AN ACT relating to special purpose depository institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 12 OF KRS CHAPTER 286 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(I) The General Assembly finds the following:

(a) The rapid innovation of blockchain technology, including the growing use of virtual currency and other digital assets, has resulted in many blockchain innovators being unable to access secure and reliable banking services, hampering development of blockchain services and products in the marketplace;

(b) Federally insured financial institutions are not generally permitted to manage accounts in virtual currency or hold other digital assets;

(c) Blockchain innovators have greater compliance challenges with federal customer identification, anti-money-laundering, and beneficial ownership requirements because of the complex nature of these obligations and the unfamiliarity of regulators with blockchain innovators' businesses;

(d) The intricate obligations of blockchain innovators have resulted in many financial institutions in Kentucky and across the United States refusing to provide banking services to blockchain innovators and also refusing to accept deposits in United States currency obtained from the sale of virtual currency or other digital assets;

(e) Compliance with applicable federal and state laws is critical to ensuring the future growth and reputation of the blockchain and technology industries as a whole;

(f) Most financial institutions today do not have the requisite expertise or familiarity with the challenges facing blockchain innovators, which is required to provide secure and reliable banking services to these innovators;
and

(g) A new type of Kentucky financial institution that has expertise with customer identification, anti-money-laundering, and beneficial ownership requirements could seamlessly integrate these requirements into its operating model.

(2) The purpose of this subtitle is to:

(a) Provide a necessary and valuable service to blockchain innovators;

(b) Emphasize Kentucky's partnership with the technology and financial industries; and

(c) Safely grow Kentucky's financial sector.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) The following have the same meaning as in KRS 286.3-010:

(a) "Articles of incorporation";

(b) "Board of directors";

(c) "Corporation";

(d) "Director";

(e) "Shareholder"; and

(f) "Stock"; and

(2) "Special purpose depository institution" means a corporation chartered under this subtitle to engage in the business authorized under this subtitle.

SECTION 3. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

No person shall carry on, in this state, a business authorized under this subtitle, except in compliance with this chapter.

SECTION 4. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "usual or incidental to the business of banking" shall include the following:

(a) Acting as a fiduciary and engaging in trust business, which shall include custodial, safekeeping, and asset services activities;

(b) Investment adviser, investment company, and broker-dealer activities;

(c) Commodities intermediary activities; and

(d) Other activities determined by the commissioner to be usual or incidental to the business of banking.

(2) (a) Except as otherwise provided by paragraph (b) of this subsection, five (5) or more natural persons may form a special purpose depository institution.

(b) Subject to applicable federal and state law, a bank holding company may apply to hold a special purpose depository institution.

(3) A special purpose depository institution shall be organized as a corporation under Kentucky law to exercise the powers set forth in subsection (4) of this section.

(4) Each special purpose depository institution may:

(a) Receive notes and buy and sell gold and silver coins and bullion as permitted by federal law;

(b) Carry on a nonlending banking business for depositors, consistent with subsection (5) of this section;

(c) Provide payment services upon the request of a depositor;

(d) Make an application to become a member bank of the federal reserve system;

(e) Purchase debt obligations specified in subsection (1)(b)2. of Section 9 of this Act;

(f) Engage in any other activity that is usual or incidental to the business of banking, subject to the prior written approval of the commissioner;
(g) Receive deposits relating to activities authorized by the commissioner under paragraph (f) of this subsection; and

(h) Exercise powers and rights otherwise authorized for corporations under Kentucky law that are not inconsistent with this subtitle.

(5) (a) Except as otherwise provided in subsection (4)(e) of this section and paragraph (b) of this subsection, a special purpose depository institution shall not make loans, including the provision of temporary credit relating to overdrafts.

(b) An institution that has been approved by the commissioner to act as a fiduciary and engage in trust business may engage in any activity permissible for trust companies under Subtitle 3 of this chapter.

(6) The commissioner shall not approve a request made under subsection (4)(f) of this section if the requested activity would:

(a) Adversely impact the solvency, or the safety and soundness, of the special purpose depository institution; or

(b) Conflict with any provision of this subtitle.

(7) A special purpose depository institution shall maintain its principal operating headquarters, and the primary office of its chief executive officers, in Kentucky.

(8) A special purpose depository institution may:

(a) Conduct business with depositors outside this state; and

(b) Refer to itself as a "bank."

⇒ SECTION 5. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) No person shall transact any business as a special purpose depository institution, except business which is incidental or preliminarily necessary to its organization, without first:

(a) Obtaining a charter from the commissioner under this subtitle:
(b) Satisfying the requirements for incorporation under Kentucky law;

c) Filing, with the commissioner, the adopted bylaws, as approved by the
commissioner during the application process; and

(d) Complying with Sections 6, 8, and 9 of this Act.

