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LT. GOVERNOR

**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 and Commerce  
Tuesday, March 22, 2022  
2:00 p.m.**

**On the following measure:  
S.B. 3025, S.D. 2, RELATING TO DIGITAL CURRENCY LICENSING PROGRAM**

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 offers comments in support on this bill.

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

This bill is a work in progress as the DFI continues to meet with various stakeholders (Digital Currency Innovation Lab participants, industry association, consumers, state and federal regulators, and companies who transact in digital currency). As these discussions continue, DFI has been trying to incorporate these thoughts into the bill. The DFI notes that in its work with the Financial Crimes Enforcement Network, it anticipates changes to the registration and reporting requirements. Consequently, DFI will be proposing additional clarifications related to the anticipated changes.

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

## SB3025 SD2 – Appendix A

### Proposed amendments:

Delete Section -8(b) – (h), page 23, line 14 to page 29, line 2 and replace with

- (1) Establish an effective anti-money laundering compliance program in accordance with the Anti-Money Laundering Act of 2020;
- (2) Establish an effective customer due diligence system and monitoring program;
- (3) Screen against the Office of Foreign Assets Control (OFAC) and other government lists;
- (4) Maintain records of cash purchases or cash transactions and report to the appropriate federal regulatory agency as required by the Anti-Money Laundering Act of 2020
- (5) Establish an effective suspicious activity monitoring and reporting process; and
- (6) Develop a risk-based anti-money laundering program.

Explanation – The Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) is engaged in rulemaking discussions with various stakeholders to update the anti-money laundering rules and regulations pursuant to the Anti-Money Laundering Act of 2020. As a result of the rulemaking, some of the thresholds for reporting may change in accordance with the risk associated with various transactions. These six components of the anti-money laundering law will not change.

### Section -9 Cyber security program

Delete -9(b) – (g), page 31, line 1 to page 34, line (4) and replace with:

- (b) Establish effective policies, procedures, and controls to effectuate subsection (a);
- (c) Designate a cybersecurity officer;
- (d) Develop and implement employee training in accordance with position responsibilities to keep abreast of the changing cyber security risk and threats;
- (e) Establish a method of independent testing; and
- (f) Maintain records.

Explanation – The requirements of maintaining a cyber security program has been undergoing changes to meet the sophistication of cyber threats. These components of

a cyber security program incorporate cyber security related principles from the Federal Financial Institutions Examination Council (FFIEC), the National Institute of Standards and Technology (NIST) Cybersecurity Framework and applicable components from the FFIEC Information Technology Examination Handbook for non-depository companies.

Statement of  
**Jasper Wong**  
Founder  
**POW! WOW! Hawaii / FOMO MOFO**  
before the  
**House Committee on Consumer Protection and Commerce**

Tuesday, March 22, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
**SB3025**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

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

POW! WOW! Hawaii and FOMO MOFO **supports** SB3025 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

I am an artist, born and raised in Honolulu, Hawaii. I went to Kalani High School and then to art college in San Francisco. When I returned to Hawaii, I started a mural festival called POW! WOW! Hawaii. Our organization has helped to revitalize the Kaka'ako neighborhood through our mural paintings, as well as increase the visibility of Hawaii's best artists locally and internationally through the thousands of tourists that have visited the neighborhood just to view the murals. POW! WOW! has been doing community beautification and arts education work in Hawaii for over a decade. Our projects has since grown beyond Hawaii, as we have built a global network in over 20 cities around the world with a focus on underserved communities, such as public housing, schools, and neighborhoods in redlined districts. Despite the positive impact brought about by POW! WOW! in Hawaii, it has always been a struggle to sustain our beautification and education efforts. Fundraising has been a continuous challenge and we have been offered very little financial support. This relates to being an artist in Hawaii in general. It is very difficult to make a living as an artist here and to create sustainable art-related companies and/or organizations.

This led me to pursue non-fungible token (NFTs) related projects over the past year. In December 2021, I participated in HTDC's "NFT For Good" project where I sold 40 NFT artworks through the MakersPlace platform in 24 hours. Most recently, in an independent project, I sold a collection of 8,008 NFT art pieces called FOMO MOFO. The collection sold out in less than 10 seconds during the public sale. For this project, we hired close to 20 people with a number of them from Hawaii. Being engaged in the NFT / crypto space has brought about positive financial returns for me as well as the ability to connect with like-minded and passionate individuals around the world.

As an artist, I am seeing real benefits with the ability to leverage cryptocurrency and NFTs. In addition to building an international reputation as an artist, I am able to continuously compensated for the sale of my digital works in secondary markets. This helps me to sustain a livelihood in Hawaii, while pursuing my career and passion as an artist. As a father raising 2 beautiful daughters, I hope that my future and the future of my kids are rooted in our island state, and I believe being active in the crypto / NFT space will enable us to bring that to reality.

Thank you for the opportunity to offer these comments.



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

March 22, 2022  
2:00 p.m.  
Videoconference

In consideration of  
**SB3025, SD2**  
**RELATING TO DIGITAL CURRENCY LICENSING PROGRAM.**

