
OLR Bill Analysis

HB 5211

AN ACT CONCERNING VIRTUAL CURRENCY AND MONEY TRANSMISSION.

SUMMARY

PA 23-82 generally (1) authorized the banking commissioner to regulate the business use of digital assets by entities and individuals under his regulatory jurisdiction and (2) created several requirements regulating virtual currency kiosks. This bill makes various related changes and other revisions to the state's Money Transmission Act, which regulates businesses, other than banks or credit unions, that receive and transmit money.

Principally, the bill:

1. explicitly adds nonfungible tokens (a.k.a. NFTs) to the list of digital asset examples that the banking commissioner may regulate (§ 6);
2. removes the foreign wallet prerequisite that restricted which first time virtual currency kiosk customers could receive refunds (§ 4(h));
3. eliminates the banking commissioner's authority to set a schedule of maximum service fees for virtual currency kiosks and instead caps all service fees at 10% per transaction (§ 4(f));
4. requires money transmitters to give senders of money a receipt for funds transmitted and sets the information that must be included on the receipt (e.g., date, sender's and recipient's names, fee, and transmitter's contact information) (§ 5);
5. directs money transmitters to have a plan and accounting for winding down operations, which the bill outlines (e.g., records of

sufficient finances and procedures for disbursing funds) (§ 3(d));
and

6. prohibits money transmitters from ending their businesses until certain notices and information are provided to the banking commissioner and consumers, funds have been distributed, and the commissioner has accepted the transmitter's request to surrender its license (§ 3(e)).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

§ 1 — MONEY TRANSMISSION ACT DEFINITION CHANGES

Permissible Investment

By law, "permissible investment" includes, among other things, cash in U.S. currency. The bill specifies that this cash includes cash equivalents, demand deposits, savings deposits, and funds in demand deposit and savings deposit accounts held in an insured depository institution for the benefit of the customers of a "licensee" (i.e., any person licensed or required to be licensed as a money transmitter). Under the bill, cash equivalents include:

1. automated clearing house items in transit to a licensee or payee;
2. international wires in transit to a payee;
3. cash in transit via armored car;
4. cash in smart safes;
5. cash in locations owned by licensees;
6. transmission receivables that are funded by debit cards or credit cards and owed by any bank; and
7. money market mutual funds rated "AAA" or the equivalent by S & P Global, Incorporated in the "S & P Global Ratings" or by any other rating service recognized by the banking commissioner.

The Money Transmission Act has several requirements for

permissible investments that are affected by the bill's change. The affected existing provisions generally require:

1. money transmission license applicants to include a list of their permissible investments with their applications (CGS § 36a-598),
2. money transmission licensees to maintain permissible investments having a value at least equal to the aggregate amount of their outstanding money transmissions in Connecticut (CGS § 36a-603), and
3. money transmission licensees to file a list of permissible investments with the banking commissioner within 90 days of the end of their fiscal years (CGS § 36a-606).

Receipt

The bill adds a definition for "receipt," which means a paper record, electronic record, or other written confirmation of a money transmission transaction. It applies this definition to section five of the bill and the existing money transmission laws. (In doing so, the bill appears to create conflicts with several existing laws that currently use "receipt" with different meanings (see CGS §§ 36a-602, 36a-607, 36a-611 and 36a-613(d)).)

Other Definitions

Beyond the above terms, the bill also applies the Money Transmission Act's other existing definitions to section five of the bill that pertains to money transmission receipts.

§ 2 — LICENSING AND VIRTUAL CURRENCY KIOSKS

The bill explicitly requires, on and after October 1, 2024, any person who owns, operates, solicits, markets, advertises, or facilitates virtual currency kiosks physically located in Connecticut to have a money transmission license.

Existing law already prohibits any person from engaging in the business of money transmission, or advertising or soliciting money transmitter services, without the license. PA 23-82 specified that the use of virtual currency kiosks for engaging in the business of transmitting

money or monetary value is a type of “money transmission” under state law, which effectively subjected kiosk owners, operators, and others to the licensing and other existing requirements under the state’s Money Transmission Act.

§ 3 — LICENSEE WIND DOWN PLANNING AND EXECUTION

The bill requires each money transmission licensee to maintain a detailed plan and accounting as to how it will engage in winding down operations, which they must give to the banking commissioner upon request.

The plan and accounting must contain:

1. a record showing that the licensee has enough minimum net worth and reserves to prevent losses to consumers and purchasers and to repay any outstanding obligations or accounts payable,
2. procedures to ensure that consumer or purchaser funds are not kept by the licensee after winding down operations and other client funds are not kept in any form by the licensee,
3. a plan illustrating consumer access to any consumer funds in the custody of the licensee,
4. a detailed instruction on funds withdrawal upon consumers’ requests, and
5. any other records and information the commissioner requests regarding the winding down of operations.

