

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 504

BY SENATOR TARR

[Introduced January 28, 2022; referred
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §7-1-3tt; to amend said code by adding there to a new section, designated §8-
3 12-5h; to amend and reenact §24-3-5 of said code; to amend and reenact §31D-1-125,
4 §31D-1-150, §31D-1-151, and §31D-1-152 of said code; to amend said code by adding
5 thereto a new section, designated §31D-6-605; to amend and reenact §31D-6-625 of said
6 code; to amend and reenact §31D-7-720 of said code; to amend and reenact §31D-7-724
7 of said code; to amend and reenact §31D-7-730 of said code; to amend and reenact §31D-
8 16-1601 and §31D-16-1603 of said code; to amend said code by adding thereto a new
9 section, designated §31D-16-1607; to amend and reenact §31E-1-150 and §31E-1-151 of
10 said code; to amend and reenact §31E-15-1501, and §31E-15-1503 of said code; to
11 amend said code by adding thereto a new section, designated §31E-15-1507; to amend
12 said code by adding thereto a new chapter, designated §31I-1-101, §31I-1-102, §31I-2-
13 201, §31I-2-202, §31I-2-203, §31I-2-204, §31I-2-205, and §31I-2-206; to amend and
14 reenact §32-4-401 and §32-4-402 of said code; to amend and reenact §32A-2-1, §32A-2-
15 3, and §32A-2-22 of said code; to amend said code by adding thereto a new article,
16 designated §39A-4-101, §39A-4-102, §39A-4-103, §39A-4-201, §39A-4-202, §39A-4-203,
17 §39A-4-204, and §39A-4-205; to amend and reenact §46A-6-102 of said code; to amend
18 and reenact §47-9-1 of said code; to amend said code by adding thereto a new section,
19 designated §47-9-59a; to amend and reenact §47B-1-1 of said code; and to amend said
20 code by adding thereto a new section, designated §47B-11-6, all relating to digital assets;
21 recognizing virtual currency; prohibiting taxation of virtual currency by counties and
22 municipalities; defining terms; prohibiting public utilities from charging fees or infringing
23 upon the use of energy used in mining of digital or virtual currency; setting out duties of
24 the Secretary of State; providing for the development of a blockchain filing system;
25 providing for rulemaking; providing for notice requirements; setting out various effective
26 dates; providing for use of blockchain by corporations and corporate shareholders;

27 allowing for corporate shares may be issued by certificate tokens; providing for elements
28 for use of data address in shareholder meetings and voting; providing for network
29 signatures in corporate voting; allowing for corporate, nonprofit corporate, partnerships,
30 limited partnerships, recordkeeping on an information storage device; providing for
31 conversion of electronic records to writing; providing for admissibility of records as
32 evidence; creating the Digital Assets Act; providing for a short title, setting our legislative
33 findings; creating blockchain enabled institutions; providing blockchain institutions shall be
34 established as a business corporation; setting powers and duties of blockchain institutions;
35 providing for applicability of federal and state law; providing for required disclosures of
36 blockchain institutions; providing for continuing jurisdiction of blockchain institutions during
37 liquidation or conservatorship; making the Consumer Credit Protection Act applicable to
38 blockchain institutions; providing for voluntary dissolution of blockchain institutions;
39 providing for exemptions from securities regulations in certain circumstances; exempting
40 virtual currency from regulation as checks and money order sales, money transmission
41 services, transportation, and current exchange; creating the Utility Token Act; providing
42 for legislative findings; defining terms; classifying blockchain tokens as intangible personal
43 property; setting out requirements for a blockchain token facilitator; making willful failure
44 to comply with the act an unlawful trade practice; allowing referral for investigation and
45 prosecution by Secretary of State; providing for classification of digital assets as intangible
46 personal property in certain circumstance; providing for procedure for perfection of
47 security interest in digital assets; allowing state chartered banks to provide custodial
48 service of digital assets; setting out duties of a bank to act as a qualified custodian;
49 requiring banks to have an independent accountant conduct an examination consistent
50 with federal law; providing that digital assets held in custody are not depositor liabilities or
51 assets of a bank; establishing nature of relationship between the customer and a bank in
52 custodial arrangements; allowing rulemaking of the banking commissioner; providing for

53 jurisdiction of courts with respect to digital assets; and making the Consumer Credit
54 Protection Act applicable to custodial arrangements.

55 *Be it enacted by the Legislature of West Virginia:*

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3tt. Prohibition on virtual currency taxes and fees.

1 (a) No county commission as set forth in §7-1-1 of this code shall:

2 (1) Impose any tax or fee on the use of virtual currency as that term is defined in §32A-2-
3 1 of this code by any person or entity;

4 (2) Require any person or entity to obtain from the county commission any certificate,
5 license, or permit to use virtual currency; or

6 (3) Impose any other requirements relating to the use of virtual currency by any person or
7 entity.

8 (b) Nothing in this section prohibits a county commission from using virtual currency in the
9 performance of its powers or duties in a manner not inconsistent with the provisions of §32A-1-1
10 et seq. of this code.

CHAPTER 8. MUNICIPAL CORPORATIONS.

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED
RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL
OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

§8-12-5h. Prohibition on blockchain taxes and fees.

1 (a) No governing body of any municipality or city as those terms are defined in §8-1-2 of
2 this code shall:

3 (1) Impose any tax or fee on the use of virtual currency as that term is defined in §32A-2-
4 1 of this code by any person or entity;

5 (2) Require any person or entity to obtain from the governing body of any municipality or
6 city any certificate, license, or permit to use virtual currency; or

7 (3) Impose any other requirements relating to the use of virtual currency by any person or
8 entity.

9 (b) Nothing in this section prohibits a governing body of any municipality or city from using
10 virtual currency in the performance of its powers or duties in a manner not inconsistent with the
11 provisions of §32A-1-1 et seq. of this code.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO REGULATIONS OF COMMISSION.

§24-3-5. Schedule of rates to be filed with commission.

1 (a) Every public utility shall file with the commission, and keep open to public inspection,
2 schedules showing all the rates, charges and tolls for service to be rendered by it or by other
3 persons, firms or corporations in connection with it: *Provided*, That the reports and tariffs filed by
4 interstate carriers with the Public Service Commission may be copies of its reports and tariffs filed
5 with the Interstate Commerce Commission; but nothing herein shall preclude the Public Service
6 Commission from requiring interstate carriers to furnish information bearing upon any complaint
7 or question pending before said Public Service Commission and with which it has a right to deal.

8 (b) No public utility shall impose a surcharge, limitation, quota, fee, or infringe upon the
9 use of energy in any way regardless of source of generation, including, but not limited to, coal,
10 natural gas, propane, wind, solar, nuclear, geothermal or nuclear when utilized in the mining,
11 transmitting, validating, minting or use of virtual or digital currency in any way.

CHAPTER 31D. WEST VIRGINIA BUSINESS CORPORATION ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31D-1-125. Filing duty of Secretary of State.

1 (a) If a document delivered to the office of the Secretary of State for filing satisfies the
2 requirements of §31D-1-120 of this code, the Secretary of State shall file it.

3 (b) The Secretary of State files a document by recording it as filed on the date and time of
4 receipt unless a delayed effective time is specified in the document. After filing a document, except
5 as provided in §31D-5-503 of this code and §31D-15-1509 of this code, the Secretary of State
6 shall deliver to the domestic or foreign corporation or its representative a receipt for the record
7 and the fees. Upon request and payment of a fee, the Secretary of State shall send to the
8 requester a certified copy of the requested record.

9 (c) If the Secretary of State refuses to file a document, he or she shall return it to the
10 domestic or foreign corporation or its representative within five days after the document was
11 delivered, together with a brief, written explanation of the reason for his or her refusal.

12 (d) The Secretary of State's duty to file documents under this section is ministerial. His or
13 her or her filing or refusing to file a document does not:

14 (1) Affect the validity or invalidity of the document in whole or in part;

15 (2) Relate to the correctness or incorrectness of information contained in the document;

16 or

17 (3) Create a presumption that the document is valid or invalid or that information contained
18 in the document is correct or incorrect.

19 (e) (1) As used in this subsection the following words shall mean:

20 (A) "Application programming interface" means a computer software intermediary which
21 allows two (2) distinct software applications to interact;

22 (B) "Blockchain" means a digital ledger or database which is chronological,
23 consensus-based, decentralized, and mathematically verified in nature;

24 (C) "Required filings" means all documents, reports, data, and other information required
25 by law to be filed with the secretary of state.

26 (2) No later than January 1, 2023, the Secretary of State shall develop and implement an

27 industry leading filing system through which all required filings, as defined in this subsection, may
 28 be submitted. The Secretary of State shall endeavor to use blockchain technology and include an
 29 application programming interface as components of the filing system, as well as robust security
 30 measures and other components determined by the Secretary of State to be best practices or
 31 which are likely to increase the effective and efficient administration of the laws of this state. The
 32 Secretary of State may create a blockchain for the purposes of this section or contract for the use
 33 of a privately created blockchain.

34 (3) The Secretary of State may:

35 (i) Consult with all interested parties before developing the filing system specified by this
 36 subsection, including businesses, registered agents, attorneys, law enforcement, and other
 37 interested persons;

38 (ii) If possible, partner with technology innovators and private companies to develop
 39 necessary components of the system.

40 (4) The Secretary of State may promulgate emergency rules pursuant to the provisions of
 41 §29A-3-15 of this code to effectuate the provisions of this subsection.

§31D-1-150. Definitions.

1 As used in this chapter, unless the context otherwise requires a different meaning, the
 2 term:

3 ~~(1)~~ “Articles of incorporation” includes, but is not limited to, amended and restated articles
 4 of incorporation and articles of merger.

5 ~~(2)~~ “Authorized shares” means the shares of all classes a domestic or foreign corporation
 6 is authorized to issue.

7 ~~(3)~~ “Conspicuous” means written so that a reasonable person against whom the writing is
 8 to operate should have noticed, including, but not limited to, printing in italics or boldface or
 9 contrasting color, or typing in capitals or underlined.

10 ~~(4)~~ “Corporation” or “domestic corporation” means a corporation for profit, which is not a

11 foreign corporation, incorporated under or subject to the provisions of this chapter.

12 “Data address” means the string of alphanumeric characters on one or more distributed
13 or other electronic networks for databases that may only be accessed by knowledge or
14 possession of a private key in order to facilitate or record transactions on the distributed or other
15 electronic network or database.

16 ~~(5)~~ “Deliver” or “delivery” means any method of delivery used in conventional commercial
17 practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic
18 transmission.

19 ~~(6)~~ “Distribution” means a direct or indirect transfer of money or other property or
20 incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of
21 any of its shares: *Provided*, That “distribution” does not include a direct or indirect transfer of a
22 corporation’s own shares. A distribution may be in the form of a declaration or payment of a
23 dividend; a purchase, redemption or other acquisition of shares; or a distribution of indebtedness.

24 ~~(7)~~ “Effective date of notice” means the date as determined pursuant to §31D-1-159 of this
25 code.

26 ~~(8)~~ “Electronic transmission” or “electronically transmitted” means any process of
27 communication that does not directly involving involve the physical transfer of paper, including a
28 process of communication that uses one or more distributed or other electronic networks, or
29 databases, and that is suitable for the retention, retrieval and reproduction of information by the
30 recipient.

31 ~~(9)~~ “Employee” includes an officer and may include a director: *Provided*, That the director
32 has accepted duties that make him or her also an employee.

33 ~~(10)~~ “Entity” includes corporations and foreign corporations; nonprofit corporations; profit
34 and nonprofit unincorporated associations; limited liability companies and foreign limited liability
35 companies; business trusts, estates, partnerships, trusts and two or more persons having a joint
36 or common economic interest; and state, United States and foreign government.

37 (11) "Foreign corporation" means a corporation for profit incorporated under a law other
38 than the laws of this state.

39 ~~(12)~~ "Governmental subdivision" includes, but is not limited to, authorities, counties,
40 districts and municipalities.

41 "Identity" means the name of a shareholder or the data address for which the shareholder
42 has knowledge or possession of this private key uniquely associated with the data address.

43 ~~(13)~~ "Individual" includes, but is not limited to, the estate of an incompetent or deceased
44 individual.

45 "Network signature" means a string of alphanumeric characters that when broadcast by a
46 person to the data address's provides reasonable assurances to a recipient that the broadcasting
47 person has knowledge or possession of the private key uniquely associated with the data address.

48 ~~(14)~~ "Person" includes, but is not limited to, an individual and an entity.

49 ~~(15)~~ "Principal office" means the office so designated in the return required pursuant to
50 §11-12C-3 of this code where the principal executive offices of a domestic or foreign corporation
51 are located.

52 ~~(16)~~ "Proceeding" includes, but is not limited to, civil suits and criminal, administrative and
53 investigatory actions.

54 ~~(17)~~ "Record date" means the date established under article six or seven of this chapter
55 on which a corporation determines the identity of its shareholders and their shareholdings. The
56 determinations are to be made as of the close of business on the record date unless another time
57 for doing so is specified when the record date is fixed.

58 "Record of shareholders" means one or more records administered by or on behalf of a
59 corporation that records the identity of all the corporation's shareholders and the number and
60 class of shares held by each shareholder.

61 ~~(18)~~ "Registered agent" means the agent identified by the corporation pursuant to §31D-
62 5-501 of this code.

63 ~~(19)~~ “Registered office” means the address of the registered agent for the corporation, as
64 provided in §31D-5-501 of this code.

65 ~~(20)~~ “Secretary” means the corporate officer to whom the board of directors has delegated
66 responsibility under §31D-8-840 of this code for custody of the minutes of the meetings of the
67 board of directors and the meetings of the shareholders and for authenticating records of the
68 corporation.

69 ~~(21)~~ “Shareholder” means the person in whose name shares are registered in the records
70 of a corporation, ~~or~~ the beneficial owner of shares to the extent of the rights granted by a nominee
71 certificate on file with a corporation or the owner of a private key that is uniquely associated with
72 a data address that facilitates or records the sending and receiving of shares.

