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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

**H.B. 426**  
**136<sup>th</sup> General Assembly**

## Bill Analysis

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**Version:** As Introduced

**Primary Sponsors:** Reps. Williams and Demetriou

Logan Briggs, Attorney

### SUMMARY

- Establishes procedures for digital asset holders to determine if a digital asset is presumed to be abandoned.
- Requires a digital asset holder to report and transfer presumed abandoned digital assets to the Director of Commerce's qualified custodian, if possible.
- Requires the Director of Commerce to designate a qualified custodian for the safekeeping of presumed abandoned digital assets.
- Establishes criteria for the selection of a qualified custodian.
- Directs the qualified custodian to maintain presumed abandoned digital assets for at least two years in their native form.
- Permits the Director of Commerce to sell presumed abandoned digital assets after they have been in the custody of the qualified custodian for at least two years.
- Creates a procedure under which the Director of Commerce may sell presumed abandoned digital assets.
- Requires proceeds from the sale of abandoned digital assets to be deposited into the Unclaimed Funds Trust Fund.
- Excludes from the bill any money or property subject to the Unclaimed Funds Law.
- Excludes from the Unclaimed Funds Law any digital assets subject to the provisions of the bill.

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## DETAILED ANALYSIS

### Unclaimed digital assets

#### Digital assets generally

Under the bill, “digital asset” means any virtual currency, cryptocurrency, native electronic asset like a stablecoin or nonfungible token, and any other digital-only asset that confers economic, proprietary, or access rights or powers. In other words, any digital or virtual property that has economic value is considered a digital asset.<sup>1</sup> Digital assets are ordinarily held in a digital asset account, which means a customer account, wallet or other repository device maintained by an owner, that contains at least one type of digital asset. These accounts may also contain fiat (traditional) currency, but must contain at least one type of digital asset to be considered a digital asset account. A third party, called a holder, maintains these accounts in a fashion similar to bank accounts, where the owner of the digital assets deposits them into the account maintained by the holder. Digital assets that are associated with blockchain technology are accompanied by a “private key.” This private key is a unique element of cryptographic data known to the owner of the asset that is used for signing transactions on the blockchain. In other words, the private key is an access code that allows the owner to verify ownership of a digital asset on a blockchain and to authenticate transactions with that asset.<sup>2</sup>

#### Presumption of abandonment

Under the bill, digital assets held within a digital asset account are presumed to be abandoned two years after a written or electronic communication from the holder to the owner is returned by the United States Postal Service, or if the communication was electronic, by email or other electronic messaging method. However, if the owner does not receive written or electronic communications from the holder, or if the holder cannot track or monitor the nondelivery of communications, the assets are presumed to be abandoned two years after the date of the last exercise of an act of ownership interest by the owner in the digital asset account. As defined by the bill, an “act of ownership interest” includes any of the following actions:

- Conducting a transaction using the digital asset account, whether one-time or recurring, including both of the following:
  - Buying or selling digital assets;
  - Depositing into or withdrawing from the account traditional currency or other property.
- Electronically accessing the digital asset account;
- Conducting any activity with respect to another digital asset account or any other property owned by the owner with the same holder;

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<sup>1</sup> R.C. 169.20(B).

<sup>2</sup> R.C. 169.20(C) and (D).

- Taking any other action that reasonably demonstrates to the holder that the owner knows that the property exists.<sup>3</sup>

However, if the owner of a digital asset account takes any act of ownership interest or if the owner has any written, oral, or electronic communication, through a memorandum or other record on file with the holder, the period of abandonment immediately ceases.<sup>4</sup>

Since a digital asset account can include traditional currency, the bill specifically excludes any money or property that is subject to the state's Unclaimed Funds Law from being considered a digital asset subject to the provisions of the bill. Conversely, it also excludes any digital assets subject to the bill from inclusion in the Unclaimed Funds Law, to ensure that money and digital assets are only subject to one of the two laws.<sup>5</sup>

