AB 2269 (Grayson)
Version: June 27, 2022
Hearing Date: June 28, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Digital financial asset businesses: regulation

DIGEST

This bill establishes the Digital Financial Assets Law, which implements a regulatory and licensing regime for specified digital financial asset business activities administered by the Department of Financial Protection and Innovation (DFPI), to take effect January 1, 2024.

EXECUTIVE SUMMARY

Six months ago, this analysis would have read very differently. Cryptocurrencies—digital financial assets that serve as both a non-fiat unit of exchange and an investment vehicle—were riding high. Bitcoin, the granddaddy of cryptocurrencies, was trading at around $50,000 while stars like Matt Damon and LeBron James were telling consumers to jump on the crypto bandwagon or lose out.

What a difference six months makes. At the time this analysis is being released, the overall market capitalization of crypto assets is below $1 trillion, down from a November 2021 high of $3 trillion—meaning $2 trillion in investor assets vanished in half a year.[1] While the industry is likely to recover—albeit without many of the tokens that have gone under in the last six months—this extreme volatility appears to be a feature of cryptocurrency. Unlike a stock or a treasury bond, a cryptocurrency's value is not derived from the market's faith in the underlying company or country; instead, its value is derived from the number of people who believe it has value. As such, cryptocurrency appears particularly susceptible to sell-offs and scares.

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[1] *See* Reinicke, *Bitcoin has lost more than 50% of its value this year. Here's what you need to know*, CNBC (Jun. 15, 2022), https://www.cnbc.com/2022/06/15/bitcoin-has-lost-more-than-50percent-of-its-value-this-year-what-to-know.html (last visited Jun. 15, 2022).

None of this is inherently a problem: risky investments are, and always will be, a feature of the overall financial system. The problem highlighted by the author, however, is that cryptocurrencies and related businesses have so far evaded the kind of regulatory oversight that protects consumers in other financial transactions. The SEC has been attempting to regulate aspects of the crypto industry since 2017 with some success, but many crypto industry participants dispute whether they fall within the SEC's jurisdiction. Within the state, the DFPI is seeking public comment on potential rules to regulate the crypto industry under the California Consumer Financial Protection Law, but the state lacks a statutory framework specifically aimed at cryptocurrency and related businesses.

This bill would create that framework. The bill provides for a licensing and registration scheme for businesses that offer, store, or otherwise transact in cryptocurrency with or on behalf of residents within the state under the ambit of the DFPI. Licensees and registrants would be subjected to reporting, disclosure, and security requirements, which could be enforced by the DFPI; individuals would not have a private right of action except where an entity holding digital assets on behalf of the individual failed to maintain adequate assets to cover all outstanding entitlements. The bill expressly carves out from its scope entities regulated by the SEC and other federal regimes to ensure that the bill is not preempted. The bill would take effect on January 1, 2024. The author has agreed to minor amendments to clarify certain requirements in response to industry concerns.

This bill is sponsored by the California Consumer Federation and is supported by the California Association for Micro Enterprise Opportunity and the California Reinvestment Coalition. This bill is opposed by the Blockchain Advocacy Coalition. This bill was passed by the Senate Banking and Financial Institutions Committee with a 6-0 vote.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Establishes the Securities Exchange Act of 1934, which regulates the secondary trading of interstate securities and is administered by the Securities Exchange Commission (SEC). (15 U.S.C. §§ 78a et seq.)

2) Provides, by executive order:
   a) As a policy matter, the unique and varied features of digital assets can pose a significant financial risk to consumers, investors, and businesses if appropriate protections are not in place; in the absence of sufficient oversight and standards, firms providing digital asset services may provide inadequate protections for sensitive financial data, custodial and other arrangements

relating to customer assets and funds, or disclosures of risks associated with investment.

b) Digital asset issuers, exchanges and trading platforms, and intermediaries whose activities may increase risks to financial stability, should, as appropriate, be subject to and in compliance with regulatory and supervisory standards that govern traditional market infrastructures and financial firms, in line with the general principle of "same business, same risks, same rules."

c) Digital assets may pose significant illicit finance risks, including money laundering, cybercrime and ransomware, narcotics and human trafficking, and terrorism and proliferation financing. Digital assets may also be used as a tool to circumvent United States and foreign financial sanctions regimes and other tools and authorities.

d) The United States has an interest in ensuring that it remains at the forefront of responsible development and design of digital assets and the technology that underpins new forms of payments and capital flows in the international financial system, particularly in setting standards that promote: democratic values; the rule of law; privacy; the protection of consumers, investors, and businesses; and interoperability with digital platforms, legacy architecture, and international payment systems.

e) The Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy must coordinate an interagency process to implement the policy objectives in 2)(a)-(d), with other agencies involved as specified.

f) With respect to digital currencies, sovereign money is at the core of a well-functioning financial system, macroeconomic stabilization policies, and economic growth; the Administration places the highest urgency on research and development efforts into the potential design and deployment options of a United States Central Bank Digital Currencies (CBDCs).

g) The Secretary of the Treasury, in consultation with other federal officers, shall submit a report to the President on the future of money and payment systems, including the conditions that drive broad adoption of digital assets; the extent to which technological innovation may influence these outcomes; and the implications for the United States financial system, the modernization of and changes to payment systems, economic growth, financial inclusion, and national security. This report should also address the implications of developments and adoption of digital assets and changes in financial market and payment system infrastructures for United States consumers, investors, businesses, and for equitable economic growth.

h) The Chairman of the Board of Governors of the Federal Reserve System is encouraged to research and report on the extent to which CBDCs could improve the efficiency and reduce the costs of existing and future payments systems, to continue to assess the optimal form of a United States CBDC, and to develop a strategic plan for Federal Reserve and broader United States Government action, as appropriate, that evaluates the necessary steps and

requirements for the potential implementation and launch of a United States CBDC.

i) The Chair of the Securities Exchange Commission (SEC), the Chairman of the CFTC, the Chairman of the Federal Reserve, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency are encouraged to consider the extent to which existing investor and market protection measures within their jurisdictions may be used to address the risks of digital assets and whether additional measures may be needed.

j) Specified agencies must develop a coordinated plan to mitigate the digital-asset-related illicit finance and national security risks. (Exec. Order No. 14067, 87 Fed. Reg. 14143 (Mar. 9, 2022).)