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

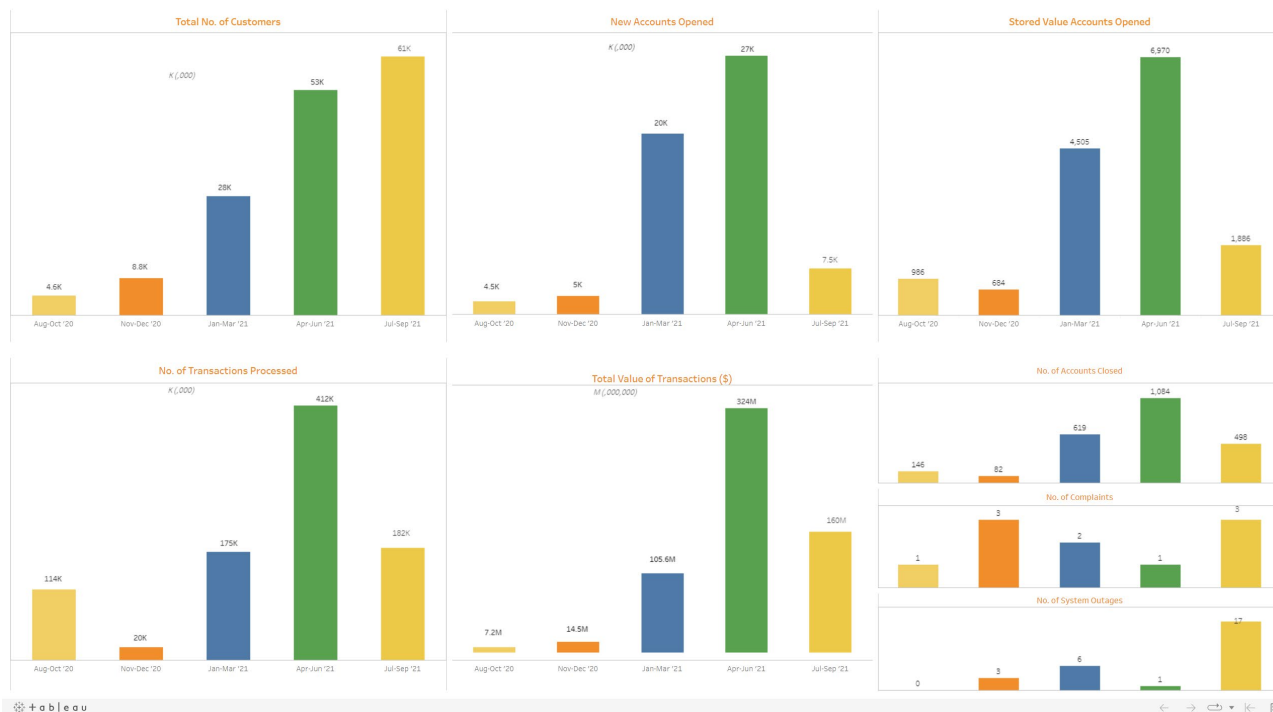
The Hawai'i Technology Development Corporation (HTDC) **supports** SB3025, SD2 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

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, 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. Therefore, we support this bill and defer to the department on the technical aspects of the bill. HTDC respectfully requests correction of the defective effective date.

Thank you for the opportunity to offer these comments.

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March 19, 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 **strong support** of SB3025 SD2 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 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.

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 everyday citizens often find themselves 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.

Another proposal put before the legislature this session would remove all restrictions on cryptocurrencies. I believe that this bill before you has 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 SD2 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



Statement of  
**Victor Lee**  
**Program Director**  
**Purple Mai'a Foundation**  
before the  
**House Committee on Consumer Protection and Commerce**

Wednesday, March 22, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
**SB3025**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

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

Purple Mai'a **supports** SB3025 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

Purple Mai'a is a 501(c)(3) nonprofit with core programming in youth technology, coding and computer science education, local workforce development, and entrepreneurship and design rooted in Hawaiian culture and values.

Since the onset of Covid-19 in March 2020 we have:

- Brought live, online, and fun culturally grounded coding & technology courses to nearly 1,000 students across the State through our various Kaikaina programs, with 70% of our students identifying as Native Hawaiian
- Ran four cohorts of our workforce development program, registered over 400 applicants and helped nearly five dozen Hawai'i residents upgrade their careers by achieving their Salesforce Administrator Certifications
- Launched Hawai'i FoundHer, the first accelerator custom built for the needs of Asian American, Native Hawaiian, and Pacific Islander (AANHPI) women entrepreneurs
- Incubating four companies generating over a dozen jobs in our Mālama Venture Studio

Through the generous support of our partners and the local community, we are able to offer all of our programs for free. However, given the competitive landscape of fundraising, where many organizations are reaching out to the same funding sources, our organization has started to accept crypto donations to expand our donor base. This is critical as it will provide the necessary funds to support existing and future programs and to create more awareness for our organization and the communities that we serve.

Thank you for the opportunity to offer these comments.



March 22, 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: SB3025 SD2 — RELATING TO DIGITAL CURRENCY LICENSING PROGRAM

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB3025 SD2](#), a 90-page tome that would establish a program for the licensure, regulation and oversight of digital currency companies.

The main problem with SB3025 SD2 is the vast and nearly unlimited powers over the cryptocurrency market granted to the commissioner of the Division of Financial Institutions. Nearly every regulation in the bill has a caveat that allows 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.

SB3025 SD2 also has unclear language and includes too many hurdles that could cement Hawaii as one of the worst states in the nation for cryptocurrency and cut off residents from this emerging market.

We urge lawmakers to delete the areas of the bill that give the commissioner too much regulatory discretion.

We also urge lawmakers to erase the most burdensome regulatory aspects of this bill, or, better yet, simply exempt cryptocurrency from Hawaii’s money-transmitter law — considered by cryptocurrency companies to be the main stumbling block to operating here.

Among the issues with SB3025 SD2 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, current 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, SB3025 SD2 takes a banking-centric approach to cryptocurrency legislation, but many companies that use cryptocurrency are different from banks.

On page 10, the bill says it will not apply to, “Banks, bank holding companies, credit unions, savings banks, financial services loan companies, and mutual banks organized under the laws of the United States or any state.”

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.

**>> Exemptions should be broader.**

Page 10 exempts from the licensing requirement any “non—custodial digital currency business activity by a person using a digital currency acknowledged as legal tender by the United States, or government recognized by the United States, or that has been determined to not be a security by a United States regulatory agency.”

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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.

This exemption is presumably meant to allow customers and businesses to use certain cryptocurrencies as a medium of exchange for goods and services, which is a good thing. However, the exemption applies to only digital currency “that has been determined to not be a security by a United States regulatory agency.”

