

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1326

Introduced by Assembly Member Dababneh

February 27, 2015

An act to add Division 11 (commencing with Section 26000) to the Financial Code, relating to virtual currency.

LEGISLATIVE COUNSEL'S DIGEST

AB 1326, as amended, Dababneh. Virtual currency.

Existing law, the Money Transmission Act, prohibits a person from engaging in the business of money transmission in this state, or advertising, soliciting, or holding itself out as providing money transmission in this state, unless the person is licensed by the Commission of Business Oversight or exempt from licensure under the act. Existing law requires applicants for licensure to pay the commissioner a specified nonrefundable fee and to complete an application form requiring certain information. As security, existing law requires each licensee to deposit and maintain on deposit with the Treasurer cash in an amount not less than, or securities having a market value not less than, such amount as the commissioner may find and order from time to time as necessary to secure the faithful performance of the obligations of the licensee with respect to money transmission in this state. Existing law requires a licensee at all times to own eligible securities, as defined, in a specified aggregate amount not less than the amount of all of its outstanding money received for transmission, as specified.

This bill would prohibit a person from engaging ~~in this state~~ in any virtual currency business, as defined, *in this state* unless the person is licensed by the Commissioner of Business Oversight or is exempt from the licensure requirement, as provided. The bill would require applicants for licensure, including an applicant for licensure and approval to acquire control of a licensee, to pay the commissioner a specified nonrefundable application fee and complete an application form required to include, among other things, information about the applicant, prior virtual currency services provided by the applicant, a sample form of receipt for transactions involving the business of virtual currency, and specified financial statements. The bill would make these licenses subject to annual renewal and would require a renewal fee paid to the commissioner in a specified amount. The bill would require licensees to annually pay the commissioner a specified amount for each licensee branch office. The bill would require applicants and licensees to pay the commissioner a specified hourly amount for the commissioner's examination costs, as provided. The bill would also require the commissioner to levy an assessment each fiscal year, on a pro rata basis, on licensees in an amount sufficient to meet the commissioner's expenses in administering these provisions and to provide a reasonable reserve for contingencies.

This bill would require each licensee to maintain at all times such capital as the commissioner determines, subject to specified factors, is sufficient to ensure the safety and soundness of the licensee, its ongoing operations, and maintain consumer protection. The bill would require each licensee to maintain a bond or trust account in United States dollars for the benefit of its customers in the form and amount as specified by the commissioner.

This bill would authorize the commissioner to examine the business and any branch office of any licensee to ascertain whether the business is being conducted in a lawful manner and all virtual currency is properly accounted for. The bill would require a licensee to file a report with the commissioner within a specified period of time after the licensee knows about the occurrence of certain events relating to the virtual currency business and those persons connected to that business, and to also maintain records as required by the commissioner for a specified period of time.

With regard to enforcement, among other things, this bill would, if it appears that a licensee is violating or failing to comply with these provisions or conducting business in an unsafe or injurious manner,

authorize the commissioner to order the licensee to comply or discontinue those practices. The bill would also authorize the commissioner to issue an order suspending or revoking a license, or placing a licensee in receivership, if after notice and an opportunity for a hearing, the commissioner makes a specified finding. The bill would provide that every order, decision, or other official act of the commissioner is subject to review.

This bill would authorize the commissioner to impose a civil penalty for a violation of these provisions. The bill would also make it a felony for a person to intentionally make a false statement, misrepresentation, or false certification in a record filed or required to be maintained or to intentionally make a false entry or omit a material entry in such a record. The bill would also make it a felony for a person to knowingly engage in an activity for which a license is required without being licensed or exempt from licensure, as provided. By creating these new crimes, the bill would impose a state-mandated local program.