Existing state law:

3) Establishes the Money Transmission Act, which generally prohibits a person from engaging in money transmission without a license from the Commissioner of the DPFI. (Fin. Code, div. 1.2, §§ 2000 et seq.)

4) Establishes the California Consumer Financial Protection Law, which prohibits providers of financial products or services in the state from engaging in unlawful, unfair, deceptive, or abusive acts or practices with respect to consumer financial products of services and authorizes the DFPI to regulate the offering and provision of consumer financial products or services under California financial laws, to the extent the bill is not preempted by federal law. (Fin. Code, div. 24, §§ 90000 et seq.)

5) Provides, by executive order:
   a) That it is the goal of the State to create a transparent and consistent business environment for companies operating in blockchain, including crypto assets and related financial technologies, that harmonizes federal and California laws, balances the benefits and risks to consumers, and incorporates California values, such as equality, inclusivity, and environmental protection.
   b) That California state agencies must engage in a process concurrent strategy with the federal executive order set forth in 2), to collect input from stakeholders, create a regulatory approach to crypto, explore and establish public-serving use cases, and build research and workforce pipelines.
   c) That GO-Biz shall, in collaboration with BCSH and DFPI, collect input from stakeholders for potential blockchain applications and ventures, with particular attention to crypto assets and related financial technologies, as specified.
   d) That DFPI must engage in a public process to develop a comprehensive regulatory approach to crypto assets harmonized with the direction of federal regulations and guidance, including considering consumer protection issues.

e) That the Washington, D.C. office of the California Governor must, in coordination with other state agencies, engage in and encourage regulatory clarity via progress on the process outlined in the federal executive order in 2).

f) That GovOps must explore opportunities to deploy blockchain technologies to address public-serving and emerging needs, as specified.

g) That the Governor's Counsel for Postsecondary Education are encouraged to identify opportunities to create a research and workforce environment to power innovation in blockchain technology, including crypto assets, as specified. (Governor's Exec. Order No. N-9-22 (May 4, 2022).)

This bill:

1) Establishes the Digital Financial Assets Law (DFAL).

2) Defines relevant terms for purposes of the DFAL, including:
   a) "Bank" means a federally chartered or state-chartered depository institution or holder of a charter granted by the Office of the Comptroller of the Currency to a person engaged in banking other than deposit-taking, but does not include specified industrial loan and trust companies.
   b) "Digital financial asset" means a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender; but does not include specified affinity or rewards program value or a digital representation of value existing solely within an online game or similar platform.
   c) "Digital financial asset administration" means issuing a digital financial asset with the authority to redeem the currency for legal tender, bank credit, or another digital financial asset.
   d) "Digital financial business activity" means any of:
      i. Exchanging, transferring, or storing a digital financial asset or engaging in digital financial asset administration, whether directly or through an agreement with a digital financial asset control services vendor.
      ii. Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals.
      iii. Exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for either a digital financial asset offered by the same publisher from which the original digital financial representation of value was received, or legal tender or bank credit outside the online game offered by the same publisher from which the original digital representation of value was received.
   e) "Digital financial asset control services vendor" means a person that has control of a digital financial asset solely under an agreement with a person

that, on behalf of another person, assumes control of the digital financial asset.

f) "Person" means an individual, partnership, estate, business or nonprofit entity, or other legal entity, but does not include a public corporation, government, or governmental subdivision, agency, or instrumentality.

g) "Resident" means a person domiciled in this state, a person physically located in the state for more than 183 days of the previous 365 days, a person who has a place of business in this state, or a legal representative of a person that is domiciled in this state.

h) "Store," except in the phrase "store of value," means to maintain control of a digital financial asset on behalf of a resident by a person other than the resident. "Storage" and "storing" have corresponding meanings.

i) "Transfer" means to assume control of a digital financial asset from, or on behalf of, a resident and to subsequently (1) credit the digital financial asset to the account of another person, (2) move the digital financial asset from one account of a resident to another account of the same resident, or (3) relinquish control of a digital financial asset to another person.

3) Provides that the DFAL governs the digital financial asset business activity of a person, wherever located, who engages in or holds itself out as engaging in the activity with, or on behalf of, a resident, except for:

a) Digital financial assets and administration covered by other federal and state laws, including the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a et seq.).

b) Activity by, among others, federal, state, local, or foreign governments; banks; persons providing specified services, programs, or enterprise solutions relating to digital asset transfers; persons whose digital financial asset business activity is under $5,000 annually; a title company; and a securities intermediary or commodity intermediary, as defined.

4) Prohibits a person from engaging in digital financial asset business activity, or holding itself out as being able to engage in such activity, with or on behalf of a resident unless any of the following is true:

a) The person is licensed under the DFAL.

b) The person is registered with the DPFI and operating in compliance with the DFAL.

c) The person is exempt from licensure.

5) Provides requirements for the application for a license under the DFAL, including:

a) Requiring specified information about the legal name of the applicant, the applicant's executive officer and other control persons (including residential addresses), and the name, address, and telephone number of a person that manages any server the applicant expects to use in conducting the applicant's digital financial asset business activity with, or on behalf of, a resident and a copy of any agreement with that person.

b) A list of any licenses held by the person, any license revocations, suspensions, or other disciplinary action taken against the person, any criminal convictions or other enforcement actions taken against the applicant and specified executives and other persons, and any pending litigations, arbitrations, or administrative proceedings involving the applicant, as specified.

c) A list of any bankruptcy or receivership proceedings for the applicant and specified executives and other persons, as specified.

d) The source of funds and credit to be used by the applicant to conduct digital financial asset business activity with residents and documentation demonstrating the applicant meets DFAL net worth and reserve requirements.

e) Address, insurance, and entity formation information.

f) Fingerprints for any executive officer and responsible individual of the applicant.

g) The plans through which the applicant will meet specified DFAL requirements.

h) Any other requirements established by the DFPI by rule.

6) Provides that information provides as part of a license application is protected from disclosure under the Public Records Act (Gov. Code, § 6254(d)(1)).

7) Requires DFAL licensees to maintain a surety bond or trust account in United States dollars for the benefit of residents that engage in digital financial asset business activity with the licensee in a form and amount determined by the DFPI, as specified.

a) The security is payable to the state for the benefit of a claim against the licensee and for the period of the licensure and any additional period as determined by the DFPI.

b) Only the DFPI may recover against the security.