The U.S. Securities and Exchange Commission has given unclear guidance about whether or not certain cryptocurrencies are securities. For example, the director of its Division of Corporate Finance said in 2018 that bitcoin and ether would not be treated as securities.<sup>3</sup> But recently, Gary Gensler, chairman of the SEC, wouldn’t say whether or not ether was a security, and has been hesitant to weigh in specifically on which other cryptocurrencies might not be securities.<sup>4</sup>

This unclear guidance would presumably be left to the state Division of Financial Institutions, and perhaps the courts, to interpret.

Additionally, Russia’s government has recently indicated its intent to recognize cryptocurrency as a form of currency, though it’s unclear which cryptocurrencies would be recognized.<sup>5</sup> The exemption as stated in SB3025 SD2 would seem to require interpretations of international law.

Additionally, the term “non-custodial digital currency business activity” would presumably include in the exemption many cryptocurrency exchanges that are non-custodial, such as SimpleSwap and ChangeNOW.<sup>6</sup>

It is certainly a welcome policy to allow non-custodial exchanges to operate in Hawaii without the need for a license, but it is odd that custodial exchanges such as Coinbase and Gemini would need a license, and more reason to simply exempt cryptocurrency from the state money-transmitter law altogether..

At the very least, lawmakers should broaden the exemption so any cryptocurrency could be used as a medium of exchange, such as by exempting “businesses and customers that use cryptocurrency as a medium of exchange for goods and services.”

**>> Its tangible net worth requirement is not clear.**

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<sup>3</sup> William Hinman, “[Digital Asset Transactions: When Howey Met Gary \(Plastic\)](#),” U.S. Securities and Exchange Commission, June 14, 2018. See also, “[SEC Declares Bitcoin and Ether as Non-Securities](#),” Cassels, June 26, 2018.

<sup>4</sup> Chris Matthews, “[SEC’s Gensler won’t say whether ether is a security. amid crypto market slide](#),” MarketWatch, Jan. 11, 2022.

<sup>5</sup> Sebastian Sinclair, “[Russia Moves to Recognize Crypto as a Form of Currency](#),” Blockworks, Feb. 9, 2022.

<sup>6</sup> “[Best Non-Custodial Crypto Exchanges to Use in 2022](#),” Bitcoinist, December 2021.

Section 16 of the bill, starting on page 48, would require licensees to meet a tangible net worth requirement of \$500,000 “or in an amount determined by the commissioner necessary to ensure safe and sound operation.”

This language gives too much leeway for the commissioner to deny an application, since it is not clear by what metric the commissioner, or future commissioners, would rely on. The ratio in SB3025 SD2 should be stated more explicitly, and perhaps give guidance on what might be “necessary,” if the requirement were not \$500,000.

Alternatively, lawmakers could simply cut the commissioner’s power to bypass the \$500,000 requirement, which would provide cryptocurrency companies with more regulatory certainty.

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

In Section 8 of SB3025 SD2 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>7</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>8</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, SB3025 SD2 should duplicate the money-transmitter requirement that cryptocurrency companies file to the federal government reports required by the federal government.

**>> Hawaii lawmakers once favored a simple exemption.**

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<sup>7</sup> [HRS489D](#) “Money Transmitters Act,” p. 12.

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

In 2017, Hawaii lawmakers approved at the full Senate and full House an exemption for cryptocurrency from the state's Money Transmitters Act,<sup>9</sup> 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":<sup>10</sup>

"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, it is the perfect time to exempt cryptocurrency from the state's Money Transmitters Act, as has been done in 20 other states.<sup>11</sup>

## Conclusion

SB3025 SD2 would cement into place some of the most burdensome cryptocurrency regulations in the nation, in addition to causing confusion and overly broad powers to the commissioner.

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 the nearly unlimited power of the commissioner to rewrite the law, dubious surveillance requirements and high fees — be deleted. This bill also needs to be written more plainly to prevent needless confusion.

For the record, we believe a much better option would be for the Legislature to support an approach that would simply exempt cryptocurrency from Hawaii's money-transmitter law and truly open the door to cryptocurrency exchange companies in Hawaii.

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<sup>9</sup> [SB949](#) of 2017.

<sup>10</sup> 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.

<sup>11</sup> 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.



Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

Statement of  
**Paul Yonamine**  
**Executive Chairman**  
**Central Pacific Bank**  
before the  
**House Committee on Consumer Protection and Commerce**

Tuesday, March 22, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
**SB3025**  
**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

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

Central Pacific Bank **supports** SB3025 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

Being able to offer crypto-based services directly or through the integration with crypto platforms offered alongside traditional financial services would enhance the competitiveness of Hawaii's banks against financial institutions on a national level. Potential services include wealth services (investment / custodial) for high net worth individuals and banking services for younger consumers as our banks compete with neobanks (digital banks).

Additionally, operating in a crypto-friendly environment will enable Hawaii's banks to increase service offerings to consumers from international markets with affinity to Hawaii. This would include the potential to facilitate cost-effective and rapid cross-border transactions using crypto for tourists. Another possibility would be servicing foreign investors looking to open bank accounts integrated with crypto holdings.

In September of 2021, the charitable arm of CPB - the Central Pacific Bank Foundation started accepting cryptocurrencies as part of its fundraising strategy. Being able to continue doing so would greatly benefit the foundation as well as entities in the community that it supports through its programs.

Lastly, regulating crypto companies brings about a higher level of consumer protection for local residents since crypto companies will be motivated to ensure that security measures (similar to what traditional financial institutions adhere to) are in place in order to obtain licensure to operate in Hawaii.

Thank you for the opportunity to offer these comments.

Statement of  
**Dagan Bernstein**  
before the  
**Senate Committee on Energy, Economic Development, and Tourism**

Tuesday, March 22, 2022

In consideration of  
**SB3025**  
**Digital Currency Licensing**

Dagan Bernstein **supports** SB3025 which creates a licensing scheme for digital currency companies to be regulated by the Department of Commerce and Consumer Affairs Division of Financial Institutions. Continues the study of use cases by the Hawaii Technology Development Corporation.

My support for this bill is three-fold. First, as an individual citizen of the State of Hawaii I would like to access emerging financial vehicles to support both my investment and storage of my finances. Secondly, as an independent musician performing in my community. And thirdly, as an educator who works with students on teaching financial literacy.

First, as an individual citizen of the State of Hawaii, I feel I can best succeed as a professional and community member to invest and store my earnings in ways that allow me to grow and economically prosper. This bill is one step towards insuring I can access all financial vehicles available to achieve this. Through the partnership of these exchanges and our Department of Commerce and Consumer Affairs Division of Financial Institutions, we can also make sure that this is done safely and according to the appropriate regulations in our state.

Secondly, as an independent musician, I need to stay on top of emerging technologies to best monetize my art. This has involved the shift from cash and checks to credit cards, and to digital payment platforms like Cash App and Venmo. As this pertains to the emerging field of cryptocurrencies, my ability to stay on top of and access new platforms for accepting payment has the ability to help ensure that I am able to earn money from the sale of products relating to my art. This can involve payment for services, payment for merchandise such as t-shirts and CDs.

Finally, as an educator, I have a kuleana to educate our keiki on how to appropriately build and maintain their economic stability in order to thrive in a dynamic economy. By allowing the next generation to engage with a wide variety of financial options they can best position themselves for success. Appropriate regulations are important so we can do so safely and in accordance with the most up-to-date finance laws in our state. This bill is another step towards achieving this and making sure our keiki can successfully grow their economic situation for their future families and generations.

Thank you for the opportunity to offer these comments, and thank you for your work to support the economic viability of cryptocurrencies in the state of Hawaii.

**SB-3025-SD-2**

Submitted on: 3/19/2022 10:15:10 AM

Testimony for CPC on 3/22/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Trung Lam	Individual	Support	Written Testimony Only

Comments:

Aloha e Chair Johanson, Vice-Chair Kitagawa, and Members on the Committee of Consumer Protection & Commerce.

I support bill SB3025 SD2 as written to help provide a safer onramp for Hawaii residents to onboard into cryptocurrency. The cryptocurrency industry is vast and rapidly changing, and it would be unrealistic to expect any bill to cover all the bases. However, SB3025 will at least provide a safer and easier access point for new investors to participate and help the State of Hawaii gather more data on the growth and adoption of cryptocurrency.

Mahalo for the opportunity to comment.

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

**March 22, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference**

**In consideration of  
SB3025  
RELATING TO VIRTUAL CURRENCY**

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

Blockchain Solutions Hawai'i (BSH) supports SB3025 with the current amendments proposed by BSH which 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 previously written the bill would have 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 would have most assuredly had 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 proposed two amendments to the initial draft of SB3025 that were incorporated and if passed would achieve this.

The first amendment was 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 covers 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 was 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.

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](mailto:N.harmon@blockchainsolutionshi.com)

**SB-3025-SD-2**

Submitted on: 3/19/2022 5:40:29 PM

Testimony for CPC on 3/22/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brad Uchida	Individual	Support	Written Testimony Only

Comments:

Support



**SB-3025-SD-2**

Submitted on: 3/21/2022 7:27:10 AM

Testimony for CPC on 3/22/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gregory Dunn	Individual	Support	Written Testimony Only

Comments:

Statement of

**Gregory D. Dunn**

**President & CEO**

Hawaii Theatre Center

before the

**House Committee on Consumer Protection and Commerce**

Wednesday, March 22, 2022

2:00 PM

State Capitol, Conference Room 329 & Videoconference

In consideration of

**SB3025**

**RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

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

Please accept this email as my testimony in **support of SB3025** that establishes a program for the licensure, regulation, and oversight of digital currency companies.

The Hawaii Theatre Center was the first non-profit organization in the State of Hawaii to establish a program that allowed donors to contribute crypto-currency in support of our mission to preserve, protect and operate the Historic Hawaii Theatre in Honolulu's Chinatown district. Through the support of the Hawaii Technology Development Corporation's pilot program, we were able to successfully deploy a platform that enabled us to receive thousands of dollars in contributed income from donors around the globe. We found that by offering donors the ability to safely make contributions in crypto-currency, we were able to add new supporters to our cause, and take advantage of the growth in the crypto-currency sector.

We feel strongly that this program, though very successful for us in terms of our first foray into the arena of digital currency, would have been even more successful if Hawaii's regulatory environment had been more receptive to crypto-currency adoption in the past. While the rest of the world has seen large-scale adoption, Hawaii's regulatory restrictions limited the growth of the sector.

Thank you for the opportunity to offer these comments.

**SB-3025-SD-2**

Submitted on: 3/21/2022 1:15:13 PM

Testimony for CPC on 3/22/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Eric Purcell	Individual	Support	In Person

Comments:

Aloha and good afternoon, I am writing testimony because of my passion for security and compliance. I have worked with cypher, cryptography, and security for over 30 years. With my vast knowledge and understandings of the interworkings of crypto currency, I am for a measure for Hawaii to adopt regulations for its use in Hawaii. ISO 20022 will be replacing SWIFT financial bridging of money (such as; \$ to Euro) with speed, security, and low transactions fees. Because Hawaii is a very international market, Hawaii stands to increase revenues for the state by taxing the transactions, fees, and Capital Gains found in Crypto currency. With many states and countries adopting crypt currency, Hawaii also could be a hub for mining and a transaction Ledger bridge for increasing awareness and can be a path to green energy for the islands as well. Crypto currency is much more than algorithms and numbers, it utility, governance, ledgers, and staking where Hawaii could infact increase overall transactions and lower costs for Hawaii. It is the future and only improves our State.

