



DAVID Y. IGE  
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**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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

**Before the  
House Committee on Consumer Protection & Commerce  
Tuesday, February 8, 2022  
2:00 p.m.  
Via Videoconference**

**On the following measure:  
H.B. 2108, RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

Chair Johanson and Members of the Committee:

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

The purpose of this bill is to establish a program for licensure, regulation, and oversight of digital currency companies.

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.

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.

Appendix 1 outlines the provisions in the bill. The Department believes the licensure of these companies will provide consumer protection through ongoing supervision of digital currency companies. The DFI will allow the marketplace to continue to innovate with new business models in response to innovative technology and consumer expectations.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

Appendix

Special Purpose Digital Currency license

Summary

Part I.

Section 1 – Definitions

Section 2 – Exclusions – chapter does not apply to:

1. Electronic Fund Transfer Act
2. Just connectivity software
3. Only data storage or security services
4. For academic purposes
5. DC business activity less than \$5,000 a year
6. An attorney providing escrow services
7. Securities law
8. A person who does not receive compensation or testing using own funds/DC
9. Bank licensed under chapter 412

Section 3 – Powers of the commissioner

Section 4 – License required or transaction is void

Section 5 – Payment of fees through NMLS; deposited to CRF

Part II – Licensing

Section 6 – Licensing requirements, through NMLS; criminal background check, financial statements, personal history/experience

Section 7 – Issuance of license; grounds for denial

Section 8 – Anti-money laundering program

Section 9 – Cyber security program

Section 10 – Fees; bond

Application fee \$9,000

Renewal fee \$1,000

Bond \$500,000

Section 11 – Renewal of license; annual report

Scaled to DC activity; minimum \$10,000 paid quarterly

Section 12 – Authorized places of business; principal office; branch office; relocation; closure - Must maintain principal place of business in US and register to do business in

HI

Section 13 – Sale or transfer of license; change in control – requires commissioner approval

Section 14 – Ownership and control of DC

Part III – Disclosures, Advertising, Recordkeeping

Section 15 – Required disclosures (to consumers) – schedule of fees and charges, product or service is not covered by insurance or no guarantee against loss;

transactions are irrevocable; timing of transfers

Section 16 – Records, net worth requirement – measured by the average value of DC over the past 6 months

Section 17 – Advertising and marketing – include disclosure that they are licensed by HDFI

Section 18 – Confidentiality – under 92F

Part IV – Enforcement

Section 19 – Enforcement authority; violations; penalties

Section 20 – Investigation and examination authority; includes an exam fee \$60/hour, travel expenses

Section 21 – Prohibited Practices

Section 22 – Voluntary surrender of license – 30 days' notice

Section 23 – Suspension or revocation of license

Section 24 – Order to cease and desist – for immediate and irreparable harm to consumers

Section 25 – Consent orders

Section 26 – Civil penalties – not to exceed \$10,000 per violation

Section 27 – Criminal penalties

Section 28 – Unlicensed persons

Section 29 – Administrative procedures under chapter 91

Section 30 – Hearings

Section 31 – Division functions

SECTION 3 – update 489D-4 (definitions to exclude DC from monetary value)

SECTION 6 – Raise CRF ceiling \$500,000 to implement the program

SECTION 8 – Approval dates

Effective 7.1.22

Licensing effective 1.1.23

DCIL participants can continue until license is available provided, they apply by 3.1.23.



Written Statement of  
**Len Higashi**  
Acting Executive Director  
Hawaii Technology Development Corporation  
before the  
**HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

Tuesday, February 8, 2022  
2:00 p.m.  
Videoconference

In consideration of  
**HB2108**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

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

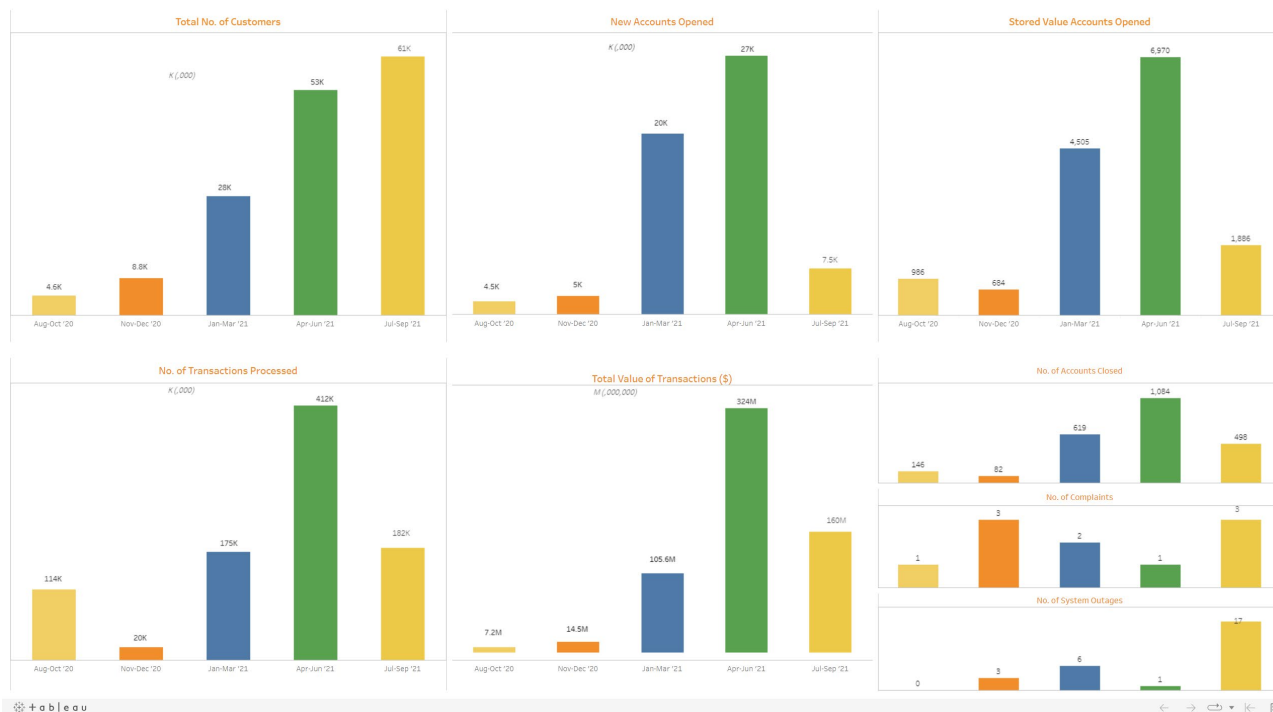
The Hawai'i Technology Development Corporation (HTDC) **supports** HB2108 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