8) Requires, in addition to the security required under 7), a licensee to at all times maintain capital in an amount and form determined by the DFPI to be sufficient to ensure the financial integrity of the licensee and its operations based on assessment of the specific risks applicable to the licensee. The DFPI may consider a number of factors in determining the amount of capital to be maintained, including the composition of the licensee's assets, liabilities, the actual and expected volume of the licensee's digital financial asset business activities, and the average amount of leverage employed by the licensee.

9) Provides that the capital required in 7) and 8) shall be held in cash, digital financial assets, or high-quality, highly liquid investment grade assets, in proportions determined by DFPI. For good cause, the DFPI may require a licensee or registrant to increase its net worth or reserves above statutory requirements.

10) Provides that DFPI must issue a license to an applicant if the applicant complies with specified statutory requirements, absent good cause not to. An applicant may appeal the denial of a license under the Administrative Procedures Act, as specified.

11) Provides that a licensee may apply for a renewal license not less than 15 days before the anniversary date for its license by paying a renewal fee and submitting a report to DFPI setting forth its most recent reviewed annual financial statement or audited financial statement, depending on the volume of business activity the licensee conducted in the state; financial information relating to control persons of the licensee; any material change in the licensee's financial condition or litigation involving the licensee; federal or state investigations and data breaches; the United States dollar equivalent under the control of the licensee, and evidence that the licensee has complied with the security requirements. The licensee must pay any investigation costs incurred by DFPI in connection with the renewal application.

12) Provides, if a licensee fails to timely apply for a renewal or the application does not contain the required information, DFPI may use enforcement measures as provided, and notice or hearing is not required when the failure to comply is a failure to pay a renewal fee or file the report.
   a) DFPI may end a suspension or revocation of a license if the licensee timely corrects the error.
   b) Suspension or revocation of a license for failure to comply with 12) does not invalidate a transfer or exchange of digital financial assets for or on behalf of a residence during the suspension or revocation and does not insulate the licensee from liability.

13) Provides, if a licensee does not comply with the renewal procedure in 11), it must cease operations with respect to a resident of this state before the anniversary date of issuance of its license.

14) Authorizes a person whose volume of digital financial asset business activity in the United States dollar equivalent of financial assets does not exceed $35,000 annually may proceed under a registration in lieu of a license if the person files a notice of intent to proceed under a registration and provides specified information to DFPI. The registration may be converted to a license, as specified, if the business's digital asset transaction volume exceeds the $35,000 ceiling.
   a) DFPI may suspend a registration without a notice or opportunity to be heard for good cause.
   b) A registrant must cease all digital financial business activity with residents in the state for specified reasons, including where DFPI suspends or revokes the registration or the registrant's application for a license is denied.
   c) "Volume of digital financial asset business activity" means the sum of digital financial assets issued, exchanged, stored, or transferred.

15) Provides that a license or registration under the DFAL is not transferable or assignable.

16) Authorizes DFPI, at any time and without notice, to examine the business and any office, within or without the state, or the agent of any licensee or registrant to ascertain whether the business is being conducted in a lawful manner, the costs of which shall be paid for by the licensee or registrant. The directors, officers, and employees of a licensee or registrant being examined shall exhibit to the DFPI any accounts, books, correspondence, memoranda, papers, and other records and otherwise facilitate the examination.

17) Requires a licensee or registrant to maintain specified records with respect to its digital financial asset business with state residents for five years after the date of the activity. The records must be maintained in a format that enables DFPI to determine compliance, and if the records are maintained outside of the state, they must be made available no later than three days after the DFPI's request to inspect the records unless the DFPI permits a later date.

18) Requires a licensee or registrant to file a report with the DFPI of the following, no later than 15 days after the changed circumstances:
   a) A material change in information in the application for a license or registration or most recent renewal application.
   b) A material change in the licensee's or registrant's business for the conduct of its digital financial asset business activity with or on behalf of a resident.
   c) A change of executive officer, responsible individual, or person in control of the licensee or registrant.

19) Provides presumptions of who constitutes a person proposed to be in control for purposes of change in control over a licensee or registrant, as follows:
   a) There is a rebuttable presumption of control if the person's voting power in the licensee or registrant will constitute at least 25 percent of the total voting power.
   b) There is a rebuttable presumption of control if the person's voting power in another person constitutes or will constitute at least 10 percent of the total voting power of the other person and the other person's voting power in the licensee or registrant constitutes at least 25 percent of the total voting power of the licensee or registrant.
   c) There is no presumption of control solely because an individual is an executive officer of the licensee or registrant.

20) Requires, at least 30 days before a proposed change in control of a licensee or registrant, the licensee or registrant to submit to DFPI records of its application and specified information relating to the person proposed to be in control. DFPI may approve, deny, or approve with conditions the change in control and may modify the decision after a noticed hearing.

21) Requires, at least 30 days before a proposed merger or consolidation with a licensee or registrant with another person, the licensee or registrant to submit specified information to the DFPI, including an application as prescribed by DFPI and information about any control persons.
   a) DFPI may approve, deny, or conditionally approve the merger or consolidation.
   b) DFPI may revoke or modify a determination after a noticed hearing.
   c) If DFPI does not receive confirmation that the parties accept the DFPI's conditions, the application is deemed denied.
   d) The requirements of 20) apply if a licensee or registrant acquires all or substantially all of the assets of another person, whether or not that other person is already licensed or registered under the DFAL.

22) Authorizes DFPI to take enforcement measures to enforce the DFAL, including:
   a) License or registration suspension or revocation.
   b) Orders to cease and desist a person from doing digital financial asset business with a resident.
   c) Requesting the court to appoint a receiver for the assets of a person doing a digital financial asset business with a resident.
   d) Seeking temporary, preliminary, or permanent injunctive relief against a person doing digital financial asset business with a resident.
   e) Assess a penalty as set forth in 28).
   f) Recover on the security required under 7) and initiate a plan to distribute the proceeds to persons injured under the DFAL or other state law.
   g) Impose necessary or appropriate conditions on the conduct of a digital financial asset business with a resident.
   h) Seek restitution on behalf of a resident if DFPI shows economic injury due to a violation of the DFAL.

