

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 269 entitled “An act relating to blockchain,
4 cryptocurrency, and financial technology” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after then enacting clause and inserting in lieu thereof the following:

7 * * * Enabling Provisions for FinTech and Blockchain Approaches * * *

8 Sec. 1. 11 V.S.A. chapter 25, subchapter 12 is added to read:

9 Subchapter 12. Blockchain-Based Limited Liability Companies

10 § 4171. DEFINITIONS

11 As used in this section:

12 (1) “Blockchain technology” means a mathematically secured,
13 chronological, and decentralized consensus ledger or database, whether
14 maintained via Internet interaction, peer-to-peer network, or otherwise.

15 (2) “Participant” means:

16 (A) each person that has a partial or complete copy of the
17 decentralized consensus ledger or databased utilized by the blockchain
18 technology, or otherwise participates in the validation processes of such ledger
19 or database;

20 (B) each person in control of any digital asset native to the
21 blockchain technology; and

1 (C) each person that makes a material contribution to the protocols.

2 (3) “Protocols” mean the designated regulatory model of the software
3 that governs the rules, operations, and communication between nodes on the
4 network utilized by the participants.

5 (4) “Virtual currency” means a digital representation of value that:

6 (A) is used as a medium of exchange, unit of account, or store of
7 value; and

8 (B) is not legal tender, whether or not denominated in legal tender.

9 § 4172. ELECTION

10 A limited liability company organized pursuant to this title for the purpose
11 of operating a digital currency system business that utilizes blockchain
12 technology for a material portion of its business activities may elect to be a
13 blockchain-based limited liability company (BLLC) by:

14 (1) specifying in its articles of organization that it elects to be a digital
15 currency limited liability company BLLC; and

16 (2) meeting the requirements in subdivision 4173(2) and section 4174 of
17 this title. [4173 no longer specifies any “requirements” – it is all permissive]

18 § 4173. AUTHORITY; REQUIREMENTS

19 Notwithstanding any provision of this chapter to the contrary:

20 (1) A BLLC may provide for its governance, in whole or in part,
21 through the technological architecture of the system blockchain technology.

1 (2) A digital currency limited liability company shall The operating
2 agreement for a BLLC may:

3 (A) adopt procedures to respond to necessary innovations and
4 changes in the system architecture provide a summary description of the
5 project being operated by the BLLC [not sure what his means?];

6 (B) specify whether the blockchain technology on which the BLLC
7 is based will be fully decentralized, partially decentralized, or private ledger or
8 database [is this correctly phrased – right now this would read: “specify
9 whether the blockchain technology on which the BLLC is based will
10 be...private ledger” ~ or “will be...database” – are words missing here?],
11 including the extent of participants’ access to information and read and write
12 permissions with respect to protocols;

13 (C) specify whether the BLLC has issued, or intends to issue, any
14 virtual currency and the function such virtual currency will have in the
15 operation of the BLLC;

16 (D) adopt voting procedures, which may include smart contracts
17 carried out on the blockchain technology, to address:

18 (i) proposals from managers, members, or other groups of
19 participants in the BLLC for upgrades or modifications to software systems,
20 protocols, or both;

21 (ii) other proposed changes to the BLLC operating agreement; or

1 (iii) any other matter of governance or activities within the
2 purpose of the BLLC;

3 (E) adopt protocols to respond to system security breaches or other
4 unauthorized actions that affect the system integrity of the blockchain
5 technology on which the BLLC is based;

6 (F) specify how the company designates the participants within the
7 system, including nodes and miners, as members or managers, or both
8 designate the core developers, if any, for the protocols and the mechanism for
9 modifying membership in this group;

10 (G) provide how a person becomes a member of the BLLC;

11 (H) specify the rights and obligations of each group of participants
12 within the BLLC, including which participants shall be entitled to the rights
13 and obligations of members and managers;

14 (I) specify the scope and extent to which limited liability and agency
15 authority apply to a participant or class of participants in the system any
16 participants or group of participants involved in the BLLC;

17 (E) specify participants' access to information and protocols to
18 ensure transparency;

19 (F) specify the fiduciary duties of core developers;

20 (G) adopt rules concerning hard forks; and

1 ~~(H) adopt rules governing the responsible use of computing power by~~
2 ~~mining pool operators.~~

3 (J) adopt rules that incentivize the use of renewable energy by any
4 mining pool operator; and

5 (K) specify whether the BLLC intends to comply with any
6 nationally or internationally-recognized blockchain code of governance in
7 effect at such time. [what time are we referring to here?]

8 § 4174. **PHYSICAL PRESENCE; TAXATION; DIGITAL BUSINESS**
9 **ENTITY TAX EXEMPTION**

10 (a) A BLLC shall maintain a physical presence within this State or
11 conduct some or all of its activities within this State, or both.

