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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, March 14, 2023
2:00 p.m.
Conference Room 329**

**On the following measure:
S.B. 945 S.D.2, SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE**

Chair Nakashima and Members of the Committee:

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

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

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

Through the research conducted by the DFI and the Hawaii Technology Development Corporation (HTDC) in the Digital Currency Innovation Lab (DCIL), DFI learned that the current regulatory scheme of the money transmitter laws do not comport with the activities conducted by digital currency companies. The research

provided the catalyst for DFI to establish a new licensing scheme for the digital currency industry. This bill provides a new regulatory framework for digital currency companies.

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

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

The three strongest aspects of the licensure law:

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

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

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

Thank you for the opportunity to testify on this bill.



Written Statement of
Len Higashi
Executive Director
Hawaii Technology Development Corporation
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Tuesday, March 14, 2023
2:00 p.m.
Conference Room 329 and Videoconference

In consideration of
SB945, SD2
RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE.

Chair Nakashima, Vice Chair Sayama and Members of the Committee.

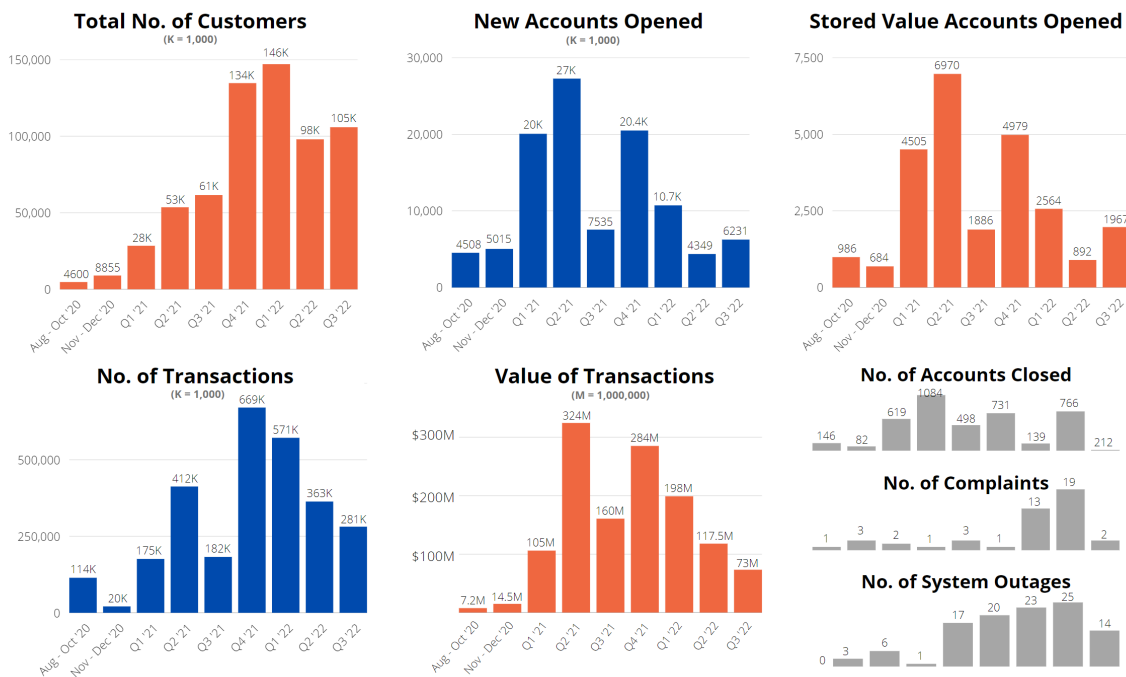
The Hawai'i Technology Development Corporation (HTDC) **supports** SB945, SD2 that establishes a program for the licensure, regulation, and oversight of digital currency companies.

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

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

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

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

DIGITAL CURRENCY INNOVATION LAB


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

HTDC supports this bill provided it does not supplant the priorities in the Administration's budget and respectfully requests correction of the defective date. Thank you for the opportunity to offer these comments.



March 14, 2023

2 p.m.

Conference Room 329 and Videoconference

To: House Committee on Consumer Protection & Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB945 SD2 — RELATING TO SPECIAL PURPOSE DIGITAL CURRENCY LICENSURE

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB945 SD2](#), an 80-page tome that would establish a program for the licensure, regulation and oversight of digital currency companies.

