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## Bill Analysis

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**Primary Sponsors:** Reps. Kishman and M. Miller

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### SUMMARY

- Requires any person who owns, operates, solicits, markets, advertises, or facilitates digital asset kiosks to comply with the licensure requirements of Ohio's Money Transmitter Law.
- Requires digital asset kiosk owners and operators to make disclosures about material risks associated with their products, services, and activities and digital assets generally.
- Requires digital asset kiosk owners and operators to make disclosures prior to initial transactions regarding the terms and conditions associated with their products, services, and activities and digital assets generally.
- Requires digital asset kiosk owners and operators to make disclosures prior to any transaction regarding the terms and conditions for that transaction.
- Requires digital asset kiosk owners and operators to ensure that a customer acknowledges receipt of the required disclosures.
- Requires digital asset kiosk owners and operators to provide a receipt to customers upon completing a transaction, and establishes requirements for the included information.
- Requires a 72-hour hold to be placed on any transaction involving a new customer and establishes procedures for cancellation, refunds, and fraud prevention.
- Imposes transaction limits of \$2,500 per 24-hour period for new customers, and \$10,500 for existing customers per 24-hour period.
- Requires identify verification for any transaction, or group of related transactions within a 24-hour period, totaling \$1,000 or more.
- Establishes requirements for limiting and protecting data collected by digital asset kiosk owners and operators.
- Restricts unsolicited communications with customers unrelated to transactions.

- Requires verbal communication with new customers age 60 and older attempting to conduct transactions of \$1,000 or more, as well as assessment and approval of the transactions.
- Establishes employment requirements and ownership limits for compliance officers.
- Permits the Superintendent of Financial Institutions to adopt reasonable rules to administer and enforce the provisions of the bill.

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## DETAILED ANALYSIS

### Overview

A “digital asset kiosk” under the bill is an electronic terminal acting as a mechanical agent of the owner or operator to enable the owner or operator to facilitate the exchange of digital assets for fiat currency or other digital assets. A “digital asset” is any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology. The exchange may occur by connecting directly to a separate digital asset exchanger that performs the actual digital asset transmission, or by drawing upon the digital assets in the possession of the owner or operator of the electronic terminal. For example, customers may use digital asset kiosks to exchange digital currencies like Bitcoin into United States dollars, or they could use the kiosk to exchange that Bitcoin for a different virtual currency.

For the purposes of the bill, digital asset includes digital units of exchange that meet the following criteria:

- Have a centralized repository or administrator;
- Are decentralized and have no centralized repository or administrator;
- May be created or obtained by computing or manufacturing effort.

However, digital asset does not include digital units of exchange that are used solely within online gaming platforms with no market or application outside of the gaming platforms, or which are used exclusively as part of a consumer affinity or rewards program, and can be applied solely as payment for purchases with the issuer or other designated merchants, but cannot be converted into or redeemed for fiat currency.<sup>1</sup>

The bill extends money transmitter licensure requirements to owners and operators of digital asset kiosks in Ohio, and establishes regulations regarding required disclosures, transaction limits and holds, refunds for fraudulent transactions, and kiosk owner and operator duties.

### **Licensure as money transmitter**

The bill deems any person who owns, operates, solicits, markets, advertises, or facilitates digital asset kiosks to be engaged in the business of money transmission, and requires the person to be licensed under Ohio's Money Transmitter Law.<sup>2</sup>

The bill expands the continuing duties of licensed money transmitters by requiring that they maintain a detailed plan and accounting as to how the licensee will engage in winding down operations and must provide the plan and accounting to the Superintendent of Financial Institutions upon request. The plan and accounting must contain, at a minimum, all of the following:

- A record showing that the licensee's minimum net worth and reserves are sufficient to prevent losses to consumers and purchasers and to repay any outstanding obligations or accounts payable;
- Procedures to ensure that, after winding down operations, the licensee shall not retain any consumer funds, purchaser funds, or other client funds;
- A plan demonstrating that consumers will have access to consumer funds in the licensee's custody;
- Detailed instructions informing consumers how they may withdraw consumer funds upon request;

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<sup>1</sup> R.C. 1349.57(A) and (C).

