

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
KA 'OIHANA PILI KĀLEPA  
335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
cca.hawaii.gov

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO  
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Finance  
Monday, February 27, 2023  
11:00 a.m.  
Conference Room 308**

**On the following measure:  
H.B. 1261 H.D.1, RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY  
LICENSURE**

Chair Yamashita and Members of the Committee:

My name is Iris Ikeda and I am the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs ("Department"). The Department supports this bill.

The purpose of this bill is to establish a program for the licensure, regulation, and oversight of digital currency companies; extends operations of companies in the digital currency innovation lab under certain circumstances; and appropriates funds for three full-time equivalent (3.0 FTE) permanent examiners.

Digital currency has grown in popularity and acceptance in this state, nationwide, and globally. There is, however, little regulation of the industry. The regulation that is available to states is through their money transmission laws, which do not adequately supervise companies and do not provide consumer protection.

Through the research conducted by the DFI and the Hawaii Technology Development Corporation (HTDC) in the Digital Currency Innovation Lab (DCIL), DFI learned that the current regulatory scheme of the money transmitter laws do not comport with the activities conducted by digital currency companies. The research provided the catalyst for DFI to establish a new licensing scheme for the digital currency industry. This bill provides a new regulatory framework for digital currency companies.

If enacted, it will be the first license of its kind. Other states are taking different approaches with this industry, chartering as a bank with 100% back of fiat currency, chartering as a trust company, licensing as a money transmitter. Hawaii is the only state to specifically research activities on digital currency companies can craft a law for the industry. DFI realizes that this industry is still evolving and the provisions of the bill are somewhat generalized to attempt to be nimble with its supervision as the companies innovate.

The recent failures of digital currency companies like BlockFi, Three Arrows Capital, Voyager Digital, Celsius Network, and FTX to name a few, have illustrated the volatility of the units, how quickly a company can fail, and how consumers were left with nothing at the failure. Some of the companies in the DCIL were affected by the failures of those companies, but because of the structure of our oversight in the DCIL, few customers were hurt.

The three strongest aspects of the licensure law:

- (1) Provides licensing requirements consistent with our other industries,
- (2) Provides minimum regulatory policies like Anti-Money Laundering policy to identify illicit behavior, cybersecurity as activity is only over the internet, and privacy policies to protect consumers; and
- (3) Requires companies to maintain a strong financial standing, including holding permissible investments (liquid investments to cover units held).

The digital currency companies continue to innovate and DFI continues to meet with various stakeholders (Digital Currency Innovation Lab participants, industry association, consumers, state and federal regulators, and companies who transaction in digital currency).

The Department requests that this bill continue to move through the process as the Department is committed to providing a licensure scheme that will provide appropriate consumer protection while allowing companies to flourish.

Thank you for the opportunity to testify on this bill.



Written Statement of  
**Len Higashi**  
Executive Director  
Hawaii Technology Development Corporation  
before the  
**House Committee On Finance**  
Monday, February 27, 2023  
11:30 a.m.  
Conference Room 308 & Videoconference

In consideration of  
**HB1261**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.**

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee.

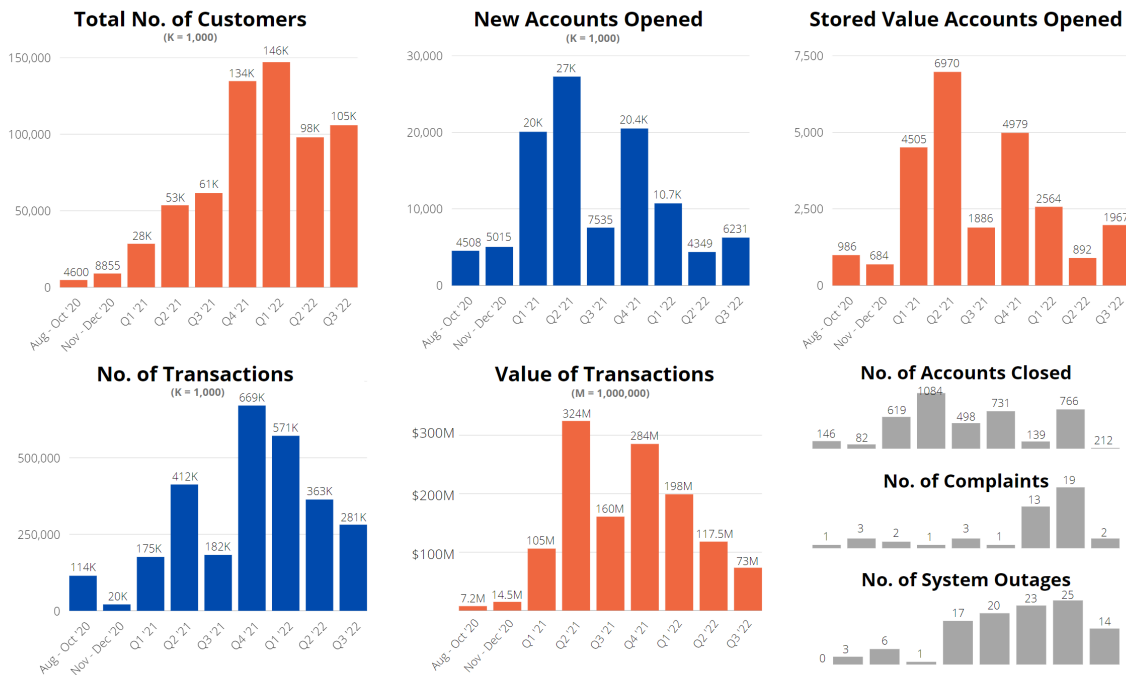
The Hawai'i Technology Development Corporation (HTDC) **supports** HB1261, HD1 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

