

[MODEL LEGISLATION ADDRESSING PROGRAMMABLE MONEY]

ARTICLE 1. The state's implementation of § 1-201(b)(24) of the Uniform Commercial Code (UCC), is amended by adding the sentence "The term does not include programmable money." at the end of the subsection.

ARTICLE 2. The state's implementation of § 1-201(b) of the Uniform Commercial Code (UCC), is amended by adding the following as a new subdivision:

(44)

(a) "Programmable money" means a medium of exchange, including a digital asset or token, regardless of whether the issuer is a governmental or non-governmental, public or private, entity which

(i) Can be encoded with specific rules and conditions that allow the medium of exchange to be automatically controlled and used according to predefined parameters;

(ii) Has capabilities allowing for the denial or approval of specific transactions;

(iii) Allows for user-specific restrictions on usability, or on location, nature, time or identity of the transaction or parties to the transaction;

(iv) Expires or diminishes, other than being subject to ordinary inflation; or

(v) Can be used to implement a social credit score system.

(b) "Programmable money" does not include an electronic payment system which merely transfers non-programmable legal tender.

ARTICLE 3. The state's implementation of § 9-102(a)(29) of the Uniform Commercial Code (UCC), is amended by deleting the period at the end of the last sentence and substituting: " or programmable money."

ARTICLE 4. The state's code is amended by adding the following part in the appropriate location:

**§ 1. Coercion unlawful**

(1) For purposes of this section, "requiring to use" means offering or accepting payments only in programmable money without accepting or offering a non-digital alternative free of charge.

(2) It is unlawful to require any person to use programmable money for any transaction.

(3) A violation of subsection (b) is a misdemeanor, punishable with a fine of \$10,000 per violation, imprisonment, or both.

## **§ 2. Abuse of programmability unlawful**

(1) For purposes of this section, "person" means a party to an intended, attempted, or executed transaction.

(2) It is unlawful for an issuer of programmable money to deny a transaction on the basis of

(a) The person's political opinions, speech, or affiliations;

(b) The person's religious beliefs, religious exercise, or religious affiliations;

(c) The person's gender, skin-color, ethnicity, or sexual orientation;

(d) The person's medical history, including, but not limited to vaccination status or participation or non-participation in any treatments, procedures, or diagnoses;

(e) The person's location, purchase, or browsing history;

(f) The person's place of residence or current location;

(g) Any factor related to the person's business sector; or

(h) The use of a rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including:

(i) The person's political opinions, speech, or affiliations;

(ii) The person's religious beliefs, religious exercise, or religious affiliations;

(iii) The person's gender, skin-color, ethnicity, or sexual orientation;

(iv) The person's medical history, including, but not limited to vaccination status or participation or non-participation in any treatments, procedures, or diagnoses;

(v) The person's location history, purchase history, or browsing history;

(vi) The person's place of residence or current location;

(vii) The person's lawful ownership of a firearm;

(viii) The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms, firearms accessories, or ammunition;

(ix) The person's engagement in the exploration, production, utilization, transportation, sale, or

manufacture of fossil fuel-based energy, timber, mining, or agriculture;

(x) The person's support of the state or federal government in combating illegal immigration, drug trafficking, or human trafficking;

(xi) The person's engagement with, facilitation of, employment by, support of, business or other relationship with, representation of, or advocacy for any person described in this subsection (b);

(xii) The person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

(A) Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;

(B) Social governance standards, benchmarks, or requirements, including environmental or social justice; or

(C) Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.);

(xiii) Policies or procedures requiring or encouraging employee participation in social justice programming, including diversity, equity, or inclusion training; or

(xiv) Any other lawful acts or behavior.

(3) It is unlawful for an issuer of programmable money to cause or allow for the denial or failure of transactions based on the criteria listed in subsection (b), whether through direct action, automation, or programming. For purposes of this subsection (c), "allowing for the denial or failure" includes any act or omission by the issuer relating to the programmable money issued by the issuer, including automatic actions caused by computer code, algorithms or artificial intelligence used by, on behalf of, or in support of, the issuer, the issuer's product and the issuer's affiliates.

(4) If an issuer of programmable money denies a transaction, either party to the denied transaction may request a statement of specific reasons for the denial within ninety (90) days of the denial. The affected party may request the statement from a customer service representative or designated account representative by phone, mail, or electronic mail. Unless otherwise prohibited by federal law, the issuer shall transmit the statement of specific reasons by mail and electronic mail, if known to the issuer, within thirty (30) days

of receiving the affected party's request. The statement of specific reasons must include:

(a) A detailed explanation of the basis for the denial, restriction, or termination of service, including a description of any of the speech, religious exercise, business activity with a particular industry, or other conduct that was, in whole or in part, the basis of the programmable money issuer's denial, restriction, or termination of service;

(b) A copy of the terms of service agreed to by the person and the issuer;

(c) A citation to the specific provisions of the terms of service upon which the issuer relied to refuse to provide, restrict, or terminate service; and

(d) A Phone number, email address, and physical address, where the requesting party can receive further information, if needed.

(5) A violation of subsection (b) or (c) is a misdemeanor, punishable with a fine of \$10,000 per violation, imprisonment, or both. For purposes of this subsection (e), each denial or failed transaction not justified by subsection (f) constitutes a separate offense.

(6) This section does not prohibit an issuer of programmable money from declining a transaction that constitutes a criminal offense or payment for a criminal act.

### **§ 3. Remedies**

(1) A party aggrieved by a violation of §§ 1 or 2 may bring suit for statutory and declaratory relief, as well as actual and punitive damages against the violating party.

(2) A prevailing plaintiff is entitled to reasonable attorney's fees.

(3) Punitive damages shall amount to the higher of either three times the actual damages or three times the amount of the awarded attorney's fees.

(4) If the court finds that the defendant intentionally, knowingly, or repeatedly violated § 1 or § 2, the court may order the defendant's authorization to conduct business in this state to be revoked.

(5) A suit can be brought in chancery court in the plaintiff's county of residence, the county where the violation occurred, or the county where the defendant is domiciled.

### **§ 4. Asset sale or purchase not prohibited.**

Section 1 does not prohibit the purchase or sale of cryptocurrency or any other asset, by any public or private party.

ARTICLE 5. If any provision or clause of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act.

ARTICLE 6. This bill takes effect upon becoming a law, the public welfare requiring it.