23) Authorizes DFPI to take enforcement measures against a licensee, registrant, or person engaging in digital financial asset business activity with a resident in the following instances:
   a) A licensee, registrant, or person materially violates the DFAL, a rule adopted or order issued under the DFAL, or another law of this state that applies to digital financial asset business.
   b) The licensee, registrant, or person does not cooperate substantially with an examination or investigation, fails to pay a fee, or fails to submit a report or documentation.
   c) The licensee, registrant, or person engages in a safe, unsound, unfair, or deceptive act or practice, fraud or intentional misrepresentation, misappropriation of legal tender, a digital financial asset, or other value held by fiduciary, or another dishonest act.

d) An agency of the United States or another state takes action against the licensee, registrant, or person would constitute an enforcement measure if the department had taken the action.

e) The licensee, registrant, or person is convicted of a crime related to its digital financial asset business activity with a resident or involving fraud or felonious activity that, as determined by DFPI, makes the licensee, registrant, or person unsuitable to engage in digital financial asset business activity.

f) The licensee, registrant, or person becomes insolvent, makes a general assignment for the benefit of its creditors, becomes a debtor in a bankruptcy or similar action, or applies for or appoints a receiver or other agent of the court for itself or a substantial part of its assets.

g) The licensee, registrant, or person makes a material representation to DFPI.

24) Authorizes the DFPI, for good cause, to extend the due dates for filing reports or waive enforcement measures if the circumstances warrant it.

25) Provides that, in an enforcement action related to operating without a license, is a defense to the action that the person has in effect a customer identification program reasonably designed to identify whether a customer is a resident that failed to identify the particular customer as a resident.

26) Provides that enforcement measures under the DFAL are subject to the Administrative Procedure Act.

27) Requires enforcement measures to be taken after notice and an opportunity for a hearing, except where the DFPI determines that the circumstances require action before notice can be given.

28) Provides the DFPI may assess civil penalties as follows:
   a) If a person other than a licensee or registrant engages in digital financial asset business activity with, or on behalf of, a resident in violation of this division, DFPI may assess a penalty not to exceed $100,000 for each day the person is in violation of this division.
   b) If a licensee or registrant materially violates a provision of the DFAL, DFPI may assess a penalty not to exceed $20,000 for each day of the violation.
   c) A civil penalty under 28) continues to accrue until the violation ceases.

29) Provides that suspension of a license, suspension of a registration, or an order to cease and desist is effective against a licensee, registrant, or other person one day after DFPI sends notice in a record of the suspension or order to the licensee, registrant, or other person, by a means reasonably selected for the notice to be received by the recipient in one day to the address provided for receiving communications from the department or, if no address is provided, to the recipient's last known address.

30) Authorizes DFPI to enter into a consent order with a person regarding an enforcement measure, which may provide that it does not constitute an admission of fact by a party.

31) Provides that the enforcement measures set forth above do not provide a private right of action to a resident, except for violations of the disclosure and protections provisions set forth in 32).

32) Requires a licensee or registrant, when engaging in digital financial business activity, to make required disclosures and any additional disclosures DFPI determines are necessary of the protection of residents. The required disclosures include:
   a) A schedule of fees and charges that may be assessed for the digital financial asset business, how the fees and charges are calculated, and when they are assessed.
   b) Whether the product or service is protected by insurance or guarantee; upon request, the licensee or registrant must disclose the material terms of the insurance policy in a manner that allows the resident to understand the specific insured risks and any maximum coverage amounts that may result in partial coverage of the resident's address.
   c) The irrevocability of a transfer or exchange and any exception to irrevocability.
   d) A description of the licensee's or registrant's liability for unauthorized or erroneous transactions, the resident's responsibility to provide notice of such transactions, the basis for any recovery by the resident, general error resolution rights, and the means for a resident to update their contact information.
   e) Information about the timing of transactions and the ability to stop transactions.
   f) The resident's right to receive a receipt or other evidence of a transaction.
   g) The resident's right to at least 30 days' prior notice of a change in the licensee's or registrant's fee schedule, other terms and conditions applicable to its operation of its digital financial asset business activity with the resident, or the policies applicable to the resident's account.
   h) That no digital financial asset is currently recognized as legal tender by California or the United States.
   i) Any instances in the preceding 12 months when the licensee's or registrant's service was unavailable to customers due to a service outage and steps taken to resolve the underlying cause of the outage.

33) Requires a licensee or registrant to provide confirmation of a transaction to a resident that includes the name and contact information of the licensee or resident, details about the transaction, and the fee charged. The licensee or registrant may, if it

specifies so in its disclosures, instead provide a daily confirmation of all of a resident's transactions.

34) Requires a licensee or registrant to that has control of a digital financial asset for one or more persons shall at all times maintain in its control an amount of each type of digital financial asset sufficient to satisfy the aggregate entitlements of the persons to the type of digital financial asset, as specified.
   a) If a licensee or registrant violates this requirement, the property interests of the persons in the digital financial asset are pro rata property interests in the type of digital financial asset to which the persons are entitled without regard to the time the persons became entitled to the digital financial asset or the licensee or registrant obtained control of the digital financial asset.
   b) The licensee or registrant may comply with 34) by providing in its contract with a resident that the licensee or registrant will comply with specified provisions of Division 8 of the Commercial Code which relate to securities and securities intermediaries.

35) Requires a covered licensee or natural person who is an associated person of a covered licensee, when making a recommendation related to a digital financial asset or investment strategy involving digital financial assets to a resident, shall act in the best interest of the resident at the time the recommendation is made without placing the financial or other interest of the licensee or natural person who is an associated person of a covered licensee making the recommendation ahead of the interest of the resident. A covered licensee complies with this requirement by, among other things, disclosing any material facts related to conflicts of interest, exercising reasonable diligence and care to understand the risks and rewards associated with the recommendation, and establishing and enforcing written policies and procedures to ensure the requirements are followed.

36) Requires a covered licensee to use make every effort to execute a resident's request to exchange a digital financial asset fully and promptly and use reasonable diligence to ascertain the best market for a requested digital financial asset transaction under existing market conditions.
   a) In a transaction for or with a customer, the covered licensee shall not interject a third party between the covered licensee and the best market for the digital financial asset in a manner inconsistent with the other duties of the licensee.
   b) If a covered licensee cannot execute directly with a market and employs other means in order to ensure an execution advantageous to the retail customer, the burden of showing the acceptable circumstances for doing so is on the covered licensee.
   c) Failure of a particular policy or procedure adopted under 34) to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored

properly. Repeated failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.

37) Requires a licensee to prominently display on its internet website a toll-free telephone number through which a resident can contact the licensee for customer service issues and receive live customer assistance. The telephone line shall be operative 24 hours per day, Monday through Sunday, excluding federal holidays.

