
DIGEST

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HB 802 Engrossed

2022 Regular Session

Wright

Abstract: Allows banks to provide custodial services relative to digital access.

Proposed law defines "bank", "custody services", "self-assessment", and "virtual currency".

Proposed law allows a bank to provide virtual currency custodial services, if the bank 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 bank 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 bank to provide virtual currency custodial services in a nonfiduciary capacity, and requires a bank 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 bank is operating in a nonfiduciary capacity.

Proposed law allows a bank to provide virtual currency custodial services in a fiduciary capacity, and requires a bank 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 bank. A bank 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.