

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 25,  
2 consisting of sections numbered 8.01-227.11 through 8.01-227.13. Be it enacted by the General  
3 Assembly of Virginia:

4 **1. That the Code of Virginia is amended by adding in Chapter 3 of Title 8.01 an article numbered**  
5 **25, consisting of sections numbered 8.01-227.11 through 8.10-227.13, as follows:**

6 Article 25

7 Identity Management Liability.

8 § 8.01-227.11. Definitions

9 As used in this article unless the context requires a different meaning:

10 "Federated identity management" means a system that allows individuals to use the same identity  
11 credential, identity token, or other identifier to access networks or databases of more than one enterprise  
12 in order to conduct transactions and share information.

13 "Federation" means a group of two or more trusted partners that allow a user from one federation  
14 partner to access networks or databases from another federation partner in a secure and trustworthy  
15 manner.

16 "Federation operator" means an individual or group that defines standards for its respective  
17 federation and evaluates participation in the federation or network to ensure compliance with policy,  
18 including the ability to request audits of participants for verification.

19 "Identifying attribute" or "identifier" means a property or personal information associated with a  
20 licensee.

21 "Identity credential" means an object to be verified when presented in an authentication  
22 transaction. The identity credential can be bound in some way to the licensee to whom it was issued, or  
23 it can be a bearer credential. Electronic credentials are digital documents that bind an identity or an  
24 identifying attribute to a licensee's identity token.

25 "Identity provider" means the authoritative entity responsible for authenticating a licensee and  
26 asserting an identity for that licensee through the issuance of an identity credential or identity token.

27 "Identity token" means hardware or software the licensee possesses and access controls used to  
28 authenticate the licensee's identity or identifying attributes contained in the identity credential.

29 "Trustmark" means a tamper resistant official seal, image, or logo that signifies that the licensor  
30 and licensee have met defined legal and industry data control and rights requirements for (i)  
31 informational content integrity and assurance, (ii) information content user assurance, or (iii)  
32 informational content use assurance.

33 § 8.01-227.12. Trustmark does not carry implied warranty.

34 The use of a trustmark in a transaction does not imply a warranty for accuracy of the underlying  
35 informational content involved in the transaction.

36 § 8.01-227.13. Liability and immunity.

37 A. A federation operator shall be immune from suit arising from any acts or omissions relating to  
38 provisioning a digital certificate, identity credential, or identity token issued in accordance with the  
39 specifications of the U.S. Federal Bridge Certificate Authority unless the provisioning federation  
40 operator was grossly negligent or engaged in willful misconduct.

41 B. An identity provider shall be immune from suit arising from any act or omissions relating to  
42 providing a digital certificate, identity credential or identity token issued in accordance with the  
43 specifications of the U.S. Federal Bridge Certificate Authority unless the issuing identity provider was  
44 grossly negligent or engaged in willful misconduct.

45 C. The identity provider bears liability for all third-party damages arising from a commercially  
46 reasonable reliance on the licensee's identity credential by a third party if (i) the identity provider has  
47 failed to revoke the identity credential after notice of loss of control from the licensee and (ii) the  
48 identity provider has failed to terminate the identity credential after expiration of the license.

49 D. The licensee bears liability for all third-party damages arising from a commercially  
50 reasonable reliance on the licensee's identity credential by a third party if (i) the licensee has failed to

51 notify the identity provider about the loss of control of the identity credential and (ii) the licensee has  
52 failed to notify the identity provider of any unauthorized access to or use of the identity credential  
53 known or suspected by the licensee.

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