

PROPOSED AMENDMENT

HB 1116 # 8

DIGEST

Virtual currency kiosks. Removes the changes to the definition of "money" for purposes of the Money Transmission Modernization Act made by this bill. Provides that an operator must be licensed under the Money Transmission Modernization Act after December 31, 2026. Provides that the limits on charges associated with a virtual currency transaction conducted through a virtual currency kiosk will begin on January 1, 2027. Requires the department of financial institutions to submit a report to the executive director of the legislative services agency for distribution to the members of the general assembly that provides certain information by December 31, 2026. Requires an operator to pay to the department before February 1 of each year an amount of \$200 for each virtual currency kiosk that the operator operated in Indiana in the previous calendar year.

- 1 Page 6, delete lines 24 through 42, begin a new paragraph and
2 insert:
3 "SECTION 2. IC 28-8-4.1-201, AS ADDED BY P.L.198-2023,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 201. The following definitions apply
6 throughout this chapter:
7 (1) "Acting in concert" means persons knowingly acting together
8 with a common goal of jointly acquiring control of a licensee
9 whether or not pursuant to an express agreement.
10 (2) "Authorized delegate" means a person a licensee designates to
11 engage in money transmission on behalf of the licensee.
12 (3) "Average daily money transmission liability", with respect to
13 a calendar quarter, means:
14 (A) the sum of the amounts of a licensee's outstanding money
15 transmission obligations in Indiana at the end of each day in
16 the calendar quarter; divided by
17 (B) the total number of days in that calendar quarter.
18 For purposes of this subdivision, a "calendar quarter" is a quarter
19 ending on March 31, June 30, September 30, or December 31.
20 (4) "Bank Secrecy Act" means:
21 (A) the Bank Secrecy Act (31 U.S.C. 5311 et seq.); and
22 (B) regulations adopted under the Bank Secrecy Act (31
23 U.S.C. 5311 et seq.).

(5) "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or the issuer's affiliate or by franchisees of the issuer or the issuer's affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

(6) "Control" means any of the following:

(A) The power to vote, directly or indirectly, at least twenty-five percent (25%) of the outstanding voting shares or voting interests of a licensee or of a person in control of a licensee.

(B) The power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee.

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or of a person in control of a licensee. For purposes of this clause, a person is presumed to exercise a controlling influence if the person holds the power to vote, directly or indirectly, at least ten percent (10%) of the outstanding voting shares or voting interests of a licensee or of a person in control of a licensee. However, a person presumed to exercise a controlling influence under this clause may rebut the presumption of control if the person is a passive investor.

For purposes of this subdivision, the percentage of a person controlled by any other person is determined by aggregating the other person's interest with the interest of any other immediate family member of that person, including the person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons-in-law and daughters-in-law, and any other person who shares the person's home.

(7) "Department" refers to the members of the department of financial institutions.

(8) "Director" refers to the director of the department appointed under IC 28-11-2-1.

(9) "Eligible rating" means a credit rating of any of the three (3) highest rating categories provided by an eligible rating service, including any rating category modifiers, such as "plus" or "minus" for S&P Global, or an equivalent modifier for any other eligible rating service. The term includes the following:

- 1 (A) A long term credit rating equal to at least A- by S&P
 2 Global, or an equivalent long term credit rating for any other
 3 eligible rating service.
- 4 (B) A short term credit rating equal to at least A-2 by S&P
 5 Global, or an equivalent short term credit rating for any other
 6 eligible rating service.
- 7 In any case in which the credit ratings differ among eligible rating
 8 services, the highest rating applies in determining whether the
 9 credit rating is an "eligible rating" as defined in this subdivision.
- 10 (10) "Eligible rating service" means:
- 11 (A) a nationally recognized statistical rating organization, as
 12 defined by the United States Securities and Exchange
 13 Commission; or
- 14 (B) any other organization designated as such by the director.
- 15 (11) "Federally insured depository financial institution" means:
- 16 (A) a bank;
- 17 (B) a credit union;
- 18 (C) a savings and loan association;
- 19 (D) a trust company;
- 20 (E) a corporate fiduciary;
- 21 (F) a savings association;
- 22 (G) a savings bank;
- 23 (H) an industrial bank; or
- 24 (I) an industrial loan company;
- 25 that is organized under the law of the United States or any state of
 26 the United States and that has federally or privately insured
 27 deposits as permitted by state or federal law.
- 28 (12) "In Indiana", with respect to the location of a transaction,
 29 means the following:
- 30 (A) At a physical location in Indiana, for a transaction
 31 requested in person.
- 32 (B) For a transaction requested electronically or by telephone,
 33 a determination made by the provider of money transmission,
 34 by relying on the following, that the person requesting the
 35 transaction is in Indiana:
- 36 (i) Information, provided by the person, regarding the
 37 location of the individual's residential address or the
 38 business entity's principal place of business or other physical
 39 address location, as applicable.
- 40 (ii) Any records associated with the person that the provider