73 ~~(22)~~ “Shares” means the units into which the proprietary interests in a corporation are
74 divided.

75 ~~(23)~~ “Sign” or “signature” includes, but is not limited to, any manual, facsimile, conformed
76 or electronic signature with means to identify a record by signature, mark or other symbol, with
77 intent to authenticate it or a network signature.

78 ~~(24)~~ “State”, when referring to a part of the United States, includes a state and
79 commonwealth and a territory and insular possession of the United States and their agencies and
80 governmental subdivisions.

81 ~~(25)~~ “Subscriber” means a person who subscribes for shares in a corporation, whether
82 before or after incorporation.

83 ~~(26)~~ “United States” includes, but is not limited to, districts, authorities, bureaus,
84 commissions, departments and any other agency of the United States.

85 ~~(27)~~ “Voting group” means all shares of one or more classes or series that, pursuant to
86 the articles of incorporation or this chapter, are entitled to vote and be counted together
87 collectively on a matter at a meeting of shareholders. All shares entitled by the articles of
88 incorporation or this chapter to vote generally on the matter are for that purpose a single voting

89 group.

90 ~~(28)~~ “Voting power” means the current power to vote in the election of directors.

§31D-1-151. Notice.

1 (a) Notice under this chapter must be in writing unless oral notice is reasonable under the
2 circumstances. Notice by electronic transmission is to be considered written notice.

3 (b) Notice may be communicated in person; by mail or other method of delivery; or by
4 telephone, voice mail or other electronic means. If these forms of personal notice are
5 impracticable, notice may be communicated by a newspaper of general circulation in the area
6 where published, or by radio, television or other form of public broadcast communication.

7 (c) Written notice by a domestic or foreign corporation to its shareholder, if in a
8 comprehensible form, is effective: (1) Upon deposit in the United States mail, if mailed postpaid
9 and correctly addressed to the shareholder's address shown in the corporation's current record
10 of shareholders; ~~or (2) When an electronic transmission has been made to a data address~~
11 provided by the shareholder; or (2) (3) when electronically transmitted to the shareholder in a
12 manner authorized by the shareholder.

13 (d) Written notice to a domestic or foreign corporation authorized to transact business in
14 this state may be addressed to its registered agent at its registered office or to the corporation or
15 its secretary at its principal office shown in its most recent return required pursuant to section
16 three, article twelve-c, chapter eleven of this code or, in the case of a foreign corporation that has
17 not yet delivered a return, in its application for a certificate of authority.

18 (e) Except as provided in subsection (c) of this section, written notice, if in a
19 comprehensible form, is effective at the earliest of the following:

20 (1) When received;

21 (2) Five days after its deposit in the United States mail, if mailed postpaid and correctly
22 addressed; or

23 (3) On the date shown on the return receipt, if sent by registered or certified mail, return

24 receipt requested, and the receipt is signed by or on behalf of the addressee.

25 (f) Oral notice is effective when communicated, if communicated in a comprehensible
26 manner.

27 (g) If other provisions of this chapter prescribe notice requirements for particular
28 circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice
29 requirements, not inconsistent with this section or other provisions of this chapter, those
30 requirements govern.

§31D-1-152. Number of shareholders.

1 (a) For purposes of this chapter, the following, identified as a shareholder in a corporation's
2 current record of shareholders, constitutes one shareholder:

3 (1) Three or fewer coowners;

4 (2) A corporation, partnership, trust, estate or other entity; or

5 (3) The trustees, guardians, custodians or other fiduciaries of a single trust, estate or
6 account; or

7 (4) One data address.

8 (b) For purposes of this chapter, shareholdings registered in substantially similar names
9 constitute one shareholder if it is reasonable to believe that the names represent the same person.

ARTICLE 6. SHARES AND DISTRIBUTIONS.

§31D-6-605. Construction of terms relating to stock and certificate tokens.

1 As used in this title, any reference to:

2 (1) Share certificate, share, stock, share of stock or words of similar import shall be
3 construed to include a certificate token;

4 (2) A requirement to print information on a share certificate or words of similar import shall
5 be construed to be satisfied if the information satisfies the requirements set forth in §31D-6-625
6 of this code;

7 (3) Certificated shares or words of similar import shall be construed to include shares

8 represented by certificate tokens, and any reference to the delivery or deposit of these shares to
 9 the corporation shall be construed to refer to any method of granting control of the tokens to the
 10 corporation;

11 (4) A certificate being duly endorsed or words of similar import shall be construed to mean
 12 that the transaction authorizing transfer of control of the certificate token was signed by the lawful
 13 holder of the token with the network signature corresponding to the lawful holder's data address to
 14 which the certificate token was issued or last lawfully transferred.

§31D-6-625. Form and content of certificates.

1 (a) Shares may, but need not, be represented by certificates. Unless this chapter or
 2 another provision of this code expressly provides otherwise, the rights and obligations of
 3 shareholders are identical whether or not their shares are represented by certificates.

4 (b) At a minimum each share certificate must state on its face:

5 (1) ~~The name of the issuing corporation and that it is organized under the law of this state~~
 6 The name of the person to whom, or in the case of a certificate token, the data address to which
 7 the token was issued;

8 (2) The name of the person to whom issued; and

9 (3) The number and class of shares and the designation of the series, if any, the certificate
 10 represents.

11 (c) If the issuing corporation is authorized to issue different classes of shares or different
 12 series within a class, the designations, relative rights, preferences and limitations applicable to
 13 each class and the variations in rights, preferences and limitations determined for each series
 14 and the authority of the board of directors to determine variations for future series must be
 15 summarized on the front or back of each certificate. Alternatively, each certificate may state
 16 conspicuously on its front or back that the corporation will furnish the shareholder this information
 17 on request in writing and without charge.

18 (d) Except as otherwise provided in this section, each share certificate: (1) Must be signed,

19 either manually or in facsimile, by two officers designated in the bylaws or by the board of
 20 directors; and (2) may bear the corporate seal or its facsimile.

21 (e) If the person who signed, ~~either manually or in facsimile~~, a share certificate no longer
 22 holds office when the certificate is issued, the certificate remains valid.

23 (f) The articles of incorporation or bylaws of a corporation may specify that all or a portion
 24 of the shares of the corporation may be represented by share certificates in the form of certificate
 25 tokens. The electronic message, command or transaction that transmits the certificate tokens to
 26 the data address to which a certificate token was issued shall be authorized at the time of issuance
 27 by one or more messages, commands, or transactions signed with the network signatures of two
 28 officers designated in the bylaws or by the board of directors of the corporation.

29 (g) As used in this section:

30 (1) "Blockchain" means a digital ledger or database which is chronological, consensus
 31 based, decentralized, and mathematically verified in nature;

32 (2) "Certificate token" means a representation of shares that is stored in an electronic
 33 format which contains the information specified under subsections (b) and (c) of this section, and
 34 this information is:

35 (A) Entered into a blockchain or other secure, auditable database;

36 (B) Linked to or associated with the certificate token; and

37 (C) Able to be transmitted electronically to the issuing corporation, the person to whom
 38 the certificate token was issued and any transferee.

ARTICLE 7. SHAREHOLDERS.

PART 2. VOTING.

§31D-7-720. Shareholders' list for meeting.

1 (a) After fixing a record date for a meeting, a corporation must prepare an alphabetical or
 2 numerical list of the ~~names~~ identities of all its shareholders who are entitled to notice of a

3 shareholders' meeting. The list must be arranged by voting group and, within each voting group,
4 by class or series of shares and show the ~~address of and~~ number of shares held by each
5 shareholder. The list shall also show each shareholder's physical mailing address, if the identity
6 of a shareholder on the list consists of the shareholder's name, and each shareholder's authorized
7 means of receipt for electronic transmissions, if the identity of a shareholder on the list consists
8 of the shareholder's data address.

9 (b) The shareholders' list must be available for inspection by any shareholder, beginning
10 two business days after notice of the meeting is given for which the list was prepared and
11 continuing through the meeting, at the corporation's principal office or at a place identified in the
12 meeting notice in the city where the meeting will be held. A shareholder, his or her agent or
13 attorney is entitled on written demand to inspect and, subject to the requirements of §31D-16-
14 602(c) of this code, to copy the list, during regular business hours and at his or her expense,
15 during the period it is available for inspection.

16 (c) The corporation must make the shareholders' list available at the meeting and any
17 shareholder, his or her agent or attorney is entitled to inspect the list at any time during the
18 meeting or any adjournment.

19 (d) If the corporation refuses to allow a shareholder, his or her agent or attorney to inspect
20 the shareholders' list before or at the meeting, or to copy the list as permitted by subsection (b)
21 of this section, the circuit court, on application of the shareholder, may summarily order the
22 inspection or copying at the corporation's expense and may postpone the meeting for which the
23 list was prepared until the inspection or copying is complete.

24 (e) Refusal or failure to prepare or make available the shareholders' list does not affect
25 the validity of action taken at the meeting.

§31D-7-724. Corporation's acceptance of votes.

1 (a) If the name or network signature signed on a vote, consent, waiver or proxy
2 appointment corresponds to the name or data address of a shareholder, the corporation if acting

3 in good faith is entitled to accept the vote, consent, waiver or proxy appointment and give it effect
4 as the act of the shareholder.

5 (b) If the name or network signature signed on a vote, consent, waiver or proxy
6 appointment does not correspond to the name or data address of its shareholder, the corporation
7 if acting in good faith is entitled to accept the vote, consent, waiver or proxy appointment and give
8 it effect as the act of the shareholder if:

9 (1) The shareholder is an entity and the name or network signature signed purports to be
10 that of an officer or agent of the entity;

11 (2) The name or network signature signed purports to be that of an administrator, executor,
12 guardian or conservator representing the shareholder and, if the corporation requests, evidence
13 of this status acceptable to the corporation has been presented with respect to the vote, consent,
14 waiver or proxy appointment;

15 (3) The name or network signature signed purports to be that of a receiver or trustee in
16 bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable
17 to the corporation has been presented with respect to the vote, consent, waiver or proxy
18 appointment;

19 (4) The name or network signature signed purports to be that of a pledgee, beneficial
20 owner or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable
21 to the corporation of the signatory's authority to sign for the shareholder has been presented with
22 respect to the vote, consent, waiver or proxy appointment; or

23 (5) Two or more persons are the shareholder as cotenants or fiduciaries and the name or
24 network signature signed purports to be the name or data address of at least one of the coowners
25 and the person signing appears to be acting on behalf of all the coowners.

26 (c) The corporation is entitled to reject a vote, consent, waiver or proxy appointment if the
27 secretary or other officer or agent authorized to tabulate votes, acting in good faith, has
28 reasonable basis for doubt about the validity of the signature on it or about the signatory's

29 authority to sign for the shareholder.

30 (d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver
31 or proxy appointment in good faith and in accordance with the standards of this section or §31D-
32 7-722(b) of this code are not liable in damages to the shareholder for the consequences of the
33 acceptance or rejection.

34 (e) Corporate action based on the acceptance or rejection of a vote, consent, waiver or
35 proxy appointment under this section is valid unless a court of competent jurisdiction determines
36 otherwise.

PART 3. VOTING TRUSTS AND AGREEMENTS.

§31D-7-730. Voting trusts.

1 (a) One or more shareholders may create a voting trust, conferring on a trustee the right
2 to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust,
3 including, but not limited to, anything consistent with its purpose, and transferring their shares to
4 the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the ~~names~~
5 ~~and addresses~~ identities of all owners of beneficial interests in the trust, together with the number
6 and class of shares each transferred to the trust. ~~and deliver copies of the list and agreement to~~
7 ~~the corporation's principal office.~~ The list shall also show each shareholder's physical mailing
8 address, if the identity of a shareholder on the list consists of the shareholder's name, and each
9 shareholder's authorized means of receipt for electronic transmissions, if the identity of a
10 shareholder on the list consists of the shareholder's data address. Copies of the list and
11 agreement shall be delivered to the corporation's principal office.

12 (b) A voting trust becomes effective on the date the first shares subject to the trust are
13 registered in the trustee's name. A voting trust is valid for not more than ten years after its effective
14 date unless extended under subsection (c) of this section.

15 (c) All or some of the parties to a voting trust may extend it for additional terms of not more
16 than ten years each by signing written consent to the extension. An extension is valid for ten years

17 from the date the first shareholder signs the extension agreement. The voting trustee must deliver
 18 copies of the extension agreement and list of beneficial owners to the corporation's principal
 19 office. An extension agreement binds only those parties signing it.

ARTICLE 16. RECORDS AND REPORTS.

§31D-16-1601. Corporate records.

1 (a) A record of shareholders administered by or on behalf of a corporation shall keep as
 2 permanent records minutes of all meetings of its shareholders and board of directors, a record of
 3 all actions taken by the shareholders or board of directors without a meeting and a record of all
 4 actions taken by a committee of the board of directors in place of the board of directors on behalf
 5 of the corporation.

6 (b) A corporation shall maintain appropriate accounting records.

7 (c) A corporation or its agent shall maintain a record of the identities its shareholders, in a
 8 form that permits preparation of a list of the names and addresses of all shareholders, in
 9 alphabetical or numerical order by class of shares showing the number and class of shares held
 10 by each. The list shall also show each shareholder's physical mailing address, if the identity of a
 11 shareholder on the list consists of the shareholder's name, and each shareholder's authorized
 12 means of receipt for electronic transmissions, if the identity of a shareholder on the list consists
 13 of the shareholder's data address. A record of shareholders may show both the shareholder's
 14 name and data address.

15 ~~(d) A corporation shall maintain its records in written form or in another form capable of~~
 16 ~~conversion into written form within a reasonable time~~ Records administered by or on behalf of, or
 17 maintained by, a corporation may be kept on, or by means of, or be in the form of any information
 18 storage device or method or any one or more distributed or other electronic networks or
 19 databases provided that the records are kept in written form or in another form capable of
 20 conversion into written form within a reasonable time.

