

CONFERENCE COMMITTEE REPORT

HB 488

2024 Regular Session

Wright

May 30, 2024

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 488 by Representative Wright, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Committee on Commerce, Consumer Protection and International Affairs (#3246) be adopted.
2. That Senate Floor Amendment Nos. 1 through 10 by Senator Mizell (#3743) be adopted.
3. That Senate Floor Amendment No. 11 by Senator Mizell (#3743) be rejected.
4. That Senate Floor Amendment Nos. 1 through 3 by Senator Coussan (#3860) be adopted.
5. That Senate Floor Amendment No. 4 by Senator Coussan (#3860) be rejected.
6. That the following amendments be adopted:

AMENDMENT NO. 1

In Senate Floor Amendment No. 2 by Senator Mizell (#3743), on page 1, line 7, after "conditions;" insert "to provide for the regulation of digital asset and virtual currency businesses; to change the termination date of the Act;"

AMENDMENT NO. 2

In Senate Floor Amendment No. 5 by Senator Mizell (#3743), on page 1, line 14, change "(10)(a)" to "(10)(a)"

7. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "To" and before "enact" insert "amend and reenact Section 3 of Act No. 331 of the 2023 Regular Session of the Legislature and to"

AMENDMENT NO. 2

On page 5, after line 16, add the following:

"C. Nothing in this Chapter shall restrict, impede, limit, exempt, or prohibit any person, entity, transaction, or conduct from the jurisdiction or application of Louisiana Securities Law, R.S. 51:701, et seq., or any other federal or state securities law.

§1507. Ownership of digital asset mining business by prohibited foreign-party-controlled business; prohibited

A.(1) No prohibited foreign party shall acquire or hold by grant, purchase, devise, descent, or otherwise any interest in a digital asset mining business in this state.

(2) No person shall acquire or hold a digital asset mining business as an agent, trustee, or other fiduciary of a prohibited foreign-party-controlled business.

B.(1) A prohibited foreign-party-controlled business in operation before August 1, 2024, shall have three hundred sixty-five calendar days from August 1, 2024, for the prohibited foreign party to divest all interest in the digital asset mining business.

(2) If a prohibited foreign party fails to divest all interest in the digital asset mining business in accordance with Paragraph (1) of this Subsection, the attorney general may commence an action in a court of competent jurisdiction as provided in Subsection D of this Section.

C. Upon request of a person or upon receipt of information that leads the attorney general to believe that a violation of this Section may exist, the attorney general may conduct an investigation that includes any of the following:

- (1) Receiving sworn statements.
- (2) Issuing subpoenas to compel the testimony of witnesses.
- (3) Issuing subpoenas duces tecum for the production of records and other documents.

D.(1) If, as a result of an investigation, the attorney general concludes that a violation of this Section has occurred, the attorney general may order a prohibited foreign party to divest all interest in the digital asset mining business within three hundred sixty-five calendar days of the order.

(2)(a) If the prohibited foreign party fails to divest all interest in the digital asset mining business within three hundred sixty-five calendar days, the attorney general may commence an action in a court of competent jurisdiction over the digital asset mining business.

(b) Prior to bringing an action pursuant to this Section, the attorney general shall provide written notice to the holder of each mortgage, lien, privilege, UCC-9 security interest, or other encumbrance of the subject property, which is filed in the public records or is perfected. Such notice shall be provided in the same manner as provided in R.S. 40:2608 or R.S. 14:90.1.

(3)(a) If the court finds that a violation of this Section has occurred, the court shall order the digital asset mining business to be sold at a judicial sale in accordance with the procedural requirements of Code of Civil Procedure Article 2331, et seq.

(b) The proceeds of the sale pursuant to this Paragraph shall be disbursed to the lienholders in order of priority. Prior recorded or perfected encumbrances shall have priority over any subsequently awarded remedies, penalties, or damages authorized pursuant to Subparagraphs (4)(a) and (c) and Paragraph (5) of this Subsection.

(c) If the assets of the digital asset mining business include immovable property, the procedures provided for in R.S. 9:2717.1 related to notice and sale of immovable property shall be followed.

