



ILLINOIS BLOCKCHAIN ASSOCIATION

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COMMENTS ON HB 1797

The Illinois Digital Assets and Consumer Protection Act (DACPA)

The Illinois Blockchain Association is a nonprofit membership organization that advocates for sound public policy concerning blockchain, digital assets and cryptocurrency in Illinois. We serve as the unified voice for startups, entrepreneurs, academics, students, investors, small business owners, and others who believe in the power of blockchain and related technology to shape the digital future. Our goal is to solidify Illinois as a premier destination for blockchain innovation through advocacy, promotion, and education.

We oppose DACPA. Here's why.

The timing is counterproductive. Attempting to establish a state regulatory framework when federal legislation is imminent is counterproductive. Federal legislation that establishes clear regulatory oversight, clarifies compliance obligations, and protects consumers must be the first step.

DACPA's definitions are far too broad. As proposed, DACPA sweeps too broadly by attempting to govern not just any traditional financial institutions, but also the thousands of innovators and entrepreneurs who are building blockchain-based technology but who will never take custody of—or be in a position to lose—Illinois residents' assets.

While the bill's exclusion of "the development and dissemination of software in and of itself" from the definition of "Digital asset business activity" is a positive step, it is not enough. For example, "Digital asset business activity" is too broadly defined as "(1) Exchanging, transferring, or storing a digital asset; (2) Engaging in digital asset administration; and (3) Any other business activity involving digital assets designated by rule by the Department as may be necessary and appropriate for the protection of residents." Additionally, "Digital asset administration" is defined as "controlling, administering, or issuing a digital asset." These sweeping definitions apply a one-size-fits-all approach that is inconsistent with innovation in this space.

DACPA's applicability to decentralized finance is unclear. Hundreds of local start-ups are experimenting with decentralized finance (DeFi), building software protocols that enable peer-to-peer disintermediated financial transactions such as lending, staking, and a myriad of other activities through smart contracts that live on the blockchain. As designed, users maintain full custody and control over their assets when interacting with such protocols. DACPA fails to consider DeFi, and many companies building DeFi technology may be captured by its broad definition of "issuing," "exchanging" or "storing" digital assets.

Similar efforts have proven to stall innovation. DACPA appears to be modeled on New York's BitLicense regime, which is broadly understood to be a failure. NY has only issued 34 licenses in the 10 years BitLicense has been in place, and has resulted in an exodus of start-ups and innovation from the state.



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Burdensome IDFPR registrations are exclusionary. DACPA's provisions, including the costly and onerous registration process required by any business operating in the digital assets space, serves as a gatekeeper, limiting participation in blockchain and digital assets innovation to a select few well-funded institutions and wealthy individuals. Consider the following examples, which illustrates the impact of the proposed bill's onerous IDFPR registration requirements:

- **A student entrepreneur.** One of IBA's board members is a senior at the University of Illinois. He is building an innovative blockchain-based system that will include anti-fraud protections and permit
- **An artist selling NFTs.** The bill requires anyone who "issues" a digital asset to register, and with "digital asset" so broadly defined, an independent artist selling digital representations of her work would likely be covered.
- **A B2B blockchain startup.** Chicago-based startups are experimenting with diverse blockchain-based B2B applications, including those involving trade settlement for securities transactions, settlement of bank-to-bank payments, recording ownership of title, and more. Most of these businesses involve "issuing," "exchanging" or "administering" a digital asset. These start-ups are often too small and undercapitalized to be subject to an onerous regulatory scheme and could be forced out of the state entirely.
- **DAO communities.** There has been a rise in decentralized autonomous communities (DAOs), or online clubs organized around a purpose or interest. DAOs can promote a charitable cause, spur support for a band or musical artist, help coordinate activities around a shared political or social issue, or even be used to govern a school PTA. DAOs issue their own crypto tokens, which are used as part of the community's voting and governance.

Federal legislation should lead. Numerous bills are pending in Congress that would comprehensively regulate centralized crypto businesses. Passing a market structure bill that clarifies regulatory oversight, establishes compliance obligations, and provides consumer protections is a congressional priority. In the meantime, significant federal resources (SEC, CFTC, DOJ, FinCEN) are being poured into regulating the crypto markets through rulemakings and enforcement actions. Action by the Illinois legislature is not needed now.

Illinois has the potential to solidify its reputation as a hub for innovation and a destination for those building the future on this next-generation technology. Regulatory policy should champion our state's startups and innovators, not place unnecessary burdens on them.

There are thousands of examples of companies solving real-world problems with blockchain, digital assets, and related technology. We invite you to explore those here: <https://thevalueprop.io/>.