HTDC supports initiatives aimed at accelerating the adoption of new technologies. HTDC has partnered with the DCCA Division of Financial Institutions on a 2-year pilot project for digital currency which ends June 30, 2022. 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 15 digital currency companies in the program and data collected shows over 61,000 Hawai'i based customers currently participating with hundreds of millions of dollars transacted each quarter. HTDC has hosted 13 educational webinars on various topics, 2 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 10 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/>



While the pilot program has not concluded, the results of the program clearly indicate strong interest from Hawai'i residents. The ability for Hawai'i's residents to continue engaging in digital currency transactions will not be possible without enabling legislation. The 15 companies participating in the program have also expressed unanimous support for regulation and alignment with industry standards applied to existing traditional financial institutions. For example, program participants believe that fulfilling the requirements of a robust IT cybersecurity policy is necessary before crypto-based companies are allowed to do business. They have also expressed the need for clear and consistent regulatory guidelines for companies to conduct business in Hawaii following the end of the pilot program. Since the state of digital currency continues to evolve, it is imperative that the state designate an entity in charge to guide and inform Hawaii's position and response towards digital currency activities. Therefore, we support this bill and defer to the Department on the technical aspects of the bill.

Thank you for the opportunity to offer these comments.



February 8, 2022

2 p.m.

Conference Room 329 and Videoconference

**To: Committee on Consumer Protection & Commerce**

**Rep. Aaron Ling Johanson, Chair**

**Rep. Lisa Kitagawa, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Joe Kent, Executive Vice President**

RE: HB2108 — 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 [HB2108](#), an 88-page tome of a bill that would establish a program for the licensure, regulation and oversight of digital currency companies.

We appreciate the goal of creating a pathway for cryptocurrency companies to operate in Hawaii. However, HB2108 has unclear language and too many hurdles that could cement Hawaii as one of the worst states in the nation for cryptocurrency and cut residents off from this emerging market.

We urge lawmakers to delete the most burdensome regulatory aspects of this bill, or, better yet, support [HB2287](#) and its companion [SB2697](#), which would exempt cryptocurrency companies from Hawaii's money-transmitter law — considered by cryptocurrency companies to be the main stumbling block to operating here.

Among the issues with HB2108 that need to be addressed:

**>> Its approach is banking-centric.**



Much of the bill's language was derived from model legislation provided in August 2021 by the Conference of State Banking Supervisors, of which Iris Ikeda, commissioner of the Hawaii Division of Financial Institutions, is a board director at large.<sup>1</sup> So far, not one state has enacted any of its recommendations.<sup>2</sup>

Not surprisingly, HB2108 takes a banking-centric approach to cryptocurrency legislation, but many companies that use cryptocurrency are different from banks. For example, the bill could be interpreted as requiring food establishments to obtain a "special purpose digital currency license" in order to accept cryptocurrency as payment.

On page 4 of the bill, "digital currency business activity" is defined as "exchanging, transferring, or storing digital currency," but Section 2 of the bill, which starts on page 8 and outlines exclusions to its proposed regulations, does not include food establishments.

On page 10, HB2108 says it will not apply to financial institutions that are "chartered or licensed by chapter 412."

Hawaii's Chapter 412 defines a Hawaii financial institution as a bank, savings bank, savings and loan association, depository financial services loan company, nondepository financial services loan company, trust company, credit union or intra-Pacific bank.<sup>3</sup>

This presumably means that Hawaii financial institutions could buy, sell and exchange Bitcoin and other cryptocurrencies without needing a special purpose digital currency license.

It is a welcome idea to afford banks the freedom to interact with the emerging cryptocurrency market without the need for a special license. However, it is odd that other companies would be required to get a special license to use cryptocurrency.

**>> Its tangible net worth requirement is unclear.**

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<sup>1</sup> "[CSBS Leadership](#)," Conference of State Banking Supervisors, accessed Feb. 5, 2022.

<sup>2</sup> "[CSBS Model Money Transmission Modernization Act](#)," Conference of State Banking Supervisors, Jan. 6, 2022. See also, "[CSBS Uniform Money Transmission Modernization Act](#)," Conference of State Banking Supervisors, August 2021, pp. 45-52.

<sup>3</sup> [412:1-109](#), which states, "A Hawaii financial institution may be a bank, resulting bank as defined in article 12, savings bank, savings and loan association, depository financial services loan company, nondepository financial services loan company, trust company, credit union, or intra-Pacific bank."

Section 16 of the bill, starting on page 45, would require licensees to meet a “tangible net worth” requirement. However, it is unclear exactly how much money that “tangible net worth” would have to be.

