

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2891

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2891, with committee amendments.

As amended, this bill, the “Digital Asset and Blockchain Technology Act,” regulates digital asset business activity. The bill defines “digital asset” to mean a representation of economic, proprietary, or access rights that is stored in a machine-readable format, has a transaction history that is recorded in a distributed, digital ledger or digital data structure in which consensus is achieved through a mathematically verifiable process. Examples of digital assets include digital consumer assets, digital securities, and virtual currency.

The bill provides that a person may not engage in a digital asset business activity, or hold itself out as being able to engage in a digital asset business activity, with or on behalf of a resident unless the person is licensed in this State by the Department of Banking and Insurance (department), or has filed a pending license with the department, or licensed in another state to conduct digital asset business activity by a state with which this State has a reciprocity agreement.

The bill provides the department may license a person to carry on one or more digital asset business activities described in the bill.

The bill provides that a person who violates the provisions requiring licensure is liable for a penalty of \$500 per day, from the first day the department issues a notice of failure to apply a license until a license application is filed with the department.

The bill provides that an application for a license is to be made in the form and medium to be prescribed by the department by regulation. Each application is to be accompanied by a nonrefundable fee.

Applicants are to provide certain information relevant to the applicant’s proposed digital asset business activity. The bill provides that no license may be issued by the department to an individual who has, within the five years preceding the submission of an application for a license, been convicted of embezzlement, forgery, fraud, or theft.

The bill provides that a person licensed by another state to engage in digital asset business activity in that state may engage in digital asset business activity with or on behalf of a resident of New Jersey to the same extent as a licensee if certain criteria are met pursuant to the bill.

The bill requires the department to grant or deny any digital asset business license application or license reciprocity application within 30 days of its receipt. The department may refuse an application for a digital asset business license or license reciprocity application if a licensee or applicant fails to meet certain standards specified in the bill.

Licensees are required to submit a renewal report that contains an update of all information required at initial licensing and a description of certain information described in the bill.

The bill provides that the department may audit any digital asset business licensee. The department may suspend or revoke a digital asset business license upon certain findings that are provided in the bill.

Under the bill, any denial, suspension, or revocation of a license, or warning notice issued by the department, is to prominently indicate that a right of appeal is available. A licensee or prospective licensee that is aggrieved by a decision of the department may appeal the decision by filing a request for a hearing before the Office of Administrative Law.

The bill requires the terms and conditions of a digital asset business involving a consumer's account to be disclosed at the time the consumer contracts for a digital asset business service. The disclosure is to be full and complete, contain no material misrepresentations, be in readily understandable language and may include, as appropriate and to the extent applicable, certain information concerning fees and charges, risks to the consumer, and any protections or securities that are in place.

The disclosures required by the bill are to be displayed and individually agreed to by a consumer before any digital asset transaction at an electronic kiosk. Any fee to be charged is required to be displayed and individually agreed to by a consumer before any digital asset transaction or digital asset balance inquiry at an electronic kiosk.

Under the bill, for purposes of calculating net gains or income and dividends pursuant to State law, gross income does not include certain income or dividends.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- 1) remove a provision allowing the Department of Banking and Labor to waive certain information requirements of applicants for licenses under the bill;

2) provide that no license may be issued by the department to an individual who has, within the five years preceding the submission of an application for a license, been convicted of embezzlement, forgery, fraud, or theft; and

3) change the period in which a licensee must maintain a record of all client transactions from not less than one year from the date the transaction occurred to not less than six years from that date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will increase annual State revenue and annual State expenditures by indeterminate amounts, which may or may not offset one another. The OLS cannot quantify the annual increases because it is unclear how many applications for licenses the Department of Banking and Insurance (DOBI) will receive, the number of penalties that will be imposed by DOBI on individuals violating the provisions of the bill, and whether any administrative costs incurred by DOBI can be absorbed within the department's current operational budget.