the condition the customer has
12 defaulted in performance of a duty, liability, or obligation.

13 "State bank" means any banking corporation that has a
14 banking charter issued by the Commissioner under this Act.

15 "State Banking Board" means the State Banking Board of
16 Illinois.

17 "Subsidiary" with respect to a specified company means a
18 company that is controlled by the specified company. For
19 purposes of paragraphs (8) and (12) of Section 5 of this Act,
20 "control" means the exercise of operational or managerial
21 control of a corporation by the bank, either alone or together
22 with other affiliates of the bank.

23 "Surplus" means the aggregate of (i) amounts paid in
24 excess of the par value of capital stock and preferred stock;
25 (ii) amounts contributed other than for capital stock and
26 preferred stock and allocated to the surplus account; and

1 (iii) amounts transferred from undivided profits.

2 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
3 assigned to those terms in regulations promulgated for the
4 appropriate federal banking agency of a state bank, as those
5 regulations are now or hereafter amended.

6 "Trust company" means a limited liability company or
7 corporation incorporated in this State for the purpose of
8 accepting and executing trusts.

9 "Undivided profits" means undistributed earnings less
10 discretionary transfers to surplus.

11 "Unimpaired capital and unimpaired surplus", for the
12 purposes of paragraph (21) of Section 5 and Sections 32, 33,
13 34, 35.1, 35.2, and 47 of this Act means the sum of the state
14 bank's Tier 1 Capital and Tier 2 Capital plus such other
15 shareholder equity as may be included by regulation of the
16 Commissioner. Unimpaired capital and unimpaired surplus shall
17 be calculated on the basis of the date of the last quarterly
18 call report filed with the Commissioner preceding the date of
19 the transaction for which the calculation is made, provided
20 that: (i) when a material event occurs after the date of the
21 last quarterly call report filed with the Commissioner that
22 reduces or increases the bank's unimpaired capital and
23 unimpaired surplus by 10% or more, then the unimpaired capital
24 and unimpaired surplus shall be calculated from the date of
25 the material event for a transaction conducted after the date
26 of the material event; and (ii) if the Commissioner determines

1 for safety and soundness reasons that a state bank should
2 calculate unimpaired capital and unimpaired surplus more
3 frequently than provided by this paragraph, the Commissioner
4 may by written notice direct the bank to calculate unimpaired
5 capital and unimpaired surplus at a more frequent interval. In
6 the case of a state bank newly chartered under Section 13 or a
7 state bank resulting from a merger, consolidation, or
8 conversion under Sections 21 through 26 for which no preceding
9 quarterly call report has been filed with the Commissioner,
10 unimpaired capital and unimpaired surplus shall be calculated
11 for the first calendar quarter on the basis of the effective
12 date of the charter, merger, consolidation, or conversion.

13 (Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09;
14 96-1000, eff. 7-2-10; 96-1163, eff. 1-1-11; revised 8-6-24.)

15 (205 ILCS 5/30) (from Ch. 17, par. 337)

16 Sec. 30. Conversion; merger with trust company or special
17 purpose trust company. Upon approval by the Commissioner a
18 trust company having power so to do under the law under which
19 it is organized may convert into a state bank or may merge into
20 a state bank as prescribed by this Act; except that the action
21 by a trust company shall be taken in the manner prescribed by
22 and shall be subject to limitations and requirements imposed
23 by the law under which it is organized which law shall also
24 govern the rights of its dissenting stockholders. The rights
25 of dissenting stockholders of a state bank shall be governed

1 by Section 29 of this Act. The conversion or merger procedure
2 shall be:

3 (1) In the case of a merger, the board of directors of both
4 the merging trust company and the merging bank by a majority of
5 the entire board in each case shall approve a merger agreement
6 which shall contain:

7 (a) The name and location of the merging bank and of
8 the merging trust company and a list of the stockholders
9 of each as of the date of the merger agreement;

