

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 2 of Chapter 8 of Title 6.2 a section*
3 *numbered 6.2-818.1, relating to banks; virtual currency custody services.*

4 [H 263]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding in Article 2 of Chapter 8 of Title 6.2 a section**
8 **numbered 6.2-818.1 as follows:**9 **§ 6.2-818.1. Virtual currency custody services by banks.**10 *A. As used in this section, unless the context requires a different meaning:*11 *"Bank" has the same meaning as provided in § 6.2-800.*12 *"Custody services" means the role of a bank in the safekeeping and custody of various customer*
13 *assets.*14 *"Self-assessment" has the same meaning as provided in § 6.2-947.*15 *"Virtual currency" means an electronic representation of value intended to be used as a medium of*
16 *exchange, unit of account, or store of value. "Virtual currency" does not exist in a physical form; it is*
17 *intangible and exists only on the blockchain or distributed ledger associated with a particular virtual*
18 *currency. The owner of virtual currency holds cryptographic keys associated with the specific unit of*
19 *virtual currency in a digital wallet, which allows the rightful owner of the virtual currency to access*
20 *and utilize it.*21 *B. A bank may provide its customers with virtual currency custody services so long as the bank has*
22 *adequate protocols in place to effectively manage risks and comply with applicable laws. Prior to a*
23 *bank offering virtual currency custody services, the bank shall carefully examine the risks involved in*
24 *offering such services through a methodical self-assessment process. If the bank decides to move*
25 *forward with offering such services, the bank shall:*26 *1. Implement effective risk management systems and controls to measure, monitor, and control*
27 *relevant risks associated with custody of digital assets such as virtual currency;*28 *2. Confirm that it has adequate insurance coverage for such services; and*29 *3. Maintain a service provider oversight program, to the extent that the bank engages with a service*
30 *provider to provide virtual currency custody services, to address risks to service provider relationships*
31 *as a result of engaging in virtual currency custody services.*32 *C. A bank may provide virtual currency custody services in either a nonfiduciary or fiduciary*
33 *capacity.*34 *In providing such services in a nonfiduciary capacity, the bank shall act as a bailee, taking*
35 *possession of the customer's asset for safekeeping while legal title remains with the customer, meaning*
36 *that the customer retains direct control over the keys associated with their virtual currency.*37 *In providing such services in a fiduciary capacity, a bank is required to possess trust powers as*
38 *described in § 6.2-819 and have a trust department pursuant to § 6.2-821. Acting in a fiduciary*
39 *capacity, the bank shall require customers to transfer their virtual currencies to the control of the bank*
40 *by creating new private keys to be held by the bank. In its fiduciary capacity, a bank shall have*
41 *authority to manage virtual currency assets as it would any other type of asset held in such capacity.*