12 ~~(b) A digital currency limited liability company shall remit to the State in~~
13 ~~the form of its digital currency a transaction tax equivalent to \$0.01, at the then~~
14 ~~current exchange rate for the currency with the U.S. dollar, per transaction for:~~

15 ~~(1) each unit of currency mined or otherwise created; and~~

16 ~~(2) each sale or other transfer of one or more units of currency.~~

17 ~~(c) A digital currency limited liability company is exempt from taxes~~
18 ~~otherwise applicable under Title 32 of the Vermont Statutes Annotated.~~

19 (b) A BLLC that qualifies as and elects to be taxed as a digital business
20 entity for the taxable year shall not be subject to the tax imposed by 32 V.S.A.

21 § 5832. [Is this necessary – doesn't 32 V.S.A. § 5838 already provide for this?]

1 § 4175. MULTIPLE ROLES OF MEMBERS AND MANAGERS

2 (a) A member or manager of a BLLC may interact with the BLLC in
3 multiple roles, including as a member, manager, developer, node, miner, or
4 participant in the network or as a trader and holder of the currency in its own
5 account and for the account of others BLLC, or as a trader and holder of the
6 currency in its own account and for the account of others, provided such
7 member or manager complies with any applicable fiduciary duties.

8 ~~(b) A member or manager who interacts with the company in multiple roles~~
9 ~~does not violate a fiduciary duty solely because of those interactions if the~~
10 ~~member or manager acts in good faith with respect to the company.~~

11 (b) The activities of a member or manager who interacts with the BLLC
12 through multiple roles are not deemed to take place in this State solely because
13 of the BLLC is organized in this State.

14 § 4176. CONSENSUS FORMATION ALGORITHMS

15 In its governance, a BLLC may adopt any reasonable algorithmic means
16 for accomplishing the consensus process for validating records of the holders
17 of its currency conducting operations, or making organizational decisions on
18 the blockchain technology used by the BLLC, and may, in accordance with
19 any procedure specified pursuant to section 4173 of this title, provide for the
20 modification of this consensus process or the substitution of a new process that

1 complies with the requirements of law and the governance provisions of the
2 BLLC.

3 § 4177. SCOPE OF SUBCHAPTER; OTHER LAW

4 Except as expressly provided otherwise, this subchapter does not exempt a
5 BLLC from any other judicial, statutory, or regulatory provision of Vermont
6 law or federal law, including State and federal securities laws. In any case not
7 provided for in this subchapter the provisions of the Vermont Limited Liability
8 Company Act govern. [already true - is this necessary?]

9 * * * Personal Identity and Information Trust Companies * * *

10 Sec. 5. 8 V.S.A. chapter 78 is added to read:

11 CHAPTER 78. PERSONAL INFORMATION TRUST COMPANIES

12 § 2451. DEFINITIONS

13 As used in this section:

14 (1) “Personal identity” means the identity of a particular natural person.

15 (1) “Personal identity-related information” means data relating to the
16 identity of capable of being associated with a particular natural person that
17 includes data such as gender identification, birth information, marital status,
18 citizenship and nationality, government identification designations, and
19 personal, educational, and financial histories.

1 (2) “Personal information trust business” means holding out by a person
2 to the public by advertising, solicitation, or other means that the person is
3 available to hold personal information in trust as a fiduciary.

4 § 2452. PERSONAL INFORMATION AS THE SUBJECT OF A
5 FIDUCIARY RELATIONSHIP

6 (a) Personal information may be held under a trust relationship in
7 accordance with the terms of this chapter.

8 (b) A person who holds personal information under a trust relationship has
9 a fiduciary responsibility to the individual whose identity is in question over
10 the maintenance and release of personal information.

11 (c) Personal information held pursuant to this section creates a personal
12 identity trust.

13 § 2453. QUALIFIED PERSONAL INFORMATION TRUST COMPANY

14 (a) The trustee of a personal information trust shall qualify to conduct its
15 business under the terms of this chapter and applicable rules adopted by the
16 Department.

17 (b) A person shall not engage in business as a personal information trust
18 company in this State without first obtaining a certificate of authority from the
19 Department.

20 (c) A personal information trust company may be:

1 (1) a company empowered to do financial trust business under the
2 provisions of chapter 77 or 204 of this title, or otherwise, that meets the
3 requirements of this chapter and applicable rules adopted by the
4 Department; or

5 (2) an independent personal information trust company formed for the
6 purpose of being a personal information trust company that meets the
7 requirements of this chapter and applicable rules adopted by the Department.

8 (A) An independent personal information trust company shall be
9 organized under the laws of this State as a business corporation, a benefit
10 corporation, a limited liability company, a low-profit limited liability company,
11 a partnership, a limited partnership, a nonprofit corporation, a consumer
12 cooperative, a mutual benefit enterprise, or a business trust or a cooperative.

13 (B) An independent personal information trust company shall:

14 (i) maintain its principal a place of business in this State;

15 (ii) appoint a registered agent to accept service of process and to
16 otherwise act on its behalf in this State, provided that whenever the registered
17 agent cannot with reasonable diligence be found at the Vermont registered
18 office of the company, the Secretary of State shall be an agent of the company
19 upon whom any process, notice, or demand may be served; and

20 (iii) hold at least one meeting of its governing body in this State
21 each year; and

1 (iv) have at least one Vermont resident as a member of its
2 governing body.