38) Provides that a licensee may not exchange, transfer, or store a digital financial asset or engaging in digital financial asset administration, whether directly or through an agreement with a digital financial asset control services vendor, if that digital financial asset is a stablecoin unless the issuer of the stablecoin is licensed pursuant to this bill or is a bank and the issuer at all times owns eligible securities having an aggregate market value calculated in accordance with GAAP of not less than the amount of its outstanding stablecoins issued or sold in the United States. For purposes of this provision:
   a) "Eligible securities" means the United States currency eligible securities described in Financial Code section 2082.
   b) "Nominal redemption value" is the value at which a digital financial asset can be readily converted, on demand at the time of issuance, into United States dollars or any other national or state currency or a monetary equivalent or otherwise accepted in payment or to satisfy debts denominated in United States dollars or any national or state currency.
   c) "Stablecoin" is a digital financial asset that is denominated in United States dollars or pegged to the United States dollar or denominated in or pegged to another national or state currency and is issued with a fixed nominal redemption value with the intent of establishing a reasonable expectation or belief among the general public that the instrument will retain a nominal redemption value that is so stable as to render the nominal redemption effectively fixed.

39) Requires an applicant for a license or registrant, before submitting an application or registering, to maintain in a record specified policies and procedures, including for information security, operational security, business continuity, disaster recovery, the prevention of fraud, money laundering, and the funding of terrorist activity. Any policy and implementing procedure shall be compatible with other policies and the procedures implementing them and not conflict with policies or procedures applicable to the licensee or registrant under other state law.
   a) A policy and implementing procedure may be one in existence in the licensee's or registrant's digital financial asset business activity with, or on behalf of, residents.
   b) A licensee or registrant is not required to file with DFPI a copy of a report it makes to a federal authority unless the department specifically requires filing.

c) After the policies and procedures required are created and approved by DFPI and the licensee or registrant, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor each policy and procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.

d) Failure of a particular policy or procedure adopted under this section to meet its goals in a particular instance is not a ground for liability of the licensee or registrant if the policy or procedure was created, implemented, and monitored properly. Repeated failures of a policy or procedure are evidence that the policy or procedure was not created or implemented properly.

40) Requires an applicant for a license or registrant, before submitting an application or registering, to establish and maintain in a record a policy or procedure designed to ensure compliance with the DFAL and other laws of this state as specified. The policy may not conflict with state or federal law. The applicant or registrant may request advice from DFPI in devising the policies, and after the policies are created, the licensee or registrant shall engage a responsible individual with adequate authority and experience to monitor any policy or procedure, publicize it as appropriate, recommend changes as desirable, and enforce it.

41) Provides that the DFAL applies to digital financial asset business activity with, or on behalf of, a resident on and after January 1, 2024.

42) Includes a severability clause.

COMMENTS

1. Author's comment

According to the author:

> AB 2269 will promote a healthy and sustainable cryptocurrency market by licensing and regulating businesses that help Californians buy and sell cryptocurrencies. While cryptocurrency has the potential to empower consumers and disrupt the financial sector in unexpected ways, its high volatility and the prevalence of fraud, illicit behavior, and technical and security vulnerabilities expose California consumers to significant financial harm. As a recent Wall Street Journal report explains, the cryptocurrency market is "often little more than a casino, with weak regulation and few means for recourse for the losers." AB 2269 strikes a balance between protecting consumers from harm and fostering a responsible innovation environment by establishing clear rules for those companies that help Californians buy, sell, and exchange cryptocurrency.

2. <u>Cryptocurrency: a postmodern experiment</u>

Cryptocurrency, broadly speaking, is a digital representation of value that has value because other people believe it has value. To be fair, fiat currency—legal tender—works more or less the same way; currency devaluations occur when enough people believe that the money is worth less (often because it appears the government will not be able to cover its debts). Cryptocurrency simply cuts out the middleman: when enough individuals decide among themselves that the currency is worth trading in it, the value materializes.

Cryptocurrencies are not the first experiment in non-governmental media of exchange. Many employers paid their employees in company scrip—representations of value exchangeable usually only at the company store—until the United States outlawed the practice in 1938.[2] The Greater Barrington area of Massachusetts created its own local currency ("BerkShares") to encourage support for local businesses.[3] The Royal Hawaiian Mint (which was neither royal nor operated by Hawaiians) minted Liberty Coins, a private currency backed by gold and silver, from the 1990s until its creator was convicted for a range of federal crimes including conspiracy against the United States.[4]

Cryptocurrency is thus not novel in concept, but it is novel in terms of the technology that makes it work: blockchain. Blockchain is, in brief, a system of recording information on a digital leger maintained by an online network; the leger is distributed across the network, making it very difficult to hack or manipulate. Transactions—recorded as additions to the blockchain—are generally secured cryptographically. In the cryptocurrency space, blockchain is used to record the transactions in the particular currency.

Many have described cryptocurrency as a solution in search of a problem.[5] Most countries do not accept, or require businesses to accept, cryptocurrency in lieu of the national currency.[6] As such, individuals using cryptocurrency generally have to gauge

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[2] *See* Fair Labor Standards Act of 1938, Pub. Law 75-718 (1938), 52 Stat. 1060-1070.

[3] Barry, *Would You Like That in Tens, Twenties, or Normans?*, N.Y. Times (Feb. 25, 2007), https://www.nytimes.com/2007/02/25/us/25land.html (last visited Jun. 11, 2022).

[4] Feuer, *Prison May Be the Next Stop on a Gold Currency Journey*, N.Y. Times (Oct. 12, 2012), *available at* https://web.archive.org/web/20130409140903/http://www.nytimes.com/2012/10/25/us/liberty-dollar-creator-awaits-his-fate-behind-bars.html?pagewanted=all&_r=1& (last visited Jun. 11, 2022).

[5] *E.g.*, Lashinsky, *Crypto is a solution in search of a problem*, Washington Post (May 20, 2022), https://www.washingtonpost.com/opinions/2022/05/20/crypto-bitcoin-dogecoin-ethereum-crashing/ (last visited Jun. 11, 2022).