(2) The commissioner shall not accept an application for a special purpose
depository institution charter unless the application:

(a) Is filed by the persons referenced in subsection (2) of Section 4 of this Act;

(b) Contains the following:

1. Proposed articles of incorporation. The articles of incorporation shall
include the following:

   a. The corporate name, which shall not resemble so closely the
      name of any other financial institution transacting business in
      this state so as to cause confusion;

   b. The purpose or purposes for which the corporation is organized;

   c. The term of its existence, which may be perpetual;

   d. The place where its office shall be located and its operations
      conducted;

   e. The amount of capital stock and the number of shares;

   f. The name and residence of, and the number of shares owned by,
      each shareholder subscribing to more than ten percent (10%) of
      the stock;

   g. The number of directors and the names of those who shall
      manage the affairs of the corporation for the first year; and

   h. A statement that the corporation shall only engage in activities,
      and possess powers, authorized under this subtitle;

2. The proposed bylaws;

3. The identities and contact information of proposed directors and
officers;

4. An address, which may be electronic, at which orders and other notices may be served by the commissioner;

5. A detailed business plan;

6. A comprehensive estimate of operating expenses for the first three (3) years of operation;

7. A complete proposal for compliance with the provisions of this subtitle;

8. Evidence of the capital required under Section 7 of this Act; and

9. Any other information required by the commissioner; and

(c) Is accompanied by an application fee established by the commissioner.

(3) (a) The commissioner may:

1. Prescribe the form of a special purpose depository institution’s charter application; and

2. In his or her discretion, not accept applications that fail to comply with the form prescribed by the commissioner.

(b) The commissioner shall notify the applicants in writing:

1. Of any deficiency in the application that prevents the commissioner from accepting the application; or

2. That the application has been accepted.

(4) Upon acceptance of an application for a special purpose depository institution charter, the commissioner shall make a careful investigation and examination of the following:

(a) The character, reputation, financial standing, and ability of the organizers;

(b) The character, financial responsibility, banking or other financial experience, and business qualifications of those proposed as officers and directors; and
(c) The information provided in the application for a charter, including:

1. The adequacy and plausibility of the proposed business plan; and
2. Whether the proposed institution has offered a complete proposal for compliance with the provisions of this subtitle.

(5) The commissioner shall approve a special purpose depository institution charter application if the commissioner finds that:

(a) The following are sufficient to afford reasonable assurance of successful operation for the proposed institution and of compliance with the law:
   1. The character, reputation, financial standing, and ability of the organizers; and
   2. The character, financial responsibility, banking or other financial experience, and business qualifications of those proposed as officers and directors;

(b) The proposed articles of incorporation and bylaws, as submitted or subsequently amended by the applicants, are sufficient to ensure reasonable compliance with the provisions of this subtitle;

(c) The business plan is adequate and plausible;

(d) The capital and surplus requirements of Section 7 of this Act have been satisfied;

(e) The institution is being formed for no other purpose than legitimate objectives authorized by law; and

(f) The applicants have complied with all applicable provisions of state law.

(6) The commissioner may conditionally approve a charter application. In the event of conditional approval, the commissioner shall comply with subsection (8) of this section upon satisfaction of the conditions specified by the commissioner for approval. If the conditions specified are not satisfied within a reasonable period of time, or within any time period specified by the commissioner, the
commissioner shall deny the application in accordance with subsection (7) of this section.

(7) (a) Notice of entry of any order denying an application for a charter under this subtitle shall be:

1. In writing and filed by the commissioner in his or her office. The notice shall state the commissioner's findings with respect to the order and the reasons for the action; and

2. Served upon the applicants personally or to the address specified in the application for service of the commissioner's orders. Service to the address specified in the application shall be by:

a. Certified mail, return receipt requested, postage prepaid; or

b. Submission to an electronic mail address, if electronic service is elected by the applicants.

(b) Within twenty (20) days from the date of the notice referenced in paragraph (a) of this subsection, the applicants may file, in the office of the commissioner, a written petition requesting a hearing to appeal the decision.

(c) Upon the timely filing of an appeal petition under this subsection, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(d) If the applicants do not file a timely appeal under this subsection:

1. The applicants shall be deemed to have waived the right to appeal; and

2. The commissioner may enter a final order denying the charter.

(e) Any person aggrieved by a final order of the commissioner under this subsection may obtain a review of the order in the Circuit Court of the county in which the applicants proposed to conduct business.

(f) Service by certified mail under this subsection shall be deemed complete as
provided in KRS 13B.050(2).

(8) (a) If the commissioner approves an application for a charter under this
subtitle, the commissioner shall issue a charter to the special purpose
depository institution.

(b) Upon issuance of a charter and receipt of any filing fee, in the form
prescribed by the commissioner, necessary for filing the articles of
incorporation with the Secretary of State, the commissioner shall:

1. Endorse upon the articles the commissioner's approval;

2. Transmit the approved articles to the Secretary of State, along with
   any necessary filing fee;

3. Retain a copy of the approved articles; and

4. Return a copy of the approved articles to the applicants.

(9) If a special purpose depository institution fails to commence business in good
faith within six (6) months after the issuance of a charter by the commissioner,
the institution shall forfeit its corporate existence, by operation of law, at the
expiration of the six (6) month period. The commissioner, for good cause and
upon application filed by the institution prior to expiration of the six (6) month
period, may extend the time within which the special purpose depository
institution may commence business. Upon any forfeiture under this subsection,
the charter issued by the commissioner shall expire and the institution shall not
transact any business, except business that is incidental or necessary to dissolving
the institution's corporate existence as provided by law.

(10) All amendments to the articles of incorporation of any special purpose depository
institute shall be approved by the commissioner before filing with the Secretary
of State in the same manner as the original articles of incorporation.

⇒ SECTION 6. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:
(1) Before any special purpose depository institution may transact any business authorized under this subtitle, each director of the institution shall take an oath that states in substance:

(a) That the director is a citizen of the United States, and the State of Kentucky, or if not, the place of the director’s residence;

(b) That the director will faithfully discharge the duties of the office and administer the affairs of the institution, so far as the duties of the office require; and

(c) That the director will uphold the laws of the state, and particularly the laws applicable to the institution.

(2) The oath shall be taken before any officer authorized to administer oaths and shall be forwarded to the commissioner for filing.

(3) Upon the election of any subsequent director, or reelection of any director, the oath shall be:

(a) Taken;

(b) Maintained by the institution; and

(c) Subject to review at examination.

SECTION 7. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS follows:

(1) As used in this section:

(a) The following have the same meaning as in KRS 286.3-010:

1. "Capital stock"; and

2. "Surplus"; and

(b) "Undivided profits" means the composite of the special purpose depository institution’s net retained earnings from current and prior years’ operations.

(2) The capital of a special purpose depository institution shall be paid in full in money. None of the original minimum capital of an institution may be designated
as undivided profits.

(3) (a) The organizers of a special purpose depository institution shall solicit capital prior to filing an application for a charter with the commissioner, consistent with this section. In the event an application for a charter is not filed or is denied by the commissioner, all capital shall be promptly returned without loss.

(b) No special purpose depository institution shall be chartered:

1. With capital stock less than five million dollars ($5,000,000). Additional capital may be required depending upon an investigation of the application, at the discretion of the commissioner;

2. With a paid-up surplus of less than three (3) years of estimated operating expenses, in the amount disclosed in the application for a charter or in another amount required by the commissioner; and

3. Until the full amount of the institution's authorized capital is subscribed and all capital stock is fully paid.

(c) A special purpose depository institution may acquire additional capital prior to the issuance of a charter and may report this capital in its charter application.

(4) No reduction in the capital stock of a special purpose depository institution shall be made to an amount less than that required for organization, nor shall any reduction be valid until it has been approved by the commissioner upon a finding that the interest of creditors of the institution will not be prejudiced thereby. In no event, however, shall the capital stock be less than two million five hundred thousand dollars ($2,500,000).

⇒ SECTION 8. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) Before transacting any business, each special purpose depository institution shall
pledge or furnish a surety bond, or in lieu of a bond, the institution may
irrevocably pledge specified assets, to the commissioner, which shall be in an
amount determined by the commissioner that is sufficient to cover costs likely to be incurred by the commissioner in a liquidation of the institution.

(2) (a) All costs associated with pledging and holding assets under this section shall be the responsibility of the special purpose depository institution.

(b) Assets pledged under this section shall be unencumbered and shall not serve as collateral for any other purpose.

(c) Income from assets pledged under this section shall be paid to the special purpose depository institution, unless a liquidation proceeding is initiated in accordance with Section 19 of this Act.

(3) The surety bond, or pledged assets, shall be of the same nature and quality as the collateral required under KRS 41.240(4).

(4) Surety bonds shall be:

(a) Procured from a surety company, or other surety, acceptable to the commissioner;

(b) In a form prescribed by the commissioner, which shall include a term that provides that the bond may not be terminated without thirty (30) days prior written notice to the commissioner; and

(c) Payable to the commissioner.

(5) The commissioner may establish additional investment guidelines or options for the assets or surety bond required under this section.

(6) (a) If the commissioner at any time reasonably determines that the bond or assets pledged under this section is insecure, deficient in amount, or exhausted in whole or part, the commissioner may by written order require the filing of a new or supplemental bond or pledge of assets in order to secure compliance with this section.
(b) An order entered in accordance with paragraph (a) of this subsection shall
designate when compliance with the order is required, except in no case
shall an institution be required to comply with an order within thirty (30)
days following service of the order.

(7) In the event of a liquidation, as provided in Section 19 of this Act, the
commissioner may, without regard to priorities, preferences, or adverse claims,
reduce the surety bond or pledged assets to cash and utilize the cash to defray the
costs associated with the liquidation.