21 (e) A corporation shall keep a copy of the following records at its principal office:

22 (1) Its articles or restated articles of incorporation and all amendments to them currently
23 in effect;

24 (2) Its bylaws or restated bylaws and all amendments to them currently in effect;

25 (3) Resolutions adopted by its board of directors creating one or more classes or series of
26 shares and fixing their relative rights, preferences and limitations if shares issued pursuant to
27 those resolutions are outstanding;

28 (4) The minutes of all shareholders' meetings, and records of all action taken by
29 shareholders without a meeting, for the past three years;

30 (5) All written communications to shareholders generally within the past three years,
31 including the financial statements furnished for the past three years under section §31D-16-1620
32 of this code; and

33 (6) A list of the names and business addresses of its current directors and officers.

§31D-16-1603. Scope of inspection right.

1 (a) A shareholder's agent or attorney has the same inspection and copying rights as the
2 shareholder represented.

3 (b) The right to copy records under §31D-16-1602 of this code includes, if reasonable, the
4 right to receive copies by xerographic or other means, including copies through an electronic
5 transmission if available and requested by the shareholder. If a record is kept on or maintained in
6 the form of an information storage device or method or any one or more distributed or
7 other electronic networks or databases, the corporation is not required to convert the entire record
8 into paper form but shall only be required to convert the requested record into paper form.

9 (c) The corporation may comply at its expense with a shareholder's demand to inspect the
10 record of shareholders under §31D-16-1602(b)(3) of this code by providing the shareholder with
11 a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

12 (d) The corporation may impose a reasonable charge, covering the costs of labor and
13 material, for copies of any documents provided to the shareholder. The charge may not exceed

14 the estimated cost of production, reproduction or transmission of the records.

§31D-16-1607. Conversion of electronic documents; admissibility as evidence.

1 (a) Except as otherwise required by federal or state law, any records maintained by a
 2 corporation in its regular course of business may be kept in the form of an electronic record and
 3 may be maintained on any information processing system or information storing device or
 4 medium.

5 (b) Upon a proper request by any person entitled to inspect the records maintained by a
 6 corporation, the corporation shall convert within a reasonable time any records that are kept in a
 7 manner as set forth in subsection (a) of this section into a clear and legible paper form. If the
 8 requested record is maintained in the form of any information storage device or method
 9 or any one or more distributed or other electronic networks or databases, the corporation is not
 10 required to convert the entire record into paper form but shall be deemed to comply with the
 11 requirements of this section by converting only the requested record into paper form.

12 (c) A clear and legible paper form produced from records that are kept in electronic format
 13 as described in this section is admissible as evidence and accepted for all other purposes to the
 14 same extent as an original paper record with the same information if the paper form portrays the
 15 record accurately.

CHAPTER 31E. WEST VIRGINIA NONPROFIT CORPORATION ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31E-1-150. Chapter definitions.

1 As used in this chapter, unless the context otherwise requires a different meaning, the
 2 term:

3 ~~(1)~~ "Articles of incorporation" includes, but is not limited to, amended and restated articles
 4 of incorporation and articles of merger.

5 ~~(2)~~ "Authorized shares" means the shares of all classes a domestic or foreign corporation

6 is authorized to issue.

7 (3) “Board” or “board of directors” means the group of persons vested with management
8 of the affairs of the corporation irrespective of the name by which the group is designated.

9 (4) “Business corporation” means a corporation with capital stock or shares incorporated
10 for profit.

11 (5) “Conspicuous” means written so that a reasonable person against whom the writing is
12 to operate should have noticed, including, but not limited to, printing in italics or boldface or
13 contrasting color, or typing in capitals or underlined.

14 (6) “Corporation” or “domestic corporation” means a corporation without capital stock or
15 shares, which is not a foreign corporation, incorporated under the laws of this state: *Provided*,
16 That “corporation” or “domestic corporation” does not include towns, cities, boroughs or any
17 municipal corporation or any department or any town, city, borough or municipal corporation.

18 (7) “Deliver” or “delivery” means any method of delivery used in conventional commercial
19 practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic
20 transmission.

21 (8) “Distribution” means a direct or indirect transfer of money or other property or
22 incurrence of indebtedness by a corporation to or for the benefit of its members in respect of any
23 of its membership interests or to or for the benefit of its officers or directors: *Provided*, That the
24 payment of reasonable compensation for services rendered, the reimbursement of reasonable
25 expenses, the granting of benefits to members in conformity with the corporation's nonprofit
26 purposes and the making of distributions upon dissolution or final liquidation as provided §31E-
27 13-1 *et seq.* of this code may not be deemed a distribution.

28 (9) “Effective date of notice” means the date as determined pursuant to §31E-1-151 of this
29 code.

30 (10) “Electronic transmission” or “electronically transmitted” means any process of
31 communication that does not directly ~~involving~~ involve the physical transfer of paper, including a

32 process of communication that uses one or more distributed or other electronic networks or
33 databases, and that is suitable for the retention, retrieval and reproduction of information by the
34 recipient.

35 ~~(14)~~ "Employee" includes an officer and may include a director: *Provided*, That the director
36 has accepted duties that make him or her also an employee.

37 ~~(12)~~ "Entity" includes corporation and foreign corporations; business corporations and
38 foreign business corporations; profit and nonprofit unincorporated associations; limited liability
39 companies and foreign limited liability companies; business trusts, estates, partnerships, trusts
40 and two or more persons having a joint or common economic interest; and state, United States
41 and foreign government.

42 ~~(13)~~ "Foreign corporation" means any nonprofit corporation which is incorporated under a
43 law other than the laws of this state.

44 ~~(14)~~ "Governmental subdivision" includes, but is not limited to, authorities, counties,
45 districts and municipalities.

46 ~~(15)~~ "Individual" includes, but is not limited to, the estate of an incompetent or deceased
47 individual.

48 ~~(16)~~ "Member" means a person having membership rights in a corporation in accordance
49 with the provisions of its certificate of incorporation or bylaws.

50 ~~(17)~~ "Nonprofit corporation" means a corporation which may not make distributions to its
51 members, directors or officers.

52 ~~(18)~~ "Person" includes, but is not limited to, an individual and an entity.

53 ~~(19)~~ "Principal office" means the office so designated in the return required pursuant to
54 §11-12C-3 of this code, where the principal executive offices of a domestic or foreign corporation
55 are located.

56 ~~(20)~~ "Proceeding" includes, but is not limited to, civil suits and criminal, administrative and
57 investigatory actions.

58 ~~(21)~~ "Record date" means the date established under article six or seven of this chapter
59 on which a corporation determines the identity of its members and their interests. The
60 determinations are to be made as of the close of business on the record date unless another time
61 for doing so is specified when the record date is fixed.

62 ~~(22)~~ "Registered agent" means the agent identified by the corporation pursuant to §31E-
63 5-501 of this code.

64 ~~(23)~~ "Registered office" means the address of the registered agent for the corporation, as
65 provided in §31E-5-501 of this code.

66 ~~(24)~~ "Secretary" means the corporate officer to whom the board of directors has delegated
67 responsibility under §31E-8-840(c) of this code for custody of the minutes of the meetings of the
68 board of directors and the meetings of the members and for authenticating records of the
69 corporation.

70 ~~(25)~~ "Sign" or "signature" includes, but is not limited to, any manual, facsimile, conformed
71 or electronic signature with means to identify a record by a signature, mark or other symbol, with
72 intent to authenticate it.

73 ~~(26)~~ "State", when referring to a part of the United States, includes a state, commonwealth
74 and a territory and insular possession of the United States and their agencies and governmental
75 subdivisions.

76 ~~(27)~~ "United States" includes, but is not limited to, districts, authorities, bureaus,
77 commissions, departments and any other agency of the United States.

§31E-1-151. Notice.

1 (a) Notice under this chapter must be in writing unless oral notice is reasonable under the
2 circumstances. Notice by electronic transmission is to be considered written notice.

3 (b) Notice may be communicated in person; by mail or other method of delivery; or by
4 telephone, voice mail or other electronic means. If these forms of personal notice are
5 impracticable, notice may be communicated by a newspaper of general circulation in the area

6 where published, or by radio, television, or other form of public broadcast communication.

7 (c) Written notice by a domestic or foreign corporation to its shareholder, if in a
8 comprehensible form, is effective: (1) Upon deposit in the United States mail, if mailed postpaid
9 and correctly addressed to the shareholder's address shown in the corporation's current record
10 of shareholders; ~~or (2) When an electronic transmission has been made to a data address~~
11 provided by the shareholder; or ~~(2)~~ (3) when electronically transmitted to the shareholder in a
12 manner authorized by the shareholder.

13 (d) Written notice to a domestic or foreign corporation authorized to transact business in
14 this state may be addressed to its registered agent at its registered office or to the corporation or
15 its secretary at its principal office shown in its most recent return required pursuant to §11-12C-3
16 of this code or, in the case of a foreign corporation that has not yet delivered a return, in its
17 application for a certificate of authority.

18 (e) Except as provided in subsection (c) of this section, written notice, if in a
19 comprehensible form, is effective at the earliest of the following:

20 (1) When received;

21 (2) Five days after its deposit in the United States mail, if mailed postpaid and correctly
22 addressed; or

23 (3) On the date shown on the return receipt, if sent by registered or certified mail, return
24 receipt requested, and the receipt is signed by or on behalf of the addressee.

25 (f) Oral notice is effective when communicated, if communicated in a comprehensible
26 manner.

27 (g) If other provisions of this chapter prescribe notice requirements for particular
28 circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice
29 requirements, not inconsistent with this section or other provisions of this chapter, those
30 requirements govern.

ARTICLE 15. RECORDS AND REPORTS.

§31E-15-1501. Corporate records.

1 (a) A corporation shall keep as permanent records minutes of all meetings of its members
 2 and board of directors, a record of all actions taken by the members or board of directors without
 3 a meeting, and a record of all actions taken by a committee of the board of directors in place of
 4 the board of directors on behalf of the corporation.

5 (b) A corporation shall maintain appropriate accounting records.

6 (c) A corporation or its agent shall maintain a record of its members, if any, in a form that
 7 permits preparation of a list of the names and addresses of all members, in alphabetical order.

8 ~~(d) A corporation shall maintain its records in written form or in another form capable of~~
 9 ~~conversion into written form within a reasonable time~~ Records administered by or on behalf of, or
 10 maintained by, a corporation may be kept on, or by means of, or be in the form of any information
 11 storage device or method or any one or more distributed or other electronic networks or
 12 databases provided that the records are kept in written form or in another form capable of
 13 conversion into written form within a reasonable time.

14 (e) A corporation shall keep a copy of the following records at its principal office:

15 (1) Its articles or restated articles of incorporation and all amendments to them currently
 16 in effect;

17 (2) Its bylaws or restated bylaws and all amendments to them currently in effect;

18 (3) Resolutions adopted by its board of directors;

19 (4) The minutes of all members' meetings, and records of all action taken by members
 20 without a meeting, for the past three years;

21 (5) All written communications to members generally within the past three years, including
 22 the financial statements furnished for the past three years under §31E-15-1502 of this code; and

23 (6) A list of the names and business addresses of its current directors and officers.

§31E-15-1503. Scope of inspection right.

1 (a) A member's agent or attorney has the same inspection and copying rights as the

2 member represented.

3 (b) The right to copy records under §31E-15-1502 of this code includes, if reasonable, the
4 right to receive copies by xerographic or other means, including copies through an electronic
5 transmission if available and requested by the member. If a record is kept on or maintained in the
6 form of an information storage device or method or any one or more distributed or other electronic
7 networks or databases, the corporation is not required to convert the entire record into paper form
8 but shall only be required to convert the requested record into paper form.

9 The term “inspect” for purposes of §31E-15-1502 of this code includes the making of
10 extracts from the records reviewed.

11 (c) The corporation may comply at its expense with a member’s demand to inspect the
12 record of members under §31E-15-1502(b)(3) of this code by providing the member with a list of
13 members that was compiled no earlier than the date of the member’s demand.

14 (d) The corporation may impose a reasonable charge, covering the costs of labor and
15 material, for copies of any documents provided to the member. The charge may not exceed the
16 estimated cost of production, reproduction or transmission of the records.

§31E-15-1507. Conversion of electronic documents; admissibility as evidence.

1 (a) Except as otherwise required by federal or state law, any records maintained by a
2 corporation in its regular course of business may be kept in the form of an electronic record and
3 may be maintained on any information processing system or information storing device or
4 medium.

5 (b) Upon a proper request by any person entitled to inspect the records maintained by a
6 corporation, the corporation shall convert within a reasonable time any records that are kept in a
7 manner as set forth in subsection (a) of this section into a clear and legible paper form. If the
8 requested record is maintained in the form of any information storage device or method
9 or any one or more distributed or other electronic networks or databases, the corporation is not
10 required to convert the entire record into paper form but shall be deemed to comply with the

11 requirements of this section by converting only the requested record into paper form.

12 (c) A clear and legible paper form produced from records that are kept in electronic format
13 as described in this section is admissible as evidence and accepted for all other purposes to the
14 same extent as an original paper record with the same information if the paper form portrays the
15 record accurately.

CHAPTER 31I. DIGITAL ASSETS ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31I-1-101. Short title.

1 This article may be cited as the Digital Assets Act.

§31I-1-102. Legislative findings.