Statement of  
**Katie Jackson**  
**Hawaii State Blockchain Advocate**  
before the  
**House Committee on Consumer Protection and Commerce**  
Wednesday, March 22, 2022 2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
**SB3025 - SD 2 RELATING TO CRYPTOCURRENCY**

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

**I oppose SB3025 - SD 2 with comments.** This bill calls for a licensing program for crypto companies and while several amendments were made in the Senate, as currently written the problems with SB3025 SD 2 are great and **the bill should be further amended or shelved for future consideration** given recent changes in the federal regulatory landscape.

Some of the challenges with this bill are:

**1.) While regulation is welcome, this bill would be better considered in a year or two from now**

- **President Joe Biden recently passed an Executive Order<sup>1</sup> on March 9, 2022** asking Federal regulators to study and research the best approach to regulating crypto currencies and blockchain technology. This comprehensive look at how cryptocurrencies fit into the federal and state regulatory picture will happen in the coming year(s).
- **Better to let the Federal Regulators come up with the policies first** than for Hawaii to get out in front and have to come back in a year or two and revise this piece of legislation.

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<sup>1</sup> [HTTPS://WWW.WHITEHOUSE.GOV/BRIEFING-ROOM/STATEMENTS-RELEASES/2022/03/09/FACT-SHEET-1 PRESIDENT BIDEN-TO-SIGN-EXECUTIVE-ORDER-ON-ENSURING-RESPONSIBLE-INNOVATION-IN-DIGITAL-ASSETS/](https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/09/fact-sheet-1-president-biden-to-sign-executive-order-on-ensuring-responsible-innovation-in-digital-assets/)

**2.) This bill copies sections directly from New York’s 2015 BitLicense Law - that is bad news for Hawaii.** What happened in New York after the BitLicense bill passed is instructive:

- **15 companies ceased operations in the state** after the regulation was implemented.<sup>2</sup>
- ***Kraken Exchange was one of them*** since they **chose not to labor to obtain the credential needed to operate.**<sup>3</sup> Kraken is now incorporated in **Wyoming** where it operates freely.
- **Obtaining a license took up to three years** given the heavy reporting requirements.
  - In the first three years of BitLicense, only four companies managed to secure a license. As of January 2022, two approved exchanges voluntarily surrendered their Licenses (Xapo & Tagomi).<sup>4</sup>
- **The cost to apply, obtain, and maintain a license ranges from \$100,000s up to \$1million<sup>5</sup>** in legal and filing fees. **Small businesses and startups could not enter the market.**
- **3 years after passage, NY State Leaders were already proposing replacement bills** and trying to fix and amend the law.
- **5 years into the regulation, NYDFS announced new guidance** easing some of the restrictions **due to deep dissatisfaction** over the process.

**Bottom Line: This is not a program Hawaii should copy – let us take the time to create regulations that fit our State** and keep us at the front of innovation, instead of falling to worst in the nation due to ill-timed licensing schemes.

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<sup>2</sup> COINDESK, BITLICENSE AT 5: A TIMELINE OF NEW YORK’S LANDMARK CRYPTOCURRENCY REGULATION, [2HTTPS://WWW.COINDESK.COM/POLICY/2020/06/24/BITLICENSE-AT-5-A-TIMELINE-OF-NEW-YORKS-LANDMARKCRYPTOCURRENCY-REGULATION/](https://www.coindesk.com/policy/2020/06/24/bitlicense-at-5-a-timeline-of-new-yorks-landmark-cryptocurrency-regulation/)

<sup>3</sup> FORTUNE, INSIDE NEW YORK’S BITLICENSE BOTTLENECK: AN ‘ABSOLUTE FAILURE?’ [HTTPS://FORTUNE.COM/ 32018/05/25/BITCOIN-CRYPTOCURRENCY-NEW-YORK-BITLICENSE/](https://fortune.com/32018/05/25/bitcoin-cryptocurrency-new-york-bitlicense/)

<sup>4</sup> COINDESK, 13 AUGUST 2015, “THE REAL COST OF APPLYING FOR A NEW YORK BITLICENSE” [HTTPS:// 4 WWW.COINDESK.COM/MARKETS/2015/08/13/THE-REAL-COST-OF-APPLYING-FOR-A-NEW-YORK-BITLICENSE/](https://www.coindesk.com/markets/2015/08/13/the-real-cost-of-applying-for-a-new-york-bitlicense/)

<sup>5</sup> NEW YORK POST, FEB 10, 2022 “ERIC ADAMS’ HOPES FOR NYC BITCOIN BOOM BLOCKED BY 5 BACKWARDS-THINKING ALBANY” [HTTPS://NYPOST.COM/2021/12/15/ERIC-ADAMS-HOPES-FOR-NYC-BITCOIN-BOOM-BLOCKED-BY-BACKWARDSTHINKING-ALBANY/](https://nypost.com/2021/12/15/eric-adams-hopes-for-nyc-bitcoin-boom-blocked-by-backwardsthinking-albany/)

**3.) This regulation assumes that cryptocurrency companies will stick around Hawaii to do business if the regulation is very prescriptive. This might not happen.**

- **Cryptocurrencies are, in essence, borderless. In most places in the world, if you try to regulate cryptocurrencies, they'll just move to another jurisdiction (ie. Wyoming).**
- **This piece of tough regulation creates every incentive for businesses to leave the state since it would create the highest licensing fees in the nation outstripping even New York. We are a small state and do not have the same pull to attract and keep companies and their tax revenue.**

**4.) The emerging decentralized digital ecosystem deserves a fresh 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 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.
- **We do not want our greatest impact to be creating a regulatory burden that makes it cost prohibitive for most fledgling companies to operate in Hawaii.**

**5.) Outside Experts have Concerns with the Bill as Written.**

- Included below are statements from Coin Center and the Electronic Transactions Association that both lay out their concerns with this bill.

Thank you for the opportunity to offer these comments.



**Comments to the Thirty-First Legislature (2022) of the State of Hawaii on S.B. No. 3076 relating to special purpose digital currency licensure and S.B. 3025 relating to digital currency licensing program**

February 10, 2022

To whom it may concern:

Coin Center is an independent nonprofit research and advocacy center focused on the public policy issues facing cryptocurrency technologies such as Bitcoin. Our mission is to build a better understanding of these technologies and to promote a regulatory climate that preserves the freedom to innovate using open blockchain technologies. We do this by producing and publishing policy research from respected academics and experts, educating policymakers and the media about blockchain technology, and by engaging in advocacy for sound public policy.

We welcome the opportunity to provide feedback on S.B. 3076 and S.B. 3025, two bills attempting to reform cryptocurrency money transmission regulations.

As drafted, both of these bills would create a dangerously overbroad licensing requirement that could impose criminal liability on an untold number of Hawaiians who are not engaged in any activity raising consumer protection concerns. Crafting a licensing requirement for persons controlling customer virtual currency is a reasonable regulatory approach. Several other states and the Uniform Law Commission have taken this approach. However, requiring licenses from non-custodial entities or individuals acting on their own behalf, as these bills would do and as no other state has done, severely damages the rights of citizens and stifles innovation unnecessarily. For these and other reasons described below, these bills must not pass as currently drafted.

**The need for reform**

Hawaii is in dire need of reform for virtual currency activities. To illustrate: Coinbase, one of the largest and most popular cryptocurrency exchanges in the US, is currently

unavailable to residents of Hawaii because of the state of money transmission regulation.<sup>1</sup>

In particular, the rules established by Hawaii's Division of Financial Institutions (DFI) requires that cryptocurrency businesses maintain liquid asset reserves equal to the aggregate value of the digital currency held on behalf of customers in addition to the digital currency they hold for their customers (effectively a 200 percent reserve requirement).<sup>2</sup> It is easy to see how this could be prohibitive for businesses to operate in Hawaii; and indeed, few exchanges operate in Hawaii for this reason.

The state has taken positive steps to remedy this problem. Hawaii was among the first states to consider adopting a version of the Uniform Law Commission's well-considered cryptocurrency licensing framework, the Uniform Regulation of Virtual-Currency Businesses Act.<sup>3</sup> In 2018, the legislature of the state of Hawaii considered SB 2129 and SB 3082, which would have adopted the URVCBA word-for-word into law. Coin Center applauded Hawaii's leadership at the time and continues to strongly recommend the URVCBA as the ideal state regulatory framework for cryptocurrency licensing.<sup>4</sup>

Although Hawaii did not pass the URVCBA in 2018, it did open a regulatory sandbox for digital currency companies in 2019 called the Digital Currency Innovation Lab (DCIL).<sup>5</sup> Since 2020, a dozen cryptocurrency exchanges have been allowed to operate in the state without procuring an expensive money transmission license with a dual reserve requirement. The results have been promising, and the DCIL and legislature is hoping to incorporate their learnings into law. As the DCIL program winds down in 2022, it is imperative that policymakers get this right in time, lest the state be left without many options for cryptocurrency exchange yet again.

### Problems with SB 3076 and SB 3025

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<sup>1</sup> "Coinbase accounts – Hawaii," Coinbase.com, accessed February 8, 2021,

<https://help.coinbase.com/en/coinbase/managing-my-account/other/coinbase-accounts-hawaii>.

<sup>2</sup> Neeraj Agrawal, "Hawaii's issue with Bitcoin businesses has an obvious and easy solution," *Coin Center*, March 1, 2017, <https://www.coincenter.org/hawaii-is-issue-with-bitcoin-businesses-has-an-obvious-and-easy-solution/>.

<sup>3</sup> "Virtual-Currency Businesses Act, Regulation of," Uniform Law Commission, 2017, <https://www.uniformlaws.org/committees/community-home?CommunityKey=e104aaa8-c10f-45a7-a34a-0423c2106778>.

<sup>4</sup> Peter Van Valkenburgh, "The ULC's model act for digital currency businesses has passed. Here's why it's good for Bitcoin." *Coin Center*, July 19, 2017, <https://www.coincenter.org/the-ulcs-model-act-for-digital-currency-businesses-has-passed-heres-why-its-good-for-bitcoin/>.

<sup>5</sup> "Digital Currency Innovation Lab," HTDC, accessed February 8, 2022, <https://www.htdc.org/programs/#dcil-section>.



After a two-year pilot, the DCIL has concluded that “digital currency transactions are not best regulated through existing money transmitter laws and that a new regulatory framework is appropriate.”<sup>6</sup> Unfortunately, the alternative regulatory framework provided by SB 3076 and SB 3025 would merely create new problems. Each takes a similar approach to the state of New York’s infamous “BitLicense,” which spurred an exodus of cryptocurrency activity from the state.<sup>7</sup>

The main problem with SB 3076 and SB 3025 is that they attempt to micromanage what activities are and are not regulated and needing a license through lists of covered and exempted actions. But the descriptions here are vague and lend themselves to regulatory uncertainty. For example, “buying and selling digital currency as a business” is considered a licensable activity. So is “performing exchange services as a business.” But it is not clear that there is a consumer protection element in each instance of either option. Therefore, it is not clear that there is a policy interest for such activities to be licensed.

There are similar problems in the list of exempted activities. While it is good that lawmakers want to explicitly state when activities are not licensable, and it is commendable that the legislature wisely exempts cryptocurrency mining and node maintenance from regulation, this list is similarly vague and nonsensical. For instance, “a person using digital currency including investing, buying or selling, or obtaining digital currency as payment for the purchase or sale of goods and services, *solely for academic purposes*,” (emphasis added) is exempt. Why should it only be limited to academic purposes? Should a person using digital currency for their own use outside of the academy be forced to procure a license? The problems with this piecemeal approach of exemptions and requirements are obvious.