<sup>2</sup> R.C. 1349.571.

- Any other records and information requested by the Superintendent regarding winding down operations.<sup>3</sup>

Additionally, the bill adds requirements to continuing law which requires money transmitters that stop doing business in this state to do so in accordance with a plan approved by the Superintendent of Financial Institutions. Under the bill, the plan must be submitted to the Superintendent at least 30 business days prior to the date of the planned cessation of business. The plan must require licensees to do all of the following:

- Provide written notice to all consumers, purchasers, and users of the licensee of the proposed cessation, and the date of the proposed cessation, at least 30 business days prior to the date of the proposed cessation;
- Provide all consumers, purchasers, and users of the licensee with detailed final accounting of the consumers', purchasers', and users' accounts;
- Remit all money held in the custody of the licensee on behalf of consumers, purchasers, and users to such consumers, purchasers, and users.<sup>4</sup>

## Required disclosures

The bill requires a digital asset kiosk owner or operator to make various required disclosures to customers. Each disclosure must be in clear and conspicuous writing in the English language, and the owner or operator must ensure that the customer acknowledges receipt of the disclosures.<sup>5</sup>

## Risks

Prior to entering into an initial transaction for, on behalf of, or with a customer, the bill requires a digital asset kiosk owner or operator to disclose all material risks associated with its products, services, and activities, and with digital assets generally. The disclosure must provide substantially all of the following information:

- A disclosure to be acknowledged by the customer, provided separately from other disclosures required under the bill, written prominently and in bold type stating the following:

**WARNING: NO GOVERNMENTAL ENTITY OR FINANCIAL INSTITUTION WILL ASK YOU TO USE THIS MACHINE FOR PAYMENT OF DEBTS OR FINES. LOSSES DUE TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS MAY NOT BE RECOVERABLE AND TRANSACTIONS IN DIGITAL ASSETS ARE IRREVERSIBLE.**

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<sup>3</sup> R.C. 1315.05(C).

<sup>4</sup> R.C. 1315.18(A).

<sup>5</sup> R.C. 1349.572, 1349.573, 1349.574, and 1349.575.

- That digital assets are not backed or insured by the government and accounts and value balances are not subject to federal deposit insurance corporation, national credit union administration, or securities investor protection corporation protections;
- That some digital asset transactions shall be deemed to be made when recorded on a public ledger, which is not necessarily the date or time that the customer initiates the transaction;
- That the value of digital assets may be derived from the continued willingness of market participants to exchange fiat currency for digital assets, which may result in the potential for permanent and total loss of value of a particular currency should the market for that digital asset disappear;
- That there is no assurance that a person who accepts digital assets as a payment today will continue to do so in the future;
- That the volatility and unpredictability of the price of digital assets relative to fiat currency may result in significant loss over a short period of time;
- That the nature of digital assets may lead to an increased risk of fraud or cyberattack;
- That the nature of digital assets means that any technological difficulties experienced by the owner or operator may prevent the access or use of a customer's digital assets;
- That any bond or trust account maintained by the owner or operator for the benefit of its customers may not be sufficient to cover all losses incurred by customers;
- That digital asset transactions are irreversible and are used by persons seeking to defraud customers, including a person impersonating a customer's loved one, threatening jail time, stating that a customer's identity has been stolen, insisting that a customer withdraw money from the customer's bank account and purchase digital assets, or alleging that a customer's personal computer has been hacked.<sup>6</sup>

## **Terms and conditions**

### **Initial transactions**

Prior to entering into an initial transaction for, on behalf of, or with a customer, the bill requires a digital asset kiosk owner or operator to disclose, whether in accessible terms of service or elsewhere, all relevant terms and conditions associated with its products, services, and activities with digital assets generally. These disclosures must provide substantially all of the following information:

- The customer's liability for unauthorized digital asset transactions;
- The customer's right to stop payment of a preauthorized digital asset transfer and the procedure used to initiate a stop payment order;

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<sup>6</sup> R.C. 1349.572.

- Under what circumstances the owner or operator will disclose information concerning the customer's account to third parties, absent a court or government order;
- The requirement that the owner or operator communicate to the customer what customer information may be disclosed to third parties;
- The customer's right to receive a physical, provisional confirmation for a digital asset transaction at the time the transaction is initiated, and a final receipt upon completion of the transaction that complies with the bill's receipt requirements;
- Upon any changes in the rules or policies of the owner or operator, the customer's right to consent to those changed rules or practices prior to performing any transaction after the change.<sup>7</sup>

### **All transactions**

Prior to entering into any transaction for, on behalf of, or with a customer, the bill requires a digital asset kiosk owner or operator to disclose, in at least 24 point sans serif font, the terms and conditions of the digital asset transaction, including the following:

- The amount of the transaction;
- Any fees, expenses, and charges borne by the customer, including applicable exchange rates;
- The type and nature of the digital asset transaction;
- A warning that, once executed, the digital asset transaction may not be undone, if applicable, provided that transactions subject to the bill's provisions regarding transaction holds are cancelable during the 72-hour hold period;
- A daily digital asset transaction limit in accordance with the bill's transaction limits;
- The difference in the sale price of the digital asset versus the current market price.

### **Required receipt**

The bill requires a digital asset kiosk owner or operator to provide the customer with a receipt upon the completion of any digital asset transaction. The receipt must contain the following information:

- The name of, and contact information for, the owner or operator, including the owner's or operator's business address and a customer service telephone number established by the owner or operator to answer questions and register complaints;
- The name of the customer;
- The type, value, date, and precise time of the digital asset transaction, and each digital asset address (a "digital asset address" is an alphanumeric identifier representing a

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<sup>7</sup> R.C. 1349.573.

destination for a digital asset transfer that is associated with a digital asset wallet; a “digital asset wallet” is a software application or other mechanism providing a means for holding, storing, and transferring digital assets);

- The amount of the digital asset transaction expressed in United States currency;
- The full unique transaction hash or identification number;
- The public digital asset address of the customer;
- The digital asset kiosk’s:
  - Nationwide multistate licensing system unique identifier;
  - Ohio money transmitter license number;
  - RSSD ID number assigned by the board of governors of the federal reserve system, if applicable.
- Any fee charged, including any fee charged directly or indirectly by the owner or operator or a third party involved in the digital asset transaction;
- The exchange rate, if applicable;
- Any tax collected by the owner or operator;
- A statement of the liability of the owner or operator for nondelivery or delayed delivery, provided that a delay attributable solely to the 72-hour hold required by the bill does not constitute nondelivery or delayed delivery;
- The name and telephone number of the Department of Commerce’s Division of Financial Institutions and a statement disclosing that the customer may contact the Division with questions or complaints about the owner’s or operator’s digital asset kiosk services;
- Any additional information the Superintendent of Financial Institutions requires.

The bill requires that the receipt must be provided in a retainable form, in the English language, and in the language principally used by the owner or operator to advertise, solicit, or negotiate, whether orally or in writing. However, the receipt may be provided electronically if the customer requests or agrees to receive an electronic receipt.<sup>8</sup>

## **Transaction holds**

The bill requires a digital asset kiosk owner or operator to place a 72-hour hold on any transaction initiated by a new customer (which customer, under the bill, is a consumer who is engaging in a transaction at a digital asset kiosk in Ohio and who has been registered as a customer of the owner or operator for less than 72 hours). When a new customer’s transaction is placed on hold, the customer may cancel it at any time during the 72-hour period through procedures established by the owner or operator. If a customer cancels the transaction, the

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<sup>8</sup> R.C. 1349.57(B) and (D) and 1349.576.

owner or operator must promptly return the customer's funds, minus irreversible third-party network fees, if any.

