

**Alert | Blockchain & Digital Assets/  
Financial Regulatory & Compliance**



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## **New York’s Proposed Moratorium on Cryptocurrency Mining Operations**

On June 2, 2022, the New York Senate passed [Senate Bill S6486D](#) (the Bill), which would amend the state’s environmental conservation law and set forth a two-year moratorium on certain cryptocurrency mining operations in the state of New York. The Bill passed the New York Assembly earlier in 2022 and now awaits Gov. Kathy Hochul’s signature. If signed, the Bill would prohibit the issuance of permits for certain electric-generating facilities that provide energy for mining operations that use proof-of-work (PoW) authentication methods to validate blockchain transactions. The legislation also would require a comprehensive generic environmental impact statement review by the New York Department of Environmental Conservation in consultation with the state’s Department of Public Service.

### **What is Bitcoin Mining and PoW Authentication?**

Bitcoin mining is a verification process essential to the bitcoin economy; it is the process of creating new bitcoins by solving complex mathematical problems that verify transactions in the cryptocurrency. PoW mining is one of the two most commonplace mechanisms cryptocurrency miners use to verify new transactions on the blockchain and make new tokens. Powerful computers plug into the bitcoin network and solve complex mathematical equations to confirm the legitimacy of bitcoin transactions. As payment for these computations, miners receive new bitcoins as a financial incentive to keep the systems running. By applying PoW techniques, miners ensure the safety of the blockchain by validating the accuracy of transactions, as there is no central authority that protects transaction information.

## Key Points of the Bill

The Bill would partially limit PoW mining operations in New York for two years. The Bill's key points include:

- A two-year moratorium on approvals of any new or renewed permits for fossil fuel burning plants being used to power behind-the-meter PoW mining, which only targets new operations.
- A prohibition on the issuance of new air permits and the renewal of existing air permits, but it would not affect current operating PoW mining operations whose air permits do not require review within the moratorium period.
- A study of existing cryptocurrency mining operations and their potential environmental impact in the state by the department of environmental conservation along with the department of public service.
- The Bill would not apply to mining operations that utilize energy from the grid or use renewable energy.

## The Bill's Future and Its Impact

To date, Gov. Hochul has not taken action on the Bill and has indicated a decision may not be forthcoming in the coming weeks. Blockchain industry leaders have expressed concerns related to the Bill's potential economic impacts in New York state. If the governor signs the Bill, New York would be the first state in the country to ban certain blockchain technology infrastructure.

## Treatment of Cryptocurrency Mining in Other States

If signed into law, the Bill may have unintended consequences for the industry in New York, as innovators and entrepreneurs may turn their focus to other states that have deregulated power grids and financial incentives. For example, some states are taking steps to incentivize cryptocurrency mining as follows:

- (i) In May 2021, Kentucky passed a pair of bills creating tax incentives for crypto mining companies;<sup>1</sup>
- (ii) In January 2022, legislation was proposed in Illinois to modify a state law to extend incentives to crypto-mining companies that set up shop in the state;<sup>2</sup>
- (iii) In June 2021, Texas Gov. Abbott signed a bill<sup>3</sup> into law that puts virtual currency under the Texas commercial law framework as a secured transaction, facilitating business transactions for cryptocurrency companies in Texas; and
- (iv) Georgia also has become an attractive state for crypto miners because it offers lower power prices and large amounts of nuclear and solar power.<sup>4</sup>

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<sup>1</sup> The Kentucky State House of Representatives "House Bill 230" May 25, 2021, available at: H.R. 230, 21st Reg. Sess. (Ky. 2021); The Kentucky State Senate "Senate Bill 255" May 25, 2021, available at: S. 255, 21st Reg. Sess. (Ky. 2021).

<sup>2</sup> The Illinois House of Representatives "House Bill 5287" May 25, 2022, available at: H.R. 5287, 102nd Gen. Ass. (Ill. 2022).

<sup>3</sup> The Texas House of Representatives "House Bill 4474" June 15, 2021, available at: H.R. 4474, Reg. Sess. (Tex. 2022).

<sup>4</sup> Josh Saul, "America's Bitcoin Miners See Georgia as the New U.S. Hot Spot," Bloomberg US Edition (Feb. 7, 2022).

## Authors

This GT Alert was prepared by:

- **William B. Mack** | +1 212.801.2230 | [mackw@gtlaw.com](mailto:mackw@gtlaw.com)
- **Samir NeJame** | +1 518.689.1424 | [nejames@gtlaw.com](mailto:nejames@gtlaw.com)
- **Marina Olman-Pal** | +1 305.579.0779 | [olmanm@gtlaw.com](mailto:olmanm@gtlaw.com)
- **Steven C. Russo** | +1 212.801.2155 | [russos@gtlaw.com](mailto:russos@gtlaw.com)
- **Claudio J. Arruda** | +1 305.579.0874 | [arrudac@gtlaw.com](mailto:arrudac@gtlaw.com)

*\* Special thanks to Summer Associate Blanca Alcaraz for her valuable contribution to this GT Alert. Not a licensed attorney.*

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