

ASSEMBLY THIRD READING
AB 2285 (Valencia)
As Amended June 10, 2026
Majority vote

SUMMARY

- 1) This bill would generally regulate a bank or a credit union under the examination authority of the Department of Financial Protection and Innovation (DFPI) with respect to its provision of digital asset custody services, staking services, and digital asset transaction services, as those terms are defined, including by requiring certain disclosures to consumers and requiring certain financial safety measures.
- 2) Regarding all digital financial asset service providers, this bill would exempt staking rewards providers from state securities laws and registration requirements.

Major Provisions

For a detailed list of major provisions, please see the Banking and Finance Committee analysis.

- 1) Provides definitions for "active staking", "passive staking", "slashing", "pooled custody", "segregated custody", "fiduciary capacity", and "non-fiduciary capacity".
- 2) Provides requirements, as specified, for fiduciary and non-fiduciary custody of Digital Financial Assets Law (DFA).
- 3) Provides requirements, as specified, for custodial services including the use of third-party services.
- 4) Provides requirements for annual auditing of custodial services by way of independent audit or review and signed attestation of the Depository Institution's (DI) Board of Directors.
- 5) Provides minimum requirements for consumer disclosures.
- 6) Provides anti-money laundering and cybersecurity compliance requirements.
- 7) Specifies that rewards from staking, including through a staking service provider, are not a security.
- 8) Provides that distribution staking rewards is not subject to registration for the sale of securities

COMMENTS

1) *Background*

In May, 2025, the Office of the Comptroller of the Currency (OCC) which oversees nearly 4,000 federal institutions across the country, issued guidance to clarify that national banks and federal savings associations can buy and sell digital financial assets held in custody at its customer's direction if they follow the practices they use for traditional assets. This clarification also included the permissibility of the use of third-party sub-custodians. Since this guideline was

issued, five applications to either newly charter or convert existing institutions into national trust banks that will engage in digital financial asset activity have been conditionally approved.

State chartered banks and credit unions are regulated by the Department of Financial Protection and Innovation, not the OCC. Despite progress on the Digital Financial Asset Law (DFAL), there is no pathway for banks and credit unions to participate in an emerging and global market.

2) *What this bill does*

a. *Custody Service and Accuracy*

This bill requires a DI to enter a written contract with its customer¹ with clear disclosures regarding whether or not the relationship is fiduciary or non-fiduciary. If the relationship is non-fiduciary, the agreement must make clear that the DI will only act on the customer's explicit instructions. In either a fiduciary or non-fiduciary relationship the agreement must clearly disclose whether or not the DFA held in custody by the DI are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any other federal or state deposit insurance or share insurance program, and whether or not a DFA held in custody by the DI is a deposit, obligation, or other liability of the DI. This bill requires disclosure of any thresholds or triggering mechanisms that may cause a DI to take action on a customer's behalf in a fiduciary relationship. And the bill requires any changes to the agreement to be provided to the customer 45 days before its effective date.

b. *Third party activity and engagement*

A DI may use a third-party contractor to conduct digital asset custody services, however, use of the subcustodian must be prominently disclosed on the first page of the agreement. The bill puts the onus on the DI to ensure compliance with the requirements of this bill, which include: 1) insurance to protect against breaches or theft, and 2) licensure under DFAL, money transmitters law. The agreement between the DI and the subcustodian must be structured to maintain the DI as the custodial recordholder of the DFA, and that the DFA remains the property of the DI's customers.

c. *Staking Services and Fiduciary DFA transaction authority*

This bill requires disclosures of the following information regarding staking services:

- 1) The fact that the DI may automatically stake an eligible DFA in the customer's account unless the customer affirmatively opts out of participation.
- 2) The key risks associated with staking, including the potential for loss of staked assets or staking rewards due to slashing or other network events, and cybersecurity or operational risks inherent in the staking process.
- 3) Any applicable lockup, unbonding, or notice period before a staked DFA can be withdrawn or transferred and the implications of that period for the customer's access to the customer's digital financial assets.

¹ Customers of credit unions are normally referred to as "members". For purposes of this analysis, the term "customer" will be used to mean both bank customers and credit union members.

- 4) The customer's rights and obligations related to the staking service, including the right to discontinue participation in staking at any time and the entitlement to receive staking rewards earned on the customer's digital financial assets.
- 5) The amount or rate of any fee or commission that the DI will deduct from a staking reward as compensation for providing staking services.

