

As Introduced

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H. B. No. 426

Representatives Williams, Demetriou

To amend section 169.01 and to enact sections 1
169.20, 169.21, 169.22, 169.23, 169.24, 169.25, 2
and 169.26 of the Revised Code to provide for 3
the safekeeping and management of unclaimed 4
digital assets. 5

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

Section 1. That section 169.01 be amended and sections 6
169.20, 169.21, 169.22, 169.23, 169.24, 169.25, and 169.26 of 7
the Revised Code be enacted to read as follows: 8

Sec. 169.01. As used in this chapter, unless the context 9
otherwise requires: 10

(A) "Financial organization" means any bank, trust 11
company, savings bank, safe deposit company, mutual savings bank 12
without mutual stock, savings and loan association, credit 13
union, or investment company. 14

(B) (1) "Unclaimed funds" means any moneys, rights to 15
moneys, or intangible property, described in section 169.02 of 16
the Revised Code, when, as shown by the records of the holder, 17
the owner has not, within the times provided in section 169.02 18
of the Revised Code, done any of the following: 19

(a) Increased, decreased, or adjusted the amount of such 20

funds;	21
(b) Assigned, paid premiums, or encumbered such funds;	22
(c) Presented an appropriate record for the crediting of	23
such funds or received payment of such funds by check, draft, or	24
otherwise;	25
(d) Corresponded with the holder concerning such funds;	26
(e) Otherwise indicated an interest in or knowledge of	27
such funds;	28
(f) Transacted business with the holder.	29
(2) "Unclaimed funds" does not include any of the	30
following:	31
(a) Money received or collected under section 9.39 of the	32
Revised Code;	33
(b) Any payment or credit due to a business association	34
from a business association representing sums payable to	35
suppliers, or payment for services rendered, in the course of	36
business, including, but not limited to, checks or memoranda,	37
overpayments, unidentified remittances, nonrefunded overcharges,	38
discounts, refunds, and rebates;	39
(c) Any payment or credit received by a business	40
association from a business association for tangible goods sold,	41
or services performed, in the course of business, including, but	42
not limited to, checks or memoranda, overpayments, unidentified	43
remittances, nonrefunded overcharges, discounts, refunds, and	44
rebates;	45
(d) Either of the following:	46
(i) Any credit or obligation due a retail customer that is	47

represented by a gift certificate, gift card, merchandise 48
credit, or merchandise credit card, redeemable only for goods or 49
services, including gift cards issued by financial organizations 50
or business associations; 51

(ii) Any electronic payment device that is issued by a 52
financial organization or a business association that has no 53
expiration date and meets all of the following conditions: 54

(I) It is purchased or loaded on a prepaid basis for the 55
future purchase or delivery of goods or services. 56

(II) It is redeemable upon presentation to a single 57
merchant or service provider or an affiliated group of merchants 58
or service providers. 59

(III) It is not redeemable for cash in whole or in part. 60

(e) Any open-loop prepaid card that is issued by a 61
financial organization or a business association for which the 62
underlying funds do not expire. For purposes of division (B) (2) 63
(e) of this section, "open-loop prepaid card" means an 64
electronic payment device that meets all of the following 65
conditions: 66

(i) It is purchased or loaded on a prepaid basis for the 67
future purchase or delivery of any goods or services. 68

(ii) It can be used to purchase goods and services at 69
multiple unaffiliated merchants or service providers. 70

(iii) It is not redeemable for cash in whole or in part. 71

(f) Any rewards card. For purposes of division (B) (2) (f) 72
of this section, "rewards card" includes any loyalty, incentive, 73
or promotional type program that is issued by a financial 74
organization or a business association whether represented by a 75

card or electronic record, which program is established for the 76
purposes of providing cardholder awards, rewards, rebates, or 77
other amounts to reward the cardholder for the cardholder's 78
relationship with the entity sponsoring the rewards card, 79
provided that no direct money was paid by the cardholder for the 80
rewards card. "Rewards card" includes both of the following: 81