Section 23, subsection 2, on page 65, states that a license can be revoked if the “licensee’s tangible net worth becomes inadequate.” But, again, the bill doesn’t specify exactly what would be inadequate or adequate.

The CSBS model legislation, while overly burdensome, at least clarifies a tangible net worth requirement,<sup>4</sup> stating that “A licensee under this [Act] shall maintain at all times a tangible net worth of the greater of \$100,000 or 3 percent of total assets for the first \$100 million.”

But this ratio is not clear in HB2108, and should be stated explicitly.

**>> Its reserve requirement is not clear.**

In a House Committee on Finance hearing on [Jan. 18, 2022](#), Iris Ikeda said that the bill would require licensed cryptocurrency companies to have a “one-to-one” reserve ratio, also known as a double reserve.<sup>5</sup> However, this “one-to-one” ratio is not clearly specified in the bill.

If the reserve ratio requirement is indeed one-to-one, that should be specified in the bill.

HB2108 also does not make it clear whether cryptocurrency can be used as a “permissible investment,” and this effectively could create a “double reserve” requirement, such as exists in Hawaii’s current money-transmitter law,<sup>6</sup> whereby a company holding \$1 billion of cryptocurrency would also need to hold \$1 billion of cash.

This problem exists because Hawaii’s money-transmitter law does not allow cryptocurrency to be used as a permissible investment.<sup>7</sup> Thus, cash must be used, effectively creating a double-reserve requirement. In 2017, this double-reserve requirement prompted Coinbase, the world’s leading cryptocurrency exchange, to leave Hawaii.<sup>8</sup>

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<sup>4</sup> [“CSBS Model Money Transmission Modernization Act,”](#) Conference of State Banking Supervisors, Jan. 6, 2022. See also, [“CSBS Uniform Money Transmission Modernization Act,”](#) Conference of State Banking Supervisors, August 2021, p. 34.

<sup>5</sup> [“FIN Info Briefing — Tue Jan 18, 2022 @ 1:30pm,”](#) YouTube video, Hawaii House of Representatives, Jan. 18, 2022 at 51’:51”.

<sup>6</sup> [HRS489D.](#)

<sup>7</sup> [HRS489D-4](#) pp. 3-4.

<sup>8</sup> Juan Suarez, [“How Bad Policy Harms Coinbase Customers in Hawaii,”](#) Coinbase, Feb. 27, 2017.

If the intent is to encourage cryptocurrency exchange companies in Hawaii, HB2108 should state clearly whether cryptocurrency can be used as a permissible investment in the calculation of its reserve requirement.

**>> Its explanation for determining “tangible net worth” is not clear.**

Section 16, page 45, of the bill states that licensees must meet a “tangible net worth” requirement, then offers a convoluted explanation of how that net worth would be calculated. Specifically: "A licensee engaged in digital currency business activity may include in its calculation of tangible net worth digital currency, measured by the average value of the digital currency in U.S. dollar equivalent over the prior six months, excluding control of digital currency for a person entitled to the protections pursuant to section 14."

This explanation would seem to suggest that the company net worth is calculated against the average price of cryptocurrencies over the previous six months, which could be problematic for cryptocurrency companies.

For example, the average price of Bitcoin over the past six months was \$50,114. But the price on Feb. 4, 2022 was \$40,709, which is a 20% decrease. Thus, if a company had \$1 billion in Bitcoin today, it presumably would need \$200 million of additional cash to account for the drop in value and meet the tangible net worth requirement.

This would effectively require cryptocurrency companies to hold excessive amounts of cash as a buffer, which would effectively be similar to a double-reserve requirement. This also could result in cryptocurrency exchange companies exiting or avoiding the state.

**>> It is unclear whether customers need to be licensed.**

On page 4 of HB2108, the definition of “digital currency business activity” includes “transferring” digital currency. On page 7, the definition of “transfer” includes moving digital currency to a hard wallet. On page 13, it is stated that a license would be required for “digital currency business activity.” Taken together, these three statements make it appear that someone would need a license to transfer cryptocurrency to their own wallet.

However, a statement on page 8 seems to exclude “the exchange, transfer, or storage of digital currency ... regulated by the Electronic Fund Transfer Act of 1978, 15 U.S.C. Section 1693

through 1693r, the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a through 78oo, or the Commodity Exchange Act, 7 U.S.C. Sections 1 through 27f.”

And in Section 2, subsection 8, page 10, the bill says “a person that (A) Does not receive compensation from a person for: (i) Providing digital currency products or services; or (ii) Conducting digital currency business activity” also is excluded.

So essentially, the bill is not clear about whether cryptocurrency customers would need to be licensed. And, of course, the default should be against requiring customers to obtain a cryptocurrency license, because that would be excessively burdensome.

**>> It requires undue surveillance and lacks surveillance security.**

In Section 8 of HB2108, starting on page 22, the bill says licensed cryptocurrency companies would be required to provide to the state massive amounts of surveillance data on customer financial transactions.

By contrast, Hawaii’s [money-transmitter law](#), on page 12, requires licensees to submit only to the federal government, and not necessarily to the state, any reports that are required by the federal government.<sup>9</sup>

Hawaii’s government does not have a good track record for keeping its data systems secure, as evidenced by the multiple hacks that have occurred in recent years.<sup>10</sup> Requiring that cryptocurrency companies hand over vast amounts of financial information to the state is unnecessary and could create a “honeypot” for hackers to attack that would put Hawaii residents’ financial information in jeopardy.

If anything, HB2108 should duplicate the money-transmitter requirement that cryptocurrency companies file to the federal government reports required by the federal government.

**>> Its license fees seem discriminatory and unreasonably high.**

HB2108 requires licensees to pay an annual fee of \$50,000. By contrast, the annual fee for [money transmitters](#) is only \$2,000.

