

2019 State Legal and Administrative Actions re. Cryptocurrencies and Blockchain

Executive Summary

There have been quite some state legislative and government actions related to cryptocurrencies and blockchain in 2019, a total of 34 states including Oklahoma have passed bills to promote and regulate the use of cryptocurrencies and blockchain technology. However, the majority of the states (25) were more concerned about cryptocurrency while 14 states were promoting the use of blockchain. Oklahoma along with Arkansas, Nevada, New York, North Dakota, and Washington has adopted SB 700 on April 25, 2019 to recognize records, contracts, and signatures secured through blockchain technology to be a valid, electronic form. South Carolina, West Virginia and Wyoming have passed the legislations to establish state sanctioned fintech sandboxes.

<u>State</u>	<u>Legal or Administrative Action in Cryptocurrencies</u>	<u>Legal or Administrative Action in Blockchain Technology</u>
Arizona	Arizona introduced HB 2702 in February 2019, which, if enacted, would define “marketplace facilitator” to include providing virtual currencies.	
Arkansas		Currently awaiting the Governor of Arkansas’ signature, Act 1061 (previously HB 1944) contains general blockchain definitions and recognizes signatures and records obtained via blockchain as valid electronic forms. Act 1061 also permits the use of smart contracts in the state.
California	AB 1489 would, if enacted, prohibit persons from engaging in business activities related to virtual currency unless they are registered with the Department of Business Oversight.	California introduced both SB 373 and AB 1489 in February 2019. SB 373 would, if enacted, allow county recorders to issue marriage certificates via blockchain.

Colorado In March 2019, Colorado adopted the Colorado Digital Token Act which provides limited exemptions from state securities law for qualifying cryptocurrencies.

Connecticut On March 7, 2019, Connecticut legislators introduced SB 1032, SB 1033, and HB 7310. SB 1032, if enacted, would require the Connecticut Secretary of Policy and Management to develop a plan to incorporate blockchain technology in the administration of state functions by fall 2020. SB 1033, if enacted, would prohibit employee contracts for those working in the blockchain industry from containing non-compete clauses. HB 7310, if enacted, would authorize the use of smart contracts within Connecticut.

Delaware On July 23, 2018, Delaware adopted SB 183 and SB 194 relating to the use of blockchain regarding trusts and LLCs, respectively.

Georgia On March 9, 2019, Georgia introduced amendments to the Georgia Sports Betting Act, that would subject bets made with cryptocurrencies to regulations.

Hawaii SB 1364, if enacted, would extend Hawaiian money transmitter laws to include any person engaged in “the transmission of virtual currency.”

Idaho HB 239, if enacted, would extend the definition of “marketplace facilitator” to any persons providing virtual currency.

Illinois Enrolled in June 2019, The Blockchain Business Development Act allows for the creation and regulation of blockchain-based LLCs. Enrolled in May 2019, the Blockchain Technology Act establishes permitted uses/limitations on the use of blockchain and prohibits local governments from imposing certain restrictions on the use of blockchain.

Indiana HF 240, if enacted, would provide certain exemptions for virtual currency from securities and money transmitter laws.

Kansas HB 2352, if enacted, would extend the definition of “marketplace facilitator” to any person providing virtual currency.

Maryland SB 783, if enacted, would require money transmitters and licensees to maintain certain amounts of virtual currency under certain circumstances. Adopted on May 25, 2019, HB 1301 amends existing tax law to exclude those providing virtual currency from the definition of “marketplace facilitator”.

Massachusetts SB 1762, if enacted, would extend the definition of “marketplace facilitator” to include those who provide virtual currencies.

Michigan

Currently awaiting senate approval, HB 4106 would, if enacted, amend the Michigan Penal Code, criminalizing the alteration/forgery/counterfeiting of records via blockchain technology.

Missouri HB 1159, if enacted, would establish regulations for financial institutions providing services for digital assets.