This bill would prohibit a licensee from appointing or continuing any person as an agent unless the licensee and the person have made a specified written contract, including a requirement that the agent operate in full compliance with these provisions. The bill would prohibit a licensee from appointing any person as an agent unless it has conducted a review of the proposed agent's fitness to act as an agent, as provided. Subject to specified notice, if any agent of a licensee conducts any virtual currency business on behalf of the licensee, where the commissioner has suspended or revoked the license of the licensee or the commissioner has issued a specified order, the bill would make the agent jointly and severally liable.

Within a specified period after the fiscal year, the bill would require a licensee to file with the commissioner a specified audit report. Within a specified period after the end of each calendar quarter, the bill would require a licensee to file with the commissioner a report containing financial statements verified by 2 of the licensee's principal officers.

This bill would require a licensee to provide a specified consumer protection disclosure about virtual currency to its consumers.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 11 (commencing with Section 26000)
2 is added to the Financial Code, to read:

3
4 DIVISION 11. VIRTUAL CURRENCY

5
6 CHAPTER 1. GENERAL PROVISIONS

7
8 26000. For purposes of this division, the following definitions
9 shall apply:

10 (a) "Commissioner" means the Commissioner of Business
11 Oversight.

12 (b) "Virtual currency" means any type of digital unit that is used
13 as a medium of exchange or a form of digitally stored value or that
14 is incorporated into payment system technology. ~~Virtual currency~~
15 ~~shall be broadly construed to include digital units of exchange that~~
16 ~~(1) have a centralized repository or administrator, (2) are~~
17 ~~decentralized and have no centralized repository or administrator,~~
18 ~~or (3) may be created or obtained by computing or manufacturing~~
19 ~~effort.~~ *value.* Virtual currency ~~shall not be construed to~~ *does not*
20 include digital units that are used solely within online gaming
21 platforms with no market or application outside of those gaming
22 platforms, nor shall virtual currency be construed to include digital
23 units that are used exclusively as part of a customer affinity or
24 rewards program, and can be redeemed for goods, services, or for
25 purchases with the issuer or other designated merchants, but cannot
26 be converted into, or redeemed for, fiat currency.

27 (c) "Virtual currency business" means the conduct of either of
28 the following types of activities involving a California resident:

29 (1) ~~Storing, holding, or maintaining~~ *Maintaining full* custody
30 or control of virtual currency on behalf of others.

31 (2) Providing conversion or exchange services of fiat currency
32 into virtual currency or the conversion or exchange of virtual
33 currency into fiat currency or other value, or the conversion or
34 exchange of one form of virtual currency into another form of
35 virtual currency.

1 (d) “Fiat currency” means government-issued currency that is
2 designated as legal tender through government decree, regulation,
3 or law, that customarily refers to paper money and coin and is
4 circulated, used, and accepted as money.

5 26001. For the purposes of carrying out the provisions of this
6 division, the commissioner may adopt regulations pursuant to the
7 Administrative Procedure Act (Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code).

10
11 CHAPTER 2. LICENSES
12

13 26002. A person shall not engage ~~in this state~~ in any virtual
14 currency business *in this state* unless the person is licensed or
15 exempt from licensure under this division.

16 26004. The following are exempt from the licensing
17 requirement described in Section 26002:

18 (a) The United States or a department, agency, or instrumentality
19 thereof, including any federal reserve bank and any federal home
20 loan bank.

21 (b) Money transmission by the United States Postal Service or
22 by a contractor on behalf of the United States Postal Service.

23 (c) A state, city, county, city and county, or any other
24 governmental agency or governmental subdivision of a state.

25 (d) A commercial bank or industrial bank, the deposits of which
26 are insured by the Federal Deposit Insurance Corporation or its
27 successor, or any foreign (other nation) bank that is licensed under
28 Chapter 20 (commencing with Section 1750) of Division 1.1 or
29 that is authorized under federal law to maintain a federal agency
30 or federal branch office in this state; a trust company licensed
31 pursuant to Section 1042 or a national association authorized under
32 federal law to engage in a trust banking business; an association
33 or federal association, as defined in Section 5102, the deposits of
34 which are insured by the Federal Deposit Insurance Corporation
35 or its successor; and any federally or state chartered credit union,
36 with an office in this state, the member accounts of which are
37 insured or guaranteed as provided in Section 14858.