AB 2285 requires the DI to identify policies and procedures to protect from, effectively identify, monitor, and manage risks associated with staking, including operational risks, cybersecurity threats, and slashing.

3) *Ongoing Considerations*

Non-DI digital asset exchanges have raised concerns that these higher standards and practices may become a precedent for their industry, whether in whole or in part. Some potential DI's have raised concerns with some terms of the bill, specifically regarding: auditing, slashing insurance requirement, 45-day contract amendment notice, and cybersecurity incidents. Stakeholders have also requested to put the state law in parity with the federal law.

4) *Recent Amendments*

The following amendments have recently been made to the bill and Corporations Code:

- i) Specification that rewards from staking, including by any staking service provider is not a "security" as defined;
- ii) An exemption from state securities registration laws for the act of distributing of staking rewards, and
- iii) Elimination of the reference to "customer" in the definition of staking rewards in the reference language pertaining to the financial institutions proposed bill language.
- iv) Deletion of the staking rewards commission fee cap terms.

a) *Basic Technical Background*

Staking is the act of locking away a portion of currency, like a good-will security deposit, to gain and maintain eligibility to participate in the selection process for securing a proof of stake (PoS) based blockchain network and creating more blocks in exchange for payment. *The more currency a validator stakes, the higher their chances of being selected as a validator and thus to earn payment.* Since the value of the payments fluctuate, and PoS is based on a behavioral incentivization, these payments for services are characterized as "rewards". This "skin-in-the-game" model encourages participants to perform accurately—good behavior results in payment, malicious or undesirable behavior results in penalization against the participants personal stake or slashing of the entire amount. Validators are rewarded for correctly validating transactions. However, if a validator acts against the network's interests, a portion or all their staked currency may be forfeited — a process known as *slashing*. Slashing results in prevention from participation and forcible exit.

The barrier to entry for staking can be relatively high for two reasons. The first reason can be economical, for example, the minimum amount of ETH required to stake Ethereum is currently 32 ETH or \$72,987 USD at the time of this writing. Note, this is only the minimum, the higher the amount staked, the more likely the validator is to be selected and thus to earn more rewards. Third party exchanges offer customers "pooled" staking using fractional contributions to

participate in certain network protocols that would normally be economically out of reach. The second, albeit slighter, barrier to entry, is mechanical; specific software, hardware and reliably high-speed internet are required.

The key takeaway is that staking is the act of securing the network and receiving rewards in return, losses are not based on market fluctuation, but rather the action of the staker or cybersecurity breach.

b) *CLARITY ACT language from the U.S. Senate Banking Committee*²

A recently released a version of the CLARITY Act from the U.S. Senate Banking Committee provided terms for staking, specifically, in the scenario of "self-custodial" staking with a third party. Under this version, staking rewards, which fall under the term "network token" are not a security, however, a network token does not include an investment contract.

The Act makes clear delineations between administrative and ministerial acts versus control or custodial power over network tokens. The former is treated as commodities/non-securities, and the latter as semi-securities.³

5) *Litigation History*

a) *Agency Actions in 2023*

In 2023, the SEC charged Coinbase, Inc. and Coinbase Global, Inc. (hereinafter "Coinbase") for violating securities law when it offered its customers staking services. The SEC's complaint alleged that Coinbase:

"has operated as: an unregistered broker, including by soliciting potential investors, handling customer funds and assets, and charging transaction-based fees; an unregistered exchange, including by providing a market place that, among other things, brings together orders of multiple buyers and sellers of crypto assets and matches and executes those orders; and an unregistered clearing agency, including by holding its customers' assets in Coinbase-controlled wallets and settling its customers' transactions by debiting and crediting the relevant accounts."

California, New Jersey, South Carolina, and Wisconsin took similar steps to halt unregistered third-party staking services against the company. These state regulators looked to the company's framework wherein users delegate their assets to the platform to act on the user's behalf in exchange for a share of the reward, which could fall under their securities law.

The California Department of Financial Protection and Innovation initiated an administrative law action by filing a desist and refrain order halting all unregistered staking activities conducted by Coinbase in the state.

² Digital Asset Market Clarity Act, H.R. 3633, 119 Cong. (2025). <https://www.congress.gov/bill/119th-congress/house-bill/3633/text>

³ Full securities registration has not been indicated as a requirement for these digital financial assets, though some reporting and oversight requirements under the purview of the SEC is expected.