1 The Legislature finds the following:

2 (1) The rapid innovation of blockchain technology, including the growing use of virtual
3 currency and other digital assets, has resulted in many blockchain innovators being unable to
4 access secure and reliable banking services, hampering development of blockchain services and
5 products in the marketplace;

6 (2) Federally insured financial institutions are not generally permitted to manage accounts
7 in virtual currency or hold other digital assets;

8 (3) Blockchain innovators have greater compliance challenges with federal customer
9 identification, anti-money laundering and beneficial ownership requirements because of the
10 complex nature of these obligations and the unfamiliarity of regulators with blockchain innovators'
11 businesses;

12 (4) These intricate obligations have resulted in many financial institutions in this state and
13 across the United States refusing to provide banking services to blockchain innovators and also
14 refusing to accept deposits in United States currency obtained from the sale of virtual currency or
15 other digital assets;

16 (5) Compliance with applicable federal and state laws is critical to ensuring the future
17 growth and reputation of the blockchain and technology industries as a whole;

18 (6) Most financial institutions today do not have the requisite expertise or familiarity with
19 the challenges facing blockchain innovators which is required to provide secure and reliable
20 banking services to these innovators;

21 (7) A new type of financial institution that has expertise with customer identification, anti-
22 money laundering and beneficial ownership requirements could seamlessly integrate these
23 requirements into its operating model; and

24 (8) Recognizing Blockchain enabled institutions to be chartered in this state will provide a
25 necessary and valuable service to blockchain innovators, emphasize West Virginia's partnership
26 with the technology and financial industry and safely grow this states' developing financial sector.

ARTICLE 2. BLOCKCHAIN INSTITUTIONS.

§311-2-201. Blockchain enabled institutions created as corporations; operating authority; **powers.**

1 (a) Blockchain enabled entities may be organized in any manner consistent with the
2 provisions of the West Virginia Business Corporation Act set forth in chapter thirty-one-D of this
3 code.

4 (b) Each entity may:

5 (1) Make contracts as a corporation pursuant to the laws of this state;

6 (2) Receive notes and buy and sell gold and silver coins and bullion as permitted by federal
7 law;

8 (3) Carry on a business for depositors;

9 (4) Provide payment services upon the request of a depositor;

10 (5) Engage in any other activity that is usual or incidental to the use of digital assets,
11 blockchain technology or distributed ledger technology; and

12 (6) Exercise powers and rights otherwise authorized by law which are not inconsistent with

13 this chapter.

§311-2-202. Applicable federal and state laws.

1 A blockchain enabled entity shall comply with all applicable state and federal laws,
2 including those relating to anti-money laundering and customer identification.

§311-2-203. Required disclosures.

1 (a) A blockchain enabled entity which accepts deposits shall display on any internet
2 website it maintains, and at each window or place where it accepts deposits, a sign conspicuously
3 stating that deposits are not insured by the federal deposit insurance corporation, if applicable.

4 (b) Upon opening an account if applicable, a blockchain enabled entity shall require each
5 depositor to execute a statement acknowledging that all deposits at the blockchain enabled entity
6 are not insured by the federal deposit insurance corporation. The blockchain enabled entity shall
7 permanently retain this acknowledgment.

8 (c) A blockchain enabled entity shall include in all advertising a disclosure that deposits
9 are not insured by the federal deposit insurance corporation, if applicable.

§311-2-204. Continuing jurisdiction.

1 If the charter of a blockchain enabled entity is surrendered, suspended, or revoked, the
2 institution shall continue to be subject to the provisions of this chapter during any liquidation or
3 conservatorship.

§311-2-205. Applicability of the Consumer Credit Protection Act.

1 All blockchain enabled entities are subject to the provisions of the West Virginia Consumer
2 Credit Protection Act set forth in chapter forty-six-a of this code.

§311-2-206. Voluntary dissolution of blockchain enabled entity; liquidation;
reorganization; application for dissolution; filing fee; filing with the secretary of
state; revocation of charter.

1 (a) A blockchain enabled entity may voluntarily dissolve in accordance with the provisions
2 of §31D-10-1401 et seq. of this code. Voluntary dissolution shall be accomplished by either

3 liquidating the blockchain enabled entity or reorganizing the institution into an appropriate
4 business entity that does not engage in any activity authorized only for a blockchain enabled
5 entity. Upon complete liquidation or completion of the reorganization, the commissioner shall
6 revoke the charter of the blockchain enabled entity and afterward, the company shall not use the
7 word “blockchain enabled entity” or “bank” in its business name or in connection with its ongoing
8 business.

9 (b) The blockchain enabled entity may dissolve its charter either by liquidation or
10 reorganization. The board of directors shall file an application for dissolution with the Secretary of
11 State, accompanied by a filing fee established by rule of the commissioner. The application shall
12 include a comprehensive plan for dissolution setting forth the proposed disposition of all assets
13 and liabilities, in reasonable detail to affect a liquidation or reorganization, and any other plans
14 required by the commissioner. The plan of dissolution shall provide for the discharge or
15 assumption of all of the known and unknown claims and liabilities of the blockchain enabled entity.
16 Additionally, the application for dissolution shall include other evidence, certifications, affidavits,
17 documents or information as the commissioner may require, including demonstration of how
18 assets and liabilities will be disposed, the timetable for effecting disposition of the assets and
19 liabilities and a proposal of the special purpose depository institution for addressing any claims
20 that are asserted after dissolution has been completed. The Secretary of State shall examine the
21 application for compliance with this section, the business entity laws applicable to the required
22 type of dissolution and applicable rules. The secretary may conduct a special examination of the
23 blockchain enabled entity, consistent with this code, for purposes of evaluating the application.

24 (c) If the Secretary of State finds that the application is incomplete, the secretary shall
25 return it for completion not later than 60 days after it is filed. If the application is found to be
26 complete by the secretary, the secretary shall approve or disapprove the application not later than
27 30 days after it is filed. If the secretary approves the application, the blockchain enabled entity
28 may proceed with the dissolution pursuant to the plan outlined in the application, subject to any

29 further conditions the secretary may prescribe. If the blockchain enabled entity subsequently
30 determines that the plan of dissolution needs to be amended to complete the dissolution, it shall
31 file an amended plan with the secretary and obtain approval to proceed under the amended plan.
32 If the secretary does not approve the application or amended plan, the blockchain enabled entity
33 may appeal the decision to the board pursuant to the State Administrative Procedure Act set forth
34 at §29A-1-1 *et seq.* of this code.

35 (d) Upon completion of all actions required under the plan of dissolution and satisfaction
36 of all conditions prescribed by the Secretary of State, the blockchain enabled entity shall submit
37 a written report of its actions to the secretary. The report shall contain a certification made under
38 oath that the report is true and correct. Following receipt of the report, the secretary, no later than
39 60 days after the filing of the report, shall examine the blockchain enabled entity to determine
40 whether the commissioner is satisfied that all required actions have been taken in accordance
41 with the plan of dissolution and any conditions prescribed by the secretary. If all requirements and
42 conditions have been met, the secretary shall, within 30 days of the examination, notify the
43 blockchain enabled entity in writing that the dissolution has been completed and issue a certificate
44 of dissolution.

45 (e) Upon receiving a certificate of dissolution, the blockchain enabled entity shall surrender
46 its charter to the Secretary of State. The blockchain enabled entity shall then file articles of
47 dissolution and other documents required by §31D-14-1 *et seq.* of this code for a corporation with
48 the Secretary of State. In the case of reorganization, the blockchain enabled entity shall file the
49 documents required by the Secretary of State to finalize the reorganization.

50 (f) If the Secretary of State determines that all required actions under the plan for
51 dissolution, or as otherwise required by the commissioner, have not been completed, the
52 secretary shall notify the blockchain enabled entity, not later than 30 days after this determination,
53 in writing what additional actions shall be taken in order for the institution to be eligible for a
54 certificate of dissolution. The secretary shall establish a reasonable deadline for the submission

55 of evidence that additional actions have been taken and the secretary may extend any deadline
 56 upon good cause. If the blockchain enabled entity fails to file a supplemental report showing that
 57 the additional actions have been taken before the deadline, or submits a report that is found not
 58 to be satisfactory by the secretary, the secretary shall notify the blockchain enabled entity in
 59 writing that its voluntary dissolution is not approved, and the institution may appeal the decision
 60 to the board pursuant to the State Administrative Procedure Act set forth in §29A-1-1 et seq. of
 61 this code.

CHAPTER 32. UNIFORM SECURITIES ACT.

ARTICLE 4. GENERAL PROVISIONS.

§32-4-401. Definitions.

1 When used in this chapter, unless the context otherwise requires:

2 ~~(a) "Commissioner" means the Auditor of the State of West Virginia.~~

3 ~~(b)~~ "Agent" means any individual other than a broker-dealer who represents a broker-
 4 dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does
 5 not include an individual who represents an issuer in: (1) Effecting transactions in a security
 6 exempted by §32-4-402(a)(1), §32-4-402(a)(2), §32-4-402(a)(3), §32-4-402(a)(10), or §32-4-
 7 402(a)(11) of this code; (2) effecting transactions exempted by §32-4-402(b) of this code; (3)
 8 effecting transactions in a covered security as described in section 18(b)(3) and section
 9 18(b)(4)(d) of the Securities Act of 1933; (4) effecting transactions with existing employees,
 10 partners or directors of the issuer if no commission or other remuneration is paid or given, directly
 11 or indirectly, for soliciting any person in this state; or (5) effecting transactions in this state limited
 12 to those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934. A
 13 partner, officer or director of a broker-dealer or issuer, or a person occupying a similar status or
 14 performing similar functions, is an agent only if he or she otherwise comes within this definition.

15 "Branch office" means any location other than the main office, identified to the public.

16 customers or clients as a location where a broker-dealer or investment adviser or federal-covered
17 adviser conducts a securities or investment adviser business. Branch office does not include:

18 (1) A location identified solely in a telephone directory line listing or on a business card or
19 letterhead if: (A) The listing, card or letterhead also includes the address and telephone number
20 of the broker-dealer or investment adviser or federal covered adviser where the individuals
21 conducting business from the location are directly supervised; and (B) no more than one agent or
22 investment adviser representative transacts business on behalf of the broker-dealer or investment
23 adviser or federal-covered adviser from an identified location; or

24 (2) Any other location as the commissioner may determine.

25 ~~(e)~~ “Broker-dealer” means any person engaged in the business of effecting transactions
26 in securities for the account of others or for his or her own account. “Broker-dealer” does not
27 include: (1) An agent; (2) an issuer; (3) a bank, savings institution or trust company; ~~or~~ (4) a person
28 who has no place of business in this state if: (A) He or she or she effects transactions in this state
29 exclusively with or through: (i) The issuers of the securities involved in the transactions; (ii) other
30 broker-dealers; or (iii) banks, savings institutions, trust companies, insurance companies,
31 investment companies as defined in the Investment Company Act of 1940, pension or profit-
32 sharing trusts or other financial institutions or institutional buyers, whether acting for themselves
33 or as trustees; or (B) during any period of twelve consecutive months he or she does not direct
34 more than fifteen offers to sell or buy into this state in any manner to persons other than those
35 specified in subparagraph (A), paragraph (4) of this subdivision, whether or not the offeror or any
36 of the offerees is then present in this state; a person who facilitates the exchange of an open
37 blockchain token as that term is defined in §32-4-402 of this code.

38 “Commissioner” means the Auditor of the State of West Virginia.

39 “Federal-covered adviser” means a person who is: (1) Registered under section 203 of
40 the Investment Advisers Act of 1940 or (2) is excluded from the definition of “investment advisor”
41 under section two hundred two-a (11) of the Investment Advisers Act of 1940.

42 "Federal-covered security" means any security that is a covered security under section
43 18(b) of the Securities Act of 1933, as amended by the National Securities Markets Improvement
44 Act of 1996, or rules promulgated thereunder.

45 (d) "Fraud", "deceit" and "defraud" are not limited to common-law deceit.

46 (e) "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

47 ~~(f) "Federal-covered adviser" means a person who is: (1) Registered under section 203 of~~
48 ~~the Investment Advisers Act of 1940 or (2) is excluded from the definition of "investment advisor"~~
49 ~~under section two hundred two-a (11) of the Investment Advisers Act of 1940.~~

50 (g) "Investment adviser" means any person who, for compensation, engages in the
51 business of advising others, either directly or through publications or writings, as to the value of
52 securities or as to the advisability of investing in, purchasing or selling securities or who, for
53 compensation and as a part of a regular business, issues or promulgates analyses or reports
54 concerning securities. "Investment adviser" also includes financial planners and other persons
55 who, as an integral component of other financially related services, provide the foregoing
56 investment advisory services to others for compensation and as part of a business or who hold
57 themselves out as providing the foregoing investment advisory services to others for
58 compensation. "Investment adviser" does not include: (1) A bank, savings institution or trust
59 company; (2) a lawyer, accountant, engineer or teacher whose performance of those services is
60 solely incidental to the practice of his or her profession; (3) a broker-dealer whose performance
61 of these services is solely incidental to the conduct of his or her business as a broker-dealer and
62 who receives no special compensation for them; (4) a publisher, employee or columnist of a
63 newspaper, news magazine or business or financial publication or an owner, operator, producer
64 or employee of a cable, radio or television network, station or production facility if, in either case,
65 the financial or business news published or disseminated is made available to the general public
66 and the content does not consist of rendering advice on the basis of the specific investment
67 situation of each client; (5) a person whose advice, analyses or reports relate only to securities

68 exempted by §32-4-402(a)(1) of this code; (6) a person who has no place of business in this state
69 if: (A) His or her or her only clients in this state are other investment advisers, broker-dealers,
70 banks, savings institutions, trust companies, insurance companies, investment companies as
71 defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial
72 institutions or institutional buyers, whether acting for themselves or as trustees; or (B) during any
73 period of 12 consecutive months he or she does not have more than five clients who are residents
74 of this state other than those specified in subparagraph (A), paragraph (6), of this subdivision,
75 whether or not he or she or any of the persons to whom the communications are directed is then
76 present in this state; (7) an investment adviser representative; (8) a “federal-covered adviser”; or
77 (9) such other persons not within the intent of this paragraph as the commissioner may by rule or
78 order designate.

