

SB 3082

SD1 HD1

A BILL FOR AN ACT

RELATING TO VIRTUAL CURRENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1

PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5

"CHAPTER

6

UNIFORM REGULATION OF VIRTUAL CURRENCY BUSINESSES ACT

7

PART I. GENERAL PROVISIONS

8 § -1 Short title. This chapter shall be known and cited
9 as the Uniform Regulation of Virtual Currency Businesses Act.

10 § -2 Definitions. As used in this chapter, unless the
11 context otherwise requires:

12 "Applicant" means a person that applies for a license under
13 this chapter.

14 "Bank" means a federally chartered or state chartered
15 depository institution or holder of a charter granted by the
16 Office of the Comptroller of the Currency to a person engaged in



1 the business of banking other than accepting deposits. "Bank"
2 does not include:

3 (1) An industrial loan company, state chartered trust
4 company, or a limited purpose trust company, unless
5 the division has authorized the company to engage in
6 virtual currency business activity; or

7 (2) A trust company or limited purpose trust company
8 chartered by a state with which this State does not
9 have a reciprocity agreement governing trust company
10 activities.

11 "Control" means:

12 (1) When used in reference to a transaction or
13 relationship involving virtual currency, power to
14 execute unilaterally or prevent indefinitely a virtual
15 currency transaction; and

16 (2) When used in reference to a person, the direct or
17 indirect power to direct the management, operations,
18 or policies of the person through legal or beneficial
19 ownership of voting power in the person or under a
20 contract, arrangement, or understanding.



1 "Division" means the division of financial institutions of
2 the department of commerce and consumer affairs.

3 "Exchange", used as a verb, means to assume control of
4 virtual currency from or on behalf of a resident, at least
5 momentarily, to sell, trade, or convert:

- 6 (1) Virtual currency for legal tender, bank credit, or one
7 or more forms of virtual currency; or
- 8 (2) Legal tender or bank credit for one or more forms of
9 virtual currency.

10 "Executive officer" means an individual who is a director,
11 officer, manager, managing member, partner, or trustee of a
12 person that is not an individual.

13 "Insolvent" means:

- 14 (1) Having generally ceased to pay debts in the ordinary
15 course of business other than as a result of a bona
16 fide dispute;
- 17 (2) Being unable to pay debts as they become due; or
- 18 (3) Being insolvent within the meaning of federal
19 bankruptcy law.



1 "Legal tender" means a medium of exchange or unit of value,
2 including the coin or paper money of the United States, issued
3 by the United States or by another government.

4 "Licensee" means a person licensed under this chapter.

5 "Person" means an individual, partnership, estate, business
6 or nonprofit entity, or other legal entity. "Person" does not
7 include a public corporation, government, or governmental
8 subdivision, agency, or instrumentality.

9 "Reciprocity agreement" means an arrangement between the
10 division and the appropriate licensing agency of another state
11 that permits a licensee operating under a license granted by the
12 other state to engage in virtual currency business activity with
13 or on behalf of a resident.

14 "Record" means information that is inscribed on a tangible
15 medium or stored in an electronic or other medium, and is
16 retrievable in perceivable form.

17 "Registrant" means a person that has registered with this
18 State in accordance with section -27 to conduct virtual
19 currency business activity.

20 "Registration" means the ability, pursuant to section
21 -27, to conduct virtual currency business activity.



1 "Registry" means the Nationwide Multistate Licensing System
2 and Registry.

3 "Resident":

4 (1) Means a person that:

5 (A) Is domiciled in this State;

6 (B) Is physically located in this State for more than
7 one hundred eighty-three days of the previous
8 three hundred sixty-five days; or

9 (C) Has a place of business in this State; and

10 (2) Includes a legal representative of a person that
11 satisfies paragraph (1).

12 "Responsible individual" means an individual who has
13 managerial authority with respect to a licensee's or
14 registrant's virtual currency business activity with or on
15 behalf of a resident.

16 "Sign" means, with present intent to authenticate or adopt
17 a record, to:

18 (1) Execute or adopt a tangible symbol; or

19 (2) Attach to or logically associate with the record an
20 electronic symbol, sound, or process.



1 "State" means a state of the United States, the District of
2 Columbia, Puerto Rico, the United States Virgin Islands, or any
3 territory or insular possession subject to the jurisdiction of
4 the United States.

5 "Store", "storage", or "storing", except in the phrase
6 "store of value", means to maintain control of virtual currency
7 on behalf of a resident by a person other than the resident.

8 "Transfer" means to assume control of virtual currency from
9 or on behalf of a resident and to:

- 10 (1) Credit the virtual currency to the account of another
11 person;
- 12 (2) Move the virtual currency from one account of a
13 resident to another account of the same resident; or
- 14 (3) Relinquish control of virtual currency to another
15 person.

16 "United States dollar equivalent of virtual currency" means
17 the equivalent value of a particular virtual currency in United
18 States dollars shown on a virtual currency exchange based in the
19 United States for a particular date or period specified in this
20 chapter.



1 "Virtual currency" means a digital representation of value
2 that is used as a medium of exchange, unit of account, or store
3 of value, and is not legal tender, regardless of whether
4 denominated in legal tender. "Virtual currency" does not
5 include:

6 (1) A transaction in which a merchant grants, as part of
7 an affinity or rewards program, value that cannot be
8 taken from or exchanged with the merchant for legal
9 tender, bank credit, or virtual currency; or

10 (2) A digital representation of value issued by or on
11 behalf of a publisher and used solely within an online
12 game, game platform, or family of games sold by the
13 same publisher or offered on the same game platform.

14 "Virtual currency administration" means issuing virtual
15 currency with the authority to redeem the currency for legal
16 tender, bank credit, or other virtual currency.

17 "Virtual currency business activity" means:

18 (1) Exchanging, transferring, or storing virtual currency,
19 or engaging in virtual currency administration,
20 whether directly or through an agreement with a
21 virtual currency control services vendor;



1 (2) Holding electronic precious metals or electronic
 2 certificates representing interests in precious metals
 3 on behalf of another person or issuing shares or
 4 electronic certificates representing interests in
 5 precious metals; or

6 (3) Exchanging one or more digital representations of
 7 value used within one or more online games, game
 8 platforms, or family of games for:

9 (A) Virtual currency offered by or on behalf of the
 10 same publisher from which the original digital
 11 representation of value was received; or

12 (B) Legal tender or bank credit outside the online
 13 game, game platform, or family of games offered
 14 by or on behalf of the same publisher from which
 15 the original digital representation of value was
 16 received.

17 "Virtual currency control services vendor" means a person
 18 that has control of virtual currency solely under an agreement
 19 with a person that, on behalf of another person, assumes control
 20 of virtual currency.



1 § -3 **Scope.** (a) Except as otherwise provided in
2 subsection (b) or (c), this chapter governs the virtual currency
3 business activity of a person, wherever located, that engages in
4 or holds itself out as engaging in the activity with or on
5 behalf of a resident.

6 (b) This chapter shall not apply to the exchange,
7 transfer, or storage of virtual currency or to virtual currency
8 administration to the extent that the Electronic Fund Transfer
9 Act of 1978 (15 U.S.C. 1693 through 1693r), as amended; the
10 Securities Exchange Act of 1934 (15 U.S.C. 78a through 78oo), as
11 amended; the Commodities Exchange Act of 1936 (7 U.S.C. 1
12 through 27f), as amended; or chapters 467B, 482E, and 485A
13 govern the activity. This chapter shall not apply to activity
14 by:

15 (1) The United States, a state, political subdivision of a
16 state, agency or instrumentality of federal, state, or
17 local government, or a foreign government or a
18 subdivision, department, agency, or instrumentality of
19 a foreign government;

20 (2) A bank;

21 (3) A person engaged in money transmission that:



- 1 (A) Holds a license under chapter 489D;
- 2 (B) Is authorized by the division to engage in
- 3 virtual currency business activity; and
- 4 (C) Complies with parts II, III, V, and VI;
- 5 (4) A person whose participation in a payment system is
- 6 limited to providing processing, clearing, or
- 7 performing settlement services solely for transactions
- 8 between or among persons that are exempt from the
- 9 licensing or registration requirements of this
- 10 chapter;
- 11 (5) A person engaged in the business of dealing in foreign
- 12 exchange to the extent the person's activity meets the
- 13 definition in title 31 Code of Federal Regulations
- 14 section 1010.605(f)(1)(iv), as amended;
- 15 (6) A person that:
- 16 (A) Contributes only connectivity software or
- 17 computing power to a decentralized virtual
- 18 currency, or to a protocol governing transfer of
- 19 the digital representation of value;
- 20 (B) Provides only data storage or security services
- 21 for a business engaged in virtual currency



1 ,business activity and does not otherwise engage
2 in virtual currency business activity on behalf
3 of another person; or
4 (C) Provides only to a person otherwise exempt from
5 this chapter virtual currency as one or more
6 enterprise solutions used solely among each other
7 and has no agreement or relationship with a
8 resident that is an end user of virtual currency;
9 (7) A person using virtual currency, including creating,
10 investing, buying or selling, or obtaining virtual
11 currency as payment for the purchase or sale of goods
12 or services, solely:
13 (A) On its own behalf;
14 (B) For personal, family, or household purposes; or
15 (C) For academic purposes;
16 (8) A person whose virtual currency business activity with
17 or on behalf of residents is reasonably expected to be
18 valued, in the aggregate, on an annual basis at \$5,000
19 or less, measured by the United States dollar
20 equivalent of virtual currency;



- 1 (9) An attorney to the extent of providing escrow services
- 2 to a resident;
- 3 (10) A title insurance company to the extent of providing
- 4 escrow services to a resident;
- 5 (11) A securities intermediary, as defined in section
- 6 490:8-102, or a commodity intermediary, as defined in
- 7 section 490:9-102, that:
- 8 (A) Does not engage in the ordinary course of
- 9 business in virtual currency business activity
- 10 with or on behalf of a resident in addition to
- 11 maintaining securities accounts or commodity
- 12 accounts and is regulated as a securities
- 13 intermediary or commodity intermediary under
- 14 federal law, law of this State other than this
- 15 chapter, or law of another state; and
- 16 (B) Affords a resident protection comparable to those
- 17 set forth in section -52;
- 18 (12) A secured creditor under article 9 of chapter 490 or
- 19 creditor with a judicial lien or lien arising by
- 20 operation of law on collateral that is virtual
- 21 currency, if the virtual currency business activity of



1 the creditor is limited to enforcement of the security
2 interest in compliance with article 9 of chapter 490
3 or the lien in compliance with the law applicable to
4 the lien;

5 (13) A virtual currency control services vendor; or

6 (14) A person that:

7 (A) Does not receive compensation from a resident
8 for:

9 (i) Providing virtual currency products or
10 services; or

11 (ii) Conducting virtual currency business
12 activity; or

13 (B) Is engaged in testing products or services with
14 the person's own funds.

15 (c) The division may determine that a person or class of
16 persons, given facts particular to the person or class, should
17 be exempt from this chapter, whether the person or class is
18 covered by requirements imposed under federal law on a money
19 service business.



1 § -4 Supplementary law. Except as otherwise provided by
2 this chapter, the principles of law and equity shall supplement
3 this chapter.

4 PART II. LICENSURE

5 § -21 Conditions precedent to engaging in virtual
6 currency business activity. A person shall not engage in
7 virtual currency business activity, or hold itself out as being
8 able to engage in virtual currency business activity, with or on
9 behalf of a resident, unless the person is:

10 (1) Licensed in this State by the division under section
11 -22;

12 (2) Licensed in another state to conduct virtual currency
13 business activity by a state with which this State has
14 a reciprocity agreement and has qualified under
15 section -23;

16 (3) Registered with the division and operating in
17 compliance with section -27; or

18 (4) Exempt from licensure or registration under this
19 chapter pursuant to section -3(b) or (c).