Once a digital asset in a digital asset account is presumed abandoned, the holder must report the asset to the qualified custodian designated by the Director of Commerce (see "**Qualified custodian**" below). If the holder has full control of the necessary private keys required to transfer the asset, the holder must transfer that abandoned asset to the qualified custodian in its native form within 30 days of reporting its abandonment, unless the period of abandonment is ended by the owner exercising an act of ownership interest. Following this transfer, the holder must provide proof of delivery to the Director of Commerce upon request.<sup>6</sup>

If the holder possesses only a partial private key or is otherwise unable to effect the transfer to the qualified custodian, the bill requires the holder to maintain the asset until either of the following occur:

- The additional key or keys required to transfer the asset to the qualified custodian become available;
- The holder is otherwise able to transfer the asset to the qualified custodian.<sup>7</sup>

## **Qualified custodian**

### **Designation and criteria**

The bill requires the Director of Commerce to select a qualified custodian for the management and safekeeping of presumed abandoned digital assets no later than one year after the bill's effective date. A "qualified custodian" must be a company that sells digital assets to customers and which offers custody services for those assets. This also includes any federal or state-chartered bank, trust company, or special purpose depository authorized to sell or offer

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<sup>3</sup> R.C. 169.20(A) and 169.21(A).

<sup>4</sup> R.C. 169.21(B).

<sup>5</sup> R.C. 169.26 and 169.01(B)(1)(g).

<sup>6</sup> R.C. 169.22(A) and (B).

<sup>7</sup> R.C. 169.22(C).

custody services for digital assets. The Director must base the selection of a qualified custodian on evaluation of all the following criteria:

- Use of secure storage solutions to ensure the safekeeping of digital assets, including robust cybersecurity measures;
- The capability to manage private keys associated with digital assets and ensure the ability to transfer or transact with the assets when required;
- Proven experience handling digital assets;
- Compliance with all applicable federal and state regulations related to digital asset custody;
- Regular reporting mechanisms to the Director of Commerce regarding the status and value of the digital assets in the custodian's custody;
- Processes used to reunite owners with their digital assets, including by maintaining updated contact records and issuing timely notifications;
- Qualifying as a "financial institution" under the federal rules related to financial crimes and the treasury;
- Other factors the Director determines to be relevant.<sup>8</sup>

The qualified custodian must maintain presumed abandoned digital assets in their native form for at least two years before arranging for the sale of those assets. This two-year requirement, in conjunction with the period during which a holder must wait before presuming an asset to be abandoned, ensures that the owner of an asset has at least four years during which they can exercise an act of ownership interest or make a claim of ownership over an asset and retain ownership and control over that asset.<sup>9</sup>

### **Formal agreement**

The qualified custodian selected by the Director of Commerce must enter into a formal agreement with the Director. This agreement must specify the custodian's duties, obligations, compensation, auditing rights for the state, and terms governing termination of the agreement.<sup>10</sup>

### **Disposition of unclaimed digital assets**

If an owner makes a claim to a presumed abandoned digital asset still in its native form, the bill requires the Director of Commerce to cooperate in transferring that asset to the owner's selected custodian. However, if no owner makes a claim on an abandoned digital asset during the two years during which the asset is in the custody of the qualified custodian, the Director may arrange for the sale of the digital asset.

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<sup>8</sup> R.C. 169.20(E) and 169.24; 31 Code of Federal Regulations part 1010, not in the bill.

<sup>9</sup> R.C. 169.23(A).

<sup>10</sup> R.C. 169.25.

The Director may not sell a digital asset for less than the prevailing market price for that asset at the time of sale. But if there is no prevailing market price, or if the Director does not have a means of determining the prevailing market price, the bill permits the Director to sell a digital asset by any commercially reasonable method.

After an abandoned digital asset has been sold, the proceeds of the sale must be deposited as unclaimed funds into the Unclaimed Funds Trust Fund.<sup>11</sup>

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## HISTORY

Action	Date
Introduced	08-28-25

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ANHB0426IN-136/ks

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<sup>11</sup> R.C. 169.23.