[6] Exceptions include Venezuela, which has launched its own state cryptocurrency, and El Salvador, which replaced its governmentally issued tender with bitcoin. (*See* Krygier, *Venezuela launches the 'petro,' its cryptocurrency*, Washington Post (Feb. 20, 2018), https://www.washingtonpost.com/news/worldviews/wp/2018/02/20/venezuela-launches-the-petro-its-cryptocurrency/ (last visited Jun. 12, 2022); Pérez, *El Salvador's President Went All In on Bitcoin. Then It Tanked*, Wall Street Journal (May 14, 2022), https://www.wsj.com/articles/el-salvadors-president-went-all-in-on-bitcoin-then-it-tanked-11652540400 (last visited Jun. 12, 2022).

its value with respect to how much it can be exchanged or sold for another currency — often US dollars — when deciding the appropriate value of a good or service in that cryptocurrency. And because the value of cryptocurrency can vary dramatically over short periods of time, there is significantly more risk in exchanging cryptocurrency (or "crypto") instead of legal tender. Others are less interested in cryptocurrency as an alternative currency and instead see it as a store of value that has the potential for a greater rate of return than traditional investments. Recent events illustrate why this is a gamble

Take Bitcoin, one of the most prominent cryptocurrencies. In the middle of the day on June 27, 2022, one bitcoin was worth $20,825.09. At the beginning of April 2022, one bitcoin was worth $45,857, down from its peak of $64,400 in November 2021.[7] Ethereum, another longstanding cryptocurrency, has also lost more than half of its value since November 2021 — from $4,732.48 that month to $1,1195.58 on June 27, 2022.[8] A person who sold a home for $500,000 worth of bitcoin at its peak in November would have about $161,685 today.[9] Overall, about $1.5 trillion in cryptocurrency value disappeared between November 2021 and May 2022.[10]

Despite the volatility of cryptocurrency, advertisers and stakeholders have pitched cryptocurrency as a good bet for members of the general public. A 2022 Superbowl commercial posited that not purchasing crypto was akin to failing to see the utility of the wheel.[11] A host of celebrities have earned massive paychecks (unclear whether in crypto) to push cryptocurrencies without highlighting the risks.[12] Financial institutions are even rolling out cryptocurrency investments for retirement accounts.[13]

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[7] *See* Coindesk, Bitcoin price index and live chart, https://www.coindesk.com/price/bitcoin/ (last visited Jun. 27, 2022).

[8] *Id.*, Ethereum price index and live chart, https://www.coindesk.com/price/ethereum/ (last visited Jun. 27, 2022).

[9] The experiment in algorithm-backed "stablecoins" — cryptocurrencies intended to be pegged to the value of the US dollar through algorithms that caused sales and purchases of the coin to keep the value steady — has had an even rougher time than regular cryptocurrencies: TerraUST, the most prominent algorithm stablecoin, lost virtually all of its value in the May 2022 crypto crash. (Shen, *How $60 Billion in Terra Coins Went Up in Algorithmic Smoke*, Bloomberg (May 20, 2022), https://www.bloomberg.com/graphics/2022-crypto-luna-terra-stablecoin-explainer/ (last visited Jun. 12, 2022).

[10] Surowiecki, *How Crypto Disappeared Into Thin Air*, The Atlantic (May 20, 2022), https://www.theatlantic.com/ideas/archive/2022/05/how-cryptocurrencies-defied-gravity/629926/ (last visited Jun. 12, 2022).

[11] *See* FTX, Don't Miss Out on Crypto: Larry David FTX Commercial, *available at* https://www.youtube.com/watch?v=BH5-rSxilxo (last visited Jun. 12, 2022).

[12] Hsu, *All Those Celebrities Pushing Crypto Are Not So Vocal Now*, NY Times (May 17, 2022), *available at* https://www.nytimes.com/2022/05/17/business/media/crypto-gwyneth-paltrow-matt-damon-reese-witherspoon.html (last visited Jun. 12, 2022).

[13] Bloomberg Editors, *Crypto in Retirement Accounts? Are You Kidding?*, Washington Post (May 27, 2022), https://www.washingtonpost.com/business/crypto-in-retirement-accounts-are-you-kidding/2022/05/26/90c0bc5a-dcf4-11ec-bc35-a91d0a94923b_story.html (last visited Jun. 12, 2022).

Consumers' eagerness to invest in this space may arise from the assumption—generally uncorrected by industry—that crypto-related businesses function the same way as other, better-regulated financial products businesses. This is not the case. For example, Coinbase holds crypto and fiat currencies on behalf of customers and sells itself as a safe place to do so; yet in its first quarter earnings report for 2022, it stated that it considers its customers unsecured creditors—meaning, in the event of a bankruptcy proceeding, individuals who stored their assets in Coinbase would not be able to get their own assets back unless and until Coinbase had covered all of its secured debts.[14]

Similarly, customers stored crypto assets with the Celsius Network because it promised extraordinary rates of return, but as of June 21, 2022, the Celsius Network had frozen all customer assets—worth as much as $8 billion—for nine days, leaving consumers with no way to retrieve their digital assets.[15] It is unclear at this point whether the assets will ever be unfrozen or whether the assets consumers thought they owned will be distributed to satisfy the Celsius Network's own debts.[16] The Celsius Network and other crypto businesses explicitly pitch themselves as an alternative to traditional banking; the recent crypto crash is a painful reminder of why many of our financial regulations were implemented in the first place.

3.   The state of cryptocurrency regulation

Cryptocurrency's move from a niche product to a popular one has spurred regulation efforts at the federal and state level, with mixed results. To date, the SEC has made the most significant efforts to regulate and put limits on cryptocurrency offerings. As noted above, though crypto is ostensibly a "currency," its lack of universal fungibility and the opportunity for gains have led many to treat it as an investment. Many crypto offerings, too, have been phrased more in terms of an investment vehicle rather than a true alternative currency. As such, the Chair of the SEC, Gary Gensler, takes the position that most crypto products fall under the SEC's jurisdiction.[17] Some members of the industry are fighting the SEC's authority to regulate cryptocurrency,[18] though after the May 2022 crypto crash, it is unclear if crypto businesses will be able to continue costly legal battles with the SEC.

