

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to state legal tender and bullion
3 depository; creating s. 17.45, F.S.; providing
4 definitions; providing that specie legal tender and
5 electronic currency are legal tender; providing that
6 bullion is not personal property for taxation and
7 regulatory purposes; providing that certain
8 transactions of bullion do not give rise to tax
9 liability; providing that exchange of one type or form
10 of legal tender for another type or form of legal
11 tender does not give rise to tax liability;
12 prohibiting persons from compelling others to tender
13 or accept specie as legal tender; authorizing that
14 specie legal tender be recognized for certain payments
15 by governmental entities; authorizing courts to
16 require the specific type and form of specie under
17 certain circumstances; requiring the Attorney
18 General's office to enforce certain provisions;
19 requiring the Department of Financial Services to
20 establish and administer a bullion depository;
21 authorizing the department to contract with a third
22 party to act as the depositories' administrator;
23 authorizing that depository accounts be established
24 through depository agreements with a depository;
25 providing rights of depository account holders;
26 requiring depositories to have certain processes and
27 systems; authorizing governmental entities to use
28 depositories for storing bullion; authorizing the
29 State Treasury to deposit a portion of its funds into

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30 depositories in the form of bullion; providing that
31 such bullion is considered part of the state's
32 official financial reserves; requiring the department
33 to develop certain guidelines; providing recordkeeping
34 requirements; providing requirements for security
35 measures and insurance coverage for depositories;
36 providing requirements for audits; providing specified
37 administration duties for the administrator; requiring
38 that such duties and specified services be publicly
39 available; requiring the Chief Financial Officer to
40 review such duties and services; prohibiting specified
41 employees and officials from having financial
42 interests in certain companies and entities; requiring
43 disclosure of potential conflicts of interest;
44 providing removal from positions, fines, and
45 penalties; authorizing the Chief Financial Officer to
46 enter into contracts for specified purposes;
47 authorizing the administrator to enter into
48 contractual agreements with private entities for
49 certain services; requiring the department to review
50 and approve such contractual agreements; requiring the
51 depositories' compliance with certain laws; requiring
52 the administrator to consult regularly with legal
53 counsel; prohibiting depositories from being
54 terminated or transferred to a private entity;
55 providing an exception; providing reporting
56 requirements; requiring the department to adopt rules
57 and regulations; providing that certain confiscations,
58 requisitions, seizures, and other actions relating to

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59 depository accounts by certain entities are void and
60 of no force and effect under certain circumstances;
61 prohibiting depositories from recognizing such
62 entities as lawful successors of depository account
63 holders; requiring depositories to suspend withdrawal
64 privileges associated with such depository accounts
65 for a specified period; authorizing voluntary
66 transfers of account balances and of accounts among
67 account holders; requiring the Chief Financial Officer
68 to refer certain matters to the Attorney General;
69 requiring the Chief Financial Officer to establish
70 electronic currencies backed by specie legal tender
71 and other bullion; authorizing the Chief Financial
72 Officer to contract with a private vendor for certain
73 services; providing requirements for establishing
74 electronic currencies; requiring the Chief Financial
75 Officer to hold specie legal tender and other bullion
76 as bailment for specified purposes; authorizing
77 persons to purchase units of electronic currencies, to
78 deposit specie legal tender and other designated
79 bullion, and to exchange electronic currencies for
80 specie legal tender, legal tender other than specie
81 legal tender, and designated bullion; requiring the
82 Chief Financial Officer to determine values of units
83 of electronic currency in non-specie legal tender;
84 requiring that the exchange rates be published online;
85 providing that specie legal tender and other
86 designated bullion holdings are held as bailment on
87 behalf of holders of electronic currencies and are not

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88 available for legislative appropriation; providing
89 rulemaking authority; authorizing the Chief Financial
90 Officer to enter into contracts for specified
91 purposes; requiring the Chief Financial Officer to
92 administer this act pursuant to specified provisions;
93 providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Section 17.45, Florida Statutes, is created to
98 read:

99 17.45 Gold and silver as legal tender; state bullion
100 depositories; gold and silver electronic currency.—

101 (1) DEFINITIONS.—As used in this section, the term:

102 (a) "Administrator" means the individual or entity
103 appointed by the department to oversee the operation and
104 management of the depositories.

105 (b) "Bullion" means refined precious metal in any shape or
106 form with uniform content and purity, including, but not limited
107 to, coins, rounds, bars, ingots, and any other products, which
108 is:

109 1. Stamped or imprinted with the weight and purity of the
110 precious metal that it contains; and

111 2. Valued primarily based on its metal content and not on
112 its form and function.

113 (c) "Depository" means a bullion depository established in
114 this section.

115 (d) "Depository account" means an account established with
116 a depository to facilitate the storage, transfer, and exchange

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117 of bullion.

