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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, April 5, 2022
2:00 p.m.**

On the following measure:

H.C.R. 115, H.D. 1, REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' DIVISION OF FINANCIAL INSTITUTIONS AND THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION TO EXTEND THE DIGITAL CURRENCY INNOVATION LAB PILOT PROJECT.

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 appreciates the intent of this resolution and offers comments.

The purpose of this resolution is to request the Department and the Hawaii Technology Development Corporation (HTDC) to extend the Digital Currency Innovation Pilot Project.

The pilot program was initiated by the Department and HTDC to study the type of transactions, study the business models of the companies, and determine whether consumer protection was needed. The pilot program had a two year implementation date which would provide sufficient time for the Department and HTDC to determine what steps were needed to move forward. All participating companies and consumers were informed that the pilot program will end June 30, 2022 for transactions and all

customers must close or divest their holdings by December 31, 2022. The data gathered through the DCIL program confirmed that digital currency transactions are not optimally regulated through existing money transmitter laws and that a new regulatory framework is appropriate. Because of the temporary nature of the pilot program, the Department believes not all digital currency companies opted to participate in the pilot program.

The Department prefers the regulatory program found in either H.B. 2108, H.D. 1, S.D.1 or S.B. 3025, S.D.2, H.D.1. This is because under the pilot program, Department has little regulation or supervision over the participating companies as the Department did not require a license to participate in the program. Instead, all participating companies agreed to follow existing laws and provide reports and feedback throughout the pilot program period. Should the pilot program continue, the Department recommends that it have regulatory powers to enforce state and federal laws on the participating companies. Without these enforcement powers, the Department and the State has little authority to maintain the level of consumer protection. The Department would also need additional resources to maintain such a full regulatory program.

The Department offers the following amendments if this measure moves forward:

1. Page 2, lines 5-6, Use the most recent statistics from the fourth quarter 2021 for the paragraph to read in part:

“WHEREAS, as of the fourth quarter 2021, there are approximately ~~sixty-one thousand~~ one hundred thirty-four thousand digital currency consumers who have completed more than ~~\$611,000,000~~ \$896,000,000 . . .”

2. Page 2, line 27, insert the following phrase:

of 2022, the Senate concurring, that if the Legislature takes no action to exempt digital currency companies from the money transmitter license requirements or pass a measure creating a comprehensive regulatory scheme for digital currency companies, . . .”

Explanation: clarify that the extension of the digital currency innovation lab would occur only if the money transmitter law did not exempt the digital currency activity or if a comprehensive regulatory scheme is not created.

3. Page 2, lines 30-31, delete “for another two years” and replace with “until June 30, 2024.”

Explanation: providing a date certain for the ending of the digital currency innovation lab provides clarity to participating companies and consumers who are using the services of the participating companies.

Thank you for the opportunity to testify on this resolution.



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

Tuesday April 5, 2022
2:00 p.m.
Conference Room 329 & Videoconference

In consideration of
HCR 115, HD1 / HR 115, HD1
**REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' DIVISION
OF FINANCIAL INSTITUTIONS AND THE HAWAII TECHNOLOGY DEVELOPMENT
CORPORATION TO EXTEND THE DIGITAL CURRENCY INNOVATION LAB PILOT PROJECT**

Chair Johanson, Vice Chair Kitagawa and Members of the Committees

The Hawai'i Technology Development Corporation (HTDC) **supports the intent** of HCR 115, HD1 / HR 115, HD1 which requests DCCA Division of Financial Institutions and HTDC to extend the Digital Currency Innovation Lab (DCIL) pilot program which ends June 30, 2022.

HTDC believes the DCIL pilot program has been successful in providing the state more insight into the increasing relevance of digital currency. HTDC has received positive feedback from the community on the program and the information posted on our website.

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

HTDC **prefers** that enabling legislation be passed through HB2108, HD1, SD1 or SB3025, SD2, HD1. It would provide a more stable path forward for digital currency in Hawai'i. One reason that companies may choose NOT to participate in the DCIL is because of its temporary status as a pilot program. HTDC is supportive of continuing our role in the pilot, but defers to Division of Financial Institution on the feasibility of continuing beyond June 30, 2022.

Thank you for the opportunity to offer these comments.



April 5, 2022

2 p.m.

Conference Room 329 and Videoconference

To: House Committee on Consumer Protection & Commerce

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: HCR115/HR115 HD1 — REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' DIVISION OF FINANCIAL INSTITUTIONS AND THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION TO EXTEND THE DIGITAL CURRENCY INNOVATION LAB PILOT PROJECT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HCR115](#) and [HR115](#), which urges the state Department of Commerce and Consumer Affairs to extend the Digital Currency Innovation Lab pilot project for two more years.

In 2020, Hawaii launched the “Digital Currency Innovation Lab,” a regulatory “sandbox” that allowed certain cryptocurrency companies to do business in Hawaii without being subject to the double-reserve requirement of the state’s Money Transmitter Act. Since the lab’s inception, 61,000 Hawaii customers have been able to access digital currency and complete more than \$611 million in transactions.

Unfortunately, the sandbox experiment will end at the close of 2022. Without further action, cryptocurrency will once again become inaccessible for Hawaii residents. Moreover, the state will lose access to the economic benefits of this rapidly expanding industry.

In 2017, Hawaii lawmakers in both chambers approved an exemption for cryptocurrency from the state's Money Transmitters Act,¹ but the exemption was deleted in conference committee before the bill was enacted.

Iris Ikeda, commissioner of the state Division of Financial Institutions, stated at the time that lawmakers should first study the issue via a "Decentralized Virtual Currency Working Group."

"DFI believes that the most prudent approach would be to allow the DVC Working Group the opportunity to perform its review and to provide the Legislature with findings and recommendations prior to the creation of an exemption for decentralized virtual currency," she said.²

Now that the issue has been studied via the Digital Currency Innovation Lab, lawmakers can feel confident about following the example of 20 other states by exempting cryptocurrency from the state's Money Transmitters Act.³ With this one change, Hawaii would go from one of the most burdensome states for cryptocurrency to one of the best.

After Wyoming exempted cryptocurrency companies from its double-reserve requirement in 2018, it was dubbed one of the country's "most crypto-friendly" jurisdictions.⁴

Cryptocurrency is a developing industry that moves as quickly as the technology involved. The delay caused by the Legislature's inaction may cause Hawaii to fall further behind.

The best approach

The best approach would be to move forward with legislation that would simply exempt cryptocurrency companies from the state Money Transmitters Act.

¹ [SB949](#) of 2017.

² Iris Ikeda, Division of Financial Institutions commissioner, "[Testimony on SB949, SD1 HD1](#)," Hawaii State Legislature, March 31, 2017. See also, "[Conference Committee Rep. No. 78](#)," Hawaii State Legislature, April 27, 2017.

³ States that do not require a money-transmitter license for virtual currency transactions include Arizona, Arkansas, California, Colorado, Idaho, Illinois, Kansas, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin. See "[Cryptocurrency laws by state](#)," Shipkevich Attorneys at Law, 2020.

⁴ Chris Matthews, "[How Wyoming became the promised land for bitcoin investors](#)," MarketWatch, April 24, 2021; "[What do Wyoming's 13 new blockchain laws mean?](#)" Forbes.com, March 4, 2019; [HB0019](#) of 2018 Wyoming Legislature; and Erik Kuebler, "[Wyoming House unanimously approves two pro-blockchain bills](#)," Bitcoin Magazine, Feb. 20, 2018.

However, since that appears to be no longer possible during the current legislative session, the second-best approach would be to extend the life of the Digital Currency Innovation Lab, and perhaps even encourage the state Department of Commerce to broaden the scope of the lab and allow greater participation. This would allow the Legislature to further observe the effect of the lab in action while settling on more ideal legislation.

One change recommended

There is just one change that we would suggest to improve the language of this resolution:

Currently, the resolution asks that the lab be extended for two years or “until legislation is enacted that provides for a digital currency licensure program, whichever occurs first.”

As noted above, a licensure program is only one of the ways in which the state could allow for the growth of cryptocurrency in the state. A better alternative would be to forgo a licensing program and simply exempt cryptocurrency companies from the state Money Transmitters Act.

Given that this topic is still under heavy discussion, that the landscape of cryptocurrency could change over the next several years, and that action at the federal level could override state law on the issue, it would be advisable to change the phrase, “until legislation is enacted that provides for a digital currency licensure program,” to, “until it is no longer necessary.”

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii