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AMENDED IN ASSEMBLY JUNE 1, 2015  
AMENDED IN ASSEMBLY APRIL 20, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1326**

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**Introduced by Assembly Member Dababneh**

February 27, 2015

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*An act to repeal Section 107 of the Corporations Code, and to add Section 2178 to, and 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 *enact the Virtual Currency Act*. The bill would prohibit a person from engaging 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~~ *consumers* 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 *and receipt* 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:

*This bill would authorize a virtual currency licensee in good standing that plans to engage in activities permitted under the Money Transmission Act to request that the commissioner convert his or her license into a license under the Money Transmission Act, as specified. The bill would authorize a person or entity conducting virtual currency business with less than \$1,000,000 in outstanding obligations and whose business model, as determined by the commissioner, represents low or no risk to consumers to register with a \$500 license fee and, if approved, receive a provisional license to conduct virtual currency business.*

*This bill would require a licensee, under the Money Transmission Act, to report to the commissioner its plan to engage in any virtual currency business and request permission to engage in that business subject to specified requirements and conditions, as determined by the commissioner.*

*This bill would make these provisions including the Virtual Currency Act operative on July 1, 2016.*

*(2) Existing law, the General Corporation Law, prohibits a corporation, social purpose corporation, association, or individual from issuing or putting in circulation, as money, anything but the lawful money of the United States.*

*This bill would delete that prohibition.*

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

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

- 1     SECTION 1. Section 107 of the Corporations Code is repealed.
- 2     ~~107. No corporation, social purpose corporation, association,~~
- 3     ~~or individual shall issue or put in circulation, as money, anything~~
- 4     ~~but the lawful money of the United States.~~
- 5     SEC. 2. Section 2178 is added to the Financial Code, to read:
- 6     2178. (a) Notwithstanding any other law and consistent with
- 7     subdivision (e) of Section 26004, a licensee shall report to the
- 8     commissioner its plan to engage in any virtual currency business
- 9     as described in Division 11 (commencing with Section 26000) and
- 10    request, on a form provided by the commissioner, permission to
- 11    engage in any virtual currency business without the issuance of a
- 12    virtual currency license issued under Division 11 (commencing

1 with Section 26000). However, the commissioner may require the  
2 licensee to increase its surety bond or eligible securities amounts  
3 in an amount necessary to ensure the consumer protection of the  
4 additional business. The commissioner may also place, as a  
5 condition on the authorization to engage in any virtual currency  
6 business pursuant to Division 11 (commencing with Section 26000),  
7 any condition authorized by Section 2036.

8 (b) This section shall become operative on July 1, 2016.

9 SECTION 4.

10 SEC. 3. Division 11 (commencing with Section 26000) is added  
11 to the Financial Code, to read:

12  
13 DIVISION 11. VIRTUAL CURRENCY

14  
15 CHAPTER 1. GENERAL PROVISIONS

16  
17 26000. For purposes of this division, the following definitions  
18 shall apply:

19 (a) "Commissioner" means the Commissioner of Business  
20 Oversight.

21 (b) (1) "Virtual currency" means any type of digital unit that  
22 is used as a medium of exchange or a form of digitally stored value.

23 ~~Virtual~~  
24 (2) ~~Virtual~~ currency does not include ~~digital units that are used~~  
25 ~~solely within online gaming platforms with no market or~~  
26 ~~application outside of those gaming platforms, nor shall virtual~~  
27 ~~currency be construed to include digital units that are used~~  
28 ~~exclusively as part of a customer affinity or rewards program, and~~  
29 ~~can be redeemed for goods, services, or for purchases with the~~  
30 ~~issuer or other designated merchants, but cannot be converted into,~~  
31 ~~or redeemed for, fiat currency. the following:~~

32 (A) *Digital units that are used solely within online gaming*  
33 *platforms with no market or application outside of those gaming*  
34 *platforms.*

35 (B) *Digital units that are used exclusively as part of a consumer*  
36 *affinity or rewards program.*

37 (C) *Digital units that can be redeemed for goods, services, or*  
38 *for purchases with the issuer or other designated merchants, but*  
39 *cannot be converted into, or redeemed for, fiat currency.*

1 (c) “Virtual currency business” means ~~the conduct of either of~~  
2 ~~the following types of activities involving a California resident:~~

3 ~~(1) Maintaining~~ *maintaining* full custody or control of virtual  
4 currency *in this state* on behalf of others.

5 ~~(2) Providing conversion or exchange services of fiat currency~~  
6 ~~into virtual currency or the conversion or exchange of virtual~~  
7 ~~currency into fiat currency or other value, or the conversion or~~  
8 ~~exchange of one form of virtual currency into another form of~~  
9 ~~virtual currency.~~

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

14 26001. For the purposes of carrying out the provisions of this  
15 division, the commissioner may adopt regulations pursuant to the  
16 Administrative Procedure Act (Chapter 3.5 (commencing with  
17 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
18 Code).

19 *26001.5. This division shall be known and may be cited as the*  
20 *Virtual Currency Act.*

21

## 22 CHAPTER 2. LICENSES

23

24 26002. A person shall not engage in any virtual currency  
25 business in this state unless the person is licensed or exempt from  
26 licensure under this division.

27 26004. The following are exempt from the licensing  
28 requirement described in Section 26002:

29 (a) The United States or a department, agency, or instrumentality  
30 thereof, including any federal reserve bank and any federal home  
31 loan bank.

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

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

36 (d) A commercial bank or industrial bank, the deposits of which  
37 are insured by the Federal Deposit Insurance Corporation or its  
38 successor, or any foreign (other nation) bank that is licensed under  
39 Chapter 20 (commencing with Section 1750) of Division 1.1 or  
40 that is authorized under federal law to maintain a federal agency

1 or federal branch office in this state; a trust company licensed  
2 pursuant to Section 1042 or a national association authorized under  
3 federal law to engage in a trust banking business; an association  
4 or federal association, as defined in Section 5102, the deposits of  
5 which are insured by the Federal Deposit Insurance Corporation  
6 or its successor; and any federally or state chartered credit union,  
7 with an office in this state, the member accounts of which are  
8 insured or guaranteed as provided in Section 14858.

9 (e) ~~An~~ *Subject to Section 2178*, an entity licensed as a money  
10 transmitter under the Money Transmission Act described in  
11 Division 1.2 (commencing with Section 2000).

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

14 (g) (1) A transaction in which the recipient of virtual currency  
15 is an agent of the payee pursuant to a preexisting written contract  
16 and delivery of the virtual currency to the agent satisfies the payor's  
17 obligation to the payee.

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

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

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

24 (C) "Payor" means the recipient of goods or services, who owes  
25 payment of money or monetary value to the payee for the goods  
26 or services.

27 (h) A person or entity developing, distributing, or servicing a  
28 virtual currency network software.

29 (i) A person or entity contributing software, connectivity, or  
30 computing power to a virtual currency network.

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

33 26006. (a) An applicant for licensure under this division shall  
34 pay to the commissioner a nonrefundable application fee of five  
35 thousand dollars (\$5,000).

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

- 1 (1) The legal name and residential business address of the  
2 applicant and any fictitious or trade name used by the applicant in  
3 conducting its business.
- 4 (2) A list of any criminal convictions of the applicant and any  
5 material litigation in which the applicant has been involved in the  
6 10-year period next preceding the submission of the application.
- 7 (3) A description of any virtual currency services previously  
8 provided by the applicant and the virtual currency services that  
9 the applicant seeks to provide in this state.
- 10 ~~(4) A list of the applicant's proposed agents and the locations~~  
11 ~~in this state where the applicant and its agents propose to engage~~  
12 ~~in the business of virtual currency.~~
- 13 ~~(5)~~
- 14 (4) A list of other states in which the applicant is licensed to  
15 engage in the business of virtual currency and any license  
16 revocations, suspensions, or other disciplinary action taken against  
17 the applicant in another state.
- 18 ~~(6)~~
- 19 (5) Information concerning any bankruptcy or receivership  
20 proceedings affecting the licensee.
- 21 ~~(7)~~
- 22 (6) A sample form of receipt for transactions that involve money  
23 received for the business of virtual currency.
- 24 ~~(8)~~
- 25 (7) The name and address of any bank through which the  
26 applicant's business will be conducted.
- 27 ~~(9)~~
- 28 (8) A description of the source of money and credit to be used  
29 by the applicant to provide virtual currency services.
- 30 ~~(10)~~
- 31 (9) The date of the applicant's incorporation or formation and  
32 the state or country of incorporation or formation.
- 33 ~~(11)~~
- 34 (10) A certificate of good standing from the state or country in  
35 which the applicant is incorporated or formed.
- 36 ~~(12)~~
- 37 (11) A description of the structure or organization of the  
38 applicant, including any parent or subsidiary of the applicant, and  
39 whether any parent or subsidiary is publicly traded.
- 40 ~~(13)~~