38 (e) An entity licensed as a money transmitter under the Money
39 Transmission Act described in Division 1.2 (commencing with
40 Section 2000).

1 (f) A merchant or consumer that utilizes virtual currency solely
2 for the purchase or sale of goods or services.

3 (g) (1) A transaction in which the recipient of virtual currency
4 is an agent of the payee pursuant to a preexisting written contract
5 and delivery of the virtual currency to the agent satisfies the payor's
6 obligation to the payee.

7 (2) For purposes of this subdivision, the following shall apply:

8 (A) "Agent" has the same meaning as that term is defined in
9 Section 2295 of the Civil Code.

10 (B) "Payee" means the provider of goods or services, who is
11 owed payment of money or other monetary value from the payor
12 for the goods or services.

13 (C) "Payor" means the recipient of goods or services, who owes
14 payment of money or monetary value to the payee for the goods
15 or services.

16 (h) *A person or entity developing, distributing, or servicing a*
17 *virtual currency network software.*

18 (i) *A person or entity contributing software, connectivity, or*
19 *computing power to a virtual currency network.*

20 (j) *A person or entity providing data storage or cyber security*
21 *services for a licensed virtual currency business.*

22 26006. (a) An applicant for licensure under this division shall
23 pay to the commissioner a nonrefundable application fee of five
24 thousand dollars (\$5,000).

25 (b) An applicant for a license shall do so in a form and in a
26 medium prescribed by the commissioner by order or regulation.
27 The application shall state or contain all of the following:

28 (1) The legal name and residential business address of the
29 applicant and any fictitious or trade name used by the applicant in
30 conducting its business.

31 (2) A list of any criminal convictions of the applicant and any
32 material litigation in which the applicant has been involved in the
33 10-year period next preceding the submission of the application.

34 (3) A description of any virtual currency services previously
35 provided by the applicant and the virtual currency services that
36 the applicant seeks to provide in this state.

37 (4) A list of the applicant's proposed agents and the locations
38 in this state where the applicant and its agents propose to engage
39 in the business of virtual currency.

- 1 (5) A list of other states in which the applicant is licensed to
2 engage in the business of virtual currency and any license
3 revocations, suspensions, or other disciplinary action taken against
4 the applicant in another state.
- 5 (6) Information concerning any bankruptcy or receivership
6 proceedings affecting the licensee.
- 7 (7) A sample form of receipt for transactions that involve money
8 received for the business of virtual currency.
- 9 (8) The name and address of any bank through which the
10 applicant's business will be conducted.
- 11 (9) A description of the source of money and credit to be used
12 by the applicant to provide virtual currency services.
- 13 (10) The date of the applicant's incorporation or formation and
14 the state or country of incorporation or formation.
- 15 (11) A certificate of good standing from the state or country in
16 which the applicant is incorporated or formed.
- 17 (12) A description of the structure or organization of the
18 applicant, including any parent or subsidiary of the applicant, and
19 whether any parent or subsidiary is publicly traded.
- 20 (13) The legal name, any fictitious or trade name, all business
21 and residential addresses, and the employment, in the 10-year
22 period next preceding the submission of the application, of each
23 executive officer, manager, director, or person that has control, of
24 the applicant, and the educational background for each person.
- 25 (14) A list of any criminal convictions and material litigation
26 in which any executive officer, manager, director, or person in
27 control, of the applicant has been involved in the 10-year period
28 next preceding the submission of the application.
- 29 (15) A copy of the applicant's audited financial statements for
30 the most recent fiscal year and, if available, for the two-year period
31 next preceding the submission of the application.
- 32 (16) A copy of the applicant's unconsolidated financial
33 statements for the current fiscal year, whether audited or not, and,
34 if available, for the two-year period next preceding the submission
35 of the application.
- 36 (17) If the applicant is publicly traded, a copy of the most recent
37 report filed with the United States Securities and Exchange
38 Commission under Section 13 of the federal Securities Exchange
39 Act of 1934 (15 U.S.C. Sec. 78m).
- 40 (18) If the applicant is a wholly owned subsidiary of:

1 (A) A corporation publicly traded in the United States, a copy
2 of audited financial statements for the parent corporation for the
3 most recent fiscal year or a copy of the parent corporation's most
4 recent report filed under Section 13 of the federal Securities
5 Exchange Act of 1934 (15 U.S.C. Sec. 78m) and, if available, for
6 the two-year period next preceding the submission of the
7 application.

8 (B) A corporation publicly traded outside the United States, a
9 copy of similar documentation filed with the regulator of the parent
10 corporation's domicile outside the United States.

11 (19) The applicant's plan for engaging in the business of virtual
12 currency, including without limitation three years of pro forma
13 financial statements.

14 (20) Any other information the commissioner requires with
15 respect to the applicant.

16 (c) The commissioner may waive any of the information
17 required under subdivision (b) or permit an applicant to submit
18 other information instead of the required information.

19 (d) The nonrefundable application fee for filing an application
20 for licensure and approval to acquire control of a licensee is three
21 thousand five hundred dollars (\$3,500). An applicant for licensure
22 and approval shall comply with subdivision (b).

23 (e) A licensee, including a licensee described in subdivision
24 (b), shall pay annually on or before July 1, a license renewal fee
25 of two thousand five hundred dollars (\$2,500).

26 (f) A licensee shall pay annually on or before July 1, one
27 hundred twenty-five dollars (\$125) for each licensee branch office
28 in this state.

29 (g) Whenever the commissioner examines a licensee, the
30 licensee shall pay, within 10 days after receipt of a statement from
31 the commissioner, a fee of seventy-five dollars (\$75) per hour for
32 each examiner engaged in the examination plus, if it is necessary
33 for any examiner engaged in the examination to travel outside this
34 state, the travel expenses of the examiner.

35 (h) Whenever the commissioner examines an applicant, the
36 applicant shall pay, within 10 days after receipt of a statement
37 from the commissioner, a fee of seventy-five dollars (\$75) per
38 hour for each examiner engaged in the examination plus, if it is
39 necessary for any examiner engaged in the examination to travel
40 outside this state, the travel expenses of the examiner.

1 (i) Each fee for filing an application shall be paid at the time
2 the application is filed with the commissioner. No fee for filing
3 an application shall be refundable, regardless of whether the
4 application is approved, denied, or withdrawn.

5 26008. (a) Each licensee shall maintain at all times such capital
6 as the commissioner determines is sufficient to ensure the safety
7 and soundness of the licensee and maintain consumer protection
8 and its ongoing operations. In determining the minimum amount
9 of capital that must be maintained by a licensee, the commissioner
10 shall consider a variety of factors, including, but not limited to:

11 (1) The composition of the licensee’s total assets, including the
12 position, size, liquidity, risk exposure, and price volatility of each
13 type of asset.

14 (2) The composition of the licensee’s total liabilities, including
15 the size and repayment timing of each type of liability.

16 (3) The actual and expected volume of the licensee’s virtual
17 currency business activity.

18 (4) Whether the licensee is already licensed or regulated by a
19 state or federal entity, and whether the licensee is in good standing
20 in such capacity.

21 (5) The amount of leverage employed by the licensee.

22 (6) The liquidity position of the licensee.

23 (7) The financial protection that the licensee provides for its
24 customers through its trust account or bond.

25 (b) Each licensee shall maintain a bond or trust account in
26 United States dollars for the benefit of its customers in the form
27 and amount specified by the commissioner.

28
29 CHAPTER 2.5. AGENTS
30

31 26008.2. (a) A licensee shall not appoint or continue any
32 person as agent, unless the licensee and the person have made a
33 written contract. A written contract between a licensee and an
34 agent shall require the agent to operate in full compliance with
35 this division.