(4) The attorney general may pursue other remedies authorized by law in an action brought pursuant to the provisions of this Subsection including but not limited to any of the following:

(a) A civil penalty not to exceed one million dollars or twenty-five percent of the fair market value on the date of the assessment of the civil penalty of the prohibited foreign party's interest in the digital asset mining business for the failure to divest of all interest in the digital asset mining business within three hundred sixty-five calendar days as required by this Section.

(b) Court costs associated with the civil action.

(c) Judicial interest on the amount of a judgment accruing from the date the lawsuit is filed by the attorney general pursuant to Paragraph (2) of this Subsection.

(d) Reasonable attorney fees.

(5) In addition to the remedies provided in Paragraph (4) of this Subsection, the attorney general may pursue damages against a digital asset mining business if

the digital asset mining business is held in violation of this Section by the court, is ordered to pay a civil penalty as provided in Paragraph (4) of this Subsection, and fails to pay the civil penalty imposed.

(6) The approval of a digital asset mining business by a local government or the receipt by a digital asset mining business of a permit or other authorization from the state to operate shall not be a defense to a cause of action brought pursuant to this Section.

E. No mortgage, lien, privilege, or other security interest recognized under the laws of this state and no ownership interest in indivision, lease, servitude, usufruct, right of use, bond for deed, or other real right shall be affected by a divestiture or disposition pursuant to this Section.

F. No attorney, title insurer, title insurance producer, title insurance agency producer, lender, mortgage loan servicer, notary public, real estate agent, real estate broker, seller, or lessor shall have a duty to make any investigation as to whether a party to a transaction involving immovable property is a prohibited foreign party, nor shall any such person be liable for failing to identify that a party to a transaction involving immovable property is a prohibited foreign party.

G. If a prohibited foreign party acquires immovable property despite the prohibitions provided in this Section, the property shall only be subject to divestiture or disposition during the period in which the prohibited foreign party owns the property. Rights in immovable property shall not be void or voidable because the property or right held in the property was previously held by a prohibited foreign party.

Section 2. Section 3 of Act No. 331 of the 2023 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 3. The provisions of this Act shall terminate on July 1, 2025
2027."

Respectfully submitted,

Representative Mark Wright

Senator Beth Mizell

Representative Daryl Andrew Deshotel

Senator John C. "Jay" Morris III

Representative Kim Carver

Senator Jean-Paul P. Coussan

CONFERENCE COMMITTEE REPORT DIGEST

HB 488

2024 Regular Session

Wright

Keyword and oneliner of the instrument as it left the House

COMMERCE: Provides relative to blockchain and digital asset regulation

Report adopts Senate amendments to:

1. Remove certain prohibitions and limitations on political subdivisions and governing authority zoning restrictions.
2. Remove the ability of a digital asset mining business to appeal change in zoning to a court or proper jurisdiction. Further remove that the judge shall find a violation and nullify the change in zoning if the judge determines the change was done to discriminate against a digital asset mining business.
3. Remove limitation on liability related to specific transactions for individuals or entities that merely validate such transactions under certain circumstances.
4. Remove prohibition on digital asset mining businesses to offer a security or investment contract pursuant to present law.
5. Define "interest" and "prohibited foreign party".

Report rejects Senate amendments which would have:

1. Added that nothing in proposed law shall restrict, impede, limit, exempt, or prohibit any person, entity, transaction, or conduct from the jurisdiction or application of present law.
2. Added that no prohibited foreign party shall acquire or hold any interest in a digital asset mining business in the state. Further added that the attorney general may investigate and enforce proposed law.
3. Added that a title to immovable property shall not be deemed invalid due to a violation of proposed law by any former owner of the property.

Report amends the bill to:

1. Add that nothing in proposed law shall restrict, impede, limit, exempt, or prohibit any person, entity, transaction, or conduct from the jurisdiction or application of present law.
2. Add that no prohibited foreign party shall acquire or hold any interest in a digital asset mining business in the state. Further provide for investigation and enforcement of proposed law.
3. Provide certain limitations on divestiture of immovable property. Further limit liability of certain interested parties.
4. Extend the termination date of Act No. 331 of the 2023 Regular, relative to the licensing and regulation of digital asset and virtual currency businesses, from July 1, 2025, to July 1, 2027.

