



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB1887

Introduced 2/9/2023, by Sen. Robert Peters

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Digital Property Protection and Law Enforcement Act. Provides that upon a valid request from the Attorney General or a State's Attorney, made pursuant to the substantive or procedural laws of the State, a court may order any appropriate blockchain transaction for digital property or for the execution of a smart contract. Provides that a blockchain network that processes a blockchain transaction originating in the State at any time after the effective date of the Act shall process a court-ordered blockchain transaction without the need for the private key associated with the digital property or smart contract. Provides that upon a petition by the Attorney General or a State's Attorney, the court shall assess a civil penalty of between \$5,000 and \$10,000 for each day that the blockchain network fails to comply with the order. Sets forth provisions concerning protection of digital property and contract rights, security interests, and service of process. Defines terms. Effective 30 days after becoming law.

LRB103 28369 BMS 54749 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Digital Property Protection and Law Enforcement Act.

6 Section 5. Legislative findings; intent. The General  
7 Assembly finds all of the following:

8 (a) Private and corporate citizens in Illinois  
9 increasingly own cryptocurrencies, nonfungible tokens, and  
10 other forms of digital property stored on blockchains.

11 (b) Digital property owners are particularly susceptible  
12 to injury due to frauds, hacks, phishing scams, and ransomware  
13 extortion as well as from the loss of cryptographic private  
14 keys and mistaken transactions. Hacks involving digital  
15 property have become routine and often result in hundreds of  
16 millions of dollars in losses while frauds and the loss of  
17 private keys have caused billions of dollars of injury to  
18 digital property owners.

19 (c) Illinois citizens have suffered and continue to suffer  
20 unnecessary losses due to these causes. Moreover, these losses  
21 are often visited on those least able to bear them. Younger  
22 persons and persons from disadvantaged communities are more  
23 likely than others to own digital property and more likely to

1 choose digital property over stocks or mutual funds to invest  
2 their savings. As a result, disadvantaged communities bear the  
3 brunt of losses due to digital property crimes, loss of  
4 private keys, and fluctuations in prices of digital assets.

5 (d) Illinois citizens have asserted legal rights regarding  
6 digital property but many blockchain networks lack procedures  
7 to enforce court orders regarding digital property or have  
8 adopted methods of operation that inhibit such enforcement. As  
9 a result, the cost to enforce legal rights in digital property  
10 is often prohibitive such that the property rights cannot be  
11 vindicated and the vast majority of blockchain crimes go  
12 unpunished.

13 (e) The difficulty of enforcing the law reduces the value  
14 of digital property, imposes burdensome costs to protect  
15 against risk, and inhibits the adoption of technology that  
16 could benefit the private and corporate citizens of the State.

17 (f) Fostering development of technologies to protect  
18 blockchain transactions and legal interests in digital  
19 property presents an economic opportunity for Illinois  
20 businesses.

21 (g) The public welfare, security, and safety will be  
22 served by regulating blockchain transactions and digital  
23 property in the State.

24 Section 10. Definitions. As used in this Act:

25 "Blockchain", "cryptographic hash", "electronic",

1 "electronic record", "record", and "smart contract" shall have  
2 the meanings ascribed to them in Section 5 of the Blockchain  
3 Technology Act.

4 "Blockchain network" means a network of 2 or more nodes  
5 that maintain or append a blockchain.

6 "Blockchain operator" means a person or entity operating a  
7 full or partial node, including, without limitation, operating  
8 a blockchain mining node, mining pool, validator, validator  
9 pool, staking pool, and staking a validator.

10 "Blockchain transaction" means the processing and storage  
11 of a record on a blockchain.

12 "Digital property" refers to any form of property recorded  
13 on a blockchain, including, without limitation,  
14 cryptocurrency, digital tokens, nonfungible tokens, and  
15 tokenized real-world assets.

16 "Private key" means a cryptographic key used to sign a  
17 blockchain transaction.

18 "Smart contract code" refers to computer code written to a  
19 blockchain and used to execute a smart contract agreement in  
20 whole or in part.

21 "Secured party" shall have the meaning ascribed to it in  
22 subsection (a) of Section 9-102 of the Uniform Commercial  
23 Code.

24 "Staking" means providing digital assets to a validator to  
25 enable that validator to participate in operating a  
26 proof-of-stake blockchain network.