HTDC supports initiatives aimed at accelerating the adoption of new technologies. HTDC has partnered with the DCCA Division of Financial Institutions on a pilot project for digital currency which initiated in 2020 and has been extended to June 30, 2024. The goals of the program are to:

- \* Create economic opportunities for Hawaii through early adoption of digital currency
- \* Offer consumer protection by providing guidance to issuers of digital currency
- \* Provide data to shape legislation supporting digital currency activities

There are currently 11 digital currency companies in the program. Data shows over 105,000 Hawai'i based customers currently participating with hundreds of millions of dollars transacted each quarter. HTDC has hosted 13 educational webinars on various topics, two roundtables with local financial institutions and crypto investors, formed an advisory group of local domain experts in crypto, and facilitated two pilot projects exploring the economic benefits of crypto for fundraising and Non-Fungible Tokens (NFT) for selling art. HTDC received 45 complaints from general Hawai'i based consumers during the span of the program. A summary chart of the data collected is provided below and can also be found on our website at

<https://www.htdc.org/digital-currency-innovation-lab/>

**DIGITAL CURRENCY INNOVATION LAB**


In 2022, the crypto currency market experienced major volatility due to the collapse of FTX Trading, Ltd., the 2<sup>nd</sup> largest crypto exchange in the world. The collapse underscored the need for government regulation for consumer protection. While the federal government works on creating uniform laws for the country, the bill offers Hawai'i residents some consumer protection through disclosures and some business safeguards. HTDC's interest and advocacy in crypto revolve around new, novel uses that leverage crypto such as Non-Fungible Tokens (NFT). HTDC supports this bill and defers to the Division of Financial Institutions on the technical aspects of the bill.

Thank you for the opportunity to offer these comments.



Feb. 27, 2023

11:30 a.m.

Conference Room 308 and Videoconference

**To: House Committee on Finance**

**Rep. Kyle T. Yamashita, Chair**

**Rep. Lisa Kitagawa, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Ted Kefalas, Director of Strategic Campaigns**

RE: SB1261 HD1 — RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HB1261 HD1](#), an 80-page tome that would establish a program for the licensure, regulation and oversight of digital currency companies.

In general, this bill is a response to the proliferation of cryptocurrencies worldwide, and seeks to impose a wide array of regulations on cryptocurrency businesses operating in Hawaii.

One of the main problems with HB1261 is the vast and nearly unlimited powers over the cryptocurrency market it gives to the commissioner of the Division of Financial Institutions.

Nearly every regulation in the bill has a caveat that would allow the commissioner to rewrite the law according to his or her will, which could centralize too much power in the hands of the commissioner and burden cryptocurrency companies with a high level of regulatory uncertainty.

Crypto companies would not be the only ones facing regulatory uncertainty, should this bill become law. Federal law and regulations governing cryptocurrencies are unclear and constantly

in flux. For example, the Board of Governors of the Federal Reserve issued new rules on Feb. 6 that directed how cryptocurrencies could be used in the U.S. banking system.<sup>1</sup>

Ironically, this bill could itself create significant uncertainty for the commissioner too, as he or she attempts to implement it without contradicting federal rules. Meanwhile, the combination of state and federal uncertainty would serve to chill the cryptocurrency market in Hawaii, harming both operators and consumers.

The division's regulatory sandbox, on the other hand, provides crypto businesses with some degree of certainty. Extending the sandbox while waiting on clearer federal guidance might be the best bet.

However, should this bill move forward, Part I, Section 2, Subsection 9 should be retained. It provides that the proposed regulation would not apply to:

*(9) Non-custodial digital currency business activity by a person using a digital currency:*

*(A) Acknowledged as legal tender by the United States or a government recognized by the United States; or*

*(B) That has been determined to not be a security by a United States regulatory agency;*

This language would give cryptocurrencies an avenue to become recognized at the federal level and give the DFI commissioner a standard for determining which cryptocurrencies should be exempt from this licensure regime.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

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<sup>1</sup> Alexandra Kelley, "[Federal Reserve Issues New Restrictions on Crypto Banking](#)," Nextgov, Feb. 7, 2023.

**HB-1261-HD-1**

Submitted on: 2/26/2023 4:46:21 PM

Testimony for FIN on 2/27/2023 11:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

There are to systems out there one is the Communist Digital System the other Is the Q F S system developed for the People. Chose the Right one !!!!