

By: Parker

H.B. No. 4474

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the control of virtual currency and the rights of
3 purchasers who obtain control of virtual currency for purposes of
4 the Uniform Commercial Code.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 9.102, Business & Commerce Code, is
7 amended by adding Subsection (29-a) to read as follows:

8 (29-a) "Virtual currency" means a digital representation of
9 value that functions as a medium of exchange, unit of account,
10 and/or store of value and is often secured using blockchain
11 technology.

12 SECTION 2. Subchapter A, Chapter 9, Business & Commerce
13 Code, is amended by adding Sections 9.1071 and 9.1072 to read as
14 follows:

15 Section 9.1071. CONTROL OF VIRTUAL CURRENCY. (a) A
16 purchaser has control of a virtual currency if:

17 (1) the virtual currency or the system in which the
18 virtual currency is recorded, if applicable, gives the purchaser:

19 (A) the power to derive substantially all of the
20 benefit from the virtual currency; and

21 (B) subject to Subsection (c), the exclusive
22 power to:

23 (i) prevent others from deriving
24 substantially all of the benefit from the virtual currency; and

1 (ii) transfer control of the virtual
2 currency to another person or cause another person to obtain
3 control of a virtual currency that derives from the virtual
4 currency; and

5 (2) the virtual currency or a record attached to or
6 logically associated with the virtual currency enables the
7 purchaser to readily identify the purchaser as the person having
8 the powers specified under Subdivision (1); or

9 (3) another person has control of the virtual currency
10 on behalf of the purchaser or, having previously acquired control
11 of the virtual currency, acknowledges that the person has control
12 on behalf of the purchaser.

13 (b) For the purposes of Subsection (a)(1), a purchaser may be
14 identified in anyway, including by name, identifying number,
15 cryptographic key, office, or account number.

16 (c) A power described by Subsection (a)(1) or (2) may be
17 considered exclusive regardless of whether:

18 (1) the virtual currency or the system in which the
19 virtual currency is recorded, if applicable, limits the use to
20 which the virtual currency may be put or has protocols that are
21 programmed to result in a transfer of control; and

22 (2) the purchaser has agreed to share the power with
23 another person.

24 Section 9.1072. RIGHTS OF PURCHASER THAT OBTAINS CONTROL OF
25 VIRTUAL CURRENCY. (a) In this section, "adverse claim" means a
26 claimant that has a property interest in a virtual currency or a
27 right to payment evidenced by the virtual currency.

1 (b) It is a violation of the rights of the claimant for
2 another person to hold, transfer, or otherwise deal with the
3 virtual currency or the right to payment.

4 (c) Except as provided by Subsection (e), a purchaser that
5 acquires an interest in and obtains control of a virtual currency
6 without notice of any adverse claim takes the purchaser's interest
7 in the virtual currency and in any right to payment evidenced by the
8 virtual currency free of any adverse claim.

9 (d) Except as provided by Subsection (e), an action based on
10 an adverse claim to a virtual currency or a right to payment
11 evidenced by a virtual currency, whether framed in conversion,
12 replevin, constructive trust, equitable lien, or other theory, may
13 not be asserted against a purchaser that:

14 (1) acquires, for value and without notice of the
15 adverse claim, a virtual currency or an interest in a virtual
16 currency; and

17 (2) obtains control of the virtual currency or
18 interest.

19 (e) A purchaser has notice of an adverse claim if the
20 purchaser:

21 (1) knows of the adverse claim; or

22 (2) is aware of facts sufficient to indicate that
23 there is a significant probability that the adverse claim exists
24 and deliberately avoids information that would establish the
25 existence of the adverse claim.

26 (f) Subsections (c) and (d) do not apply if more than one
27 virtual currency evidences the same right to payment.

1 SECTION 3. This Act takes effect September 1, 2021.