

By: Senator B. King

SENATE RESOLUTION

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION BILL TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023, TO AMEND THE REQUIREMENTS THAT A DIGITAL ASSET MINING BUSINESS OR BUSINESS UTILIZING A BLOCKCHAIN NETWORK MUST COMPLY WITH, TO AMEND THE AUTHORITY OF A LOCAL GOVERNMENT WITH RESPECT TO A DIGITAL ASSET MINING BUSINESS OR INDIVIDUAL ENGAGING IN HOME DIGITAL ASSET MINING, AND TO PROHIBIT CERTAIN FOREIGN NATIONALS FROM OWNING OR INVESTING IN A DIGITAL ASSET MINING BUSINESS IN ARKANSAS.

Subtitle

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION BILL TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023 AND TO AMEND THE REQUIREMENTS FOR A DIGITAL ASSET MINING BUSINESS OR BUSINESS USING A BLOCKCHAIN NETWORK.

BE IT RESOLVED BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

THAT Senator King is authorized to introduce a bill which as introduced will read substantially as follows:

"Title

AN ACT TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO AMEND THE



REQUIREMENTS THAT A DIGITAL ASSET MINING BUSINESS OR BUSINESS UTILIZING A BLOCKCHAIN NETWORK MUST COMPLY WITH; TO AMEND THE AUTHORITY OF A LOCAL GOVERNMENT WITH RESPECT TO A DIGITAL ASSET MINING BUSINESS OR INDIVIDUAL ENGAGING IN HOME DIGITAL ASSET MINING; TO PROHIBIT CERTAIN FOREIGN NATIONALS FROM OWNING OR INVESTING IN A DIGITAL ASSET MINING BUSINESS IN ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; AND TO AMEND THE REQUIREMENTS THAT A DIGITAL ASSET MINING BUSINESS OR BUSINESS UTILIZING A BLOCKCHAIN NETWORK MUST COMPLY WITH.

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

SECTION 1. Arkansas Code § 14-1-601 is amended to read as follows:
14-1-601. Title.

This subchapter shall be known and may be cited as the "~~Arkansas Data Centers Act of 2023~~ Digital Asset Mining Act".

SECTION 2. Arkansas Code § 14-1-602 is repealed.

~~14-1-602. Legislative findings and intent.~~

~~(a) The General Assembly finds that:~~

~~(1) The data centers industry began its modern version in the 1980s, and the industry has seen accelerated growth since 2008;~~

~~(2) Data centers have seen global growth with the expansion of bandwidth, the need for analytical data research, and digital currency;~~

~~(3) Data centers, digital currency, and blockchain technology are legal in all fifty (50) states; and~~

~~(4) Guidance for future industry growth is needed in Arkansas to protect Arkansans from fraudulent business practices.~~

~~(b) Through the enactment of this subchapter, the General Assembly intends to:~~

~~(1) Recognize that data centers create jobs, pay taxes, and provide general economic value to local communities and this state; and~~

~~(2) Clarify the guidelines needed to protect data asset miners from discriminatory industry specific regulations and taxes.~~

SECTION 3. Arkansas Code § 14-1-603(10), concerning the definition of "ordinance" under the Arkansas Data Centers Act of 2023, is repealed.

~~(10) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body that:~~

~~(A) Prohibits an individual from operating a business from a residence; or~~

~~(B) Requires an individual to obtain approval before operating a business from a residence;~~

SECTION 4. Arkansas Code § 14-1-604 is amended to read as follows:

14-1-604. Digital asset mining – Operations.

(a) A digital asset mining business or business utilizing a blockchain network may operate in ~~this state~~ Arkansas if the digital asset mining business or business utilizing a blockchain network; complies with:

~~(1) State law concerning business guidelines and tax policies;~~
Complies with:

~~(2)(A) Any ordinance concerning operations and safety;~~

~~(3)(B) Any rule or rate for utility service provided by or on behalf of a public entity; and~~

~~(4)(C) State and federal employment laws; and~~

(2) Pays all applicable state, county, city, and government taxes and fees in acceptable forms of currency by those entities.

(b) A digital asset miner shall:

~~(1) Pay applicable taxes and government fees in acceptable forms of currency; and~~

~~(2) Operate~~ operate in a manner that causes no stress on an electric public utility's or water system's generation capabilities or transmission network.

(c) An individual may utilize a node in this state for the purpose of operating:

(1) Operating home digital asset mining at the individual's residence according to applicable utility rules and rates; and

(2) Permitting requirements set forth by a local government under § 14-1-605.