1 § -22 License by application. (a) Except as otherwise
2 provided in section -23, an application for a license under
3 this chapter:

4 (1) Shall be made in a form and medium prescribed by the
5 division or the registry;

6 (2) Except as otherwise provided in subsection (b), shall
7 provide the following information relevant to the
8 applicant's proposed virtual currency business
9 activity:

10 (A) The legal name of the applicant, each current or
11 proposed business United States Postal Service
12 address of the applicant, and any fictitious or
13 trade name the applicant uses or plans to use in
14 conducting its virtual currency business activity
15 with or on behalf of a resident;

16 (B) The legal name, any former or fictitious name,
17 and the residential and business United States
18 Postal Service address of each executive officer
19 and responsible individual of the applicant, and
20 each person that has control of the applicant;



- 1 (C) A description of the current and former business
- 2 of the applicant for the five years before the
- 3 application is submitted or, if the business has
- 4 operated for less than five years, for the time
- 5 the business has operated, including its products
- 6 and services, associated website addresses and
- 7 social media pages, principal place of business,
- 8 projected user base, and specific marketing
- 9 targets;
- 10 (D) The name, United States Postal Service address,
- 11 and telephone number of a person that manages
- 12 each server the applicant expects to use in
- 13 conducting its virtual currency business activity
- 14 with or on behalf of a resident and a copy of any
- 15 agreement with that person;
- 16 (E) A list of:
- 17 (i) Each money service or money transmitter
- 18 license the applicant holds in another
- 19 state;
- 20 (ii) The date the license expires; and



1 (iii) Any license revocation, license suspension,
2 or other disciplinary action taken against
3 the licensee in another state and any
4 license applications rejected by another
5 state;

6 (F) A list of any criminal conviction, deferred
7 prosecution agreement, and pending criminal
8 proceeding in any jurisdiction against:

- 9 (i) The applicant;
- 10 (ii) Each executive officer of the applicant;
- 11 (iii) Each responsible individual of the
12 applicant;
- 13 (iv) Each person that has control over the
14 applicant; and
- 15 (v) Each person over which the applicant has
16 control;

17 (G) A list of any litigation, arbitration, or
18 administrative proceeding in any jurisdiction in
19 which the applicant, or an executive officer or a
20 responsible individual of the applicant, has been
21 a party for the five years before the application



1 is submitted, determined to be material in
2 accordance with generally accepted accounting
3 principles and, to the extent the applicant would
4 be required to disclose the litigation,
5 arbitration, or administrative proceeding in the
6 applicant's audited financial statements, reports
7 to equity owners, and similar statements or
8 reports;

9 (H) A list of any bankruptcy or receivership
10 proceeding in any jurisdiction for the ten years
11 before the application is submitted in which any
12 of the following was a debtor:

- 13 (i) The applicant;
- 14 (ii) Each executive officer of the applicant;
- 15 (iii) Each responsible individual of the
16 applicant;
- 17 (iv) Each person that has control over the
18 applicant; and
- 19 (v) Each person over which the applicant has
20 control;



- 1 (I) The name and United States Postal Service address
2 of each bank in which the applicant plans to
3 deposit funds obtained by its virtual currency
4 business activity;
- 5 (J) The source of funds and credit to be used by the
6 applicant to conduct virtual currency business
7 activity with or on behalf of a resident and
8 documentation demonstrating that the applicant
9 has the net worth and reserves required by
10 section -24;
- 11 (K) The United States Postal Service address and
12 electronic mail address to which communications
13 from the division may be sent;
- 14 (L) The name, United States Postal Service address,
15 and electronic mail address of the registered
16 agent of the applicant in this State;
- 17 (M) A copy of the certificate, or a detailed summary
18 acceptable to the division, of coverage for each
19 liability, casualty, business interruption, or
20 cybersecurity insurance policy maintained by the



1 applicant for itself, an executive officer, a
2 responsible individual, or the applicant's users;
3 (N) The date on which and the state where the
4 applicant is formed and a copy of a current
5 certificate of good standing by that state, if
6 applicable;
7 (O) If a person has control of the applicant and the
8 person's equity interests are publicly traded in
9 the United States, a copy of the audited
10 financial statement of the person for the most
11 recent fiscal year or most recent report of the
12 person filed under section 13 of the Securities
13 Exchange Act of 1934 (15 U.S.C. 78m), as amended;
14 (P) If a person has control of the applicant and the
15 person's equity interests are publicly traded
16 outside the United States, a copy of the audited
17 financial statement of the person for the most
18 recent fiscal year of the person or a copy of the
19 most recent documentation similar to that
20 required in subparagraph (O) filed with the
21 foreign regulator in the domicile of the person;



- 1 (Q) If the applicant is a partnership or a member-
2 managed limited liability company, the names and
3 United States Postal Service addresses of general
4 partners or members;
- 5 (R) If the applicant is required to register with the
6 Financial Crimes Enforcement Network of the
7 United States Department of the Treasury as a
8 money service business, evidence of the
9 registration;
- 10 (S) A set of fingerprints for each executive officer
11 and responsible individual of the applicant;
- 12 (T) If available, for each executive officer and
13 responsible individual of the applicant, for the
14 five years before the application is submitted:
 - 15 (i) Employment history; and
 - 16 (ii) History of any investigation of the
17 individual or legal proceeding to which the
18 individual was a party;
- 19 (U) The plans through which the applicant will meet
20 its obligations under part VI; and



1 (V) Other information the division reasonably
2 requires by rules adopted pursuant to chapter 91;
3 and

4 (3) Shall be accompanied by a nonrefundable fee in the
5 amount specified by rules adopted by the division
6 pursuant to chapter 91.

7 (b) The division may waive a requirement under subsection
8 (a) or permit the applicant to submit other information instead
9 of the required information for good cause.

10 (c) An application for a license under this section is not
11 complete until the division receives all information required by
12 this chapter and completes its investigation under subsection
13 (d).

14 (d) On receipt of a completed application:

15 (1) The division shall investigate:

16 (A) The financial condition and responsibility of the
17 applicant;

18 (B) The relevant financial and business experience,
19 character, and general fitness of the applicant;

20 and



1 (C) The competence, experience, character, and
2 general fitness of each executive officer, each
3 responsible individual, and any person that has
4 control of the applicant; and

5 (2) The division may conduct an investigation of the
6 business premises of an applicant.

7 (e) No later than thirty days after an application is
8 complete, the division shall send the applicant notice of its
9 decision to approve, conditionally approve, or deny the
10 application. If the division does not send the applicant notice
11 of its decision within thirty-one days of completion of the
12 application, the application is deemed denied. If the division
13 does not receive notice from the applicant that the applicant
14 accepts the conditions specified by the division within thirty-
15 one days following the division's notice of the conditions, the
16 application is deemed denied.

17 (f) A license takes effect on:

18 (1) The date on which the division issues the license; or

19 (2) The date the licensee provides the security required
20 by section -24,
21 whichever occurs later.



1 (g) An applicant shall pay the reasonable costs of the
2 division's investigation under this section.

3 § -23 License by reciprocity. (a) Notwithstanding
4 section -22, a person licensed by another state to conduct
5 virtual currency business activity in that state may file with
6 the registry an application under this section.

7 (b) When an application under this section is filed with
8 the registry, the applicant shall notify the division in a
9 record that the applicant has submitted the application to the
10 registry and shall submit to the division:

11 (1) A certification of license history from the agency
12 responsible for issuing a license in each state in
13 which the applicant has been licensed to conduct
14 virtual currency business activity;

15 (2) A nonrefundable reciprocal licensing application fee
16 in the amount specified by rules adopted by the
17 division pursuant to chapter 91;

18 (3) Documentation demonstrating that the applicant
19 complies with the security and net worth reserve
20 requirements of section -24; and



1 (4) A certification signed by an executive officer of the
2 applicant affirming that the applicant will conduct
3 its virtual currency business activity with or on
4 behalf of a resident in compliance with this chapter.

5 (c) The division may permit conduct of virtual currency
6 business activity by an applicant that complies with this
7 section.

8 § -24 Security, net worth, and reserves. (a) Before a
9 license is issued under this chapter:

10 (1) An applicant shall deposit with the division funds or
11 investment property, a letter of credit, a surety
12 bond, or other security satisfactory to the division
13 that:

14 (A) Secures the applicant's faithful performance of
15 its duties under this chapter; and

16 (B) Is in an amount the division specifies based on
17 the nature and extent of risks in the applicant's
18 virtual currency business model;

19 (2) The division shall not require a surety bond as
20 security under this chapter unless a surety bond is



- 1 generally available in the State at a commercially
2 reasonable cost;
- 3 (3) Security deposited under this section shall be payable
4 to this State for the benefit of a claim against the
5 licensee on account of the licensee's virtual currency
6 business activity with or on behalf of a resident;
- 7 (4) Security deposited under this section shall cover
8 claims for the period the division specifies by rule
9 and for an additional period the division specifies
10 after the licensee ceases to engage in virtual
11 currency business activity with or on behalf of a
12 resident;
- 13 (5) For good cause, the division may require the licensee
14 to increase the amount of security deposited under
15 this section, and the licensee shall deposit the
16 additional security no later than fifteen days after
17 the licensee receives notice in a record of the
18 required increase;
- 19 (6) For good cause, the division may permit a licensee to
20 substitute or deposit an alternate form of security



1 satisfactory to the division if the licensee at all
2 times complies with this section;

3 (7) A claimant shall not have a direct right to recover
4 against security deposited under this section; and

5 (8) Only the division may recover against the security,
6 and the division may retain the recovery for no more
7 than five years and may process claims and distribute
8 recoveries to claimants in accordance with rules
9 adopted by the division under chapter 489D.

10 (b) In addition to the security required under subsection
11 (a), a licensee and a registrant, at the time of the application
12 for a license under this chapter or filing of registration,
13 shall submit to the division evidence of and maintain:

14 (1) A minimum net worth of \$25,000; and

15 (2) Sufficient unencumbered reserves for winding down the
16 licensee's or registrant's operations as agreed to by
17 the division considering the nature and size of
18 expected virtual currency business activity with or on
19 behalf of residents.

20 (c) A licensee or registrant may include in its
21 calculation of net worth virtual currency, measured by the



1 average value of the virtual currency in United States dollar
2 equivalent over the prior six months, other than the virtual
3 currency over which it has control for a resident entitled to
4 the protections under section -52.

5 (d) For good cause, the division may require a licensee or
6 registrant to increase the net worth or reserves required under
7 this section. The licensee or registrant shall submit to the
8 division evidence that it has the additional net worth or
9 reserves not later than fifteen days after the licensee or
10 registrant receives notice in a record of the required increase.

11 § -25 Issuance of license; appeal. (a) Absent good
12 cause, the division shall issue a license to an applicant if the
13 applicant complies with this part and pays the costs of the
14 investigation under section -22(g) and the initial licensee
15 fee under section -22(a)(3) in an amount required by law or
16 specified by the division by rule.

17 (b) An applicant may appeal a denial of its application
18 under section -22 or -23, under chapter 91 no later than
19 thirty days after:

- 20 (1) The division notifies the applicant of the denial; or
21 (2) The application is deemed denied.



1 § -26 Renewal of license. (a) Subject to subsection
2 (g), no later than fifteen days before the anniversary date of
3 issue of the license granted pursuant to this chapter, a
4 licensee may apply for the renewal of the license by:

- 5 (1) Paying a renewal fee in an amount specified by the
- 6 division by rule adopted pursuant to chapter 91; and
- 7 (2) Submitting to the division a renewal report in
- 8 accordance with subsection (b).

9 (b) A renewal report required by subsection (a)(2) shall
10 be submitted in a form and medium prescribed by the division.

11 The report shall contain:

- 12 (1) A copy of the licensee's most recent:
 - 13 (A) Reviewed annual financial statement if the
 - 14 licensee's virtual currency business activity in
 - 15 this State was \$ or less for the fiscal
 - 16 year ending before the anniversary date of issue
 - 17 of the license granted pursuant to this chapter;
 - 18 or
 - 19 (B) Audited annual financial statement if the
 - 20 licensee's virtual currency business activity in
 - 21 this State totaled more than \$ for the



1 fiscal year ending before the date of issue of
2 the license granted pursuant to this chapter;

3 (2) If a person other than an individual has control of
4 the licensee, a copy of the person's most recent:

5 (A) Reviewed annual financial statement if the
6 person's gross revenue was \$ or less in
7 the previous fiscal year, measured as of the
8 anniversary date of issue of the license granted
9 pursuant to this chapter; or

10 (B) Audited consolidated annual financial statement
11 if the person's gross revenue was more than
12 \$ in the previous fiscal year, measured
13 as of the anniversary date of issue of the
14 license granted pursuant to this chapter;

15 (3) A description of any:

16 (A) Material change in the financial condition of the
17 licensee;

18 (B) Material litigation involving the licensee or an
19 executive officer, or responsible individual of
20 the licensee;



- 1 (C) License suspension or revocation proceeding
- 2 commenced, or other action taken, involving a
- 3 license to conduct virtual currency business
- 4 activity issued by another state on which
- 5 reciprocal licensing is based;
- 6 (D) Federal or state investigation involving the
- 7 licensee; and
- 8 (E) Data security breach involving the licensee;
- 9 (4) Information or records required by section -35 that
- 10 the licensee has not reported to the division;
- 11 (5) The number of virtual currency business activity
- 12 transactions with or on behalf of residents for the
- 13 period since, subject to subsection (g), the date the
- 14 license was issued or the date the last renewal report
- 15 was submitted, whichever occurred later;
- 16 (6) The:
- 17 (A) Amount of United States dollar equivalent of
- 18 virtual currency in the control of the licensee
- 19 at, subject to subsection (g), the end of the
- 20 last month that ends no later than thirty days
- 21 before the date of the renewal report; and

1 (B) Total number of residents for whom the licensee
2 had control of United States dollar equivalent of
3 virtual currency on that date;

4 (7) Evidence that the licensee continues to satisfy
5 section -52;

6 (8) Evidence that the licensee continues to satisfy
7 section -24;

8 (9) A list of each location where the licensee operates
9 its virtual currency business activity; and

10 (10) The name, United States Postal Service address, and
11 telephone number of each person that manages a server
12 used by the licensee in conducting its virtual
13 currency business activity with or on behalf of a
14 resident.