During a 72-hour hold, the bill prohibits any owner or operator or any service provider from providing provisional credit, vouchers, or off-chain ledger postings that make funds or digital assets available to the customer or any third party. Additionally, the bill prohibits representing to a customer or third party, or representing or certifying to anyone, that the funds or digital assets are available or transferable before settlement.

The bill does not require an owner or operator to hold or refund transactions of existing customers (which customer, under the bill, is a consumer who is engaging in a transaction at a digital asset kiosk in Ohio and who has been registered as a customer of the owner or operator for 72 hours or more). Additionally, the bill does not prohibit an owner or operator from requiring a new customer to verify their identity and provide proof of initiation, such as a digital asset kiosk-issued transaction reference or confirmation number, prior to canceling a transaction.<sup>9</sup>

## **Transaction limits**

The bill establishes transaction limits by prohibiting a digital asset kiosk owner or operator from allowing customers to transfer more than the following amounts within a 24-hour period:

- \$2,500 for each new customer;
- \$10,500 for each existing customer.<sup>10</sup>

The bill requires that the dollar amounts for each transaction limit be adjusted annually by the Superintendent of Financial Institutions. Beginning January 1, 2027, and on January 1 every following year, the Superintendent must adopt rules to adjust the transaction limits by the rate of inflation for the 12-month period ending in September of the prior year according to the Consumer Price Index or its successor index.<sup>11</sup>

## **Refunds for fraudulent transactions**

Under the bill, a digital asset kiosk owner or operator shall provide a refund of any transaction fees or commissions for any fraudulent digital asset transaction made as the result of deception or improper inducement if the customer does both of the following within 30 days of the fraudulent transaction:

- Contacts the owner or operator and a government or law enforcement agency to inform them of the fraudulent nature of the digital asset transaction;
- Files a report with a government or law enforcement agency memorializing the fraudulent nature of the digital asset transaction and provides a copy of the report to the owner or operator.

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<sup>9</sup> R.C. 1349.57(E) and (G) and 1349.577.

<sup>10</sup> R.C. 1349.578.

<sup>11</sup> R.C. 1349.578 and 1349.5712(B).

The bill requires that the refund be provided within ten business days of the owner or operator receiving the copy of the filed report. The refund shall be credited to the customer's original funding source when practicable. Otherwise, the refund shall be credited to the customer by a commercially reasonable method requested by the customer. However, if a law enforcement agency requests in writing that the owner or operator temporarily refrain from issuing a refund to avoid interference with an active investigation, the ten-day period is paused during the documented hold and resumes upon withdrawal or expiration of the hold.

Nothing in the bill requires the owner or operator to refund the principal amount of a completed digital asset transfer or to limit the owner's or operator's ability to assist recovery from counter-parties or law enforcement.<sup>12</sup>

## **Digital asset kiosk owner and operator duties**

### **Identify verification**

The bill requires a digital asset kiosk owner or operator to verify each customer's identity using a copy of a government-issued identification card for any of the following transactions:

- A transaction of \$1,000 or more;
- Two or more related transactions totaling \$1,000 or more within a 24-hour period. ("Related transactions," under the bill, means multiple transactions that the owner or operator knows or reasonably should know are connected, structured, or split to avoid the bill's identity verification requirement and includes transactions linked by one or more linked identifiers as designated by the owner or operator. A "linked identifier" means, under the bill, any identifier or data point that the owner or operator in its written, risk-based anti-money-laundering and fraud prevention program as reasonably capable of associating two or more transactions with the same customer or related customers to avoid identity verification and may include any combination of customer accounts or profiles, telephone numbers, electronic mail addresses, device identifiers, payment instructions or funding sources, or digital asset wallets or addresses.)

An owner or operator must disclose in clear and conspicuous writing in the English language that identity verification may be required for any transaction to comply with law or prevent fraud.