36 (b) The written contract shall contain each of the following
37 provisions:

38 (1) That the licensee appoints the person as its agent with
39 authority to conduct any virtual currency business on behalf of the
40 licensee.

1 (2) That the agent shall make and keep accounts,
2 correspondence, memoranda, papers, books, and other records as
3 the commissioner by regulation or order requires, and shall preserve
4 the records for the time specified by the commissioner pursuant
5 to a regulation or order.

6 (3) That all virtual currency, less fees due agents provided for
7 and expressly set forth in the written agreement, received by the
8 agent on behalf of the licensee shall be trust funds owned by and
9 belonging to the licensee.

10 (4) That the agent is subject to joint and several liability pursuant
11 to Section 26008.8.

12 (5) Any other provisions that the commissioner may by
13 regulation or order find to be necessary to carry out the provisions
14 and purposes of this division.

15 (c) An agent shall not provide any virtual currency business
16 outside the scope of activity permissible under the written contract
17 between the agent and the licensee.

18 (d) An agent shall not use a subagent to conduct any virtual
19 currency business on behalf of a licensee.

20 (e) Each licensee shall exercise reasonable supervision over its
21 agents to ensure compliance with applicable laws, rules, and
22 regulations with regard to the virtual currency business.

23 (f) Licensees conducting any virtual currency business subject
24 to this division shall maintain full charge, control, and supervision
25 of any authorized agent and shall be responsible for ensuring any
26 activity undertaken by an authorized agent on behalf of the licensee
27 is in compliance with this division.

28 26008.4. (a) A licensee shall not appoint any person as an
29 agent unless it has conducted a review of the proposed agent's
30 fitness to act as an agent and has determined that the proposed
31 agent and any persons who control the proposed agent are of good
32 character and sound financial standing.

33 (b) A licensee shall maintain records of this review for each
34 agent while the agent is providing any virtual currency business
35 on behalf of the licensee, and for three years after the relationship
36 with the agent has terminated.

37 26008.6. A person, including an agent, shall not provide any
38 virtual currency business on behalf of a person not licensed or not
39 exempt from licensure under this division. A person that engages
40 in that activity provides virtual currency business to the same extent

1 as if the person was a licensee and shall be jointly and severally
2 liable with the unlicensed or nonexempt person.

3 26008.8. (a) No agent of a licensee who has actual notice that
4 the commissioner has suspended or revoked the license of the
5 licensee or that the commissioner has issued an order taking
6 possession of the property and business of the licensee shall
7 conduct any virtual currency business on behalf of the licensee.

8 (b) If any agent of a licensee, after first having actual notice
9 that the commissioner has suspended or revoked the license of the
10 licensee or that the commissioner has issued an order taking
11 possession of the property and business of the licensee, conducts
12 any virtual currency business on behalf of the licensee, the agent
13 shall be jointly and severally liable with the licensee.

14

15 CHAPTER 3. EXAMINATIONS AND RECORDS

16

17 26009. (a) The commissioner may at any time and from time
18 to time examine the business and any branch office, within or
19 outside this state, of any licensee in order to ascertain whether that
20 business is being conducted in a lawful manner and whether all
21 virtual currency held or exchanged is properly accounted for.

22 (b) The directors, officers, and employees of any licensee being
23 examined by the commissioner shall exhibit to the commissioner,
24 on request, any or all of the licensee's accounts, books,
25 correspondence, memoranda, papers, and other records and shall
26 otherwise facilitate the examination so far as it may be in their
27 power to do so.

28 26010. The commissioner may consult and cooperate with
29 other state or federal regulators in enforcing and administering
30 this division. They may jointly pursue examinations and take other
31 official action that they are otherwise empowered to take.