15 (c) If a licensee does not timely comply with subsection
16 (a), the division may use enforcement measures provided under
17 part IV. Notice or hearing is not required for a suspension or
18 revocation of a license under this chapter for failure to pay a
19 renewal fee or file a renewal report.

20 (d) If the division suspends or revokes a license under
21 this chapter for noncompliance with subsection (a), the division



1 may end the suspension or rescind the revocation and notify the
2 licensee of the action if, subject to subsection (g), no later
3 than twenty days after the license was suspended or revoked, the
4 licensee:

5 (1) Files a renewal report and pays a renewal fee; and

6 (2) Pays any penalty assessed under section -44.

7 (e) The division shall give prompt notice to a licensee of
8 the lifting of a suspension or rescission of a revocation after
9 the licensee complies with subsection (d).

10 (f) Suspension or revocation of a license under this
11 section does not invalidate a transfer or exchange of virtual
12 currency for or on behalf of a resident made during the
13 suspension or revocation and does not insulate the licensee from
14 liability under this chapter.

15 (g) For good cause, the division may extend any period of
16 time under this section.

17 (h) The division shall review the renewal of a license
18 issued under section -23 to ensure that the state that issued
19 the original license has not suspended, revoked, or limited the
20 license.



1 (i) A licensee that does not comply with this section
2 shall cease operations with or on behalf of a resident on or
3 before the anniversary date of issue of the license granted
4 pursuant to this chapter.

5 (j) A licensee shall pay the reasonable and necessary
6 costs of the division's investigation under this section.

7 § -27 Registration in lieu of license. (a) A person
8 whose volume of virtual currency business activity in United
9 States dollar equivalent of virtual currency will not exceed
10 \$35,000 annually may engage in virtual currency business
11 activity with or on behalf of a resident under a registration
12 without first obtaining a license under this chapter if the
13 person:

14 (1) Files with the division a notice in the form and
15 medium prescribed by the division of its intention to
16 engage in virtual currency business activity with or
17 on behalf of a resident;

18 (2) Provides the information for an investigation under
19 section -22;

20 (3) States the anticipated virtual currency business
21 activity for its next fiscal quarter;



- 1 (4) Pays the division a registration fee in the amount
2 specified by the division by rule adopted pursuant to
3 chapter 91;
- 4 (5) If required to register with the Financial Crimes
5 Enforcement Network of the United States Department of
6 the Treasury as a money service business, provides the
7 division evidence of the registration;
- 8 (6) Provides evidence that the person has policies and
9 procedures to comply with the Bank Secrecy Act, title
10 31 United States Code section 5311 et seq., as
11 amended, and other applicable laws;
- 12 (7) Describes the source of funds and credit to be used by
13 the person to conduct virtual currency business
14 activity with or on behalf of a resident and provides
15 evidence of and agrees to maintain the minimum net
16 worth and reserves required by section -24 and
17 sufficient unencumbered reserves for winding down
18 operations;
- 19 (8) Provides the division with evidence that the person
20 has in place policies and procedures to comply with



1 parts III, V, and VI and other requirements of this
2 chapter designated by the division; and

3 (9) Provides the division with a copy of its most recent
4 financial statement, whether reviewed or audited.

5 (b) Before the virtual currency business activity of a
6 registrant with or on behalf of residents exceeds \$35,000
7 annually in United States dollar equivalent of virtual currency,
8 the registrant shall file an application for a license under
9 this chapter and may continue to operate after the activity
10 exceeds \$35,000 annually while its application for license is
11 pending.

12 (c) For good cause, the division may suspend or revoke a
13 registration without a prior hearing or opportunity to be heard.

14 (d) A registrant shall cease all virtual currency business
15 activity with or on behalf of residents:

16 (1) If the division denies the registrant's application
17 for a license under this chapter, one day after the
18 registrant receives notice in a record that the
19 division has denied the application;

20 (2) If the division suspends or revokes the registration,
21 one day after the division sends notice of the



1 suspension or revocation to the registrant in a record
2 by a means reasonably selected for the notice to be
3 received by the recipient in one day, to the address
4 provided for receiving communications from the
5 division;

6 (3) If the virtual currency business activity of the
7 registrant with or on behalf of residents exceeds
8 \$35,000 annually in United States dollar equivalent of
9 virtual currency and the registrant has not filed an
10 application for a license under this chapter; or

11 (4) On the second anniversary date of the registration.

12 § -28 License or registration not assignable or
13 transferable. A license or registration under this chapter is
14 not transferable or assignable.

15 § -29 Rules and guidance. The division may adopt rules
16 in accordance with chapter 91 to implement this chapter and
17 issue guidance as appropriate.

18 PART III. EXAMINATION; EXAMINATION FEES; DISCLOSURE OF
19 INFORMATION OBTAINED DURING EXAMINATION

20 § -31 Authority to conduct examination. (a) The
21 division may conduct an annual examination of a licensee or



1 registrant. For good cause, the division may conduct an
2 additional examination. The division may examine a licensee or
3 registrant without prior notice to the licensee or registrant.

4 (b) A licensee or registrant shall pay the reasonable and
5 necessary costs of an examination under this section.

6 (c) Information obtained during an examination under this
7 part may be disclosed only as provided in section -34.

8 § -32 Records. (a) A licensee or registrant shall
9 maintain, for all virtual currency business activity with or on
10 behalf of a resident five years after the date of the activity,
11 a record of:

12 (1) Each transaction of the licensee or registrant with or
13 on behalf of the resident or for the licensee's or
14 registrant's account in this State, including:

- 15 (A) The identity of the resident;
- 16 (B) The form of the transaction;
- 17 (C) The amount, date, and payment instructions given
- 18 by the resident; and
- 19 (D) The account number, name, and United States
- 20 Postal Service address of the resident, and, to



- 1 the extent feasible, other parties to the
2 transaction;
- 3 (2) The aggregate number of transactions and aggregate
4 value of transactions by the licensee or registrant
5 with or on behalf of the resident and for the
6 licensee's or registrant's account in this State,
7 expressed in United States dollar equivalent of
8 virtual currency for the previous twelve calendar
9 months;
- 10 (3) Each transaction in which the licensee or registrant
11 exchanges one form of virtual currency for legal
12 tender or another form of virtual currency with or on
13 behalf of the resident;
- 14 (4) A general ledger posted at least monthly that lists
15 all assets, liabilities, capital, income, and expenses
16 of the licensee or registrant;
- 17 (5) Each business call report the licensee or registrant
18 is required to create or provide to the division or
19 registry;
- 20 (6) Bank statements and bank reconciliation records for
21 the licensee or registrant and the name, account



1 number, and United States Postal Service address of
2 each bank the licensee or registrant uses in the
3 conduct of its virtual currency business activity with
4 or on behalf of the resident;

5 (7) A report of any dispute with the resident; and

6 (8) A report of any virtual currency business activity
7 transaction with or on behalf of a resident that the
8 licensee or registrant was unable to complete.

9 (b) A licensee or registrant shall maintain records
10 required by subsection (a) in a form that enables the division
11 to determine whether the licensee or registrant is in compliance
12 with this chapter, any court order, and law of this State other
13 than this chapter.

14 (c) If a licensee or registrant maintains records outside
15 this State that pertain to transactions with or on behalf of a
16 resident, the licensee or registrant shall make the records
17 available to the division no later than three days after
18 request, or, on a determination of good cause by the division,
19 at a later time.

20 (d) All records maintained by a licensee or registrant are
21 subject to inspection by the division.



1 § -33 Rules; cooperation; data sharing authority. (a)
2 Subject to section -34 and law of this State other than this
3 chapter concerning privacy, consumer financial privacy, data
4 protection, privilege, and confidentiality, the division may
5 cooperate, coordinate, jointly examine, consult, and share
6 records and other information with the appropriate regulatory
7 agency of another state, a self-regulatory organization, federal
8 or state regulator of banking or nondepository providers, or a
9 regulator of a jurisdiction outside the United States,
10 concerning the affairs and conduct of a licensee or registrant
11 in this State.

12 (b) The division shall:

13 (1) Establish or participate in, with another state that
14 enacts a law substantially similar to this chapter, a
15 central depository for filings required by law of this
16 State other than this chapter;

17 (2) Cooperate in developing and implementing uniform forms
18 for applications and renewal reports and the conduct
19 of joint administrative proceedings and civil actions;

1 (3) Formulate joint rules, forms, statements of policy,
2 and guidance and interpretative opinions and releases;
3 and

4 (4) Develop common systems and procedures.

5 (c) The division shall not establish or participate in a
6 central commercial depository that contains nonpublic personally
7 identifiable information that does not comply with section
8 502(e)(5) or (8) of the Gramm-Leach-Bliley Act (15 U.S.C.
9 6802(e)(5) or (8)), as amended, or with the Federal Right to
10 Financial Privacy Act (18 U.S.C. 3401 et seq.), as amended.

11 (d) In deciding whether and how to cooperate, coordinate,
12 jointly examine, consult, or share records and other information
13 under subsection (a), the division shall consider:

14 (1) Maximizing effectiveness and uniformity of regulation,
15 examination, implementation, and enforcement for the
16 benefit of residents and licensees and registrants;
17 and

18 (2) Minimizing burdens on licensees and registrants
19 without adversely affecting protection for residents.

20 § -34 Confidentiality. (a) Except as otherwise
21 provided in subsection (b) or (c), information not contained in



1 a report otherwise available to the public or reports obtained
2 by the division from an applicant, licensee, or registrant;
3 information contained in or related to an examination,
4 investigation, or operating or condition report prepared by, on
5 behalf of, or for the use of the division; and other financial
6 and operating information, are not subject to disclosure under
7 chapter 92F. If the division determines the information or
8 records are confidential under the open records law of a
9 reciprocal licensing state, the information or records shall not
10 be disclosed.

11 (b) A trade secret of an applicant, a licensee, or a
12 registrant is confidential and shall not be subject to
13 disclosure under chapter 92F. If the division determines a
14 trade secret is confidential under the open records law of a
15 reciprocal licensing state, the trade secret shall not be
16 disclosed.

17 (c) Subsection (a) does not prohibit the disclosure of:

18 (1) General information about a licensee's or registrant's
19 virtual currency business activity with or on behalf
20 of a resident;



1 (2) A list of persons licensed or registered under this
2 chapter; or

3 (3) Aggregated financial data concerning licensees or
4 registrants in this State.

5 § -35 Interim report. (a) Each licensee and registrant
6 shall file with the division a report of:

7 (1) A material change in information in the application
8 for a license under this chapter or a registration or
9 the most recent renewal report of the licensee under
10 this chapter or for the registrant;

11 (2) A material change in the licensee's or registrant's
12 business for the conduct of its virtual currency
13 business activity with or on behalf of a resident; and

14 (3) A change of an executive officer, responsible
15 individual, or person in control of the licensee or
16 registrant.

17 (b) Absent good cause, a report required by subsection (a)
18 shall be filed no later than fifteen days after the change.

19 § -36 Change in control of licensee or registrant. (a)
20 For purpose of this section, "proposed person to be in control"
21 means the person that would control a licensee or registrant



1 after a proposed transaction that would result in a change in
2 control of the licensee or registrant.

3 (b) The following shall apply in determining whether a
4 person has control over a licensee or registrant:

5 (1) There is a rebuttable presumption of control if the
6 person's voting power in the licensee or registrant
7 constitutes or will constitute at least twenty-five
8 per cent of the total voting power of the licensee or
9 registrant;

10 (2) There is a rebuttable presumption of control if:

11 (A) The person's voting power in another person
12 constitutes or will constitute at least ten per
13 cent of the total voting power of the other
14 person; and

15 (B) The other person's voting power in the licensee
16 or registrant constitutes at least twenty-five
17 per cent of the total voting power of the
18 licensee or registrant; and

19 (3) There is no presumption of control solely because an
20 individual is an executive officer of the licensee or
21 registrant.



1 (c) At least thirty days before a proposed change in
2 control of a licensee or registrant, the proposed person to be
3 in control shall submit to the division in a record:

4 (1) An application in a form and medium prescribed by the
5 division;

6 (2) The information and records that section -22 would
7 require if the proposed person to be in control
8 already had control of the licensee;

9 (3) A license application under section -22 by the
10 proposed person to be in control;

11 (4) In the case of a registrant, the information that
12 section -27 would require if the proposed person to
13 be in control already had control of the registrant;
14 and

15 (5) In the case of a registration, a registration under
16 section -27 by the proposed person to be in
17 control.