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<sup>9</sup> [HRS489D](#) “Money Transmitters Act,” p. 12.

<sup>10</sup> Peter Boylan, “[Cyberattacks hit at least 3 Hawaii government systems in past week](#),” Honolulu Star-Advertiser, Dec. 14, 2021, and Sam Spangler, “[Hawaiian Electric attacked daily by hackers as White House warns of ransomware](#),” KHON2, Hawaii News Now, June 8, 2021.

Ideally the fees for both should be equal, and preferably both at the lower amount, if Hawaii wishes to encourage more entrants in the emerging cryptocurrency market.

### **Conclusion**

HB2108 as written could cement into place the most burdensome cryptocurrency regulations in the nation, in addition to causing confusion.

If the members of the two committees considering this bill are committed to using it as the vehicle to help Hawaii participate more fully in the worldwide cryptocurrency market, the Grassroot Institute of Hawaii recommends that all the burdensome aspects of the bill — such as its unreasonable net worth requirements, dubious surveillance requirements and high fees — be deleted. This bill also needs to be written more plainly, to prevent needless confusion.

For the record, however, we believe a much better option would be for your committees to shift their support from HB2108 to [HB2287](#) and its companion in the Senate, [SB2697](#), both of which would simply exempt cryptocurrency from Hawaii's money-transmitter law and truly open the door to cryptocurrency exchange companies in Hawaii.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent  
Executive Vice President  
Grassroot Institute of Hawaii

**Statement of  
Nathaniel Harmon  
Founder  
Blockchain Solutions Hawai'i  
before the  
House Committee on Consumer Protection & Commerce**

**February 08, 2022  
2:00 PM  
State Capitol, Conference Room #329 & Videoconference**

**In consideration of  
HB2108  
RELATING TO VIRTUAL CURRENCY**

**Chair Johanson, Vice Chair Kitagawa, and Members of the Committee on  
Consumer Protection & Commerce**

Blockchain Solutions Hawai'i supports with amendment HB2108 establishes a program for the licensure, regulation, and oversight of digital currency companies.

Blockchain Solutions Hawai'i (BSH) was founded in 2018 with the intent of providing a helpdesk for individuals, legislators, and businesses in Hawai'i looking to integrate with blockchain technology. To this goal we have and will continue to succeed. Through our Zero-Knowledge Security Service we have assisted numerous individuals in self-custodying their own assets. We have worked with multiple businesses integrate Bitcoin and other blockchains into their existing offerings. We provide expert information to the Hawai'i Technology Development Corporations (HTDC) Digital Currency Innovation Lab (DCIL) as part of their Advisory Group. Through the DCIL webinar series we presented a compelling case for why there is no path to decarbonization for Hawai'i that does not involve Bitcoin, and we are partnering with Makai Ocean Engineering to demonstrate as much. Finally, we develop and build non-custodial software solutions using blockchain technology to solve major pain points for Hawai'i and non-Hawai'i businesses.

It is important to understand that while there exists fundamentally ground-breaking technology that will alter society as a whole in this space, not all blockchains are equal. Having been involved in this space for the better part of a decade we can attest that it is riddled with fraud. Criminals mask their illegal security offerings with buzzwords, lofty promises, and shiny websites. They raise capital in exchange for their "Coin" from desperate individuals hoping that "Coin X" will make them rich. All too often the founders pull the rug out from under the investors and run away with the capital. All of this is to say there needs to be more regulation and requiring a license is a good first step.

As written this bill would require a license from projects that have no way of applying for one nor the ability to enforce the rules required of license holders. This will most assuredly have the effect of limiting all growth for this industry in the state.

With the goal of regulating businesses in the space that poses the risk of material harm to residents while not limiting growth in the state. BSH proposes three amendments to HB2108 that would achieve this.

The first amendment would be to add an exclusion to § -2 “Exclusions” as follows

- "Non-custodial digital currency business activity by a person using a digital currency acknowledged as legal tender by the US or government recognized by the US or that has been determined to not be a security by an US regulatory agency"

This exclusion would cover all non-custodial business activity by individuals and businesses that pose no risk to the end consumer. The common ethos in the community is “not your keys, not your coins”. In other words, a customer can not have their funds stolen if you do not hold them. As for the second clause in the proposed amendment, exempting only projects that meet the criteria of being adopted as legal tender or determined to not be a security by the relevant regulatory body. This clause covers the case mentioned in the second paragraph above where bad actors cloak their fraud in techno-babble buzzwords. Many of the so called “Web3” projects claim decentralization while behind the curtain have a single actor in control. Smart contract platforms like Solana can be arbitrarily shut or reverse user’s transactions at the will of their “foundation”. So, while a non-custodial “Smart Contract” may be built on the Solana Network, if the network itself is custodial then all projects built on top of it will also be custodial. SEC Chair Gary Gensler is the most well-educated high-ranking regulator currently serving in the US Government, having taught a semester long course on Bitcoin and Blockchains at MIT. So far, the SEC has determined that two projects in the space are not securities, Bitcoin and Ethereum, Bitcoin having been determined to be a commodity. As the vast majority of activity in the space resides in these two projects, +60% at the time of writing, exempting non-custodial project from these networks would allow for the greatest proportion of innovation to occur in Hawai’i. Further, Bitcoin possesses the unique designation of being the only network to be adopted as legal tender by a US recognized government, El Salvador, with more countries to follow suit in 2022. Without an exemption for networks serving as Legal Tender would create a slew of unintended consequences.