32 26011. A licensee shall file a report with the commissioner
33 within five business days after the licensee has reason to know of
34 the occurrence any of the following events:

35 (a) The filing of a petition by or against the licensee under the
36 United States Bankruptcy Code (11 U.S.C. Secs. 101-110, incl.)
37 for bankruptcy or reorganization.

38 (b) The filing of a petition by or against the licensee for
39 receivership, the commencement of any other judicial or

1 administrative proceeding for its dissolution or reorganization, or
2 the making of a general assignment for the benefit of its creditors.

3 (c) The commencement of a proceeding to revoke or suspend
4 its virtual currency business license in a state or country in which
5 the licensee engages in such business or is licensed to engage in
6 such business.

7 (d) The cancellation or other impairment of the licensee's bond
8 or trust account as required by subdivision (b) of Section 26008.

9 (e) A charge or conviction of the licensee or of an executive
10 officer, manager, director, or person in control of the licensee for
11 a felony.

12 26012. A licensee shall maintain any records as required by
13 the commissioner for determining its compliance with this division
14 for at least three years.

15

16 CHAPTER 4. ENFORCEMENT

17

18 26013. Any licensee may surrender its license by filing with
19 the commissioner the license and a report with any information as
20 the commissioner requires. The voluntary surrender of the license
21 shall become effective at the time and upon the conditions as the
22 commissioner specifies by order.

23 26014. (a) The commissioner may prepare written decisions,
24 opinion letters, and other formal written guidance to be issued to
25 persons seeking clarification regarding the requirements of this
26 division.

27 (b) The commissioner shall make public on the commissioner's
28 Internet Web site all written decisions, opinion letters, and other
29 formal written guidance issued to persons seeking clarification
30 regarding the requirements of this division. The commissioner
31 may, at his or her discretion or upon request by an applicant or
32 licensee, redact proprietary or other confidential information
33 regarding an applicant or licensee from any decision, letter, or
34 other written guidance issued in connection with an applicant or
35 licensee.

36 26015. The commissioner may offer informal guidance to any
37 prospective applicant for a license under this division, regarding
38 the conditions of licensure that may be applied to that person. The
39 commissioner shall inform any applicant that requests that guidance
40 of the licensing requirements that will be required of that applicant,

1 based on the information provided by the applicant concerning its
2 plan to conduct business under this division, and the factors used
3 to make that determination.

4 26016. At any time, if the commissioner deems it necessary
5 for the general welfare of the public, he or she may exercise any
6 power set forth in this division with respect to a virtual currency
7 business, regardless of whether an application for a license has
8 been filed with the commissioner, a license has been issued, or, if
9 issued, the license has been surrendered, suspended, or revoked.

10 (a) If it appears to the commissioner that a licensee is violating
11 or failing to comply with this division, the commissioner may
12 direct the licensee to comply with the law by an order issued under
13 the commissioner's official seal, or if it appears to the
14 commissioner that any licensee is conducting its business in an
15 unsafe or injurious manner, the commissioner may in like manner
16 direct it to discontinue the unsafe or injurious practices. The order
17 shall require the licensee to show cause before the commissioner,
18 at a time and place to be fixed by the commissioner, as to why the
19 order should not be observed.

20 (b) If, upon any hearing held pursuant to subdivision (a), the
21 commissioner finds that the licensee is violating or failing to
22 comply with any law of this state or is conducting its business in
23 an unsafe or injurious manner, the commissioner may make a final
24 order directing it to comply with the law or to discontinue the
25 unsafe or injurious practices. A licensee shall comply with the
26 final order unless, within 10 days after the issuance of the order,
27 its enforcement is restrained in a proceeding brought by the
28 licensee.

29 26017. (a) The commissioner may issue an order suspending
30 or revoking a license, or taking possession of and placing a licensee
31 in receivership, if after notice and an opportunity for hearing, the
32 commissioner finds any of the following:

33 (1) The licensee is violating this division or a regulation adopted
34 or an order issued under this division, or a condition of approval
35 issued under this division.

