

House Bill 4233
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 160.004(c), Finance Code, is amended to read as follows:

(c) A digital asset service provider shall create a plan to allow[;:
[~~(1)~~] each digital asset customer to view at least quarterly an accounting of:
(1) [~~(A)~~] any outstanding liabilities owed to the digital asset customer; and
(2) [~~(B)~~] the digital asset customer's digital assets held in custody by the digital asset service provider[; and
[~~(2)~~] an auditor to access and view at any time a pseudonymized version of the information made available to each digital asset customer under Subdivision (1)].

SECTION 2. Section 160.005(a), Finance Code, is amended to read as follows:

(a) In addition to any other requirements under Subchapter C [~~D~~], Chapter 152 [~~151~~], a digital asset service provider must comply with the requirements of this chapter to obtain and maintain any money transmission license under Subchapter C [~~D~~], Chapter 152 [~~151~~]. [~~A digital asset service provider~~

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SECTION 1. Sections 160.004(b) and (c), Finance Code, are amended to read as follows: [FA2(1)]
(b) In addition to any other requirements under state law, a digital asset service provider shall maintain customer funds not subject to the requirements of Chapter 152 [~~151~~]:
(1) in separate accounts for obligations to each digital asset customer; or
(2) in an omnibus account that only contains digital assets of digital asset customers and in which digital assets of digital asset customers are not strictly segregated from each other. [FA2(2)]
(c) A digital asset service provider shall create a plan to allow[;:
[~~(1)~~] each digital asset customer to view at least quarterly an accounting of:
(1) [~~(A)~~] any outstanding liabilities owed to the digital asset customer; and
(2) [~~(B)~~] the digital asset customer's digital assets held in custody by the digital asset service provider[; and
[~~(2)~~] an auditor to access and view at any time a pseudonymized version of the information made available to each digital asset customer under Subdivision (1)].

SECTION 2. Section 160.005, Finance Code, is amended to read as follows: [FA2(3)]
Sec. 160.005. REQUIREMENTS FOR MONEY TRANSMISSION LICENSE. (a) In addition to any other requirements under Subchapter C [~~D~~], Chapter 152 [~~151~~], a digital asset service provider must comply with the requirements of this chapter to obtain and maintain any money transmission license under Subchapter C [~~D~~], Chapter 152

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~~applying for a new money transmission license under Subchapter D, Chapter 151, must submit to the department the report required by Section 160.004(d).]~~

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~~[151]. [A digital asset service provider applying for a new money transmission license under Subchapter D, Chapter 151, must submit to the department the report required by Section 160.004(d).; FA2(4)]~~

(b) The department may suspend and revoke a money transmission license issued under Subchapter C ~~[D]~~, Chapter 152 ~~[151]~~, to a digital asset service provider if the provider violates the requirements of this chapter.

(c) The department may impose any penalty under Subchapter I ~~[H]~~, Chapter 152 ~~[151]~~, that the department may impose on a person who violates that chapter on a digital asset service provider who violates this chapter.

(d) The commissioner may examine or investigate a digital asset service provider in the same manner as allowed under Subchapter B ~~[G]~~, Chapter 152 ~~[151]~~. Information disclosed to the commissioner in connection with an examination or investigation under this section is confidential information and subject to the provisions regarding confidentiality under Subchapter B ~~[G]~~, Chapter 152 ~~[151]~~. [FA2(5)]

CONFERENCE

No equivalent provision.

SECTION __. Section 160.003, Finance Code, is amended to read as follows:

Sec. 160.003. APPLICABILITY. (a) This chapter applies to a digital asset service provider doing business in this state that:

(1) holds a money transmission license under Subchapter C ~~[D]~~, Chapter 152 ~~[151]~~; and

(2) either:

(A) serves more than 500 digital asset customers in this state; or

(B) has at least \$10 million in customer funds.

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- (b) This chapter does not apply to:
- (1) a bank, as defined by Section 31.002; or
 - (2) an entity excluded by commission rule or by order of the banking commissioner based on a finding that the entity is:
 - (A) not required to hold a money transmission license under Subchapter C [D], Chapter 152 [154]; or
 - (B) not subject to the requirements of this chapter. [FA2(6)]

SECTION __. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. VIRTUAL CURRENCY KIOSKS

Sec. 161.001. DEFINITIONS. In this chapter:

- (1) "Blockchain analytics" means the analysis of data from blockchains or public distributed ledgers, including associated transaction information.
- (2) "Blockchain analytics software" means a software service that uses blockchain analytics data to provide risk-specific information, including information relating to virtual currency wallet addresses.
- (3) "Commissioner" means the banking commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority.
- (4) "Department" means the Texas Department of Banking.
- (5) "Transaction hash" means a unique identifier made up of a string of characters that act as a record of and provide proof that the transaction was verified and added to the blockchain.
- (6) "Virtual currency" has the meaning assigned by Section 12.001, Business & Commerce Code.
- (7) "Virtual currency address" means an alphanumeric

No equivalent provision.