10 (b) With respect to the resulting bank (i) its name
11 and place of business; (ii) the amount of capital, surplus
12 and reserve for operating expenses; (iii) the classes and
13 the number of shares of stock and the par value of each
14 share; (iv) the charter which is to be the charter of the
15 resulting bank, together with the amendments to the
16 continuing charter and to the continuing by-laws; and (v)
17 a detailed financial statement showing the assets and
18 liabilities after the proposed merger;

19 (c) Provisions governing the manner of converting the
20 shares of the merging bank and of the merging trust
21 company into shares of the resulting bank;

22 (d) A statement that the merger agreement is subject
23 to approval by the Commissioner and by the stockholders of
24 the merging bank and the merging trust company, and that
25 whether approved or disapproved, the parties thereto will
26 pay the Commissioner's expenses of examination;

1 (e) Provisions governing the manner of disposing of
2 the shares of the resulting bank not taken by the
3 dissenting stockholders of the merging trust company; and

4 (f) Such other provisions as the Commissioner may
5 reasonably require to enable him to discharge his duties
6 with respect to the merger.

7 (2) After approval by the board of directors of the
8 merging bank and of the merging trust company, the merger
9 agreement shall be submitted to the Commissioner for approval
10 together with the certified copies of the authorizing
11 resolution of each board of directors showing approval by a
12 majority of each board.

13 (3) After receipt by the Commissioner of the papers
14 specified in subsection (2), he shall approve or disapprove
15 the merger agreement. The Commissioner shall not approve the
16 agreement unless he shall be of the opinion and finds:

17 (a) That the resulting bank meets the requirements of
18 this Act for the formation of a new bank at the proposed
19 place of business of the resulting bank;

20 (b) That the same matters exist in respect of the
21 resulting bank which would have been required under
22 Section 10 of this Act for the organization of a new bank;
23 and

24 (c) That the merger agreement is fair to all persons
25 affected. If the Commissioner disapproves the merger
26 agreement, he shall state his objections in writing and

1 give an opportunity to the merging bank and the merging
2 trust company to obviate such objections.

3 (4) To be effective, if approved by the Commissioner, a
4 merger of a bank and a trust company where there is to be a
5 resulting bank must be approved by the affirmative vote of the
6 holders of at least two-thirds of the outstanding shares of
7 stock of the merging bank entitled to vote at a meeting called
8 to consider such action, unless holders of preferred stock are
9 entitled to vote as a class in respect thereof, in which event
10 the proposed merger shall be adopted upon receiving the
11 affirmative vote of the holders of at least two-thirds of the
12 outstanding shares of each class of shares entitled to vote as
13 a class in respect thereof and of the total outstanding shares
14 entitled to vote at such meeting and must be approved by the
15 stockholders of the merging trust company as provided by the
16 Act under which it is organized. The prescribed vote by the
17 merging bank and the merging trust company shall constitute
18 the adoption of the charter and by-laws of the continuing
19 bank, including the amendments in the merger agreement, as the
20 charter and by-laws of the resulting bank. Written or printed
21 notice of the meeting of the stockholders of the merging bank
22 shall be given to each stockholder of record entitled to vote
23 at such meeting at least thirty days before such meeting and in
24 the manner provided in this Act for the giving of notice of
25 meetings of stockholders. The notice shall state that
26 dissenting stockholders of the merging trust company will be

1 entitled to payment of the value of those shares which are
2 voted against approval of the merger, if a proper demand is
3 made on the resulting bank and the requirements of the Act
4 under which the merging trust company is organized are
5 satisfied.

6 (5) Unless a later date is specified in the merger
7 agreement, the merger shall become effective upon the filing
8 with the Commissioner of the executed merger agreement,
9 together with copies of the resolutions of the stockholders of
10 the merging bank and the merging trust company approving it,
11 certified by the president or a vice-president or, the cashier
12 and also by the secretary or other officer charged with
13 keeping the records. The charter of the merging trust company
14 shall thereupon automatically terminate. The Commissioner
15 shall thereupon issue to the continuing bank a certificate of
16 merger which shall specify the name of the merging trust
17 company, the name of the continuing bank and the amendments to
18 the charter of the continuing bank provided for by the merger
19 agreement. Such certificate shall be conclusive evidence of
20 the merger and of the correctness of all proceedings therefor
21 in all courts and places including the office of the Secretary
22 of State, and said certificate shall be recorded.