36 (2) The licensee does not cooperate with an examination or
37 investigation by the commissioner.

38 (3) The licensee engages in fraud, intentional misrepresentation,
39 or gross negligence.

1 (4) The competence, experience, character, or general fitness
2 of the licensee, or any director, officer, employee, or person in
3 control of a licensee, indicates that it is not in the public interest
4 to permit the person to provide virtual currency services.

5 (5) The licensee engages in an unsafe or unsound practice.

6 (6) The licensee is insolvent, suspends payment of its
7 obligations, or makes a general assignment for the benefit of its
8 creditors.

9 (7) The licensee has applied for an adjudication of bankruptcy,
10 reorganization, arrangement, or other relief under any bankruptcy,
11 reorganization, insolvency, or moratorium law, or any person has
12 applied for any such relief under that law against the licensee and
13 the licensee has by any affirmative act approved of or consented
14 to the action or the relief has been granted.

15 (8) Any fact or condition exists that, if it had existed at the time
16 when the licensee applied for its license, would have been grounds
17 for denying the application.

18 (b) In determining whether a licensee is engaging in an unsafe
19 or unsound practice, the commissioner may consider the size and
20 condition of the licensee's provision of virtual currency services,
21 the magnitude of the loss, the gravity of the violation of this
22 division, and the previous conduct of the person involved.

23 26018. (a) Every order, decision, or other official act of the
24 commissioner is subject to review in accordance with law.

25 (b) Whenever the commissioner has taken possession of the
26 property and business of any licensee, the licensee, within 10 days
27 after that taking, if it deems itself aggrieved thereby, may apply
28 to the superior court in the county in which the head office of the
29 licensee is located to enjoin further proceedings. The court, after
30 citing the commissioner to show cause why further proceedings
31 should not be enjoined and after a hearing and a determination of
32 the facts upon the merits, may dismiss the application or enjoin
33 the commissioner from further proceedings and direct the
34 commissioner to surrender the property and business to the
35 licensee.

36 26019. (a) If the commissioner finds that any of the factors
37 set forth in Section 26017 is true with respect to any licensee and
38 that it is necessary for the protection of the public interest, the
39 commissioner may issue an order immediately suspending or
40 revoking the licensee's license.

1 (b) Within 30 days after the license is suspended or revoked
2 pursuant to subdivision (a), the licensee may file with the
3 commissioner an application for a hearing on the suspension or
4 revocation.

5 (c) If the commissioner fails to commence a hearing within 15
6 business days after the application is filed with the commissioner
7 pursuant to subdivision (b) or within a longer period of time agreed
8 to by the licensee, the suspension or revocation shall be deemed
9 rescinded.

10 (d) Within 30 days after the hearing, the commissioner shall
11 affirm, modify, or rescind the suspension or revocation. Otherwise,
12 the suspension or revocation shall be deemed rescinded.

13 (e) The right of the licensee to petition for judicial review of
14 the suspension or revocation shall not be affected by the failure of
15 the licensee to apply to the commissioner for a hearing on the
16 suspension or revocation pursuant to subdivision (b).

17 26020. The commissioner may assess a civil penalty against
18 a person that violates this division or a regulation adopted or an
19 order issued under this division in an amount not to exceed one
20 thousand dollars (\$1,000) for each violation or, in the case of a
21 continuing violation, one thousand dollars (\$1,000) for each day
22 or part thereof during which the violation continues, plus this
23 state's costs and expenses for the investigation and prosecution of
24 the matter, including reasonable attorney's fees.

25 26021. (a) A person that intentionally makes a false statement,
26 misrepresentation, or false certification in a record filed or required
27 to be maintained under this division or that intentionally makes a
28 false entry or omits a material entry in such a record is guilty of a
29 felony.

30 (b) A person that knowingly engages in an activity for which a
31 license is required under this division without being licensed or
32 exempt from licensure under this division is guilty of a felony.

33 (c) Nothing in this division limits the power of the state to punish
34 any person for any act that constitutes a crime under any statute.

