

[Third Reprint]

SENATE, No. 3132

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

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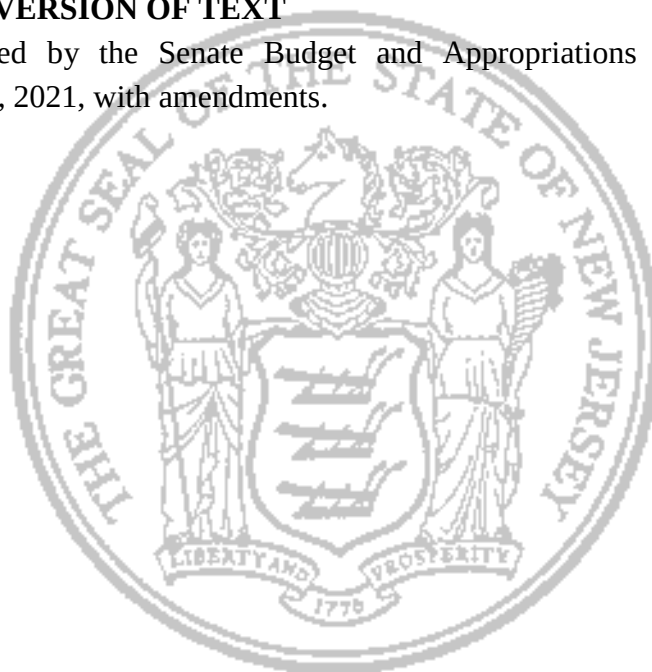
Senator Greenstein

SYNOPSIS

“Digital Asset and Blockchain Technology Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 16, 2021, with amendments.



(Sponsorship Updated As Of: 12/20/2021)

1 AN ACT concerning digital assets and blockchain technology,
 2 ²amending P.L.2005, c.199,² and supplementing Title 17 of the
 3 Revised Statutes and chapter 6 of Title 54A of the New Jersey
 4 Statutes.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. This act shall be known and may be cited as the “Digital
 10 Asset and Blockchain Technology Act.”

11
 12 2. ²“Agent” means a separate business entity from the principal
 13 that the principal authorizes, through a written agreement or
 14 otherwise, to sell its instruments or, in the case of funds
 15 transmission, to sell its send and receive transfer services.²

16 “Control” means the ownership of, or the power to vote, 25
 17 percent or more of the outstanding voting interest of a licensee or
 18 controlling person. For purposes of determining the percentage of a
 19 licensee controlled by any person, there shall be aggregated with
 20 the person’s interest the interest of any other person controlled by
 21 that person or by any spouse, parent, or child of that person.

22 “Controlling person” means any person in control of a licensee.

23 “Department” means the Department of Banking and Insurance.

24 “Digital asset” means a representation of economic, proprietary,
 25 or access rights that is stored in a machine-readable format, has a
 26 transaction history that is recorded in a distributed, digital ledger or
 27 digital data structure in which consensus is achieved through a
 28 mathematically verifiable process, and includes digital consumer
 29 assets¹ [, digital securities,¹ and virtual currency. ³ ¹“Digital
 30 asset” shall not include securities subject to regulation by the
 31 Bureau of Securities in the Division of Consumer Affairs in the
 32 Department of Law and Public Safety, whether in digital form or
 33 otherwise. ¹] “Digital asset” shall not include securities, whether in
 34 digital form or otherwise, as defined pursuant to subsection m. of
 35 section 2 of P.L.1967, c.93 (C.49:3-49), or as defined pursuant to
 36 paragraph (1) of subsection (a) in the federal “Securities Act of
 37 1933,” 15 U.S.C. s.77b(a)(1), or paragraph (10) of subsection (a) of
 38 the federal “Securities Exchange Act of 1934,”
 39 15 U.S.C. s.78c(a)(10).³

40 “Digital asset business” means a business that engages in the
 41 activities listed in subsection b. of section 3 of this act.

42 “Digital consumer asset” means a digital asset that is used or
 43 bought primarily for consumptive, personal, or household purposes

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 13, 2021.

²Senate SBA committee amendments adopted December 6, 2021.

³Senate SBA committee amendments adopted December 16, 2021.

1 and includes any other digital asset that does not fall within the
2 ¹~~terms digital security or~~ term¹ virtual currency.

