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INTRODUCTION

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SENATE FILE NO. [BILL NUMBER]

Smart contracts.

Sponsored by: SDraft Committee

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A BILL

for

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1 AN ACT relating to contracts; making legislative findings;

2 requiring smart contracts to contain a resolution plan as

3 specified; recognizing the applicability of the Uniform

4 Electronic Transactions Act to smart contracts and other

5 blockchain-based transactions; specifying applicability; and

6 providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10   **Section 1.**

11

12   (a) The legislature finds the following:

13

1   (i) Blockchain-based transactions, including

2 smart contracts, are an increasingly important form of

3 commerce;

4

5   (ii) Blockchain-based transactions, including

6 smart contracts, can perform contractual duties without human

7 direction;

8

9   (iii) Judicial resolution of smart contracts in

10 the event of technology failure, unforeseen or changed

11 circumstances or other contingencies can be inefficient,

12 complicated and costly because of the need to unwind a

13 potentially long string of automated transactions;

14

15   (iv) The existing standards of the Uniform

16 Electronic Transactions Act, W.S. 40-21-101 through 40-21-

17 119, are wide-ranging and likely already govern blockchain-

18 based transactions, including smart contracts;

19

20   (v) The provisions of this act provide legal

21 certainty for parties who transact business through smart

22 contracts, underscoring the enforceability of smart contracts

23 and ensuring that smart contracts above a certain monetary

1 threshold contain a resolution plan memorializing the intent

2 of the parties in the event of specified contingencies or

3 emergencies.

4

5   **Section 2.** W.S. 40-28-101 through 40-28-102 are created

6 to read:

7

8   CHAPTER 28

9   SMART CONTRACTS

10

11   **40-28-101. Definitions.**

12

13   (a) As used in this chapter:

14

15   (i) "Blockchain" means a digital ledger or

16 database which is chronological, consensus-based,

17 decentralized and mathematically verified in nature;

18

19   (ii) "Multi-signature requirement" means the use

20 of private keys to execute a transaction under a contract

21 based on one (1) of the following arrangements:

22

1   (A)   The   consent   of   both   parties   to   the

2   contract, or if there are more than two (2) parties, the

3   number of parties specified by the contract as necessary to

4   execute a multi-signature transaction; or

5

6   (B)   The consent of one (1) of the parties to

7   the contract and the consent of a third-party specified in

8   the contract.

9

10   (iii)   "Private key" means a unique element of

11   cryptographic data:

12

13   (A)   Held by a person;

14

15   (B)   Paired with a unique, publicly available

16   element of cryptographic data; and

17

18   (C)   Associated with an algorithm that is

19   necessary to carry out an encryption or decryption required

20   to execute a transaction.

21

22   (iv)   "Smart contract" means a contract which is:

23

1   (A)   Based on an automated transaction, as

2   defined in W.S. 40-21-102(a)(ii);

3

4   (B)   Comprised of code or programming language

5   that executes the terms of the contract, which may include

6   taking custody of or transferring assets, or issuing

7   executable instructions for these actions, based on the

8   occurrence or non-occurrence of specified conditions; and

9

10   **
11   ********************
12   **STAFF COMMENT**
13
14   **Subparagraph (B) is from the Tennessee smart contracts bill**
15   **(SB 1662 (2018)). Here is the Tennessee definition of smart**
16   **contract:**
17
18   **"(2) 'Smart contract' means an event-driven program, that**
19   **runs on a distributed, decentralized, shared, and replicated**
20   **ledger and that can take custody over and instruct transfer**
21   **of assets on that ledger."**
22
23   **
24   ********************
25
26   (C)   Carried out on a blockchain.

27   **
28   ********************
29   **STAFF COMMENT**
30
31   **The Task Force should consider whether subparagraph (C) is**
32   **necessary, based on the fact that this subsection ties smart**
33   **contracts to blockchain technology and may not account for**
34   **future technology innovations.**
35

1   **

2   **********************

3

4   **40-28-102. Required resolution plan for specified smart**

5   **contracts; characteristics.**

6

7   (a) A smart contract valued at the time of formation at

8   not less than **[XXXXXX dollars ($XXXXXX.00)]** shall, as a

9   condition of enforceability in this state, be accompanied by

10   a resolution plan agreed upon by the parties to the contract.

11   A smart contract which fails to comply with this section shall

12   not be valid or enforceable. The requirements of this section

13   may be executed through the code or programming language of

14   a smart contract or may accompany the contract through any

15   readily accessible means agreed upon by the parties to the

16   contract.