35 26022. The enforcement provisions of this division are in
36 addition to any other enforcement powers that the commissioner
37 may have under law.

38 26023. (a) The commissioner may by order or regulation grant
39 exemptions from this section in cases where the commissioner

1 finds that the requirements of this section are not necessary or may
2 be duplicative.

3 (b) A licensee shall, within 90 days after the end of each fiscal
4 year, or within any extended time as the commissioner may
5 prescribe, file with the commissioner an audit report for the fiscal
6 year that shall comply with all of the following provisions:

7 (1) The audit report shall contain audited financial statements
8 of the licensee for or as of the end of the fiscal year prepared in
9 accordance with United States generally accepted accounting
10 principles and any other information as the commissioner may
11 require.

12 (2) The audit report shall be based upon an audit of the licensee
13 conducted in accordance with United States generally accepted
14 auditing standards and any other requirements as the commissioner
15 may prescribe.

16 (3) The audit report shall be prepared by an independent certified
17 public accountant or independent public accountant who is not
18 unsatisfactory to the commissioner.

19 (4) The audit report shall include or be accompanied by a
20 certificate of opinion of the independent certified public accountant
21 or independent public accountant that is satisfactory in form and
22 content to the commissioner. If the certificate or opinion is
23 qualified, the commissioner may order the licensee to take any
24 action as the commissioner may find necessary to enable the
25 independent or certified public accountant or independent public
26 accountant to remove the qualification.

27 (c) Each licensee shall, not more than 45 days after the end of
28 each calendar year quarter, or within a longer period as the
29 commissioner may by regulation or order specify, file with the
30 commissioner a report containing all of the following:

31 (1) Financial statements, including balance sheet, income
32 statement, statement of changes in shareholders' equity, and
33 statement of cashflows, for, or as of the end of, that calendar year
34 quarter, verified by two of the licensee's principal officers. The
35 verification shall state that each of the officers making the
36 verification has a personal knowledge of the matters in the report
37 and that each of them believes that each statement in the report is
38 true.

39 (2) Other information as the commissioner may by regulation
40 or order require.

1 26024. In addition to the fees provided in Section 26006, the
2 commissioner shall levy an assessment each fiscal year, on a pro
3 rata basis, on those licensees that at any time during the preceding
4 calendar year engaged in this state in the virtual currency business
5 in an amount that is, in his or her judgment, sufficient to meet the
6 commissioner’s expenses in administering the provisions of this
7 division and to provide a reasonable reserve for contingencies.

8
9 CHAPTER 5. MISCELLANEOUS PROVISIONS

10
11 26025. A licensee shall disclose to consumers the following
12 disclosure in a form and manner prescribed by the commissioner:
13 “Once submitted to the network, a virtual currency transaction
14 will be unconfirmed for a period of time (usually less than one
15 hour, but up to one day or more) pending sufficient confirmation
16 of the transaction by the network. A transaction is not complete
17 while it is in a pending state. Virtual currency associated with
18 transactions that are in a pending state will be designated
19 accordingly, and will not be included in your account balance or
20 be available to conduct transactions.

21 The risk of loss in trading or holding virtual currency can be
22 substantial. You should therefore carefully consider whether trading
23 or holding virtual currency is suitable for you in light of your
24 financial condition. In considering whether to trade or hold virtual
25 currency, you should be aware that the price or value of virtual
26 currency can change rapidly, decrease, and potentially even fall
27 to zero.

28 (Insert company name) is licensed by the Department of Business
29 Oversight to do business in California. If you have complaints
30 with respect to any aspect of the virtual currency business
31 conducted by (company name), you may contact the California
32 Department of Business Oversight at its toll-free telephone number,
33 1-800-622-0620, by email at consumer.services@dbo.ca.gov, or
34 by mail at the Department of Business Oversight, Consumer
35 Services, 1515 K Street, Suite 200, Sacramento, CA 95814.”

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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