23 (6) In the case of a conversion, a trust company shall
24 apply for a charter by filing with the Commissioner:

25 (a) A certificate signed by its president, or a
26 vice-president, and by a majority of the entire board of

1 directors setting forth the corporate action taken in
2 compliance with the provisions of the Act under which it
3 is organized governing the conversion of a trust company
4 to a bank or governing the merger of a trust company into
5 another corporation;

6 (b) The plan of conversion and the proposed charter
7 approved by the stockholders for the operation of the
8 trust company as a bank. The plan of conversion shall
9 contain (i) the name and location proposed for the
10 converting trust company; (ii) a list of its stockholders
11 as of the date of the stockholders' approval of the plan of
12 conversion; (iii) the amount of its capital, surplus and
13 reserve for operating expenses; (iv) the classes and the
14 number of shares of stock and the par value of each share;
15 (v) the charter which is to be the charter of the resulting
16 bank; and (vi) a detailed financial statement showing the
17 assets and liabilities of the converting trust company;

18 (c) A statement that the plan of conversion is subject
19 to approval by the Commissioner and that, whether approved
20 or disapproved, the converting trust company will pay the
21 Commissioner's expenses of examination; and

22 (d) Such other instruments as the Commissioner may
23 reasonably require to enable him to discharge his duties
24 with respect to the conversion.

25 (7) After receipt by the Commissioner of the papers
26 specified in subsection (6), he shall approve or disapprove

1 the plan of conversion. The Commissioner shall not approve the
2 plan of conversion unless he shall be of the opinion and finds:

3 (a) That the resulting bank meets the requirements of
4 this Act for the formation of a new bank at the proposed
5 place of business of the resulting bank;

6 (b) That the same matters exist in respect of the
7 resulting bank which would have been required under
8 Section 10 of this Act for the organization of a new bank;
9 and

10 (c) That the plan of conversion is fair to all persons
11 affected.

12 If the commissioner disapproves the plan of conversion, he
13 shall state his objections in writing and give an opportunity
14 to the converting trust company to obviate such objections.

15 (8) Unless a later date is specified in the plan of
16 conversion, the conversion shall become effective upon the
17 Commissioner's approval, and the charter proposed in the plan
18 of conversion shall constitute the charter of the resulting
19 bank. The Commissioner shall issue a certificate of conversion
20 which shall specify the name of the converting trust company,
21 the name of the resulting bank and the charter provided for by
22 said plan of conversion. Such certificate shall be conclusive
23 evidence of the conversion and of the correctness of all
24 proceedings therefor in all courts and places including the
25 office of the Secretary of State, and such certificate shall
26 be recorded.

1 (8.5) A special purpose trust company under Article IIA of
2 the Corporate Fiduciary Act may merge with a State bank or
3 convert to a State bank as if the special purpose trust company
4 were a trust company under Article II of the Corporate
5 Fiduciary Act, subject to rules adopted by the Department.

6 (9) In the case of either a merger or a conversion under
7 this Section 30, the resulting bank shall be considered the
8 same business and corporate entity as each merging bank and
9 merging trust company or as the converting trust company with
10 all the property, rights, powers, duties and obligations of
11 each as specified in Section 28 of this Act.

12 (Source: P.A. 91-357, eff. 7-29-99.)

13 Section 90-20. The Corporate Fiduciary Act is amended by
14 changing Sections 1-5.08, 2-1, 4-1, 4-2, 4-5, 4A-15, and 5-1
15 and by adding Article IIA as follows:

16 (205 ILCS 620/1-5.08) (from Ch. 17, par. 1551-5.08)

17 Sec. 1-5.08. "Foreign corporation" means:

18 (a) any bank, savings and loan association, savings bank,
19 or other corporation, limited liability company, or other
20 entity now or hereafter organized under the laws of any state
21 or territory of the United States of America, including the
22 District of Columbia, other than the State of Illinois;

23 (b) any national banking association having its principal
24 place of business in any state or territory of the United

1 States of America, including the District of Columbia, other
2 than the State of Illinois; and

3 (c) any federal savings and loan association or federal
4 savings bank having its principal place of business in any
5 state or territory of the United States of America, including
6 the District of Columbia, other than the State of Illinois.