79 ~~(h)~~ “Investment adviser representative” means any partner, officer, director of or a person
80 occupying a similar status or performing similar functions or other individual, except clerical or
81 ministerial personnel, who is employed by or associated with an investment adviser that is
82 registered or required to be registered under this chapter or who has a place of business located
83 in this state and is employed by or associated with a federal-covered adviser; and including
84 clerical or ministerial personnel, who does any of the following: (1) Makes any recommendations
85 or otherwise renders advice regarding securities; (2) manages accounts or portfolios of clients;
86 (3) determines which recommendation or advice regarding securities should be given; (4) solicits,
87 offers or negotiates for the sale of or sells investment advisory services unless the person is
88 registered as an agent pursuant to this article; or (5) supervises employees who perform any of
89 the foregoing unless the person is registered as an agent pursuant to this article.

90 ~~(i)~~ “Issuer” means any person who issues or proposes to issue any security, except that:
91 (1) With respect to certificates of deposit, voting-trust certificates or collateral-trust certificates or
92 with respect to certificates of interest or shares in an unincorporated investment trust not having
93 a board of directors or persons performing similar functions or of the fixed, restricted management

94 or unit type, the term “issuer” means the person or persons performing the acts and assuming the
95 duties of depositor or manager pursuant to the provisions of the trust or other agreement or
96 instrument under which the security is issued; and (2) with respect to certificates of interest or
97 participation in oil, gas or mining titles or leases or in payments out of production under such titles
98 or leases, there is not considered to be any “issuer”.

99 ~~(j)~~ “Nonissuer” means not, directly or indirectly, for the benefit of the issuer.

100 ~~(k)~~ “Person” means an individual, a corporation, a partnership, an association, a joint-stock
101 company, a trust where the interests of the beneficiaries are evidenced by a security, an
102 unincorporated organization, a government or a political subdivision of a government.

103 ~~(l)~~ (1) “Sale” or “sell” includes every contract of sale of, contract to sell, or disposition of a
104 security or interest in a security for value;

105 (2) “Offer” or “offer to sell” includes every attempt or offer to dispose of, or solicitation of
106 an offer to buy, a security or interest in a security for value;

107 (3) Any security given or delivered with, or as a bonus on account of, any purchase of
108 securities or any other thing is considered to constitute part of the subject of the purchase and to
109 have been offered and sold for value;

110 (4) A purported gift of assessable stock is considered to involve an offer and sale;

111 (5) Every sale or offer of a warrant or right to purchase or subscribe to another security of
112 the same or another issuer, as well as every sale or offer of a security which gives the holder a
113 present or future right or privilege to convert into another security of the same or another issuer,
114 is considered to include an offer of the other security;

115 (6) The terms defined in this subdivision do not include: (A) Any bona fide pledge or loan;
116 (B) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock
117 or not, if nothing of value is given by stockholders for the dividend other than the surrender of a
118 right to a cash or property dividend when each stockholder may elect to take the dividend in cash
119 or property or in stock; (C) any act incident to a class vote by stockholders, pursuant to the

120 certificate of incorporation or the applicable corporation statute, on a merger, consolidation,
121 reclassification of securities or sale of corporate assets in consideration of the issuance of
122 securities of another corporation; or (D) any act incident to a judicially approved reorganization in
123 which a security is issued in exchange for one or more outstanding securities, claims or property
124 interests, or partly in such exchange and partly for cash.

125 ~~(m)~~ “Securities Act of 1933”, “Securities Exchange Act of 1934”, “Public Utility Holding
126 Company Act of 1935” and “Investment Company Act of 1940” mean the federal statutes of those
127 names as amended before the effective date of this chapter. The National Securities Markets
128 Improvement Act of 1996 (“NSMIA”) means the federal statute which makes certain amendments
129 to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act
130 of 1940 and the Investment Advisers Act of 1940.

131 ~~(n)~~ “Security” means any note; stock; treasury stock; bond; debenture; evidence of
132 indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-
133 trust certificate; preorganization certificate or subscription; transferable share; investment
134 contract; voting-trust certificate; certificate of deposit for a security; viatical settlement contract;
135 certificate of interest or participation in an oil, gas or mining title or lease or in payments out of
136 production under such a title or lease; or, in general, any interest or instrument commonly known
137 as a “security” or any certificate of interest or participation in, temporary or interim certificate for,
138 receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.
139 “Security” does not include any insurance or endowment policy or annuity contract under which
140 an insurance company promises to pay money either in a lump sum or periodically for life or some
141 other specified period: *Provided*, That “security” does include insurance or endowment policies or
142 annuity contracts that are viatical settlement contracts, ~~or~~ agreements for the purchase, sale,
143 assignment, transfer, devise or bequest of any portion of a death benefit or ownership of a life
144 insurance policy or certificate that is less than the expected death benefit of the life insurance
145 policy or certificate, or an open blockchain token, as defined in §32-4-402 of this code.

146 ~~(e) "Federal covered security" means any security that is a covered security under section~~
 147 ~~18(b) of the Securities Act of 1933, as amended by the National Securities Markets Improvement~~
 148 ~~Act of 1996, or rules promulgated thereunder~~

149 ~~(f) "State" means any state, territory or possession of the United States, the District of~~
 150 ~~Columbia and Puerto Rico.~~

151 ~~(g) "Branch office" means any location other than the main office, identified to the public,~~
 152 ~~customers or clients as a location where a broker-dealer or investment adviser or federal covered~~
 153 ~~adviser conducts a securities or investment adviser business. Branch office does not include:~~

154 ~~(1) A location identified solely in a telephone directory line listing or on a business card or~~
 155 ~~letterhead if: (A) The listing, card or letterhead also includes the address and telephone number~~
 156 ~~of the broker-dealer or investment adviser or federal covered adviser where the individuals~~
 157 ~~conducting business from the location are directly supervised; and (B) no more than one agent or~~
 158 ~~investment adviser representative transacts business on behalf of the broker-dealer or investment~~
 159 ~~adviser or federal covered adviser from an identified location; or~~

160 ~~(2) Any other location as the commissioner may determine~~

§32-4-402. Exemptions.

1 (a) The following securities are exempt from §32-3-301 and §32-4-403 of this code:

2 (1) Any security (including a revenue obligation) issued or guaranteed by the United
 3 States, any state, any political subdivision of a state, or any agency or corporate or other
 4 instrumentality of one or more of the foregoing; or any certificate of deposit for any of the
 5 foregoing;

6 (2) Any security issued or guaranteed by Canada, any Canadian province, any political
 7 subdivision of any such province, any agency or corporate or other instrumentality of one or more
 8 of the foregoing, or any other foreign government with which the United States currently maintains
 9 diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

10 (3) Any security issued by and representing an interest in or a debt of, or guaranteed by,

11 any bank organized under the laws of the United States, or any bank, savings institution or trust
12 company organized and supervised under the laws of any state;

13 (4) Any security issued by and representing an interest in or a debt of, or guaranteed by,
14 any federal savings and loan association, or any building and loan or similar association organized
15 under the laws of any state and authorized to do business in this state;

16 (5) Any security issued by and representing an interest in or a debt of, or guaranteed by,
17 any insurance company organized under the laws of any state and authorized to do business in
18 this state;

19 (6) Any security issued or guaranteed by any federal credit union or any credit union,
20 industrial loan association or similar association organized and supervised under the laws of this
21 state;

22 (7) Any security issued or guaranteed by any railroad, other common carrier, public utility
23 or holding company which is: (A) Subject to the jurisdiction of the interstate commerce
24 commission; (B) a registered holding company under the Public Utility Holding Company Act of
25 1935, or a subsidiary of such a company within the meaning of that act; (C) regulated in respect
26 of its rates and charges by a governmental authority of the United States or any state; or (D)
27 regulated in respect of the issuance or guarantee of the security by a governmental authority of
28 the United States, any state, Canada, or any Canadian province;

29 (8) Any security listed or approved for listing upon notice of issuance on the New York
30 Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange, any other stock
31 exchange approved by the commissioner, the National Association of Securities Dealers
32 Automated Quotation/National Market System (NASDAQ/NMS), or any other market system
33 approved by the commissioner, any other security of the same issuer which is of senior or
34 substantially equal rank, any security called for by subscription rights or warrants so listed or
35 approved, or any warrant or right to purchase or subscribe to any of the foregoing, except that the
36 commissioner may adopt and promulgate rules pursuant to §29A-3-1 *et seq.* of this code which,

37 after notice to such exchange or market system and an opportunity to be heard, remove any such
38 exchange or market system from this exemption if the commissioner finds that the listing
39 requirements or market surveillance of such exchange or market system are such that the
40 continued availability of such exemption for such exchange or market system is not in the public
41 interest and that removal is necessary for the protection of investors;

42 (9) Any security issued by any person organized and operated not for private profit but
43 exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or
44 reformatory purposes, or as a chamber of commerce or trade or professional association, and no
45 part of the net earnings of which inures to the benefit of any person, private stockholder or
46 individual;

47 (10) Any commercial paper which arises out of a current transaction or the proceeds of
48 which have been or are to be used for current transactions, and which evidences an obligation to
49 pay cash within 12 months of the date of issuance, exclusive of days of grace, or any renewal of
50 such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

51 (11) Any investment contract issued in connection with an employees' stock purchase,
52 savings, pension, profit-sharing or similar benefit plan if the commissioner is notified in writing 30
53 days before the inception of the plan or, with respect to plans which are in effect on the effective
54 date of this chapter, within 60 days thereafter (or within 30 days before they are reopened if they
55 are closed on the effective date of this chapter);

56 (12) Any security issued by an agricultural cooperative association operating in this state
57 and organized under §19-4-1 *et seq.* of this code, or by a foreign cooperative association
58 organized under the laws of another state and duly qualified to transact business in this state.

59 (b) The following transactions are exempt from §32-3-301 and §32-4-403 of this code:

60 (1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

61 (2) Any nonissuer distribution of an outstanding security if: (A) A recognized securities
62 manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as

63 of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that
64 date or the most recent year of operations; or (B) the security has a fixed maturity or a fixed
65 interest or dividend provision and there has been no default during the current fiscal year or within
66 the three preceding fiscal years, or during the existence of the issuer and any predecessors if less
67 than three years, in the payment of principal, interest or dividends on the security;

68 (3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant
69 to an unsolicited order or offer to buy; but the commissioner may by rule require that the customer
70 acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each
71 such form be preserved by the broker-dealer for a specified period;

72 (4) Any transaction between the issuer or other person on whose behalf the offering is
73 made and an underwriter, or among underwriters;

74 (5) Any transaction in a bond or other evidence of indebtedness secured by a real or
75 chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the
76 entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of
77 indebtedness secured thereby, is offered and sold as a unit;

78 (6) Any transaction by an executor, administrator, sheriff, marshal, constable, receiver,
79 trustee in bankruptcy, guardian or conservator, and any transaction constituting a judicial sale;

80 (7) Any transaction executed by a bona fide pledgee without any purpose of evading this
81 chapter;

82 (8) Any offer or sale to a bank, savings institution, trust company, insurance company,
83 investment company as defined in the Investment Company Act of 1940, pension or profit-sharing
84 trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the
85 purchaser is acting for itself or in some fiduciary capacity;

86 (9) Any transaction pursuant to an offer directed by the offeror to not more than ten
87 persons (other than those designated in subdivision (8) above) in this state during any period of
88 12 consecutive months, whether or not the offeror or any of the offerees is then present in this

89 state, if: (A) The seller reasonably believes that all the buyers in this state (other than those
90 designated in subdivision (8) above) are purchasing for investment; and (B) no commission or
91 other remuneration is paid or given, directly or indirectly, for soliciting any prospective buyer in
92 this state (other than those designated in subdivision (8) above), but the commissioner may by
93 rule or order, as to any security or transaction or any type of security or transaction, withdraw or
94 further condition this exemption, or increase or decrease the number of offerees permitted, or
95 waive the conditions in clauses (A) and (B) with or without the substitution of a limitation on
96 remuneration;

97 (10) Any offer or sale of a preorganization certificate or subscription if: (A) No commission
98 or other remuneration is paid or given, directly or indirectly, for soliciting any prospective
99 subscriber; (B) the number of subscribers does not exceed ten; and (C) no payment is made by
100 any subscriber;

101 (11) Any transaction pursuant to an offer to existing security holders of the issuer, including
102 persons who at the time of the transaction are holders of convertible securities, nontransferable
103 warrants or transferable warrants exercisable within not more than ninety days of their issuance,
104 if: (A) No commission or other remuneration (other than a standby commission) is paid or given,
105 directly or indirectly, for soliciting any security holder in this state; or (B) the issuer first files a
106 notice specifying the terms of the offer and the commissioner does not by order disallow the
107 exemption within the next five full business days;

108 (12) Any offer (but not a sale) of a security for which registration statements have been
109 filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in
110 effect and no public proceeding or examination looking toward such an order is pending under
111 either chapter.

112 (c) The commissioner may by order deny or revoke any exemption specified in subdivision
113 (9) or (11) of subsection (a) or in subsection (b) of this section with respect to a specific security
114 or transaction. No such order may be entered without appropriate prior notice to all interested

115 parties, opportunity for hearing, and written findings of fact and conclusions of law, except that
116 the commissioner may by order summarily deny or revoke any of the specified exemptions
117 pending final determination of any proceeding under this subsection. Upon the entry of a summary
118 order, the commissioner shall promptly notify all interested parties that it has been entered and of
119 the reasons therefor and that within 15 days of the receipt of a written request the matter will be
120 set down for hearing. If no hearing is requested and none is ordered by the commissioner, the
121 order will remain in effect until it is modified or vacated by the commissioner. If a hearing is
122 requested or ordered, the commissioner, after notice of and opportunity for hearing to all
123 interested persons, may modify or vacate the order or extend it until final determination. No order
124 under this subsection may operate retroactively. No person may be considered to have violated
125 §32-3-301 and §32-4-403 of this code by reasons of any offer or sale effected after the entry of
126 an order under this subsection if he or she sustains the burden of proof that he or she did not
127 know, and in the exercise of reasonable care could not have known, of the order.