1 (12) The legal name, any fictitious or trade name, all business  
2 and residential addresses, and the employment, in the 10-year  
3 period next preceding the submission of the application, of each  
4 executive officer, manager, director, or person that has control, of  
5 the applicant, and the educational background for each person.

6 ~~(14)~~

7 (13) A list of any criminal convictions and material litigation  
8 in which any executive officer, manager, director, or person in  
9 control, of the applicant has been involved in the 10-year period  
10 next preceding the submission of the application.

11 ~~(15)~~

12 (14) A copy of the applicant's audited financial statements for  
13 the most recent fiscal year and, if available, for the two-year period  
14 next preceding the submission of the application.

15 ~~(16)~~

16 (15) A copy of the applicant's unconsolidated financial  
17 statements for the current fiscal year, whether audited or not, and,  
18 if available, for the two-year period next preceding the submission  
19 of the application.

20 ~~(17)~~

21 (16) If the applicant is publicly traded, a copy of the most recent  
22 report filed with the United States Securities and Exchange  
23 Commission under Section 13 of the federal Securities Exchange  
24 Act of 1934 (15 U.S.C. Sec. 78m).

25 ~~(18)~~

26 (17) If the applicant is a wholly owned subsidiary of:

27 (A) A corporation publicly traded in the United States, a copy  
28 of audited financial statements for the parent corporation for the  
29 most recent fiscal year or a copy of the parent corporation's most  
30 recent report filed under Section 13 of the federal Securities  
31 Exchange Act of 1934 (15 U.S.C. Sec. 78m) and, if available, for  
32 the two-year period next preceding the submission of the  
33 application.

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

37 ~~(19)~~

38 (18) The applicant's plan for engaging in the business of virtual  
39 currency, including without limitation three years of pro forma  
40 financial statements.

1     ~~(20)~~  
2     (19) Any other information the commissioner requires with  
3 respect to the applicant.

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

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

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

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

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

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

29     (i) Each fee for filing an application shall be paid at the time  
30 the application is filed with the commissioner. No fee for filing  
31 an application shall be refundable, regardless of whether the  
32 application is approved, denied, or withdrawn.

33     26008. (a) Each licensee shall maintain at all times such capital  
34 as the commissioner determines is sufficient to ensure the safety  
35 and soundness of the licensee and maintain consumer protection  
36 and its ongoing operations. In determining the minimum amount  
37 of capital that must be maintained by a licensee, the commissioner  
38 shall consider a variety of factors, including, but not limited to:

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

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

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

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

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

12 (6) The liquidity position of the licensee.

13 (7) The financial protection that the licensee provides for its  
14 ~~customers~~ *consumers* through its trust account or bond.

15 (b) Each licensee shall maintain a bond or trust account in  
16 United States dollars for the benefit of its ~~customers~~ *consumers* in  
17 the form and amount specified by the commissioner.