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[14] Gordon, *Coinbase earnings were bad. Worse still, the crypto exchange is now warning that bankruptcy could wipe out user funds*, Fortune (May 10, 2022), https://fortune.com/2022/05/11/coinbase-bankruptcy-crypto-assets-safe-private-key-earnings-stock/ (last visited June 15, 2022).
[15] Zeitchik & Lerman, *Crypto's frozen mystery: the fate of billions in Celsius deposits*, Washington Post (Jun. 21, 2022), https://www.washingtonpost.com/technology/2022/06/21/celsius-withdrawal-freeze-explained/ (last visited Jun. 21, 2022).
[16] *Ibid.*
[17] Sutton, *SEC's crypto crusade at risk in looming legal battles*, Politico (Jan. 29, 2022), https://www.politico.com/news/2022/01/29/crypto-industry-lawsuits-sec-00002580 (last visited Jun. 15, 2022).
[18] *Ibid.*

At the state level, Governor Gavin Newsom, via executive order, has instructed DFPI to "engage in a public regulatory approach to crypto assets harmonized with the direction of federal regulations and guidance."[19] DFPI and Governor Newsom generally argue that DFPI already has regulatory authority of crypto businesses under the California Consumer Financial Protection Law.[20] Consistent with this approach, DFPI has commenced the process of seeking public comment on developing guidance for how to regulate crypto asset-related financial products and services in California.[21] The DFPI's website also has a page dedicated to crypto-related issues, warning consumers to "exercise extreme caution before engaging with any solicitation offering investment or financial services related to crypto assets."[22]

4. This bill establishes a statutory framework for DFPI to regulate cryptocurrency businesses that conduct digital financial asset transactions with residents of this state

This bill implements a statutory framework for regulating the cryptocurrency ("digital financial asset") industry insofar as it touches this state. Specifically, the bill establishes a licensing requirement for businesses that conduct commercial digital asset transactions for, or on behalf of, residents of the state; the bill also provides a less onerous registration requirement for businesses whose digital financial asset business volume does not exceed $35,000. The bill prohibits engaging in commercial digital financial asset transactions with or on behalf of residents of this state without a license or registration, and imposes numerous disclosure, financial security, and compliance requirements on the regulated businesses. The bill is based on the Uniform Law Commission's Uniform Regulation of Virtual-Currency Businesses Act, adopted in 2017, and modified by the author to incorporate elements of other financial service regulation regimes.

The decision to regulate cryptocurrency through a new statutory regime rather than though an existing one—such as the Money Transmission Law or the California Consumer Financial Protection Law—was considered by the Senate Banking and Financial Institutions Committee. That issue, as well as other financial policy issues

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[19] Governor's Exec. Order No. N-9-22 (May 4, 2022).

[20] *See* Fin. Code, div. 24, §§ 90000 et seq. Some have suggested that DFPI could also regulate crypto under the Money Transmission Act (MTA) (Fin. Code, div. 1.2, §§ 2000 et seq.). In 2020 the Department of Business Oversight (DBO), the predecessor agency to the DFPI, stated in an opinion letter that it had not yet determined whether cryptocurrencies trigger the MTA, and it does not appear to have made that determination since. (*See* DBO, Opinion Letter (Jul. 28, 2020) (redacted), *available at* https://dfpi.ca.gov/wp-content/uploads/sites/337/2020/08/Cryptocurrency-Escrow-Accounts-and-Exchanges.pdf (last visited Jun. 17, 2020).

[21] *See* DFPI, Press Release, DFPI Seeks Public Comment on Oversight of Crypto Asset-Related Financial Products and Services Under the California Consumer Financial Protection Law (Jun. 1, 2022), https://dfpi.ca.gov/2022/06/01/dfpi-seeks-public-comment-on-oversight-of-crypto-asset-related-financial-products-and-services-under-the-california-consumer-financial-protection-law/ (last visited Jun. 14, 2022).

[22] DFPI, Consumer Alerts – Crypto Assets, https://dfpi.ca.gov/2021/10/22/crypto-assets/ (last visited Jun. 11, 2022).

posed by this bill, was considered by the Senate Banking and Financial Institutions Committee; that Committee's analysis is incorporated here by reference. This analysis considers potential preemption issues and discusses the enforcement mechanisms contained in the bill.

This bill expressly states that it does not apply to cryptocurrency entities being regulated by the SEC, governmental entities, federally regulated banks, and other specified entities. These limitations, particularly the clarification that this bill will not attempt to overlap with the SEC's jurisdiction, appear adequate to avoid preemption concerns.[23] Given the SEC's stated intent to regulate this industry more heavily, it may be that, in the long term, the bill is entirely preempted (though the SEC and the state share jurisdiction in other areas, such as securities). For the time being, however—particularly given the industry's insistence on fighting SEC regulation[24]—it appears that there is space to have coexisting regulatory regimes, just as there are both state and federal laws governing other securities offerings.[25] The bill's requirement that covered businesses have a nexus to California, i.e., by engaging in crypto transactions with or on behalf of California residents likewise prevents the bill from overreaching in violation of the Dormant Commerce Clause.[26]

Regarding enforcement, the bill places nearly all enforcement authority with the DFPI through administrative processes. The bill grants DFPI the authority to take action against licensees and registrants, or businesses engaging in covered cryptocurrency transactions without a license, using tools such as cease and desist orders, license suspensions and revocations, and civil penalties. These procedures are subject to notice and hearing requirements and other existing Administrative Procedure Act requirements to ensure that parties are given due process. Unlike some other financial regulation schemes, the bill does not authorize the Attorney General to enforce the bill's requirements in court; Committee staff have not received any information suggesting the Attorney General would prefer to be able to do so.

The one exception to the DFPI's exclusive enforcement authority is the provision of a private right of action for violations of the bill's adequate capital requirements. The bill requires a licensee or registrant to maintain adequate amounts of each digital financial assets it trades in to satisfy the aggregate entitlements of the persons to the type of digital financial asset. This provision is aimed primarily at crypto "wallets" and other businesses that hold crypto and other assets on behalf of consumers. As discussed

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[23] *See* U.S. Const., art. VI, cl. 2 (Supremacy Clause).

[24] Sutton, *SEC's crypto crusade at risk in looming legal battles*, Politico (Jan. 29, 2022), https://www.politico.com/news/2022/01/29/crypto-industry-lawsuits-sec-00002580 (last visited Jun. 15, 2022). The attorney for one crypto business, Ripple, stated "Respect for regulators needs to be earned, and I don't think the SEC has earned the right to get the industry's respect." (*Ibid.*) (NB: this is not how regulation works.)

[25] *See* 15 U.S.C. §§ 77a et seq. (Securities Act of 1933); Corp. Code, tit. 4, div. 1, §§ 25000 et seq. (Corporate Securities Law of 1968).