3 § 2454. NAME; OFFICE

4 (a)(1) An independent personal information trust company shall file with
5 the Department of Financial Regulation a name it proposes to use in
6 connection with a trust business or establishing a principal office or trust office
7 in this State pursuant to this chapter.

8 (2) The Department shall not approve a proposed name if it determines
9 that the name may be misleading or likely to confuse the public, or deceptively
10 similar to any name in use in this State.

11 ~~(b) A personal identity trust company organized or regulated under this~~
12 ~~chapter may petition the Commissioner for permission to establish and~~
13 ~~maintain new or additional offices for the transaction of its personal identity~~
14 ~~trust company business.~~

15 ~~(c) An independent personal identity trust company shall maintain at least~~
16 ~~one physical office in this State that meets the requirements for location and~~
17 ~~operation as the Department establishes by rule.~~

18 § 2455. CONDUCT OF BUSINESS

19 (a) A personal information trust company:

20 (1) may operate through remote interaction with the individuals
21 entrusting personal information to the company, and there shall be no

1 requirement of Vermont residency or other contact for any such individual to
2 establish such a relationship with the company; and

3 (2) may, subject to applicable fiduciary duties, the terms of any
4 agreement with the individual involved, and any applicable statutory or
5 regulatory provision:

6 (A) provide elements of personal information to third parties with
7 which the individual seeks to have a transaction, a service relationship, or other
8 particular purpose interaction;

9 (B) provide certification or validation concerning personal
10 information; and

11 (C) receive compensation for acting in these capacities; and

12 (D) may transact business through the use of a mathematically
13 secured, chronological, and decentralized consensus ledger or database,
14 whether maintained via Internet interaction, peer-to-peer network, or
15 otherwise.

16 (b) An authorization to provide personal information may be either
17 particular or general, provided it meets the terms of any agreement with the
18 individual involved and any regulatory requirements set by the Department.

19 § 2456. REPORTS; FEES; AUTHORITY OF DEPARTMENT

20 (a) The Department of Financial Regulation shall may prescribe by rule the
21 timing and manner of reports by a personal identity trust company to the State,

1 that, for an independent **personal information** trust company, shall reflect the
2 approach mandated under section 2405 of this title.

3 (b) The Department shall have the authority to assess an annual fee for a
4 **personal information** trust company, on a basis to be determined from time to
5 time by the Department, **which may be linked to the revenues or transaction**
6 **frequency of the company, based on other metrics, or assessed on a flat fee**
7 **basis. [flag – General Assembly typically sets fees]**

8 (c) In addition to other powers conferred by this chapter, the Department
9 may exercise, with respect to a **personal information** trust company, all of the
10 powers granted to the Commissioner under section 2410 of this title with
11 respect to oversight of an independent trust company.

12 § 2457. RULES

13 The Department of Financial Regulation shall adopt rules to govern other
14 aspects of the business of a **personal information** trust company **that shall**
15 **address, among other topics, issues of the winding up of a company and the**
16 **transfer of the personal identity related information it holds such as its**
17 **protection and safeguarding of personal information, and its interaction with**
18 **third parties with respect to information it holds.**

1 * * * Study; Insurance and E-Banking * * *

2 Sec. 3. INSURANCE; E-BANKING; DFR STUDY; REPORT

3 (a) The Department of Financial Regulation shall review the potential
4 application of blockchain technology to the provision of insurance and e-
5 banking and consider areas for potential adoption of a comparable program or
6 regulatory changes within Vermont.

7 (b) On or before January 15, 2019, the Department shall submit a report of
8 its findings and recommendations to the House Committee on Commerce and
9 Economic Development and the Senate Committee on Economic
10 Development, Housing and General Affairs.

11 * * * Fintech Summit * * *

12 Sec. 4. FINTECH SUMMIT

13 (a) The Agency of Commerce and Community Development, in
14 collaboration with the Department of Financial Regulation, the University of
15 Vermont, the Vermont State Colleges, Norwich University, Vermont Law
16 School, the Agency of Education, regional CTE centers, and in consultation
17 with private sector practitioners, shall organize and hold a FinTech Summit to:

18 (1) explore legal and regulatory mechanisms to promote the adoption of
19 financial technology in State government;

20 (2) explore opportunities to promote financial technology and economic
21 development in the private sector, including in the areas of banking, insurance,

1 retail and service businesses, and cryptocurrency providers and
2 proponents; and

3 (3) explore opportunities to integrate financial technology into
4 secondary and postsecondary education in Vermont.

5 (b) In fiscal year 2019, the amount of \$25,000.00 is appropriated from the
6 General Fund to the Agency of Commerce and Community Development to
7 implement this section.

8 * * * Effective Date * * *

9 Sec. 5. EFFECTIVE DATE

10 This act shall take effect on July 1, 2018.

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE