House Bill 1043

By: Representatives Hilton of the 48th, Rhodes of the 124th, and Jackson of the 128th

A BILL TO BE ENTITLED

AN ACT

1   To amend Titles 7, 10, 36, 46, and 48 of the Official Code of Georgia Annotated, relating to
2   banking and finance, commerce and trade, local government, public utilities and public
3   transportation, and taxation and revenue, respectively, so as to provide protections relating
4   to the generation and use of virtual currency; to exclude virtual currency mining activities
5   from money transmission licensure requirements; to prohibit government entities from
6   impairing the use of virtual currency as a method of payment; to provide that certain virtual
7   currency mining activities are lawful; to provide liability protections for persons engaged in
8   such activities; to exclude such activities from the definition of a security; to prohibit local
9   governments from imposing certain restrictions on such activities; to prohibit discriminatory
10   electricity rates; to exclude from taxation net capital gains or losses derived from certain
11   transactions involving virtual currency; to exclude from taxation the sale or lease of certain
12   equipment to be used by virtual currency mining businesses; to provide for related matters;
13   to repeal conflicting laws; and for other purposes.

14   BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15   **SECTION 1.**
16   This Act shall be known and may be cited as the "Blockchain Basics Act."

17   **SECTION 2.**

18   Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is

19   amended in Code Section 7-1-682, relating to exemptions from money transmission licensing

20   requirements, by deleting "or" at the end of paragraph (16), by deleting the period and

21   substituting in lieu thereof a semicolon at the end of subparagraph (B) of paragraph (17), and

22   by adding new paragraphs to read as follows:

23   "(18) A person engaging in home virtual currency mining, as such term is defined in

24   Code Section 36-77-1;

25   (19)   A virtual currency mining business, as such term is defined in Code

26   Section 36-77-1; or

27   (20) A person operating a node or a series of nodes on a blockchain protocol. As used

28   in this paragraph, the terms 'node' and 'blockchain protocol' shall have the same meanings

29   as provided in Code Section 10-1-950."

30   **SECTION 3.**

31   Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is

32   amended in Chapter 1, relating to selling and other trade practices, by adding a new article

33   to read as follows:

34   "ARTICLE 37

35   10-1-950.

36   As used in this article, the term:

37   (1) 'Blockchain' means data that are shared across a network to create a ledger of verified

38   transactions or information among network participants linked using cryptography to

39   maintain the integrity of the ledger and to execute other functions and distributed among

40 network participants in an automated fashion to concurrently update network participants

41 on the state of the ledger and any other functions.

42 (2) 'Blockchain protocol' means any executable software deployed to a blockchain

43 composed of source code that is publicly available and accessible, including a smart

44 contract or any network of smart contracts.

45 (3) 'Government entity' means an office, agency, authority, department, commission,

46 board, body, division, instrumentality, or institution of this state or any county, municipal

47 corporation, or consolidated government within this state.

48 (4) 'Hardware wallet' means a physical device that is not continuously connected to the

49 internet and that allows an individual to secure and transfer virtual currency through

50 which the owner of the virtual currency retains independent control over the virtual

51 currency secured by such physical device.

52 (5) 'Node' means a computational device that contains and updates a copy of a

53 blockchain and that communicates with other devices or participants on a blockchain to

54 maintain the consensus and integrity of such blockchain or to create and validate

55 transaction blocks.

56 (6) 'Self-hosted wallet' means a digital interface used to secure and transfer virtual

57 currency through which the owner of the virtual currency retains independent control

58 over the virtual currency secured by such digital interface.

59 (7) 'Staking' means the act of committing virtual currency for a period of time to validate

60 and secure a specific blockchain protocol.

61 (8) 'Staking as a service' means the provision of technical staking services, including the

62 operation of nodes and associated infrastructure, necessary to facilitate participation in

63 blockchain protocols' consensus mechanisms.

64 (9) 'Virtual currency' shall have the same meaning as provided in Code Section 7-1-680.

65 (10) 'Virtual currency mining' means the use of electricity to power a computer for the

66 purpose of securing a blockchain protocol.

67   10-1-951.

68   (a) No government entity shall prohibit, restrict, or otherwise impair the ability of a person

69   to:

70   (1) Use virtual currency to purchase legal goods and services; or

71   (2) Self-custody virtual currency using a self-hosted wallet or a hardware wallet.

72   10-1-952.

73   (a) The use of virtual currency as a method of payment for legal goods and services shall

74   not be subject to any additional tax, withholding, assessment, fee, or charge by a

75   government entity that is based solely on the use of virtual currency as a method of

76   payment.