18

19

~~CHAPTER 2.5. AGENTS~~

20

21 ~~26008.2. (a) A licensee shall not appoint or continue any~~  
22 ~~person as agent, unless the licensee and the person have made a~~  
23 ~~written contract. A written contract between a licensee and an~~  
24 ~~agent shall require the agent to operate in full compliance with~~  
25 ~~this division.~~

26 ~~(b) The written contract shall contain each of the following~~  
27 ~~provisions:~~

28 ~~(1) That the licensee appoints the person as its agent with~~  
29 ~~authority to conduct any virtual currency business on behalf of the~~  
30 ~~licensee.~~

31 ~~(2) That the agent shall make and keep accounts,~~  
32 ~~correspondence, memoranda, papers, books, and other records as~~  
33 ~~the commissioner by regulation or order requires, and shall preserve~~  
34 ~~the records for the time specified by the commissioner pursuant~~  
35 ~~to a regulation or order.~~

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

1     ~~(4) That the agent is subject to joint and several liability pursuant~~  
2     ~~to Section 26008.8.~~

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

6     ~~(e) An agent shall not provide any virtual currency business~~  
7     ~~outside the scope of activity permissible under the written contract~~  
8     ~~between the agent and the licensee.~~

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

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

14    ~~(f) Licensees conducting any virtual currency business subject~~  
15    ~~to this division shall maintain full charge, control, and supervision~~  
16    ~~of any authorized agent and shall be responsible for ensuring any~~  
17    ~~activity undertaken by an authorized agent on behalf of the licensee~~  
18    ~~is in compliance with this division.~~

19    ~~26008.4. (a) A licensee shall not appoint any person as an~~  
20    ~~agent unless it has conducted a review of the proposed agent's~~  
21    ~~fitness to act as an agent and has determined that the proposed~~  
22    ~~agent and any persons who control the proposed agent are of good~~  
23    ~~character and sound financial standing.~~

24    ~~(b) A licensee shall maintain records of this review for each~~  
25    ~~agent while the agent is providing any virtual currency business~~  
26    ~~on behalf of the licensee, and for three years after the relationship~~  
27    ~~with the agent has terminated.~~

28    ~~26008.6. A person, including an agent, shall not provide any~~  
29    ~~virtual currency business on behalf of a person not licensed or not~~  
30    ~~exempt from licensure under this division. A person that engages~~  
31    ~~in that activity provides virtual currency business to the same extent~~  
32    ~~as if the person was a licensee and shall be jointly and severally~~  
33    ~~liable with the unlicensed or nonexempt person.~~

34    ~~26008.8. (a) No agent of a licensee who has actual notice that~~  
35    ~~the commissioner has suspended or revoked the license of the~~  
36    ~~licensee or that the commissioner has issued an order taking~~  
37    ~~possession of the property and business of the licensee shall~~  
38    ~~conduct any virtual currency business on behalf of the licensee.~~

39    ~~(b) If any agent of a licensee, after first having actual notice~~  
40    ~~that the commissioner has suspended or revoked the license of the~~

1 ~~licensee or that the commissioner has issued an order taking~~  
2 ~~possession of the property and business of the licensee, conducts~~  
3 ~~any virtual currency business on behalf of the licensee, the agent~~  
4 ~~shall be jointly and severally liable with the licensee.~~

5  
6 CHAPTER 3. EXAMINATIONS AND RECORDS  
7

8 26009. (a) The commissioner may at any time and from time  
9 to time examine the business and any branch office, within or  
10 outside this state, of any licensee in order to ascertain whether that  
11 business is being conducted in a lawful manner and whether all  
12 virtual currency held or exchanged is properly accounted for.

13 (b) The directors, officers, and employees of any licensee being  
14 examined by the commissioner shall exhibit to the commissioner,  
15 on request, any or all of the licensee's accounts, books,  
16 correspondence, memoranda, papers, and other records and shall  
17 otherwise facilitate the examination so far as it may be in their  
18 power to do so.

19 26010. The commissioner may consult and cooperate with  
20 other state or federal regulators in enforcing and administering  
21 this division. They may jointly pursue examinations and take other  
22 official action that they are otherwise empowered to take.

23 26011. A licensee shall file a report with the commissioner  
24 within five business days after the licensee has reason to know of  
25 the occurrence any of the following events:

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

29 (b) The filing of a petition by or against the licensee for  
30 receivership, the commencement of any other judicial or  
31 administrative proceeding for its dissolution or reorganization, or  
32 the making of a general assignment for the benefit of its creditors.

