

Consumer Payment Rights and Transparency Act

Solari Model Legislation

Version 2

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 as defined in [*insert location of Article 3(1)(2)*]." at the end of the subsection.

ARTICLE 2. The state's implementation of § 9-102(a)(29) of the UCC is amended by deleting the period at the end of the last sentence and substituting: "or programmable money as defined in [*insert location of Article 3(1)(2)*]."

ARTICLE 3. The state's code is amended by adding the following part in the appropriate location of the commercial code:

SECTION 1. DEFINITIONS. As used in this part,

(1) "Issuer" means any person or entity that creates, controls, or distributes programmable money.

(2) (a) "Programmable money" means a digital medium of exchange, including a digital asset or token, regardless of whether the issuer is a governmental or non-governmental entity or a public or private entity, which can be encoded with specific rules and conditions that allow it to be automatically controlled and/or used according to predefined parameters, including the capability to:

(i) Deny or approve a specific transaction;

(ii) Allow for user-specific restrictions, including on the location, nature, time or identity of a transaction, or on a specific party or parties to a transaction;

(iii) Expire or diminish in value, other than subject to ordinary inflation;  
or

(iv) Be used to implement a social credit score system.

(b) "Programmable money" does not include the following:

(i) an electronic payment system which merely transfers non-programmable money;

- (ii) Tokens used for in-game purposes or in-game currency; or
- (iii) Gift cards or payment applications that transfer non-programmable money, even if in digital form.

(3) “Social credit score system” for purposes of this part means a system to monitor the behavior of persons in order to restrict access to financial services using a rating or score based on lawful activities or factors, including but not limited to:

- (a) The factors described in [Section 2(2)(a)(i)-(ix) of this part];
- (b) The lawful manufacture, distribution, sale, purchase, ownership, or use of firearms, including firearm accessories and ammunition;
- (c) Fossil fuel, timber, mining, or agricultural-related activities;
- (d) Lawful advocacy of the state or federal government, including in combatting illegal immigration, drug trafficking, or human trafficking;
- (e) Refusal or failure to participate in or to meet social governance standards, environmental standards, or employment composition standards including those based on characteristics protected under Title VI of the Civil Rights Act of 1964 (42 USC §2000d, et seq.), provided the person is in compliance with applicable state and federal law;
- (f) Participation in or refusal to participate in social justice programs, such as diversity, equity, and inclusion;
- (g) Support or advocacy of, employment by or of, engagement with, or any other lawful association with persons engaging in lawful activities or associated with factors enumerated in this part; and
- (h) Any other lawful acts or behavior.

## SECTION 2. PROGRAMMABLE MONEY – UNLAWFUL ACTS AND PRACTICES

(1) It is unlawful to require the use of programmable money for any transaction without offering a non-programmable money alternative free of charge;

(2) It is unlawful for an issuer to:

- (a) Deny a transaction, allow a transaction to fail, or restrict or terminate service based on any of the following factors:
  - (i) Sex, race, skin-color, ethnicity, or sexual orientation;

- (ii) Political opinion, affiliation, or speech;
- (iii) Religious beliefs, religious exercise, or religious affiliation;
- (iv) Any other lawful opinions, affiliations, or speech;
- (v) Medical history, including diagnosis, vaccination status, or participation/non-participation in any treatment or procedure;
- (vi) Purchase and/or browsing history;
- (vii) Geographical location, place of residence, or location history;
- (viii) Trade, profession, or business activity, including within a particular industry;
- (ix) Any lawful activity; or
- (x) A rating, scoring, analysis, tabulation, or action related to a social credit score system or similar evaluation; or

(b) Cause or allow for, through an act or omission, the denial or failure of a transaction based on criteria listed in paragraph (a) of this subsection, through direct action, automation, or programming, including through 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

(3) If an issuer denies or allows a transaction to fail, or restricts or terminates service, the affected party may request a statement of specific reason(s) within ninety (90) days of the denial through customer service or an account representative by phone, mail, or electronic mail.

(4) If a statement of specific reason(s) is requested pursuant to subsection (2) of this section, the issuer shall respond with a written statement, by mail or electronic mail, of specific reason(s) within thirty (30) days of receiving the request. Such statement shall include:

- (a) A detailed explanation of the basis for the denial, failure, restriction, or termination, including a description of any of the speech, religious exercise, business activity, including within a particular industry, or other conduct that led to, or influenced, in whole or in part, the denial, failure, restriction, or termination;

(b) A copy of the terms of service agreed to by the person and the requesting party, together with a citation to the specific terms of service upon which the issuer relied for the denial, failure, restriction or termination; and

(c) A phone number, email address, and physical address where the requesting party can further inquire.

(5) Nothing in this section shall be construed to prohibit an issuer the ability to deny a transaction that constitutes a criminal offense or payment for a criminal act.

### SECTION 3. REMEDIES

(1) A party aggrieved pursuant to a violation of this part may bring a civil suit for declaratory or injunctive relief and may recover actual and punitive damages against the violating party.

(2) In an action pursuant to this part, the prevailing plaintiff, upon each separate cause of action, shall recover 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 acted intentionally or knowingly, or repeatedly violated the provisions of this part, the court may order revocation of the defendant's authorization to conduct business in this state.

(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.

### SECTION 4. CRIMINAL PENALTIES.

(1) An person who violates the provisions of this part is guilty of a misdemeanor and, upon conviction, may be sentenced to pay a fine of ten thousand dollars (\$10,000) per violation, to imprisonment not exceeding one (1) year, or both such fine and imprisonment.

(2) Each denial or failed transaction not justified constitutes a separate offense.

### SECTION 5. ASSET SALE OR PURCHASE NOT PROHIBITED.

Nothing in this part shall be construed to prohibit the purchase or sale of cryptocurrency or any other asset by any public or private party.

#### SECTION 6. SEVERABILITY.

The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid, such declaration shall not affect the validity of the remaining portions of this act.

#### SECTION 7. ENABLEMENT

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