128 (d) (1) Except as otherwise provided by subsection (c) of this section, a developer or seller
129 of an open or private blockchain token shall not be deemed the issuer of a security and shall not
130 be subject to the provisions of §32-3-301 and §32-4-403 of this code if the following are met:

131 (A) The purpose of the token is for a consumptive purpose, which shall only be
132 exchangeable for, or provided for the receipt of, goods, services, or content, including rights of
133 access to goods, services or content; and

134 (B) The developer or seller of the token did not sell the token to the initial buyer as a
135 financial investment. This paragraph shall only be satisfied if:

136 (i) The developer or seller did not market the token as a financial investment; and

137 (ii) The developer or seller of the token reasonably believed that it sold the token to the
138 initial buyer for a consumptive purpose, or the token has a consumptive purpose that is available
139 at the time of sale and can be used at or near the time of sale for use for a consumptive purpose,
140 or if the token does not have a consumptive purpose available at the time of sale, the initial buyer

141 of the token is prevented from reselling the token until the token is available for use for a
142 consumptive purpose; or the developer or seller takes other reasonable precautions to prevent
143 buyers from purchasing the token as a financial investment.

144 (2) Except as otherwise provided by subdivision (3) of this subsection, a person who
145 facilitates the exchange of an open blockchain token shall not be deemed a broker-dealer or a
146 person who otherwise deals in securities under this chapter and shall not be subject to
147 the provisions of §32-3-301 and §32-4-403 of this code if all of the following are met:

148 (A) The person has a reasonable and good faith belief that a token subject to
149 exchange conforms to the requirements of subdivision (d)(1) of this subsection; and

150 (B) The person takes reasonably prompt action to terminate the exchange of a token
151 that does not conform to the requirements of this subsection.

152 (3) Notwithstanding any other provision of this code to the contrary, a developer, seller or
153 a person who facilitates the exchange of an open blockchain token is subject to the provisions of
154 §32-3-301 and §32-4-403 of this code only to the extent necessary to carry out those
155 sections. The auditor shall have the authority provided pursuant to §32-4-1 *et seq.* of this code to
156 determine compliance with the provisions of this subsection, including whether a person qualifies
157 for the exemptions set forth in this subsection.

158 (4) As used in this section, “open blockchain token” means a digital unit which is:

159 (A) Created:

160 (i) In response to the verification or collection of a specified number of transactions relating
161 to a digital ledger or database;

162 (ii) By deploying computer code to a blockchain network that allows for the creation of
163 digital tokens or other units; or

164 (iii) Using any combination of the methods specified in subparagraphs (A) and (B) of this
165 paragraph.

166 (B) Recorded in a digital ledger or database which is chronological, consensus-based,

167 decentralized, and mathematically verified in nature, especially related to the supply or units and
168 their distribution; and

169 (C) Capable of being traded or transferred between persons without an intermediary or
170 custodian of value.

171 ~~(D)~~ (e) In any proceeding under this chapter, the burden of proving an exemption or an
172 exception from a definition is upon the person claiming it.

CHAPTER 32A. LAND SALES; FALSE ADVERTISING; ISSUANCE AND SALE OF CHECKS, DRAFTS, MONEY ORDERS, ETC.

ARTICLE 2. CHECKS AND MONEY ORDER SALES, MONEY TRANSMISSION SERVICES, TRANSPORTATION AND CURRENCY EXCHANGE.

§32A-2-1. Definitions.

1 ~~(1)~~ "Commissioner" means the Commissioner of Financial Institutions of this state.

2 ~~(2)~~ "Check" or "payment instrument" means any check, traveler's check, draft, money
3 order or other instrument for the transmission or payment of money whether or not the instrument
4 is negotiable. The term does not include a credit card voucher, a letter of credit or any instrument
5 that is redeemable by the issuer in goods or services.

6 "Commissioner" means the Commissioner of Financial Institutions of this state.

7 ~~(3)~~ "Currency" means a medium of exchange authorized or adopted by a domestic or
8 foreign government.

9 ~~(4)~~ "Currency exchange" means the conversion of the currency of one government into
10 the currency of another government, but does not include the issuance and sale of travelers
11 checks denominated in a foreign currency. Transactions involving the electronic transmission of
12 funds by licensed money transmitters which may permit, but do not require, the recipient to obtain
13 the funds in a foreign currency outside of West Virginia are not currency exchange transactions:
14 *Provided*, That they are not reportable as currency exchange transactions under federal laws and

15 regulations.

16 ~~(5)~~ “Currency exchange, transportation, transmission business” means a person who is
17 engaging in currency exchange, currency transportation or currency transmission as a service or
18 for profit.

19 ~~(6)~~ “Currency transmission” or “money transmission” means engaging in the business of
20 selling or issuing checks or the business of receiving currency, the payment of money, or other
21 value that substitutes for money by any means for the purpose of transmitting, either prior to or
22 after receipt, that currency, payment of money or other value that substitutes for money by wire,
23 facsimile or other electronic means, or through the use of a financial institution, financial
24 intermediary, the Federal Reserve system or other funds transfer network. It includes the
25 transmission of funds through the issuance and sale of stored value or similar prepaid products’
26 cards which are intended for general acceptance and used in commercial or consumer
27 transactions.

28 ~~(7)~~ “Currency transportation” means knowingly engaging in the business of physically
29 transporting currency from one location to another in a manner other than by a licensed armored
30 car service exempted under §32A-2-3 of this code.

31 ~~(8)~~ “Licensee” means a person licensed by the commissioner under this article.

32 ~~(9)~~ “Money order” means any instrument for the transmission or payment of money in
33 relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his
34 or her agent for the receipt, transmission or handling of money, whether the instrument is signed
35 by the seller, the purchaser or remitter or some other person.

36 ~~(10)~~ “Person” means any individual, partnership, association, joint stock association,
37 limited liability company, trust or corporation.

38 ~~(11)~~ “Principal” means a licensee’s owner, president, senior officer responsible for the
39 licensee’s business, chief financial officer or any other person who performs similar functions or
40 who otherwise controls the conduct of the affairs of a licensee. A person controlling 10 percent or

41 more of the voting stock of any corporate applicant is a principal under this provision.

42 “Virtual currency” means any type of digital representation of value that is used as a
43 medium of exchange, unit or account or store of value, and is not recognized as legal tender by
44 the United States government.

§32A-2-3. Exemptions.

1 (a) The following are exempt from the provisions of this article:

2 (1) Banks, trust companies, foreign bank agencies, credit unions, savings banks, and
3 savings and loan associations authorized to do business in the state or which qualify as federally
4 insured depository institutions, whether organized under the laws of this state, any other state, or
5 the United States;

6 (2) The United States and any department or agency of the United States;

7 (3) The United States Postal Service;

8 (4) This state and any political subdivision of this state;

9 (5) The provision of electronic transfer of government benefits for any federal, state, or
10 county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor
11 for and on behalf of the United States or any department, agency, or instrumentality of the United
12 States, or any state or any political subdivisions of a state;

13 (6) Persons engaged solely in the business of currency transportation who operate an
14 armored car service in this state pursuant to licensure under §30-18-1 *et seq.* of this code:
15 *Provided,* That the net worth of the licensee exceeds \$5 million. The term “armored car service”
16 as used in this article means a service provided by a person transporting or offering to transport,
17 under armed security guard, currency or other things of value in a motor vehicle specially
18 equipped to offer a high degree of security. Persons seeking to claim this exemption shall notify
19 the commissioner of their intent to do so and demonstrate that they qualify for its use. Persons
20 seeking an exemption under this subdivision are not exempt from the provisions of this article if
21 they also engage in currency exchange or currency transmission;

22 (7) Persons engaged in the business of currency transportation whose activities are limited
23 exclusively to providing services to federally insured depository institutions, or to any federal,
24 state, or local governmental entities;

25 (8) Persons engaged solely in the business of removing currency from vending machines
26 providing goods or services, if the machines are not used for gambling purposes or to convey any
27 gambling ticket, token, or other device used in a game of chance;

28 (9) The State Regulatory Registry, LLC, which administers the Nationwide Mortgage
29 Licensing System and Registry on behalf of states and federal banking regulators;

30 (10) The North American Securities Administrators Association and any subsidiaries,
31 which administer the Electronic Filing Depository system on behalf of state securities regulators;
32 and

33 (11)(A) Persons operating a payment system that provides processing, clearing, or
34 settlement services, between or among persons who are all excluded by this section, in
35 connection with wire transfers, credit card transactions, debit card transactions, prepaid access
36 transactions, automated clearinghouse transfers, or similar funds transfers;

37 (B) Contracted service providers of an entity set forth in §32A-2-3(a)(1) of this code that
38 provide processing, clearing, or settlement services in connection with wire transfers, credit card
39 transactions, debit card transactions, prepaid access transactions, automated clearinghouse
40 transfers, or similar funds transfers; or

41 (C) Persons facilitating payment for goods or services (not including currency transmission
42 or money transmission itself) pursuant to a contract with the payee and either payment to the
43 person or persons facilitating the payment processing satisfies the payor's obligation to the payee
44 or that obligation is extinguished.

45 (12) Buying, selling, issuing, or taking custody of payment instruments participating or
46 facilitating a transaction in the form of virtual currency as defined in this article, or receiving virtual
47 currency as defined in this article for transmission to a location within or outside the United States

48 by any means.

49 (13) A person who develops, sells, or facilitates the exchange of an open or private
50 blockchain token, as defined in §32-4-402 of this code.

51 (b) Any person who holds and maintains a valid license under this article may engage in
52 the business of money transmission or currency exchange at one or more locations through or by
53 means of an authorized delegate or delegates as set forth in §32A-2-27 of this code, as the
54 licensee may designate and appoint from time to time. No such authorized delegate is required
55 to obtain a separate license under this article, but the use of sub-delegates is prohibited and the
56 authorized delegate may only conduct business on behalf of its licensee.

57 (c) The issuance and sale of stored value cards or similar prepaid products which are
58 intended to purchase items only from the issuer or seller of the stored value card is exempt from
59 the provisions of this article.

60 (d) Any person who is required and properly obtains a license under this article to transport
61 currency is exempt from the requirements of §30-18-1 *et seq.* of this code.

§32A-2-22. Cease and desist orders.

1 (a) If the commissioner, upon information, has cause to believe that a licensee or other
2 person is engaged in practices contrary to this article or the rules adopted under this article, the
3 commissioner may issue an order directing the licensee or person to cease and desist the
4 violation. A cease and desist order is appropriate in any case where the commissioner, upon
5 information, reasonably believes that a principal or the licensee acting through any authorized
6 person has:

7 (1) Violated or refused to comply with a provision of this article, a rule adopted under this
8 article, or any other law or regulation applicable to a currency exchange, transportation or
9 transmission business, or to the business of check cashing;

10 (2) Committed a fraudulent practice in the conduct of the licensee's business;

11 (3) Refused to submit to an examination;

- 12 (4) Conducted business in an unsafe or unauthorized manner;
- 13 (5) Violated any federal law or regulation pertaining to the business of currency exchange,
14 money transportation or transmission, or the business of check cashing; ~~or~~
- 15 (6) Violated any condition of its license or of any agreement entered into with the
16 commissioner; or
- 17 (7) Engaged in or is about to engage in any activity which would be subject to the
18 provisions of this article and the requirements of this article have not been met.
- 19 (b) The commissioner shall serve notice and a copy of the cease and desist order on the
20 affected party either personally or by certified mail, return receipt requested. Service by mail shall
21 be deemed completed if the notice is deposited in the post office, postage prepaid, addressed to
22 the last known address for a licensee or the person designated by the licensee to accept service
23 in this state.
- 24 (c) The order shall include a statement of the alleged conduct of the licensee or principal
25 which gave rise to the order, and set forth the facts and law on which it is based.
- 26 (d) A person is entitled to a hearing on the cease and desist order before the
27 commissioner, or a hearing examiner appointed by him or her, if the person files with the
28 commissioner a written demand for hearing within 10 days after receiving written notice of the
29 order, or within 30 days after the date of service, whichever occurs first. A person's right to a
30 hearing as provided by this subsection shall be disclosed in the notice of service.
- 31 (e) Hearings and judicial review of any order shall be under procedures provided in §31A-
32 8-1 and §31A-8-2 of this code and procedural rules thereunder.
- 33 (f) The issuance of a cease and desist order under this section shall not be a prerequisite
34 to the taking of any action by the commissioner or others under any other section of this article.

CHAPTER 39A. ELECTRONIC COMMERCE.

ARTICLE 4. DIGITAL ASSETS.

PART 1. UTILITY TOKEN ACT.

§39A-4-101. Findings.

1 The Legislature finds the following:

2 (1) Certain open blockchain tokens may be restricted to only be exchangeable for
3 specified consumptive purposes, including services, software, content or property, whether real
4 or tangible personal property, and do not entitle a token holder to a cash payment or a share of
5 profits from the technology developer or business that created the token;

6 (2) Open blockchain tokens with specified consumptive purposes are similar to loyalty
7 programs operated by many businesses today, in which an individual is provided with services,
8 content or property redeemable from the developer or business in exchange for a specified
9 number of transactions or cash paid to the developer or business;

10 (3) The open blockchain tokens governed by this act do not constitute securities because
11 a person who is sold a consumptive open blockchain token cannot receive a cash payment or
12 share of profits from a developer or business, but will instead receive a fixed amount of
13 consumable services, content or property; and

14 (4) Because of the consumptive nature of open blockchain tokens and for the other
15 reasons specified above, these tokens are properly classified as intangible personal property
16 pursuant to the law of this state and, therefore, do not require an exemption from securities laws.

§39A-4-102. Definitions.