18 (d) The division, in accordance with section -22, shall
19 approve, approve with conditions, or deny an application for a
20 change in control of a licensee or registrant. The division, in
21 a record, shall send notice of its decision to the licensee or



1 registrant and the person that would be in control if the
2 division had approved the change in control. If the division
3 denies the application, the licensee or registrant shall abandon
4 the proposed change in control or cease virtual currency
5 business activity with or on behalf of residents.

6 (e) If the division applies a condition to approval of a
7 change in control of a licensee or registrant and the division
8 does not receive notice of the applicant's acceptance of the
9 condition specified by the division no later than thirty-one
10 days after the division sends notice of the condition, the
11 application is deemed denied. If the application is deemed
12 denied, the licensee or registrant shall abandon the proposed
13 change in control or cease virtual currency business activity
14 with or on behalf of residents.

15 (f) Submission, in good faith of records required by
16 subsection (c) relieves the proposed person to be in control
17 from any obligation imposed by this section other than
18 subsections (d), (e), and (h) until the division has acted on
19 the application.

20 (g) The division may revoke or modify a determination
21 under subsection (d), after notice and opportunity to be heard,



1 if, in its judgment, revocation or modification is consistent
2 with this chapter.

3 (h) If a change in control of a licensee or registrant
4 requires approval of an agency of this State or another state
5 with which this State has a reciprocity agreement and the action
6 of the other agency conflicts with that of the division, the
7 division shall confer with the other agency. If the proposed
8 change in control cannot be completed because the conflict
9 cannot be resolved, the licensee or registrant shall abandon the
10 change in control or cease virtual currency business activity
11 with or on behalf of residents.

12 § -37 Merger or consolidation by licensee or registrant.

13 (a) At least thirty days before a proposed merger or
14 consolidation of a licensee or registrant with another person,
15 the licensee or registrant shall submit to the division in a
16 record:

17 (1) An application in a form and medium prescribed by the
18 division;

19 (2) The plan of merger or consolidation in accordance with
20 subsection (e);



1 (3) In the case of a licensee, the information required by
2 section -22 concerning the person that would be the
3 surviving entity in the proposed merger or
4 consolidation; and

5 (4) In the case of a registrant, the information required
6 by section -27 concerning the person that would be
7 the surviving entity in the proposed merger or
8 consolidation.

9 (b) If a proposed merger or consolidation would change the
10 control of a licensee or registrant, the licensee or registrant
11 shall comply with section -36 and this section.

12 (c) The division, in accordance with section -22, shall
13 approve, conditionally approve, or deny an application for
14 approval of a merger or consolidation of a licensee or
15 registrant. The division, in a record, shall send notice of its
16 decision to the licensee or registrant and the person that would
17 be the surviving entity. If the division denies the
18 application, the licensee or registrant shall abandon the merger
19 or consolidation or cease virtual currency business activity
20 with or on behalf of residents.



1 (d) The division may revoke or modify a determination
2 under subsection (c), after notice and opportunity to be heard,
3 if, in its judgment, revocation or modification is consistent
4 with this chapter.

5 (e) A plan of merger or consolidation of a licensee or a
6 registrant with another person shall:

7 (1) Describe the effect of the proposed transaction on the
8 licensee's or registrant's conduct of virtual currency
9 business activity with or on behalf of residents;

10 (2) Identify each person to be merged or consolidated and
11 the person that would be the surviving entity; and

12 (3) Describe the terms and conditions of the merger or
13 consolidation and the mode of carrying it into effect.

14 (f) If a merger or consolidation of a licensee or
15 registrant and another person requires approval of an agency of
16 this State or another state with which this State has a
17 reciprocity agreement and the action of the other agency
18 conflicts with that of the division, the division shall confer
19 with the other agency. If the proposed merger or consolidation
20 cannot be completed because the conflict cannot be resolved, the
21 licensee or registrant shall abandon the merger or consolidation



1 or cease virtual currency business activity with or on behalf of
2 residents.

3 (g) The division may condition approval of an application
4 under subsection (a). If the division does not receive notice
5 from the parties that the parties accept the division's
6 condition no later than thirty-one days after the division sends
7 notice in a record of the condition, the application is deemed
8 denied. If the application is deemed denied, the licensee or
9 registrant shall abandon the merger or consolidation or cease
10 virtual currency business activity with or on behalf of
11 residents.

12 (h) If a licensee or registrant acquires substantially all
13 the assets of a person, regardless of whether the person's
14 license was approved by or registration was filed with the
15 division, the transaction is subject to this section.

16 (i) Submission in good faith of the records required by
17 subsection (e) relieves the proposed surviving entity from any
18 obligation imposed by this section, other than subsections (c),
19 (f), and (g), until the division has acted on the application.



PART IV. ENFORCEMENT

§ -41 Enforcement measure. For purposes of this part,

"enforcement measure" means an action to:

- (1) Suspend or revoke a license or a registration under this chapter;
- (2) Order a person to cease and desist from doing virtual currency business activity with or on behalf of a resident;
- (3) Request the court to appoint a receiver for the assets of a person doing virtual currency business activity with or on behalf of a resident;
- (4) Request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual currency business activity with or on behalf of a resident;
- (5) Assess a penalty under section -43;
- (6) Recover on the security under section -24 and initiate a plan to distribute the proceeds for the benefit of a resident injured by a violation of this chapter or law of this State other than this chapter



1 that applies to virtual currency business activity
2 with or on behalf of a resident; or

3 (7) Impose necessary or appropriate conditions on the
4 conduct of virtual currency business activity with or
5 on behalf of a resident.

6 § -42 Division authority to use enforcement measures.

7 (a) The division may take an enforcement measure against a
8 licensee, registrant, or person that is neither a licensee nor
9 registrant, but is engaging in virtual currency business
10 activity with or on behalf of a resident if:

11 (1) The licensee, registrant, or person materially
12 violates this chapter, a rule adopted or order issued
13 under this chapter, or law of this State other than
14 this chapter that applies to virtual currency business
15 activity of the violator with or on behalf of a
16 resident;

17 (2) The licensee, registrant, or person does not cooperate
18 substantially with an examination or investigation by
19 the division, fails to pay a fee, or fails to submit a
20 report or documentation;



- 1 (3) The licensee, registrant, or person, in the conduct of
- 2 its virtual currency business activity with or on
- 3 behalf of a resident, engages in:
- 4 (A) An unsafe or unsound act or practice;
- 5 (B) An unfair or deceptive act or practice;
- 6 (C) Fraud or intentional misrepresentation;
- 7 (D) Another dishonest act; or
- 8 (E) Misappropriation of legal tender, virtual
- 9 currency, or other value held by a fiduciary;
- 10 (4) An agency of the United States or another state takes
- 11 an action against the licensee, registrant, or person
- 12 that would constitute an enforcement measure if the
- 13 division had taken the action;
- 14 (5) The licensee, registrant, or person is convicted of a
- 15 crime related to its virtual currency business
- 16 activity with or on behalf of a resident or involving
- 17 fraud or felonious activity that, as determined by the
- 18 division, makes the licensee, registrant, or person
- 19 unsuitable to engage in virtual currency business
- 20 activity; or
- 21 (6) The licensee, registrant, or person:



- 1 (A) Becomes insolvent;
- 2 (B) Makes a general assignment for the benefit of its
- 3 creditors;
- 4 (C) Becomes the debtor, alleged debtor, respondent,
- 5 or person in a similar capacity in a case or
- 6 other proceeding under any bankruptcy,
- 7 reorganization, arrangement, readjustment,
- 8 insolvency, receivership, dissolution,
- 9 liquidation, or similar law, and does not obtain
- 10 from the court, within a reasonable time,
- 11 confirmation of a plan or dismissal of the case
- 12 or proceeding; or
- 13 (D) Applies for or permits the appointment of a
- 14 receiver, trustee, or other agent of a court for
- 15 itself or for a substantial part of its assets;
- 16 or
- 17 (7) The licensee, registrant, or person makes a material
- 18 misrepresentation to the division.
- 19 (b) On application and for good cause, the division may:
- 20 (1) Extend the due date for filing a document or report
- 21 under subsection (a) (2); or



1 (2) Waive to the extent warranted by circumstances, such
2 as a bona fide error notwithstanding reasonable
3 procedures designed to prevent error, an enforcement
4 measure under subsection (a) if the division
5 determines that the waiver will not adversely affect
6 the likelihood of compliance with this chapter.

7 (c) In an enforcement action related to operating without
8 a license under this chapter or registration in this State, it
9 is a defense to the action that the person has in effect a
10 customer identification program reasonably designed to identify
11 whether a customer is a resident, which failed to identify the
12 particular customer as a resident.

13 (d) A proceeding under this chapter is subject to chapter
14 91.

15 § -43 Civil penalty. (a) If a person other than a
16 licensee or registrant engages in virtual currency business
17 activity with or on behalf of a resident in violation of this
18 chapter, the division may assess a civil penalty against the
19 person in an amount not to exceed \$50,000 for each day of
20 violation.



1 (b) If a licensee or registrant materially violates this
2 chapter, the division may assess a civil penalty in an amount
3 not to exceed \$10,000 for each day of violation.

4 (c) A civil penalty under this section continues to accrue
5 until:

6 (1) The date on which the violation ceases; or

7 (2) A date specified by the division,

8 whichever occurs first.

9 **§ -44 Effective period of revocation, suspension, or**
10 **cease and desist order.** (a) Revocation of a license under this
11 chapter is effective against a licensee one day after the
12 division sends notice in a record of the revocation to the
13 licensee, by a means reasonably selected for the notice to be
14 received by the recipient in one day, to the address provided
15 for receiving communications from the division.

16 (b) Suspension of a license under this chapter, suspension
17 of a registration, or an order to cease and desist is effective
18 against a licensee, registrant, or other person one day after
19 the division sends notice in a record of the suspension or order
20 to the licensee, registrant, or other person, by a means
21 reasonably selected for the notice to be received by the



1 recipient in one day, to the address provided for receiving
2 communications from the division or, if no address is provided,
3 to the recipient's last known address. A suspension or order to
4 cease and desist remains in effect until the earliest of:

5 (1) Entry of an order by the division pursuant to chapter
6 91 setting aside or limiting the suspension or order;

7 (2) Entry of a court order setting aside or limiting the
8 suspension or order to cease and desist; or

9 (3) A date specified by the division.

10 (c) If, without reason to know of the division's notice
11 sent under subsection (a) or (b), a licensee, registrant, or
12 other person does not comply in accordance with the notice until
13 the notice is actually received at the address provided, the
14 division may consider the delay in compliance in imposing a
15 sanction for the failure.

16 § -45 **Consent order.** The division may enter into a
17 consent order with a person regarding an enforcement measure.
18 The order may provide that it does not constitute an admission
19 of fact by a party.



1 **§ -46 Scope of right of action.** (a) Except as
2 otherwise provided in this section, a person shall not have a
3 right of action for violation of this chapter.

4 (b) The division may bring an action for restitution on
5 behalf of a resident if the division proves economic injury due
6 to a violation of this chapter.

7 (c) This section shall not preclude an action by a
8 resident to enforce rights under section -52 or law of this
9 State other than this chapter.

10 **PART V. DISCLOSURES AND OTHER PROTECTIONS FOR RESIDENTS**

11 **§ -51 Required disclosures.** (a) A licensee or
12 registrant shall provide to a resident who uses the licensee's
13 or registrant's products or service the disclosures required by
14 subsection (b) and any additional disclosure the division by
15 rule determines reasonably necessary for the protection of
16 residents. The division shall determine by rule the time and
17 form required for disclosure. A disclosure required by this
18 section shall be made separately from any other information
19 provided by the licensee or registrant and in a clear and
20 conspicuous manner in a record the resident may keep. A
21 licensee or registrant may propose for the division's approval



1 alternate disclosures as more appropriate for its virtual
2 currency business activity with or on behalf of residents.