7 (Source: P.A. 91-97, eff. 7-9-99.)

8 (205 ILCS 620/2-1) (from Ch. 17, par. 1552-1)

9 Sec. 2-1. (a) Any corporation which has been or shall be
10 incorporated under the general corporation laws of this State
11 and any limited liability company established under the
12 Limited Liability Company Act for the purpose of accepting and
13 executing trusts, and any state bank, state savings and loan
14 association, state savings bank, or other special corporation
15 now or hereafter authorized by law to accept or execute
16 trusts, may be appointed to act as a fiduciary in any capacity
17 a natural person or corporation may act, and shall include,
18 but not be limited to, acting as assignee or trustee by deed,
19 and executor, guardian or trustee by will, custodian under the
20 Illinois Uniform Transfers to Minors Act and such appointment
21 shall be of like force as in case of appointment of a natural
22 person and shall be designated a corporate fiduciary.

23 (b) No corporate fiduciary shall dissolve or cease its
24 corporate existence without prior notice to and approval by
25 the Commissioner and compliance with the requirements of

1 Section 7-1 of this Act.

2 (Source: P.A. 100-863, eff. 8-14-18.)

3 (205 ILCS 620/Art. IIA heading new)

4 ARTICLE IIA. SPECIAL PURPOSE TRUST COMPANY

5 AUTHORITY AND ORGANIZATION

6 (205 ILCS 620/2A-1 new)

7 Sec. 2A-1. Purpose. The General Assembly finds that
8 corporate fiduciaries perform a vital service in the custody,
9 safekeeping, and management of physical assets, traditional
10 electronic assets, and emerging digital assets for customers;
11 that it is in the public interest that trust companies may be
12 organized for the special purpose of providing fiduciary
13 custodial services and related services to customers; that the
14 operation of special purpose trust companies is impressed with
15 a public interest such that it should be supervised as an
16 activity under this Act; and that such special purpose trust
17 companies should obtain their authority, conduct their
18 operations, and be supervised as corporate fiduciaries as
19 provided in this Act.

20 (205 ILCS 620/2A-2 new)

21 Sec. 2A-2. Special purpose trust company. Any corporation
22 that has been or shall be incorporated under the general
23 corporation laws of this State and any limited liability

1 company established under the Limited Liability Company Act
2 for the special purpose of providing fiduciary custodial
3 services or providing other like or related services as
4 specified by rule, consistent with this Article, may be
5 appointed to act as a fiduciary with respect to such services
6 and shall be designated a special purpose trust company.

7 (205 ILCS 620/2A-3 new)

8 Sec. 2A-3. Certificate of authority.

9 (a) It shall be lawful for any person to engage in the
10 activity of a special purpose trust company after the
11 effective date of this amendatory Act of the 104th General
12 Assembly upon filing an application for and procuring from the
13 Secretary a certificate of authority stating that the person
14 has complied with the requirements of this Act and is
15 qualified to engage in the activity of a special purpose trust
16 company.

17 (b) No natural person or natural persons, firm,
18 partnership, or corporation not having been authorized under
19 this Act shall transact in the activity of a special purpose
20 trust company. A person who violates this Section is guilty of
21 a Class A misdemeanor and the Attorney General or State's
22 Attorney of the county in which the violation occurs may
23 restrain the violation by a complaint for injunctive relief.

24 (c) Any entity that holds a certificate of authority under
25 Article II of this Act may engage in the activity of a special

1 purpose trust company without applying for or receiving a
2 certificate of authority under this Article IIA.

3 (d) Nothing in this Section shall limit the authority of a
4 depository institution to provide nonfiduciary custodial
5 services consistent with its charter in accordance with
6 applicable law and subject to any limitations and restrictions
7 imposed by its chartering authority.