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identifier associated with a virtual currency wallet identifying the location to which a virtual currency kiosk transaction can be sent.

(8) "Virtual currency business activity" means exchanging, transferring, or storing virtual currency.

(9) "Virtual currency kiosk" means an electronic terminal operated by a virtual currency kiosk operator to enable the operator to facilitate the exchange of virtual currency for money, bank credit, or other virtual currency, including by:

(A) connecting directly to a separate virtual currency exchanger that performs the actual virtual currency transmission; or

(B) drawing on the virtual currency in the possession of the electronic terminal's operator.

(10) "Virtual currency kiosk operator" means a person that engages in virtual currency business activity through a virtual currency kiosk located in this state or a person that owns, operates, or manages a virtual currency kiosk located in this state through which virtual currency business activity is offered.

(11) "Virtual currency kiosk transaction" means a transaction conducted or performed, wholly or partly, by electronic means on a virtual currency kiosk, including a transaction made at a virtual currency kiosk to purchase virtual currency with fiat currency or to sell virtual currency for fiat currency.

(12) "Virtual currency wallet" means a software application or other mechanism providing a means to hold, store, or transfer virtual currency.

Sec. 161.002. REGISTRATION REQUIRED. A virtual currency kiosk operator may not locate, or allow a third party to locate, a virtual currency kiosk in this state unless the virtual currency kiosk operator:

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- (1) registers the kiosk with the department; and
- (2) obtains the prior approval of the department for the activation of the kiosk.

Sec. 161.003. REPORT REQUIRED. Not later than the 45th day following the date of the end of each calendar quarter, a virtual currency kiosk operator shall file with the department a report of the location of each virtual currency kiosk of the operator in this state. The report required under this section must include for each virtual currency kiosk:

- (1) company legal name;
- (2) any fictitious or trade name;
- (3) physical address;
- (4) start date of operation of the virtual currency kiosk at a location;
- (5) end date of operation of the virtual currency kiosk at a location, if applicable; and
- (6) each virtual currency address associated with the virtual currency kiosk.

Sec. 161.004. REQUESTS FOR CERTAIN INFORMATION. (a) Not later than 72 hours after receiving a written request from a law enforcement agency, a virtual currency kiosk operator shall provide to the agency limited identifying information such as a virtual currency wallet address or transaction hash.

(b) A release of information under Subsection (a) does not require a subpoena or court order. A release of additional identifying information requires a subpoena or court order.

Sec. 161.005. DISCLOSURES ON MATERIAL RISK. (a) A virtual currency kiosk operator in this state shall disclose in a clear, conspicuous, and easily readable manner all material risks generally associated with virtual currency, including that:

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- (1) virtual currency is not legal tender and is not backed or insured by the government;
- (2) accounts and value balances of virtual currency are not subject to Federal Deposit Insurance Corporation, National Credit Union Administration, or Securities Investor Protection Corporation protections;
- (3) some virtual currency kiosk transactions are deemed to be made when recorded on a public ledger that may not be the date or time when the person initiates the transaction;
- (4) virtual currency's value may be derived from the continued willingness of market participants to exchange fiat currency for virtual currency, which may result in the permanent and total loss of a particular virtual currency's value if the market for virtual currency disappears;
- (5) a person who accepts a virtual currency as payment is not required to accept the currency as payment and may decline to accept the currency in a future transaction;
- (6) the volatility and unpredictability of the price of virtual currency relative to fiat currency may result in a significant loss in value over a short period;
- (7) the nature of virtual currency means that any technological difficulties experienced by a virtual currency kiosk operator may prevent access to or use of the operator's customer's virtual currency; and
- (8) any bond maintained by the virtual currency kiosk operator for the benefit of customers may not cover all losses incurred by customers.
- (b) In addition to the disclosures required under Subsection (a), a virtual currency kiosk operator shall provide a written disclosure that:
 - (1) is written prominently and in bold type and must be acknowledged by the customer;

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(2) is provided separately from the disclosures required under Subsection (a); and