3 (b) Before establishing a relationship with a resident, a
4 licensee or registrant shall disclose, to the extent applicable
5 to the virtual currency business activity the licensee or
6 registrant will undertake with the resident:

7 (1) A schedule of fees and charges the licensee or
8 registrant may assess, the manner by which fees and
9 charges will be calculated if they are not set in
10 advance and disclosed, and the timing of the fees and
11 charges;

12 (2) Whether the product or service provided by the
13 licensee or registrant is covered by:

14 (A) A form of insurance or is otherwise guaranteed
15 against loss by an agency of the United States:

16 (i) Up to the full United States dollar
17 equivalent of virtual currency placed under
18 the control of or purchased from the
19 licensee or registrant as of the date of the
20 placement or purchase, including the maximum
21 amount provided by insurance under the



1 Federal Deposit Insurance Corporation or
2 otherwise available from the Securities
3 Investor Protection Corporation; or

4 (ii) If not provided at the full United States
5 dollar equivalent of virtual currency placed
6 under the control of or purchased from the
7 licensee or registrant, the maximum amount
8 of coverage for each resident expressed in
9 the United States dollar equivalent of the
10 virtual currency; or

11 (B) Private insurance against theft or loss,
12 including cyber theft or theft by other means;

13 (3) The irrevocability of a transfer or exchange and any
14 exception to irrevocability;

15 (4) A description of:

16 (A) Liability for an unauthorized, mistaken, or
17 accidental transfer or exchange;

18 (B) The resident's responsibility to provide notice
19 to the licensee or registrant of the transfer or
20 exchange;



- 1 (C) The basis for any recovery by the resident from
2 the licensee or registrant;
- 3 (D) General error resolution rights applicable to the
4 transfer or exchange; and
- 5 (E) The method for the resident to update the
6 resident's contact information with the licensee
7 or registrant;
- 8 (5) That the date or time when the transfer or exchange is
9 made and the resident's account is debited may differ
10 from the date or time when the resident initiates the
11 instruction to make the transfer or exchange;
- 12 (6) Whether the resident has a right to stop a
13 preauthorized payment or revoke authorization for a
14 transfer and the procedure to initiate a stop-payment
15 order or revoke authorization for a subsequent
16 transfer;
- 17 (7) The resident's right to receive a receipt, trade
18 ticket, or other evidence of the transfer or exchange;
- 19 (8) The resident's right to at least thirty days' prior
20 notice of a change in the licensee's or registrant's
21 fee schedule, other terms and conditions of operating



1 its virtual currency business activity with the
2 resident and the policies applicable to the resident's
3 account; and

4 (9) That virtual currency is not legal tender.

5 (c) Except as otherwise provided in subsection (d), at the
6 conclusion of a virtual currency transaction with or on behalf
7 of a resident, a licensee or registrant shall provide the
8 resident a confirmation in a record that contains:

9 (1) The name and contact information of the licensee or
10 registrant, including information the resident may
11 need to ask a question or file a complaint;

12 (2) The type, value, date, precise time, and amount of the
13 transaction; and

14 (3) The fee charged for the transaction, including any
15 charge for conversion of virtual currency to legal
16 tender, bank credit, or other virtual currency.

17 (d) If a licensee or registrant discloses that it will
18 provide a daily confirmation in the initial disclosure under
19 subsection (c), the licensee or registrant may elect to provide
20 a single, daily confirmation for all transactions with or on



1 behalf of a resident on that day instead of a per transaction
2 confirmation.

3 § -52 Property interests and entitlements to virtual
4 currency. (a) A licensee or registrant that has control of
5 virtual currency for one or more persons shall maintain in its
6 control an amount of each type of virtual currency sufficient to
7 satisfy the aggregate entitlements of the persons to the type of
8 virtual currency.

9 (b) If a licensee or registrant violates subsection (a),
10 the property interests of the persons in the virtual currency
11 are pro rata property interests in the type of virtual currency
12 to which the persons are entitled, without regard to the time
13 the persons became entitled to the virtual currency or the
14 licensee or registrant obtained control of the virtual currency.

15 (c) The virtual currency referred to in this section is:
16 (1) Held for the persons entitled to the virtual currency;
17 (2) Not property of the licensee or registrant; and
18 (3) Not subject to the claims of creditors of the licensee
19 or registrant.



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PART VI. POLICIES AND PROCEDURES

§ -61 Mandated compliance programs and monitoring. (a)

An applicant, before submitting an application, and registrant, before registering, shall create and, during licensure or registration, maintain in a record policies and procedures for:

- (1) An information security and operational security program;
- (2) A business continuity program;
- (3) A disaster recovery program;
- (4) An anti-fraud program;
- (5) An anti-money laundering program;
- (6) A program to prevent funding of terrorist activity; and
- (7) A program designed to:
 - (A) Ensure compliance with this chapter, law of this State other than this chapter, and federal law, which are relevant to the virtual currency business activity contemplated by the licensee or registrant with or on behalf of residents; and
 - (B) Assist the licensee or registrant in achieving the purposes of law of this State other than this

1 chapter and federal law if violation of that law
2 has a remedy under this chapter.

3 (b) Each policy required by subsection (a) shall be in a
4 record and designed to be adequate for a licensee's or
5 registrant's contemplated virtual currency business activity
6 with or on behalf of residents, considering the circumstances of
7 all participants and the safe operation of the activity. Each
8 policy and implementing procedure shall be compatible with other
9 policies and the procedures implementing them and not conflict
10 with policies or procedures applicable to the licensee or
11 registrant under law of this State other than this chapter. A
12 policy and implementing procedure may be one in existence in the
13 licensee's or registrant's virtual currency business activity
14 with or on behalf of residents.

15 (c) A licensee's or registrant's policy for detecting
16 fraud shall include:

17 (1) Identification and assessment of the material risks of
18 its virtual currency business activity related to
19 fraud;



- 1 (2) Protection against any material risk related to fraud
2 identified by the division or the licensee or
3 registrant; and
- 4 (3) Periodic evaluation and revision of the anti-fraud
5 procedure.
- 6 (d) A licensee's or registrant's policy for preventing
7 money laundering and financing of terrorist activity shall
8 include:
- 9 (1) Identification and assessment of the material risks of
10 its virtual currency business activity related to
11 money laundering and financing of terrorist activity;
- 12 (2) Procedures, in accordance with federal law or guidance
13 published by federal agencies responsible for
14 enforcing federal law, pertaining to money laundering
15 and financing of terrorist activity; and
- 16 (3) Filing reports under the Bank Secrecy Act (31 U.S.C.
17 5311 et seq.), as amended, or title 31 Code of Federal
18 Regulations part X, as amended, and other federal or
19 state laws pertaining to the prevention or detection
20 of money laundering or financing of terrorist
21 activity.



1 (e) A licensee's or registrant's information security and
2 operational security policy shall include reasonable and
3 appropriate administrative, physical, and technical safeguards
4 to protect the confidentiality, integrity, and availability of
5 any nonpublic personal information or virtual currency it
6 receives, maintains, or transmits.

7 (f) A licensee or registrant is not required to file with
8 the division a copy of a report it makes to a federal authority
9 unless the division specifically requires filing.

10 (g) A licensee's or registrant's protection policy under
11 subsection (e) for residents shall include:

12 (1) Any action or system of records required to comply
13 with this chapter and law of this State other than
14 this chapter applicable to the licensee or registrant
15 with respect to virtual currency business activity
16 with or on behalf of a resident;

17 (2) A procedure for resolving disputes between the
18 licensee or registrant and a resident;

19 (3) A procedure for a resident to report an unauthorized,
20 mistaken, or accidental virtual currency business
21 activity transaction; and



- 1 (4) A procedure for a resident to file a complaint with
2 the licensee or registrant and for the resolution of
3 the complaint in a fair and timely manner with notice
4 to the resident as soon as reasonably practical of the
5 resolution and the reasons for the resolution.
- 6 (h) After the policies and procedures required under this
7 section are created and approved by the division and the
8 licensee or registrant, the licensee or registrant shall engage
9 a responsible individual with adequate authority and experience
10 to monitor each policy and procedure, publicize it as
11 appropriate, recommend changes as desirable, and enforce it.
- 12 (i) A licensee or registrant may:
- 13 (1) Request advice from the division as to compliance with
14 this section; and
- 15 (2) With the division's approval, outsource functions,
16 other than compliance, required under this section.
- 17 (j) Failure of a particular policy or procedure adopted
18 under this section to meet its goals in a particular instance is
19 not a ground for liability of the licensee or registrant if the
20 policy or procedure was created, implemented, and monitored
21 properly. Repeated failures of a policy or procedure are



1 evidence that the policy or procedure was not created or
2 implemented properly.

3 (k) Policies and procedures adopted under this section
4 shall be disclosed separately from other disclosures made
5 available to a resident, in a clear and conspicuous manner and
6 in the medium through which the resident contacted the licensee
7 or registrant.

8 § -62 Mandated compliance policy or procedure. (a) An
9 applicant, before submitting its application, and a registrant,
10 before registering, shall establish and maintain in a record a
11 policy or procedure designed to ensure compliance with:

12 (1) This chapter; and

13 (2) Law of this State other than this chapter if:

14 (A) The other law is relevant to the virtual currency
15 business activity contemplated by the licensee or
16 registrant or the scope of this chapter; or

17 (B) This chapter could assist in the purpose of the
18 other law because violation of the other law has
19 a remedy under this chapter.

20 (b) A policy or procedure under subsection (a):



- 1 (1) Shall be compatible, and not conflict, with
2 requirements applicable to a licensee or registrant
3 under law of this State other than this chapter and
4 under federal law; and
- 5 (2) May be a policy or procedure in existence for the
6 licensee's or registrant's virtual currency business
7 activity with or on behalf of a resident.
- 8 (c) After the policies and procedures required under this
9 section are created by the licensee or registrant and approved
10 by the division, the licensee or registrant shall engage a
11 responsible individual with adequate authority and experience to
12 monitor each policy or procedure, publicize it as appropriate,
13 recommend changes as desirable, and enforce it.
- 14 (d) A licensee or registrant may:
- 15 (1) Request advice from the division as to compliance with
16 this section; and
- 17 (2) With the division's approval, outsource functions,
18 other than compliance, required under this section.
- 19 (e) Failure of a particular policy or procedure adopted
20 under this section to meet its goals in a particular instance is
21 not a ground for liability of the licensee or registrant if the



1 policy or procedure was created, implemented, and monitored
2 properly. Repeated failures of a policy or procedure are
3 evidence that the policy or procedure was not created or
4 implemented properly.

5 **PART VII. MISCELLANEOUS PROVISIONS**

6 **§ -71 Uniformity of application and construction.** In
7 applying and construing this uniform act, consideration shall be
8 given to the need to promote uniformity of the law with respect
9 to its subject matter among the states that enact it.

10 **§ -72 Relation to Electronic Signatures in Global and**
11 **National Commerce Act.** This chapter modifies, limits, or
12 supersedes the Electronic Signatures in Global and National
13 Commerce Act (15 U.S.C. 7001, et seq.), but does not modify,
14 limit, or supersede section 101(c) of that Act (15 U.S.C.
15 7001(c)), or authorize electronic delivery of any of the notices
16 described in section 103(b) of that Act (15 U.S.C. 7003(b)).

17 **§ -73 Saving and transitional provisions.** (a) A
18 license issued under chapter 489D which is in effect immediately
19 before the effective date of this Act remains in effect as a
20 license for its duration unless revoked or suspended by the
21 licensing authority that issued it. A person licensed under



1 chapter 489D which does not intend to engage in virtual currency
2 business activity is not required to inform the division of its
3 intention.

4 (b) If the division denies, suspends, or revokes a license
5 under this chapter or suspends, or revokes a registration to
6 conduct virtual currency business activity with or on behalf of
7 a resident, the denial, suspension, or revocation may not be
8 used as a ground for suspension or revocation of a license
9 granted under chapter 489D unless that chapter independently
10 provides a basis for action against the licensee or registrant.

11 (c) This chapter applies to virtual currency business
12 activity with or on behalf of a resident on or after the
13 effective date of this Act.

14 (d) A person is deemed to be conducting unlicensed virtual
15 currency business activity with or on behalf of a resident in
16 violation of this chapter if the person engages in virtual
17 currency business activity on or after the effective date of
18 this Act and the person does not hold a license issued or
19 recognized under this chapter, is not exempt from this chapter,
20 and has not applied for a license or filed a registration. This
21 subsection includes a person who:



1 (1) Has obtained a license under chapter 489D, regardless
2 of whether that chapter covers virtual currency
3 business activity, or holds a charter as a trust
4 company from this State; and

5 (2) Does not have permission to engage in virtual currency
6 business activity with or on behalf of a resident."

7 PART II

8 SECTION 2. Chapter 489D, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§489D- Online virtual currency disclosures. Each
12 licensee who engages in money transmissions involving virtual
13 currency shall disclose on its website:

14 (1) Each type of virtual currency that the licensee stores
15 in its reserve; and

16 (2) The daily balance of each type of virtual currency in
17 that reserve."

18 SECTION 3. Section 489D-4, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By adding six new definitions to be appropriately
21 inserted and to read:



1 "Exchange", in reference to virtual currency, means to
2 assume control of virtual currency from, or on behalf of, a
3 person in the State, at least momentarily, to sell, trade, or
4 convert:

5 (1) Virtual currency for money, monetary value, or one or
6 more forms of virtual currency; or

7 (2) Money or monetary value for one or more forms of
8 virtual currency.

9 "Like-kind virtual currency" means a virtual currency of
10 the same type as the virtual currency involved in the
11 outstanding payment obligation pursuant to a customer's contract
12 with a licensee.