33 (c) The commencement of a proceeding to revoke or suspend  
34 its virtual currency business license in a state or country in which  
35 the licensee engages in such business or is licensed to engage in  
36 such business.

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

1 (e) A charge or conviction of the licensee or of an executive  
2 officer, manager, director, or person in control of the licensee for  
3 a felony.

4 26012. A licensee shall maintain any records as required by  
5 the commissioner for determining its compliance with this division  
6 for at least three years.

7  
8  
9

CHAPTER 4. ENFORCEMENT

10 26013. Any licensee may surrender its license by filing with  
11 the commissioner the license and a report with any information as  
12 the commissioner requires. The voluntary surrender of the license  
13 shall become effective at the time and upon the conditions as the  
14 commissioner specifies by order.

15 26014. (a) The commissioner may prepare written decisions,  
16 opinion letters, and other formal written guidance to be issued to  
17 persons seeking clarification regarding the requirements of this  
18 division.

19 (b) The commissioner shall make public on the commissioner’s  
20 Internet Web site all written decisions, opinion letters, and other  
21 formal written guidance issued to persons seeking clarification  
22 regarding the requirements of this division. The commissioner  
23 may, at his or her discretion or upon request by an applicant or  
24 licensee, redact proprietary or other confidential information  
25 regarding an applicant or licensee from any decision, letter, or  
26 other written guidance issued in connection with an applicant or  
27 licensee.

28 26015. The commissioner may offer informal guidance to any  
29 prospective applicant for a license under this division, regarding  
30 the conditions of licensure that may be applied to that person. The  
31 commissioner shall inform any applicant that requests that guidance  
32 of the licensing requirements that will be required of that applicant,  
33 based on the information provided by the applicant concerning its  
34 plan to conduct business under this division, and the factors used  
35 to make that determination.

36 26016. At any time, if the commissioner deems it necessary  
37 for the general welfare of the public, he or she may exercise any  
38 power set forth in this division with respect to a virtual currency  
39 business, regardless of whether an application for a license has

1 been filed with the commissioner, a license has been issued, or, if  
2 issued, the license has been surrendered, suspended, or revoked.

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

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

22 26017. (a) The commissioner may issue an order suspending  
23 or revoking a license, or taking possession of and placing a licensee  
24 in receivership, if after notice and an opportunity for hearing, the  
25 commissioner finds any of the following:

26 (1) The licensee is violating this division or a regulation adopted  
27 or an order issued under this division, or a condition of approval  
28 issued under this division.

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

31 (3) The licensee engages in fraud, intentional misrepresentation,  
32 or gross negligence.

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

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

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

1 (7) The licensee has applied for an adjudication of bankruptcy,  
2 reorganization, arrangement, or other relief under any bankruptcy,  
3 reorganization, insolvency, or moratorium law, or any person has  
4 applied for any such relief under that law against the licensee and  
5 the licensee has by any affirmative act approved of or consented  
6 to the action or the relief has been granted.

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

10 (b) In determining whether a licensee is engaging in an unsafe  
11 or unsound practice, the commissioner may consider the size and  
12 condition of the licensee’s provision of virtual currency services,  
13 the magnitude of the loss, the gravity of the violation of this  
14 division, and the previous conduct of the person involved.

15 26018. (a) Every order, decision, or other official act of the  
16 commissioner is subject to review in accordance with law.

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

28 26019. (a) If the commissioner finds that any of the factors  
29 set forth in Section 26017 is true with respect to any licensee and  
30 that it is necessary for the protection of the public interest, the  
31 commissioner may issue an order immediately suspending or  
32 revoking the licensee’s license.

33 (b) Within 30 days after the license is suspended or revoked  
34 pursuant to subdivision (a), the licensee may file with the  
35 commissioner an application for a hearing on the suspension or  
36 revocation.

37 (c) If the commissioner fails to commence a hearing within 15  
38 business days after the application is filed with the commissioner  
39 pursuant to subdivision (b) or within a longer period of time agreed



1 to by the licensee, the suspension or revocation shall be deemed  
2 rescinded.