8 (205 ILCS 620/2A-4 new)

9 Sec. 2A-4. Rulemaking and organization.

10 (a) The Department shall adopt rules for the
11 administration of this Article, including, but not limited to:
12 rules for defining statutory terms; applying for a certificate
13 of authority; review, investigation, and approval of
14 application for certificate of authority; capital
15 requirements; office location and name; collateralizing
16 fiduciary assets; and general corporate powers. The authority
17 of this subsection (a) is in addition to, and in no way limits,
18 the authority of the Secretary under subsection (a) of Section
19 5-1.

20 (b) Articles III, V, VI, VII, VIII, and IX of this Act
21 shall apply to a special purpose trust company under this
22 Article as if the special purpose trust company were a trust
23 company authorized under Article II of this Act, subject to
24 any rules adopted by the Department.

1 (205 ILCS 620/4-1) (from Ch. 17, par. 1554-1)

2 Sec. 4-1. Foreign corporate fiduciary; certificate of
3 authority. After July 13, 1953, no foreign corporation,
4 including banks, savings banks, and savings and loan
5 associations, now or hereafter organized under the laws of any
6 other state or territory, and no national banking association
7 having its principal place of business in any other state or
8 territory or federal savings and loan association or federal
9 savings bank having its principal place of business in any
10 other state or territory, may procure a certificate of
11 authority under Article II of this Act and any certificate of
12 authority heretofore issued hereunder to any such foreign
13 corporation or to any such national banking association shall
14 become null and void on July 13, 1953, except that any such
15 foreign corporation or any such national banking association
16 actually acting as trustee, executor, administrator,
17 administrator to collect, guardian, or in any other ~~like~~
18 fiduciary capacity in this State on July 13, 1953, may
19 continue to act as such fiduciary in that particular trust or
20 estate until such time as it has completed its duties
21 thereunder. Such foreign corporation and such national banking
22 association shall be subject to the provisions in this Article
23 IV, regardless of whether its certificate of authority was
24 obtained before July 13, 1953. The right and eligibility of
25 any foreign corporation, any national banking association
26 having its principal place of business in any other state or

1 territory or any federal savings and loan association or
2 federal savings bank having its principal place of business in
3 any other state or territory hereafter to act as trustee,
4 executor, administrator, administrator to collect, guardian,
5 or in any other ~~like~~ fiduciary capacity in this State shall be
6 governed solely by the provisions of this Act. Provided,
7 however, that the Commissioner shall not be required to
8 conduct an annual examination of such foreign corporation
9 pursuant to Section 5-2 of this Act, but may examine such
10 foreign corporation as the Commissioner deems appropriate.
11 "Principal place of business" of any bank, federal savings and
12 loan association or savings bank, for purposes of this Article
13 IV, means the principal office as designated on the charter by
14 its principal regulator.

15 (Source: P.A. 91-97, eff. 7-9-99.)

16 (205 ILCS 620/4-2) (from Ch. 17, par. 1554-2)

17 Sec. 4-2. Foreign corporation; eligibility. Any foreign
18 corporation may act in this State as trustee, executor,
19 administrator, administrator to collect, guardian, or in any
20 other like fiduciary capacity, whether the appointment is by
21 will, deed, court order or otherwise, without complying with
22 any laws of this State relating to the qualification of
23 corporations organized under the laws of this State to conduct
24 a trust business or laws relating to the qualification of
25 foreign corporations, provided only (1) such foreign

1 corporation is authorized by the laws of the state of its
2 organization or domicile to act as a fiduciary in that state,
3 and (2) a corporation organized under the laws of this State, a
4 national banking association having its principal place of
5 business in this State, and a federal savings and loan
6 association or federal savings bank having its principal place
7 of business in this State and authorized to act as a fiduciary
8 in this State, may, in such other state, act in a similar
9 fiduciary capacity or capacities, as the case may be, upon
10 conditions and qualifications which the Commissioner finds are
11 not unduly restrictive when compared to those imposed by the
12 laws of Illinois. Any foreign corporation eligible to act in a
13 fiduciary capacity in this State pursuant to the provisions of
14 this Act, shall be deemed qualified to accept and execute
15 trusts in this State within the meaning of this Act and the
16 Probate Act of 1975, approved August 7, 1975, as amended. No
17 foreign corporation shall be permitted to act as trustee,
18 executor, administrator, administrator to collect, guardian or
19 in any other ~~like~~ fiduciary capacity in this State except as
20 provided in Article IV of this Act; however, any foreign
21 corporation actually acting in any such fiduciary capacity in
22 this State on July 13, 1953, although not eligible to so act
23 pursuant to the provisions of this Article IV, may continue to
24 act as fiduciary in that particular trust or estate until such
25 time as it has completed its duties thereunder.

