As Introduced

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Senator Dolan
Cosponsors: Senators Wilson, Huffman, Burke

A B I L L

To amend sections 1306.01, 1306.04, and 1306.06 of the Revised Code to amend the Uniform Electronic Transactions Act to define records and contracts secured by blockchain technology as electronic records and to allow the use of smart contract terms.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1306.01, 1306.04, and 1306.06 of the Revised Code be amended to read as follows:

Sec. 1306.01. As used in sections 1306.01 to 1306.23 of the Revised Code:

(A) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(B) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both
parties are not reviewed by an individual in the ordinary course
in forming a contract, performing under an existing contract, or
fulfilling an obligation required by the transaction.

(C) "Blockchain technology" means distributed ledger
technology that uses a distributed, decentralized, shared, and
replicated ledger, which may be public or private, permissioned
or permissionless, or driven by tokenized crypto economics or
tokenless. The data on the ledger is protected with
cryptography, is immutable and auditable, and provides an
uncensored truth.

(D) "Computer program" means a set of statements or
instructions to be used directly or indirectly in an information
processing system in order to bring about a certain result.

(E) "Contract" means the total legal obligation
resulting from the parties' agreement as affected by sections
1306.01 to 1306.23 of the Revised Code and other applicable law.

(F) "Electronic" means relating to technology having
electrical, digital, magnetic, wireless, optical,
electromagnetic, or similar capabilities.

(G) "Electronic agent" means a computer program or an
electronic or other automated means used independently to
initiate an action or respond to electronic records or
performances in whole or in part, without review or action by an
individual.

(H) "Electronic record" means a record created,
generated, sent, communicated, received, or stored by electronic
means. A record or contract that is secured through blockchain
technology is considered to be in an electronic form and to be
an electronic record.
"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. A signature that is secured through blockchain technology is considered to be in an electronic form and to be an electronic signature.

"Governmental agency" means any executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government, of a state, or of a county, municipality, or other political subdivision of a state.

"Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

"Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying word or
numbers, encryption, or callback or other acknowledgment procedures.

(P) "Smart contract" means an event-driven program that runs on a distributed, decentralized, shared, and replicated ledger and that can take custody over and instruct transfer of assets on that ledger.

(O) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(R) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Sec. 1306.04. (A) Sections 1306.01 to 1306.23 of the Revised Code do not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(B) Sections 1306.01 to 1306.23 of the Revised Code apply only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(C) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this division may not be waived by agreement.
(D) Except as otherwise provided in sections 1306.01 to 1306.23 of the Revised Code, any of the provisions of such sections may be varied by agreement. The presence in certain provisions of sections 1306.01 to 1306.23 of the Revised Code of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(E) Whether an electronic record or electronic signature has legal consequences is determined by sections 1306.01 to 1306.23 of the Revised Code and other applicable law.

(F) Notwithstanding any other law, a person that, in or affecting interstate or foreign commerce, uses blockchain technology to secure information that the person owns or has the right to use retains the same rights of ownership or use with respect to that information as before the person secured the information using blockchain technology. This division does not apply to the use of blockchain technology to secure information in connection with a transaction to the extent that the terms of the transaction expressly provide for the transfer of rights of ownership or use with respect to that information.

Sec. 1306.06. (A) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(B) Smart contracts may exist in commerce. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation or because the contract contains a smart contract term.

(C) If a law requires a record to be in writing, an electronic record satisfies the law.
(D) If a law requires a signature, an electronic signature satisfies the law.

Section 2. That existing sections 1306.01, 1306.04, and 1306.06 of the Revised Code are hereby repealed.