~~(d) A person may have a digital asset mining business in an area that~~

~~is zoned for industrial use that has not been designated by the local government for other uses.~~

~~(c) A person that is engaged in home digital asset mining or that has a digital asset mining business shall not be considered a money transmitter under the Uniform Money Services Act, § 23-55-101 et seq.~~

SECTION 5. Arkansas Code § 14-1-605 is amended to read as follows:

14-1-605. ~~Discrimination against digital asset mining business prohibited~~ Digital asset mining – Regulation by public entities.

(a) ~~Except as provided by subsection (d) of this section, a~~ A local government ~~shall not~~ may:

(1) Enact or adopt an ordinance, policy, or action that limits the sound decibels generated from:

(A) Digital asset mining; or home

(B) Home digital asset mining ~~other than the limits set for sound pollution generally;~~

(2) Impose a different requirement for a digital asset mining business or business utilizing a blockchain network than is applicable to any requirement for a data center;

(3) Rezone an area in which a digital asset mining business is located ~~without complying with applicable state law and local zoning ordinances; or~~

~~(4) Rezone an area with the intent or effect of discriminating against a digital asset mining business~~ Require an individual to obtain a permit to engage in home digital asset mining.

(b) A digital asset mining business may appeal a change in zoning of an area by a local government under any applicable state law or local zoning ordinance.

(c) If consistent with applicable state and federal statutes, orders, rules, and regulations, including without limitation §§ 23-3-114 and 23-4-103, the Arkansas Public Service Commission ~~shall not~~ may establish ~~an unreasonably discriminatory~~ a rate for a digital asset mining business customer utilizing a blockchain network.

~~(d) The prohibitions under subsection (a) of this section do not apply to any rule or rate for utility service provided by or on behalf of a public entity~~ The Arkansas Public Service Commission shall promulgate rules to

implement this section.

SECTION 6. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended to add an additional section to read as follows:

14-1-606. Ownership of or investment in digital asset mining business located in this state by certain foreign nationals prohibited – Definition.

(a)(1) As used in this section, "foreign national" means a citizen of a prohibited foreign party who is subject to § 126.1 of the International Traffic in Arms Regulations, 22 C.F.R. §§ 120.1 – 130.17, as it existed on January 1, 2023.

(2) As used in this section, "foreign national" does not include an individual who is a citizen of the United States.

(b) Notwithstanding any other law, a foreign national shall not own or operate a digital asset mining business in this state.

(c) An ownership interest in or investment in a digital asset mining business in violation of this section is subject to divestiture as provided in this section.

(d) Upon request of a person or upon receipt of information that leads the Attorney General to believe that a violation of this section may exist, the Attorney General may issue subpoenas requiring the:

- (1) Appearance of witnesses;
- (2) Production of relevant records; and
- (3) Giving of relevant testimony.

(e)(1) If as a result of the investigation under subsection (d) of this section the Attorney General concludes that a violation of this section has occurred, the Attorney General may order the foreign national to divest himself, herself, or itself of all interest in the digital asset mining business within thirty (30) days.

(2) If the foreign national under subdivision (e)(1) of this section fails to divest himself, herself, or itself of all interest in the digital asset mining business, the Attorney General may commence an action in a circuit court within the jurisdiction of the location of the digital asset mining business.

(3)(A) Except in the case of dismissal, the circuit court under subdivision (e)(2) of this section may order that the digital asset mining business be sold.

(B) Proceeds of the sale under subdivision (e)(3)(A) of this section shall be disbursed to lien holders in the order of priority.

(4)(A) A civil penalty of twenty-five thousand dollars (\$25,000) may be assessed against the foreign national under subdivision (e)(1) of this section for the failure to divest himself, herself, or itself of all interest in the digital asset mining business within thirty (30) days as required under subdivision (e)(1) of this section.

(B) A civil penalty of fifty thousand dollars (\$50,000) may be assessed against the foreign national under subdivision (e)(1) of this section for the failure to divest himself, herself, or itself of all interest in the digital asset mining business after an additional thirty (30) days beyond the requirement under subdivision (e)(1) of this section.

(f) The proceeds from the civil penalty collected under subdivision (e)(4) of this section shall be disbursed as follows:

(1) One-third (1/3) to the State Securities Department, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and

(B) Investigating or auditing, or both, for proof of ownership of the digital asset mining business in accordance with this section;

(2) One-third (1/3) to the Office of the Attorney General, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and

(B) Investigating or auditing, or both, for proof of ownership of the digital asset mining business in accordance with this section; and

(3) One-third (1/3) to the Department of Energy and Environment, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and

(B) Investigating or auditing, or both, for proof of ownership of the digital asset mining business in accordance with this section."