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

One of the main problems with SB945 is the vast and nearly unlimited powers over the cryptocurrency market it would give to the commissioner of the state Division of Financial Institutions. Nearly every regulation in the bill has a caveat that would allow the commissioner to rewrite the law according to his or her will, which could centralize too much power in the hands of the commissioner and burden cryptocurrency companies with a high level of regulatory uncertainty.

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

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

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

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

However, should this bill move forward, it should adopt wording from [HB1261](#).

Part I, Section 2, Subsection 9 of that bill provides that the proposed regulation would not apply to:

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

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

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

This language would give cryptocurrencies recognized at the federal level an avenue to more easily operate in Hawaii, and give the DFI commissioner a reasonable standard for determining which cryptocurrencies should be exempt from this licensure regime.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

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



CRYPTOKENIKENI

Certified Blockchain Consultants™

www.cryptokenikeni.com

Aloha,

My name is Louis Galdeira and I am in SUPPORT of SB 945 (SD2) which would establish a licensing program to replace the digital currency innovation lab.

Please keep in mind that Cryptocurrency is based off a Decentralized Ledger known as a Blockchain which is 100% transparent. See transaction on next page.

I can mention many parts of this bill that is already part of the transparent blockchain ledger function. Page 40, Section 20 is probably not going to happen. Identity is not connected to a wallet. You can see the wallet addresses, which is not connected to a particular person. Many wallets use a function called KYC, or Know Your Customer, in which case you are now using a centralized wallet and a platform now owns your identity and money. You must send them your ID, etc.

The goal of the blockchain is to be decentralized.

I also SUPPORT the creation of a Blockchain Council to support the commissioner.

I believe it is important that you have a Blockchain Council made up of people that can engage with (and include) our Elected Officials, BANKS, Bill Supporters, Bill Opponents, people that understand the State's Money Transmitters ACT, understands the responsibility of the Digital Currency Innovation Lab, will work with The state Division of Financial Affairs and the Hawai'i Technology and Development Corp., non-profits, small-businesses and local people who are interested or already in the space. Texas nailed it.

I would love to get involved and I know many friends that have a lot of experience in the cryptography space that would love to get involved as well.

Sincerely,

Louis Galdeira

CEO-Founder, The Cryptokenikeni Project

www.cryptokenikeni.com

The Cryptokenikeni project is not a wallet, nor do we ask anyone for investment money. We are a consulting service focused on teaching about Crypto, NFTs and the Metaverse and building a community of people passionate about blockchain opportunities. We are Blockchain Certified Consultants and members of the Chamber of Commerce of Hawaii and in good standing with the State of Hawaii. We plan on opening a Crypto Café in Waikiki this Summer.

Transaction Details

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Transaction Hash: 0xd874db1ccb891f75b25ea1d3ce534d070b29314f6efdea1b8799cb8f9ec5e98d
Status: Success
Block: 16823619 114 Block Confirmations
Timestamp: 23 mins ago (Mar-14-2023 03:48:59 AM +UTC) | Confirmed within 8 secs

Sponsored:

From: 0x412474F22797EB4D230AAa18b46cE2C309117aD6
To: 0x368d30d563DfcA212864c3F7AfD41e1BD11a6A22
Value: 0.024745688074458922 ETH (\$41.61)
Transaction Fee: 0.000347156114928 ETH (\$0.58)
Gas Price: 16.531243568 Gwei (0.000000016531243568 ETH)

More Details: + Click to show more

Private Note: To access the Private Note feature, you must be Logged In

SB-945-SD-2

Submitted on: 3/10/2023 4:40:23 PM

Testimony for CPC on 3/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Kawailani Ozawa	Individual	Support	Written Testimony Only

Comments:

It is a tribute to the creativity and perseverance of Hawaii's innovation ecosystem that there are still businesses and startups working in the blockchain space, despite Hawaii's nationally-noted regulatory deficiencies in the regulation of cryptocurrency and other digital assets.

Because this bill continues the important and tireless work of Commissioner Iris Ikeda of the DFI to carefully and safely introduce cryptocurrency exchange activities in Hawaii—legislation that inexplicably died in conference committee last session—I support SB945. While not perfect, it's a start, which is the very least Hawaii can do for a financial and technological sector that continues to move forward without us.

Cryptocurrency will not go away, and while it is not a guaranteed investment vehicle (few things are), Hawaii residents should have the freedom to explore this emerging tech. With the requirements established by this bill, the people of Hawaii can have greater confidence in the soundness of licensed entities and adopt the level of risk they're willing to accept.