

GREEN SHEET REDIGEST

HB 802

2022 Regular Session

Wright

COMMERCE: Provides relative to digital assets.

DIGEST

Proposed law defines "custody services", "financial institutions", "self-assessment", "trust company", and "virtual currency".

Proposed law allows a financial institution or trust company to provide virtual currency custodial services, if the financial institution or trust company has adequate protocols in place to effectively manage risk and comply with provisions of present law.

In addition to the protocols required pursuant to proposed law, a financial institution or trust company that provides virtual currency custodial services is required to do all of the following:

- (1) Implement effective risk management systems and controls to measure and monitor relevant risks.
- (2) Confirm that it has adequate insurance coverage for such services.
- (3) Maintain a service provider oversight program.

Proposed law allows a financial institution or trust company, consistent with authority provided through the entity's charter, to provide virtual currency custodial services in a nonfiduciary capacity, and requires a financial institution or trust company acting in such capacity to act as a bailee, taking possession of the customer's assets for safekeeping. The customer retains direct control over the keys associated with his virtual currency, if the financial institution or trust company is operating in a nonfiduciary capacity.

Proposed law allows a financial institution or trust company, consistent with authority provided through the entity's charter, to provide virtual currency custodial services in a fiduciary capacity, and requires a financial institution or trust company acting in such capacity to possess trust powers as provided in present law and to require its customers to transfer their virtual currency to the control of the financial institution or trust company. A financial institution or trust company functioning in this capacity shall have the authority to manage virtual currency assets as it would any other type of asset.

(Adds R.S. 6:1401-1402)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Remove provisions of proposed law relative to certain definitions, the provision of custodial services, written notice, cumulative application, a qualified custodian, prohibited actions, and rulemaking.
2. Define "bank", "custody services", "self-assessment", and "virtual currency".
3. Allow a bank to provide virtual currency custody services if the bank complies with certain requirements provided for in proposed law.
4. Allow a bank to provide virtual currency custody services in a nonfiduciary capacity and places certain requirements on a bank acting in such a capacity.

5. Allow a bank to provide virtual currency custody services in a fiduciary capacity and place certain requirements on a bank acting in such a capacity.
6. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make proposed law applicable to financial institutions and trust companies.
2. Remove all instances of the word "bank" and its corresponding definition.
3. Add a definition for "financial institution" and "trust company".
4. Adds condition that the actions taken by an entity pursuant to proposed law is to be in compliance with the entity's charter.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the bill

1. Amends the definition of "trust company" to include out-of-state trust companies.