3 ¹~~“Digital security” means a digital asset that provides an~~
4 ~~interest or participation in any profit-sharing agreement, but shall~~
5 ~~not include a digital consumer asset or virtual currency.~~¹

6 ²~~“Executive officer” means the licensee’s president, chairman~~
7 ~~of the executive committee, senior officer responsible for the~~
8 ~~licensee’s business in this State, chief financial officer, and any~~
9 ~~other person who performs similar functions.~~²

10 “Issuing” means being the person who has authority over the
11 initial creation and dissemination of a digital asset.

12 ²~~“Key individual ” means any individual ultimately responsible~~
13 ~~for establishing or directing policies and procedures of the licensee,~~
14 ~~such as the licensee’s president, chairperson of the executive~~
15 ~~committee, senior officer responsible for the business of the~~
16 ~~licensee in the State, chief financial officer, an executive manager,~~
17 ~~director, trustee and any other person who performs similar~~
18 ~~functions.~~²

19 “Licensee” means a person licensed under this act or an applicant
20 for licensure under this act.

21 ²~~“Nationwide Multistate Licensing System” means the licensing~~
22 ~~system owned and operated by the State Regulatory Registry LLC,~~
23 ~~a wholly-owned subsidiary of the Conference of State Bank~~
24 ~~Supervisors, which functions as a system of record for non-~~
25 ~~depository, financial services licensing or registration in~~
26 ~~participating state agencies, including the District of Columbia and~~
27 ~~the United States Territories of Puerto Rico, the US Virgin Islands,~~
28 ~~and Guam, where it is the official system for companies and~~
29 ~~individuals seeking to apply for, amend, renew, and surrender~~
30 ~~license authorities.~~²

31 “Resident” means a person that is: domiciled in New Jersey;
32 physically located in New Jersey for more than 183 days of the
33 previous 365 days; or a limited partnership, limited liability
34 partnership, limited liability company, or corporation formed or
35 incorporated in New Jersey.

36 “Responsible individual” means an individual who has
37 managerial authority with respect to a licensee’s digital asset
38 business activity with or on behalf of a resident.

39 “Transmission” means to engage in the business of receiving
40 monetary value for transmission to a location inside or outside of
41 the United States by any means, including, but not limited to, wire,
42 facsimile, or electronic transfer.

43 “Virtual currency” means a digital asset that is used as a medium
44 of exchange, unit of account, or store of value, and is not
45 recognized as legal tender by the United States government.

1 3. a. A person shall not engage in a digital asset business
2 activity, or hold itself out as being able to engage in a digital asset
3 business activity, with or on behalf of a resident unless the person is
4 ²]:

5 (1) ¹ licensed in this State by the department, or has filed a
6 pending license with the department²; or

7 (2) licensed in another state to conduct digital asset business
8 activity by a state with which this state has a reciprocity
9 agreement¹.

10 b. The department may license a person to carry on one or
11 more of the following digital asset business activities:

12 (1) receiving a digital asset for transmission or transmitting a
13 digital asset, except where the transaction is undertaken for non-
14 financial purposes and does not involve the transfer of more than a
15 nominal amount of a digital asset;

16 (2) storing, holding, or maintaining custody of a digital asset on
17 behalf of others, exempting all custodians otherwise regulated as a
18 bank, trust, broker-dealer, or ²[financial institution] credit union²
19 in any state or by the United States², or money transmitter licensed
20 in this State²;

21 (3) buying and selling digital assets as a customer business;

22 (4) performing exchange services of digital assets as a customer
23 business;

24 (5) issuing a digital asset; or

25 (6) borrowing or lending of, or facilitating the borrowing or
26 lending of, customer digital assets.

27 c. A person who violates this section shall be liable for a
28 penalty of \$500 per day, from the first day the department issues a
29 notice of failure to apply a license until a license application is filed
30 with the department.

31
32 4. a. An application for a license under this act shall be
33 ¹submitted through the Nationwide Multistate Licensing System¹
34 made in the form and medium to be prescribed by the department by
35 regulation ², utilizing the Nationwide Multistate Licensing System ².
36 The department shall require each application to be accompanied by a
37 nonrefundable fee.