The bill does not prohibit an owner or operator from independently requiring identity verification for transactions below \$1,000. Additionally, an owner or operator acts in good faith and is not liable for a violation of the bill's identity verification requirements when applying reasonable written procedures to identify related transactions using linked identifiers designated under its risk-based program. Immaterial or technical mismatches do not create liability. However, the bill does prohibit any person from structuring or causing transactions to be structured to evade its identification requirements.<sup>13</sup>

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<sup>12</sup> R.C. 1349.579.

<sup>13</sup> R.C. 1349.57(F), 1349.5710(A) and (B), and 1349.5711.

## **Data collection**

Under the bill, a digital asset kiosk owner or operator must do all of the following regarding data it collects under the bill:

- Limit data collection to what is reasonably necessary to verify the customer's identity and to comply with any applicable laws;
- Securely store data collected;
- Retain data no later than three years from the date of the transaction or the date the customer's account is closed, whichever is later, unless otherwise required by law.

The bill clarifies that it does not require the owner or operator to retain a photographic copy of a government-issued identification card as part of its identification data. Additionally, the bill requires owners and operators to designate linked identifiers no more broadly than reasonably necessary. Linked identifiers must not require collection or retention of biometric data or identification images, except as permitted for transient automated verification or where required by law.<sup>14</sup>

## **Communications**

Under the bill, a digital asset kiosk owner or operator must use a customer's email address or telephone number for transactional purposes only, unless the customer opts to receive marketing materials. However, the owner or operator cannot condition access to the digital asset kiosk on agreeing to receive marketing materials. A customer must be allowed to opt out of receiving marketing materials at any time, including by providing an option to opt out in all marketing materials. The bill also prohibits disclosure of a customer's email address or telephone number without separate express consent.

Additionally, the bill requires an owner or operator to offer, during the kiosk's hours of operation, live customer support by telephone from a telephone number prominently displayed at or on the digital asset kiosk.<sup>15</sup>

## **New transaction approval for elderly customers**

When a new customer is flagged via a government-issued identification card or linked identifiers as being 60 years of age or older and is attempting to perform a digital asset transaction that equals \$1,000 or more, the bill requires the digital asset kiosk owner or operator to identify and speak by telephone with the customer, while recorded, before completing the transaction.

During this telephone communication, the owner or operator shall do all of the following:

- Positively identify the new customer;

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<sup>14</sup> R.C. 1349.5710(C) and (I).

<sup>15</sup> R.C. 1349.5710(D) and (E).

- Review the new customer’s stated purpose of the transaction;
- Discuss types of fraudulent schemes relating to digital assets.

The owner or operator must assess the telephone communications with new customers age 60 or older. Approval of a transaction is dependent upon the owner’s or operator’s assessment of the communication.<sup>16</sup>

## Compliance

The bill requires that the owner or operator of a digital asset kiosk designate and employ a chief compliance officer. The officer shall be qualified to coordinate and monitor a compliance program to ensure compliance with the bill and all other applicable federal and state laws, rules, and regulations. This officer must be employed on a full-time basis by the owner or operator. Additionally, the chief compliance officer shall not own more than 20% of the owner or operator that employs the officer.

Furthermore, the bill requires that the owner or operator use full-time employees to fulfill the owner’s or operator’s compliance responsibilities under federal and state laws, rules, and regulations.<sup>17</sup>

## Rulemaking

The bill permits the Superintendent of Financial Institutions to adopt reasonable rules to administer and enforce the provisions of the bill in accordance with Ohio’s Administrative Procedure Act (R.C. Chapter 119).<sup>18</sup>

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## HISTORY

Action	Date
Introduced	01-20-26

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ANHB0648IN-136/ks

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<sup>16</sup> R.C. 1349.5710(F).

<sup>17</sup> R.C. 1349.5710(G) and (H).

<sup>18</sup> R.C. 1349.5712(A).