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I N A S S E M B L Y

February 21, 2018

Introduced by M. of A. KIM, VANEL, QUART, SEPULVEDA -- Multi-Sponsored  
by -- M. of A. LUPARDO -- read once and referred to the Committee on  
Banks

AN ACT to amend the banking law, in relation to safeguarding New York  
cryptocurrency business activity and prohibiting licensing fees for  
such business activity

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The banking law is amended by adding a new section 9-x to  
2 read as follows:

3 S 9-X. AUDIT OF CRYPTOCURRENCY BUSINESS ACTIVITY; PROHIBITING LICENS-  
4 ING FEES. 1. THE FOLLOWING TERMS, WHEN USED IN THIS SECTION, SHALL HAVE  
5 THE FOLLOWING MEANINGS:

6 (A) "CRYPTOCURRENCY BUSINESS ACTIVITY" MEANS THE CONDUCT OF ANY OF THE  
7 FOLLOWING TYPES OF ACTIVITIES INVOLVING NEW YORK OR A NEW YORK RESIDENT:

8 (I) RECEIVING CRYPTOCURRENCY FOR TRANSMISSION OR TRANSMITTING CRYPTO-  
9 CURRENCY, EXCEPT WHERE THE TRANSACTION IS UNDERTAKEN FOR NON-FINANCIAL  
10 PURPOSES AND DOES NOT INVOLVE THE TRANSFER OF MORE THAN A NOMINAL AMOUNT  
11 OF CRYPTOCURRENCY;

12 (II) STORING, HOLDING, OR MAINTAINING CUSTODY OR CONTROL OF CRYPTOCUR-  
13 RENCY ON BEHALF OF OTHERS;

14 (III) BUYING AND SELLING CRYPTOCURRENCY AS A CUSTOMER BUSINESS;

15 (IV) PERFORMING EXCHANGE SERVICES OF CRYPTOCURRENCY AS A CUSTOMER  
16 BUSINESS; OR

17 (V) CONTROLLING, ADMINISTERING, OR ISSUING A CRYPTOCURRENCY.

18 (B) "CRYPTOCURRENCY" MEANS A DIGITAL CURRENCY WHICH ENCRYPTION TECH-  
19 NIQUES ARE USED TO REGULATE THE GENERATION OF UNITS AND CURRENCY AND  
20 VERIFY THE TRANSFER OF FUNDS, OPERATING INDEPENDENTLY FORM A CENTRAL  
21 BANK.

22 2. ANY PERSON, CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT CONDUCTS  
23 CRYPTOCURRENCY BUSINESS ACTIVITY SHALL BE AUDITED BY A PUBLIC OR PRIVATE  
24 THIRD PARTY DEPOSITORY SERVICE. SUCH THIRD-PARTY DEPOSITORY SERVICE  
25 SHALL:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (A) ENSURE THAT SUCH PERSON, CORPORATION, PARTNERSHIP OR OTHER ENTITY  
2 THAT CONDUCTS CRYPTOCURRENCY BUSINESS ACTIVITY HAS ESTABLISHED SECURITY  
3 PROTOCOLS TO SAFEGUARD THEM FROM THEFT;

4 (B) ENSURE THAT SUCH PERSON, CORPORATION, PARTNERSHIP OR OTHER ENTITY  
5 THAT CONDUCTS CRYPTOCURRENCY BUSINESS ACTIVITY HAS ESTABLISHED AND MAIN-  
6 TAINED A FUND INSURING A PORTION OF THEIR ACCOUNT HOLDER'S ASSETS BY THE  
7 SECURITIES INVESTOR PROTECTION CORPORATION, OR BY ANY OTHER INSURER  
8 APPROVED BY THE DEPARTMENT; AND

9 (C) REGULARLY EXAMINE HOLDINGS OF SUCH PERSON, CORPORATION, PARTNER-  
10 SHIP OR OTHER ENTITY THAT CONDUCTS CRYPTOCURRENCY BUSINESS ACTIVITY TO  
11 ENSURE PROPER OWNERSHIP OF ASSETS.

12 3. THE DEPARTMENT SHALL ISSUE A DIGITAL NEW YORK STATE SEAL OF  
13 APPROVAL TO ALL PERSON, CORPORATION, PARTNERSHIP OR OTHER ENTITIES THAT  
14 CONDUCT CRYPTOCURRENCY BUSINESS ACTIVITY THAT ARE IN FULL COMPLIANCE  
15 WITH SUBDIVISION TWO OF THIS SECTION.

16 4. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION, NO PERSON,  
17 CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT CONDUCTS CRYPTOCURRENCY  
18 BUSINESS ACTIVITY SHALL BE REQUIRED TO PAY A LICENSING FEE IN ORDER TO  
19 CONDUCT SUCH CRYPTOCURRENCY BUSINESS ACTIVITY.

20 5. THE SUPERINTENDENT SHALL PROMULGATE SUCH RULES AND REGULATIONS AS  
21 MAY BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

22 S 2. This act shall take effect on the one hundred eightieth day after  
23 it shall have become a law.