

# ACT No. 891

HOUSE BILL NO. 1256 (Substitute for House Bill No. 947 by Representative Mena)

BY REPRESENTATIVE MENA

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AN ACT

To amend and reenact R.S. 9:154(A)(19) and (E), 159(E), and 160(D), and to enact R.S. 9:153(13)(j) and (17) through (22), 154(A)(20) and (F), 160.1 through 160.5, and 164(F), relative to digital assets; to provide for definitions; to establish standards for the custody of unclaimed digital assets presumed abandoned; to provide for a presumption for digital assets; to provide for the delivery of abandoned digital assets to the administrator's custody; to provide for the maintenance of abandoned digital assets by the holder; to provide for the sale or liquidation of abandoned digital assets by the holder, administrator, or third-party contracted by the administrator; to require annual reports by the administrator; to provide for the discontinuance of reports by the administrator; and to provide for an effective date; to authorize the law institute to make changes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:154(A)(19) and (E), 159(E), and 160(D) are hereby amended and reenacted and R.S. 9:153(13)(j) and (17) through (22), 154(A)(20) and (F), 160.1 through 160.5, and 164(F) are hereby enacted to read as follows:

§153. Definitions

As used in this Chapter:

\* \* \*

(13) "Property" means a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government or governmental entity, and all income or increments therefrom. The term includes property that is referred to as or evidenced by the following:

\* \* \*





1 days before filing the report required by this Section, stating that the holder is in  
2 possession of property subject to this Chapter if each of the following applies:

3 ~~(1)~~(a) The holder has in its records an address for the apparent owner that the  
4 holder's records do not disclose to be inaccurate.

5 ~~(2)~~(b) The claim of the apparent owner is not barred by the statute of  
6 limitations.

7 ~~(3)~~(c) The value of the property is fifty dollars or more.

8 (2) If the property is a digital asset, the notice required by Paragraph (1) of  
9 this Subsection shall inform the apparent owner that the property may be liquidated  
10 if the apparent owner does not provide a timely response to the holder.

11 \* \* \*

12 §160. Payment or delivery of abandoned property

13 \* \* \*

14 D. An issuer, the holder, and any transfer agent or other person acting on  
15 behalf of the issuer or holder pursuant to them in accordance with this Section, R.S.  
16 9:160.1, 160.2, 160.3, or 160.4 is not liable to the apparent owner and shall be  
17 indemnified against claims of any person in accordance with R.S. 9:162.

18 §160.1. Digital assets; liquidation order or directive; before report required by R.S.  
19 9:159

20 A.(1) Notwithstanding the provisions of R.S. 9:160, the administrator may  
21 direct or order a digital asset holder to liquidate a digital asset before the date on  
22 which the filing of a report required by R.S. 9:159 for the digital asset is due.

23 (2) Any order or directive issued pursuant to this Subsection shall be  
24 accompanied by the summary required pursuant to R.S. 9:160.4.

25 B. If a digital asset holder receives an order or directive pursuant to  
26 Subsection A of this Section and reasonably believes the digital asset cannot be  
27 liquidated, or the digital asset holder cannot cause the digital asset to be liquidated,  
28 the digital asset holder shall promptly provide the administrator with written notice  
29 stating the reasons why.

1           C. Upon receiving notice pursuant to Subsection B of this Section, the  
2           administrator shall direct the digital asset holder concerning an alternative  
3           disposition of the digital asset.

4           §160.2. Payment or delivery of abandoned digital asset; after receipt of report  
5           required by R.S. 9:159

6           A.(1) If property reported to the administrator is a digital asset, and the  
7           digital asset holder has the ability to transfer the digital asset, the digital asset holder  
8           shall transfer that digital asset, or the control necessary to transfer that digital asset,  
9           to the administrator within thirty days from the date on which that digital asset is  
10          reported.

11          (2) A digital asset holder who delivers a digital asset pursuant to Paragraph  
12          (1) of this Subsection shall provide the administrator, upon request, with a record  
13          evidencing delivery to the administrator's designated custodian.

14          (3) Within thirty days after the date on which the digital asset holder delivers  
15          a digital asset pursuant to Paragraph (1) of this Subsection, the digital asset holder  
16          shall provide the administrator with a reconciliation of the delivered digital asset  
17          with respect to the report filed regarding the digital asset.

18          B. Notwithstanding Paragraph (A)(1) of this Section, if the administrator  
19          determines a reported digital asset cannot be accepted due to any factor or factors in  
20          R.S. 9:160.4, it may direct or order the digital asset holder to sell or otherwise  
21          liquidate the digital asset and deliver the net proceeds to the administrator.

22          C. A digital asset holder is not required to deliver a digital asset in  
23          accordance with Paragraph (A)(1) of this Section if the digital asset holder does not  
24          have the private key or other authority that is necessary to transfer the digital asset.

25          Instead, the digital asset holder described in this Paragraph shall do all the following:

26                 (1) Report the digital asset in accordance with R.S. 9:159.

27                 (2) Maintain the digital asset until the digital asset holder obtains the ability  
28                 to transfer the digital asset.

29                 (3) Determine no less than annually as to whether the digital asset holder has  
30                 obtained the ability to transfer the digital asset.

1                   (4) After obtaining the ability to transfer the digital asset, deliver the digital  
 2                   asset to the administrator at the next reporting cycle.

3                   D. Between receipt of a digital asset in its native form and when R.S.  
 4                   9:160.3(A) is applicable, no digital asset delivered to the administrator in its native  
 5                   form shall be liquidated except when either of the following occurs:

6                   (1) A request is received by a claimant pursuant to R.S. 9:160.3(B).

7                   (2)(a) The digital asset cannot reasonably be maintained in custody by the  
 8                   administrator due to technological, security, or regulatory limitations.

9                   (b) The cost of custody, administration, or security of the digital asset  
 10                  exceeds the value of the digital asset.

11                  §160.3. Disposal of digital assets; liquidation; recovery of value

12                  A. The administrator shall not sell or liquidate a digital asset until three years  
 13                  after the digital asset is received by the administrator.

14                  B. Upon approval of a claim, the claimant may request the administrator to  
 15                  dispose of a digital asset by sale or liquidation and remit the net proceeds to the  
 16                  claimant.

17                  §160.4. Administrator to provide an order or directive to liquidate digital assets

18                  A. Any order or directive issued by the administrator to require a holder of  
 19                  a digital asset to sell or liquidate shall be based upon at least one of the following:

20                  (1) The ability of the administrator to manage digital assets in their native  
 21                  form at the time the report is received.

22                  (2) Whether the reporting file format supports the receipt of digital assets in  
 23                  their native form.

24                  (3) Whether the database management system of the administrator supports  
 25                  digital assets in their native form.

26                  (4) Whether the costs of custody and administration of the reported digital  
 27                  assets in native form would exceed the value of the reported digital assets.

28                  B. Any order or directive issued by the administrator to a digital asset holder  
 29                  to liquidate or sell a digital asset shall include a summary of the factor or factors in  
 30                  Subsection A of this Section that led to the order or directive.