118 (e) "Electronic currency" means a representation of actual
119 gold and silver, specie, and bullion held in a depository
120 account, which may be transferred by electronic instruction.
121 Such representation must reflect the exact units of physical
122 gold and silver, specie, or bullion in the depository account in
123 its fractional troy ounce measurement as provided in this
124 section.

125 (f) "Legal tender" means a recognized medium of exchange
126 that is authorized by the United States Congress or by any state
127 pursuant to s. 8 or s. 10, Art. I of the United States
128 Constitution, respectively, for the payment of debts, public
129 charges, taxes, or dues.

130 (g) "Precious metal" means gold or silver.

131 (h) "Specie" means bullion fabricated into products of
132 uniform shape, size, design, content, weight, and purity which
133 are suitable for or customarily used as currency, as a medium of
134 exchange, or as the medium for purchase, sale, storage,
135 transfer, or delivery of precious metals in retail or wholesale
136 transactions.

137 (i) "Specie legal tender" means:

138 1. Specie coin issued by the Federal Government at any
139 time; and

140 2. Any other specie designated by the Chief Financial
141 Officer as legal tender pursuant to the monetary authority not
142 prohibited in s. 10, Art. I of the United States Constitution.

143 (2) LEGAL TENDER.—

144 (a) The following are considered legal tender:

145 1. Specie legal tender; and

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146 2. Electronic currency.

147 (b) Bullion may not be characterized as personal property
148 for taxation or regulatory purposes.

149 (c) The purchase or sale of any type or form of bullion
150 does not give rise to any tax liability.

151 (d) The exchange of one type or form of legal tender for
152 another type or form of legal tender does not give rise to any
153 tax liability.

154 (e) Unless specifically provided by the State Constitution
155 or general law or by contract, a person may not compel another
156 person to tender specie or to accept specie as legal tender.

157 (f) Specie legal tender may be recognized to pay private
158 debts, taxes, and fees levied by the state or local government
159 or any subdivision thereof.

160 (g) If a valid and enforceable contract expressly
161 designates a type or form of specie as tender, the court that is
162 asked to adjudicate the breach of the contract must require, as
163 a remedy for the breach, the specific performance of tendering
164 the type or form of specie specified in the contract.

165 (h) The Attorney General's office shall enforce this
166 subsection without prejudice to a private right of action.

167 (3) BULLION DEPOSITORIES.—

168 (a) State bullion depository establishment and
169 administration.—The department may:

170 1. Establish and administer bullion depositories to provide
171 a secure location for the storage of bullion; or

172 2. Contract with a third party to act as the administrator
173 to manage the day-to-day operations of the depositories and
174 implement the depositories' security, storage, and transactional

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175 and administrative procedures in accordance with this subsection
176 and any rule adopted thereunder. As used in this subsection, the
177 term "security" means physical, online, and logical security
178 standards that meet generally accepted standards within the
179 information assurance industry.

180 (b) Depository accounts; state use of depositories.—

181 1. A person, including, but not limited to, an individual,
182 a corporation, a partnership, a company, an association, a
183 trust, an estate, and a governmental entity, may establish a
184 depository account by entering into a depository agreement with
185 a depository.

186 2. A depository account holder may purchase, sell, deposit,
187 or withdraw bullion through the holder's account in accordance
188 with this section and any rule adopted thereunder. A depository
189 must have processes and systems to facilitate timely bullion
190 purchases, sales, deposits, and withdrawals, which may include,
191 but are not limited to:

192 a. Physical deposits and withdrawals to and from the
193 depository's physical location, or a partner organization such
194 as a major mint or refiner capable of providing bullion that
195 meets standards established by the department; and

196 b. Electronic systems that meet current industry standards
197 for the purchase and sale of bullion for depository account
198 holders that cannot or choose not to travel to the physical
199 location.

200 3. State agencies, counties, municipalities, and other
201 governmental entities may use a depository for storing bullion.
202 The State Treasury may deposit a portion of its funds into a
203 depository in the form of bullion, and such bullion is

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204 considered part of the state's official financial reserves. The
205 department shall develop guidelines for the state's use of
206 depositories.

207 4. The administrator shall maintain a record of all
208 depository accounts and all transactions, deposits, and
209 withdrawals associated with each account. Such records must be
210 provided to the department within 5 business days after the
211 department's request. All records shall be kept and maintained,
212 at a minimum, on an approved state computer system for a period
213 of at least 7 years and 1 day.

214 (c) Security measures and insurance.-

215 1. The administrator shall ensure that a depository has
216 state-of-the-art security measures to prevent theft, fraud, or
217 other unauthorized access or removal of bullion.