(i) Cards or electronic records consisting of points, 82
cash, or other tokens of value given to a cardholder as a reward 83
or incentive for engaging in a transaction or a series of 84
transactions; 85

(ii) The unpaid portion of a rewards card when the rewards 86
card is partially loaded by the cardholder with the remaining 87
portion funded as a reward or incentive. 88

(g) "Digital assets" as defined in section 169.20 of the 89
Revised Code. 90

A minimal annual fee charged to the cardholder for joining 91
any such loyalty, incentive, or promotional type program shall 92
not be considered direct money paid by the cardholder for the 93
rewards card. For purposes of division (B) (2) (f) of this 94
section, "cardholder" means the holder of a rewards card, 95
regardless of whether the rewards card is represented by a card 96
or by an electronic record. 97

For purposes of division (B) (2) of this section, "business 98
association" means any corporation, joint venture, business 99
trust, limited liability company, partnership, association, or 100
other business entity composed of one or more individuals, 101
whether or not the entity is for profit. 102

(C) "Owner" means any person, or the person's legal 103
representative, entitled to receive or having a legal or 104

equitable interest in or claim against moneys, rights to moneys, 105
or other intangible property, subject to this chapter. 106

(D) (1) "Holder" means any person that has possession, 107
custody, or control of moneys, rights to moneys, or other 108
intangible property, or that is indebted to another, if any of 109
the following applies: 110

(a) Such person resides in this state; 111

(b) Such person is formed under the laws of this state; 112

(c) Such person is formed under the laws of the United 113
States and has an office or principal place of business in this 114
state; 115

(d) The records of such person indicate that the last 116
known address of the owner of such moneys, rights to moneys, or 117
other intangible property is in this state; 118

(e) The records of such person do not indicate the last 119
known address of the owner of the moneys, rights to moneys, or 120
other intangible property and the entity originating or issuing 121
the moneys, rights to moneys, or other intangible property in 122
this state or any political subdivision of this state, or is 123
incorporated, organized, created, or otherwise located in this 124
state. Division (D) (1) (e) of this section applies to all moneys, 125
rights to moneys, or other intangible property that is in the 126
possession, custody, or control of such person on or after July 127
22, 1994, whether the moneys, rights to moneys, or other 128
intangible property becomes unclaimed funds prior to or on or 129
after that date. 130

(2) "Holder" does not mean any hospital granted tax-exempt 131
status under section 501(c) (3) of the Internal Revenue Code or 132
any hospital owned or operated by the state or by any political 133

subdivision. Any entity in order to be exempt from the 134
definition of "holder" pursuant to this division shall make a 135
reasonable, good-faith effort to contact the owner of the 136
unclaimed funds. 137

(E) "Person" includes a natural person; corporation, 138
whether for profit or not for profit; copartnership; 139
unincorporated nonprofit association; public authority; estate; 140
trust; two or more persons having a joint or common interest; 141
eleemosynary organization; fraternal or cooperative association; 142
other legal or community entity; the United States government, 143
including any district, territory, possession, officer, agency, 144
department, authority, instrumentality, board, bureau, or court; 145
or any state or political subdivision thereof, including any 146
officer, agency, board, bureau, commission, division, 147
department, authority, court, or instrumentality. 148

(F) "Mortgage funds" means the housing ~~guarantee~~ 149
~~development~~ fund created by division (D) of section ~~128.11~~ 150
175.11 of the Revised Code. 151

(G) "Lawful claims" means any vested right a holder of 152
unclaimed funds has against the owner of such unclaimed funds. 153

(H) "Public utility" means any entity defined as such by 154
division (A) of section 745.01 or by section 4905.02 of the 155
Revised Code. 156

(I) "Deposit" means to place money in the custody of a 157
financial organization for the purpose of establishing an 158
income-bearing account by purchase or otherwise. 159