1 (a) As used in this section:

2 (1) "Blockchain" means a digital ledger or database which is chronological,
3 consensus-based, decentralized and mathematically verified in nature;

4 (2) "Consumptive" means a circumstance when a token is exchangeable for, or provided
5 for the receipt of, services, software, content or real or tangible personal property, including rights
6 of access to services, content or real or tangible personal property;

7 (3) "Developer" means the person primarily responsible for creating an open blockchain

8 token or otherwise designing the token, including by executing the technological processes
9 necessary to create the token;

10 (4) "Facilitator" means a person who, as a business, makes open blockchain tokens under
11 subsection (b) of this section available for resale to the public after a token has been purchased
12 by an initial buyer;

13 (5) "Financial investment" means a contract, transaction or arrangement where a person
14 invests money in a common enterprise and is led to expect profits solely from the efforts of a
15 promoter or a third party;

16 (6) Except as otherwise provided in subsection (b) of this section, "open blockchain token"
17 means a digital unit which is:

18 (A) Created:

19 (i) In response to the verification or collection of a specified number of transactions relating
20 to a digital ledger or database;

21 (ii) By deploying computer code to a digital ledger or database, which may include a
22 blockchain, that allows for the creation of digital tokens or other units; or

23 (iii) Using a combination of the methods specified in subdivisions (i) and (ii) of this
24 subparagraph.

25 (B) Recorded to a digital ledger or database, which may include a blockchain; and

26 (C) Capable of being traded or transferred between persons without an intermediary or
27 custodian of value.

28 (7) "Seller" means a person who makes an open blockchain token available for purchase
29 to an initial buyer.

30 (b) Virtual currency or a digital security, as defined in §32A-2-1 of this code, shall not
31 constitute an open blockchain token.

§39A-4-103. Open blockchain tokens classified as intangible personal property;
characteristics; filing requirements; fee; enforcement authority; definitions; virtual

currency.

1 (a) An open blockchain token with the following characteristics constitutes intangible
2 personal property:

3 (1) The predominant purpose of the token is consumptive, as defined in §39A-4-102 of
4 this code;

5 (2) The developer or seller did not market the token to the initial buyer as a financial
6 investment, as defined in this section; and

7 (3) At least one of the following is satisfied:

8 (A) The developer or seller reasonably believed that it sold the token to the initial buyer
9 for a consumptive purpose;

10 (B) The token has a consumptive purpose that is available at or near the time of sale and
11 can be used at or near the time of sale for a consumptive purpose;

12 (C) The initial buyer of the token is prohibited by the developer or seller of the token from
13 reselling the token until the token is available to be used for a consumptive purpose;

14 (D) The developer or seller takes other reasonable precautions to prevent an initial buyer
15 from purchasing the token as a financial investment.

16 (b) A facilitator shall comply with the following requirements:

17 (1) A facilitator shall, at all times, have a reasonable and good faith belief that a token
18 subject to resale conforms to the requirements of paragraphs (a)(1) through (3) of this section;

19 and

20 (2) The facilitator shall take reasonably prompt action to terminate the resale of a token
21 which does not conform to the requirements of this subsection.

22 (c) A willful failure by a developer, seller or facilitator to comply with the duties imposed by
23 this section shall constitute an unlawful trade practice pursuant to the provisions of §46A-6-101
24 et seq. of this code. A developer, seller or facilitator is subject to all applicable criminal statutes.

25 (d) The secretary of state may refer the following to appropriate state or federal agencies

26 for investigation, criminal prosecution, civil penalties, and other appropriate enforcement actions:

27 (1) Suspected violations of this section;

28 (2) The developer, seller or facilitator of either an open blockchain token which conforms
29 to the requirements of this section or another digital asset which substantially resembles an open
30 blockchain token, but which, in the determination of the secretary of state, is being sold for
31 financial investment or fraudulent purposes.

PART 2. CLASSIFICATION OF DIGITAL ASSETS.

§39A-4-201. Definitions.

1 (a) As used in this chapter:

2 (1) "Digital asset" means a representation of economic, proprietary or access rights that
3 is stored in a computer readable format, and includes digital consumer assets, digital securities,
4 and virtual currency;

5 (2) "Digital consumer asset" means a digital asset that is used or bought primarily for
6 consumptive, personal, or household purposes and includes:

7 (A) An open blockchain token constituting intangible personal property as otherwise
8 provided by law;

9 (B) Any other digital asset which does not fall within paragraphs (3) and (4) of this
10 subsection.

11 (3) "Digital security" means a digital asset which constitutes a security, as defined in §32-
12 4-401 of this code but shall exclude digital consumer assets and virtual currency;

13 (4) "Virtual currency" means a digital asset that is:

14 (A) Used as a medium of exchange, unit of account or store of value; and

15 (B) Not recognized as legal tender by the United States government.

16 (b) The terms in paragraphs (a)(1) through (4) of this section are mutually exclusive.

§39A-4-202. Classification of digital assets as property; applicability to Uniform Commercial Code.

1 (a) Digital assets are classified in the following manner:

2 (1) Digital consumer assets are intangible personal property and shall be considered
3 general intangibles, as defined in §46-9-102 of this code only for the purposes of article 9 of the
4 Uniform Commercial Code, codified in chapter 46 of this code;

5 (2) Digital securities are intangible personal property and shall be considered securities,
6 as defined in §46-8-102 of this code and investment property, as defined in §46-9-102 of this code
7 only for the purposes of articles 8 and 9 of the Uniform Commercial Code, codified in chapter 46
8 of this code.

9 (3) Virtual currency is intangible personal property and shall be considered money,
10 notwithstanding the provisions of §46-1-201 of this code, only for the purposes of article 9 of the
11 Uniform Commercial Code, codified in chapter 46 of this code.

12 (b) Consistent with the provisions of §46-8-102 of this code, a digital asset may be treated
13 as a financial asset under that paragraph, pursuant to a written agreement with the owner of the
14 digital asset. If treated as a financial asset, the digital asset shall remain intangible personal
15 property.

16 (c) A bank providing custodial services pursuant to the provisions of §39A-4-204 of this
17 code shall be considered to meet the requirements of a security intermediary as defined in §46-
18 8-102 of this code.

19 (d) Classification of digital assets pursuant to this section shall be construed in a manner
20 to give the greatest effect to this article but shall not be construed to apply to any other asset.

§39A-4-203. Perfection of security interests in digital assets; financing statements.

1 (a) Notwithstanding the financing statement requirement specified by §46-9-301 of this
2 code as otherwise applied to general intangibles or any other provision of law, perfection of a
3 security interest in a digital asset may be achieved through control, as defined in paragraph (e)(1)
4 of this section. A security interest held by a secured party having control of a digital asset has
5 priority over a security interest held by a secured party that does not have control of the asset.

6 (b) Before a secured party may take control of a digital asset pursuant to this section, the
7 secured party shall enter into a control agreement with the debtor. A control agreement may also
8 set forth the terms under which a secured party may pledge its security interest in the digital asset
9 as collateral for another transaction.

10 (c) A secured party may file a financing statement with the secretary of state, including to
11 perfect a security interest in proceeds from a digital asset pursuant to §46-9-315 of this code.

12 (d) Notwithstanding any other provision of law, including article 9 of the Uniform
13 Commercial Code, codified in chapter 46 of this code, a transferee takes a digital asset free of
14 any security interest two years after the transferee takes the asset for value and does not have
15 actual notice of an adverse claim. This subsection only applies to a security interest perfected by
16 a method other than control.

17 (e) As used in this section:

18 (1) Consistent with subsection (f) of this section, “control” is equivalent to the term
19 “possession” when used in §46-9-101 et seq. of this code and means the following:

20 (A) A secured party, or an agent, custodian, fiduciary or trustee of the party, has the
21 exclusive legal authority to conduct a transaction relating to a digital asset, including by means of
22 a private key or the use of a multi-signature arrangement authorized by the secured party;

23 (B) A smart contract created by a secured party which has the exclusive legal authority to
24 conduct a transaction relating to a digital asset. As used in this subparagraph, “smart contract”
25 means an automated transaction, as defined in §39A-1-2 of this code, or any substantially similar
26 analogue, which is comprised of code, script, or programming language that executes the terms
27 of an agreement, and which may include taking custody of and transferring an asset, or issuing
28 executable instructions for these actions, based on the occurrence or nonoccurrence of specified
29 conditions.

30 (2) “Multi-signature arrangement” means a system of access control relating to a digital
31 asset for the purposes of preventing unauthorized transactions relating to the asset, in which two

32 or more private keys are required to conduct a transaction, or any substantially similar analogue;

33 (3) "Private key" means a unique element of cryptographic data, or any substantially
34 similar analogue, which is:

35 (A) Held by a person;

36 (B) Paired with a unique, publicly available element of cryptographic data; and

37 (C) Associated with an algorithm that is necessary to carry out an encryption or decryption
38 required to execute a transaction.

39 (f) Perfection by control creates a possessory security interest and does not require
40 physical possession. For purposes of §46-9-101 et seq. of this code, a digital asset is located in
41 this state if the asset is held by a West Virginia custodian, the debtor or secured party is physically
42 located in this state or the debtor or secured party is incorporated or organized in this state.

§39A-4-204. Digital asset custodial services.

1 (a) A bank may provide custodial services consistent with this section upon providing 60
2 days written notice to the commissioner. The provisions of this section are cumulative and not
3 exclusive as an optional framework for enhanced supervision of digital asset custody. If a bank
4 elects to provide custodial services pursuant to this section, it shall comply with all provisions of
5 this section.

6 (b) A bank may serve as a qualified custodian, as specified by the United States securities
7 and exchange commission in 17 C.F.R. § 275.206(4)-2. In performing custodial services pursuant
8 to this section, a bank shall:

9 (1) Implement all accounting, account statement, internal control, notice, and other
10 standards specified by applicable state or federal law and rules for custodial services;

11 (2) Maintain information technology best practices relating to digital assets held in custody.
12 The commissioner may specify required best practices by rule;

13 (3) Fully comply with applicable federal anti-money laundering, customer identification,
14 and beneficial ownership requirements; and

15 (4) Take other actions necessary to carry out this section, which may include exercising
16 fiduciary powers similar to those permitted to national banks and ensuring compliance with federal
17 law governing digital assets classified as commodities.

18 (c) A bank providing custodial services shall enter into an agreement with an independent
19 public accountant to conduct an examination conforming to the requirements of 17 C.F.R. §
20 275.206(4)-2(a)(4) and (6), at the cost of the bank. The accountant shall transmit the results of
21 the examination to the commissioner within 120 days of the examination and may file the results
22 with the United States securities and exchange commission as its rules may provide. Material
23 discrepancies in an examination shall be reported to the commissioner within one day. The
24 commissioner shall review examination results upon receipt within a reasonable time and during
25 any regular examination conducted pursuant to §31A-2-6 of this code.

26 (d) Digital assets held in custody pursuant to this section are not depository liabilities or
27 assets of the bank. A bank, or a subsidiary, may register as an investment adviser, investment
28 company, or broker dealer as necessary. A bank shall maintain control over a digital asset while
29 in its custody. A customer shall elect, pursuant to a written agreement with the bank, one of the
30 following relationships for each digital asset held in custody:

31 (1) Custody under a bailment as a nonfungible or fungible asset. Assets held under this
32 paragraph shall be strictly segregated from other assets; or

33 (2) Custody under a bailment pursuant to subsection (e) of this section.

34 (e) If a customer makes an election under paragraph (d)(2) of this section, the bank may,
35 based only on customer instructions, undertake transactions with the digital asset. A bank
36 maintains control pursuant to subsection (d) of this section by entering into an agreement with the
37 counterparty to a transaction which contains a time for return of the asset. The bank shall not be
38 liable for any loss suffered with respect to a transaction under this subsection, except for liability
39 consistent with fiduciary and trust powers as a custodian under this section.

40 (f) A bank and a customer shall agree in writing regarding the source code version the

41 bank will use for each digital asset, and the treatment of each asset pursuant to the provisions of
42 §46-1-101 et seq. of this code if necessary. Any ambiguity under this subsection shall be resolved
43 in favor of the customer.

44 (g) A bank shall provide clear, written notice to each customer, and require written
45 acknowledgement, of the following:

46 (1) Prior to the implementation of any updates, material source code updates relating to
47 digital assets held in custody, except in emergencies which may include security vulnerabilities;

48 (2) The heightened risk of loss from transactions under subsection (e) of this section;

49 (3) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible
50 asset or custody under paragraph (d)(2) of this section;

51 (4) That custody pursuant to paragraph (d)(2) of this section may not result in the digital
52 assets of the customer being strictly segregated from other customer assets; and

53 (5) That the bank is not liable for losses suffered pursuant to subsection (e) of this section,
54 except for liability consistent with fiduciary and trust powers as a custodian pursuant to this
55 section.

56 (h) A bank and a customer shall agree in writing to a time period within which the bank
57 must return a digital asset held in custody pursuant this section. If a customer makes an election
58 pursuant to paragraph (d)(2) of this section, the bank and the customer may also agree in writing
59 to the form in which the digital asset shall be returned.

60 (i) All ancillary or subsidiary proceeds relating to digital assets held in custody pursuant to
61 this section shall accrue to the benefit of the customer, except as specified by a written agreement
62 with the customer. The bank may elect not to collect certain ancillary or subsidiary proceeds, as
63 long as the election is disclosed in writing. A customer who makes an election pursuant to
64 paragraph (d)(1) of this section may withdraw the digital asset in a form that permits the collection
65 of the ancillary or subsidiary proceeds.

66 (j) A bank shall not authorize or permit rehypothecation of digital assets under this section.

67 The bank shall not engage in any activity to use or exercise discretionary authority relating to a
 68 digital asset except based on customer instructions.

69 (k) A bank shall not take any action pursuant to this section which would likely impair the
 70 solvency or the safety and soundness of the bank, as determined by the commissioner after
 71 considering the nature of custodial services customary in the banking industry.

72 (l) The commissioner may propose rules for legislative approval in accordance with the
 73 provisions of §29A-3-1 et seq. of this code to implement the provisions of this section.