17

18   **

19   **********************

20   **STAFF COMMENT**

21

22   **1. The Task Force needs to insert an appropriate contract**

23   **value here.**

24

25   **2. The Task Force could consider removing the enforceability**

26   **condition in subsection (a).**

27

28   **3. Subsection (a) authorizes a resolution plan to be built**

29   **into the smart contract, and as a result, the resolution plan**

30   **will be self-executing.**

1
2 **
3   ***********************
4

5   (b)   A resolution plan under this section shall provide

6 for one (1) or more of the following in cases of technology

7 failure, unforeseen or changed circumstances and any other

8 contingency identified by the parties to a smart contract,

9 excluding any breach of contract alleged by a party:

10

11   (i)   Procedures to ensure the continued operation,

12 orderly modification or termination of the smart contract,

13 which may include a multi-signature requirement;

14

15   (ii)   Designated indicators or data sources which

16 shall   be   conclusive   relating   to   the   occurrence   or   non-

17 occurrence of contingencies which may trigger the resolution

18 plan;

19

20   (iii)   The rights and duties of the parties based

21 on specified circumstances;

22

1   (iv) Any other necessary action required to

2 achieve the orderly resolution, enforceability or intent of

3 the parties under this section.

4

5   (c) A court shall construe a resolution plan under this

6 section broadly and shall not find that a smart contract is

7 not valid or is unenforceable based on this section unless

8 the parties to the contract have failed to specify any portion

9 of a resolution plan under subsection (b) of this section.

10

11 ***

12 ************************

13 **STAFF COMMENT**

14

15 **Subsections (b) and (c) of this section state that a smart**

16 **contract which exceeds a specified value threshold must have**

17 **some kind of resolution plan which addresses one or more of**

18 **the factors above. The Task Force requested that it not be**

19 **prescriptive, but that it ensure that the parties to a smart**

20 **contract have thought somewhat about how they want the**

21 **contract resolved in an emergency, without always having to**

22 **obtain judicial relief to terminate the smart contract.**

23

24 ***

25 ************************

26

27

28   **Section 3.** W.S. 40-21-104 is amended to read:

29

30   **40-21-104. Application.**

31

1   (a) This act applies to any electronic record or

2   electronic signature created, generated, sent, communicated,

3   received or stored on or after July 1, 2001.

4

5   (b) This act shall be interpreted to apply to

6   developing technologies and new contractual forms which fall

7   within the text of this act, including smart contracts and

8   other blockchain-based transactions.

9

10   (c) The definitions set forth in W.S. 40-28-101 shall

11 apply to this section.

12

13 **
14   ********************
15   **STAFF COMMENT**
16
17 **1.   Some relevant provisions from the Uniform Electronic**
18 **Transactions Act (which includes 40-21-104) are below:**
19
20   **40-21-102. Definitions.**
21
22   (a)   In this article unless the context otherwise
23 requires:
24
25   (ii) "Automated transaction" means a transaction
26 conducted or performed, in whole or in part, by electronic
27 means or electronic records, in which the acts or records of
28 one (1) or both parties are not reviewed by an individual in
29 the ordinary course in forming a contract, performing under
30 an existing contract or fulfilling an obligation required by
31 the transaction;
32

1   (vii) "Electronic record" means a record created,
2 generated, sent, communicated, received or stored by
3 electronic means;
4
5   (viii) "Electronic signature" means an electronic
6 sound, symbol or process attached to or logically associated
7 with a record and executed or adopted by a person with the
8 intent to sign the record;
9
10   **40-21-114. Automated transaction.**
11
12   (a) In an automated transaction, the following rules
13 apply:
14
15   (i) A contract may be formed by the interaction of
16 electronic agents of the parties, even if no individual was
17 aware of or reviewed the electronic agents' actions or the
18 resulting terms and agreements;
19
20   (ii) A contract may be formed by the interaction
21 of an electronic agent and an individual, acting on the
22 individual's own behalf or for another person, including by
23 an interaction in which the individual performs actions that
24 the individual is free to refuse to perform and which the
25 individual knows or has reason to know will cause the
26 electronic agent to complete the transaction or performance;
27
28   (iii) The terms of the contract are determined by
29 the substantive law applicable to it.
30
31 **
32   ***********************
33
34   **Section 4.** Section 2 of this act applies to all
35 contracts formed on or after July 1, 2019.
36
37   **Section 5.** This act is effective July 1, 2019.
38
39   (END)