

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 802

2022 Regular Session

Wright

COMMERCE: Provides relative to digital assets

Synopsis of Senate Amendments

1. Amends the definition of "trust company" to include out-of-state trust companies.
2. Redefines "financial institution" as a federally insured depository institution chartered pursuant to state law or laws of another state or the U.S.
3. Authorizes a financial institution or trust company to provide virtual currency custody services through third-party service providers.

Digest of Bill as Finally Passed by Senate

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

Proposed law authorizes 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 risks and comply with provisions of proposed law. Further authorizes a financial institution or trust company to provide virtual currency custody services through third-party service providers.

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 authorizes 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 the financial institution or trust company to take possession of the customer's assets for safekeeping while the customer retains direct control over the keys associated with his virtual currency.

Proposed law authorizes 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. Requires a financial institution or trust company acting in such capacity to possess trust powers as provided in present law (R.S. 6:241, 575, and 731). Further requires its customers to transfer their virtual currency to the control of the financial institution or trust company.

Proposed law authorizes a financial institution or trust company functioning in a fiduciary capacity to manage virtual currency assets as it would any other type of asset.

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