

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
12.27.18

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LLS NO. 19-0314.01 Duane Gall x4335

SENATE BILL

SENATE SPONSORSHIP

Tate and Fenberg,

HOUSE SPONSORSHIP

Kraft-Tharp,

BILL TOPIC: "Cryptocurrency Exemption CO Digital Token Act"
DEADLINES: Finalize by: DEC 21, 2018 File by: DEC 28, 2018

A BILL FOR AN ACT

101 CONCERNING EXEMPTIONS FROM THE SECURITIES LAWS FOR
102 CRYPTOCURRENCIES, AND, IN CONNECTION THEREWITH,
103 ENACTING THE "COLORADO DIGITAL TOKEN ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill provides limited exemptions from the securities registration and securities broker-dealer and salesperson licensing requirements for persons dealing in digital tokens. "Digital token" is defined as a digital unit with specified characteristics, secured through a decentralized ledger or database, exchangeable for goods or services, and

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

capable of being traded or transferred between persons without an intermediary or custodian of value.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 11-51-308.7 as
3 follows:

4 **11-51-308.7. Colorado digital token act - legislative declaration**
5 **- exemptions - definitions - rules.** (1) **Short title.** THE SHORT TITLE OF
6 THIS SECTION IS THE "COLORADO DIGITAL TOKEN ACT".

7 (2) **Legislative declaration.** THE GENERAL ASSEMBLY:

8 (a) FINDS THAT:

9 (I) CRYPTOECONOMIC SYSTEMS, WHICH ARE PROTOCOLS THAT
10 GOVERN THE PRODUCTION, DISTRIBUTION, AND CONSUMPTION OF GOODS
11 AND SERVICES IN A DECENTRALIZED DIGITAL ECONOMY, CAN BE AN
12 IMPORTANT COMPONENT OF BLOCKCHAIN TECHNOLOGY;

13 (II) BLOCKCHAIN TECHNOLOGY HAS THE POTENTIAL TO CREATE
14 NEW FORMS OF DECENTRALIZED "WEB 3.0" PLATFORMS AND APPLICATIONS
15 THAT HAVE ADVANTAGES OVER THE CURRENT CENTRALIZED INTERNET
16 PLATFORMS AND APPLICATIONS;

17 (III) COLORADO HAS BECOME A HUB FOR COMPANIES AND
18 ENTREPRENEURS THAT SEEK TO UTILIZE CRYPTOECONOMIC SYSTEMS TO
19 POWER BLOCKCHAIN TECHNOLOGY-BASED BUSINESS MODELS;

20 (IV) COMPANIES THAT SEEK TO UTILIZE CRYPTOECONOMIC
21 SYSTEMS FACE REGULATORY UNCERTAINTY THAT THE ISSUANCE, SALE,
22 AND PURCHASE OF DIGITAL TOKENS THAT HAVE A PRIMARILY
23 CONSUMPTIVE PURPOSE MAY BE PROHIBITED UNDER THIS ARTICLE 51;

24 (V) CROWDFUNDING CONSUMER GOODS PLATFORMS PROVIDE A
25 MEANS FOR COMPANIES AND ENTREPRENEURS TO ACQUIRE GROWTH

1 CAPITAL AND CUSTOMERS BY PRESELLING THE RIGHT TO RECEIVE
2 CONSUMER GOODS BEFORE THE GOODS ARE READY TO BE SOLD OR USED,
3 IN ADDITION TO PROVIDING A MARKETPLACE FOR THE PURCHASE AND SALE
4 OF CONSUMER GOODS THAT ARE READY FOR USE;

5 (VI) COMPANIES USING CRYPTOECONOMIC SYSTEMS THAT SEEK TO
6 ACQUIRE GROWTH CAPITAL AND CUSTOMERS BY PRESELLING DIGITAL
7 TOKENS THAT HAVE A PRIMARILY CONSUMPTIVE PURPOSE FACE
8 REGULATORY UNCERTAINTY THAT THE OFFER, SALE, OR TRANSFER OF
9 DIGITAL TOKENS MAY BE PROHIBITED UNDER THIS ARTICLE 51; AND