In its order⁴, the DFPI examined claims made on the company's website, specifically "Earn up to 6.00 APY% on your crypto. Put your crypto to work and earn rewards." "We'll help you put your assets to work in the cryptoeconomy so you can grow your crypto holdings with little effort." And "we take measures to mitigate risks and allow you to opt-out anytime."

The order also includes statements of risk mitigation from Coinbase's public website, specifically,

"the possible slashing of staked assets or rewards. Although it's unlikely, there is a possibility you could lose your staked assets or rewards in case of a network or validator failure. We've taken measures to reduce these risks, but some events are outside our control.' In the event that crypto assets invested by Coinbase Staking Offerings investors are lost or reduced as the result of "slashing," Coinbase may, in some circumstances, replace investors' slashed assets staked in the Coinbase Staking Offering at no additional cost."

The order notes that Coinbase has no contractual obligation to retain a like amount of investors' crypto assets or comparable ones to cover investors' losses in the event of slashing. The order also lists eight (8) functions and operations conducted by Coinbase in its "sole and absolute discretion" to facilitate the staking of assets for its users.⁵

The DFPI reasons that among other things, qualifying an offer and sale of securities is essential for market safety. Compliance with registration ensures that users receive all necessary material information required to assess the risk of an investment. One such disclosure is that Coinbase is not protected by investor- and consumer- protection organizations, such as the Securities Investor Protection Corporation and the Federal Deposit Insurance Corporation. It notes, Coinbase would be permitted to provide staking to its users under its current framework if it registers as a security with the DFPI.

Coinbase's position is that it offers staking as a service to its customers as a convenience. On its publicly available website, it states:

"staking is a way to earn rewards by putting your crypto to work on a blockchain network. In return for helping the network run smoothly and securely, you receive more of the cryptocurrency you're staking. The rewards come from the network itself—your crypto isn't being lent out. It's a safe, simple and popular way to grow your crypto while holding."

It claims that since 2023, California users have lost \$89 million in potential rewards. Coinbase also claims that it has never been slashed. This is not surprising given that slashing is a disincentivizer that is used for malicious or dishonest behavior. When staking, to a large extent, penalties, or losses, are in the mechanical control of the staker.

b) Agency Actions in 2025

⁴ <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/06/Admin.-Action-Coinbase-Global-Inc.-Notice-of-Intent.pdf>

⁵ These arguments are likely provided to prove the "efforts of others" prong of the *Howey* test. The "efforts of others" requirement is satisfied when "the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise." *SEC v. Glenn W. Turner Enterprises, Inc.*, 474 F.2d 476, 482 (9th Cir. 1973).

In early 2025 following the inauguration, the SEC announced the dismissal of its civil enforcement action against Coinbase. In the press release, the SEC stated:

"For the last several years, the Commission's views on crypto have been largely expressed through enforcement actions without engaging the general public," said Acting Chairman Mark T. Uyeda. "It's time for the Commission to rectify its approach and develop crypto policy in a more transparent manner. The Crypto Task Force is designed to do just that."

The Commission's decision to exercise its discretion and dismiss this pending enforcement action rests on its judgment that the dismissal will facilitate the Commission's ongoing efforts to reform and renew its regulatory approach to the crypto industry, not on any assessment of the merits of the claims alleged in the action. Furthermore, as stated in the joint stipulation, 'the Commission's decision to seek dismissal of this litigation does not reflect the Commission's position on any other case.'"⁶

Since this release, the other states' cases against Coinbase, except for California, have been dismissed or resolved by codifying legislation around staking. Notably, other exchanges are currently providing staking services in California having filed pursuant to state securities laws, though it is unclear if the filing is for the purposes of staking services.

Most recently, the Administrative Law Judge granted a request by Coinbase to continue the matter until November 2026 for reasons of imminent federal legislation.

6) *Amendment to remove the fee cap on staking rewards*

In response to stakeholder concerns, the author removed the fee cap requirements on staking rewards. This amendment is anticipated to give the financial institutions flexibility to implement their DFA programs with third party providers while maintaining consumer transparency.

7) *Likely Impact of the Amendments*

The amendments, if codified before the resumption of the action, will likely provide a complete defense to the DFPI action. The amendments will allow cryptocurrency exchanges in California to provide staking service without being required to register under state securities laws.