38 b. An applicant shall provide the following information relevant
39 to the applicant's proposed digital asset business activity:

40 (1) the legal name of the applicant, each current or proposed
41 business address of the applicant, and any fictitious or trade name the
42 applicant uses or plans to use in conducting its digital asset business
43 activity with or on behalf of a resident;

44 (2) the legal name, any former or fictitious name, and the
45 residential and business address of each executive officer and
46 responsible individual of the applicant, and each controlling person of
47 the applicant;

- 1 (3) a concise description of the current and former business of the
2 applicant for the five years before the application is submitted or if the
3 business has operated for less than five years, for the time the business
4 has operated, including its products and services ²and the digital asset
5 business services that the applicant seeks to provide in this State²;
- 6 (4) the name, address, and telephone number of a person who
7 manages each server the applicant expects to use in conducting its
8 digital asset business activity with or on behalf of a resident;
- 9 (5) a list of ²all other states in which the applicant is licensed to
10 engage in the digital asset business and² any license revocation,
11 license suspension, or other disciplinary action taken against the
12 licensee in another state and any license applications rejected by
13 another state;
- 14 (6) a list of any criminal conviction, deferred prosecution
15 agreement, and pending criminal proceeding in any jurisdiction against
16 the applicant, any executive officer, responsible individual, and
17 controlling person of the applicant, and each person over which the
18 applicant has control;
- 19 (7) a list of any litigation, arbitration, or administrative proceeding
20 in any jurisdiction in which the applicant, or an executive officer,
21 responsible individual, or controlling person of the applicant has been
22 a party to for the five years before the application is submitted,
23 determined to be material in accordance with generally accepted
24 accounting principles and, to the extent the applicant would be
25 required to disclose the litigation, arbitration, or administrative
26 proceeding in the applicant's audited financial statements, reports to
27 equity owners, and similar statements or reports;
- 28 (8) a list of any bankruptcy or receivership proceeding in any
29 jurisdiction for the 10 years prior to the application's submission in
30 which the applicant, any executive officer, responsible individual, or
31 controlling person of the applicant, or person over which the applicant
32 has control, was a debtor;
- 33 (9) the United ¹**[State]** States¹ Postal Service address and
34 electronic mail address to which communications from the department
35 may be sent;
- 36 (10) the name, United ¹**[State]** States¹ Postal Service address, and
37 electronic mail address of the registered agent of the applicant in this
38 State, if applicable;
- 39 (11) a copy of any certificate of coverage for each liability,
40 casualty, business-interruption, or cyber-security insurance policy
41 maintained by the applicant for itself or the applicant's users;
- 42 (12) ²a description of the structure or organization of the
43 applicant, including any parent or subsidiary of the applicant, and
44 whether any parent or subsidiary is publicly traded;
- 45 (13)² if applicable, the date on which and the state in which the
46 applicant is formed, and a copy of a current certificate of good
47 standing issued by that state;

1 ²[(13)] (14)² policies and procedures to be adopted by the
2 applicant to meet any obligations required by anti-money laundering
3 and anti-terror financing laws;

4 ²[(14)] (15) a copy of the applicant's audited financial statements
5 for the most recent fiscal year and, if available, for the two-year period
6 next preceding the submission of the application;

7 (16) a copy of the applicant's unconsolidated financial statements
8 for the current fiscal year, whether audited or not, and if available, for
9 the two-year period next preceding the submission of the application;

10 (17)² if a corporation has control of the applicant and the
11 corporation's equity interests are publicly traded in the United States, a
12 copy of the audited financial statement of the corporation for the most
13 recent fiscal year or most recent report of the corporation filed under
14 section 13 of the "Securities Exchange Act of 1934," 15 U.S.C. s.78m;

15 ²[(15)] (18)² if a corporation has control of the applicant and the
16 corporation's equity interests are publicly traded outside the United
17 States, a copy of the audited financial statement of the corporation for
18 the most recent documentation similar to that required in paragraph
19 ²[(14)] (17)² of this subsection, filed with the foreign regulator in the
20 domicile of the corporation; ²[and

21 (16)] (19)² if available, for each executive officer, responsible
22 individual, or controlling person of the applicant, for the three years
23 before the application is submitted, the employment history, and the
24 history of any ²[investigation of] enforcement action against² the
25 individual or legal proceeding to which the individual was a party ²;

26 (20) a sample form of receipt for transactions that involve money
27 received for the digital asset business;

28 (21) disclosure of who maintains control, ownership or access to
29 any private key related to a digital assets consumer's account and
30 information where the private key is held and the manner in which the
31 private key is held; and

32 (22) a list of all agents authorized to represent or conduct business
33 on behalf of the digital asset business² .

