

Union Calendar No. 403

118TH CONGRESS
2^D SESSION

H. R. 1747

[Report No. 118–486]

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2023

Mr. EMMER (for himself and Mr. SOTO) introduced the following bill; which was referred to the Committee on Financial Services

MAY 6, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 23, 2023]

A BILL

To provide a safe harbor from licensing and registration for certain non-controlling blockchain developers and providers of blockchain services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Blockchain Regulatory*
5 *Certainty Act”.*

6 **SEC. 2. SAFE HARBOR FOR NON-CONTROLLING**
7 **BLOCKCHAIN DEVELOPERS AND PROVIDERS**
8 **OF BLOCKCHAIN SERVICES.**

9 *(a) PROTECTION FOR NON-CONTROLLING BLOCKCHAIN*
10 *SERVICES AND SOFTWARE DEVELOPERS.—No blockchain*
11 *developer or provider of a blockchain service shall be treated*
12 *as a money transmitter (as defined under State licensing*
13 *laws), a financial institution (as defined under section 5312*
14 *of title 31, United States Code), or any other State or Fed-*
15 *eral legal designation requiring licensing or registration as*
16 *a condition to acting as a blockchain developer or provider*
17 *of a blockchain service, unless the developer or provider has,*
18 *in the regular course of business, control over digital assets*
19 *to which a user is entitled under the blockchain service or*
20 *the software created, maintained, or disseminated by the*
21 *blockchain developer.*

22 *(b) EFFECT ON OTHER LAWS.—*

23 *(1) INTELLECTUAL PROPERTY LAW.—Nothing in*
24 *this section shall be construed to limit or expand any*
25 *law pertaining to intellectual property.*

1 (2) *STATE LAW.*—*Nothing in this section shall be*
2 *construed to prevent any State from enforcing any*
3 *State law that is consistent with this section. No*
4 *cause of action may be brought and no liability may*
5 *be imposed under any State or local law that is in-*
6 *consistent with this section.*

7 (c) *DEFINITIONS.*—*As used in this section:*

8 (1) *BLOCKCHAIN DEVELOPER.*—*The term*
9 *“blockchain developer” means any person or business*
10 *that creates, maintains, or disseminates software fa-*
11 *cilitating the creation or maintenance of a blockchain*
12 *network or a blockchain service.*

13 (2) *BLOCKCHAIN NETWORK.*—*The term*
14 *“blockchain network” means any system of networked*
15 *computers that cooperates to reach consensus over the*
16 *state of a computer program and allows users to par-*
17 *ticipate in the consensus-making process without the*
18 *need to license proprietary software or obtain permis-*
19 *sion from any other user. The term “blockchain net-*
20 *work” includes, specifically, a public network of com-*
21 *puters that cooperates to reach consensus over the*
22 *state of a distributed ledger describing transactions in*
23 *a digital asset.*

24 (3) *BLOCKCHAIN SERVICE.*—*The term*
25 *“blockchain service” means any information, trans-*

1 *action, or computing service or system that provides*
2 *or enables access to a blockchain network by multiple*
3 *users, including specifically a service or system that*
4 *enables users to send, receive, exchange, or store dig-*
5 *ital assets described by blockchain networks.*

6 (4) *CONTROL.—The term “control” means the*
7 *legal right, authority, or ability to obtain upon de-*
8 *mand data sufficient to initiate transactions spend-*
9 *ing an amount of digital assets.*

10 (5) *DIGITAL ASSET.—The term “digital asset”*
11 *means any form of intangible personal property that*
12 *can be exclusively possessed and transferred person to*
13 *person without necessary reliance on an inter-*
14 *mediary.*

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