(3) states: "WARNING: LOSSES DUE TO FRAUDULENT OR ACCIDENTAL TRANSACTIONS ARE NOT RECOVERABLE AND TRANSACTIONS IN VIRTUAL CURRENCY ARE IRREVERSIBLE. VIRTUAL CURRENCY TRANSACTIONS MAY BE USED TO STEAL YOUR MONEY BY CRIMINALS IMPERSONATING THE GOVERNMENT, ORGANIZATIONS, OR YOUR LOVED ONES. THEY CAN THREATEN JAIL TIME, SAY YOUR IDENTITY HAS BEEN STOLEN, ALLEGE YOUR COMPUTER HAS BEEN HACKED, INSIST YOU WITHDRAW MONEY FROM YOUR BANK ACCOUNT TO PURCHASE VIRTUAL CURRENCY, OR A NUMBER OF OTHER SCAMS. IF YOU BELIEVE YOU ARE BEING SCAMMED, CALL YOUR LOCAL LAW ENFORCEMENT.".

(c) The disclosures required under Subsection (a) must be displayed on the screen of the virtual currency kiosk with the ability for a customer to acknowledge the receipt of the disclosure.

Sec. 161.006. TRANSACTION-RELATED DISCLOSURES.

(a) A virtual currency kiosk operator shall disclose all relevant terms generally associated with virtual currency and with the products, services, and activities of the virtual currency kiosk operator, including:

(1) the virtual currency kiosk operator's liability for unauthorized virtual currency kiosk transactions;

(2) the customer's liability for unauthorized virtual currency kiosk transactions;

(3) the customer's right to receive prior notice of a change in

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the virtual currency kiosk operator's rules or policies; and
(4) under what circumstances the virtual currency kiosk operator, without a court or government order, is authorized to disclose a customer's account information to third parties.
(b) Before a virtual currency kiosk transaction is entered into for, on behalf of, or with a customer, a virtual currency kiosk operator shall disclose the terms of the transaction in a clear, conspicuous, and easily readable manner, including:
(1) the amount of the transaction denominated in:
(A) United States dollars; and
(B) the applicable virtual currency involved in the transaction;
(2) any transaction fees, expenses, or charges, including applicable exchange rates;
(3) the type and nature of the transaction;
(4) a warning that once completed, the transaction may not be reversed; and
(5) any other disclosures that are customarily provided in connection with a virtual currency kiosk transaction.
Sec. 161.007. ACKNOWLEDGMENT OF DISCLOSURES.
Before completing a transaction, a virtual currency kiosk operator shall ensure that each customer who engages in a virtual currency kiosk transaction using the operator's kiosk acknowledges receipt of all disclosures required under this chapter by confirmation of consent.
Sec. 161.008. RECEIPT REQUIRED. After a transaction is completed, the virtual currency kiosk operator shall provide the customer with a physical or digital receipt in the customer's preferred language that contains:
(1) the virtual currency kiosk operator's name and contact information, including a telephone number to answer questions and register complaints;

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(2) the type, value, date, and precise time of the transaction, the transaction hash, and each applicable virtual currency address;
(3) the name and contact information of the sender;
(4) the name and contact information of the designated recipient;
(5) the fees charged;
(6) the exchange rate of the virtual currency to United States dollars;
(7) a statement of the virtual currency kiosk operator's liability for nondelivery or delayed delivery;
(8) a statement of the virtual currency kiosk operator's refund policy; and
(9) any additional information the department may require.
Sec. 161.009. PREVENTION OF FRAUDULENT ACTIVITY. A virtual currency kiosk operator must use blockchain analytics software to assist in the prevention of sending purchased virtual currency from a virtual currency kiosk operator to a virtual currency wallet known to be affiliated with fraudulent activity at the time of a transaction. The department may request evidence from any virtual currency kiosk operator of current use of blockchain analytics.
Sec. 161.010. FRAUD POLICY. A virtual currency kiosk operator shall take reasonable steps to detect and prevent fraud, including establishing and maintaining a written antifraud policy. The policy required by this section shall, at a minimum, include:
(1) the identification and assessment of fraud-related risk areas;
(2) procedures and controls to protect against identified risks;
(3) allocation of responsibility for monitoring risks; and
(4) procedures for the periodic evaluation and revision of the