34 c. At the time of application and within 45 days after the end of
35 each calendar quarter, each digital asset business shall file with the
36 department in writing a list of all agents that have been added or
37 terminated by the licensee, if any. The list shall include the name and
38 business address of each location.

39 d. The department may conduct a criminal history records check of
40 the applicant, any controlling persons, executive officers, and
41 responsible individuals of the applicant and require the applicant to
42 submit the fingerprints of those persons as part of the application. The
43 department is authorized to exchange fingerprint data with and receive
44 criminal history record information from the State Bureau of
45 Identification in the Division of State Police and the Federal Bureau of
46 Investigation consistent with applicable State and federal laws, rules
47 and regulations, for the purposes of facilitating determinations

1 concerning licensure eligibility for the applicant, any controlling
2 persons, executive officers, and responsible individuals of the
3 applicant. The applicant shall bear the cost for the criminal history
4 record background check, including all costs of administering and
5 processing the check. The Division of State Police shall promptly
6 notify the department in the event any person who was the subject of a
7 criminal history record background check pursuant to this section, is
8 arrested for a crime or offense in this State after the date the
9 background check was performed, whether the person is a prospective
10 new licensee, or subsequently, a current license holder.

11 e.² ¹For good cause, the department may waive any information
12 required pursuant to subsection b. of this section, and may permit an
13 applicant to submit other information instead of the required
14 information.] No license shall be issued by the department to an
15 individual who has, within the five years preceding the submission of
16 an application for a license, been convicted of embezzlement, forgery,
17 fraud, or theft.¹

18
19 ²[5. A person licensed by another state to engage in digital asset
20 business activity in that state may engage in digital asset business
21 activity with or on behalf of a resident to the same extent as a
22 licensee if:

23 (1) the department determines that the state in which the person
24 is licensed has in force laws regulating digital asset business
25 activity that are substantially similar to, or more protective of users
26 than, this act; and

27 (2) the person submits to the department ¹through the
28 Nationwide Multistate Licensing System¹:

29 (a) a notice containing a statement that the person will rely on
30 reciprocal licensing; a copy of the license to conduct digital asset
31 business activity issued by the other state;

32 (b) a nonrefundable reciprocal license fee, to be determined by
33 the department by regulation;

34 (c) a certification of license history from the agency
35 responsible for issuing the license to conduct digital asset business
36 activity in the other state; and

37 (d) a certification signed by the executive officer of the
38 applicant affirming that the applicant shall conduct its digital asset
39 business activity with or on behalf of a resident in compliance with
40 this act.²

41
42 ²[6.] 5.² a. The department shall grant or deny any digital
43 asset business license application ²for license reciprocity
44 application]² within ²[30] 120² days of ²[its receipt] completed
45 application².

46 b. The department may refuse an application for a digital asset
47 business license or license reciprocity application if:

- 1 (1) the application is incomplete in a material respect;
- 2 (2) the application includes false, misleading, or inaccurate
- 3 information; ²**[or]**²
- 4 (3) any applicant ²**[or principal]** , controlling person, key
- 5 individual, or responsible individual² of an applicant has engaged in
- 6 dishonest or unethical practices in a digital asset business or in the
- 7 securities commodities, banking, insurance, or investment advisory
- 8 business²; or
- 9 (4) Any material aspect of the license application as represented
- 10 by the application requirements contained in section 4 of this act².
- 11 c. A license issued pursuant to this act shall not be
- 12 transferrable or assignable.
- 13
- 14 ²**[7.] 6.**² a. A licensee may apply for an annual renewal of a
- 15 license by:
- 16 (1) paying a renewal fee in an amount determined by the
- 17 department pursuant to regulation;
- 18 (2) submitting to the department ¹through the Nationwide
- 19 Multistate Licensing System¹ the renewal report required pursuant
- 20 to subsection b. of this section.
- 21 b. A license renewal report required pursuant to this section
- 22 shall be submitted in a form and medium prescribed by the
- 23 department by regulation. The report shall contain an update of all
- 24 information required at initial licensing and a description of any:
- 25 (1) material change in the financial condition of the licensee;
- 26 (2) material litigation involving the licensee or an executive
- 27 officer, responsible individual, or controlling person of the licensee;
- 28 (3) license suspension or revocation proceeding commenced, or
- 29 other action taken, involving a license to conduct digital asset
- 30 business activity issued by another state on which reciprocal
- 31 licensing is based;
- 32 (4) federal or state ²**[investigation]** action² involving the
- 33 licensee;
- 34 (5) material change in the business of the licensee; and
- 35 (6) changes to the executive officers of the licensee.
- 36 c. ²**[The** department shall send the licensee a notice that an
- 37 annual renewal is soon to be due. The notice shall be sent by
- 38 regular mail and electronic mail between 30 and 60 days before the
- 39 annual renewal is due. If a renewal is not filed within 15 days of
- 40 the date that the annual renewal is due, the department shall send a
- 41 second notice by regular mail and electronic mail notifying that
- 42 licensee that its license shall be suspended if a renewal is not filed
- 43 by the 30th day after the annual renewal is due.
- 44 d.² If a license is suspended for failure to file an annual
- 45 renewal, the license shall be reinstated if the licensee files a renewal

1 report and pays a fee, in an amount determined by the
2 ²**[commissioner]** department² pursuant to regulation.

3
4 ²**[8.] 7.**² a. ²**[The** department may audit any digital asset
5 business licensee.

6 b.]² The department may suspend or revoke a digital asset
7 business license upon finding that:

8 (1) the department has been provided with false, misleading, or
9 inaccurate information by or on behalf of the licensee;

10 (2) the clients of a licensee have been provided with false,
11 misleading, or inaccurate information by or on behalf of the
12 licensee;

13 (3) any ²**[principal]** controlling person, responsible individual,
14 key individual,² or agent of a licensee has engaged in dishonest or
15 unethical practice in a digital asset business or in the securities,
16 commodities, banking, insurance, or investment advisory business;

17 (4) the licensee fails to provide documents requested by the
18 department; ²**[or]**²

19 (5) the licensee fails to renew its license²; or

20 (6) the licensee fails safety and soundness as prescribed by the
21 department² .

22 c. The department may provide a warning notice to a licensee
23 if the department suspects that a condition permitting suspension or
24 revocation has occurred.

25 d. Any warning notice, suspension, or revocation issued by the
26 department shall state the reasons for which it is given.

27 e. The department may issue general guidance to industry
28 participants on how to best protect the interests of clients.

29 ²**f.** (1) Whenever it appears to the department that any person
30 has violated, is violating or is about to violate any of the provisions
31 of this act, or any regulation adopted pursuant to this act, or any
32 licensee or any owner, director, officer, member, partner,
33 shareholder, trustee, employee or agent of a licensee has committed
34 any fraud, engaged in dishonest activities or made any
35 misrepresentation, the department may bring a civil suit in a court
36 of competent jurisdiction to enjoin the violation or potential
37 violation, seek civil penalties pursuant to paragraph (2) of this
38 subsection, or both.

39 (2) Any person who violates any provision of this act shall be
40 liable, in a civil action brought by the department in a court of
41 competent jurisdiction, for a penalty of not more than \$10,000 for
42 the first violation, and \$20,000 for the second and each subsequent
43 offense. The penalty shall be paid to the department to be used in
44 accordance with this act and shall be collected pursuant to the
45 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-
46 10 et seq.). The court shall also award court costs and reasonable
47 attorneys' fees to the department.

1 g. Each licensee shall maintain and enforce confidential,
2 written compliance policies, including policies with respect to anti-
3 fraud, anti-money laundering, cyber security, privacy and
4 information security, which shall be reviewed and approved by the
5 licensee's board of directors or an equivalent governing body.²

6
7 ²[9.] 8.² Any denial, suspension, or revocation of a license, or
8 warning notice issued by the department shall prominently indicate
9 that a right of appeal is available. A licensee or prospective
10 licensee which is aggrieved by a decision of the department may
11 appeal the decision by filing a request for a hearing before the
12 Office of Administrative Law.

13
14 ²[10.] 9.² a. (1) A licensee shall provide to the department in a
15 reasonable amount of time any document relating to the operations
16 of the licensee upon receiving a written request from the
17 department.