- 1 of money transmission may have that indicate the person's
 2 location, including an address associated with an account.
- 3 (13) "Individual" means a natural person.
- 4 (14) "Key individual" means an individual ultimately responsible
 5 for establishing or directing policies and procedures of a licensee,
 6 such as an executive officer, manager, director, or trustee.
- 7 (15) "Licensee" means a person licensed under this chapter.
- 8 (16) "Material litigation" means litigation that, according to
 9 United States generally accepted accounting principles, is
 10 significant to a person's financial health and would be required to
 11 be disclosed in the person's annual audited financial statements,
 12 report to shareholders, or similar records.
- 13 (17) "Money" means a medium of exchange that is issued by the
 14 United States government or by a foreign government. The term
 15 includes a monetary unit of account established by an
 16 intergovernmental organization or by agreement between two (2)
 17 or more governments.
- 18 (18) "Monetary value" means a medium of exchange, whether or
 19 not redeemable in money.
- 20 (19) "Money transmission" means any of the following:
- 21 (A) Selling or issuing payment instruments to a person located
 22 in Indiana.
- 23 (B) Selling or issuing stored value to a person located in
 24 Indiana.
- 25 (C) Receiving money for transmission from a person located
 26 in Indiana.
- 27 **(D) After December 31, 2026, conducting or facilitating a**
 28 **virtual currency transaction (as defined in IC 28-8-7-12).**
- 29 The term does not include the provision of solely online or
 30 telecommunications services or network access.
- 31 (20) "MSB accredited state" means a state agency that is
 32 accredited by the Conference of State Bank Supervisors and
 33 Money Transmitter Regulators Association for money
 34 transmission licensing and supervision.
- 35 (21) "Multistate licensing process" means an agreement entered
 36 into by and among state regulators related to:
- 37 (A) coordinated processing of applications for money
 38 transmission licenses;
- 39 (B) applications for the acquisition and control of a licensee;
- 40 (C) control determinations; or

- 1 (D) notice and information requirements for a change of key
2 individuals.
- 3 (22) "NMLS" means the Nationwide Multistate Licensing System
4 and Registry:
- 5 (A) developed by the Conference of State Bank Supervisors
6 and the American Association of Residential Mortgage
7 Regulators; and
- 8 (B) owned and operated by the State Regulatory Registry,
9 LLC, or by any successor or affiliated entity;
10 for the licensing and registry of persons in financial services
11 industries.
- 12 (23) "Outstanding money transmission obligation", as established
13 and extinguished in accordance with applicable state law, means:
- 14 (A) any payment instrument or stored value that:
- 15 (i) is issued or sold by a licensee to a person located in the
16 United States, or reported as sold by an authorized delegate
17 of the licensee to a person located in the United States; and
- 18 (ii) has not yet been paid or refunded by or for the licensee,
19 or escheated in accordance with applicable abandoned
20 property laws; or
- 21 (B) any money that:
- 22 (i) is received for transmission by a licensee, or by an
23 authorized delegate of the licensee, from a person located in
24 the United States; and
- 25 (ii) has not been received by the payee or refunded to the
26 seller, or escheated in accordance with applicable
27 abandoned property laws.
- 28 For purposes of this subdivision, a person is located "in the
29 United States" if the person is located in any state, territory, or
30 possession of the United States or in the District of Columbia, the
31 Commonwealth of Puerto Rico, or a United States military
32 installation located in a foreign country.
- 33 (24) "Passive investor" means a person that:
- 34 (A) does not have the power to elect a majority of key
35 individuals or executive officers, managers, directors, trustees,
36 or other persons exercising managerial authority over a person
37 in control of a licensee;
- 38 (B) is not employed by and does not have any managerial
39 duties with respect to the licensee or a person in control of the
40 licensee;