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antifraud procedures, controls, and monitoring mechanisms.
Sec. 161.011. MEASURES TO ENSURE COMPLIANCE WITH LAWS. (a) A virtual currency kiosk operator must designate and employ a compliance officer who:
(1) is qualified to coordinate and monitor compliance with the requirements of this chapter and as otherwise provided by federal and state laws, rules, and regulations;
(2) is employed full time by the virtual currency kiosk operator; and
(3) does not own more than 20 percent of the virtual currency kiosk operator.
(b) Any compliance responsibilities required under federal or state laws, rules, and regulations shall be completed by the full-time employees of the virtual currency kiosk operator.
Sec. 161.012. IDENTIFICATION REQUIRED. Before completing a transaction, a virtual currency kiosk operator shall ensure that each customer who engages in a virtual currency kiosk transaction using the operator's kiosk scans the customer's driver's license or personal identification card.
Sec. 161.013. TEMPORARY HOLD ON TRANSACTIONS BY CERTAIN CUSTOMERS. A virtual currency kiosk operator shall place a 72-hour hold on any transaction initiated by a first-time customer who engages in a virtual currency kiosk transaction using the operator's kiosk.
Sec. 161.014. CUSTOMER SERVICE. A virtual currency kiosk operator that conducts business in this state must:
(1) provide live customer service between the hours of 8 a.m. and 10 p.m. Monday through Friday; and
(2) display on the virtual currency kiosk or screen of the kiosk:
(A) the customer service toll-free telephone number;
(B) the name, address, and telephone number of the operator;

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and

(C) the days on, time on, and method by which a customer can contact the operator for assistance.

Sec. 161.015. REVOCATION OF REGISTRATION. The department shall revoke a registration of a virtual currency kiosk operator if the virtual currency kiosk operator violates this chapter or a rule adopted or order issued under this chapter.

Sec. 161.016. CEASE AND DESIST ORDERS. (a) If the commissioner has reason to believe that a person has engaged or is likely to engage in an activity in violation of this chapter, the commissioner may order the person to cease and desist from the violation. The commissioner's order is subject to Section 161.020, unless the order is issued as an emergency order. The commissioner may issue an emergency cease and desist order under Section 161.021 if the commissioner finds that the person's violation or likely violation threatens immediate and irreparable harm to the public.

(b) A cease and desist order under this section may require the person to cease and desist from the action or violation or to take affirmative action to correct any condition resulting from or contributing to the action or violation, including the payment of restitution to each resident of this state damaged by the violation.

Sec. 161.017. CONSENT ORDERS. (a) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter.

(b) A consent order must be signed by the person to whom the order is issued or by the person's authorized representative and must indicate agreement with the terms contained in the order. However, a consent order may provide that the order

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does not constitute an admission by a person that the person has violated this chapter or a rule adopted or order issued under this chapter.

(c) A consent order is a final order and may not be appealed. Sec. 161.018. ADMINISTRATIVE PENALTY. (a) After notice and hearing, the commissioner may assess an administrative penalty against a person who:

(1) has violated this chapter or a rule adopted or order issued under this chapter and has failed to correct the violation not later than the 30th day after the date the department sends written notice of the violation to the person;

(2) has engaged in a pattern of violations; or

(3) has demonstrated wilful disregard for the requirements of this chapter, the rules adopted under this chapter, or an order issued under this chapter.

(b) A violation corrected after a person receives written notice from the department of the violation may be considered for purposes of determining whether a person has engaged in a pattern of violations under Subsection (a)(2) or demonstrated wilful disregard under Subsection (a)(3).

(c) The amount of the penalty may not exceed \$5,000 for each violation or, in the case of a continuing violation, \$5,000 for each day that the violation continues. Each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(d) In determining the amount of the penalty, the commissioner shall consider factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply with this chapter, provided that if the person is found to have demonstrated wilful disregard under Subsection (a)(3), the trier of fact may recommend that the commissioner impose

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the maximum administrative penalty permitted under Subsection (c).

(e) A hearing to assess an administrative penalty is considered a contested case hearing and is subject to Section 161.022.

(f) An order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance.

(g) The commissioner may collect an administrative penalty assessed under this section in the same manner that a money judgment is enforced in court.

Sec. 161.019. NOTICE, HEARING, AND OTHER PROCEDURES FOR NONEMERGENCY ORDERS. (a) This section applies to an order issued by the commissioner under this chapter that is not an emergency order.

(b) An order to which this section applies becomes effective only after notice and an opportunity for hearing. The order must:

(1) state the grounds on which the order is based;

(2) to the extent applicable, state the action or violation from which the person subject to the order must cease and desist or the affirmative action the person must take to correct a condition resulting from the violation or that is otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address;

(4) state the effective date of the order, which may not be before the 21st day after the date the order is delivered or mailed; and

(5) include a notice that a person may file a written request for a hearing on the order with the commissioner not later than

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the 20th day after the date the order is delivered or mailed.

(c) Unless the commissioner receives a written request for a hearing from the person against whom the order is directed not later than the 20th day after the date the order is delivered or mailed, the order takes effect as stated in the order and is final against and non-appealable by that person from that date.

(d) A hearing on the order must be held not later than the 45th day after the date the commissioner receives the written request for the hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(e) An order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance. The order may be appealed to the district court of Travis County as provided by Section 161.021(b).

Sec. 161.020. REQUIREMENTS FOR NOTICE AND HEARING PROCEDURES FOR EMERGENCY ORDERS.

(a) This section applies to an emergency order issued by the commissioner under this chapter.

(b) The commissioner may issue an emergency order, without prior notice and an opportunity for hearing, if the commissioner finds that:

(1) the action, violation, or condition that is the basis for the order:

(A) has caused or is likely to cause the insolvency of the virtual currency kiosk operator;

(B) has caused or is likely to cause the substantial dissipation of the virtual currency kiosk operator's assets or earnings;

(C) has seriously weakened or is likely to seriously weaken the condition of the virtual currency kiosk operator; or

(D) has seriously prejudiced or is likely to seriously prejudice

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the interests of the virtual currency kiosk operator, a customer of the virtual currency kiosk operator, or the public; and
(2) immediate action is necessary to protect the interests of the virtual currency kiosk operator, a customer of the virtual currency kiosk operator, or the public.
(c) In connection with and as directed by an emergency order, the commissioner may seize the records and assets of a virtual currency kiosk operator or authorized delegate that relate to the operator's virtual currency kiosk business.
(d) An emergency order must:
(1) state the grounds on which the order is based;
(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;
(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and
(4) include a notice that a person may request a hearing on the order by filing a written request for hearing with the commissioner not later than the 15th day after the date the order is delivered or mailed.
(e) An emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.
(f) A virtual currency kiosk operator or authorized delegate against whom an emergency order is directed must submit a written certification to the commissioner, signed by the operator or authorized delegate, and their principals and

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responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

(g) Unless the commissioner receives a written request for a hearing from a person against whom an emergency order is directed not later than the 15th day after the date the order is delivered or mailed, the order is final and non-appealable as to that person on the 16th day after the date the order is delivered or mailed.

(h) A request for a hearing does not stay an emergency order.

(i) A hearing on an emergency order takes precedence over any other matter pending before the commissioner, and must be held not later than the 10th day after the date the commissioner receives the written request for hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(j) An emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal. The order may be appealed to the district court of Travis County as provided in Section 161.021(b).

Sec. 161.021. ADMINISTRATIVE PROCEDURES. (a) All administrative proceedings under this chapter must be conducted in accordance with Chapter 2001, Government Code, and 7 T.A.C. Chapter 9.

(b) A person affected by a final order of the commissioner issued under this chapter after a hearing may appeal the order by filing a petition for judicial review in a district court of Travis County. A petition for judicial review filed in the district court under this subsection does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

Sec. 161.022. REFUND. (a) Not later than the 14th day after

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the date that a customer enters into a virtual currency kiosk transaction, if the customer believes the transaction was fraudulently induced, the customer may file a complaint with:

(1) the virtual currency kiosk operator of the kiosk used to complete the transaction; and

(2) an appropriate governmental or law enforcement agency.

(b) A governmental or law enforcement agency that receives a complaint under Subsection (a) shall:

(1) investigate the complaint; and

(2) provide a report to the customer and the virtual currency kiosk operator stating whether or not the virtual currency kiosk transaction was fraudulently induced.

(c) If the report provided under Subsection (b) states that a virtual currency kiosk transaction was fraudulently induced, the virtual currency kiosk operator shall issue to the customer a full refund for any fees charged by the operator in connection with the transaction.

Sec. 161.023. PHYSICAL WARNING SIGNS. A virtual currency kiosk operator in this state shall post at the location of each virtual currency kiosk of the operator a written warning in the form of a sign within readable sight of the kiosk that provides notice to customers that law enforcement does not accept virtual currency payments.

Sec. 161.024. LAW ENFORCEMENT CONTACT. A virtual currency kiosk operator in this state shall, at a minimum, have a dedicated law enforcement contact and dedicated method of contact for the applicable governmental or law enforcement agencies to contact the operator. The contact method shall be displayed and made available on the virtual currency kiosk operator's Internet website and shall be updated as necessary.

Sec. 161.025. RULES. The Finance Commission of Texas

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	<u>shall adopt rules necessary to implement, administer, and enforce this chapter.</u> [FA1]	
SECTION 3. Sections 160.004(d), (e), and (f), Finance Code, are repealed.	SECTION 3. Same as House version.	
No equivalent provision.	SECTION __. As soon as practicable after the effective date of this Act, the Finance Commission of Texas shall adopt rules necessary to implement Chapter 161, Finance Code, as added by this Act. [FA1]	
SECTION 4. This Act takes effect September 1, 2025.	SECTION 4. Same as House version.	