⇒ SECTION 9. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

At all times, a special purpose depository institution shall maintain:

(1) (a) Unencumbered liquid assets valued at not less than one hundred percent
(100%) of the institution's depository liabilities.

(b) As used in this subsection, "liquid assets" means:

1. United States currency held:
   a. On the premises of a special purpose depository institution; or
   b. For the special purpose depository institution by a federal
      reserve bank or a federally insured financial institution; and

2. Investments that are determined by the commissioner to be highly
   liquid, which:
   a. Shall include obligations of the United States Treasury; and
   b. May include other federal agency obligations;

(2) (a) A contingency account to account for unexpected losses and expenses.

(b) The initial capital and surplus established under Section 7 of this Act shall
constitute compliance with this subsection for the first three (3) years of the
institution's operation.

(c) After the conclusion of three (3) years, the contingency account shall total
not less than two percent (2%) of the depository liabilities of the special
purpose depository institution, except the commissioner may require a
greater percentage if the commissioner finds that an institution's
contingency account is not adequate and reasonable in light of current and
prospective business conditions; and

(3) (a) Appropriate insurance, or a bond, covering the operational risks of the
in institution.

(b) The coverage required under this subsection shall include:

1. Directors' and officers' liability coverage;

2. Errors and omissions liability coverage; and

3. Liability coverage for information technology infrastructure and
activities.

 SECTION 10. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a special purpose
depository institution, including any branch of the institution, shall not offer an
account to, allow an account to be maintained by, or otherwise provide services to
a depositor, or potential depositor, unless the depositor, or potential depositor:

(a) Is a legal entity other than a natural person;

(b) Is in good standing with the jurisdiction in the United States in which it is
incorporated or organized;

(c) Maintains deposits with the institution totaling not less than five thousand
dollars ($5,000);

(d) 1. Is engaged in, or is likely to open, within the next six (6) months, a
bona fide business that is lawful under the laws of Kentucky and the
United States.

2. In addition to any requirements specified by federal law, the
institution shall require a potential depositor to provide reasonable evidence that the person is in compliance with this paragraph.

3. As used in this paragraph, "reasonable evidence" includes business entity filings, articles of incorporation or organization, bylaws, operating agreements, business plans, promotional materials, financing agreements, or other evidence; and

(e) Makes sufficient evidence available to the institution to enable compliance with anti-money-laundering, customer identification, and beneficial ownership requirements, as determined by the institution.

(2) A special purpose depository institution may conduct activities authorized by the commissioner under subsection (4)(f) or (g) of Section 4 of this Act with a person that does not meet the requirements of subsection(1)(a) to (d) of this section, if the person is engaged in activities that are lawful under the laws of Kentucky and the United States.

(3) (a) A special purpose depository institution may require payment of contributions from depositors to fund the contingency account required under Section 9 of this Act.

(b) A depositor shall obtain a refund of any contingency account contributions made under paragraph (a) of this subsection after closing an account with the institution.

(4) A special purpose depository institution shall comply with all applicable state and federal laws, including those relating to anti-money-laundering, customer identification, and beneficial ownership.

⇒ SECTION 11. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, all of the provisions of KRS 286.1-440 and Subtitle 3 of this chapter, which are applicable to banks and trust
companies, shall also be applicable to special purpose depository institutions, except to the extent that any provision conflicts with a provision in this subtitle, in which case this subtitle shall control.

(2) The following provisions of Subtitle 3 of this chapter shall not apply to special purpose depository institutions:

(a) KRS 286.3-020;

(b) KRS 286.3-025;

(c) KRS 286.3-030;

(d) KRS 286.3-040;

(e) KRS 286.3-050;

(f) KRS 286.3-060;

(g) KRS 286.3-070;

(h) KRS 286.3-080;

(i) KRS 286.3-090;

(j) KRS 286.3-145 to 286.3-150;

(k) KRS 286.3-214 and 286.3-215, except for the provisions that apply to trust companies, but only for the purpose of applying trust company laws to special purpose depository institutions permitted to engage in trust business;

(l) KRS 286.3-280 and 286.3-290;

(m) KRS 286.3-300;

(n) KRS 286.3-385;

(o) KRS 286.3-450(1);

(p) KRS 286.3-710 to 286.3-770;

(q) KRS 286.3-820; and

(r) KRS 286.3-852.

SECTION 12. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:
(1) As used in this section, "out-of-state special purpose depository institution" means an institution chartered under the laws of a state other than Kentucky, or the United States, to engage in activities that are substantially similar to the activities authorized for special purpose depository institutions.

(2) Subject to the provisions of this section, a special purpose depository institution may establish or acquire a branch:

(a) Within this state; and

(b) Within any other state, the District of Columbia, or a territory of the United States.

(3) A special purpose depository institution, except for an institution the commissioner may designate by administrative regulation, shall apply to the commissioner for permission to establish or acquire a branch. Before the commissioner shall approve or deny any application made under this section, the commissioner shall ascertain and determine that:

(a) The public convenience and advantage will be served and promoted by establishment or acquisition of the branch; and

(b) There is reasonably probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the institution establishing or acquiring the branch.

(4) (a) An out-of-state special purpose depository institution may establish or acquire a branch in this state only if the institution receives prior written approval from the commissioner to do so.

(b) The out-of-state special purpose depository institution shall:

1. Make an application to the commissioner on a form prescribed by the commissioner. The application shall include:

a. The name of the out-of-state special purpose depository institution; and
b. The location of the proposed branch or branches;

2. Furnish the commissioner with:
   a. A copy of the resolution adopted by the institution's board of
directors authorizing the branch;
   b. Evidence of compliance with the requirements of:
      i. The institution's home state regulator and home state law
         for establishing or acquiring the branch; and
      ii. Kentucky law, relating to qualification as a foreign entity
doing business in Kentucky; and
   c. Any other information requested by the commissioner to assist
      the commissioner in determining compliance with this subtitle;
      and

3. Pay the filing fee, if any, prescribed by the commissioner.

(c) The commissioner shall approve an application made by an out-of-state
special purpose depository institution if:
   1. Special purpose depository institutions are permitted to establish and
      acquire branches, and engage in activities that are substantially
      similar to the activities authorized under this subtitle, in the state
      where the out-of-state special purpose depository institution has its
      principal office; and
   2. The commissioner determines that:
      a. The public convenience and advantage will be served and
         promoted by establishment or acquisition of the branch;
      b. There is reasonably probability of the successful operation of the
         branch based upon the financial and managerial impact of the
         branch on the establishing or acquiring institution;
      c. The proposed branch is authorized under applicable law; and
d. The applicant has complied with the requirements of this section.

(d) An out-of-state special purpose depository institution that establishes or acquires a branch in this state shall confirm in writing to the commissioner, prior to commencing business in this state, and at least annually thereafter, that for so long as the institution maintains a branch in this state, the institution will comply with all applicable laws of this state.

(5) The following conditions shall apply to all branch applications and branch approvals:

(a) The permission to establish or acquire a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless, prior to expiration of the one (1) year period, business is actually begun at the branch in good faith. If, for reasons beyond the control of the applicant, business at the branch is not commenced within this time period, permission to establish or acquire the branch may, with the approval of the commissioner, be extended for any period of time the commissioner deems to be necessary; and

(b) An application to establish or acquire a branch shall be approved or denied by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the applicant, which shall be subject to review until an order ruling on the application is made.

(6) Except as permitted by the commissioner, any special purpose depository institution, including an out-of-state special purpose depository institution, with branch offices in Kentucky shall use at all times the same name for all its branch offices in Kentucky. The commissioner shall permit the limited use of a different name at one (1) or more branches, upon written request, when necessary to avoid customer confusion.
(7) The provisions of KRS 286.3-180, KRS 286.3-183, and any other provision of
Subtitle 3 of this chapter that regulates, or authorizes, bank branching, shall also
be applicable to the branching of business authorized under this subtitle, except
to the extent that any provision conflicts with a provision in this subtitle, in which
case this subtitle shall control.

⇒ SECTION 13. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by a decision of the commissioner under this subtitle may, within
twenty (20) days of service of notice of the decision, request an administrative hearing,
which shall be conducted in accordance with KRS Chapter 13B.

⇒ SECTION 14. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

The commissioner shall adopt all administrative regulations necessary to implement
the provisions of this subtitle.

⇒ SECTION 15. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "FDIC" means the Federal Deposit Insurance
Corporation.

(2) (a) Special purpose depository institutions shall not be required to obtain FDIC
insurance for their deposits.

(b) Nothing is this subsection shall be construed as prohibiting a special
purpose depository institution from obtaining FDIC insurance, if available.

(3) If the deposits of a special purpose depository institution are not insured by the
FDIC, the institution shall:

(a) Display on any Internet Web site it maintains, and at each window or place
where it accepts deposits, a sign conspicuously stating that the deposits are
not insured by the FDIC:
(b) Upon opening an account, require each depositor making a deposit to execute a statement, which shall be permanently retained by the institution, acknowledging that the deposit is not insured by the FDIC; and
(c) Include, in all advertising, a disclosure that the deposits are not insured by the FDIC.

SECTION 16. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ ASfollows:

Every special purpose depository institution, and branch of an out-of-state special purpose depository institution doing business in this state, shall be subject to the same inspection and examination requirements, and fees, as banks under Subtitle 3 of this chapter, except:

(1) The examination schedule for special purpose depository institutions shall be established by the commissioner through the promulgation of an administrative regulation; and
(2) The commissioner may establish different fee schedules for special purpose depository institutions in accordance with KRS 286.3-480 or any other applicable fee provision under this subtitle or Subtitle 3 of this chapter.

SECTION 17. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ ASfollows:

(1) The commissioner may suspend or revoke the charter of a special purpose depository institution, or the approval granted to an out-of-state special purpose depository institution under Section 12 of this Act if, after notice and hearing conducted in accordance with KRS Chapter 13B, the commissioner determines that:
   (a) The institution has failed to, or refused to, comply with an order of the commissioner issued under this subtitle or any other applicable law;
   (b) The application for a charter, or a branch, contained a false statement of
material misrepresentation or material omission; or

(c) An officer, director, or agent of the institution, in connection with a charter or branch application, examination, report, or other document filed with the commissioner, knowingly made a false statement, material misrepresentation, or material omission to the commissioner or a duly authorized agent of the commissioner.

(2) If the charter of a special purpose depository institution is surrendered, suspended, or revoked, the institution shall continue to be subject to the provisions of this chapter during any liquidation or receivership.

(3) In addition to the remedies provided under KRS 286.3-690, each officer, director, employee, or agent of a special purpose depository institution may be removed from office by order of the commissioner if the commissioner finds that the officer, director, employee, or agent has knowingly or willfully failed to:

(a) Perform any duty required by this subtitle or other applicable law; or

(b) Conform to any administrative regulation or order issued by the commissioner.

⇒ SECTION 18. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner has reason to believe that the capital of any special purpose depository institution is impaired, the commissioner shall examine the institution and ascertain the facts. If the commissioner finds an impairment of capital, the commissioner shall provide written notice to each director of the institution and require the institution to repair the deficiency within sixty (60) days after the date of notice.

(2) (a) Within fifteen (15) days from the date of notice made under subsection (1) of this section, the directors shall levy an assessment upon the common stock of the institution to repair the deficiency. Written notice of the
deficiency, and the amount of the assessment, shall be provided to each
shareholder, which may, with prior consent of the shareholder, be by
electronic transmission.

(b) If any shareholder fails to pay the assessment levied under paragraph (a) of
this subsection within thirty (30) days of receiving the notice, the directors
may sell the stock of the shareholder to the highest bidder at public auction
or by private sale.

(c) Notice of a public auction under this subsection shall be published for ten
(10) days in a newspaper of general circulation published in the county
where the institution is located and a copy of the notice of sale shall be
served upon the shareholder.

(d) If stock is sold by private sale under this subsection, the directors shall
obtain a written offer for the stock and serve that offer upon the
shareholder. If, after service of the offer, the shareholder still fails to pay
the assessment within fourteen (14) days from the date of service of the
offer, the directors may accept the private offer or a larger offer.

(e) In no event shall stock be sold under this subsection for less than the
amount of the assessment and cost of sale. The directors shall pay the
assessment out of the sale proceeds, with any remainder first being applied
to the cost of sale and second being paid to the shareholder.

(f) Service under this subsection shall be personally or by mail at the
shareholder's last known address.

(3) If any board of directors fails to timely comply with an order issued under
subsection (1) of this section, the commissioner shall immediately take possession
of the institution and proceed to liquidate as provided in Section 19 of this Act.

⇒SECTION 19. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286

IS CREATED TO READ AS FOLLOWS:
(1) As used in this section:

(a) "Failed" or "failure" means, consistent with any administrative regulations promulgated by the commissioner, a circumstance when a special purpose depository institution has not:

1. Complied with the requirements of subsections (1) or (2) of Section 9 of this Act; or

2. Paid, in the manner commonly accepted by business practices:

   a. Its legal obligations to depositors on demand; or

   b. To discharge any certificates of deposit, promissory notes, or other indebtedness when due; and

(b) "Unsafe or unsound condition" means, consistent with any administrative regulations promulgated by the commissioner, a circumstance relating to a special purpose depository institution, which is likely to:

1. Cause the failure of the institution;

2. Cause a substantial dissipation of assets or earnings;

3. Substantially disrupt the services provided by the institution to depositors; or

4. Otherwise substantially prejudice the depository interests of depositors.

(2) If the commissioner finds that a special purpose depository institution has failed, is operating in an unsafe or unsound condition, or meets any of the conditions set forth in KRS 286.3-854(1), and the condition has not been remedied within the time prescribed under Section 18 of this Act, or in an order issued under KRS 286.3-690, the commissioner shall close the institution for purposes of liquidation, which shall be conducted in accordance with KRS 286.3-850 and KRS 286.3-854 to 286.3-884. 

⇒ SECTION 20. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 286
(1) A special purpose depository institution may voluntarily dissolve in accordance with the provisions of this section.

(2) Voluntary dissolution shall be accomplished by either:

(a) Liquidating the institution; or

(b) Reorganizing the institution into an appropriate business entity that does not transact business in accordance with this subtitle.

(3) A voluntary dissolution shall provide for the discharge or assumption of all known and unknown claims and liabilities of the institution.

(4) Upon completion of the liquidation or reorganization, the institution shall surrender its charter.

(5) A special purpose depository institution seeking to dissolve under this section shall:

(a) File an application for voluntary dissolution with the commissioner; and

(b) Pay the filing fee, if any, established by the commissioner.

(6) The application required under subsection (5) of this section shall:

(a) Be in a form prescribed by the commissioner; and

(b) Include:

1. A comprehensive plan for dissolution that sets forth the proposed disposition of all assets and liabilities, in reasonable detail to effect a liquidation or reorganization;

2. The timetable for effective disposition of the assets and liabilities of the institution;

3. A proposal for addressing any claims that are asserted after dissolution has been completed; and

4. Any other evidence, certifications, affidavits, documents, or information required by the commissioner.
(7) (a) The commissioner shall examine the application filed under this section for compliance with:

1. This section; and

2. The business entity laws applicable to the required type of dissolution.

(b) The commissioner may conduct a special examination for purposes of evaluating the application.

(8) If the commissioner finds that an application filed under this section is incomplete, the commissioner shall return the application to the institution for completion. If the application is not completed and refiled with the commissioner within sixty (60) days after the return, the application shall be deemed abandoned.

(9) (a) If the application is found to be complete by the commissioner, the commissioner shall conditionally approve, or deny, the application not later than thirty (30) days after the date of filing.

(b) A conditional approval may set forth additional conditions that must be satisfied by the institution in order to obtain a voluntary dissolution under this section.

(10) (a) If the application is conditionally approved by the commissioner, the institution shall proceed with the dissolution in accordance with the plan outlined in the application, subject to any conditions the commissioner has prescribed.

(b) An institution may file a request with the commissioner for approval to amend the voluntary dissolution plan after it has been conditionally approved by the commissioner.

(11) (a) Upon completion of all actions required under the commissioner's conditional approval, the institution shall submit a written report of its actions to the commissioner.
(b) The report shall contain a certification made under oath that the report is 
true and correct.

(c) Within sixty (60) days of receipt of the report, the commissioner shall 
examine the institution to determine whether the commissioner is satisfied 
that all required actions have been taken.

(d) The commissioner shall, within thirty (30) days of the examination required 
under paragraph (c) of this subsection, notify the institution, in writing, 
whether he or she is satisfied that all actions required for voluntary 
dissolution have been taken.

(e) Upon receipt of notice that the commissioner is satisfied that all actions 
required for voluntary dissolution have been taken, the institution shall:

1. Surrender its charter to the commissioner; and

2. Take all steps necessary to complete the dissolution or reorganization 
of the institution's corporate existence as provided by law.

(12) (a) If, after the examination conducted under subsection (11)(c) of this section, 
the commissioner determines that all actions required for voluntary 
dissolution have not been taken, the commissioner shall notify the 
institution, in writing, within thirty (30) days of the examination, what 
additional actions shall be taken, along with reasonable deadlines for 
taking those actions, in order for the institution to be eligible for voluntary 
dissolution under this section.

(b) For good cause shown, the commissioner may extend any deadlines 
established under paragraph (a) of this subsection.

(c) If the institution fails to file a supplemental report showing that all 
additional actions have been taken on or before the deadlines established by 
the commissioner, or submits a report that is found not to be satisfactory by 
the commissioner, the commissioner shall notify the institution in writing.
that the institution's conditional approval has been revoked and that the application for a voluntary dissolution under this section is denied.

Section 21. KRS 286.1-011 is amended to read as follows:

(1) There is created within the Public Protection Cabinet a Department of Financial Institutions, which shall be headed by a commissioner of financial institutions, who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The Department of Financial Institutions shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering, and licensing of banks, trust companies, savings and loan associations, consumer loan companies, [investment and] industrial loan companies, [and] credit unions, all other persons regulated under this chapter, securities, and all persons regulated under KRS Chapter 292 [in relation to the regulation of securities].

(3) There are established within the Department of Financial Institutions the following divisions:

(a) The Division of Depository Institutions, which shall be headed by a director appointed by the secretary of the Public Protection Cabinet in accordance with KRS 12.050. The division shall consist of entities deemed appropriate by the director;

(b) The Division of Non-Depository Institutions, which shall be headed by a director appointed by the secretary of the Public Protection Cabinet in accordance with KRS 12.050. The division shall consist of entities deemed appropriate by the director; and

(c) The Division of Securities, which shall be headed by a director appointed by the secretary of the Public Protection Cabinet in accordance with KRS 12.050. The division shall consist of entities deemed appropriate by the director.

(4) The department may accept any application or other document required to be filed
with the department in electronic format or in any other technology acceptable to the department.

Section 22. KRS 286.2-040 is amended to read as follows:

(1) As used in this section:

(a) "Covered service" means:

1. Data processing;

2. Any activity that supports financial services, including but not limited to lending, funds transfer, fiduciary activity, trading activity, and deposit taking; and

3. Internet-related services, including but not limited to Web services and electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring;

(b) "Depository institution" means any:

1. State bank as defined in KRS 286.3-010;

2. Branch of an out-of-state bank as defined in KRS 286.3-010 that is doing business under the laws of this state;

3. Trust company as defined in KRS 286.3-010;

4. Credit union as defined in KRS 286.6-005;

5. **Special purpose depository institution as defined in Section 2 of this Act; or**

6. **Branch of an out-of-state special purpose depository institution as defined in Section 12 of this Act that is doing business under the laws of this state; and**

(c) "Service provider" means any person that provides a covered service listed in paragraph (a) of this subsection to a depository institution, except any:

1. Bank service company that is examined and regulated by the appropriate federal banking agency. For the purposes of this subparagraph, "bank
service company" and "appropriate federal banking agency" have the
1861, as amended, or any successor statute;
2. Depository institution, holding company of a depository institution, or
subsidiary of that holding company; and
3. Federally chartered depository institution, holding company of a
federally chartered depository institution, or subsidiary of that holding
company. For the purposes of this subparagraph, "federally chartered
depository institution" means a bank, savings association, or credit union
organized pursuant to the laws of the United States.
(2) The commissioner may examine a service provider for any covered service it
provides to a depository institution if the examination is conducted in conjunction
with an examination conducted by a properly authorized federal regulatory agency.
(3) The commissioner may accept an examination made by other properly authorized
state or federal regulatory agencies that have concurrent jurisdiction over a service
provider in lieu of any examination authorized or required under the laws of this
state.
(4) A report of examination and related correspondence shall be considered confidential
information. No person shall release any information contained in the examination
unless required by court order. Notwithstanding this subsection, the department may
furnish:
(a) A copy of a report of examination performed by the commissioner of the
condition and affairs of any service provider to the depository institutions
serviced by the service provider; and
(b) To and exchange information and reports of examinations with officials and
examiners of other properly authorized state or federal regulatory agencies.
(5) Every official report concerning a service provider, and every report of examination,
shall be prima facie evidence of the facts contained in the report for any purpose in any action in which the department or service provider is a party.

(6) The commissioner shall fix a scale of examination fees to be paid by service providers. The fees shall be:

(a) Sufficient to cover the cost of the examination based upon a fair compensation for time and actual expense;

(b) Assessed and paid by service providers promptly after completion of the examination; and

(c) Set by administrative regulation.

(7) The commissioner may enter into cooperative agreements with other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider to facilitate the examination process, including joint examination, scheduling, resources, fee collection and sharing, report of examination processing, and enforcement actions.

Section 23. KRS 286.2-685 is amended to read as follows:

(1) No person may use the term "bank," "banker," "banking," "trust," or a similar term or a character, ideogram, phonogram, phrase, or foreign language word in its name, stationery, or advertising in a manner that would imply to the public that the person is engaged in the banking or trust business.

(2) Subsection (1) of this section does not apply to a depository institution or other entity organized under the laws of this state, another state, or the United States to the extent that the depository institution or other entity is:

(a) Authorized under its charter or the laws of this state or the United States to use a term, word, character, ideogram, phonogram, or phrase prohibited by subsection (1) of this section; and

(b) Authorized by the laws of this state or the United States to conduct the activities in which it is engaged in this state.
(3) For purposes of this section, unless the context requires otherwise, "financial institution" means any person or entity operating in the Commonwealth of Kentucky, as permitted under the laws of this state, any other state, or the United States, as a bank, bank holding company, credit union, savings and loan association, special purpose depository institution, or any wholly owned subsidiary thereof.

(4) Except as provided in subsection (5) of this section, no person that is not a financial institution may use the trade name, trademark, service mark, logo, or symbol, or any combination thereof, of any financial institution, or any trade name, trademark, service mark, logo, or symbol, or any combination thereof, that is similar to the trade name, trademark, service mark, logo, or symbol of such a financial institution, in any marketing material, solicitation, or advertising provided or directed to another person in a manner such that a reasonable person may be confused, mistaken, or deceived that the marketing material, solicitation, or advertising originated from, is endorsed by, or has been consented to by the financial institution.

(5) Subsection (4) of this section shall not apply to a person who uses the trade name, trademark, service mark, logo, or symbol of a financial institution with the written consent of the financial institution.

(6) The financial institution whose trade name, trademark, service mark, logo, or symbol has been used in violation of this section may institute an action in the Franklin Circuit Court or any court of competent jurisdiction against any person or entity in violation of subsection (4) of this section to enjoin a continuance of any activity in violation of subsection (4) of this section and, if injured thereby, for the recovery of damages at three (3) times the amount of any actual damages sustained and for civil penalties in the amount of one thousand dollars ($1,000). It shall not be necessary that actual damages be alleged or proved in order to recover injunctive relief or civil penalties. The penalties prescribed by this subsection shall be
Section 24. The commissioner shall promulgate administrative regulations to implement the provisions of this Act on or before October 1, 2022.

Section 25. Sections 1 to 23 of this Act take effect on October 1, 2022.