(C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of the licensee or a person in control of the licensee; and

(D) either:

(i) attests to as facts the characteristics of passivity set forth in clauses (A) through (C), in a form and by a medium prescribed by the director; or

(ii) commits to the characteristics of passivity set forth in clauses (A) through (C) in a written document.

(25) "Payment instrument" means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include:

(A) stored value; or

(B) any instrument that:

(i) is redeemable by the issuer only for goods or services provided by the issuer or its affiliate, or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(ii) is not sold to the public but is issued and distributed as part of a loyalty, rewards, or promotional program.

(26) "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity, as so identified by the director.

(27) "Receiving money for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means. The term "money received for transmission" has a corresponding meaning.

(28) "Stored value" means monetary value representing a claim, against the issuer, that is evidenced by an electronic or digital record and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. The term includes "prepaid access" as defined in 31 CFR 1010.100. The term does not include:

(A) a payment instrument;

(B) closed loop stored value; or

(C) stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional

1 program.

2 (29) "Tangible net worth" means the aggregate assets of a
3 licensee, excluding all intangible assets, less liabilities, as
4 determined in accordance with United States generally accepted
5 accounting principles."

6 Delete pages 7 through 10.

7 Page 11, delete lines 1 through 41.

8 Page 14, line 13, delete "A person" and insert "**After December 31,**
9 **2026, a person**".

10 Page 14, line 18, delete "IC 28-8-4.1;" and insert "**IC 28-8-4.1, after**
11 **December 31, 2026;**".

12 Page 21, line 20, delete "A virtual" and insert "**After December 31,**
13 **2026, a virtual**".

14 Page 24, between lines 25 and 26, begin a new paragraph and insert:

15 "**Sec. 30. Not later than December 31, 2026, the department shall**
16 **submit to the executive director of the legislative services agency**
17 **for distribution to the members of the general assembly a report in**
18 **an electronic format under IC 5-14-6 that does the following:**

19 (1) **Compares the limit on charges described in section 23 of**
20 **this chapter with any limit on charges associated with a**
21 **virtual currency transaction conducted through a virtual**
22 **currency kiosk established by other states.**

23 (2) **Calculates the total number of complaints received by the**
24 **attorney general's office and the department concerning**
25 **fraudulently induced virtual currency transactions conducted**
26 **through virtual currency kiosks in the previous calendar year.**

27 (3) **Provides a detailed breakdown concerning the complaints**
28 **described in subdivision (2), including detailing the number of**
29 **complaints per county in Indiana and specifying whether the**
30 **complaint involved a virtual currency kiosk operated by an**
31 **operator licensed under IC 28-8-4.1.**

32 (4) **Specifies the number of complaints described in**
33 **subdivision (2) that were submitted by individuals who had**
34 **not completed a virtual currency transaction conducted**
35 **through a virtual currency kiosk with the virtual currency**
36 **kiosk operator that operated the virtual currency kiosk**
37 **involved in the fraudulently induced virtual currency**
38 **transaction prior to the fraudulently induced virtual currency**
39 **transaction.**

40 **Sec. 31. In addition to any fee associated with obtaining a license**

1 under IC 28-8-4.1, an operator shall pay to the department before
2 February 1 of each year an amount of two hundred dollars (\$200)
3 for each virtual currency kiosk that the operator operated in
4 Indiana in the previous calendar year."

5 Page 24, line 26, delete "Sec. 30." and insert "**Sec. 32.**".
 (Reference is to HB 1116 as introduced.)