13 "Money" means a medium of exchange or unit of value,
14 including coin or paper money, issued by the United States or by
15 another country or a union of countries recognized by the United
16 States.

17 "Store" or "storage", in reference to virtual currency,
18 means maintaining control of virtual currency on behalf of
19 another person.



1 "Transfer", in reference to virtual currency, means to
2 assume control of virtual currency from, or on behalf of, a
3 person in the State and to:

- 4 (1) Credit the virtual currency to the account of another
5 person;
6 (2) Move the virtual currency from one account of the
7 person to another account of the same person; or
8 (3) Relinquish control of the virtual currency to another
9 person.

10 "Virtual currency" means a digital representation of value
11 that:

- 12 (1) Is used as a medium of exchange, unit of account, or
13 store of value; and
14 (2) Is not money, whether or not denominated in money.

15 "Virtual currency" does not include:

- 16 (1) Units of value that are issued in affinity or rewards
17 programs that cannot be redeemed for either money or
18 virtual currencies; or
19 (2) Units of value that are used solely within online
20 gaming platforms that have no market or application
21 outside of the gaming platforms."



1 2. By amending the definition of "control" to read:
2 "Control" means:
3 (1) In reference to a person, ownership of, or the power
4 to vote, twenty-five per cent or more of the
5 outstanding voting securities of a licensee or
6 controlling person. For purposes of determining the
7 percentage of a licensee controlled by any person,
8 there shall be aggregated with the controlling
9 person's interest the interest of any other person
10 controlled by the person, or by any spouse, parent, or
11 child of the person~~[-]~~; and
12 (2) In reference to a transaction or relationship
13 involving virtual currency, the power to execute
14 unilaterally or prevent indefinitely a virtual
15 currency transaction."

16 3. By amending the definitions of "monetary value" and
17 "money transmission" to read:

18 "Monetary value" means a medium of exchange, whether or
19 not redeemable in money~~[-]~~, and includes virtual currency.

20 "Money transmission" means to engage in the business of:

21 (1) Selling or issuing payment instruments; or

1 (2) Receiving money or monetary value for transmission,
2 transfer, exchange, or delivery to a location within
3 or outside the United States by any and all means,
4 including wire, internet, facsimile, or electronic
5 transfer.

6 Money transmission does not apply to courier services. Money
7 transmission does not include the sole provision of internet
8 connection services, telecommunications services, or network
9 access."

10 4. By amending the definition of "outstanding payment
11 obligation" to read:

12 "Outstanding payment obligation" means:

13 (1) Any payment instrument issued by the licensee that has
14 been sold in the United States:

15 (A) Directly by the licensee; or

16 (B) By an authorized delegate of the licensee in the
17 United States, which has been reported to the
18 licensee as having been sold,

19 and that has not yet been paid by or for the licensee;

20 and



1 (2) All other [~~outstanding~~] money transmission obligations
 2 [~~of~~] that the licensee [~~issued~~] has contracted in the
 3 United States[~~-~~] to transmit, deliver, or instruct to
 4 be delivered that have not been fully performed by the
 5 licensee."

6 5. By amending the definition of "permissible investments"
 7 to read:

8 "Permissible investments" means:

- 9 (1) Cash;
- 10 (2) Certificates of deposit or other debt obligations of a
 11 financial institution, either domestic or foreign;
- 12 (3) Bills of exchange or time drafts drawn on and accepted
 13 by a commercial bank, known as bankers' acceptances,
 14 that are eligible for purchase by member banks of the
 15 Federal Reserve System;
- 16 (4) Any investment bearing a rating of one of the three
 17 highest grades as defined by a nationally recognized
 18 organization that rates securities;
- 19 (5) Investment securities that are obligations of the
 20 United States, its agencies, or its instrumentalities,
 21 obligations that are guaranteed fully as to principal



- 1 and interest by the United States, or any obligations
2 of any state, municipality, or any political
3 subdivision thereof;
- 4 (6) Shares in a money market mutual fund, interest-bearing
5 bills, notes, or bonds, debentures or stock traded on
6 any national securities exchange or on a national
7 over-the-counter market, mutual funds primarily
8 composed of these securities, or a fund composed of
9 one or more permissible investments as set forth in
10 paragraphs (1) to (5);
- 11 (7) Any demand borrowing agreement or agreements made with
12 a corporation or a subsidiary of a corporation whose
13 capital stock is listed on a national exchange;
- 14 (8) Receivables that are due to a licensee from its
15 authorized delegates pursuant to a contract under
16 section 489D-21, that are not past due or doubtful of
17 collection; [~~e~~]
- 18 (9) Virtual currency; or
- 19 [~~+9~~] (10) Any other investments or security device
20 approved by the commissioner."



1 SECTION 4. Section 489D-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§489D-8 Permissible investments and statutory trust. (a)**

4 A licensee, at all times, shall possess permissible investments
5 having an aggregate market value, calculated in accordance with
6 generally accepted accounting principles, of not less than the
7 aggregate amount of all outstanding payment obligations. This
8 requirement may be waived by the commissioner if the dollar
9 volume of a licensee's outstanding payment obligations does not
10 exceed the bond or other security devices posted by the licensee
11 pursuant to section 489D-7.

12 (b) In lieu of the permissible investments required under
13 subsection (a), a licensee, in connection with the storage or
14 transfer of virtual currency, may possess like-kind virtual
15 currency of the same volume as the outstanding payment
16 obligations to be completed in virtual currency pursuant to the
17 contract with the licensee.

18 (c) A licensee transmitting both money and virtual
19 currency shall maintain applicable levels and types of
20 permissible investments as described in subsections (a) and (b).



1 (d) The commissioner, with respect to any money
2 transmitter licensee, may limit the extent to which a type of
3 investment within a class of permissible investments may be
4 considered a permissible investment, except for money, time
5 deposits, savings deposits, demand deposits, and certificates of
6 deposit issued by a federally insured financial institution.
7 The commissioner may prescribe by rule, or allow by order, other
8 types of investments that the commissioner determines to have a
9 safe and sound equivalent to other permissible investments.

10 ~~[(b)]~~ (e) Permissible investments, even if commingled with
11 other assets of the licensee, shall be held in trust for the
12 benefit of the purchasers and holders of the licensee's
13 outstanding payment obligations in the event of the bankruptcy
14 of the licensee."

15 SECTION 5. Section 489D-9, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) An application for a license under this chapter shall
18 be made in writing, and in a form prescribed by NMLS or by the
19 commissioner. Each application shall contain the following:

20 (1) For all applicants:



- 1 (A) The exact name of the applicant, any fictitious
2 or trade name used by the applicant in the
3 conduct of its business, the applicant's
4 principal address, and the location of the
5 applicant's business records;
- 6 (B) The history of the applicant's material
7 litigation and criminal convictions for the five-
8 year period prior to the date of the application;
- 9 (C) A description of the business activities
10 conducted by the applicant and a history of
11 operations;
- 12 (D) A description of the business activities in which
13 the applicant seeks to engage within the State;
- 14 (E) A list identifying the applicant's proposed
15 authorized delegates in the State, if any, at the
16 time of the filing of the license application;
- 17 (F) A sample authorized delegate contract, if
18 applicable;
- 19 (G) A sample form of payment instrument, if
20 applicable;



- 1 (H) The locations where the applicant and its
- 2 authorized delegates, if any, propose to conduct
- 3 their licensed activities in the State;
- 4 (I) The name and address of the clearing bank or
- 5 banks on which the applicant's payment
- 6 instruments will be drawn or through which
- 7 payment instruments will be payable;
- 8 (J) Disclosure of any pending or final suspension,
- 9 revocation, or other enforcement action by any
- 10 state or governmental authority for the five-year
- 11 period prior to the date of the application; and
- 12 (K) Any other information the commissioner may
- 13 require;
- 14 (2) If the applicant is a corporation, the applicant shall
- 15 also provide:
- 16 (A) The date of the applicant's incorporation and
- 17 state of incorporation;
- 18 (B) A certificate of good standing from the state in
- 19 which the applicant was incorporated;
- 20 (C) A description of the corporate structure of the
- 21 applicant, including the identity of any parent



1 or subsidiary company of the applicant, and the
2 disclosure of whether any parent or subsidiary
3 company is publicly traded on any stock exchange;

4 (D) The name, business and residence address, and
5 employment history, for the past five years, of
6 the applicant's principals, and each person who
7 upon approval of the application will be a
8 principal of the licensee;

9 (E) For the five-year period prior to the date of the
10 application, the history of material litigation
11 involving, and criminal convictions of, each
12 principal of the applicant;

13 (F) A copy of the applicant's most recent audited
14 financial statement, including balance sheets,
15 statements of income or loss, statements of
16 changes in shareholder equity and statements of
17 changes in financial position, and, if available,
18 the applicant's audited financial statements for
19 the preceding two-year period or, if the
20 applicant is a wholly owned subsidiary of another
21 corporation, either the parent corporation's



1 consolidated audited financial statements for the
2 current year and for the preceding two-year
3 period, or the parent corporation's Form 10-K
4 reports filed with the United States Securities
5 and Exchange Commission for the prior three years
6 in lieu of the applicant's financial statements,
7 or if the applicant is a wholly owned subsidiary
8 of a corporation having its principal place of
9 business outside the United States, similar
10 documentation filed with the parent corporation's
11 non-United States regulator;

12 (G) Copies of all filings, if any, made by the
13 applicant with the United States Securities and
14 Exchange Commission, or with a similar regulator
15 in a country other than the United States, within
16 the year preceding the date of filing of the
17 application; and

18 (H) Information necessary to conduct a criminal
19 history record check in accordance with section
20 846-2.7 of each person who upon approval of the
21 application will be a principal of the licensee,



1 accompanied by the appropriate payment of the
2 applicable fee for each record check; [and]
3 (3) If the applicant is not a corporation, the applicant
4 shall also provide:
5 (A) The name, business and residence address,
6 personal financial statement, and employment
7 history, for the past five years, of each
8 principal of the applicant;
9 (B) The name, business and residence address, and
10 employment history, for the past five years, of
11 any other persons who upon approval of the
12 application will be a principal of the licensee;
13 (C) The place and date of the applicant's
14 registration or qualification to do business in
15 this State;
16 (D) The history of material litigation and criminal
17 convictions for the five-year period before the
18 date of the application for each principal of the
19 applicant;
20 (E) Copies of the applicant's audited financial
21 statements, including balance sheets, statements



1 of income or loss, and statements of changes in
2 financial position for the current year and, if
3 available, for the preceding two-year period; and
4 (F) Information necessary to conduct a criminal
5 history record check in accordance with section
6 846-2.7 of each principal of the applicant,
7 accompanied by the appropriate payment of the
8 applicable fee for each record check[-]; and

9 (4) If the applicant's business model transfers or stores
10 virtual currency on behalf of others, the applicant
11 shall also provide a third-party security audit of all
12 electronic information and data systems acceptable to
13 the commissioner."

14 SECTION 6. Section 489D-12, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The annual license fee shall be accompanied by a
17 report, in a form prescribed by the commissioner, which shall
18 include:

19 (1) A copy of the licensee's most recent audited annual
20 financial statement, including balance sheets,
21 statement of income or loss, statement of changes in



1 shareholder's equity, and statement of cash flows or,
2 if a licensee is a wholly owned subsidiary of another
3 corporation, the consolidated audited annual financial
4 statement of the parent corporation in lieu of the
5 licensee's audited annual financial statement [7]. If
6 the applicant's business model transfers or stores
7 virtual currency on behalf of others, the applicant
8 shall also provide a third-party security audit of all
9 electronic information and data systems acceptable to
10 the commissioner;

- 11 (2) For the most recent quarter for which data is
12 available prior to the date of filing the annual
13 report, but in no event more than one hundred twenty
14 days prior to the renewal date, the licensee shall
15 provide the number of money transmissions sold,
16 issued, or received for transmission, transfer,
17 exchange, or delivery by the licensee in the State,
18 and as applicable, the dollar amount and monetary
19 value of those transmissions, and the dollar amounts
20 and monetary value of outstanding payment obligations;



- 1 (3) Any material changes to any of the information
2 submitted by the licensee on its original application
3 that have not previously been reported to the
4 commissioner on any other report required to be filed
5 under this chapter;
- 6 (4) For the most recent quarter for which data is
7 available prior to the date of filing the annual
8 report, but in no event more than one hundred twenty
9 days prior to the renewal date, a list of the
10 licensee's permissible investments, including the
11 total market value of each type of permissible
12 investment, and the total [~~dollar amount~~] amounts, in
13 money and monetary value, as applicable, of all
14 outstanding payment obligations;
- 15 (5) A list of the locations, if any, within this State
16 where business regulated by this chapter is being
17 conducted by either the licensee or the licensee's
18 authorized delegates;
- 19 (6) Disclosure of any pending or final suspension,
20 revocation, or other enforcement action by any state
21 or governmental authority;



1 (7) The licensee's evidence of a valid bond or other
2 security device as required pursuant to section
3 489D-7; and

4 (8) Any other information the commissioner may require.