3 (d) Within 30 days after the hearing, the commissioner shall  
4 affirm, modify, or rescind the suspension or revocation. Otherwise,  
5 the suspension or revocation shall be deemed rescinded.

6 (e) The right of the licensee to petition for judicial review of  
7 the suspension or revocation shall not be affected by the failure of  
8 the licensee to apply to the commissioner for a hearing on the  
9 suspension or revocation pursuant to subdivision (b).

10 26020. The commissioner may assess a civil penalty against  
11 a person that violates this division or a regulation adopted or an  
12 order issued under this division in an amount not to exceed one  
13 thousand dollars (\$1,000) for each violation or, in the case of a  
14 continuing violation, one thousand dollars (\$1,000) for each day  
15 or part thereof during which the violation continues, plus this  
16 state's costs and expenses for the investigation and prosecution of  
17 the matter, including reasonable attorney's fees.

18 ~~26021. (a) A person that intentionally makes a false statement,~~  
19 ~~misrepresentation, or false certification in a record filed or required~~  
20 ~~to be maintained under this division or that intentionally makes a~~  
21 ~~false entry or omits a material entry in such a record is guilty of a~~  
22 ~~felony.~~

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

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

28 26022. The enforcement provisions of this division are in  
29 addition to any other enforcement powers that the commissioner  
30 may have under law.

31 26023. (a) The commissioner may by order or regulation grant  
32 exemptions from this section in cases where the commissioner  
33 finds that the requirements of this section are not necessary or may  
34 be duplicative.

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

39 (1) The audit report shall contain audited financial statements  
40 of the licensee for or as of the end of the fiscal year prepared in

1 accordance with United States generally accepted accounting  
2 principles and any other information as the commissioner may  
3 require.

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

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

11 (4) The audit report shall include or be accompanied by a  
12 certificate of opinion of the independent certified public accountant  
13 or independent public accountant that is satisfactory in form and  
14 content to the commissioner. If the certificate or opinion is  
15 qualified, the commissioner may order the licensee to take any  
16 action as the commissioner may find necessary to enable the  
17 independent or certified public accountant or independent public  
18 accountant to remove the qualification.

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

23 (1) Financial statements, including balance sheet, income  
24 statement, statement of changes in shareholders' equity, and  
25 statement of cashflows, for, or as of the end of, that calendar year  
26 quarter, verified by two of the licensee's principal officers. The  
27 verification shall state that each of the officers making the  
28 verification has a personal knowledge of the matters in the report  
29 and that each of them believes that each statement in the report is  
30 true.

31 (2) Other information as the commissioner may by regulation  
32 or order require.

33 26024. In addition to the fees provided in Section 26006, the  
34 commissioner shall levy an assessment each fiscal year, on a pro  
35 rata basis, on those licensees that at any time during the preceding  
36 calendar year engaged in this state in the virtual currency business  
37 in an amount that is, in his or her judgment, sufficient to meet the  
38 commissioner's expenses in administering the provisions of this  
39 division and to provide a reasonable reserve for contingencies.

CHAPTER 5. MISCELLANEOUS PROVISIONS

26025. A licensee shall disclose to consumers the following disclosure in a form and manner prescribed by the commissioner:

“Once submitted to the network, a virtual currency transaction will be unconfirmed for a period of time (usually less than one hour, but up to one day or more) pending sufficient confirmation of the transaction by the network. A transaction is not complete while it is in a pending state. Virtual currency associated with transactions that are in a pending state will be designated accordingly, and will not be included in your account balance or be available to conduct transactions.

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

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

26026. (a) *Upon completion of a transaction subject to this division, the licensee shall provide to the consumer a receipt containing the following information:*

(1) *The name and contact information of the licensee including a telephone number of the licensee where consumers can contact the licensee for questions or to register complaints.*

(2) *The type, value, date, and time of the transaction.*

(3) *The type and amount of any fees charged.*

(4) *The exchange rate, if applicable.*

(5) *A statement of the refund policy of the licensee.*

(6) *Additional information the commissioner may require.*

(b) *The receipt required by this section shall be made in English and in the language principally used by that licensee to advertise,*

1 solicit, or negotiate, either orally or in writing, if other than  
2 English.