The second amendment would be an additional clause added to § -14 (e) “Ownership and control of digital currency” stating as follows:

- “Unless clearly presented and stated to the client that doing so is the intent of the product”

A number of the businesses in the space such as Blockfi, Celsius, and Gemini offer an interest-bearing account. The interest on this account is gained through lending out the client's assets. Without an exemption both the lending and interest accounts would be forced to shut down. Further, this is the entire model of DeFi, thus this stipulation unamended would have the effect of removing DeFi from Hawai'i.

The final amendment concerns § -16 (a) "Records, net worth requirement" and more specifically the calculation of tangible net worth. An issue arises from calculating net worth based on the average value of the digital currency during the previous six months. The average price of Bitcoin over the last six months is ~\$50,000 while the current price is ~\$40,000. This would leave a business with a deficit between the value of "U.S. dollar equivalent of digital currency" as defined in § -1 "Definitions" and the reserve requirement defined by § -1 "Definitions" "Tangible net worth" and full backing clause of § -14 "Ownership and control of digital currency". To remedy this discrepancy § -16 (a) should read as follows:

- A licensee engaged in digital currency business activities may include in its calculation of tangible net worth digital currency, measured by the average value of the digital currency in U.S. dollar equivalent.

With the above amendments, this act to establish a licensing program for digital currency businesses in the state of Hawai'i will accomplish the intentions set forth in the language of the bill.

Thank you for the opportunity to offer these comments.



**Blockchain Solutions Hawai'i**

Mahalo

Nathaniel Harmon

Blockchain Solutions Hawaii

N.harmon@blockchainsolutionshi.com





**TESTIMONY**  
LIBERTARIAN PARTY OF HAWAII  
% 92-149 Kohi Place  
Kapolei, HI 96707

RE: **HB 2108** to be heard on Tuesday February 8

**Please oppose this bill.**

Thank you for your consideration.

Sincerely,

Feena Bonoan  
Vice Chair  
February 7, 2022

**HB-2108**

Submitted on: 2/6/2022 4:00:28 PM

Testimony for CPC on 2/8/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Jeff Sadino	Individual	Comments	No

Comments:

I am offering **COMMENTS** on HB2108.

I support the use of blockchain technology, including in digital currency.

Despite its popularity, crypto is still a new technology. There are many shortcomings with the technology, but it also has a very active community that is exploring solutions to all of these shortcomings in the most diverse and ingenious ways. This creativity should not be unnecessarily limited by regulations. The technology should be given more time to mature.

Current regulations limit the number of cryptocurrency exchanges that are willing to operate in the United States. Hawai'i regulations further limit the number of exchanges that are willing to operate here. Our State regulations regarding proof of funds held in exchanges' "cold" wallets seem to be more restrictive than other States and limits the number of exchanges that are available to consumers in Hawai'i. While this is an extremely important concern, it should be made more similar to other States in the country.

The most helpful regulations would be to 1) ensure the security of user funds that are held on exchanges in order to prevent scam exchanges from stealing user funds, and 2) create better controls on exchanges to prevent unauthorized access to user accounts from hackers. These shortcomings of the technology are best solved by regulation. The current Bill addresses these concerns in Section 9 on pages 28 – 32.

I ask that care be taken of the pros and cons of this Section so that it does not have unintended consequences.

Thank you for the opportunity to testify,

Jeff Sadino

RE: Committee on Consumer Protection & Commerce

February 8, 2022

Aloha,

To begin, I appreciate the effort that the legislature has made to provide clarity regarding cryptocurrency regulation in Hawaii. It is clear that the intentions of the legislators are good, and that they are trying to protect consumers here in the state. Unfortunately, I do not believe that this bill accomplishes this goal and I do not believe it should be passed.

Currently, Hawaii is the least crypto-friendly state in the nation (along with New York), with most cryptocurrency companies operating in all 48 states, excluding HI and NY. While the DCIL sandbox has allowed certain companies to operate here, there remains significant confusion among residents about our regulatory environment. People do not know where they can learn about crypto or access it. This has put locals at a disadvantage, as companies that operate everywhere else cannot offer services here. Coinbase, a \$40 billion publicly-traded company and the largest exchange in the US, only excludes Hawaiian residents.

With the regulatory sandbox set to end, there is a justified urgency in providing an avenue for crypto companies to operate here. This bill, however, is not the answer. HB2108 would cement Hawaii's status as the most unfriendly state for crypto in the United States. This bill is most closely modeled after New York's BitLicense, which was enacted in 2015 and had the unintended effect of chilling crypto innovation in the state and is likely to be revoked this year.

HB2108 requires companies that wish to operate in Hawaii go through procedures, reporting/data collection requirements, and fees that no other state requires them to provide. The result will be that most companies will continue not to operate in the state since our small size means that the small profit they would earn from being here is not worth the hassle. Much of the language is worryingly vague, with several contradictory definitions and significant discretionary power given to the Commissioner. The lack of clarity in the bill itself means that even companies who wish to follow the regulations will find themselves unsure of what they are and are not allowed to do.

Part of the issue with HB2108 stems from a common misunderstanding about crypto. Most cryptocurrencies are not currencies at all. The vast majority of crypto protocols have no intention of being money in the traditional sense of the word. Far from simply being money, crypto can mean art, financial tools, community projects, games, domain names, digital infrastructure, social media, and much more. Placing all of these uses under the purview of the DFI misunderstands the crypto industry in a way that will lead to even more conflict and confusion in the future. Just because a blockchain is used does not mean that a crypto token is a form of money.

Instead, crypto is about community ownership. Through tokens, holders take part in the ownership of distributed, decentralized networks and protocols where value accrues to communities. This concept of shared ownership and community is an idea that strongly resonates with locals. Unlike our current economy, where large corporations like Amazon or Google earn all profits, value in crypto accrues to token holders. This industry is still in its early stages and I believe that it is essential that we allow it to

continue to grow within the state. Crypto will continue to grow whether Hawaii participates in it or not. People are interested in crypto and they want to learn more. We must make it easy for them to do so.