1 Section 15. Enforcement of warrants and court orders;  
2 penalties.

3 (a) Upon a valid request from the Attorney General or a  
4 State's Attorney made pursuant to the substantive or  
5 procedural laws of this State, a court may order any  
6 appropriate blockchain transaction for digital property or for  
7 the execution of a smart contract.

8 (b) A blockchain network that processes a blockchain  
9 transaction originating in this State at any time after the  
10 effective date of this Act shall process a court-ordered  
11 blockchain transaction without the need for the private key  
12 associated with the digital property or smart contract.

13 (c) (1) Each blockchain operator that has mined, validated,  
14 or otherwise participated in processing a blockchain  
15 transaction on the blockchain network which originated in this  
16 State at any time after the effective date of this Act is  
17 liable to this State for a violation of subsection (b).

18 (2) Upon a petition by the Attorney General or a  
19 State's Attorney, the court shall assess a civil penalty  
20 of between \$5,000 and \$10,000, as adjusted by the Federal  
21 Civil Penalties Inflation Adjustment Act of 1990, 28  
22 U.S.C. 2461 note, Public Law 104-410, for each day that  
23 the blockchain network fails to comply with the order.

24 (d) The fact that a blockchain network has not adopted  
25 reasonable available procedures to comply with subsection (b)

1 shall not be a defense to an action under subsection (c).

2 Section 20. Protection of digital property and contract  
3 rights.

4 (a) Any person using a smart contract to deliver goods or  
5 services in this State shall include smart contract code  
6 capable of enforcing court orders regarding the smart  
7 contract. Any person who violates this subsection (a) shall be  
8 liable to return all digital property or other consideration  
9 given by the plaintiff, without regard to any benefits that  
10 may have been received by the plaintiff, and liable for the  
11 costs of the action and reasonable attorney's fees as  
12 determined by a court.

13 (b) (1) A court may order a blockchain transaction as a  
14 remedy if a party to a smart contract or an owner of digital  
15 property loses the private key associated with the smart  
16 contract or digital property or if the owner of the private key  
17 is deceased and the private key is unknown to the executor or  
18 administrator of the estate. A court may also order that a  
19 blockchain transaction originating in this State be refunded  
20 to the sender if there is a legal right to a refund, such as in  
21 cases of fraud or mistake.

22 (2) A blockchain network that processes a blockchain  
23 transaction originating in this State at any time after  
24 the effective date of this Act shall process the  
25 court-ordered blockchain transactions without the need for

1 the private key associated with the digital property or  
2 smart contract.

3 (3) Each blockchain operator that has mined or  
4 validated a blockchain transaction on the blockchain  
5 network which originated in this State at any time after  
6 the effective date of this Act is liable to the plaintiff  
7 for damages suffered due to a violation of paragraph (2)  
8 of this subsection together with the plaintiff's costs of  
9 the action and reasonable attorney's fees, as determined  
10 by a court.

11 (4) The fact that a blockchain network has not adopted  
12 reasonable available procedures to comply with paragraph  
13 (2) of this subsection shall not be a defense to an action  
14 under paragraph (3) of this subsection.

15 Section 25. Security interests.

16 (a) Upon a valid request made pursuant to the substantive  
17 or procedural laws of this State from a secured party claiming  
18 an interest in digital property or right in a smart contract of  
19 another, a court may order any transaction deemed appropriate.

20 (b) A blockchain network that processes a transaction  
21 originating in this State at any time after the effective date  
22 of this Act shall enforce a court order without need for the  
23 private key associated with the digital property or smart  
24 contract.

25 (c) (1) Each blockchain operator that has mined, validated,

1 or otherwise participated in processing a blockchain  
2 transaction on the blockchain network originating in this  
3 State at any time after the effective date of this Act is  
4 liable to the secured party for any damages suffered due to a  
5 violation of subsection (b) together with the plaintiff's  
6 costs of the action and reasonable attorney's fees, as  
7 determined by a court.

8 (2) The fact that a blockchain network has not adopted  
9 reasonable available procedures to comply with subsection  
10 (b) shall not be a defense to an action under this  
11 subsection (c).

12 Section 30. Service of process. A blockchain network may  
13 be served by leaving a copy of the pleading, paper, filing, or  
14 order with a blockchain operator who has participated in the  
15 blockchain network at any time after the effective date of  
16 this Act in any manner provided for service on individuals.

17 Section 99. Effective date. This Act takes effect 30 days  
18 after becoming law.