Montana

Adopted May 8, 2019, HB 584 amends Montana securities law to allow certain cryptocurrency transactions. HB 630, if enacted, would exempt virtual currencies from property taxes.

Nevada

SB 164 recognizes certain virtual currencies as a form of intangible property for tax purposes.

Nevada adopted SB 162, SB 163 and SB 164 on June 7, 2019. SB 162 recognizes blockchain as an “electronic record” for purposes of the Uniform Electronic Transaction Act. Moreover, SB 162 also states that a person who uses a public blockchain does not automatically relinquish ownership of any information stored in the blockchain. SB 163 authorizes certain businesses to store certain records on a blockchain.

New Jersey

AB 5240, if enacted, would require the state to approve a viable blockchain-based payment platform to “provide a safe

and secure system” for New Jersey businesses without access to traditional financial services.

New Mexico HB 649, if enacted, would require “cryptovalued creators or distributors” to obtain a license from the state to engage in such business.

New York

AB 1683, if enacted, would amend state technology laws to define “blockchain technology” and “smart contract”. AB 1683 would also acknowledge signatures, records, and contracts secured via blockchain as valid electronic forms. Introduced shortly after AB 1683, SB 4142, if enacted, would accomplish the same goals as AB 1683.

North Dakota HB 1043, if enacted, would exempt open blockchain tokens from certain portions of state securities law.

Adopted on April 24, 2019, HB 1045 recognizes signatures, contracts and records secured through blockchain technology to be valid, electronic forms.

Ohio

HB 220, if enacted, would allow Ohio government entities to utilize blockchain technology.

Oklahoma SB 809, if enacted, would extend the definition of “political contribution” as it relates to campaign finance laws to include donations of virtual currency. SB 843, if enacted,

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would clarify when an open blockchain token would be subject to securities exemptions.

Oregon	Adopted on May 3, 2019, HB 2488 prohibits the state government from accepting payments made using virtual currency.
Rhode Island	SB 753, if enacted, would amend current money transmitter laws to include cryptocurrencies and would require businesses engaging in the transmission of virtual currency to obtain a license from the state. Introduced on February 28, 2019, HB 5776 is a comprehensive proposal for the regulation of virtual currency that would, if enacted, exempt virtual currency from state securities law.
South Carolina	SB 738, if enacted, would exempt blockchain tokens from securities and money transmission laws. SB 738 would also establish a state sanctioned fintech sandbox.
South Dakota	Adopted on March 7, 2019, HB 1196 defines “blockchain technology” for purposes of state law regulating electronic transactions and contracts.
Utah	Adopted on March 26, 2019, SB 213 exempts blockchain tokens from state money transmitter laws.

Vermont	HB 117, if enacted, would extend the definition of “marketplace facilitator” to include those who provide virtual currency.	
Virginia		HB 2415, if enacted, would create a rebuttable presumption that a business record registered on a blockchain is self-authenticating for certain facts.
Washington		Adopted on April 26, 2019, SB 5638 states that an electronic record may not be denied legal effect because it was generated, communicated, received, or stored using blockchain technology.
West Virginia	SB 583, if enacted, would establish a state sanctioned fintech sandbox.	
Wyoming	Adopted on February 19, 2019, HB 57 creates a state sanctioned fintech sandbox. HB 62, HB 70, HB 74, HB 185, and DF 125 were all adopted on February 26, 2019. HB 62 establishes open blockchain tokens with certain characteristics are not subject to securities exemptions. HB 74 authorizes a state-chartered special purpose depository as a new form of financial institution. HB 185 authorizes corporations to issue certificate tokens via blockchain in lieu of stock certificates. SF 125 recognizes various categories of digital assets (including virtual currency) and identifies the personal property rights for those owning such assets. SF 125	HB 70 authorizes the Secretary of State to develop and implement a blockchain filing system.

also allows banks to act as “qualified custodians” for digital assets.

Source: <https://www.jdsupra.com/legalnews/blockchain-cryptocurrency-state-law-59816/>