I encourage the State to look at the positive aspects of cryptocurrency. For most of its economic history, Hawaii has been restricted by its location. We cannot compete in sectors like manufacturing where transportation costs are too high. Since crypto is borderless, however, we have an opportunity to build local companies here that can compete on the global stage. Hawaii may actually have an economic advantage when it comes to cryptocurrency. Located at the nexus point between Asia and the US, we can connect with both cultures in a way that the mainland cannot match. Through crypto, Hawaii has the opportunity to be at the forefront of an emerging technology industry where our location gives us an advantage if we let people build here.

While it is important that we allow established mainland companies to operate here, it is also necessary that any potential regulation encourages growth from our own community. Many people who attend our Meetup groups are genuinely excited about the prospect of building crypto companies here in Hawaii. We're all waiting to see how the regulatory landscape plays out. As written, HB2108 would prevent entrepreneurship and local growth in crypto, while only allowing large companies or banks to participate.

Though I understand the concern of local regulators who want to protect consumers, there are better ways to move forward. We must look to other states to see how they regulate cryptocurrency. We should take solace in the fact that the US Department of Justice has taken significant steps to prevent crime through crypto. At this stage, the DOJ and SEC are more than capable of taking the lead on crypto regulation. While crypto companies do need to be regulated, HB2108 would lead to a chilling effect on the crypto business in Hawaii, which would harm residents and hurt our state as a whole.

I suggest taking the following steps:

- Reject HB2108
- Pass SB2695, which establishes a blockchain and cryptocurrency task force. This will allow the State to spend time to fully study crypto from all angles.
- Pass SB2697, which excludes the electronic transfer of virtual currency through virtual currency companies and cryptocurrency companies from the Money Transmitters Act. This bill is most consistent with how other states approach crypto. Passing this bill will allow crypto companies to continue to operate while leaving room for future legislation and regulation from the State of Hawaii, once the task force is established and has had time to study the issue.

Thank you for the opportunity to offer these comments.

Sean Cover

Statement of  
**Katie Jackson**  
**Hawaii State Blockchain Advocate**  
before the  
**House Committee on Consumer Protection and Commerce**

Tuesday, February 8, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
**HB2108**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee on Consumer Protection and Commerce.

**I strongly oppose HB2108 and its Senate Companion SB3076.** Why? Because this regulatory framework would do exactly the opposite of its stated purpose to protect consumers against loss and mismanagement by financial intermediaries. This bill would actually harm consumers.

**Instead of protecting consumers, this bill would expose locals to legal risks and criminal liability, mandate financial surveillance/data collection, infringe on privacy rights, and force crypto and blockchain companies out of the State.**

**As a longtime Oahu resident and blockchain advocate who collaborates with the national State Blockchain Associations,** if allowed to pass unamended, this licensure program would put Hawaii dead last in the nation on crypto regulation.<sup>1</sup>

**Known nationally as the “Frankenstein Bill,” HB2108 and its Senate Companion bill SB3076** is a mash up of three different “model laws” from the Uniform Law Commission (ULC), the Conference of State Banking Supervisors (CSBS), and a faltering New York BitLicense law.<sup>2</sup>

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<sup>1</sup> California Blockchain Association, State License Comparison Matrix Chart on page 4

<sup>2</sup> Coin Center Statement, 1 February 2022, Peter Van Valkenburgh, Director of Research

- **This regulatory “word salad” creates more harm than good, mixes up its own definitions, and sows massive confusion** on who actually needs to get a new license. Better to form a task force, let the space breathe a year and come back next year with a consistent and uniform set of regulations.
- **HB2108 mistakenly copies the New York BitLicense program which drove most crypto companies out of the state**, saw compliance costs upwards of \$1million and is even now being considered for repeal by New York state officials.<sup>3</sup>

**1.) We welcome and desire a pathway to regulation that works, but this is a PRIVACY DISASTER and data hack waiting to happen**

- **The reporting requirements in this proposed regulation is a PRIVACY NIGHTMARE** and ACLU lawsuit waiting to happen. Asking companies to create centralized data bases of user’s financial transactions is a law enforcement and hacker’s dream. Crypto companies already comply with multiple federal regulations in order to operate. This new state regulation simply adds another layer of regulation.
- **The excessive FINANCIAL SURVEILLANCE of individuals** required by this regulation would prohibit access to financial services. Blockchain technologies open up access to communities of color and the unbanked. Financial surveillance would have a chilling effect on those who for the first time have access to these emerging financial services (remittances etc).

**2.) The emerging decentralized digital ecosystem DESERVES A FRESH AND CAREFUL APPROACH TO REGULATION.**

- **Applying old centralized Banking regulations to the emerging Blockchain digital economy is like applying horse and buggy regulations to the new automobile.** We need to

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<sup>3</sup> New York Post, December 15, 2021,

take the same approach bipartisan lawmakers took in 1996 when the economy was shifting from landline telephones to the internet. The Telecommunications Act of 1996 wisely allowed the internet to grow, breathe and emerge without forcing old regulatory frameworks on it.