Like the BitLicense, this approach would create more confusion about who does and does not need to obtain a license. Regulators would be tasked to issue piecemeal opinions and guidance about who qualifies. Innovation and cryptocurrency activity would stall as these vagaries are worked out.

### **Why the URVCBA is superior**

Hawaii would do much better to simply adopt the original URVCBA that the state considered years ago. Indeed, much of SB 3076 already borrows language from the URVCBA, notably in the definition of “control of digital currency,” which is “the power

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<sup>6</sup> S.B. No. 3076, “A Bill for an Act relating to special purpose digital currency licensure,” Hawaii Senate, Thirty-first legislature, 2022, [https://www.capitol.hawaii.gov/session2022/bills/SB3076\\_.htm](https://www.capitol.hawaii.gov/session2022/bills/SB3076_.htm).

<sup>7</sup> Michael del Castillo, “The ‘Great Bitcoin Exodus’ has totally changed New York’s bitcoin ecosystem,” *New York Business Journal*, August 12, 2015, <https://www.bizjournals.com/newyork/news/2015/08/12/the-great-bitcoin-exodus-has-totally-changed-new.html>.

to execute unilaterally or prevent indefinitely a digital currency transaction.” The URVCBA is so powerful and appropriate precisely because the need to obtain a license is triggered when an action meets this clear and simple definition.

Rather than trying to lay out a list of all the activities that require a license and those that don’t, the URVCBA uses a clear definition of control that can be easily applied to the myriad of cryptocurrency activities—indeed, even ones that have not been developed yet.

February 18, 2022

The Honorable Scott Saiki  
Speaker, Hawaii House of Representatives  
415 South Beretania St.  
Honolulu, HI 96813

The Honorable Gilbert Keith-Agaran  
Senator, Hawaii State Senate  
415 South Beretania St.  
Honolulu, HI 96813

Re: S.B. 3025 / H.B. 2384 - Digital Currency Licensing

Dear Speaker Saiki and Senator Agaran,

On behalf of the Electronic Transactions Association (“ETA”), thank you for the opportunity to share our perspective on Senate Bill 3025 and House Bill 2384, legislation that would establish a licensing regime for digital currency companies.

As the trade association that represents the breadth of the payments industry, ETA has deep expertise in payments technology, including the use of digital currency, blockchain, and other cryptocurrency-related technologies. This expertise has, and continues to, provide thought leadership in the ongoing dialogue within the industry and with policymakers about the promise and challenges of digital currency. For example, last September, ETA released *5 Guiding Principles for Crypto*<sup>1</sup>, a guide to help policymakers ensure that any new law or regulation pertaining to the space best serves the needs of consumers and businesses, furthers financial inclusion, preserves and strengthens the financial system, minimizes fraud and money laundering, and ensures that consumers and businesses continue to have access to a robust and innovative array of secure banking and payment options.

Appropriate regulation of digital currency is key to unlocking its potential while ensuring the safety and soundness of the payments ecosystem. Below, ETA has outlined concerns with certain provisions of S.B. 3025 / H.B. 2384 that we believe should be addressed in order foster, not stifle, the growth of this nascent industry:

- **Uniform Law Commission’s Model State Law.** The current bill combines multiple models, including ULC, then adds additional items. This has the effect of diminishing the harmony of each individual model that has been expertly developed, and ultimately reduces regulatory certainty. Confusion in regulatory certainty creates risk that Hawaii will fall behind in innovation in this space. Hawaii should adopt the ULC’s model law.
- **30-Day Notice for Fee Changes: Section 4(b)(9).** A 30-day notice for fee changes is not in line with requirements in other states with virtual currency licenses, like New York, nor is it consistent with the lack of fee change notice requirements in other state MTL laws. ETA would suggest striking this requirement, or if not, waiving the requirement for licensees that notify consumers of fee schedules before every transaction.

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<sup>1</sup> <https://www.electran.org/wp-content/uploads/2021-ETA-5-Guiding-Principles-of-CRYPTO.pdf>

- **Duplicative Requirements: Section 9(e).** As this legislation requires all licensees to register with the Nationwide Multistate Licensing System & Registry (NMLS), any requirements (e.g. fingerprinting) that are duplicative of NMLS or other license applications should not be required again.
- **Renewal of License; Annual Report: Section 11.** We would suggest guidance be provided on the meaning of “total value of transactions,” as used throughout this section, to clarify whether this means the gross value of the transaction, inclusive of the digital currency traded and associated fees.
- **Surety Bond: Section 11(c).** We would suggest that a surety bond be capped in order to bring the statute in line with the standards set by dozens of state money transmission license requirements already in statute. A cap of \$500,000 would align with precedent.
- **Reports of System Outages: Section 12(b)(2)(D).** The legislation fails to provide guidance on what is classified as a “system outage.” Even with a clear definition, an overbroad interpretation could be construed to include any sort of technical incident, creating vague standards for compliance and an unnecessary burden of reporting for covered companies, in addition to confusion for the regulator. ETA suggests that the requirement be struck, bringing it in line with other states’ existing law.
- **Physical Location Requirement: Section 16(a).** The profound growth of e-commerce and the digital economy during the COVID-19 pandemic has changed the way that people work and the way that businesses operate. Many companies allow employees to work full-time remotely, and some companies do not have a physical location at all. A requirement that special purpose digital companies maintain a physical location in Hawaii is burdensome and antiquated, especially given that digital currency, by its very nature, is a digital innovation. Placing this requirement on licensees will dissuade businesses from obtaining this license and operating within Hawaii.

\* \* \*

If you have any questions or wish to discuss any aspect of our comments, please contact me or ETA Senior Vice President of Government Affairs Scott Talbott at [Stalbott@electran.org](mailto:Stalbott@electran.org).