According to the Author

With no comprehensive federal framework in place, states have both the ability and the responsibility to develop guidelines for market conduct while balancing consumer safety. We would not be the first to do so. States like South Carolina and Montana have already passed legislation to determine that staking as a service is not a security, and California should not leave its own residents behind. Staking strengthens the digital asset ecosystem by helping secure the networks people rely on, and it lets everyday consumers earn rewards for doing so. That is an opportunity Californians should have. Regulatory agencies have an important role, but that role is to regulate according to the statute. It is the Legislature's authority to create and modify that statute. This bill ensures Californians can participate in staking with consumer protections in place.

⁶ <https://www.sec.gov/newsroom/press-releases/2025-47> Last visit 6/4/2026.

Arguments in Support

"State-chartered banks and credit unions are the backbone of community finance across California. As federal regulators and Congress move to establish clearer rules for digital asset banking activities, state-chartered institutions risk being left behind when state law fails to keep pace. That gap puts California institutions at a disadvantage relative to their federally chartered competitors and to institutions in states that have already modernized their laws. AB 2285 closes that gap. By clarifying the authority of state-chartered banks and credit unions to engage in digital asset banking activities, including custody and related services, the bill preserves the competitiveness of California's dual banking system and keeps financial innovation, along with the jobs and economic activity that follow it, here in California.

We are especially supportive of the bill's staking provisions. Staking is a core function of many modern blockchain networks. Individuals and institutions that stake digital assets help validate transactions, secure networks, and support decentralized infrastructure, and in return they may receive protocol-generated rewards for providing those services. Staking is a network participation activity, and AB 2285 rightly affirms that staking and staking rewards are not securities under California law.

We also believe strongly that staking should be broadly available to Californians. Uncertainty surrounding the treatment of staking has produced regulatory confusion and reduced consumer access. In some cases, companies have limited or discontinued staking services because of legal uncertainty, depriving users of the ability to participate in blockchain networks and earn the rewards those networks generate. By recognizing the technical reality of how proof-of-stake networks operate, AB 2285 ensures that Californians are not disadvantaged relative to residents of states that have already acted to protect lawful blockchain participation, and that access to staking is not confined to a narrow set of providers."—*Satoshi Action Fund*

Arguments in Opposition

"As currently written, this bill lacks robust consumer protections by misleading consumers into believing that cryptocurrency assets are insured deposits with meaningful safeguards, particularly in the context of staking, when they are not.

Additionally, the bill creates an uneven playing field among entities while undermining the authority of the Department of Financial Protection and Innovation. ...One of the impacts of these newer amendments is the fact that "the amendments will allow cryptocurrency exchanges in California to provide staking service without being required to register under state securities laws." AB 2258 is bad policy and sets a bad precedent."—*Consumer Federation of California*

FISCAL COMMENTS

The following is a revised analysis from the Assembly Committee on Appropriations to reflect the most recent amendments:

Costs of an unknown, but likely significant amount, to DFPI from specifying that a staking reward is not a "security." Although this bill provides that the distribution of staking rewards is not subject to DFPI regulation under the Corporate Securities Law of 1968, DFPI will likely receive related consumer inquiries and complaints, resulting in staff workload costs to manage public communications and update informational materials. DFPI may also incur related legal

costs, as DFPI is currently engaged in litigation against an exchange regarding unqualified staking activities conducted in the state.

Additionally, although DFPI anticipates minor and absorbable costs related to the regulation of a bank or credit union with respect to the financial institution's provision of DFA services, as DFPI notes it already has authority under existing law to broadly examine a financial institution, this bill may result in possibly significant costs to DFPI to the extent a financial institution's current DFA practices (or future practices, pursuant to pending federal legislation) do not align with this bill, leading to more complex examinations and enforcement proceedings regarding an evolving technological asset (Financial Protection Fund).

VOTES

ASM BANKING AND FINANCE: 9-0-0

YES: Valencia, Chen, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Schiavo, Soria

ASM PRIVACY AND CONSUMER PROTECTION: 15-0-0

YES: Bauer-Kahan, Macedo, Bryan, DeMaio, Hoover, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Ward, Wicks, Wilson

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ASM BANKING AND FINANCE: 7-1-1

YES: Valencia, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Soria

NO: Schiavo

ABS, ABST OR NV: Chen

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