**3.) Anti-money laundering/consumer protections are important. Local and federal law enforcement have **AUTHORITY TO PROSECUTE CYBER CRIMES** and are doing so.**

- **The Department of Justice created the National Cryptocurrency Enforcement Team (NCET) on 6 October 2021 to spearhead complex investigations and prosecutions of criminal misuses of cryptocurrency and to recover the illicit proceeds of crimes facilitated by cryptocurrency.**

**4.) Giving broad and expanded regulatory power to the DFI is **UNWISE AND LIKELY TEMPORARY** given the quickly shifting federal regulations and expansion into areas other than money transmission**

- **The White House and Federal agencies are even now determining new regulatory approaches to digital assets. A Presidential Executive Order is expected in the next month tasking regulators to come up with a unified federal crypto strategy.** <sup>4</sup>
- **Hawaii should let the Feds lead, and then include the proper agencies next legislative session after forming a local Task Force** since the digital asset ecosystem encompasses more than just virtual currency (ie. Commodities, personal property, data ownership).
- **Let's start fresh together next year** after watching what happens at a national level and learning more about the environment we need to regulate.

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<sup>4</sup> Bloomberg News, 21 January 2022,



➤ **SOLUTION: Keep crypto exchanges in the State by exempting crypto from money transmitter laws, create a Task Force to study the upcoming Federal and state regulations, and let the ecosystem evolve and breathe. Next year we can engage all stakeholders and come back with better regulation. It is much harder to oust a law once it has been put into effect.**

Thank you for the opportunity to offer these comments.

# STATE LICENSING LAWS

Law or Regulation:	(ULC Model Act)	NY Bitlicense	CA Money Transmission Law	TX Money Transmission Law
<b>Basic Info:</b>	California Assembly members have introduced a model law from the ULC. It has yet to pass.	The Bitlicense was promulgated in NY in 2015. Unlike the ULC model act, it is a regulation rather than a law and the text is completely different.	The text of the law may require cryptocurrency companies to get licensed. Unlike other states, the regulator has refused to either grant licenses to cryptocurrency companies or publicly say that licensing requirements don't apply.	Texas also has a money transmission licensing law. The Texas regulator has said that businesses dealing only in cryptocurrencies do not need licenses but exchanges handling fiat money as well as cryptocurrency do need licenses.
<b>How is the category of businesses that need licenses defined?</b>	Businesses with "the power to execute unilaterally or prevent indefinitely a virtual currency transaction" on behalf of a customer.	Businesses that do any of the following: "receiving virtual currency for transmission," "transmitting virtual currency," "storing, holding, or maintaining custody or control of virtual currency on behalf of others," "buying and selling virtual currency as a customer business," "performing exchange services as a customer business," "controlling, administering, or issuing a virtual currency."	Businesses that "receive money or monetary value in the United States for transmission within or outside the United States by electronic or other means." Regulator has never said publicly whether "monetary value" includes bitcoin or other cryptocurrencies.	Businesses that engage in "the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location." But, the regulator has said that "cryptocurrencies as currently implemented cannot be considered money or monetary value under the Money Services Act."
<b>Who must obtain a license?</b>				
Hosted Wallet Providers	Yes	Yes	Maybe	No
Custodial Exchanges	Yes	Yes	Maybe	No
Miners	No	Maybe	No	No
Software wallet developers	No	Maybe	No	No
Multi-sig wallet providers	No	Maybe	Maybe	No
Full node operators	No	Maybe	No	No
Lighting node operators	No	Maybe	Maybe	No
Decentralized exchange providers (persons who facilitate exchange without taking custody).	No	Yes	No	No
Persons holding their own cryptocurrency or holding it for personal/family/ or business purposes.	No	Maybe	Maybe	No
Small businesses holding less than \$5,000 annually for customers	No	Yes	Maybe	No
Issuers of new decentralized cryptocurrencies.	No	Yes	Maybe	No
Investors buying and selling on their own account.	No	Maybe	No	No

**Figure 1.1 - State by State Licensing Comparison Matrix**

Source: California State Blockchain Association

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February 4, 2022

Aloha, Rep. Aaron Ling Johanson, Chair; Rep. Lisa Kitagawa, Vice Chair; and members of the Committee On Consumer Protection & Commerce:

I am writing to express my **support** of HB2108 Relating to Digital Currency Licensing Program.

I am currently serving as a Community Engagement Consultant with the state's Digital Currency Innovation Lab (DCIL), but this testimony represents solely my personal opinion as a Hawaii resident and lifelong technologist.

I believe the crypto, digital currency, and blockchain space will be as transformative to communities and technologies as the advent of the Internet nearly 30 years ago. Hawaii's current regulatory regime is needlessly restrictive, and is a major barrier that prevents Hawaii residents and businesses from taking advantage of opportunities that are widely available in every other state.

Are there nefarious actors, scammers, and criminals using crypto? Yes. But such entities are also rife on the Internet, a now universal utility critical to modern life. Any tool can build something or break something, but banning the tool is not the answer.

Indeed, our current regulations are currently driving Hawaii residents to riskier practices and providers as they seek to circumvent the law. For the technically savvy, it's not difficult at all, but for everyday citizens, the end result is that they are engaging in a new activity with no guardrails or consumer protections in place.

Fortunately, the DCIL (a collaboration between the state Division of Financial Industries and the Hawaii Technology Development Corporation) allowed the state and DFI Commissioner Iris Ikeda to interface directly with digital currency exchanges, allow a pilot that allowed Hawaii residents to participate in this new space, and facilitated careful study of consumer and provider interactions.

The law must be amended this year, or all this progress will have been for naught.

Some proposals before the legislature this session would remove all restrictions on cryptocurrencies. I believe this bill takes a more measured approach, still requiring a licensure program and oversight to ensure that exchanges are sound operations that will serve Hawaii customers responsibly.

Hawaii is globally notorious as being unfriendly to crypto, if not to business in general. SB3025 would be an important step in both providing residents greater freedom to explore this dynamic space, and improving our reputation in the broader technology space.

Mahalo for your consideration.



Ryan Kawailani Ozawa

**HB-2108**

Submitted on: 2/7/2022 9:26:37 AM

Testimony for CPC on 2/8/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Glenn Pablo	Individual	Support	No

Comments:

Dear Chair and Committee Members,

**I support HB2108** which establishes a program for the licensure, regulation, and oversight of digital currency companies

With the advances in technology, blockchain developments have given rise to smart-contracts & digital currencies. While these digital currencies can be used like real currencies, because of the vast different use cases for blockchain tokens/coins. I believe it is appropriate to license these exchanges/companies under a different criterion.

Also since the Crypto market is still a growing industry, I believe HB2108 can be a framework to help further legitimize the space in Hawaii. Licensed companies that can provide disclosures and information/education to its consumers/clientele. As well as adequate enforcement & penalties if companies engage in prohibited practices or violate the licensing requirements.

This is beneficial to Hawaii residents who chose to participate/invest in this growing digital market.

Thank you for your time.

Glenn Pablo  
Oahu Resident

**LATE**

**HB-2108**

Submitted on: 2/8/2022 6:53:15 AM

Testimony for CPC on 2/8/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Stacy Sugai	Individual	Support	No

Comments:

Aloha - thank you for allowing me to submit my comments.

Please allow the people of Hawaii to buy, sell, and use crypto currency. Hawaii is years behind other states and countries. Crypto is the future and Hawaii needs access to it now.

I would like to move some of my IRA to iTrust Capital, but can't because Hawaii is one of two states that aren't allowed to participate.

I was just telling friends and family yesterday that Crypto will be in my top 3 factors on who I vote for this year.

The people of Hawaii needs access to cryptocurrency now; not in incremental steps. Let's get Hawaii back in the game.

Thank You,

Stacy

**LATE**

**HB-2108**

Submitted on: 2/8/2022 9:04:21 AM

Testimony for CPC on 2/8/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ryan Tanaka	Individual	Support	No

Comments:

**Hi, my name is Ryan Tanaka -- I was born and raised in Hawaii -- I graduated in 1999 from Punahou but have stayed mostly in California ever since.**

**I've been involved with the cryptocurrency industry since 2014 and have done well for myself financially -- I currently live in Los Angeles but because my parents still live here in Hawaii I've been considering coming back so that I could live closer to family.**

**The heavy -- and I would argue, sometimes unreasonable -- restrictions the state puts on this new technology has made it a very difficult for me to decide to come back -- in particular, the exorbitant application fees (\$9000 initial, \$2500-\$12500 renewal) that would make it all but impossible for small business to operate here in a reasonable way. The restrictions that SB3025 and HB2108 puts on advertisements would also cripple any attempt at any new businesses attempting to get anything off the ground.**

**Due to COVID, reduced tourism/travel, supply chain disruptions, inflation and other economic issues facing Hawaii right now, it's no secret that the state is going to face challenges never before seen in the near future. Crypto, being a global currency, has the potential to be a significant source of revenue and talent for the state if it were regulated properly, but the bill in its current form will not be conducive towards that outcome. Hawaii -- because of its unique geographical location -- has the potential to be one of the most vibrant and diverse hubs of future technology. In order for that to happen, however, it must allow for the people that will rebuild the economy -- the everyday small business owner -- to thrive.**

**The concerns over money laundering, due diligence, and transparent reporting are reasonable and I don't think you'll find too many people arguing against the provisions written in these bills regarding those issues. I urge, however, the legislators of this bill to take a closer look at the fee structures and revise them in such a way that makes it easier for the average person out there to get involved with this new -- potentially world transforming -- technology.**

**It's not the big corporations who are going to save the state's budget. It's the everyday citizen who sees the opportunity to start a new business venture from their home that will help future-proof the state for years to come. I urge the legislators of this session to consider this possibility. Thank you.**



**LATE**

**HB-2108**

Submitted on: 2/8/2022 9:50:24 AM

Testimony for CPC on 2/8/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Michelle Blake	Individual	Support	No

Comments:

I support improving access to cryptocurrency trading for residents of Hawaii. Having a regulatory framework in place that can provide reputable exchanges is important for us to safely navigate the cryptocurrency landscape.



**HB-2108**

Submitted on: 2/8/2022 11:53:00 AM

Testimony for CPC on 2/8/2022 2:00:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Carolyn Ornellas	Individual	Support	No

Comments:

Open Hawaii up to crypto!

**HB-2108**

Submitted on: 2/8/2022 2:00:10 PM

Testimony for CPC on 2/8/2022 2:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Liam Grist	Individual	Support	No

Comments:

Cloud Nalu is in support of 2108 and would like to provide video testimony if possible. Mahalo.

**LATE**

**HB-2108**

Submitted on: 2/8/2022 3:41:09 PM

Testimony for CPC on 2/8/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Nathan Dube	Individual	Support	No

Comments:

Aloha Chair Ling Johanson, Vice Chair Kitagawa, and Esteemed Committee Members-

I would like to voice my strong support for allowing cryptocurrency exchanges to continue to operate in Hawaii. It is an opportunity that should not be denied to the people of Hawaii and can be a hugely impactful weath generation in our islands, especially considering the difficulties for many locals to afford the high cost of living here. Cryptocurrencies provide an important upward mobility opportunity for the people of Hawaii to increase personal wealth and provide the state a means to be a frontrunner for an innovative technology. Climate change issues relating to cryptocurrenncies are greatly overexaggerated when compared to current systems of currecy and storing of value and the benefits hugely outweigh the costs at this time, especially for average retail investors. If the buying/selling of collectibles or even stocks is not banned in Hawaii, neither should the exchange of digital assets like cryptocurrencies and NFTs.

Mahalo nui for your time and consideration!