Respectfully,



Max Behlke

Director, State Government Relations  
Electronic Transactions Association  
202.677.7417 | [mbehlke@electran.org](mailto:mbehlke@electran.org)



Statement of  
**Liam Grist**  
President  
**CLOUD NALU, LLC**  
before the

**COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

Tuesday, March 22, 2022  
2:00 PM  
State Capitol, Conference Room 329 & Videoconference

In consideration of  
SB 3025 SD2 RELATING TO DIGITAL CURRENCY LICENSING PROGRAM

Cloud Nalu **supports** SB3025 SD2 RELATING TO DIGITAL CURRENCY LICENSING PROGRAM

Cloud Nalu is a Bitcoin-as-a-service platform for Hawaii residents, businesses, and institutions who need help buying and selling bitcoin, and integrating with the Bitcoin network through our Software-as-a-Service products. We started as a tech outsourcing company in 2016 on Maui and since 2020 have been a part of the Digital Currency Innovation Lab (DCIL).

The Department of Financial Institutions (DFI), in partnership with HTDC through the DCIL, has been instrumental in prioritizing education and safety for our local residents interested in the cryptocurrency space through webinars with industry experts. This program has also allowed our company in particular, to pivot during COVID and hire 4 new employees. We have also seen the economic benefits our clients have enjoyed by engaging with digital currencies, through the DCIL. The DFI has also made it a priority to include the company participants of the DCIL and local experts in the drafting and editing of SB3025 through roundtable discussions and requesting feedback from participating companies, including Cloud Nalu, to allow for the continued development, innovation, and regulation of the industry through its proposed licensure program.

The establishment of the licensure program is appropriate for the continued safety and confidence of Hawaii residents and businesses interested in using Bitcoin, blockchain, and digital currency technology to create a better future for Hawaii. We believe the DFI is the appropriate arm of the state to regulate the industry. With the most recent edits to the bill in the Senate version, SB3025 SD2 protects both users who want to use digital assets through a traditional cryptocurrency exchange and users who prefer to custody digital assets themselves, with their own "keys" as sovereign citizens using cryptography to protect their wealth and private property - rather than traditional, centralized sources.

With clear regulation and licensing provided by the state, Hawaii's companies, institutions (banks), and participating cryptocurrency companies - all finally have the official greenlight to create better experiences for transactional payments, financing, communication, and more products and services for Hawaii residents and consumers. The cryptography and cyber security industry here have benefited from state-sponsored research and education. The same will be said about the state's role in supporting the Bitcoin industry, which - through this bill, is ripe for growth. According to Google search queries, Hawaii is in-fact, one of the states most highly interested in "Bitcoin" and "Cryptocurrency".

As we transition our local economy, we need to look for ways of keeping more monetary value and talent in Hawaii. We also need to meet our goals of being energy independent with 100% renewable energy by 2045. Bitcoin technology provides a promising new path forward for solving both of these priorities. By making the movement of value (in fiat currencies and BTC) more efficient, supporting Hawaii engineers, programmers, and cryptographers, and by utilizing Bitcoin mining to be used for renewable energy resource projects such as OTEC, we can make our state a better place to live and visit

for all. We believe supporting the adoption of Bitcoin is the most efficient way to a more free, cooperative, equitable, sustainable, and peaceful Hawaii.

In the continued development of this bill, it is important to exclude non-custodial use of digital currency, as written in the modified version SB3025 SD2 bill (Pg 10, section 9) since US citizen's right to use code and cryptography as free speech and freedom of expression, is already protected by federal law<sup>1</sup> and universal human rights<sup>2</sup>. The modifications to SB3025 SD2 sufficiently exclude such use from requiring licensure. Alternatively however, it may be simpler to use the URVCBA model of the Uniform Laws Committee<sup>3</sup>, as recommended by Coin Center and others, which clearly defines what business activity should be regulated as "Virtual Currency Business Activity". This more simple scope would require licensure of and *"impose prudential regulations and customer protection requirements on businesses whose products and services include (1) the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; (2) the transfer from one customer to another person of virtual currencies; or (3) certain custodial or fiduciary services in which the property or assets under the custodian's control or under management include property or assets recognized as "virtual currency."*<sup>4</sup>

Finally, the bill attempts to address Anti-Money-Laundering concerns by adding requirements to already existing federal requirements (FinCEN). Specifically, under Section 8, page 26, line E, requiring licensees to record the "description of the transaction". We recommend this to be removed, as this would be too costly for companies looking to operate in Hawaii and needing to modify their data collection and AML program to be able to comply with Hawaii's specific requirements under this Act. The nature or description of transactions is too challenging to collect from users and report for many transactions. Collecting this data is arguably an intrusion of privacy, and will not have a material impact on AML risk. Therefore, we recommend removing section 8's line E, requiring licensees to record the "description of the transaction".

Thank you for the opportunity to provide comments and for your consideration of this bill.

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<sup>1</sup> Phillip E. Reiman, Cryptography and the First Amendment: The Right to be Unheard, 14 J. Marshall J. Computer & Info. L. 325 (1996) <https://repository.law.uic.edu/jitpl/vol14/iss2/6/>

<sup>2</sup> UNESCO, Human Rights and Encryption <https://unesdoc.unesco.org/ark:/48223/pf0000246527?1=null&queryId=e05fdd78-68b9-4ff3-b7ce-b998b0c0cf01>

<sup>3</sup> Virtual-Currency Businesses Act, Regulation of <https://www.uniformlaws.org/committees/community-home?CommunityKey=e104aaa8-c10f-45a7-a34a-04232106778>

<sup>4</sup> Uniform Regulation of Virtual-Currency Businesses Act <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=ca527d52-9bcf-15b0-b1c1-279b55b53fa4&forceDialog=0>