77   (b) Nothing in this Code section shall prohibit a government entity from imposing or

78   collecting a tax, withholding, assessment, fee, or charge in connection with a transaction

79   for which virtual currency is used as a method of payment if such tax, withholding,

80   assessment, fee, or charge would be imposed in connection with such transaction had legal

81   tender of the United States been used as the method of payment in such transaction.

82   10-1-953.

83   It shall be lawful for a person to operate a node for the purpose of:

84   (1) Connecting to a blockchain protocol or a protocol built on top of a blockchain

85   protocol;

86   (2) Transferring virtual currency on a blockchain protocol; or

87   (3) Participating in staking on a blockchain protocol.

88   10-1-954.

89   Notwithstanding any other provision of law, any person engaged in virtual currency

90   mining, operating a node or a series of nodes on a blockchain protocol, staking as a service,

91   or providing services to other persons in connection with virtual currency mining or staking

92   shall not be liable for civil damages or be subject to any claim, demand, or cause of action

93   in connection with a specific transaction for merely validating such transaction."

94   **SECTION 4.**

95   Said title is further amended in Code Section 10-5-2, relating to definitions relative to

96   Georgia uniform securities, by revising paragraph (31) as follows:

97   "(31) 'Security' means a note; stock; treasury stock; security future; bond; debenture;

98   evidence of indebtedness; certificate of interest or participation in a profit-sharing

99   agreement; collateral trust certificate; preorganization certificate or subscription;

100   transferable share; investment contract; voting trust certificate; certificate of deposit for

101   a security; fractional undivided interest in oil, gas, or other mineral rights; put, call,

102   straddle, option, or privilege on a security, certificate of deposit, or group or index of

103   securities, including an interest therein or based on the value thereof; put, call, straddle,

104   option, or privilege entered into on a national securities exchange relating to foreign

105   currency; or, in general, an interest or instrument commonly known as a 'security'; or a

106   certificate of interest or participation in, temporary or interim certificate for, receipt for,

107   guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. The

108   term:

109   (A) Includes both a certificated and an uncertificated security;

110   (B) Does not include an insurance or endowment policy or annuity contract under

111   which an insurance company promises to pay a fixed or variable sum of money either

112   in a lump sum or periodically for life or other specified period;

113   (C) Does not include an interest in a contributory or noncontributory pension or

114   welfare plan subject to the Employee Retirement Income Security Act of 1974, 29

115   U.S.C. Section 1001, et seq.;

116   (D) Includes as an investment contract an investment in a common enterprise with the

117   expectation of profits to be derived primarily from the efforts of a person other than the

118   investor where common enterprise means an enterprise in which the fortunes of the

119   investor are interwoven with those of either the person offering the investment, a third

120   party, or other investors; ~~and~~

121   (E) Includes as an investment contract, among other contracts, an interest in a limited

122   partnership or a limited liability company and an investment in a viatical settlement or

123   similar agreement; and

124   (F) Does not include virtual currency mining, staking, or staking as a service offered

125   to a business or individual. As used in this subparagraph, the term 'virtual currency'

126   shall have the same meaning as provided in Code Section 7-1-680 and the terms

127   'staking' and 'staking as a service' shall have the same meanings as provided in Code

128   Section 10-1-950."

129   **SECTION 5.**

130   Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended

131   by revising Chapter 77, which is designated as reserved, as follows:

132   "CHAPTER 77

133   36-77-1.

134   As used in this chapter, the term:

135   (1) 'Blockchain protocol' shall have the same meaning as provided in Code

136   Section 10-1-950.

137   (2) 'High-technology data center' shall have the same meaning as provided in

138   division (68.1)(G)(ii) of Code Section 48-8-3.

139   (3) 'Home virtual currency mining' means virtual currency mining in an area zoned for

140   residential use.

141   (4) 'Virtual currency' shall have the same meaning as provided in Code Section 7-1-680.

142   (5) 'Virtual currency mining' shall have the same meaning as provided in Code

143   Section 10-1-950.

144   (6) 'Virtual currency mining business' means a business that uses a group of computers

145   working at a single site that consume more than 1 megawatt of energy for the purpose of

146   generating virtual currency by securing a blockchain protocol.

147   (7) 'Zoning decision' shall have the same meaning as provided in Code Section 36-66-3.

148   36-77-2.