(J) "Income-bearing account" means a time or savings 160
account, whether or not evidenced by a certificate of deposit, 161
or an investment account through which investments are made 162

solely in obligations of the United States or its agencies or 163
instrumentalities or guaranteed as to principal and interest by 164
the United States or its agencies or instrumentalities, debt 165
securities rated as investment grade by at least two nationally 166
recognized rating services, debt securities which the director 167
of commerce has determined to have been issued for the safety 168
and welfare of the residents of this state, and equity interests 169
in mutual funds that invest solely in some or all of the above- 170
listed securities and involve no general liability, without 171
regard to whether income earned on such accounts, securities, or 172
interests is paid periodically or at the end of a term. 173

(K) "Director of commerce" may be read as the "division of 174
unclaimed funds" or the "superintendent of unclaimed funds." 175

(L) "Attorney unclaimed funds" means any unclaimed funds, 176
as defined in division (B) (1) of this section, that are any of 177
the following: 178

(1) Funds held in interest on lawyer trust accounts 179
pursuant to section 4705.09 of the Revised Code; 180

(2) Funds held in an interest on trust accounts pursuant 181
to section 3953.231 of the Revised Code; 182

(3) Residual settlement funds whether for named or unnamed 183
plaintiffs, received by the division of unclaimed funds, and 184
held, paid out, or allocated by the division pursuant to or 185
consistent with the terms and conditions of the court order 186
authorizing the settlement fund. 187

Sec. 169.20. As used in sections 169.20 to 169.26 of the 188
Revised Code: 189

(A) "Act of ownership interest" includes any of the 190
following actions by the owner of a digital asset account: 191

(1) Conducting a transaction utilizing the digital asset 192
account, whether by a one-time transaction or a recurring 193
transaction previously authorized by the owner, including both 194
of the following: 195

(a) Buying or selling digital assets; 196

(b) Depositing into or withdrawing from the account fiat 197
currency or other property. 198

(2) Electronically accessing the digital asset account; 199

(3) Conducting any activity with respect to another 200
digital asset account or any other property owned by the owner 201
with the same holder; 202

(4) Taking any other action that reasonably demonstrates 203
to the holder that the owner knows that the property exists. 204

(B) "Digital asset" means virtual currencies, 205
cryptocurrencies, native electronic assets, including 206
stablecoins and nonfungible tokens, and other digital-only 207
assets that confer economic, proprietary, or access rights or 208
powers. 209

(C) "Digital asset account" means a customer account, 210
wallet, or other repository device maintained by an owner with a 211
holder, that contains one or more types of digital assets. A 212
digital asset account may also contain fiat currency or other 213
property, in addition to one or more digital assets. 214

(D) "Private key" means a unique element of cryptographic 215
data, used for signing transactions on a blockchain, and is 216
known to the owner of the element. 217

(E) "Qualified custodian" means a company that sells 218
digital assets to customers and offers custody services for 219

them, or any federal or state-chartered bank, trust company, or 220
special purpose depository institution that is authorized to 221
sell digital assets or offer custody services for them. 222

Sec. 169.21. (A) Digital assets held within a digital 223
asset account are presumed abandoned two years after either of 224
the following: 225

(1) The date a written or electronic communication from 226
the digital asset account holder to the owner is returned 227
undelivered by the United States postal service or by electronic 228
mail or other electronic messaging method, as applicable; 229

(2) If the owner does not receive written or electronic 230
communications from the holder, or if the holder does not have 231
the means of systematically tracking or monitoring the 232
nondelivery of such communications, the date of the last 233
exercise of an act of ownership interest by the owner in the 234
digital asset account. 235

(B) A period of abandonment described under division (A) 236
of this section ceases to run immediately upon the exercise of 237
an act of ownership interest in the digital asset account or a 238
written, oral, or electronic communication with the holder as 239
evidenced by a memorandum or other record on file with the 240
holder or its agents. 241