The bill also prohibits licensees from terminating their businesses unless the following conditions are met:

1. the commissioner has received written notice of the proposed termination at least 30 days before its effective date;
2. all consumers, purchasers, and users of the licensee are (a) notified, in writing, of the proposed termination and its date at least 30 days beforehand and (b) given detailed final accountings

of their accounts;

3. all money held in the licensee's custody on behalf of consumers, purchasers, and users is remitted to them; and
4. the licensee has filed a request to surrender its license and the commissioner has accepted the request.

§ 4 — VIRTUAL CURRENCY KIOSK FEES AND REFUNDS

Current law allows the banking commissioner to establish a schedule of maximum fees that a virtual currency kiosk owner or operator may charge for specific services. The bill eliminates this authority and instead sets a statutory cap for the maximum fee that may be charged for a specific service at 10% per transaction.

Current law also requires virtual currency kiosk owners and operators to allow customers to cancel and receive a full refund, at the owner's or operator's cost, for a virtual currency transaction within 72 hours afterwards if it is (1) a customer's first transaction with the owner or operator and (2) to a virtual currency wallet or exchange located outside of the United States. The bill eliminates the second condition, thereby requiring owners and operators to provide refunds for first transactions, regardless of where the wallet or exchange is located.

§ 5 — MONEY TRANSMISSION RECEIPTS

The bill requires money transmission licensees, or their authorized delegates, to give "receipts" (see § 1 above). Specifically, to senders of money for any monetary value the licensee or delegate receives for transmission. By law, "monetary value" is a medium of exchange, whether or not redeemable in money.

The bill requires receipts to be in both English and the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing.

Receipts must also have the following information, as applicable:

1. the sender's and designated recipient's names;
2. the licensee's name, business address, and customer service

- telephone number;
3. the transaction date and amount expressed in U.S. currency;
 4. the unique transaction or identification number;
 5. the unique identifier;
 6. any fee charged by the licensee to the sender for the transaction;
 7. any tax collected by the licensee from the sender for the transaction; and
 8. any other fees charged directly or indirectly by the licensee or a third party involved in the transaction.

Under the bill, electronic receipts must be given in a retainable form and may be given in specific circumstances. Specifically, for a transaction done in person, the receipt may be given electronically if the sender requests or agrees to receive an electronic receipt. For a transaction done electronically or by phone, the receipt may be given electronically.

Lastly, the bill requires the licensee, or the licensee's authorized delegate, to include on the receipt, or disclose on the licensee's website or mobile application, the name and telephone number of the Department of Banking and a statement disclosing that the licensee's customers may contact the department with questions or complaints about the licensee's money transmission services.

(PA 23-82 created a requirement that virtual currency kiosk owners and operators give customers a similar but different receipt after a transaction's completion (see CGS § 36a-613(e)). It is not clear how that requirement will function in practice with the bill's receipt requirements, such as if virtual currency kiosk owners and operators can satisfy both in a single receipt or if they must give two separate receipts.)

§ 6 — DIGITAL ASSET REGULATION

Existing law allows the banking commissioner to adopt regulations,

forms, and orders governing the business use of digital assets by entities and individuals under his regulatory jurisdiction. By law, digital assets include virtual currencies and stablecoins. The bill explicitly adds nonfungible tokens as another example of these digital assets.

Existing law does not define virtual currency or stablecoin for the purposes of regulating digital assets and the bill similarly does not define nonfungible tokens. (Virtual currency is defined in state statutes for other purposes. The Federal Reserve has referred to stablecoins as cryptocurrencies that peg their value to a real-world asset, typically the U.S. dollar. The U.S. Government Accountability Office has referred to nonfungible tokens as digital identifiers, similar to a certificate of ownership, that represent a digital or physical asset.)

By law, the commissioner's regulations, forms, and orders must ensure consumer protection and the commissioner may consult with federal and other states' financial services regulators, other stakeholders, and industry professionals to ensure that digital assets receive, to the extent practicable, consistent treatment.

Under existing law, the commissioner has broad, general authority to adopt regulations within the jurisdiction of his position (CGS § 36a-10). The banking commissioner administers and enforces laws that apply to, among others, state-chartered banks and credit unions, mortgage lenders and brokers, small loan lenders, consumer collection agencies, money transmission businesses, securities broker-dealers, and investment advisors (CGS Titles 36a & 36b).

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 12 Nay 0 (03/12/2024)