

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 465

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO DIGITAL ASSETS; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION
2 OF A NEW CHAPTER 53, TITLE 28, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO
3 PROVIDE SCOPE, TO DEFINE TERMS, TO PROVIDE FOR CLASSIFICATION OF DIGI-
4 TAL ASSETS, TO PROVIDE FOR PURCHASE AND SALE OF DIGITAL ASSETS, AND TO
5 PROVIDE FOR PERFECTION BY POSSESSION OR CONTROL; AND DECLARING AN EMER-
6 GENCY AND PROVIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 28, Idaho Code, be, and the same is hereby amended
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
11 ter 53, Title 28, Idaho Code, and to read as follows:

12 CHAPTER 53
13 DIGITAL ASSETS

14 28-5301. SHORT TITLE. This chapter shall be known and may be cited as
15 the "Digital Assets Act."

16 28-5302. SCOPE. This chapter defines the legal status of digital as-
17 sets. Digital assets are subject to applicable laws or rules that apply to
18 their business or activity.

19 28-5303. DEFINITIONS. As used in this chapter:

20 (1) "Adverse claim" means a claimant that has a property interest in a
21 virtual currency or a right to payment evidenced by the virtual currency.

22 (2) "Control" means the ability to exclude others from the use of prop-
23 erty and includes the following:

24 (a) A secured party, or an agent, custodian, fiduciary, or trustee of
25 the party, that has complied with section 28-8-106, Idaho Code, includ-
26 ing by means of a private key or the use of a multi-signature arrangement
27 exclusive to the secured party or any substantially similar analogue;
28 and

29 (b) A smart contract created by a secured party to comply with section
30 28-8-106, Idaho Code. As used in this paragraph, "smart contract" means
31 an automated transaction as described in section 28-50-114, Idaho Code,
32 or any substantially similar analogue comprised of code, script, or
33 programming language that executes the terms of an agreement and may in-
34 clude taking custody of and transferring an asset or issuing executable
35 instructions for these actions, based on the occurrence or nonoccu-
36 rence of specified conditions.

37 (3) "Digital asset" means a representation of economic, proprietary,
38 or access rights that is stored in a computer-readable format and includes

1 an open blockchain token, digital commodity, digital security, virtual cur-
2 rency, and any other controllable electronic record.

3 (4) "Digital security" means a digital asset that constitutes a secu-
4 rity as defined in section 30-14-102, Idaho Code.

5 (5) "Multi-signature arrangement" means a system of access control re-
6 lating to a digital asset for the purposes of preventing unauthorized trans-
7 actions relating to the asset in which two (2) or more private keys are re-
8 quired to conduct a transaction or any other substantially similar analogue.

9 (6) "Possession" includes use of a private key, a multi-signature ar-
10 rangement exclusive to the secured party, a smart contract as defined in this
11 section, or any substantially similar analogue. "Possession" shall also in-
12 clude delivery of certificated digital securities consistent with section
13 28-8-301(1) (a), Idaho Code.

14 (7) "Private key" means a unique element of cryptographic data or any
15 substantially similar analogue that is:

16 (a) Held by a person;

17 (b) Paired with a unique, publicly available element of cryptographic
18 data; and

19 (c) Associated with an algorithm that is necessary to carry out an en-
20 cryptation or decryption required to execute a transaction.

21 (8) "Virtual currency" means a digital asset that is used as a medium of
22 exchange, unit of account, or store of value.

23 28-5304. CLASSIFICATION OF DIGITAL ASSETS. Digital assets are per-
24 sonal property and are classified as follows:

25 (1) Digital assets are intangible personal property and are general in-
26 tangibles as defined in section 28-9-102, Idaho Code.

27 (2) Digital securities are intangible personal property and are in-
28 vestment property as defined in section 28-9-102, Idaho Code.

29 (3) Virtual currency is intangible personal property and is not a secu-
30 rity, notwithstanding section 30-14-102, Idaho Code.

31 28-5305. PURCHASE AND SALE. (1) Digital assets may be purchased and
32 sold in the same manner and subject to the same laws of this state as other
33 personal property. A purchaser or seller may be identified in any way in-
34 cluding by name, identifying number, private key, office, or account number.

35 (2) Except as provided in subsection (3) of this section, a purchaser
36 takes a right to payment, right to performance or interest in property ev-
37 idenced by a digital asset subject to a claim of a property right, right to
38 payment, and right to performance or interest in property evidenced by the
39 digital asset.

40 (3) An action based on a claim of a property right, right to perfor-
41 mance, or right of payment may not be asserted against a qualified purchaser.
42 For the purposes of this subsection, a qualified purchaser is a purchaser of
43 a digital asset or an interest in a digital asset that obtains the digital
44 asset for value, in good faith, and without notice of a claim of a property
45 right in the digital asset.

1 28-5306. PERFECTION BY POSSESSION OR CONTROL. (1) Perfection by pos-
2 session creates a possessory security interest under section 28-9-301,
3 Idaho Code.

4 (2) A security interest held by a secured party having possession or
5 control has priority over a security interest held by a secured party that
6 does not have possession or control, as applicable. Other provisions of law
7 relating to perfection and priority of security interests, including sec-
8 tion 28-9-207, Idaho Code, and priority of control over delivery, shall ap-
9 ply, except that section 28-9-322(a) (1) and (b), Idaho Code, shall not ap-
10 ply.

11 (3) A person that acquires an interest in and obtains control of a vir-
12 tual currency without notice of any adverse claim takes the interest in the
13 virtual currency and in any right to payment evidenced by the virtual cur-
14 rency free of any adverse claim.

15 SECTION 2. An emergency existing therefor, which emergency is hereby
16 declared to exist, this act shall be in full force and effect on and after
17 July 1, 2022.