149   No ordinance, rule, or regulation shall be adopted or enforced by the governing authority

150   of any county, municipal corporation, or consolidated government that:

151   (1) Imposes a specific limitation on the noise or sound generated from home virtual

152   currency mining other than noise or sound limitations that apply generally to areas zoned

153   for residential use;

154   (2) Imposes a specific limitation on the noise or sound generated from a virtual currency

155   mining business other than noise or sound limitations that apply generally to areas zoned

156   for industrial use; or

157   (3) Regulates a virtual currency mining business in any manner that is not also applicable

158   to high-technology data centers within the jurisdiction of such county, municipal

159   corporation, or consolidated government.

160   36-77-3.

161   It shall be lawful for an individual to engage in home virtual currency mining so long as

162   such individual complies with all local noise ordinances while engaging in such home

163   virtual currency mining.

164   36-77-4.

165   (a) It shall be lawful for any person to have a virtual currency mining business in any area

166   that is zoned for industrial use.

167   (b)   The governing authority of any county, municipal corporation, or consolidated

168   government shall not make any zoning decision:

169   (1) That discriminates against virtual currency mining businesses; or

170   (2) Without complying with all applicable provisions of Chapter 66 of this title, the

171   'Zoning Procedures Law.'

172   (c) Any zoning decision made with respect to a virtual currency mining business shall be

173   appealable as set forth in Code Section 36-66-5.1 and such zoning decision, if found to

174   have been made in violation of this Code section, shall be invalid and void."

175   **SECTION 6.**

176   Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public

177   transportation, is amended in Code Section 46-2-23, relating to rate-making power of the

178   Public Service Commission and special provisions concerning telecommunications

179   companies, by adding a new subsection to read as follows:

180   "(h)(1) As used in this subsection, the term 'virtual currency mining business' shall have

181   the same meaning as provided in Code Section 36-77-1.

182   (2) In exercising its power to determine just and reasonable rates and charges pursuant

183   to subsection (a) of this Code section, the commission shall not establish a rate or charge

184   for electricity applicable to a virtual currency mining business that is substantially

185   different from a rate or charge for electricity applicable to other industrial businesses or

186   uses in the same geographic area."

187   **SECTION 7.**

188 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is

189 amended in subsection (a) of Code Section 48-7-27, relating to computation of taxable net

190 income, by deleting "and" at the end of paragraph (14), by deleting the period and

191 substituting in lieu thereof a semicolon at the end of paragraph (15), and by adding a new

192 paragraph to read as follows:

193   "(16) Any net capital gain or net capital loss derived from the sale or exchange of virtual

194   currency, as such term is defined in Code Section 7-1-680, unless the sale or exchange

195   is for:

196   (A) Cash or cash equivalents; or

197   (B) Any good or service that exceeds $200.00 in value; provided, however, that the

198   department shall, by rules and regulations, annually adjust such maximum value to

199   reflect the effect of annual inflation or deflation on the cost of living that consumers in

200   this state experienced in the prior calendar year. In making such adjustment, the

201   department may use the Consumer Price Index for All Urban Consumers as reported

202   by the Bureau of Labor Statistics of the United States Department of Labor."

203   **SECTION 8.**

204 Said title is further amended in Code Section 48-8-3, relating to exemptions relative to sales

205 and use taxes, by adding a new paragraph to read as follows:

206   "(68.2)(A) For the period commencing on July 1, 2024, and ending on December

207   31, 2031, the sale or lease of virtual currency mining equipment to be incorporated or

208   used in a facility located in this state that is owned and operated by a virtual currency

209   mining business.

210   (B) As used in this paragraph, the term:

211   (i) 'Virtual currency mining business' shall have the same meaning as provided in

212   Code Section 36-77-1.

213   (ii) 'Virtual currency mining equipment' means computer equipment as defined in

214   subparagraph (C) of paragraph (68) of this Code section and materials, components,

215   machinery, hardware, software, or equipment, including, but not limited to,

216   emergency backup generators, air handling units, cooling towers, energy storage or

217   energy efficiency technology, switches, power distribution units, switching gear,

218   peripheral computer devices, routers, batteries, wiring, cabling, or conduit, that are

219   used to:

220   (I) Create, manage, facilitate, or maintain the physical and digital environments for

221   computer equipment;

222   (II)   Protect computer equipment and virtual currency mining businesses from

223   physical, environmental, or digital threats; or

224   (III) Generate or provide constant delivery of power, environmental conditioning,

225   air cooling, or telecommunications services for a virtual currency mining business.

226   (C) This paragraph shall stand repealed by operation of law on January 1, 2032."

227   **SECTION 9.**

228   All laws and parts of laws in conflict with this Act are repealed.