26 (Source: P.A. 92-685, eff. 7-16-02.)

1 (205 ILCS 620/4-5) (from Ch. 17, par. 1554-5)

2 Sec. 4-5. Certificate of authority; fees; certificate of
3 reciprocity.

4 (a) Prior to the time any foreign corporation acts in this
5 State as testamentary trustee, trustee appointed by any court,
6 trustee under any written agreement, declaration or instrument
7 of trust, executor, administrator, administrator to collect,
8 guardian or in any other ~~like~~ fiduciary capacity, such foreign
9 corporation shall apply to the Commissioner of Banks and Real
10 Estate for a certificate of authority with reference to the
11 fiduciary capacity or capacities in which such foreign
12 corporation proposes to act in this State, and the
13 Commissioner of Banks and Real Estate shall issue a
14 certificate of authority to such corporation concerning only
15 the fiduciary capacity or such of the fiduciary capacities to
16 which the application pertains and with respect to which he
17 has been furnished satisfactory evidence that such foreign
18 corporation meets the requirements of Section 4-2 of this Act.
19 The certificate of authority shall set forth the fiduciary
20 capacity or capacities, as the case may be, for which the
21 certificate is issued, and shall recite and certify that such
22 foreign corporation is eligible to act in this State in such
23 fiduciary capacity or capacities, as the case may be, pursuant
24 to the provisions of this Act. The certificate of authority
25 shall remain in full force and effect until such time as such

1 foreign corporation ceases to be eligible so to act under the
2 provisions of this Act.

3 (b) Each foreign corporation making application for a
4 certificate of authority shall pay reasonable fees to the
5 Commissioner of Banks and Real Estate as determined by the
6 Commissioner for the services of his office.

7 (c) Any foreign corporation holding a certificate of
8 reciprocity which recites and certifies that such foreign
9 corporation is eligible to act in this State in any such
10 fiduciary capacity pursuant to the provisions of Article IV of
11 this Act or any predecessor Act upon the same subject, issued
12 prior to the effective date of this amendatory Act of 1987 may
13 act in this State under such certificate of reciprocity in any
14 such fiduciary capacity without applying for a new certificate
15 of authority. Such certificate of reciprocity shall remain in
16 full force and effect until such time as such foreign
17 corporation ceases to be eligible so to act under the
18 provisions of Article IV of this Act.

19 (d) Any foreign corporation acting in Illinois under a
20 certificate of authority or a certificate of reciprocity shall
21 report changes in its name or address to the Commissioner and
22 shall notify the Commissioner when it is no longer serving as a
23 corporate fiduciary in Illinois.

24 (e) The provisions of this Section shall not apply to a
25 foreign corporation establishing or acquiring and maintaining
26 a place of business in this State to conduct business as a

1 fiduciary in accordance with Article IVA of this Act.

2 (Source: P.A. 92-483, eff. 8-23-01.)

3 (205 ILCS 620/4A-15)

4 Sec. 4A-15. Representative offices.

5 (a) A foreign corporation conducting fiduciary activities
6 outside this State, but not conducting fiduciary activities in
7 this State may establish a representative office under the
8 Foreign Bank Representative Office Act. At these offices, the
9 foreign corporation may market and solicit fiduciary services
10 and provide back office and administrative support to the
11 foreign corporation's fiduciary activities, but it may not
12 engage in fiduciary activities.