[26] *See* U.S. Const., art. I, § 8.

above, these entities may hold themselves out as banks — or as superior alternatives to banks — but they are not subject to banking regulations to protect consumer assets held therein. This provision therefore requires crypto businesses to maintain an adequate supply of digital assets on hand to cover all of its customers' entitlements, i.e., to make sure that all of the wallet's customers could cash out and receive the full amounts they had deposited with the wallet. The bill also clarifies that a business holding crypto assets on behalf of the consumer must be held for that consumer and may not be the property of the licensee or registrant or subject to claims of the licensee/registrant's creditors. Under the bill, a consumer could bring an action to enforce these rights.

5. Amendments

In response to industry concerns about whether the bill's requirements are overly onerous, the author has agreed to accept the amendments set forth below.[27] The author has pledged to continue working with stakeholders while this bill is in the Senate Appropriations Committee, assuming it passes out of this Committee.

Amendment 1

At page 10, delete lines 20-24.

Amendment 2

At page 15, in line 38, after "licensee's" insert "most recent"

Amendment 3

At page 16, in line 17, after "litigation" insert "related to licensee's digital financial asset business activity and"

Amendment 4

At page 31, in line 4, delete "one" and insert "10,000"

6. Arguments in support

According to the Consumer Federation of California, writing in support:

> The lack of a robust regulatory framework [for the cryptocurrency market] has led to several scams being perpetrated through the use of cryptocurrency. There have recently been several "pump-and-dump" schemes designed to extract wealth from everyday crypto consumers. Nefarious individuals or groups will build publicity around a particular crypto token in order to increase its price.

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[27] Legislative Counsel may make nonsubstantive technical and/or conforming changes to the amendments set forth herein.

Once enough consumers have bought in and the price has increased, these groups will dump their entire holdings of these currencies. This sell-off often drives the price to zero, leaving unwitting consumers with nothing while these bad actors make millions…

Surveys show that many consumers, including a majority of those invested in crypto, are skeptical of the industry as a whole and lack reliable information about cryptocurrencies. While there have been executive orders at the State and Federal level designed to help alleviate some of these issues and establish some process procedurally leading to meaningful regulation of the cryptocurrency market, a strong regulatory presence backed by statute is still missing. AB 2269 fills this gap by creating a clear path that would put consumers first and lead to some important 'rules of the road' for licensing and regulation in this area. It is important to note that the approach of AB 2269 is completely consistent with the structure and function of existing state regulatory entities, such as the California Department of Financial Protection and Innovation (DFPI), which CFC has strongly supported in its leading role as a financial consumer protection agency.

7. Arguments in opposition

According to the Blockchain Advocacy Coalition (BAC), writing in opposition:

[W]e are concerned that AB 2269 in its current form could benefit from greater clarity and flexibility to avoid unintended consequences leading to the stifling of a nascent yet promising industry…

AB 2269 proposes a vigorous licensing and registration process at DFPI that is overly prescriptive and takes away flexibility to account for evolving business models and technology. Much like New York's Bitlicense, the licensing framework under this bill could be a major deterrent for smaller companies in the industry that are unable to navigate such a lengthy, cumbersome and expensive compliance process.

DFPI is in the process of implementing the extensive California Consumer Financial Protection Law which expanded the Department's oversight over many new entities and financial technologies. Adding an additional licensing requirement of this length and specificity will require extensive staff resources and AB 2269 proposes all costs of the regulation will be paid for by industry fees. In addition, if DFPI does not approve or deny the registrant in 31 days, the license would be denied. With this aggressive timeline and without a robust staff and team of subject matter experts to review applicants, businesses will be shut out of the market and California jobs, tax revenue and innovation opportunities will be lost. Similar licenses in other states have cost upwards of $100,000,

exclusive of the legal and regulatory compliance costs to advise on the
registration process.

We would recommend a more flexible yet certain timeline to account for the
complexity of the license at hand. Furthermore, examination should follow a
standard schedule and any subsequent examination should occur with
appropriate notice and reasoning.

SUPPORT

Consumer Federation of California (sponsor)
California Association for Micro Enterprise Opportunity (CAMEO)
California Reinvestment Coalition

OPPOSITION

Blockchain Advocacy Coalition

RELATED LEGISLATION

Pending Legislation:

SB 1275 (Kamlager, 2022) allows state agencies to accept cryptocurrency as a method of
payment for government services. SB 1275 is pending before the Senate Governmental
Organization Committee.

SB 638 (Hertzberg, 2022) authorizes, until January 1, 2027, corporations incorporated in
California to use blockchain to record and track the issuance and transfer of stock
certificates. AB 638 is pending before the Assembly Labor and Employment Committee.

AB 2781 (Cunningham, 2022) requires the Office of Digital Innovation to study the
feasibility and appropriateness of utilizing blockchain technology for the purposes of
identification verification and fraud prevention and report its findings to the
Legislature by January 1, 2024. AB 2781 is pending before the Senate Labor, Public
Employment and Retirement Committee.

AB 2689 (Cunningham, 2022) authorizes a private or public entity in the state to accept
virtual currency, as defined, as a method of payment for the provision or any good or
service, including governmental service at the state and local level. AB 2689 is pending
before the Assembly Banking and Finance Committee.

Prior Legislation:

SB 689 (Hertzberg, 2021) would have authorized a certified copy of a birth, death, or marriage record to be issued by means of blockchain technology, as specified. SB 689 was held on the Senate Appropriations Committee suspense file.

AB 1489 (Calderon, 2019) would have enacted the Uniform Regulation of Virtual Currency Businesses Act, which would have implemented a cryptocurrency regulation scheme under the then-DBO the bill included some of the same measures as AB 2269, but there are significant differences between the two bills. AB 1489 died in the Assembly Banking and Finance Committee.

SB 838 (Hertzberg, Ch. 889, Stats. 2018), authorized, until January 1, 2022, corporations incorporated in California to use blockchain to record and track the issuance and transfer of stock certificates.

AB 2658 (Calderon, Ch. 875, Stats. 2018) directed the state to establish the California Blockchain Working Group to evaluate the uses of blockchain in California business' and state government, and make a number of recommendations for evaluating blockchain and its appropriate uses.

PRIOR VOTES:

Senate Banking and Financial Institutions Committee (Ayes 6, Noes 0)
Assembly Floor (Ayes 65, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Banking and Finance Committee (Ayes 12, Noes 0)

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