18 (2) Any notice requiring the production of documents pursuant
19 to this section shall include the reasons for which it is given.

20 b. A licensee shall give written notice to the department within
21 five days if there are any changes in the identities of the licensee's
22 executive officers, responsible individuals, or controlling persons.

23 c. A ¹[license] licensee¹ shall maintain a record of all client
24 transactions for a period of not less than ¹[one year] six years¹
25 from the date the transaction occurred.

26
27 ²[11.] 10.² a. The terms and conditions of a digital asset
28 business involving a consumer's account shall be disclosed ²as part
29 of establishing a relationship with a customer and prior to entering
30 into an initial transaction with the customer² at the time the
31 consumer contracts for a digital asset business service. A
32 disclosure shall be full and complete, contain no material
33 misrepresentations, be in readily understandable language and may
34 include, as appropriate and to the extent applicable:

35 (1) a schedule of fees and charges the licensee may assess, the
36 manner by which fees and charges will be calculated if they are not
37 set in advance and disclosed, and the timing of the fees and charges;

38 (2) whether a consumer's account is protected by the Federal
39 Deposit Insurance Corporation;

40 (3) whether there is support for forked networks of each digital
41 asset;

42 (4) that investment in digital assets is volatile and subject to
43 market loss;

44 (5) that investment in digital assets may result in total loss of
45 value;

46 (6) that legal, legislative and regulatory changes may impair the
47 value of digital assets;

- 1 (7) that consumers should perform research before investing in
2 digital assets;
- 3 (8) that transfers of digital assets are irrevocable, if applicable;
- 4 (9) how liability for an unauthorized, mistaken or accidental
5 transfer shall be apportioned;
- 6 (10) that digital assets are not legal tender in any jurisdiction;
- 7 (11) that digital assets may be subject to cyber theft or theft and
8 become unrecoverable;
- 9 ²[(12) who maintains control, ownership and/or access to any
10 private key related to a digital assets consumer's account;
- 11 (13)] (12)² that losing private key information may result in
12 permanent total loss of access to digital assets;
- 13 ²[(14)] (13)² under what circumstances the digital asset business
14 will in the ordinary course of business disclose information
15 concerning the consumer's account to third parties; and
- 16 ²[(15)] (14)² any other material investment risks.
- 17 b. All disclosures required by this act shall be displayed and
18 individually agreed to by a consumer before any digital asset
19 transaction at an electronic kiosk. Any fee to be charged shall be
20 displayed and individually agreed to by a consumer before any
21 digital asset transaction or digital asset balance inquiry at an
22 electronic kiosk.
- 23 c. A licensee ²[or registrant]² that has custody of digital assets
24 for one or more persons shall maintain in its custody an amount of
25 each type of digital assets sufficient to satisfy the aggregate
26 entitlements of the persons to the type of digital asset.
- 27 d. ²Each licensee shall establish and maintain written policies
28 and procedures to fairly and timely resolve customer complaints.
- 29 e. Each licensee shall provide, in a clear and conspicuous
30 manner, on its website or websites, and in all physical locations the
31 following disclosures:
- 32 (1) the licensee's mailing address, e-mail address, and telephone
33 number for the receipt of complaints;
- 34 (2) a statement that the complainant may also bring a complaint
35 to the attention of the department; and
- 36 (3) the department's mailing address, website, and telephone
37 number.
- 38 f.² The department may audit a licensee's compliance with this
39 section.
- 40
- 41 ²11. Authority of department.
- 42 a. The department shall have the authority to conduct
43 investigations and examinations as follows:
- 44 (1) for purposes of initial licensing, license renewal, license
45 suspension, license conditioning, license revocation or termination,
46 or general or specific inquiry or investigation to determine
47 compliance with this act, the department may access, receive and

1 use any books, accounts, records, files, documents, information or
2 evidence including, but not limited to:

3 (a) criminal, civil and administrative history information;
4 (b) financial statements and any other records of financial
5 condition of the licensee, any control person of the licensee, and
6 any business entity exerting control over the licensee;
7 (c) personal history and experience information, including
8 independent credit reports obtained from a consumer reporting
9 agency described in section 603(p) of the “Fair Credit Reporting
10 Act” ³[(15 U.S.C. s.1681a(p))] 15 U.S.C. s.1681a(p)³; and
11 (d) any other documents, information or evidence the
12 department deems relevant to the inquiry or investigation regardless
13 of the location, possession, control or custody of the documents,
14 information or evidence; and

15 (2) for the purposes of investigating violations or complaints
16 arising under this act, or for the purposes of examination, the
17 department may review, investigate, or examine any digital asset
18 business licensee or person subject to this act as often as necessary
19 in order to carry out the purposes of this act. The commissioner may
20 direct, subpoena, or order the attendance of and examine under oath
21 all persons whose testimony may be required about digital assets,
22 digital consumer assets, virtual currency or the business or subject
23 matter of any examination or investigation, and may direct,
24 subpoena or order the person to produce books, accounts, records,
25 files and any other documents the department deems relevant to the
26 inquiry.

27 b. A digital asset business licensee or any person subject to this
28 act shall make or compile reports or prepare other information as
29 directed by the department in order to carry out the purposes of this
30 section including accounting compilations, information lists and
31 data concerning digital asset, digital consumer asset, or virtual
32 currency transactions in a format prescribed by the commissioner or
33 any other information the department deems necessary to carry out
34 the purposes of this act.

35 c. In making an examination or investigation authorized by this
36 section, the department may control access to any documents and
37 records of the digital asset business or person under examination or
38 investigation. The commissioner may take possession of the
39 documents and records or place a person in exclusive charge of the
40 documents and records in the place where they are usually kept.
41 During the period of control, no person shall remove or attempt to
42 remove any of the documents and records except pursuant to a court
43 order or with the consent of the department. Unless the
44 commissioner has reasonable grounds to believe the documents or
45 records of the digital asset business or person have been, or are at
46 risk of being, altered or destroyed for purposes of concealing a
47 violation of this act, the digital asset business or owner of the

1 documents and records shall have access to the documents or
2 records as necessary to conduct its ordinary business affairs.

3 d. For purposes of conducting the authority of the department,
4 addition of required resources as follows: 4 examiners, 2 licensing
5 investigators and 2 enforcement investigators.²

6
7 ²12. a. Notwithstanding any other provision of law, all
8 information or reports obtained by the department from an
9 applicant, licensee or agent, whether obtained through reports,
10 applications, examinations, audits, investigations, or otherwise,
11 including, but not limited to: (1) all information contained in or
12 related to examination, investigation, operating, or condition reports
13 prepared by, or on behalf of, or for the use of the department; or (2)
14 financial statements, balance sheets, or authorized delegate
15 information, are confidential and may not be disclosed or
16 distributed outside the department by the department or any officer
17 or employee of the department. The department, however, may
18 provide for the release of information to representatives of state or
19 federal agencies and foreign countries having regulatory or
20 supervisory authority over the activities of the licensee or similar
21 licensees if those representatives, upon request of the
22 commissioner, disclose similar information respecting those
23 licensees under their regulation or supervision, or to those
24 representatives who state in writing under oath that they shall
25 maintain the confidentiality of that information.

26 b. The department may:

27 (1) disclose the fact of filing of applications with the department
28 pursuant to this act, give notice of a hearing, if any, regarding those
29 applications, and announce an action thereon;

30 (2) disclose final decisions in connection with proceedings for
31 the suspension or revocation of licenses issued pursuant to this act;

32 (3) prepare and circulate reports reflecting the assets and
33 liabilities of digital asset businesses in general, including other
34 information considered pertinent to the purpose of each report for
35 general statistical information; and

36 (4) prepare and circulate reports as provided by law.

37 c. Every official report of the department is prima facie
38 evidence of the facts therein stated in any action or proceeding
39 wherein the department is a party.

40 d. Nothing in this section shall be construed to prevent the
41 disclosure of information that is admissible in evidence in any civil
42 or criminal proceeding brought by or at the request of the
43 department or this State to enforce or prosecute violations of this
44 act or the rules, regulations or orders issued or promulgated
45 pursuant to this act.²

1 ²13. Section 2 of P.L.2005, c.199 (C.17:1C-34) is amended to
2 read as follows:

3 2. For the purposes of this act:

4 "Assessment" means the assessment imposed pursuant to section
5 3 of this act for the special functions of the division as provided in
6 that section.