13 (b) A foreign corporation invested with trust powers or
14 authority to act as a fiduciary pursuant to the laws of its
15 home state but not conducting fiduciary activities must apply
16 for and procure a license under the Foreign Bank
17 Representative Office Act before establishing an office in
18 this State for the purpose of marketing, soliciting, or
19 transacting any service or product, unless such office is
20 otherwise established as permitted by and in accordance with
21 this Act, the Illinois Banking Act, the Savings Bank Act, the
22 Foreign Banking Office Act, or any Act specified by rules
23 adopted under this Act.

24 (Source: P.A. 92-483, eff. 8-23-01; 92-811, eff. 8-21-02.)

1 (205 ILCS 620/5-1) (from Ch. 17, par. 1555-1)

2 Sec. 5-1. Commissioner's powers. The Commissioner of Banks
3 and Real Estate shall have the following powers and authority
4 and is charged with the duties and responsibilities designated
5 in this Act:

6 (a) To promulgate, in accordance with the Illinois
7 Administrative Procedure Act, reasonable rules for the purpose
8 of administering the provisions of this Act, for the purpose
9 of protecting consumers of this State as may be necessary and
10 appropriate, and for the purpose of incorporating by reference
11 rules promulgated by the Federal Deposit Insurance
12 Corporation, the Board of Governors of the Federal Reserve
13 System, the Office of the Comptroller of the Currency, the
14 Office of Thrift Supervision, or their successors that pertain
15 to corporate fiduciaries, including, but not limited to,
16 standards for the operation and conduct of the affairs of
17 corporate fiduciaries;

18 (b) To issue orders for the purpose of administering the
19 provisions of this Act and any rule promulgated in accordance
20 with this Act;

21 (c) To appoint hearing officers to conduct hearings held
22 pursuant to any of the powers granted to the Commissioner
23 under this Section for the purpose of administering this Act
24 and any rule promulgated in accordance with this Act;

25 (d) To subpoena witnesses, to compel their attendance, to
26 administer an oath, to examine any person under oath and to

1 require the production of any relevant books, papers, accounts
2 and documents in the course of and pursuant to any
3 investigation being conducted, or any action being taken, by
4 the Commissioner in respect of any matter relating to the
5 duties imposed upon, or the powers vested in, the Commissioner
6 under the provisions of this Act, or any rule or regulation
7 promulgated in accordance with this Act;

8 (e) To conduct hearings;

9 (f) To promulgate the form and content of any applications
10 required under this Act;

11 (g) To impose civil penalties of up to \$100,000 against
12 any person or corporate fiduciary for each violation of any
13 provision of this Act, any rule promulgated in accordance with
14 this Act, any order of the Commissioner or any other action
15 which, in the Commissioner's discretion, is a detriment or
16 impediment to accepting or executing trusts; and

17 (h) To address any inquiries to any corporate fiduciary,
18 or the officers thereof, in relation to its doings and
19 conditions, or any other matter connected with its affairs,
20 and it shall be the duty of any corporate fiduciary or person
21 so addressed, to promptly reply in writing to such inquiries.
22 The Commissioner may also require reports from any corporate
23 fiduciary at any time he may deem desirable.

24 (Source: P.A. 96-1365, eff. 7-28-10.)

25 Section 90-25. The Consumer Fraud and Deceptive Business

1 Practices Act is amended by adding Section 2HHHH as follows:

2 (815 ILCS 505/2HHHH new)

3 Sec. 2HHHH. Violations of the Digital Assets and Consumer
4 Protection Act. Any person who violates Article 5 of the
5 Digital Assets and Consumer Protection Act commits an unlawful
6 practice within the meaning of this Act.

7 Article 99. Non-acceleration and Effective Date

8 Section 99-95. No acceleration or delay. Where this Act
9 makes changes in a statute that is represented in this Act by
10 text that is not yet or no longer in effect (for example, a
11 Section represented by multiple versions), the use of that
12 text does not accelerate or delay the taking effect of (i) the
13 changes made by this Act or (ii) provisions derived from any
14 other Public Act.

15 Section 99-99. Effective date. This Act takes effect upon
16 becoming law."