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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection and
Ways and Means
Thursday, February 24, 2022
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 2697 S.D. 1, RELATING TO VIRTUAL CURRENCY**

Chairs Baker and Chair Dela Cruz and Members of the Committees:

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 offers comments on this bill.

Senate Bill 2697 S.D.1 is one of a number of measures heard this session that address the oversight of virtual currency transactions. The purpose of this bill is to exclude electronic transfer of virtual currency through virtual currency companies and cryptocurrency companies from the Money Transmitters Modernization Act.

The Department recognizes that the inclusion of virtual currency transactions within the scope of the Money Transmitters Act has posed a financial barrier for those companies that lack the financial ability to meet the requirements of the law. At the time the DFI provided clarification guidance to the industry, all states were reviewing the digital currency transactions as money transmission.

The DFI used its regulatory authorities to create a research program (Digital Currency Innovation Lab) with the Hawaii Technology Development Corporation (HTDC) to study the digital currency transactions to determine if the money transmitter law requirements were applicable, whether regulation was needed for consumer protection, and what uses there were for digital currency. At the end of the first year, DFI determined that the transactions conducted with digital currency were not optimally regulated through existing money transmission laws or banking laws, or other financial services licensed by DFI. Consumers new to the digital currency world complained that it was difficult to establish an account, they didn't understand that they could lose all of their principal, they could not speak to a "real" person if they had questions about their account, and did not understand that their key could be lost or misplaced and they could not access their account. The data confirmed that a new regulatory framework was appropriate.

As a result, legislation was prepared that would provide regulatory oversight and exempts companies licensed under the new law from the Money Transmitters Modernization Act. (see, S.B. 3025, S.D. 1). DFI prefers the comprehensive approach set forth in S.B. 3025, S.D.1. However if the committees were inclined to advance this measure, DFI urges the committees to consider including language that provides for some degree of consumer protection oversight of these transactions.

Thank you for the opportunity to testify on this bill.



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

Thursday, February 24, 2022
9:30 a.m.
Videoconference

In consideration of
SB2697, SD1
RELATING TO VIRTUAL CURRENCY

Chairs Baker and Dela Cruz, Vice Chairs Chang and Keith-Agaran and Members of the Committee

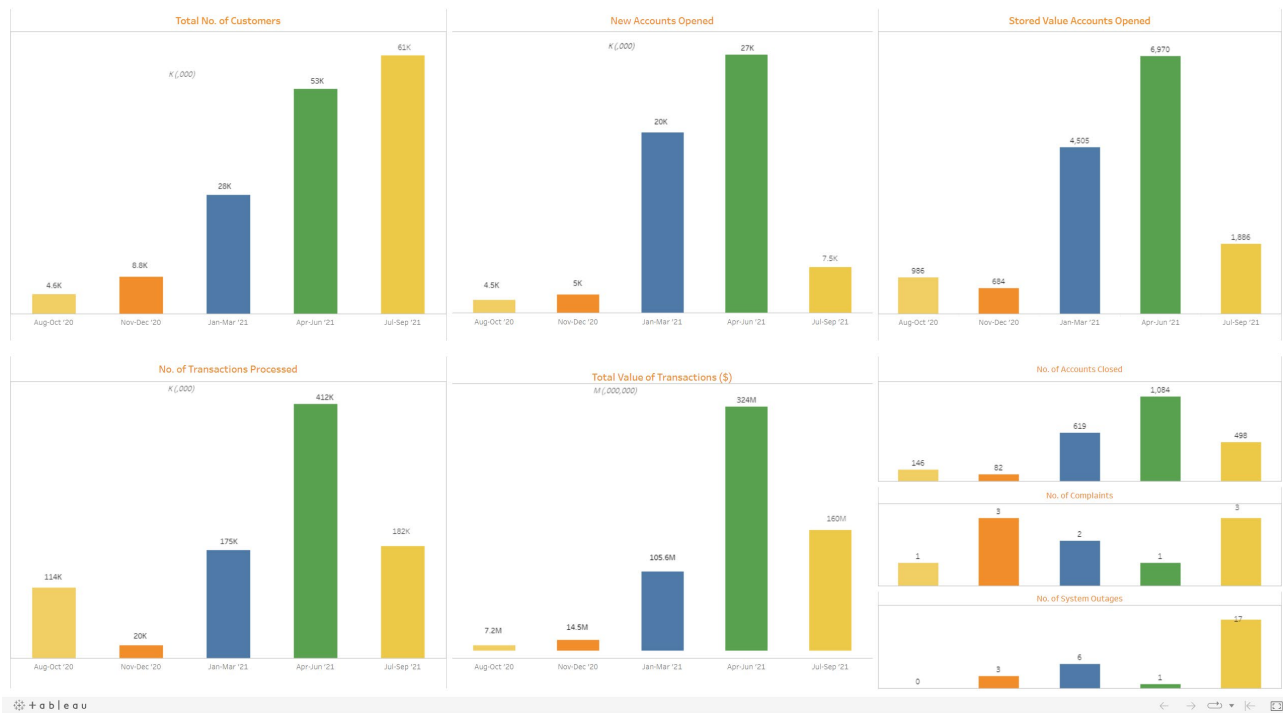
The Hawai'i Technology Development Corporation (HTDC) **offers comments on SB2697, SD1** that excludes the electronic transfer of virtual currency through virtual currency companies and cryptocurrency companies from the Money Transmitters Act.

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, 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 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.

HTDC agrees that virtual currency is a poor fit for the Money Transmitter Act and supports the intent of this bill to allow virtual currency activity to continue in the State. HTDC comments that we **prefer SB3025, SD1** as it not only provides some safeguards, it affords the opportunity to claim fees that can be used for consumer education and economic development pilot projects that demonstrate the potential benefits of virtual currencies to our community. SB3025, SD1 also

provides Hawai'i the opportunity to take a leadership role at the national level as one of the first states to offer such a program. Thank you for the opportunity to offer these comments.



February 24, 2022

3:10 p.m.

Conference Room 224 and Videoconference

To: Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

RE: SB2697 SD1 — RELATING TO VIRTUAL CURRENCY

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB2697](#), which would exclude the electronic transfer of virtual currency through virtual cryptocurrency companies from the Money Transmitters Act.

This bill provides the best, simplest and most comprehensive policy option to a problem that has stymied the growth of cryptocurrency in Hawaii: the “double reserve” requirement in the state Money Transmitters Act, which has been applied to companies that deal in digital currency.

Currently, the Money Transmitters Act requires digital currency companies to hold cash assets equal to the amount of their virtual assets. Thus, a company that holds \$1 billion in Bitcoin and Ethereum also must have a \$1 billion in cash reserves.

This requirement has made it nearly impossible for cryptocurrency companies to do business in Hawaii. Coinbase and Binance — the two largest cryptocurrency exchanges — do not operate in

Hawaii. Nor do RobinHood Crypto, KuCoin, PayPal’s “Cryptocurrency Hub,” eToro, Bitstamp or any number of other popular and successful crypto companies. As a result, Hawaii has been largely left out of the cryptocurrency revolution.

In 2019, Gov. David Ige authorized a temporary “Digital Currency Innovation Lab,” a regulatory “sandbox” that allowed certain cryptocurrency companies to do business in Hawaii without being subject to the money-transmitter law’s double-reserve requirement. 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 Innovation Lab will end at the close of 2022. Without further action from the Legislature, cryptocurrency will once again become inaccessible for Hawaii residents. Moreover, the state will lose access to the economic benefits of this rapidly expanding industry.

SB2687 provides the best and most efficient pathway for the future of cryptocurrency in Hawaii. Currently, 20 states do not require a money-transmitter license for digital currency transactions.

¹ By excluding digital currency companies from the state’s Money Transmitters Act,² 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. ³

Cryptocurrency is a developing industry that moves as quickly as the technology involved. While federal and state governments may eventually promulgate rules regarding cryptocurrency, now is not the time to handicap the industry with heavy state regulations.

This bill would avoid the problem of enacting restrictions on cryptocurrency that could quickly become outdated or overly burdensome. Instead, it focuses on the main barrier that has prevented Hawaii residents and businesses from profiting from the cryptocurrency boom: the state’s Money Transmitters Act.

Finally, this bill embraces an approach that the Hawaii Legislature has favored in the past.

¹ Those states are: Arizona, Arkansas, California, Colorado, Idaho, Illinois, Kansas, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia and Wisconsin

² “[Money Transmitters Act.](#)” HRS 489D.

³ 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.

In 2017, Hawaii lawmakers approved at the full Senate and full House an exemption for cryptocurrency from the state's Money Transmitters Act,⁴ but the exemption was deleted in conference committee before the bill was enacted. Commissioner Ikeda stated at the time that lawmakers should first study the issue via a "Decentralized Virtual Currency Working Group":⁵

"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."

Now that the issue has been studied via the Digital Currency Innovation Lab, lawmakers can feel confident about enacting SB2697, which would follow the example of 20 other states by exempting cryptocurrency from the state's Money Transmitters Act.⁶

It is clear that the exemption contemplated here is necessary to allow cryptocurrency to grow and thrive in our state. For that reason, SB2697 deserves your support.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii

⁴ [SB949](#) of 2017.

⁵ Iris Ikeda, Commissioner of the Division of Financial Institutions, "[Testimony on SB949, HD1, SD1](#)," Hawaii State Legislature, March 31, 2017. See also, "[Conference Committee Rep. No. 78](#)," Hawaii State Legislature, April 27, 2017.

⁶ 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.

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February 22, 2022

Aloha, Senator Rosalyn H. Baker, Chair; Senator Stanley Chang, Vice Chair; members of the Committee on Commerce and Consumer Protection; and Senator Donovan M. Dela Cruz, Chair, Senator Gilbert S.C. Keith-Agaran, Vice Chair; members of the Committee on Ways and Means:

I am writing to express my **support** of SB2697 Relating to Virtual Currency.

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 is 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 a major barrier preventing Hawaii residents and businesses from taking advantage of opportunities that are widely available in every other state.

There were a number of related proposals before the legislature this session, which is a critical juncture for our state given the June expiration of the DCIL. We need at least one of these forward-looking bills to become law in order to prevent Hawaii from sliding once more to the end of the line.

SB2697 would effectively remove all regulation of this space. While drastic, it would certainly catapult Hawaii to the forefront of supporting cryptocurrency and blockchain innovation.

I recommend lawmakers also support SB3025 SD1, which establishes a program for the licensure, regulation, and oversight of digital currency companies.

Mahalo for your consideration.



Ryan Kawailani Ozawa

SB-2697-SD-1

Submitted on: 2/22/2022 3:13:30 PM

Testimony for CPN on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

Not wanted and will not Use this. We want Real Money Baked by Gold not Fake rubuish like we have Now!!

SB-2697-SD-1

Submitted on: 2/22/2022 6:54:04 PM

Testimony for CPN on 2/24/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Riki Shimabukuro	Individual	Support	No

Comments:

Hawaii needs to move forward and embrace the digital age. Passing this bill will keep us on the right path.