

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 2257
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2257, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO VIRTUAL CURRENCY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Adopt certain provisions of the Uniform Regulation of Virtual Currency Businesses Act;
- (2) Extend the Money Transmitters Act to expressly apply to persons engaged in the transmission of virtual currency; and
- (3) Require a licensee dealing with virtual currency to provide a warning to a customer prior to entering into an agreement with the customer.

Your Committee received testimony in support of this measure from USD Mint, Inc. Your Committee received testimony in opposition to this measure from Blockweather Holdings, LLC, and two individuals. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs; Commission to Promote Uniform Legislation; Coinbase, Inc.; Blackhawk Network; and one individual.



Your Committee finds that this measure combines two pathways to manage the virtual currency industry, including adopting certain provisions from the Uniform Law Commission's proposed model law, the Uniform Regulation of Virtual Currency Businesses Act (model law). The model law proposes a framework for regulating virtual currencies as a new regulatory scheme to be supervised and regulated by the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. However, your Committee has heard the concerns that the model law establishes three tiers of licensure, including permitted unlicensed activity, which would leave consumers open to misconduct without regulatory recourse; contains many exemptions that create uncertainty regarding covered activities; requires reciprocity, which may result in unintended consequences, given the different licensure standards for virtual currency among the states; and creates a new regulatory program, but does not provide any funds for staffing. Your Committee understands these concerns and notes that a different regulatory pathway for virtual currency, rather than the model act, may be more appropriate.

Your Committee further finds that this measure also extends the Money Transmitters Act to expressly apply to persons engaged in the transmission of virtual currency and provides a framework for the Division of Financial Institutions to regulate the still-emerging virtual currency industry, including establishing requirements for licensure, license renewal, examination, recordkeeping, reporting, prohibited practices, sanctions, and penalties. This measure also specifically authorizes the Division of Financial Institutions to accept like-kind virtual currency as permissible investments, which addresses the concerns raised by some virtual currency money transmitters that they are unable to hold cash and cash-like permissible investments to cover their virtual currency transactions, as currently required under the Money Transmitters Act. Your Committee concludes that extending the Money Transmitters Act to cover transmissions of virtual currency allows virtual currency companies to obtain licensure and operate in Hawaii, while also providing protections for consumers.

Your Committee has amended this measure by:



- (1) Deleting Part I of this measure, which would have adopted certain provisions of the Uniform Regulation of Virtual Currency Businesses Act;
- (2) Clarifying that the term "virtual currency" does not apply to gift certificates; store gift cards; general-use prepaid cards; or loyalty, award, or promotional gift cards;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2257, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2257, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