218 2. A depository shall maintain insurance coverage
219 sufficient to cover the full value of all bullion stored at the
220 depository. Such insurance shall be provided by an insurer that
221 is rated "A" or higher by A.M. Best Company or an equivalent
222 rating by another national rating service acceptable to the
223 office.

224 3. An independent third party shall conduct audits at least
225 twice a year to verify the amount and value of bullion stored in
226 a depository and to inspect the security measures and protocols
227 in place. The third party must be an established provider with a
228 good history of providing such auditing service. Documentation
229 of audit results must be made available within a reasonable
230 timeframe to the public upon request. Documentation must
231 include, at a minimum, summary totals of precious metal amounts
232 assessed, as well as documentation of any discrepancies found

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233 during the audit.

234 (d) Transactions and services.—

235 1. The administrator shall administer the bullion storage,
236 withdrawal, and transfer within a depository pursuant to the
237 safekeeping services provisions under s. 17.59 and shall make
238 such administration and services provisions publicly available.

239 2. The Chief Financial Officer shall periodically review
240 the administration and the safekeeping services provisions under
241 s. 17.59, as described in subparagraph 1., to ensure that such
242 administration and services provisions are reasonable and in
243 line with market rates.

244 (e) Conflicts of interest.—

245 1. An employee or official associated with the oversight or
246 operation of a depository:

247 a. May not have any financial interests in companies or
248 entities that produce, sell, or manage bullion.

249 b. Must disclose any potential conflict of interest to the
250 department immediately upon discovery.

251 2. A violation of this paragraph may result in the
252 employee's or official's removal from his or her position,
253 finer, or other legal penalties as determined by the department.

254 (f) Contractual agreements.—The Chief Financial Officer has
255 all authority necessary to enter into contractual agreements
256 with third parties to administer this section and fulfill the
257 purposes of this section. The administrator may enter into
258 contractual agreements with private entities for the provision
259 of services for bullion storage, transportation, or security.
260 All contractual agreements must be reviewed and approved by the
261 department to ensure that the agreements align with the state's

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262 interests and security requirements.

263 (g) Legal and regulatory compliance.—A depository must
264 comply with federal and state laws pertaining to bullion
265 storage, management, and transactions. The administrator shall
266 consult regularly with legal counsel to ensure that each
267 depository remains compliant with evolving laws and regulations.

268 (h) Termination or transfer of a depository.—A depository
269 may not be terminated or transferred to a private entity unless
270 such termination or transfer is approved by the Legislature. A
271 depository termination or transfer must ensure the security of
272 the bullion, the rights of account holders, and the financial
273 interests of the state.

274 (i) Reporting and oversight.—

275 1. The administrator shall provide a quarterly report to
276 the department detailing the operations, transactions, and
277 financial status of each depository.

278 2. The department shall provide an annual report to the
279 Legislature regarding the operations and financial status of
280 each depository.

281 3. The Legislature may request additional reports or
282 conduct investigations into the operations of a depository as it
283 deems necessary.

284 (j) Rules and regulations.—The department shall adopt rules
285 and regulations necessary for the establishment, operation,
286 security, and administration of a depository and shall make
287 these rules and regulations publicly available. Before final
288 adoption of the rules and regulations, the department must
289 undergo a public comment period.

290 (k) Confiscations, requisitions, seizures, and other

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291 actions void.—

292 1. A purported confiscation, requisition, seizure, or other
293 attempt to control the ownership, disposition, or proceeds of a
294 withdrawal, transfer, liquidation, or settlement of a depository
295 account or an electronic currency account, including the
296 precious metals represented by the balance of a depository
297 account or an electronic currency account, if effected by a
298 governmental or quasi-governmental authority other than an
299 authority of this state or by a financial institution or other
300 person acting on behalf of or pursuant to a directive or
301 authorization issued by a governmental or quasi-governmental
302 authority other than an authority of this state, in the course
303 of a generalized declaration of illegality or emergency relating
304 to the ownership, possession, or disposition of one or more
305 precious metals, contracts, or other rights to the precious
306 metals, contracts, or derivatives of the ownership, possession,
307 disposition, contracts, or other rights, is void ab initio and
308 of no force or effect.

309 2. A depository in the case of receiving notice of a
310 purported confiscation, requisition, seizure, or other attempt
311 to control the ownership, disposition, or proceeds of a
312 withdrawal, transfer, liquidation, or settlement of a depository
313 account or an electronic currency account, including the
314 precious metals represented by the balance of a depository
315 account or an electronic currency account, if effected by a
316 governmental or quasi-governmental authority other than an
317 authority of this state or by a financial institution or other
318 person acting on behalf of or pursuant to a directive or
319 authorization issued by a governmental or quasi-governmental

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320 authority other than an authority of this state, in the course
321 of a generalized declaration of illegality or emergency relating
322 to the ownership, possession, or disposition of one or more
323 precious metals, contracts, or other rights to the precious
324 metals, contracts, or derivatives of the ownership, possession,
325 disposition, contracts, or other rights, may not recognize the
326 governmental or quasi-governmental authority, financial
327 institution, or other person acting as the lawful successor of
328 the registered holder of the depository account or the
329 electronic currency account in question.