7 "Commissioner" means the Commissioner of Banking and
8 Insurance.

9 "Department" means the Department of Banking and Insurance.

10 "Depository institution" means any entity holding a state charter
11 for a bank, savings bank, savings and loan association or credit
12 union, irrespective of whether the entity accepts deposits.

13 "Division" means the Division of Banking in the Department of
14 Banking and Insurance.

15 **["Nationwide Mortgage Licensing System and Registry"** means
16 the mortgage licensing system developed and maintained by the
17 Conference of State Bank Supervisors and the American
18 Association of Residential Mortgage Regulators, or their
19 successors, and utilized in this State pursuant to the provisions of
20 the "New Jersey Residential Mortgage Lending Act," sections 1
21 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).**】**

22 "Nationwide Multistate Licensing System" means the licensing
23 system owned and operated by the State Regulatory Registry, LLC,
24 a wholly-owned subsidiary of the Conference of State Bank
25 Supervisors, which functions as a system of record for non-
26 depository, financial services licensing or registration in
27 participating state agencies, including the District of Columbia and
28 the United States Territories of Puerto Rico, the US Virgin Islands,
29 and Guam, where it is the official system for companies and
30 individuals seeking to apply for, amend, renew, and surrender
31 license authorities.

32 "Other financial entity" means a person who is licensed or
33 registered pursuant to: the "New Jersey Consumer Finance
34 Licensing Act," sections 1 through 49 of P.L.1996, c.157
35 (C.17:11C-1 et seq.); the "New Jersey Residential Mortgage
36 Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-
37 51 et seq.), other than a financial entity with respect to the payment
38 of required fees to the Nationwide **【Mortgage】** Multistate Licensing
39 System **【and Registry】** as set forth by that nationwide system and
40 registry; "The Check Cashers Regulatory Act of 1993," P.L.1993,
41 c.383 (C.17:15A-30 et seq.); the "New Jersey Money Transmitters
42 Act," P.L.1998, c.14 (C.17:15C-1 et seq.); the "Insurance Premium
43 Finance Company Act," P.L.1968, c.221 (C.17:16D-1 et seq.); the
44 "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1
45 et seq.); the "Door-to-Door Retail Installment Sales Act of 1968,"
46 P.L.1968, c.223 (C.17:16C-61.1 et seq.); the "Home Repair
47 Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); the "Door-to-

1 Door Home Repair Sales Act of 1968," P.L.1968, c.224 (C.17:16C-
 2 95 et seq.); P.L.1979, c.16 (C.17:16G-1 et seq.); the "Foreclosure
 3 Rescue Fraud Prevention Act," P.L.2011, c.146 (C.46:10B-
 4 53 et al.); the "Mortgage Servicers Licensing Act," P.L.2019, c.65
 5 (C.17:16F-27 et al.); the provisions of P.L.2019, c.200 (C.17:16ZZ-
 6 1 et al.); or the "pawnbroking law," R.S.45:22-1 et seq; or the
 7 "Digital Asset and Blockchain Technology Act"
 8 P.L. , c. (C.) (pending before the Legislature as this bill).

9 "Regulated entity" means a depository institution, other financial
 10 entity or person chartered, licensed or registered by the Division of
 11 Banking or who should be chartered, licensed or registered.²
 12 (cf: P.L.2019, c.200, s.17)

13
 14 ¹**12.** a. Gross income shall not include up to \$1,000 of gains or
 15 income from the sale or exchange of digital assets for other than
 16 legal tender, except that following the first taxable year that this
 17 section is in effect, the \$1,000 limit shall be increased annually
 18 by \$50.

19 b. Gross income shall not include up to \$250 of dividend
 20 distributions in the form of digital assets arising from the ownership
 21 of digital assets, except that following the first taxable year that this
 22 section is in effect, the \$250 limit shall be increased annually by
 23 \$20.

24 c. As used in this section "digital asset" shall mean the same as
 25 that term is defined pursuant to section 1 of P.L. , c. (C.)
 26 (pending before the Legislature as this bill).¹

27
 28 ²**1****13.** ¹**12.** ¹**14.** ² This act shall take effect on the first day of
 29 the ²**fourth** ²sixth month next following enactment, except the
 30 commissioner may take any anticipatory administrative action in
 31 advance as shall be necessary for the implementation of this act.