Sec. 169.22. (A) If a digital asset within a digital asset 242
account is presumed abandoned under section 169.21 of the 243
Revised Code and the holder has full control of the necessary 244
private keys required to transfer the asset, the holder shall 245
report and deliver the asset in its native form to the qualified 246
custodian designated by the director of commerce under section 247
169.24 of the Revised Code within thirty days of reporting. 248

(B) The holder shall provide the director of commerce with 249
proof of delivery upon request. 250

(C) In the event the holder possesses only a partial 251
private key to the asset or is otherwise unable to move the 252
asset to the director's designated qualified custodian, the 253
holder shall maintain the asset until the additional key or keys 254
required to transfer the asset become available or the holder is 255
otherwise able to transfer the asset to the director's 256
designated qualified custodian. 257

Sec. 169.23. (A) The director of commerce shall require 258
the qualified custodian to maintain a presumed abandoned digital 259
asset in its native form for a minimum period of two years prior 260
to arranging for the sale of the asset in accordance with 261
division (B) of this section, in order to enable owners to make 262
claims to the asset prior to sale. If an owner makes a claim to 263
the asset still in the custody of the director of commerce in 264
its native form, the director shall cooperate with the owner to 265
transfer the property to the owner's selected custodian. 266

(B) (1) The director of commerce may sell or arrange for 267
the sale of an asset held under sections 169.21 and 169.22 of 268
the Revised Code not sooner than two years after the asset is 269
delivered to the qualified custodian. 270

(2) Proceeds of the sale of an asset under division (B) (1) 271
of this section shall be deposited as unclaimed funds into the 272
unclaimed funds trust fund created under section 169.05 of the 273
Revised Code. 274

(C) The director of commerce may not sell an asset for 275
less than the prevailing market price at the time of sale. If an 276
asset does not have a prevailing market price or the director of 277

commerce does not have a means of determining the prevailing 278
market price, the director may sell the asset by any 279
commercially reasonable method. 280

Sec. 169.24. (A) The director of commerce shall select a 281
qualified custodian for the management and safekeeping of 282
presumed abandoned digital assets held under sections 169.21 and 283
169.22 of the Revised Code not later than one year after the 284
effective date of this section. 285

(B) The director shall select a qualified custodian based 286
on evaluation of all of the following criteria: 287

(1) Use of secure storage solutions to ensure the 288
safekeeping of digital assets, including robust cybersecurity 289
measures to prevent unauthorized access; 290

(2) The capability to manage private keys associated with 291
digital assets and ensure the ability to transfer or transact 292
with the assets when required; 293

(3) Proven experience in handling digital assets; 294

(4) Compliance with all applicable federal and state 295
regulations related to digital asset custody; 296

(5) Regular reporting mechanisms to the director of 297
commerce regarding the status and value of the digital assets 298
under custody; 299

(6) Processes used to reunite owners with their digital 300
assets, including maintaining updated contact records and 301
issuing timely notifications; 302

(7) Qualifying as a "financial institution" under 31 303
C.F.R. part 1010; 304

(8) Any other factors the director determines relevant. 305

Sec. 169.25. The qualified custodian selected pursuant to 306
section 169.24 of the Revised Code shall enter into a formal 307
agreement with the director of commerce. This agreement shall 308
specify the custodian's duties, obligations, and compensation, 309
as well as terms governing termination of the agreement and 310
auditing rights by the state. 311

Sec. 169.26. Nothing in sections 169.20 to 169.25 of the 312
Revised Code shall be construed to apply to any money, rights to 313
money, or intangible property, described in section 169.02 of 314
the Revised Code, considered to be unclaimed funds for the 315
purposes of sections 169.01 to 169.17 of the Revised Code. 316

Section 2. That existing section 169.01 of the Revised 317
Code is hereby repealed. 318