

FIRST REGULAR SESSION

HOUSE BILL NO. 1159

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCDANIEL.

2266H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 362.105, RSMo, and to enact in lieu thereof six new sections relating to digital assets.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 362.105, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 362.105, 362.1125, 362.1126, 362.1127, 362.1128, and 362.1129, to read as follows:

362.105. 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 the approval of the director under such general regulations as to amount of acceptances as the
17 director may prescribe;

18 (3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve
19 Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank
20 pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve
21 Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to
22 have and exercise all powers, not in conflict with the laws of this state, which are conferred upon
23 any member by the Federal Reserve Act and any amendments thereto. The member bank or trust
24 company and its directors, officers and stockholders shall continue to be subject, however, to all
25 liabilities and duties imposed upon them by any law of this state and to all the provisions of this
26 chapter relating to banks or trust companies;

27 (4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation
28 and to make such payments to and to make such deposits with the Federal Deposit Insurance
29 Corporation and to pay such assessments made by such corporation as will enable the bank or
30 trust company to obtain the benefits of the insurance of deposits under the act of Congress known
31 as "The Banking Act of 1933" and any amendments thereto;

32 (5) Invest in a bank service corporation as defined by the act of Congress known as the
33 "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same
34 extent as provided by that act or any amendment thereto;

35 (6) Hold a noncontrolling equity interest in any business entity that conducts only
36 activities that are financial in nature or incidental to financial activity or that is established
37 pursuant to subdivision (16) of this subsection where the majority of the stock or other interest
38 is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any
39 foreign bank with a branch or branches in Missouri, or any combination of these financial
40 institutions; provided that if the entity is defined pursuant to Missouri law as any type of
41 financial institution subsidiary or other type of entity subject to special conditions or regulations,
42 those conditions and regulations shall remain applicable, and provided that such business entity
43 may be formed as any type of business entity, in which each investor's liability is limited to the
44 investment in and loans to the business entity as otherwise provided by law;

45 (7) Receive upon deposit for safekeeping personal property of every description, and to
46 own or control a safety vault and rent the boxes therein;

47 (8) Purchase and hold the stock of one safe deposit company organized and existing
48 under the laws of the state of Missouri and doing a safe deposit business on premises owned or
49 leased by the bank or trust company at the main banking house and any branch operated by the
50 bank or trust company; provided, that the purchasing and holding of the stock is first duly
51 authorized by resolution of the board of directors of the bank or trust company and by the written

52 approval of the director, and that all of the shares of the safe deposit company shall be purchased
53 and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales
54 or transfers or pledges in violation hereof to be void;

55 (9) Act as the fiscal or transfer agent of the United States, of any state, municipality,
56 body politic or corporation and in such capacity to receive and disburse money, to transfer,
57 register and countersign certificates of stock, bonds and other evidences of indebtedness;

58 (10) Acquire or convey real property for the following purposes:

59 (a) Real property conveyed to it in satisfaction or part satisfaction of debts previously
60 contracted in the course of its business;

61 (b) Real property purchased at sales under judgment, decrees or liens held by it; and

62 (c) Real property purchased or leased by a bank for the purpose of leasing or subleasing
63 that property to a public entity including, but not limited to, government buildings, municipal
64 buildings, school buildings and grounds, and public hospitals. The bank shall only lease the
65 property to a public entity that has sufficient resources to make all rental payments as the
66 payments become due. The lease agreement shall provide that, upon the expiration of the lease,
67 the public entity will become the owner of the real property and any building or facility located
68 thereon. No bank shall purchase or lease real estate for this purpose if the purchase or lease will
69 exceed the bank's lending limit under section 362.170;

70 (11) Purchase, hold and become the owner and lessor of personal property acquired upon
71 the specific request of and for use of a customer; and, in addition, leases that neither anticipate
72 full purchase price repayment on the leased asset, nor require the lease to cover the physical life
73 of the asset, other than those for motor vehicles which will not be used by bank or trust company
74 personnel, and may incur such additional obligations as may be incident to becoming an owner
75 and lessor of the property, subject to the following limitations:

76 (a) Lease transactions do not result in loans for the purpose of section 362.170, but the
77 total amount disbursed under leasing obligations or rentals by any bank to any person,
78 partnership, association, or corporation shall at no time exceed the legal loan limit permitted by
79 statute except upon the written approval of the director of finance; and

80 (b) Lease payments are in the nature of rent rather than interest, and the provisions of
81 chapter 408 are not applicable;

82 (12) Contract with another bank or trust company, bank service corporation or other
83 partnership, corporation, association or person, within or without the state, to render or receive
84 any banking or trust services authorized under this chapter such as check and deposit sorting and
85 posting, computation and posting of interest and other credits and charges, preparation and
86 mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping,
87 accounting, statistical, financial counseling, or similar services, or the storage, transmitting or

88 processing of any information or data. Any person or entity that provides, by contract or
89 otherwise, such services to a bank or trust company, other than an entity that is a founding
90 member and is represented on the executive committee of the Payment Card Industry Security
91 Standards Council and that is examined and regulated under the Bank Service Company Act (12
92 U.S.C. Sections 1861 to 1867(c)) or any successor statute by an appropriate federal banking
93 agency, shall be subject to examination by the division of finance to the same extent as if the
94 service was being performed by the bank or trust company on its own premises. Each bank or
95 trust company under the jurisdiction of the division of finance shall provide a list of all persons
96 or entities providing services to the bank or trust company;

97 (13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease,
98 hold or convey real property of a character which the bank or trust company holding stock in the
99 corporation could itself purchase, lease, hold or convey pursuant to the provisions of subdivision
100 (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized
101 by resolution of the board of directors of the bank or trust company and that all of the shares of
102 the corporation shall be purchased and held by the bank or trust company and shall not be sold
103 or transferred except as a whole;

104 (14) Purchase and sell investment securities, without recourse, solely upon order and for
105 the account of customers; and establish and maintain one or more mutual funds and offer to the
106 public shares or participations therein. Any bank which engages in such activity shall comply
107 with all provisions of chapter 409 regarding the licensing and registration of sales personnel for
108 mutual funds so offered, provided that such banks shall register as a broker-dealer with the office
109 of the commissioner of securities and shall consent to supervision and inspection by that office
110 and shall be subject to the continuing jurisdiction of that office;

111 (15) Make debt or equity investments in corporations or projects, whether for profit or
112 not for profit, designed to promote the development of the community and its welfare, provided
113 that the aggregate investment in all such corporations and in all such projects does not exceed
114 five percent of the unimpaired capital of the bank, and provided that this limitation shall not
115 apply to loans made under the authority of other provisions of law, and other provisions of law
116 shall not limit this subdivision; ~~and~~

117 (16) Offer through one or more subsidiaries any products and services which a national
118 bank may offer through its financial subsidiaries, subject to the limitations that are applicable to
119 national bank financial subsidiaries, and provided such bank or trust company meets the division
120 of finance safety and soundness considerations. This subdivision is enacted to provide in part
121 competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999,
122 Public Law 106-102; **and**

123 (17) **Exercise all powers enumerated under sections 362.1125 to 362.1129.**

124 2. In addition to the power and authorities granted in subsection 1 of this section, and
125 notwithstanding any limitations therein, a bank or trust company may:

126 (1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and
127 improvements thereto suitable for the convenient conduct of its functions. The bank may derive
128 income from renting or leasing such real property or improvements or both. If the purchase or
129 lease of such real property or improvements exceeds the legal loan limit or is from an officer,
130 director, employee, affiliate, principal shareholder or a related interest of such person, prior
131 approval shall be obtained from the director of finance; and

132 (2) Loan money on real estate as defined in section 442.010, and handle escrows,
133 settlements and closings on real estate for the benefit of the bank's customers, as a core part of
134 the banking business, notwithstanding any other provision of law to the contrary.

135 3. In addition to the powers and authorities granted in subsection 1 of this section, every
136 trust company created under the laws of this state shall be authorized and empowered to:

137 (1) Receive money in trust and to accumulate the same at such rate of interest as may be
138 obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

139 (2) Accept and execute all such trusts and perform such duties of every description as
140 may be committed to it by any person or persons whatsoever, or any corporation, and act as
141 assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform
142 such duties of every description as may be committed or transferred to it by order, judgment or
143 decree of any courts of record of this state or other states, or of the United States;

144 (3) Take, accept and hold, by the order, judgment or decree of any court of this state, or
145 of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or
146 bequest of any person or corporation, any real or personal property in trust, and to execute and
147 perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions,
148 limitations and restrictions which may be declared, imposed, established or agreed upon in and
149 by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

150 (4) Buy, invest in and sell all kinds of stocks or other investment securities;

151 (5) Execute, as principal or surety, any bond or bonds required by law to be given in any
152 proceeding, in law or equity, in any of the courts of this state or other states, or of the United
153 States;

154 (6) Act as trustee, personal representative, or conservator or in any other like fiduciary
155 capacity; and

156 (7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in
157 the management and control of real or personal property, the sale or conveyance of same, the
158 investment of money, and for any other lawful purpose.

159 4. (1) In addition to the powers and authorities granted in this section, the director of
160 finance may, from time to time, with the approval of the state banking and savings and loan
161 board, issue orders granting such other powers and authorities as have been granted to financial
162 institutions subject to the supervision of the federal government to:

163 (a) State-chartered banks and trust companies which are necessary to enable such banks
164 and trust companies to compete;

165 (b) State-chartered banks and trust companies to establish branches to the same extent
166 that federal law permits national banks to establish branches;

167 (c) Subsidiaries of state-chartered banks and trust companies to the same extent powers
168 are granted to national bank subsidiaries to enable such banks and trust companies to compete;
169 and

170 (d) State-chartered banks and trust companies to establish trust representative offices to
171 the same extent national banks are permitted such offices; and

172 (2) The orders shall be promulgated as provided in section 361.105 and shall not be
173 inconsistent with the constitution and the laws of this state.

174 5. As used in this section, the term "subsidiary" shall include one or more business
175 entities of which the bank or trust company is the owner, provided the owner's liability is limited
176 by the investment in and loans to the subsidiary as otherwise provided for by law.

177 6. A bank or trust company to which authority is granted by regulation in subsection 4
178 of this section, based on the population of the political subdivision, may continue to exercise
179 such authority for up to five years after the appropriate decennial census indicates that the
180 population of the town in which such bank or trust company is located has exceeded the limits
181 provided for by regulation pursuant to subsection 4 of this section.

362.1125. 1. As used in sections 362.1125 to 362.1129, the following terms mean:

2 (1) "Automated transaction", a transaction conducted or performed, in whole or
3 in part, by electronic means or electronic records in which the acts or records of one or
4 both parties are not reviewed by an individual in the ordinary course in forming a
5 contract, performing under an existing contract, or fulfilling an obligation required by the
6 transaction;

7 (2) "Digital asset", a representation of economic, proprietary, or access rights that
8 is stored in a computer-readable format and includes digital consumer assets, digital
9 securities, and virtual currency;

10 (3) "Digital consumer asset", a digital asset that is used or bought primarily for
11 consumptive, personal, or household purposes, including:

12 (a) An open blockchain token constituting intangible personal property; or

13 (b) Any other digital asset that is not a digital security or virtual currency;

- 14 **(4) "Digital security", a digital asset that constitutes a security but shall exclude**
15 **digital consumer assets and virtual currency;**
- 16 **(5) "Open blockchain token", a digital unit that is:**
- 17 **(a) Created:**
- 18 **a. In response to the verification or collection of a specified number of transactions**
19 **relating to a digital ledger or database;**
- 20 **b. By deploying computer code to a blockchain network that allows for the creation**
21 **of digital tokens or other units; or**
- 22 **c. Using any combination of the methods under this paragraph;**
- 23 **(b) Recorded in a digital ledger or database, which is chronological,**
24 **consensus-based, decentralized, and mathematically verified in nature, especially relating**
25 **to the supply of units and their distribution; and**
- 26 **(c) Capable of being traded or transferred between persons without an**
27 **intermediary or custodian of value;**
- 28 **(6) "Security", a note; stock; treasury stock; security future; bond; debenture;**
29 **evidence of indebtedness; certificate of interest or participation in a profit-sharing**
30 **agreement; collateral trust certificate; preorganization certificate or subscription;**
31 **transferable share; investment contract; voting trust certificate; certificate of deposit for**
32 **a security; put, call, straddle, option, or privilege on a security, certificate of deposit, or**
33 **group or index of securities, including an interest therein or based on the value thereof;**
34 **put, call, straddle, option, or privilege entered into on a national securities exchange**
35 **relating to foreign currency; or, in general, an interest or instrument commonly known as**
36 **a security; or a certificate of interest or participation in, temporary or interim certificate**
37 **for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the**
38 **foregoing. "Security":**
- 39 **(a) Includes both a certificated and an uncertificated security;**
- 40 **(b) Shall not include an insurance or endowment policy or annuity contract under**
41 **which an insurance company promises to pay a fixed or variable sum of moneys either in**
42 **a lump sum or periodically for life or other specified period;**
- 43 **(c) Shall not include an interest in a contributory or noncontributory pension or**
44 **welfare benefit plan subject to the Employee Retirement Income Security Act of 1974, 93**
45 **Pub. L. 406;**
- 46 **(d) Includes as an investment contract, an investment in a common enterprise with**
47 **the expectation of profits to be derived primarily from the efforts of a person other than**
48 **the investor. As used in this paragraph, "common enterprise" means an enterprise in**

49 which the fortunes of the investor are interwoven with those of either the person offering
50 the investment, a third party, or other investors;

51 (e) Includes as an investment contract, among other contracts, an interest in a
52 limited partnership and a limited liability company and an investment in a viatical
53 settlement or similar agreement; and

54 (f) Shall not include an open blockchain token;

55 (7) "Virtual currency", a digital asset that is:

56 (a) Used as a medium of exchange, unit of account, or store of value; and

57 (b) Not recognized as legal tender by the United States government.

58 2. The terms under subsection 1 of this section are mutually exclusive.

362.1126. 1. Digital assets are classified in the following manner:

2 (1) Digital consumer assets are intangible personal property and shall be
3 considered general intangibles, as defined under section 408.9-102, only for the purposes
4 of sections 400.9-101 to 400.9-809;

5 (2) Digital securities are intangible personal property and shall be considered
6 securities, as defined under section 400.8-102, and investment property, as defined under
7 section 400.9-102, only for the purposes of sections 400.8-101 to 400.9-809; and

8 (3) Virtual currency is intangible personal property and shall be considered
9 moneys, notwithstanding section 400.1-201, only for the purposes of sections 400.9-101 to
10 400.9-809.

11 2. A digital asset may be treated as a financial asset, as defined under section
12 400.8-102, pursuant to a written agreement with the owner of the digital asset. If treated
13 as a financial asset, the digital asset shall remain intangible personal property.

14 3. A bank that provides custodial services under section 362.1128 shall be
15 considered to satisfy the requirements of a securities intermediary, as defined under section
16 400.8-102.

17 4. Classification of digital assets under this section shall be construed in a manner
18 to give the greatest effect to sections 362.1125 to 362.1129 but shall not be construed to
19 apply to any other asset.

362.1127. 1. Notwithstanding the financing statement requirement under section
2 400.9-310(a) as otherwise applied to general intangibles or any other provision of law,
3 perfection of a security interest in a digital asset may be achieved through control. A
4 security interest held by a secured party having control of a digital asset has priority over
5 a security interest held by a secured party that does not have control of the asset.

6 2. Before a secured party may take control of a digital asset, the secured party shall
7 enter into a control agreement with the debtor. A control agreement may also set forth the

8 terms under which a secured party may pledge its security interest in the digital asset as
9 collateral for another transaction.

10 3. A secured party may file a financing statement with the secretary of state,
11 including to perfect a security interest in proceeds from a digital asset under section
12 400.9-315.

13 4. Notwithstanding any other provision of law, including sections 400.9-101 to
14 400.9-809, a transferee takes a digital asset free of any security interest two years after the
15 transferee takes the asset for value and does not have actual notice of an adverse claim.
16 This subsection only applies to a security interest perfected by a method other than control.

17 5. As used in this section:

18 (1) "Control", the same meaning as the term "possession" when used in sections
19 400.9-101 to 400.9-809 and means:

20 (a) A secured party, or an agent, custodian, fiduciary, or trustee of the party, has
21 the exclusive legal authority to conduct a transaction relating to a digital asset, including
22 by means of a private key or the use of a multi-signature arrangement authorized by the
23 secured party; and

24 (b) A smart contract created by a secured party that has the exclusive legal
25 authority to conduct a transaction relating to a digital asset. As used in this paragraph,
26 "smart contract" means an automated transaction or any substantially similar analogue,
27 which is comprised of code, script, or programming language that executes the terms of an
28 agreement and which may include taking custody of and transferring an asset, or issuing
29 executable instructions for these actions, based on the occurrence or nonoccurrence of
30 specified conditions;

31 (2) "Multi-signature arrangement", a system of access control relating to a digital
32 asset for the purposes of preventing unauthorized transactions relating to the asset, in
33 which two or more private keys are required to conduct a transaction, or any substantially
34 similar analogue;

35 (3) "Private key", a unique element of cryptographic data, or any substantially
36 similar analogue, that is:

37 (a) Held by a person;

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

39 (c) Associated with an algorithm that is necessary to carry out an encryption or
40 decryption required to execute a transaction.

41 6. Perfection by control creates a possessory security interest and shall not require
42 physical possession. For purposes of sections 400.9-101 to 400.9-809 and this section, a
43 digital asset is located in Missouri if the asset is held by a Missouri custodian, the debtor

44 or secured party is physically located in Missouri, or the debtor or secured party is
45 incorporated or organized in Missouri.

362.1128. 1. A bank may provide custodial services upon providing sixty days'
2 written notice to the commissioner. The provisions of this section are cumulative and not
3 exclusive as an optional framework for enhanced supervision of digital asset custody. If
4 a bank elects to provide custodial services under this section, it shall comply with all
5 provisions of this section.

6 2. A bank may serve as a qualified custodian, as specified by the United States
7 Securities and Exchange Commission in 17 CFR Section 275.206. In performing custodial
8 services, a bank shall:

9 (1) Implement all accounting, account statement, internal control, notice, and other
10 standards specified by applicable state or federal law and rules for custodial services;

11 (2) Maintain information technology best practices relating to digital assets held
12 in custody. The commissioner may specify required best practices by rule;

13 (3) Fully comply with applicable federal anti-money laundering, customer
14 identification, and beneficial ownership requirements; and

15 (4) Take other actions necessary to carry out this section, which may include
16 exercising fiduciary powers similar to those permitted to national banks and ensuring
17 compliance with federal law governing digital assets classified as commodities.

18 3. A bank providing custodial services shall enter into an agreement with an
19 independent public accountant to conduct an examination conforming to the requirements
20 of Sections (4) and (6) of 17 CFR Section 275.206, at the cost of the bank. The accountant
21 shall transmit the results of the examination to the commissioner within one hundred
22 twenty days of the examination and may file the results with the United States Securities
23 and Exchange Commission as its rules may provide. Material discrepancies in an
24 examination shall be reported to the commissioner within one day. The commissioner shall
25 review examination results upon receipt within a reasonable time and during any regular
26 examination of a bank.

27 4. Digital assets held in custody under this section are not depository liabilities or
28 assets of the bank. A bank, or a subsidiary, may register as an investment advisor,
29 investment company, or broker dealer as necessary. A bank shall maintain control over
30 a digital asset while in custody. A customer shall elect, pursuant to a written agreement
31 with the bank, one of the following relationships for each digital asset held in custody:

32 (1) Custody under a bailment as a nonfungible or fungible asset. Assets held under
33 this subdivision shall be strictly segregated from other assets; or

34 (2) Custody under a bailment under subsection 5 of this section.

35 **5. If a customer elects subdivision (2) of subsection 4 of this section, the bank may,**
36 **based only on customer instructions, undertake transactions with the digital asset. A bank**
37 **maintains control under subsection 4 of this section by entering into an agreement with the**
38 **counterparty to a transaction which contains a time for return of the asset. The bank shall**
39 **not be liable for any loss suffered with respect to a transaction under this subsection,**
40 **except for liability consistent with fiduciary and trust powers as a custodian under this**
41 **section.**

42 **6. A bank and a customer shall agree in writing regarding the source code version**
43 **the bank shall use for each digital asset and the treatment of each asset under sections**
44 **400.9-101 to 400.9-809, if necessary. Any ambiguity under this subsection shall be resolved**
45 **in favor of the customer.**

46 **7. A bank shall provide clear, written notice to each customer, and require written**
47 **acknowledgment, of the following:**

48 **(1) Prior to the implementation of any updates, material source code updates**
49 **relating to digital assets held in custody, except in emergencies which may include security**
50 **vulnerabilities;**

51 **(2) The heightened risk of loss from transactions under subsection 5 of this section;**

52 **(3) That some risk of loss as a pro rata creditor exists as the result of custody as a**
53 **fungible asset or custody under subdivision (2) of subsection 4 of this section;**

54 **(4) That custody under subdivision (2) of subsection 4 of this section shall not result**
55 **in the digital assets of the customer being strictly segregated from other customer assets;**
56 **and**

57 **(5) That the bank is not liable for losses suffered under subsection 5 of this section,**
58 **except for liability consistent with fiduciary and trust powers as a custodian under this**
59 **section.**

60 **8. A bank and a customer shall agree in writing to a time period within which the**
61 **bank shall return a digital asset held in custody under this section. If a customer makes**
62 **an election under subdivision (2) of subsection 4 of this section, the bank and the customer**
63 **may also agree in writing to the form in which the digital asset shall be returned.**

64 **9. All ancillary or subsidiary proceeds relating to digital assets held in custody**
65 **under this section shall accrue to the benefit of the customer, except as specified by a**
66 **written agreement with the customer. The bank may elect not to collect certain ancillary**
67 **or subsidiary proceeds, as long as the election is disclosed in writing. A customer who**
68 **makes an election under subdivision (2) of subsection 4 of this section may withdraw the**
69 **digital asset in a form that permits the collection of the ancillary or subsidiary proceeds.**

70 **10. A bank shall not authorize or permit rehypothecation of digital assets under**
71 **this section. The bank shall not engage in any activity to use or exercise discretionary**
72 **authority relating to a digital asset except based on customer instructions.**

73 **11. A bank shall not take any action under this section that would likely impair the**
74 **solvency or the safety and soundness of the bank, as determined by the commissioner after**
75 **considering the nature of custodial services customary in the banking industry.**

76 **12. A bank that provides custodial services under this section shall pay a**
77 **supervision fee equal to two hundredths of one cent relating to assets held in custody under**
78 **this section as of December thirty-first of each year, with payment of the supervision fee**
79 **made on or before the following January thirty-first. The supervision fee shall be**
80 **deposited by the commissioner into the financial institutions administration account and**
81 **may be expended for any purpose authorized for that account. Banks providing custodial**
82 **services outside of this section shall not be required to pay this supervision fee.**

83 **13. The department of insurance, financial institutions and professional**
84 **registration may adopt rules to implement this section. Any rule or portion of a rule, as**
85 **that term is defined in section 536.010, that is created under the authority delegated in this**
86 **section shall become effective only if it complies with and is subject to all of the provisions**
87 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
88 **nonseverable, and if any of the powers vested with the general assembly pursuant to**
89 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
90 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
91 **proposed or adopted after August 28, 2019, shall be invalid and void.**

92 **14. As used in this section:**

93 **(1) "Bank", any corporation, excluding national banks, having a place of business**
94 **within this state which engages in banking business;**

95 **(2) "Banking business", opening credits by the deposit or collection of money or**
96 **negotiable paper subject to be paid upon draft, receipt, check, or order;**

97 **(3) "Commissioner", the banking commissioner;**

98 **(4) "Custodial services", the safekeeping and management of customer currency**
99 **and digital assets through the exercise of fiduciary and trust powers under this section as**
100 **a custodian and includes fund administration and the execution of customer instructions.**

362.1129. The courts of Missouri shall have jurisdiction to hear claims in both law
2 **and equity relating to digital assets, including those arising from this chapter and chapter**
3 **400.**

✓