5 A license may be renewed by filing a renewal statement on a
6 form prescribed by NMLS or by the commissioner and paying a
7 renewal fee at least four weeks prior to the renewal date for
8 licensure for the following year."

9 SECTION 7. Section 489D-18, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Each licensee shall make, keep, preserve, and make
12 available for inspection by the commissioner the following
13 books, accounts, and other records for a period of three years:

14 (1) A record or records of each payment instrument [~~+~~] and
15 other money transmission;

16 (2) A general ledger containing all assets, liability,
17 capital, income, and expense accounts that shall be
18 posted at least monthly;

19 (3) Bank statements and bank reconciliation records;

20 (4) Records of all outstanding payment obligations;



- 1 (5) Records of each payment instrument paid within the
2 three-year period;
- 3 (6) A list of the names and addresses of all of the
4 licensee's authorized delegates; and
- 5 (7) Any other records the commissioner reasonably requires
6 by rule adopted pursuant to chapter 91."

7 SECTION 8. Section 489D-20, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~489D-20~~§~~ Money transmitter receipts and refunds.

- 10 (a) Each licensee who receives money or monetary value for
11 transmission and the licensee's authorized delegates shall
12 transmit the monetary equivalent of all money or equivalent
13 value received from a customer for transmission, net of any
14 fees, or issue instructions committing the money or its monetary
15 equivalent, to the person designated by the customer within ten
16 business days after receiving the money or equivalent value,
17 unless otherwise ordered by the customer or unless the licensee
18 or its authorized delegate has reason to believe that a crime
19 has occurred, is occurring, or may occur as a result of
20 transmitting the money~~[-]~~ or monetary value.



1 (b) Each licensee who receives money or monetary value for
2 transmission and the licensee's authorized delegates shall
3 provide a receipt to the customer that clearly states the amount
4 of money or equivalent value presented for transmission and the
5 total of the fees charged by the licensee. If the rate of
6 exchange for a money transmission to be paid in the currency of
7 another country is fixed by the licensee for that transaction at
8 the time the money transmission is initiated, the receipt
9 provided to the customer shall disclose the rate of exchange for
10 that transaction, and the duration, if any, for the payment to
11 be made at that fixed rate of exchange. If the rate of exchange
12 for a money transmission to be paid in the currency of another
13 country is not fixed at the time the money transmission is sent,
14 the receipt provided to the customer shall disclose that the
15 rate of exchange for that transaction will be set at the time
16 the recipient of the money transmission picks up the funds in
17 the foreign country.

18 (c) For purposes of this section:

19 (1) Money is considered to have been transmitted when it
20 is available to the person designated by the customer,



1 whether or not the designated person has taken
2 possession of the money;

3 (2) "Monetary equivalent", when used in connection with a
4 money transmission in which the customer provides the
5 licensee or its authorized delegate with the money of
6 one government, and the designated recipient is to
7 receive the money of another government, means the
8 amount of money, in the currency of the government
9 that the designated recipient is to receive, as
10 converted at the retail exchange rate offered by the
11 licensee or its authorized delegate to the customer in
12 connection with the transaction; and

13 (3) "Fees" do not include revenue that a licensee or its
14 authorized delegate generates, in connection with a
15 money transmission, in converting the money of one
16 government into the money of another government.

17 (d) Each licensee who receives money or monetary value for
18 a money transmission and the licensee's authorized delegates
19 shall refund to a customer all moneys received for transmittal
20 within ten days of receipt of a written request for a refund
21 unless any of the following occurs:



- 1 (1) The moneys have been transmitted and delivered to the
2 person designated by the customer prior to receipt of
3 the written request for a refund;
- 4 (2) Instructions have been given committing an equivalent
5 amount of money to the person designated by the
6 customer prior to receipt of a written request for a
7 refund;
- 8 (3) The licensee or its authorized delegate has reason to
9 believe that a crime has occurred, is occurring, or
10 may occur as a result of transmitting the money as
11 requested by the customer or refunding the money as
12 requested by the customer; or
- 13 (4) The licensee is otherwise barred by law from making a
14 refund.
- 15 (e) Before entering into any agreement to perform a money
16 transmission involving virtual currency, a licensee shall obtain
17 the customer's agreement to the following notice and retain it
18 as a record pursuant to section 489D-18:
- 19 "Most virtual currencies are based upon computer
20 cryptography and derive their value solely from the



1 market's perception of their value, which can
2 experience great swings. These currencies are:
3 NOT backed by any physical commodity, such as
4 gold or silver;
5 NOT backed by the United States or any other
6 national government;
7 NOT legal tender for debts; and
8 NOT insured by the Federal Deposit Insurance
9 Corporation or any government agency.
10 You should be aware that there is a potential for you
11 as a consumer to lose all of your virtual currency.
12 Though cash can also be lost, with virtual currency
13 this loss can occur because of a computer failure;
14 malicious software attack; an attack, closure, or
15 disappearance of a virtual currency exchange company;
16 lack of security; loss of your private key; or a
17 sudden or dramatic change in value. These are just a
18 few examples. Some virtual currency users have been
19 unable to access their legitimate virtual currency
20 account because of heavy traffic by other users or a
21 prevalence of criminal activity in virtual currency



1 use. To protect yourself, become educated as to the
2 potential risks before deciding whether you want to
3 transact in virtual currency. The State of Hawaii is
4 not responsible for and does not accept any liability
5 for transactions in virtual currency. Persons
6 transacting or investing in virtual currency fully
7 accept the risks associated with this type of
8 currency. "

9 SECTION 9. Section 489D-22.5, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Notice pursuant to this section shall be provided at
12 least thirty days before the surrender of the license and shall
13 include:

- 14 (1) The date of surrender;
- 15 (2) The name, address, telephone number, facsimile number,
16 and electronic address of a contact individual with
17 knowledge and authority sufficient to communicate with
18 the commissioner regarding all matters relating to the
19 licensee during the period that it was licensed
20 pursuant to this chapter;
- 21 (3) The reason or reasons for surrender;



- 1 (4) Total [~~dollar amount~~] amounts, in money and monetary
2 value, as applicable, of the licensee's outstanding
3 payment obligations sold in Hawaii and the individual
4 amounts of each outstanding payment obligation, and
5 the name, address, and contact phone number of the
6 licensee to which each outstanding payment obligation
7 was assigned;
- 8 (5) A list of the licensee's Hawaii authorized delegates,
9 if any, as of the date of surrender; and
- 10 (6) Confirmation that the licensee has notified each of
11 its Hawaii authorized delegates, if any, that they may
12 no longer conduct money transmissions on the
13 licensee's behalf.

14 Voluntary surrender of a license shall be effective upon
15 the date of surrender specified on the written notice to the
16 commissioner as required by this section; provided that the
17 licensee has met all the requirements of voluntary surrender and
18 has returned the original license issued."

19 SECTION 10. Sections 489D-23 and 489D-25(a), Hawaii
20 Revised Statutes, are amended by substituting the term "money



1 transmission" wherever the term "money services" appears, as the
2 context requires.

3 SECTION 11. Section 489D-25, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) In determining whether an authorized delegate is
6 engaging in an unsafe or unsound practice, the commissioner may
7 consider the size and condition of the delegate's provision of
8 money [~~services,~~] transmissions, the magnitude of the loss, the
9 gravity of the violation of this chapter, and the previous
10 conduct of the delegate."

11 PART III

12 SECTION 12. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 13. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 14. This Act shall take effect on July 1, 3000.



Report Title:

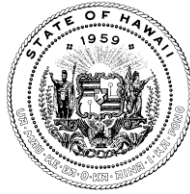
Virtual Currency; Money Transmitters Act; Uniform Regulation of Virtual Currency Businesses Act

Description:

Adopts the Uniform Regulation of Virtual Currency Businesses Act and codifies the Act. Amends the Money Transmitters Act to expressly apply to persons engaged in the transmission of virtual currency. Requires a licensee dealing with virtual currency to provide a warning to a consumer prior to entering into an agreement with the consumer. (SB3082 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, March 20, 2018
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 3082, S.D.1, H.D.1, RELATING TO VIRTUAL CURRENCY.

TO THE HONORABLE ROY M. TAKUMI, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 3082, S.D.1, H.D.1, Relating to Virtual Currency. My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (“Commissioner”) for the Department’s Division of Financial Institutions (“DFI”). The Department’s position on this bill is as follows:

- The Department offers comments on the Uniform Law Commission (“ULC”) portion of this bill (section 1 of this bill, hereinafter the “ULC amendments”). It suggests that the ULC amendments be deleted in their entirety (delete bill page 1, line 1, through page 74, line 6.)
- The Department supports the portion of this bill that amends Hawaii Revised Statutes (“HRS”) chapter 489D, the Money Transmitters Act (bill sections 2 through 10, bill page 74, line 7, through page 99, line 17, hereinafter, the “chapter 489D amendments”). The content of the chapter 489D amendments is substantially similar to companion H.B. 2257, H.D. 1.

- The Department suggests amending PART II of the bill by changing the bill's effective date to "July 1, 2018" on bill page 99, line 17.

Alternative Pathways to Manage the Virtual Currency Industry

S.B. 3082, S.D.1, H.D.1 is a compilation of two pathways to manage the virtual currency industry. The Department submits that the two pathways are not intended to co-exist in one regulatory scheme. The Department suggests retaining the chapter 489D amendments and deleting the ULC amendments.

DFI regulates money transmitters under HRS chapter 489D, including licensees that transmit virtual currency. DFI has been investigating virtual currency regulation for several years.

ULC Amendments

No state has adopted the ULC's model law, the Uniform Regulation of Virtual Currency Businesses Act ("model law"). The Department recognizes the work that the ULC and drafting committee put into developing the model law. The ULC amendments are a portion of the model law.

Last summer, DFI sent a staff member to the ULC Annual Meeting in San Diego, California, to observe proceedings which led to the ULC's approval of the model law. After the Annual Meeting, the Commissioner and staff had a conference call with the ULC drafting committee chairperson and reporter seeking clarification of the model law and the thoughts behind some of its provisions.

The Department's main concerns about the ULC amendments are: 1) lack of specificity in the regulatory scheme, including what constitutes "virtual currency business activity"; 2) tiered licensure comprised of an unlicensed "sandbox" registration for up to \$35,000 of virtual currency business activity, and licensure for activity over that amount; 3) reciprocity, given the different licensure standards for virtual currency among the states; and 4) creation of a new regulatory program in DFI without adequate staffing.

This bill places the ULC amendments under DFI. DFI is self-funded from fees paid by licensees of its various programs. To establish this program, DFI would need funds to appoint one examiner to set up the program, as well as additional examiners the following year to conduct examinations and investigations. To maintain this new

program, the program would need to generate revenues sufficient to cover the additional staff members.

Regulation of Virtual Currency through Chapter 489D Amendments

The Department supports the provisions of the bill that extend HRS chapter 489D, the Money Transmitters Act, to expressly apply to persons engaged in the transmission of virtual currency. DFI's Money Transmitters program is well established and has been operational for many years. The chapter 489D amendments extend the Money Transmitters Act to expressly apply to persons engaged in the transmission of virtual currency.

The chapter 489D amendments make clear which virtual currency businesses are subject to regulation under HRS chapter 489D. In addition, the chapter 489D amendments:

- Do not affect the gaming tokens used in gaming platforms.
- Do not affect the initial coin offering activity for new companies.
- Authorize DFI to accept like-kind virtual currency as permissible investments. This addresses the concern of some virtual currency money transmitters that they cannot afford to hold cash and cash-like permissible investments to cover their virtual currency transactions, as HRS chapter 489D currently requires.
- Warn consumers before they transact that virtual currency is volatile by nature and that they may lose all their virtual currency which is not backed or insured by the government.
- Provide a framework for DFI to regulate the still-emerging virtual currency industry under the Money Transmitters Act, including requirements for licensure, license renewal, examination, record keeping, reporting, prohibited practices, sanctions, and penalties.

Conclusion

The Department supports the chapter 489D amendments (retain bill sections 2 through 10 on pages 74-99), which will allow virtual currency companies to become licensed and operate in Hawaii and to provide protections to consumers.

Thank you for the opportunity to comment on the ULC amendments and to testify in support of the chapter 489D amendments with the amendments requested.