Digest of the bill as proposed by the Conference Committee

Proposed law (R.S. 49:1501) establishes the "Blockchain Basics Act".

Proposed law (R.S. 49:1502) defines "blockchain", "blockchain protocol", "central bank digital currency", "consumer price index", "digital asset", "digital asset mining", "digital asset mining business", "governing authority", "hardware wallet", "home digital asset mining", "interest", "node", "nonfungible token", "prohibited foreign party", "self-hosted wallet", "staking", and "staking as a service".

Proposed law (R.S. 49:1503) prohibits a governing authority from accepting or requiring a payment using central bank digital currency.

Proposed law (R.S. 49:1503) prohibits a governing authority from requiring participation in any test of a central bank digital currency by the federal government.

Proposed law (R.S. 49:1504) provides that no governing authority shall prohibit, restrict, or impair an individual's ability to use digital assets to purchase goods and services.

Proposed law (R.S. 49:1505) provides for the establishment of digital asset mining businesses in the states.

Proposed law (R.S. 49:1506) provides that a person or entity may operate a node for the purpose of connecting to certain blockchain protocols and transferring digital assets on a blockchain protocol, or to participate in staking on a blockchain protocol.

Proposed law (R.S. 49:1506) permits enforcement by the attorney general for unfair trade practices.

Proposed law (R.S. 49:1506) provides that nothing in proposed law shall restrict, impede, limit, exempt, or prohibit any person, entity, transaction, or conduct from the jurisdiction or application of present law.

Proposed law (R.S. 49:1507(A)) provides that no prohibited foreign party or agent, trustee, or other fiduciary of a prohibited foreign party shall acquire or hold any interest in a digital asset mining business in the state.

Proposed law (R.S. 49:1507(B)) provides that a prohibited foreign-party-controlled business in operation before August 1, 2024, shall have 365 calendar days from August 1, 2024, for the prohibited foreign party to divest all interest in the digital asset mining business.

Proposed law (R.S. 49:1507(C)) provides that the attorney general may conduct an investigation upon request of a person or upon receipt of information that leads the attorney general to believe that a violation of proposed law exists.

Proposed law (R.S. 49:1507(D)) provides the following:

- (1) The attorney general may order a prohibited foreign party to divest all interest in the digital asset mining business within 365 calendar days.
- (2) The attorney general shall provide written notice in accordance with present law to the holder of each mortgage, lien, privilege, encumbrance, or other interest in the property.
- (3) The court may order a judicial sale of certain digital asset mining businesses under certain circumstances.
- (4) The attorney general may pursue other remedies and damages when a digital asset mining business is in violation of proposed law.
- (5) The approval of a digital asset mining business by a local government or authorization from the state to operate shall not be a defense to a cause of action brought pursuant to proposed law.

Proposed law (R.S. 49:1507(E)) prohibits certain mortgage, lien, privilege, or other security interest recognized pursuant to present law and certain ownership interest, lease, servitude, usufruct, right of use, bond for deed, or other real rights from being affected by a divestiture or disposition pursuant to proposed law.

Proposed law (R.S. 49:1507(F)) provides that no attorneys, title insurers, title insurance producers, title insurance agency producers, lenders, lessors and other interested parties shall have a duty to make any investigation as to whether a party to a transaction involving immovable property is a prohibited foreign party, nor shall any such person be liable for failing to identify that a party to a transaction is a prohibited foreign party.

Proposed law (R.S. 49:1507(G)) provides certain conditions for divestiture or disposition during the period in which the prohibited foreign party owns the property.

Present law provides relative to the Virtual Currency Business Act (Act No. 331 of the 2023 R.S.) and provides for the regulation of virtual currency business. Present law further provides that present law shall terminate on July 1, 2025.

Proposed law changes the termination date from July 1, 2025, to July 1, 2027.

(Amends Section 3 of Act No. 331 of the 2023 R.S.; Adds R.S. 49:1501-1507)