74 (m) As used in this section:

75 (1) "Bank" has the meaning ascribed to it in §31A-1-2 of this code.

76 (2) "Commissioner" means the banking commissioner;

77 (3) "Custodial services" means the safekeeping and management of customer currency
 78 and digital assets through the exercise of fiduciary and trust powers pursuant to this section as a
 79 custodian and includes fund administration and the execution of customer instructions.

§39A-4-205. Jurisdiction of courts.

1 The courts of this state shall have jurisdiction to hear claims in both law and equity relating
 2 to digital assets, including those arising from this chapter and the Uniform Commercial Code
 3 codified at §46-1-101 et seq. of this code.

**CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND
 PROTECTION ACT.**

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-102. Definitions.

1 When used in this article, the following words, terms and phrases, and any variations
 2 thereof required by the context, shall have the meaning ascribed to them in this article except
 3 where the context indicates a different meaning:

4 (1) "Advertisement" means the publication, dissemination or circulation of any matter, oral

5 or written, including labeling, which tends to induce, directly or indirectly, any person to enter into
6 any obligation, sign any contract or acquire any title or interest in any goods or services and
7 includes every word device to disguise any form of business solicitation by using such terms as
8 “renewal”, “invoice”, “bill”, “statement” or “reminder” to create an impression of existing obligation
9 when there is none or other language to mislead any person in relation to any sought-after
10 commercial transaction.

11 (2) “Consumer” means a natural person to whom a sale or lease is made in a consumer
12 transaction and a “consumer transaction” means a sale or lease to a natural person or persons
13 for a personal, family, household or agricultural purpose.

14 (3) “Cure offer” means a written offer of one or more things of value, including, but not
15 limited to, the payment of money, that is made by a merchant or seller and that is delivered by
16 certified mail to a person claiming to have suffered a loss as a result of a transaction or to the
17 attorney for such person.

18 (4) “Merchantable” means, in addition to the qualities prescribed in §46-2-314 of this code,
19 that the goods conform in all material respects to applicable state and federal statutes and
20 regulations establishing standards of quality and safety of goods and, in the case of goods with
21 mechanical, electrical or thermal components, that the goods are in good working order and will
22 operate properly in normal usage for a reasonable period of time.

23 (5) “Sale” includes any sale, offer for sale or attempt to sell any goods for cash or credit
24 or any services or offer for services for cash or credit.

25 (6) “Trade” or “commerce” means the advertising, offering for sale, sale or distribution of
26 any goods or services and shall include any trade or commerce, directly or indirectly, affecting
27 the people of this state.

28 (7) “Unfair methods of competition and unfair or deceptive acts or practices” means and
29 includes, but is not limited to, any one or more of the following:

30 (A) Passing off goods or services as those of another;

31 (B) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship,
32 approval or certification of goods or services;

33 (C) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or
34 association with or certification by another;

35 (D) Using deceptive representations or designations of geographic origin in connection
36 with goods or services;

37 (E) Representing that goods or services have sponsorship, approval, characteristics,
38 ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship,
39 approval, status, affiliation or connection that he does not have;

40 (F) Representing that goods are original or new if they are deteriorated, altered,
41 reconditioned, reclaimed, used or secondhand;

42 (G) Representing that goods or services are of a particular standard, quality or grade, or
43 that goods are of a particular style or model if they are of another;

44 (H) Disparaging the goods, services or business of another by false or misleading
45 representation of fact;

46 (I) Advertising goods or services with intent not to sell them as advertised;

47 (J) Advertising goods or services with intent not to supply reasonably expectable public
48 demand, unless the advertisement discloses a limitation of quantity;

49 (K) Making false or misleading statements of fact concerning the reasons for, existence of
50 or amounts of price reductions;

51 (L) Engaging in any other conduct which similarly creates a likelihood of confusion or of
52 misunderstanding;

53 (M) The act, use or employment by any person of any deception, fraud, false pretense,
54 false promise or misrepresentation, or the concealment, suppression or omission of any material
55 fact with intent that others rely upon such concealment, suppression or omission, in connection
56 with the sale or advertisement of any goods or services, whether or not any person has in fact

57 been misled, deceived or damaged thereby;

58 (N) Advertising, printing, displaying, publishing, distributing or broadcasting, or causing to
 59 be advertised, printed, displayed, published, distributed or broadcast in any manner, any
 60 statement or representation with regard to the sale of goods or the extension of consumer credit
 61 including the rates, terms or conditions for the sale of such goods or the extension of such credit,
 62 which is false, misleading or deceptive or which omits to state material information which is
 63 necessary to make the statements therein not false, misleading or deceptive;

64 (O) Representing that any person has won a prize, one of a group of prizes or any other
 65 thing of value if receipt of the prize or thing of value is contingent upon any payment of a service
 66 charge, mailing charge, handling charge or any other similar charge by the person or upon
 67 mandatory attendance by the person at a promotion or sales presentation at the seller's place of
 68 business or any other location: *Provided*, That a person may be offered one item or the choice of
 69 several items conditioned on the person listening to a sales promotion or entering a consumer
 70 transaction if the true retail value and an accurate description of the item or items are clearly and
 71 conspicuously disclosed along with the person's obligations upon accepting the item or items;
 72 such description and disclosure shall be typewritten or printed in at least eight point regular type,
 73 in upper or lower case, where appropriate; or

74 (P) Violating any provision or requirement of §46A-6B-1 *et seq.* of this code; or

75 (Q) Willfully failing to comply with the duties imposed by §39A-4-201 *et seq.* of this code.

76 (8) "Warranty" means express and implied warranties described and defined in §46A-2-
 77 314, §46A-2-315, and §46A-2-316 of this code and expressions or actions of a merchant which
 78 assure the consumer that the goods have described qualities or will perform in a described
 79 manner.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.

§47-9-1. Definitions.

1 As used in this article, unless the context otherwise requires:

2 "Blockchain" has the same meaning as set forth in §39A-1-2 of this code.

3 ~~(1)~~ "Certificate of limited partnership" means the certificate referred to in §47B-1-2 of this
4 code and the certificate as amended;

5 ~~(2)~~ "Contribution" means any cash, property, services rendered or a promissory note or
6 other binding obligation to contribute cash or property or to perform services, which a partner
7 contributes to a limited partnership in his or her capacity as a partner;

8 ~~(3)~~ "Deliver" or "delivery" means any method of delivery used in conventional commercial
9 practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic
10 transmission;

11 ~~(4)~~ "Electronic transmission" or "electronically transmitted" means any process of
12 communication that does not directly involving involve the physical transfer of paper, including a
13 process of communication that uses one or more distributed or other electronic networks, or
14 databases, and that is suitable for the retention, retrieval and reproduction of information by the
15 recipient.

16 ~~(5)~~ "Event of withdrawal of a general partner" means an event that causes a person to
17 cease to be a general partner as provided in §46A-6-23 of this code;

18 ~~(6)~~ "Foreign limited partnership" means a partnership formed under the laws of any state
19 other than this state and having as partners one or more general partners and one or more limited
20 partners;

21 ~~(7)~~ "General partner" means a person who has been admitted to a limited partnership as
22 a general partner in accordance with the partnership agreement and named in the certificate of
23 limited partnership as a general partner;

24 ~~(8)~~ "Limited partner" means a person who has been admitted to a limited partnership as a
25 limited partner in accordance with the partnership agreement;

26 ~~(9)~~ “Limited partnership” and “domestic limited partnership” means a partnership formed
27 by two or more persons under the laws of this state and having one or more general partners and
28 one or more limited partners;

29 ~~(10)~~ “Partner” means a limited or general partner;

30 ~~(11)~~ “Partnership agreement” means any valid agreement, written or oral, of the partners
31 as to the affairs of a limited partnership and the conduct of its business;

32 ~~(12)~~ “Partnership interest” means a partner's share of the profits and losses of a limited
33 partnership and the right to receive distributions of partnership assets;

34 ~~(13)~~ “Person” means a natural person, partnership, limited partnership (domestic or
35 foreign), limited liability company, professional limited liability company, trust, estate, association,
36 corporation, or any other legal or commercial entity;

37 ~~(14)~~ “Sign” or “signature” includes, but is not limited to, any manual, facsimile, conformed
38 or electronic signature with means to identify a record by a signature, mark or other symbol, with
39 intent to authenticate it; and

40 ~~(15)~~ “State” means a state, territory or possession of the United States, the District of
41 Columbia or the Commonwealth of Puerto Rico.

§47-9-59a. Conversion of electronic documents; admissibility as evidence.

1 (a) Except as otherwise required by federal or state law, any records maintained by a
2 corporation in its regular course of business may be kept in the form of an electronic record and
3 may be maintained on any information processing system or information storing device or
4 medium.

5 (b) Upon a proper request by any person entitled to inspect the records maintained by a
6 corporation, the corporation shall convert within a reasonable time any records that are kept in a
7 manner as set forth in subsection (a) of this section into a clear and legible paper form. If the
8 requested record is maintained in the form of any information storage device or method
9 or any one or more distributed or other electronic networks or databases, the corporation is not

10 required to convert the entire record into paper form but shall be deemed to comply with the
11 requirements of this section by converting only the requested record into paper form.

12 (c) A clear and legible paper form produced from records that are kept in electronic format
13 as described in this section is admissible as evidence and accepted for all other purposes to the
14 same extent as an original paper record with the same information if the paper form portrays the
15 record accurately.

CHAPTER 47B. UNIFORM PARTNERSHIP ACT.

ARTICLE 1. GENERAL PROVISIONS.

§47B-1-1. Definitions.

1 In this chapter:

2 ~~(1)~~ “Business” includes every trade, occupation and profession.

3 ~~(2)~~ “Debtor in bankruptcy” means a person who is the subject of:

4 (i) In order for relief under Title 11 of the United States Code or a comparable order under
5 a successor statute of general application; or

6 (ii) A comparable order under federal, state or foreign law governing insolvency.

7 ~~(3)~~ “Deliver” or “delivery” means any method of delivery used in conventional commercial
8 practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic
9 transmission.

10 ~~(4)~~ “Distribution” means a transfer of money or other property from a partnership to a
11 partner in the partner’s capacity as a partner or to the partner’s transferee.

12 ~~(5)~~ “Electronic transmission” or “electronically transmitted” means any process of
13 communication that does not directly involving involve the physical transfer of paper, including a
14 process of communication that uses one or more distributed or other electronic networks, or
15 databases, and that is suitable for the retention, retrieval and reproduction of information by the
16 recipient.

17 ~~(6)~~ “Foreign limited liability partnership” means a partnership or association formed under
18 or pursuant to an agreement governed by the laws of any state or jurisdiction other than this state
19 that is denominated as a registered limited liability partnership or limited liability partnership under
20 the laws of such other jurisdiction.

21 ~~(7)~~ “Partnership” means an association of two or more persons to carry on as coowners a
22 business for profit formed under section two, article two of this chapter, predecessor law, or
23 comparable law of another jurisdiction and includes, for all purposes of the laws of this state, a
24 registered limited liability partnership.

25 ~~(8)~~ “Partnership agreement” means the agreement, whether written, oral or implied,
26 among the partners concerning the partnership, including amendments to the partnership
27 agreement.

28 ~~(9)~~ “Partnership at will” means a partnership in which the partners have not agreed to
29 remain partners until the expiration of a definite term or the completion of a particular undertaking.

30 ~~(10)~~ “Partnership interest” or “partner’s interest in the partnership” means all of a partner’s
31 interests in the partnership, including the partner’s transferable interest and all management and
32 other rights.

33 ~~(11)~~ “Person” means an individual, corporation, business trust, estate, trust, partnership,
34 limited liability company, professional limited liability company, association, joint venture,
35 government, governmental subdivision, agency or instrumentality, or any other legal or
36 commercial entity.

37 ~~(12)~~ “Property” means all property, real, personal or mixed, tangible or intangible, or any
38 interest therein.

39 ~~(13)~~ “Registered limited liability partnership” means a partnership formed pursuant to an
40 agreement governed by the laws of this state, registered under §47B-10-1 of this code.

41 ~~(14)~~ “Sign” or “signature” includes, but is not limited to, any manual, facsimile, conformed
42 or electronic signature.

43 ~~(15)~~ “State” means a state of the United States, the District of Columbia, the
44 Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of
45 the United States.

46 ~~(16)~~ “Statement” means a statement of partnership authority under §47B-3-3 of this code,
47 a statement of denial under §47B-3-4 of this code, a statement of dissociation under §47B-7-4 of
48 this code, a statement of dissolution under §47B-8-5 of this code, a statement of merger under
49 §47B-9-7 of this code, a statement of registration and a statement of withdrawal under §47B-10-
50 1 of this code, or an amendment or cancellation of any of the foregoing.

51 ~~(17)~~ “Transfer” includes an assignment, conveyance, lease, mortgage, deed and
52 encumbrance.

ARTICLE 11. MISCELLANEOUS PROVISIONS.

§47B-11-6. Conversion of electronic documents; admissibility as evidence.

1 (a) Except as otherwise required by federal or state law, any records maintained by a
2 corporation in its regular course of business may be kept in the form of an electronic record and
3 may be maintained on any information processing system or information storing device or
4 medium.

5 (b) Upon a proper request by any person entitled to inspect the records maintained by a
6 corporation, the corporation shall convert within a reasonable time any records that are kept in a
7 manner as set forth in subsection (a) of this section into a clear and legible paper form. If the
8 requested record is maintained in the form of any information storage device or method
9 or any one or more distributed or other electronic networks or databases, the corporation is not
10 required to convert the entire record into paper form but shall be deemed to comply with the
11 requirements of this section by converting only the requested record into paper form.

12 (c) A clear and legible paper form produced from records that are kept in electronic format
13 as described in this section is admissible as evidence and accepted for all other purposes to the
14 same extent as an original paper record with the same information if the paper form portrays the

15 record accurately.

NOTE: The purpose of this bill is to provide a statutory framework for the treatment of digital assets.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.