

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1747  
OFFERED BY MR. EMMER OF MINNESOTA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Blockchain Regulatory  
3 Certainty Act”.

**4 SEC. 2. SAFE HARBOR FOR NON-CONTROLLING  
5 BLOCKCHAIN DEVELOPERS AND PROVIDERS  
6 OF BLOCKCHAIN SERVICES.**

7 (a) PROTECTION FOR NON-CONTROLLING  
8 BLOCKCHAIN SERVICES AND SOFTWARE DEVELOPERS.—  
9 No blockchain developer or provider of a blockchain serv-  
10 ice shall be treated as a money transmitter (as defined  
11 under State licensing laws), a financial institution (as de-  
12 fined under section 5312 of title 31, United States Code),  
13 or any other State or Federal legal designation requiring  
14 licensing or registration as a condition to acting as a  
15 blockchain developer or provider of a blockchain service,  
16 unless the developer or provider has, in the regular course  
17 of business, control over digital assets to which a user is  
18 entitled under the blockchain service or the software cre-

1 ated, maintained, or disseminated by the blockchain devel-  
2 oper.

3 (b) EFFECT ON OTHER LAWS.—

4 (1) INTELLECTUAL PROPERTY LAW.—Nothing  
5 in this section shall be construed to limit or expand  
6 any law pertaining to intellectual property.

7 (2) STATE LAW.—Nothing in this section shall  
8 be construed to prevent any State from enforcing  
9 any State law that is consistent with this section. No  
10 cause of action may be brought and no liability may  
11 be imposed under any State or local law that is in-  
12 consistent with this section.

13 (c) DEFINITIONS.—As used in this section:

14 (1) BLOCKCHAIN DEVELOPER.—The term  
15 “blockchain developer” means any person or busi-  
16 ness that creates, maintains, or disseminates soft-  
17 ware facilitating the creation or maintenance of a  
18 blockchain network or a blockchain service.

19 (2) BLOCKCHAIN NETWORK.—The term  
20 “blockchain network” means any system of  
21 networked computers that cooperates to reach con-  
22 sensus over the state of a computer program and al-  
23 lows users to participate in the consensus-making  
24 process without the need to license proprietary soft-  
25 ware or obtain permission from any other user. The

1 term “blockchain network” includes, specifically, a  
2 public network of computers that cooperates to  
3 reach consensus over the state of a distributed ledg-  
4 er describing transactions in a digital asset.

5 (3) BLOCKCHAIN SERVICE.—The term  
6 “blockchain service” means any information, trans-  
7 action, or computing service or system that provides  
8 or enables access to a blockchain network by mul-  
9 tiple users, including specifically a service or system  
10 that enables users to send, receive, exchange, or  
11 store digital assets described by blockchain net-  
12 works.

13 (4) CONTROL.—The term “control” means the  
14 legal right, authority, or ability to obtain upon de-  
15 mand data sufficient to initiate transactions spend-  
16 ing an amount of digital assets.

17 (5) DIGITAL ASSET.—The term “digital asset”  
18 means any form of intangible personal property that  
19 can be exclusively possessed and transferred person  
20 to person without necessary reliance on an inter-  
21 mediary.