330 3. Upon receipt of notice of any transaction described in
331 subparagraph 1., with respect to all or any portion of the
332 balance of a depository account or an electronic currency
333 account, a depository shall suspend withdrawal privileges
334 associated with the balances of the depository account or
335 electronic currency account until suitable substitute
336 arrangements may be effected in accordance with rules of the
337 Chief Financial Officer to enable the registered account holder
338 to take delivery of the precious metals represented by the
339 account balances in question. A voluntary transfer of a
340 depository account or an electronic currency account balance or
341 of a depository account or an electronic currency account among
342 depository account or electronic currency account holders may
343 continue to take place unaffected by the suspension, and the
344 depository shall recognize such voluntary transfer to the full
345 extent authorized by this section and rules adopted under this
346 section.

347 4. The Chief Financial Officer shall refer any matter
348 relating to an action described in subparagraph 1. to the

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349 Attorney General for resolution.

350 (4) TRANSACTIONAL GOLD AND SILVER ELECTRONIC CURRENCY.—

351 (a) *Establishment and administration of gold and silver*
352 *electronic currency.—*

353 1. As authorized under s. 10, Art. I of the United States
354 Constitution, the Chief Financial Officer shall establish
355 electronic currencies backed by specie legal tender, or other
356 bullion designated by the Chief Financial Officer, so that each
357 unit of the electronic currency issued represents a fraction of
358 a troy ounce of specie legal tender or such other form of
359 bullion, which shall be held as bailment as provided in this
360 subsection.

361 2. The Chief Financial Officer may contract with a private
362 vendor to establish the electronic currencies or to perform
363 other duties necessary to administer this subsection.

364 3. In establishing electronic currencies, the Chief
365 Financial Officer shall establish a means to ensure that a
366 person who holds an electronic currency may readily transfer or
367 assign the electronic currency to any other person by electronic
368 means.

369 (b) *Gold and silver held as bailment.—*

370 1. The Chief Financial Officer shall, on behalf of the
371 electronic currency holders, hold as bailment the specie legal
372 tender or other designated bullion acquired to back each
373 electronic currency. The Chief Financial Officer shall maintain
374 enough specie legal tender or other designated bullion to
375 provide for the redemption in specie legal tender or other
376 designated bullion of all units of the electronic currencies
377 that have been issued.

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378 2. The Chief Financial Officer may establish an account in
379 a depository to hold specie legal tender or other designated
380 bullion purchased to back each electronic currency and may hold
381 the specie legal tender or other designated bullion otherwise as
382 convenient for the administration of this subsection.

383 (c) Purchase and deposit; issuance.—A person may:

384 1. Purchase any number of units of an electronic currency
385 from a depository.

386 2. Deposit specie legal tender or other designated bullion
387 with the Chief Financial Officer, the administrator, or a
388 depository, in exchange for units of an electronic currency.

389 3. Present to the Chief Financial Officer or the
390 administrator any number of units of an electronic currency to
391 exchange for legal tender other than that backing the electronic
392 currency.

393 4. Surrender to the Chief Financial Officer or the
394 administrator, for redemption, any number of units of an
395 electronic currency in exchange for an equal amount of specie
396 legal tender or other designated bullion backing such
397 surrendered electronic currency, with any fractional remainders
398 paid in other legal tender as necessary to facilitate the
399 transaction.

400 (d) Value of electronic currency.—

401 1. At the time of each transaction involving the issuance
402 or redemption of the electronic currency, the Chief Financial
403 Officer or administrator shall determine the value of a unit of
404 the electronic currency in non-specie legal tender based on
405 market price.

406 2. The Chief Financial Officer or administrator shall

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407 publish online exchange rates in non-specie legal tender for any
408 specie legal tender or other bullion products that are accepted
409 in a depository.

410 (e) Bailment holding.—All specie legal tender and other
411 designated bullion holdings are:

412 1. Held as a bailment by the Chief Financial Officer as
413 bailee on behalf of persons who hold the electronic currencies;
414 and

415 2. Not available for legislative appropriation.

416 (f) Rules; contracts.—The Chief Financial Officer may:

417 1. Adopt rules to implement this subsection, including
418 rules to ensure the security of the electronic currency and to
419 prevent fraud; and

420 2. Enter into contracts to administer this subsection and
421 fulfill the purposes of this subsection.

422 (5) SAFEKEEPING SERVICES.—The Chief Financial Officer shall
423 administer this section pursuant to s. 17.59.

424 Section 2. This act shall take effect July 1, 2024.