10 (VII) COMPANIES THAT SEEK TO CREATE A MARKETPLACE TO
11 EFFECT THE PURCHASE, SALE, OR TRANSFER OF DIGITAL TOKENS THAT
12 HAVE A PRIMARILY CONSUMPTIVE PURPOSE FACE REGULATORY
13 UNCERTAINTY THAT EFFECTING OR ATTEMPTING TO EFFECT THE
14 PURCHASE, SALE, OR TRANSFER OF A DIGITAL TOKEN MAY BE PROHIBITED
15 UNDER THIS ARTICLE 51;

16 (b) DETERMINES THAT:

17 (I) THE COSTS AND COMPLEXITIES OF STATE SECURITIES
18 REGISTRATION CAN OUTWEIGH THE BENEFITS TO COLORADO BUSINESSES
19 USING CRYPTOECONOMIC SYSTEMS THAT SEEK TO RAISE GROWTH CAPITAL
20 AND CREATE NEW DECENTRALIZED INTERNET PLATFORMS AND
21 APPLICATIONS BY OFFERING THE SALE OR TRANSFER OF DIGITAL TOKENS
22 THAT HAVE A PRIMARILY CONSUMPTIVE PURPOSE;

23 (II) COMPANIES THAT SEEK TO ISSUE OR EFFECT THE PURCHASE,
24 SALE, OR TRANSFER OF DIGITAL TOKENS THAT HAVE A PRIMARILY
25 CONSUMPTIVE PURPOSE FACE REGULATORY UNCERTAINTY UNDER
26 COLORADO'S SECURITIES LAWS; AND

27 (III) THE ISSUANCE, SALE, PURCHASE, AND TRANSFER OF DIGITAL

1 TOKENS THAT HAVE A PRIMARILY CONSUMPTIVE PURPOSE ALLOW
2 COMPANIES USING CRYPTOECONOMIC SYSTEMS TO ACCESS THE GROWTH
3 CAPITAL AND BUILD THE NECESSARY NETWORK OF PARTICIPANTS THEY
4 NEED TO GROW AND EXPAND THEIR BUSINESSES; AND

5 (c) DECLARES THAT CREATING A COLORADO DIGITAL TOKEN ACT,
6 WITH LIMITATIONS TO PROTECT CONSUMERS, WILL ENABLE COLORADO
7 BUSINESSES THAT USE CRYPTOECONOMIC SYSTEMS TO OBTAIN GROWTH
8 CAPITAL TO HELP GROW AND EXPAND THEIR BUSINESSES, THEREBY
9 PROMOTING THE FORMATION AND GROWTH OF LOCAL COMPANIES AND THE
10 ACCOMPANYING JOB CREATION AND HELPING MAKE COLORADO A HUB FOR
11 COMPANIES THAT ARE BUILDING NEW FORMS OF DECENTRALIZED "WEB
12 3.0" PLATFORMS AND APPLICATIONS.

13 (3) **Exemptions.** (a) **Issuer exemption.** AN OFFER OR SALE OF A
14 DIGITAL TOKEN IS EXEMPT FROM SECTION 11-51-301 IF:

15 (I) THE OFFER OR SALE:

16 (A) OCCURS AFTER THE SECURITIES COMMISSIONER INITIALLY
17 PROMULGATES RULES TO IMPLEMENT THIS SECTION; AND

18 (B) COMPLIES WITH ALL OF THE REQUIREMENTS OF THIS
19 SUBSECTION (3)(a) AND THOSE CONTAINED IN THE RULES PROMULGATED
20 PURSUANT TO SUBSECTION (5) OF THIS SECTION;

21 (II) THE ISSUER OF THE DIGITAL TOKEN FILES A NOTICE OF INTENT
22 WITH THE SECURITIES COMMISSIONER AS SPECIFIED IN SUBSECTION (3)(c)
23 OF THIS SECTION;

24 (III) THE PRIMARY PURPOSE OF THE DIGITAL TOKEN IS A
25 CONSUMPTIVE PURPOSE;

26 (IV) THE ISSUER OF THE DIGITAL TOKEN MARKETS THE DIGITAL
27 TOKEN TO BE USED FOR A CONSUMPTIVE PURPOSE AND DOES NOT MARKET

1 THE DIGITAL TOKEN TO BE USED FOR A SPECULATIVE OR INVESTMENT
2 PURPOSE; AND

3 (V) EITHER THE CONSUMPTIVE PURPOSE OF THE DIGITAL TOKEN IS
4 AVAILABLE AT THE TIME OF SALE OR ALL OF THE FOLLOWING CONDITIONS
5 ARE MET:

6 (A) THE CONSUMPTIVE PURPOSE OF THE DIGITAL TOKEN IS
7 AVAILABLE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE TIME OF SALE
8 OR TRANSFER OF THE DIGITAL TOKEN;

9 (B) THE INITIAL BUYER IS PROHIBITED FROM RESELLING OR
10 TRANSFERRING THE DIGITAL TOKEN UNTIL THE CONSUMPTIVE PURPOSE OF
11 THE DIGITAL TOKEN IS AVAILABLE; AND

12 (C) THE INITIAL BUYER PROVIDES A KNOWING AND CLEAR
13 ACKNOWLEDGMENT THAT THE INITIAL BUYER IS PURCHASING THE DIGITAL
14 TOKEN WITH THE PRIMARY INTENT TO USE THE DIGITAL TOKEN FOR A
15 CONSUMPTIVE PURPOSE AND NOT FOR A SPECULATIVE OR INVESTMENT
16 PURPOSE.

17 (b) **Licensing exemption.** A PERSON THAT ENGAGES IN THE
18 BUSINESS OF EFFECTING OR ATTEMPTING TO EFFECT THE PURCHASE, SALE,
19 OR TRANSFER OF A DIGITAL TOKEN IS EXEMPT FROM SECTION 11-51-401 IF:

20 (I) THE PERSON:

21 (A) EFFECTS OR ATTEMPTS TO EFFECT THE PURCHASE, SALE, OR
22 TRANSFER AFTER THE SECURITIES COMMISSIONER INITIALLY
23 PROMULGATES RULES TO IMPLEMENT THIS SECTION; AND

24 (B) COMPLIES WITH ALL OF THE REQUIREMENTS OF THIS
25 SUBSECTION (3)(b) AND THOSE CONTAINED IN THE RULES PROMULGATED
26 PURSUANT TO SUBSECTION (5) OF THIS SECTION;

27 (II) THE PERSON FILES A NOTICE OF INTENT WITH THE SECURITIES

1 COMMISSIONER AS SPECIFIED IN SUBSECTION (3)(c) OF THIS SECTION;

2 (III) THE DIGITAL TOKEN CAN BE USED FOR A CONSUMPTIVE
3 PURPOSE AT THE TIME THE PERSON EFFECTS THE PURCHASE, SALE, OR
4 TRANSFER OF THE DIGITAL TOKEN; AND

5 (IV) THE PERSON TAKES REASONABLY PROMPT ACTION TO CEASE
6 EFFECTING THE PURCHASE, SALE, OR TRANSFER OF ANY DIGITAL TOKEN
7 THAT DOES NOT CONFORM TO THE REQUIREMENTS OF THIS SUBSECTION
8 (3)(b).

9 (c) AN ISSUER OF A DIGITAL TOKEN AND A PERSON THAT IS
10 ENGAGED IN THE BUSINESS OF EFFECTING OR ATTEMPTING TO EFFECT THE
11 PURCHASE, SALE, OR TRANSFER OF A DIGITAL TOKEN EACH SHALL FILE OR
12 CAUSE TO BE FILED A NOTICE OF INTENT WITH THE SECURITIES
13 COMMISSIONER BEFORE THE ISSUER OR OTHER PERSON MAY QUALIFY FOR
14 AN EXEMPTION UNDER THIS SECTION. THE SECURITIES COMMISSIONER
15 SHALL MAKE A FORM AVAILABLE FOR THIS PURPOSE ON ITS WEBSITE. IF
16 THE INFORMATION CONTAINED ON THE NOTICE REQUIRED BY THIS
17 SUBSECTION (3)(c) BECOMES INACCURATE IN ANY MATERIAL RESPECT FOR
18 ANY REASON, THE ISSUER OR OTHER PERSON SHALL FILE AN AMENDMENT
19 TO THE NOTICE IN WRITING WITH THE SECURITIES COMMISSIONER WITHIN
20 THIRTY DAYS.

21 (d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 3, THE
22 SECURITIES COMMISSIONER MAY ENTER INTO AGREEMENTS WITH FEDERAL,
23 STATE, OR FOREIGN REGULATORS TO ALLOW DIGITAL TOKENS ISSUED,
24 PURCHASED, SOLD, OR TRANSFERRED IN THIS STATE TO BE ISSUED,
25 PURCHASED, SOLD, OR TRANSFERRED IN ANOTHER JURISDICTION AND ANY
26 DIGITAL TOKENS ISSUED, PURCHASED, SOLD, OR TRANSFERRED IN ANOTHER
27 JURISDICTION TO BE ISSUED, PURCHASED, SOLD, OR TRANSFERRED IN THIS

1 STATE.

2 (4) **Definitions.** AS USED IN THIS SECTION:

3 (a) "CONSUMPTIVE PURPOSE" MEANS TO PROVIDE OR RECEIVE
4 GOODS, SERVICES, OR CONTENT, INCLUDING ACCESS TO GOODS, SERVICES,
5 OR CONTENT.

6 (b) "DIGITAL TOKEN" MEANS A DIGITAL UNIT THAT IS:

7 (I) CREATED:

8 (A) IN RESPONSE TO THE VERIFICATION OR COLLECTION OF A
9 SPECIFIED NUMBER OF TRANSACTIONS RELATING TO A DIGITAL LEDGER OR
10 DATABASE;

11 (B) BY DEPLOYING COMPUTER CODE TO A BLOCKCHAIN NETWORK
12 THAT ALLOWS FOR THE CREATION OF DIGITAL TOKENS OR OTHER UNITS; OR

13 (C) USING ANY COMBINATION OF THE METHODS SPECIFIED IN
14 SUBSECTIONS (4)(b)(I)(A) AND (4)(b)(I)(B) OF THIS SECTION;

15 (II) RECORDED IN A DIGITAL LEDGER OR DATABASE THAT IS
16 CHRONOLOGICAL, CONSENSUS-BASED, DECENTRALIZED, AND
17 MATHEMATICALLY VERIFIED IN NATURE, ESPECIALLY RELATING TO THE
18 SUPPLY OF UNITS AND THEIR DISTRIBUTION; AND

19 (III) CAPABLE OF BEING TRADED OR TRANSFERRED BETWEEN
20 PERSONS WITHOUT AN INTERMEDIARY OR CUSTODIAN OF VALUE.

21 (5) **Rules.** THE SECURITIES COMMISSIONER MAY ADOPT RULES AS
22 NECESSARY TO IMPLEMENT THIS SECTION, TO ENFORCE THIS SECTION, OR
23 TO PROVIDE EXEMPTIONS OR WAIVERS TO THE REQUIREMENTS OF THIS
24 SECTION.

25 (6) **Safe Harbor.** NO PRESUMPTION SHALL ARISE THAT AN ISSUER
26 OF ANY DIGITAL TOKEN OR OTHER CRYPTOCURRENCY, OR ANY PERSON
27 THAT EFFECTS THE PURCHASE, SALE, OR TRANSFER OF ANY DIGITAL TOKEN

1 OR OTHER CRYPTOCURRENCY, HAS VIOLATED THIS ARTICLE 51 SOLELY BY
2 REASON OF THE PERSON'S PARTICIPATION IN THE ISSUANCE, PURCHASE,
3 SALE, OR TRANSFER OF THE DIGITAL TOKEN OR OTHER CRYPTOCURRENCY
4 IF THE PERSON DOES NOT MEET THE REQUIREMENTS SPECIFIED IN
5 SUBSECTION (3)(a) OR (3)(b) OF THIS SECTION. NO PRESUMPTION SHALL
6 ARISE THAT ANY ISSUER'S SECURITIES OFFERING PERMITTED UNDER THIS
7 ARTICLE 51 WILL BE INTEGRATED WITH ANY ISSUER'S DIGITAL TOKEN
8 OFFERING PERMITTED UNDER THIS SECTION.

9 **SECTION 2. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly (August 2, 2019, if adjournment sine die is on May 3,
13 2019); except that, if a referendum petition is filed pursuant to section 1
14 (3) of article V of the state constitution against this act or an item, section,
15 or part of this act within such period, then the act, item, section, or part
16 will not take effect unless approved by the people at the general election
17 to be held in November 2020 and, in such case, will take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) This act applies to conduct occurring on or after the effective
20 date of this act.