3 (c) The receipt required by this section may be provided  
4 electronically for transactions that are initiated electronically or  
5 in which a consumer agrees to receive an electronic receipt.

6 26029. The commissioner may, by regulation or order, either  
7 unconditionally or upon specified terms and conditions or for  
8 specified periods, exempt from all or part of this division any  
9 person or transaction or class of persons or transactions, if the  
10 commissioner finds such action to be in the public interest and  
11 that the regulation of such persons or transactions is not necessary  
12 for the purposes of this division. The commissioner shall post on  
13 the commissioner's Internet Web site a list of all persons,  
14 transactions, or classes of person or transactions exempt pursuant  
15 to this section, and the provision or provisions of this division from  
16 which they are exempt.

17 26031. Notwithstanding any other law, a licensee in good  
18 standing under this division that plans to engage in activities  
19 permitted under the Money Transmission Act (Division 1.2  
20 (commencing with Section 2000)) may request from the  
21 commissioner in a form specified by the commissioner to convert  
22 their license into a license under Division 1.2 (commencing with  
23 Section 2000). A licensee's request to convert its license shall be  
24 accompanied by documentation or other evidence as determined  
25 by the commissioner that the licensee meets the requirements for  
26 licensure under Division 1.2 (commencing with Section 2000). If  
27 a licensee's request for a converted license is granted, the licensee  
28 shall be subject to Section 2178 in order to thereafter engage in  
29 any virtual currency business.

30 26032. (a) A person or entity conducting virtual currency  
31 business with less than one million dollars (\$1,000,000) in  
32 outstanding obligations and whose business model, as determined  
33 by the commissioner, represents low or no risk to consumers may  
34 register with a five-hundred-dollar (\$500) license fee with the  
35 commissioner and, if approved, receive a provisional license to  
36 conduct virtual currency business. A person or entity that receives  
37 such a license shall also register with FinCEN as a money services  
38 business, if applicable.

1 (b) In determining whether to issue a provisional license, the  
2 commissioner shall consider a variety of factors, including, but  
3 not limited to:

4 (1) The nature and scope of the applicant's business.

5 (2) The anticipated volume of business to be transacted by the  
6 applicant in California.

7 (3) The nature and scope of the risks that the applicant's  
8 business presents to consumers.

9 (4) The measures which the applicant has taken to limit or  
10 mitigate the risks its business presents.

11 (5) Whether the applicant is regulated or otherwise authorized  
12 by another governmental entity to engage in financial services or  
13 other business activities.

14 (c) The commissioner may require a provisional licensee to  
15 certify adherence to certain risk based performance standards  
16 related to safety, soundness, and consumer protection as prescribed  
17 by the commissioner.

18 (d) Based upon the factors identified in subdivision (b) and the  
19 provisional licensee's history as a holder of a provisional license,  
20 the commissioner may at any time renew such license for an  
21 additional length of time or remove the provisional status from  
22 the license if the licensee meets all the requirements of this division.  
23 Unless the commissioner otherwise removes the provisional status  
24 of or renews such license, a provisional license shall expire two  
25 years after the date of issuance. If the commissioner renews a  
26 provisional license, the licensee shall pay a five-hundred-dollar  
27 (\$500) renewal fee.

28 (e) The commissioner may request reports and documents and  
29 may audit the provisional licensee as needed to further consumer  
30 protection and enhance safety and soundness.

31 (f) A provisional licensee shall notify the commissioner within  
32 15 days of surpassing the threshold in subdivision (a) and shall,  
33 within 30 days from that notice, apply for a license pursuant to  
34 Chapter 2 (commencing with Section 26002).

35 (g) A provisional license may be suspended or revoked pursuant  
36 to Section 26017.

37  
38 CHAPTER 6. OPERATIVE DATE

39  
40 26040. This division shall become operative on July 1, 2016.

1     SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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