

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 7049 PCB COM 23-02 Central Bank Digital Currency

SPONSOR(S): Judiciary Committee and Commerce Committee, Duggan

TIED BILLS: IDEN./SIM. **BILLS:** SB 7054

FINAL HOUSE FLOOR ACTION: 116 Y's 1 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 7049 passed the House on May 2, 2023, as SB 7054.

Digital currency is a virtual representation of a value, stored in electronic form, that is not available in physical form but which can be used as a medium of exchange, a unit of account, or a store of value. Digital currency includes a subset of currencies referred to as "cryptocurrencies" (such as Bitcoin) which are protected by cryptography. However, digital currency does not have the status of U.S. currency in any U.S. jurisdiction.

Central bank digital currency (CBDC) is digital currency issued or authorized by a sovereign government or central bank as a digital representation of a certain denomination of currency. Currently, in the U.S., standard U.S. currency is the only type of central bank currency available for use by the general public (i.e., the U.S. has not yet adopted a CBDC).

Proponents of a CBDC claim it would provide many benefits for U.S. consumers, including more efficient and less expensive financial transactions and greater access to the financial system. Proponents also claim such a currency would promote the U.S. currency's continued role as a reserve currency and a medium of exchange within the international financial system. However, opponents to a CBDC argue that the issuance of such a currency is not necessary, as U.S. currency is largely digital today. Opponents also argue that a CBDC may rewire the fundamental infrastructure of the U.S.'s banking and financial system by changing the relationship between citizens and money.

The Uniform Law Commission and American Law Institute have drafted model amendments to the Uniform Commercial Code (UCC) to address emerging technologies and provide updated rules for commercial transactions involving digital currencies and other technological developments. The model amendments, in pertinent part, redefine "money" as the term is used in the UCC to exclude digital currency unless the digital currency is a CBDC. Florida has not adopted the model amendments to its own Uniform Commercial Code (Florida's UCC).

The bill amends Florida's UCC to define CBDC and to expressly state that "money," as the term is used in Florida's UCC, does not include a CBDC.

The bill does not appear to have a fiscal impact on state or local governments but may have an indeterminate economic impact on the private sector.

The bill was approved by the Governor on May 12, 2023, ch. 2023-80, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Money

Money serves as a medium of exchange¹, a store of value², and a unit of account.³ Without it, economies would become barter economies, in which every item someone wished to buy would have to be exchanged for something that person could provide.⁴ With money, a person can exchange his or her goods and services for a common medium of exchange, then use that money to buy what he or she needs from others who also accept that medium of exchange.⁵

Money has come in many forms, including items found in nature (such as cowry shells) or goods produced or harvested by man (such as barley or peppercorns).⁶ At first, the value of money was anchored by its alternative uses, but standardizing the value of such items could prove challenging as it was difficult to measure such value against the value of other items that could also be used as money.⁷ Over time, precious metals (such as gold and silver) became a more common currency due to their durability, relative portability, limited supply, relatively stable valuation, and easy divisibility into smaller units of value.⁸ However, people eventually found it more convenient to deposit their precious metals in a bank in exchange for a note claiming ownership of the deposits, which note could then be exchanged in the purchase of goods, as anyone holding the note could go to the bank and obtain the precious metals backing the note.⁹

Gradually, the notes issued by banks were delinked from precious metals, becoming what is known as “fiat money.”¹⁰ Fiat money is materially worthless but has value because the people of a nation collectively agree to ascribe value to it.¹¹ It is also arguably more efficient than precious metals, as adjustments to its supply do not depend on the amount of precious metals available.¹² However, fiat money is not without its own complications, as governments issuing such money may not know how much to print. If they print too little, citizens may find it harder to buy goods and pay wages. If they print too much, prices may rise dramatically, weakening the money’s value.¹³ Because of this, many nations have delegated the task of deciding how much money to print to an independent central bank, which bank makes the decision based on its assessment of the nation’s economic needs.¹⁴

Money in the U.S.

¹ “A ‘medium of exchange’ is a function of money that expedites trade between a buyer and seller because it is widely accepted as payment for a good or service. Most societies use their currency, but other items, such as stones, salt, gold, and tobacco, have also been used as a medium of exchange. Higher Rock Education, *Medium of Exchange*, <https://www.higherrockeducation.org/glossary-of-terms/medium-of-exchange> (last visited April 19, 2023).

² “Store of value” describes a currency that can be stored and retrieved at a later date, without depreciating in value. Amoussou, Madela, *What is a ‘Store of Value’?* Securities.io (Jan. 4, 2023), <https://www.securities.io/what-is-a-store-of-value/> (last visited April 19, 2023).

³ A “unit of account” refers to a measurement that can be used to value goods and services, make calculations, and record debt. Study Smarter, *Unit of Account Costs*, <https://www.studysmarter.us/explanations/macroeconomics/economic-performance/unit-of-account-costs/> (last visited April 19, 2023).

⁴ Irina Asmundson and Ceyda Oyner, *What is Money?*, 49 *Fin. & Dev.* 3 (Sept. 2012), <https://www.imf.org/external/pubs/ft/fandd/2012/09/basics.htm> (last visited April 19, 2023).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

In 1792, Congress passed the Mint Act, establishing the coinage system of the U.S. and the dollar as the principal unit of U.S. currency.¹⁵ The first U.S. coins were struck in 1793, the first paper money was issued in 1861, and the first electronic payment was made in 1871 when Western Union debuted the electronic funds transfer system.¹⁶

In 1913, Congress passed the Federal Reserve Act, establishing the Federal Reserve System as the central bank of the U.S. and authorizing Federal Reserve Banks to issue Federal Reserve Bank notes, which they began doing in 1914.¹⁷ The Federal Reserve System also works to maintain the public's confidence in U.S. currency by:

- Conducting the nation's monetary policy to promote maximum employment, stable prices, and moderate long-term interest rates in the U.S. economy;
- Promoting the stability of the financial system and seeking to minimize and contain systemic risks through active monitoring and engagement in the U.S. and abroad;
- Promoting the safety and soundness of individual financial institutions and monitoring their impact on the financial system as a whole;
- Fostering payment and settlement system safety and efficiency through services to the banking industry and the U.S. government that facilitate U.S. dollar transactions and payments; and
- Promoting consumer protection and community development through consumer-focused supervision and examination, research and analysis of emerging consumer issues and trends, community economic development activities, and the administration of consumer laws and regulations.¹⁸

U.S. currency currently takes the following forms:

- "Central bank money," which is a liability of the central bank, coming in the form of physical currency issued by the Federal Reserve and digital balances held by commercial banks at the Federal Reserve;¹⁹
- "Commercial bank money," which is the digital form of money that is most commonly used by the public and held in accounts at commercial banks;²⁰ and
- "Nonbank money," which is digital money held as balances at nonbank financial service providers, which providers typically conduct balance transfers on their own books using a range of technologies, including mobile apps.²¹

Regardless of the form it takes, in the present day, U.S. currency is largely transmitted digitally. Research suggests that over 97% of the money in circulation today is from checking deposits – that is, U.S. currency deposited online and converted into a string of digital code by a commercial bank.²² The digitization of credit and debit card transactions and the development of banking apps has also moved many traditionally cash-based transactions into the digital space.²³ Thus, most payments in the U.S. today rely on interbank payment services to move money from a sender's account at one bank to a recipient's account at another

¹⁵ National Credit Union Administration, *History of the United States Currency*, <https://mycreditunion.gov/financial-resources/history-united-states-currency#:~:text=After%20the%20U.S.%20Constitution%20was,the%20decimal%20system%20for%20currency>. (last visited April 19, 2023).

¹⁶ *Id.*; CSG Forte, *Electronic Payments: A Brief History*, Jul. 27, 2021, <https://www.forte.net/electronic-payments-a-brief-history/> (last visited April 19, 2023).

¹⁷ *Id.*

¹⁸ Board of Governors of the Federal Reserve System, *About the Fed*, <https://www.federalreserve.gov/aboutthefed.htm#:~:text=The%20Federal%20Reserve%20System%20is.more%20generally%2C%20the%20public%20interest> (last visited April 19, 2023).

¹⁹ Board of Governors of the Federal Reserve System, *Money and Payments: The U.S. Dollar in the Age of Digital Transformation*, (Jan. 2022), <https://www.federalreserve.gov/publications/files/money-and-payments-20220120.pdf> (last visited April 19, 2023).

²⁰ *Id.*

²¹ *Id.*

²² Mookerjee, Ajay S., *What If Central Banks Issued Digital Currency?* Harvard Business Review, Oct. 15, 2021, <https://hbr.org/2021/10/what-if-central-banks-issued-digital-currency#:~:text=Over%2097%25%20of%20the%20money,code%20by%20a%20commercial%20bank>. (last visited April 19, 2023).

²³ *Id.*

bank.²⁴ Consequently, payment technologies offered by the Federal Reserve have evolved over time.²⁵ In its early years, the Federal Reserve established a national check-clearing system and used dedicated telegraph wires to transfer funds between banks.²⁶ In the 1970s, the Federal Reserve developed an automated clearinghouse system that offered an electronic alternative to paper checks, and in 2019, the Federal Reserve committed to building a service to provide real-time, around-the-clock interbank payments.²⁷

Digital Currency

Recent technological advances have introduced a wave of new private-sector financial products, including digital wallets, mobile payment apps, and digital currencies (such as Bitcoin). Digital currency is a virtual representation of a value, stored in electronic form, that is not available in physical form but which can be used as a medium of exchange, a unit of account, or a store of value.²⁸

Digital currencies can be issued in two ways: centralized (that is, issued by a central bank or sovereign nation as a digital representation of a certain denomination of currency) and decentralized (that is, not issued by a central bank or sovereign nation).²⁹ Most digital currencies, including Bitcoin, are privately issued and thus are decentralized digital currencies, but CBDCs are centralized digital currencies.³⁰ Specific characteristics of a CBDC generally include:

- Liability of the central bank or sovereign nation that issues the CBDC;
- Issuance of the currency directly to consumers (that is, the central bank circumvents the intermediary role of commercial banks); and
- Usage of distributed ledger technology (such as blockchain technology) that allow computers in different locations to propose and validate transactions and update records in a synchronized way across a network.³¹

Further, the value of a CBDC does not fluctuate except as the value of the underlying currency fluctuates in relation to other currencies.³²

Digital Currency in the U.S.

In the U.S. today, standard U.S. currency (that is, currency issued by the Federal Reserve) is the only type of central bank currency available for use by the general public.³³ In other words, digital currency does not have the status of U.S. currency in any U.S. jurisdiction.³⁴ However, in March 2022, President Biden issued an executive order directing federal agencies to assess the benefits and potential risks of the integration of digital assets into the mainstream and, notably, the development and integration of a U.S. CBDC.³⁵ In

²⁴ Board of Governors of the Federal Reserve System, *supra* note 19.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Westlaw, *Definition of virtual currency*,

<https://1.next.westlaw.com/Document/11c0f4fc4505011e89bf199c0ee06c731/View/FullText.html?ppcid=d154a21215fa49b2b97bc6db2c6392a5&originationContext=knowHow&transitionType=KnowHowItem&contextData=%28sc.Default%29> (last visited April 19, 2023).

²⁹ Yang, Zhou, *A study on the influence mechanism of CBDC on monetary policy: An analysis based on e-CNY*, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0268471> (last visited April 19, 2023); Westlaw, *Definition of central bank digital currency*, [https://1.next.westlaw.com/w-032-2803?VR=3.0&RS=cblt1.0&lrTS=20230323210728711&transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhpc=1](https://1.next.westlaw.com/w-032-2803?VR=3.0&RS=cblt1.0&lrTS=20230323210728711&transitionType=Default&contextData=(sc.Default)&firstPage=true&bhpc=1)

(last visited April 19, 2023).

³⁰ *Id.*

³¹ Bank for International Settlements, *Central bank digital currencies – executive summary*, <https://www.bis.org/pub/othp42.pdf> (last visited April 19, 2023).

³² *Id.*

³³ Board of Governors of the Federal Reserve System, *Central Bank Digital Currency (CBDC)*, <https://www.federalreserve.gov/central-bank-digital-currency.htm> (last visited April 19, 2023).

³⁴ *Id.*

³⁵ See *Executive Order on Ensuring Responsible Development of Digital Assets*, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets/> (last visited April 19, 2023).

response to this directive, the U.S. Department of the Treasury issued a report recommending:

- Advanced work on a U.S. CBDC, in case one is determined to be in the national interest;
- Encouraging the use of an instant payment system to support a more competitive, efficient, and inclusive U.S. payment landscape;
- Establishing a federal framework for payments regulation to protect users and the financial system, while supporting responsible innovations in payments; and
- Prioritizing the improvement of cross-border payments.³⁶

Nine banks have since participated in a test project with the New York Innovation Center, a part of the Federal Reserve Bank of New York, to explore the feasibility of an interoperable digital money platform.³⁷ The project used simulated data to test a platform that operates exclusively in U.S. dollars issued in the form of digital currency.³⁸ However, bills introduced in Congress in 2023 would, if passed, limit the authority of the Federal Reserve to issue a CBDC or to offer products or services directly to or maintain an account on behalf of an individual.³⁹

Proponents of a CBDC argue that it could provide households and businesses with a convenient, electronic form of central bank money imbued with safety and liquidity; give entrepreneurs a platform on which to create new financial products and services; support faster and cheaper payments (including cross-border payments); and expand consumer access to the financial system.⁴⁰ Proponents also claim a CBDC would promote the U.S. currency's international role as a reserve currency and a medium of exchange within the international financial system.⁴¹

Opponents of a U.S. CBDC claim the issuance of such a currency is not necessary, as U.S. currency is largely digital today.⁴² Opponents also claim that such a currency would rewire the fundamental infrastructure of the U.S.'s banking and financial system by changing the relationship between citizens and money.⁴³ Indeed, the Acting Comptroller of the Currency has noted that America's current two-tier banking infrastructure (i.e., the use of commercial banks as an intermediary between the public and the Federal Reserve), is not an accident; instead, "[i]t is the result of a carefully architected monetary and banking system." Moreover, the American Banking Association argues that any potential benefits of a CBDC are uncertain and unlikely to be realized, the costs of offering such a currency are real and acute, and there are better ways to achieve the shared objectives that do not put the U.S.'s financial system or economy at risk.⁴⁴

The Uniform Commercial Code

The Uniform Commercial Code (UCC), a set of laws governing and providing uniformity in commercial transactions in the United States, is a joint project between the Uniform Law Commission (ULC) and the American Law Institute (ALI).⁴⁵ The UCC, which has been adopted by all fifty states, includes both general

³⁶ U.S. Dept. of the Treasury, Office of Public Affairs, *Fact Sheet: Treasury Report on the Future of Money and Payments*, Sept. 20, 2022, <https://home.treasury.gov/system/files/136/FactSheet-Treasury-Report-Future-Money-Payments.pdf> (last visited April 19, 2023).

³⁷ These banks include BNY Mellon, Citi, HSBC, Mastercard, PNC Bank, TD Bank, Truist, U.S. Bank, and Wells Fargo. PYMNTS, *10 U.S. Banks Participating in Test of Interoperable Digital Money Platform*, <https://home.treasury.gov/system/files/136/FactSheet-Treasury-Report-Future-Money-Payments.pdf> (last visited April 19, 2023).

³⁸ *Id.*

³⁹ As of the date of this analysis, neither bill has been heard before a committee of reference. H.R. 1122, *CBDC Anti-Surveillance State Act (2023-2024)*; S. 967, *No CBDC Act (2023-2024)*.

⁴⁰ Board of Governors of the Federal Reserve System, *supra* note 19.

⁴¹ *Id.*

⁴² American Bankers Association, *Statement for the Record on Behalf of the American Bankers Association Before the House Financial Services Committee*, (May 26, 2022), <https://www.aba.com/advocacy/policy-analysis/examining-the-benefits-and-risks-of-a-us-central-bank-digital-currency> (last visited April 19, 2023).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Chs. 670-680, F.S.; Uniform Law Commission, Uniform Commercial Code, <https://www.uniformlaws.org/acts/ucc> (last visited April 19, 2023).

provisions and specific provisions governing sales, leases, negotiable instruments, bank deposits and collections, letters of credit, documents of title, investment securities, secured transactions, and leases.⁴⁶

While the Federal Reserve has made no decisions on whether to pursue or implement a CBDC, the ULC and ALI recently drafted model amendments to the UCC to address emerging technologies and provide updated rules for commercial transactions involving digital currencies and other technological developments.⁴⁷ The model amendments would, in pertinent part, specify that the definition of “money,” as the term is used in the UCC, “does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.”⁴⁸ In other words, the definition of “money” in the model amendments excludes digital currency, unless such digital currency has been issued by a government (that is, unless it is a CBDC). Thus, Bitcoin and other forms of decentralized digital currencies would not be considered “money” under the UCC.

Florida has not adopted the model amendments. Thus, Florida’s UCC provisions currently define “money” as a medium of exchange currently authorized or adopted by a domestic or foreign government.⁴⁹ The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.⁵⁰

Effect of the Bill

The bill amends Florida’s UCC to define CBDC to mean a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the U.S. Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is made directly available to a consumer by such entities. Under the bill, the term includes a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the U.S. Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is processed or validated directly by such entities.

The bill provides that the term “money,” as used in Florida’s UCC, does not include a CBDC. In effect, the bill amends Florida’s UCC to exclude CBDC as “money” for purposes of Florida’s UCC. Therefore, CBDC, as defined in the bill, could not be used in Florida as money.

The bill will become effective July 1, 2023.

⁴⁶ *Id.*

⁴⁷ Uniform Law Commission, *UCC, 2022 Amendments to*, <https://www.uniformlaws.org/committees/community-home?CommunityKey=1457c422-ddb7-40b0-8c76-39a1991651ac> (last visited April 19, 2023).

⁴⁸ Uniform Law Commission and the American Law Institute, *Uniform Commercial Code Amendments (2022)*, https://higherlogicdownload.s3-external-1.amazonaws.com/UNIFORMLAWS/f12fdae2-9355-569d-d66d-88c0e68ff080_file.pdf?AWSAccessKeyId=AKIAVRD07IEREB57R7MT&Expires=1679518672&Signature=%2BH%2Fxe85ZlpbwlyZarD36lOpgHeg%3D, Section 1-201(b)(24) (last visited April 19, 2023).

⁴⁹ S. 671.201(24), F.S.

⁵⁰ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the federal government adopts a U.S. CBDC, as defined in the bill, such currency would not be considered "money" for purposes of Florida's UCC. This could have an indeterminate fiscal impact on financial transactions in Florida, including interstate financial transactions, which may have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.