

State of Arkansas
93rd General Assembly
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A Bill

HOUSE BILL 1888

By: Representative S. Meeks

For An Act To Be Entitled

AN ACT CONCERNING THE CONTROL OF VIRTUAL CURRENCY FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE; TO CLARIFY THE RIGHTS OF PURCHASERS WHO OBTAIN CONTROL OF VIRTUAL CURRENCY FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE CONTROL OF VIRTUAL CURRENCY FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE; AND TO CLARIFY THE RIGHTS OF PURCHASERS WHO OBTAIN CONTROL OF VIRTUAL CURRENCY FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-9-102(a), concerning definitions used in secured transactions under the Uniform Commercial Code, is amended to add an additional subdivision to read as follows:

(83)(A) "Virtual currency" means a digital representation of value.

(B) "Virtual currency" functions as:

(i) A medium of exchange;

(ii) A unit of account; or

(iii) A store of value.

(C) "Virtual currency" is often secured using blockchain technology.



SECTION 2. Arkansas Code Title 4, Chapter 9, Subchapter 1, is amended to add additional sections to read as follows:

4-9-111. Control of virtual currency.

(a) A purchaser has control of virtual currency if:

(1) The virtual currency or the system in which the virtual currency is recorded, if applicable, gives the purchaser:

(A) The power to derive substantially all of the benefit from the virtual currency; and

(B) Subject to subsection (c) of this section, the exclusive power to:

(i) Prevent others from deriving substantially all of the benefit from the virtual currency; and

(ii) Transfer control of the virtual currency to another person or cause another person to obtain control of the virtual currency that derives from the virtual currency;

(2) The virtual currency or a record attached to or logically associated with the virtual currency enables the purchaser to readily identify the purchaser as the person having the powers specified under subdivision (a)(1) of this section; or

(3) Another person has control of the virtual currency on behalf of the purchaser or, having previously acquired control of the virtual currency, and acknowledges that the person has control on behalf of the purchaser.

(b) A purchaser under subsection (a) of this section may be identified by:

(1) Name;

(2) Identifying number;

(3) Cryptographic key;

(4) Office number; or

(5) Account number.

(c) A power described in subdivision (a)(1) of this section or subdivision (a)(2) of this section may be considered exclusive regardless of whether or not:

(1) The virtual currency or the system in which the virtual currency is recorded, if applicable, limits the use to which the virtual

currency may be put or has protocols that are programmed to result in a transfer of control; and

(2) The purchaser has agreed to share the power with another person.

4-9-112. Rights of purchaser who obtains control of virtual currency.

(a) As used in this section, "adverse claim" means a claim that a claimant has a security interest in virtual currency and is in violation of the rights of the claimant for another person to hold, transfer, or deal with the virtual currency.

(b) It is a violation of the rights of the owner of virtual currency for another person to have an adverse claim, to hold, transfer, or otherwise deal with the virtual currency or the right to payment.

(c) Except as provided in subsection (a) of this section, without notice of any adverse claim, a purchaser that acquires an interest in and obtains control of virtual currency takes the purchaser's interest in the virtual currency and in any right to payment evidenced by the virtual currency free of any adverse claim.

(d) Except as provided in subsection (e) of this section, an action based on an adverse claim to the virtual currency or a right to payment evidenced by the virtual currency, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, shall not be asserted against a purchaser that:

(1) Acquires, for value and without notice of the adverse claim, the virtual currency or an interest in the virtual currency; and

(2) Obtains control of the virtual currency or interest.

(e) A purchaser has notice of an adverse claim if the purchaser:

(1) Knows of the adverse claim; or

(2) Is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim.

(f) Subsections (c) and (d) of this section do not apply if more than one (1) virtual currency evidences the same right to payment.