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**ON S.B. NO. 3082, S.D. 1 , H.D.1
RELATING TO VIRTUAL CURRENCY.**

BEFORE THE HOUSE COMMITTEE on INTRASTATE COMMERCE

DATE: Tuesday, March 20, 2018, at 2:00 p.m.
Conference Room 329, State Capitol

PERSON(S) TESTIFYING: KEN TAKAYAMA or PETER HAMASAKI
Commission to Promote Uniform Legislation

Chair Takumi, Vice-Chair Ichiyama, and the members of the House
Committee on Intrastate Commerce:

My name is Ken Takayama, and I am a member of the state Commission to Promote Uniform Legislation. Thank you for the opportunity to testify on this measure, S. B. No. 3082, S.D.1, H.D.1, Relating to Virtual Currency. The members of our state commission are Hawaii's representatives on the national Uniform Law Commission, or ULC. The ULC is a nonprofit organization that is made up of volunteer attorneys appointed by their states, and its mission is to develop and draft model legislation for states in areas in which uniformity is practical and desirable. The state Commission to Promote Uniform Legislation submits the following comments:

1. The Commission strongly supports Part I of this measure, which enacts the Uniform Regulation of Virtual Currency Businesses Act (URVCBA), and provides a superior approach to the regulation of virtual currency businesses than Part II of this measure, which seeks to regulate virtual currency businesses through the State's money transmitter statute.

3. Part II of S.B. No. 3082, S.D.1, H.D.1 attempts to stretch a law focused upon the transmission of money and legal tender to regulate virtual currencies which are not legal tender and not necessarily being transmitted..

4. By comparison, the URVCBA creates a clear, comprehensive framework for stand-alone regulation of companies engaged in virtual-currency business activity. “Virtual-currency business activity” means exchanging, transferring, or storing virtual currency; holding electronic precious metals or certificates of electronic precious metals; or exchanging digital representations of value within online games for virtual currency or legal tender.

5. Regulation of virtual currency businesses through the money transmitter law as proposed in Part I of this measure increases the risk of over inclusive regulation, potentially covering individuals merely using virtual currency to make purchases on their own behalf, or academics researching, for example, virtual currency, and encryption technology and security. The URVCBA provides for exemptions for among other things, personal, family and academic uses, certain online games and certain merchant rewards programs. The URVCBA prevents these uses of virtual currency, which pose no risk of potential loss or harm to consumers, from being swept into the regulatory scheme.

6. The uniform act creates a three-tiered regulatory structure. Persons in Tier 3, whose virtual currency business activity exceeds \$35,000 in a one year period cannot operate in the State unless they obtain a license from the Division of Financial Institutions (DFI) of the Department of Commerce and Consumer Affairs. Tier 2 consists of providers with virtual-currency business activity levels between \$5,000 and \$35,000 annually, who are required to register with the DFI—which is a lighter regulatory burden than licensure. By comparison, Tier one exempts from regulation altogether those persons having virtual-currency business activity levels of under \$5,000 a year. Taken together, the three tiered regulatory structure that correlates higher levels of virtual currency business activity with stricter levels of regulation functions as a “regulatory on-ramp,” that

allows companies in their early stages of business development to focus on innovation and experimentation while they are in the earliest stages of development--where they would normally face the greatest threat from the imposition of regulatory burdens.

Unlicensed or unregistered persons who engage in virtual currency business activity with or on behalf of a resident in violation of the URVCBA can be assessed a civil penalty of up to \$50,000—a day for each violation.

7. The uniform act is also designed to protect consumers and their virtual currency. For example, section -51 of the URVCBA requires licensees and provisional registrants to issue disclosures to potential customers to inform them about fees, any insurance coverage for the product or service, etc. In addition, all virtual-currency businesses regulated by the Act must establish specific policies and compliance programs to guard against fraud, cyber threats, money-laundering, and terrorist activity.

8. For the foregoing reasons, we respectfully request that this committee pass Part I of S.B. No. 3082, S.D.1, H.D.1. Unlike the action taken by this committee on H.B. No. 2257, H.D.1 as passed by this committee on January 31, 2018, we ask that Part I be passed “as is”, rather than with the definitions removed.

Thank you very much for this opportunity to testify.

SB-3082-HD-1

Submitted on: 3/18/2018 11:09:00 AM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Theo Chino	Individual	Oppose	No

Comments:

Bitcoin is an **Intangible Commodity** that is the byproduct of a **consensus** amongst the participants, an **Immutable database technology** (commonly referred as the blockchain) and **Critical Mass**. Without those three components, a **valued token** cannot exist.

The same way water is a byproduct of Hydrogen and Oxygen, bitcoin is a byproduct of consensus and critical mass. They exist regardless of the law. **Blockchain without a bitcoin type token is impossible**. They are inseparable.

A group of Lawyers who benefit from the regulation so they can charge high fees have been trying to get this technology regulated as a financial product so they can be the only to rip its benefits.

Unfortunately, that same group of lawyers don't understand that without Critical Mass, this technology be worthless and only two groups will be developing on it; the criminals and the 1%. As usual, the emergent will be left out.

Right now, passing the ULC bill in Hawaii is simply for Coincenter to parade a success so they can show their backer that they do serve a purpose. I have been very effective rallying the local bitcoiners in other states.

You can visit the website <https://www.abolishthebitlicense.org/hearings> and watch how the technologist are reaping into shred all the ULC arguments.

For the past 2 years I have been fighting the bitlicense in New York State. The ULC Bitlicense is based from the NY Bitlicense.

I personally know that if you **give an opportunity to your local technologists** to testify, you would not be hearing from me sitting in New York City telling you how bad the ULC bill is.

Why not just change what is necessary for the exchangers to operate in Hawaii and let the ULC bitlicense be drafted with the help the Hawaiian bitcoin community?

Bitcoin and it's derivative is a great experiment that shouldn't be touched.

Respectfully submitted,

Theo Chino

A person who's name is in the ULC preliminary document.



J. P. Schmidt
Abaris Global
1288 Kapiolani Boulevard, Suite 1906
Honolulu, Hawaii 96814
jps@abarisglobal.com

Aloha,

I am testifying as a private citizen in support of SB3082 SD1 HD1, with the removal of the Uniform Act language, and retention of the revisions to the Money Transmitter Law proposed by the Division of Financial Institutions.

In the interest of full disclosure, I was the Insurance Commissioner of the State of Hawaii from 2003-2010, I am currently an advisor to the Ethereum Foundation and have given presentations on insurance regulation of blockchain at the #D1Conf on decentralized insurance and the Government of Mexico's XXVII International Seminar on Securities and Finance.

Ethereum is the second largest virtual currency enterprise behind Bitcoin with a market cap of around \$80 billion. I am not testifying on behalf of Ethereum. These are my own private opinions.

Currently, citizens of 49 states can exchange and trade virtual currency of a recognized Exchange. Because of an interpretation of Hawaii's Money Transmitter Law, there are no legitimate exchanges in Hawaii. Therefore, it is critical that Hawaii's law be amended to allow legitimate Exchanges to operate as they do in all other states.

The fact that all 49 other states allow use of this new technology, and only Hawaii doesn't allow the use of this new technology sends a terrible message about Hawaii and economic development and technology.

Virtual currency and its underlying technology, Blockchain, also known as Distributed Ledger Technology or DLT, is very complex computer coding technology and few people completely understand it. That naturally causes concern for legislators and regulators.

This new technology can be analogized to the new technology "the cloud". Experts said "the cloud" was a great new way to store data. We all now use "the cloud" even though few of us really understand it. If when the cloud technology started, Hawaii said "We have to protect consumers. Their important data could be lost or identities stolen." And Hawaii enacted strict regulations that, functionally, made it impossible to use "the cloud" in Hawaii, that would have had a terrible impact on businesses.

To start to understand new technology it is important to go to trusted sources for explanations.

The World Economic Forum issued a report analyzing Blockchain Technology entitled "The Financial Infrastructure of the Future, an ambitious look at how Blockchain can Reshape Financial Services".

In Deloitte's report, their analysts and experts "foresee a confluence of trends that underscore the urgency with which insurers should be developing blockchain technology." Blockchain in Insurance, Oct, 2016

"Some pundits are likening the emergence of blockchain technology to the early days of the World Wide Web, and for good reason." Deloitte University Press, Blockchain: Trust Economy, Feb. 7, 2017

In November 2016 Milliman, one of the top U.S. Actuarial firms, stated:

"Imagine the cost savings to your company of improving efficiency across the insurance value chain, from product management to underwriting to claims to

customer service—all while potentially increasing the security of your policyholder’s data. This is what blockchain technology can do.” *Blockchain: An Insurance Focus*

“Blockchain could be one of the most disruptive innovations since the advent of the internet.” McKinsey & Co. Blockchain Technology in the Insurance Sector for the Federal Advisory Committee on Insurance (FACI), Jan 5, 2017

“This is a very big deal. It’s so much more dramatic than [when the internet was launched],” says Eric Sweden, NASCIO’s program director for enterprise architecture and governance. “It’s going to have a huge impact on how we do business, accounting, auditing -- anything that has a data lineage to it.” National Association of State Chief Information Officers

So, trusted sources think blockchain is a very big deal for economic development. Each of these sources has a more extensive explanation of DLT and why it is important.

Regulators have heard about the volatility of virtual currency, and that also raises concerns. Virtual currency and blockchain are new and developing technology, essentially a start-up. Hawaii supports and encourages technology start-ups.

The Hawaii Strategic Development Corp. and the Hawaii Growth Initiative supported 4 technology start-up accelerators and UH has XLR8UH because we recognize the importance of new technology to economic growth.

The main concerns for consumer protection are “pump and dump” schemes and scams involving promotion of illegal securities. Both of these are the responsibility of the SEC. The SEC is currently moving aggressively to protect consumers in these areas.

Currently, the new technology of virtual currency and blockchain essentially can’t even exist in Hawaii. This bill is important and necessary to just allow Hawaii to participate in this new technology and the associated economic development.

An alternative is to simply exempt virtual currency from the money transmitter law. Wyoming just enacted such an exemption. Many states and nations have decided to step back and not enact new regulations that might stifle innovation in this area. They recognize that the tremendous benefits of blockchain technology must be given some space to develop.

The heads of the SEC and Commodity and Futures Trading Commission recently testified before Congress that their approach to regulation in this new area is “first, do no harm”. Nevertheless, they are pursuing those engaged in fraud or violation of current security laws thus providing protection to consumers. Hawaii also has laws to protect citizens from fraud.

Exempting virtual currency from the Money Transmitter Law would send a signal that Hawaii welcomes and wants to participate in this new technology. Hawaii statutes on fraud and money laundering and the SEC already provide protection.

Major corporations around the world are working together in consortia to develop applications for blockchain in their business. Enterprise Ethereum Alliance has over 200 members, including JP Morgan, British Petroleum, Mastercard, Intel, Microsoft, Earnst and Young, Royal Bank of Canada, BNY Mellon, Credit Suisse, Deloitte, Ing, Pfizer, and UBS. Leaders in the Transportation industry, the Healthcare industry, Insurance, as well as the financial industry are working on blockchain applications to improve their industries. B3i is a consortium of the major insurers around the world who are working on insurance applications.

It is critical that Hawaii take this first step to participate in this new technology for the benefits and economic development that this technology supports.

If you have any questions, please do not hesitate to contact me.

J. P. Schmidt
(808)292-7999

SB-3082-HD-1

Submitted on: 3/19/2018 4:10:22 PM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nathaniel Harmon	Individual	Support	Yes

Comments:

Good Afternoon chair Takumi and members of the committee. My name is Nathaniel Harmon I am a graduate student at UH Manoa in the Oceanography department, I recently started Blockchain Solutions Hawaii a small business aimed at community education, consulting with other small businesses regarding integration with cryptocurrency, software design, and other various services, I am also the district 21 secretary and precinct 3 president and look forward to seeing you all for county and state convention. Bitcoin represents a marked shift in the path society is taking and is the final innovation required for the next industrial revolution. Every industrial revolution is the confluence of three technologies: a new energy source, a new means of communication, and finally a new transportation method. We had coal, telegraph/telephone, and trains. Then petroleum, radio/TV, and motor vehicles. Now with green technology (energy), the internet (communication), and Bitcoin by being able to transport value instantly around the world. Hawaii has a unique opportunity to take advantage of this, as we are situated between the two largest markets for cryptocurrencies Japan (where Bitcoin is legal tender) and the US, and have near unlimited amounts of green energy. Cryptocurrencies are global in scope and thus undue regulations will not affect the market or large international players but only local small businesses thereby discouraging innovation. I believe that the following exemptions should be added:

- Exempt OTC in-person sales of Bitcoin by Hawaii based businesses. As requiring KYC/AML laws for in-person sales introduces a security vulnerability that defeats the purpose of cryptocurrencies and the problem that they seek to solve pushing people into the grey market where you meet with a person that you don't know and exchange cash.
- Exemption for multi-signature escrow and settlement services where the third party does not control the funds but simply prevents any one party involved in a transaction from defrauding the others.

In closing we should just defer to federal rules and strike our current draconian policy but if need be pass this bill with the exceptions as soon as possible.

