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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Friday, March 19, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.R. 94, REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS TO RECONSIDER ITS 2016 RULING ON ASSET RESERVE
REQUIREMENTS FOR VIRTUAL CURRENCY COMPANIES
AND CRYPTOCURRENCY COMPANIES TO CONDUCT BUSINESS IN HAWAII
AND TO ALIGN THE STATE'S ASSET RESERVE REQUIREMENTS FOR THESE
COMPANIES WITH THE ASSET RESERVE REQUIREMENTS IN OTHER STATES**

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 on this resolution.

The purpose of this bill is to request the Department to reconsider its 2016 ruling on asset reserve requirements for virtual currency companies and cryptocurrency companies to conduct business in Hawaii and to align the State's asset reserve requirements for these companies with the asset reserve requirements in other states.

In 2016, the DFI provided guidance to digital currency companies seeking to do business in Hawaii by: (1) explaining that their conduct falls within the scope of the

State's money transmitter law; and (2) clarifying the means by which they can meet the asset reserve requirements of that law

Since 2016, the digital currency¹, virtual currency², and cryptocurrency³ industry (industry) has undergone significant change. In 2016, this industry was still in its infancy, and regulators were still learning about the business models and uses of digital currency, virtual currency, and cryptocurrency. Today, the industry activity⁴ involves investment and speculation due to extreme price fluctuations. Licensing the industry companies as money transmitters is just one of many regulatory models that may be appropriate for this industry. In addition, although this resolution states that the DFI's "asset reserve requirements for digital currency companies are not consistent with other states," respectfully, the Department notes that states vary widely in whether they consider the industry companies to be money transmitters. Like Hawaii, eighteen states that use the same definition of "monetary value" would consider digital currency companies as money transmitters. Twenty-one states either exempt or do not include digital currency companies as money transmitters. Only 8 states specifically regulate these companies as money transmitters, and only 3 states regulate a component of digital currency transactions as money transmission.

The Department recognizes that it may be challenging for industry companies to satisfy the asset reserve requirements of the money transmitter law, and efforts to pass new virtual currency laws or modify existing law have, to date, been unsuccessful. The DFI has attempted to ameliorate these challenges by partnering with the Hawaii Technology Development Corporation (HTDC) to create a "sandbox" in which some industry activity can occur. Specifically, the DFI and the HTDC are piloting the Digital

¹ Digital currency is electronic money that fluctuates in value, and the record is stored on a distributed database.

² Virtual currency is electronic money that does not change the value of the fiat currency (dollar, euro, etc.).

³ Cryptocurrency is a type of virtual currency based on cryptographic algorithms and is designed to work as a medium of exchange.

⁴ These include: peer-to-peer trading platforms; trade directly with the exchange (no third parties); trade settlement services (e.g., escrow); gateway services (introducing transactions into the network); custodial services, such as hosted wallets for consumers and custody of assets for institutional investors ("cold storage" services); issuance and redemption of stable coins; conversion services that buy or sell digital currency for sovereign currency, directly with the service provider (no third parties), including kiosks; and the secondary market for initial coin offerings.

Currency Innovation Lab (DCIL) to determine the best way to oversee this industry. The DCIL has highlighted the wide range of business models and activities that result from the industry companies, and the DFI is evaluating the complexities and diversity of the industry platforms. The DCIL has provided some insight into the composition of the various companies' digital assets, including price volatility, liquidity, secondary markets, and risk exposure profiles.

The Department suggests having the DCIL continue its pilot program and having the DFI and HTDC study the complexities of the industry, before suggesting either the creation or amendment of laws, to appropriately protect consumers of digital currency, visual currency, and cryptocurrency activity.

Thank you for the opportunity to testify on this resolution.

HR-94

Submitted on: 3/17/2021 4:41:35 PM

Testimony for CPC on 3/19/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joel Reece	Individual	Support	No

Comments:

I support HR94.

I believe there are only 3 states that do not allow the transaction of cryptocurrency. Hawaii has cost me current financial independence and fortunes by not allowing me to purchase crypto as a resident of this state. I have tried since 2017 to buy. As a resident of Hawaii, I can't invest in cryptocurrency because of impossible regulations. I stayed with a friend in San Francisco in June of 2017 that taught me about cryptocurrency and how he invests in it. We tried to set up accounts but everything was blocked, only because I was a resident of the state of Hawaii. His investments have since matured over 5000%. Another friend who moved here from the mainland showed me how they have invested in crypto, specifically Cardano (ADA). Again, I was blocked from being able to make this investment because of my Hawaii residence. Again, it has increased nearly 4500% from the time I would have purchased it.

I'm trying to figure out what good the 2016 ruling has done...It has done no good for me. Only missed fortunes. What good are regulations that do more harm than good?

HR-94

Submitted on: 3/18/2021 10:06:58 AM

Testimony for CPC on 3/19/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Sadino	Individual	Support	No

Comments:

I strongly SUPPORT this Resolution.

The cryptocurrency industry, which is an easy gateway to the many benefits of the larger blockchain ecosystem, has evolved substantially in the past 5 years. It is time to reevaluate the State's restrictions on this important technology of the future.

I would also point out that in the past 5 years, many cryptocurrency exchanges have added insurance to cover any losses to client accounts. This should help alleviate at least some of the concern about reserve requirements and the exchanges should receive credit and recognition of these important steps that they have taken to protect user funds.

Thank you for the opportunity to testify.

Good afternoon chair Johanson and member of the committee, my name is Jeff McLellan, I'm a resident of Laie, Hawaii.

I purchased my first Bitcoin in 2016. I started investing in Ethereum later that same year. My small investment provided enough return in 2 years to pay off our mortgage 20 years early.

In 2018, we moved to Hawaii. Soon after arriving I was notified by Coinbase that they could no longer provide me services as a resident of Hawaii. I couldn't believe that a resource that had improved my financial status so significantly was no longer available solely because I relocated to Hawaii.

I support HR94 and ask for immediate removal of the 100% asset reserve requirement. Its implementation forced all companies, even large well established industry leaders to close their doors to the Hawaiian people. Listen to what Coinbase employee Juaz Suarez wrote on the Coinbase blog in Feb 2017 when they announced closing its doors to Hawaiians.

This policy is obviously untenable. No digital currency business — and frankly, no commercially viable business anywhere — has the capital to supplement every customer bitcoin with redundant dollar collateral.

Hawaiian regulators failed the Hawaiian people in their implementation of this regulation. It provides no additional risk protection and offers no access to services.

Last summer, the "Digital Currency Innovation Lab" decided to give "selected" firms a two-year reprieve from the oppressive regulations. Limiting access to the digital currency economy is not innovation.

I use BlockFi and Gemini. However, access to purchase Cardano through the "selected" providers is not available. If a Hawaiian had access to invest their \$1200 stimulus check last April in Cardano, that investment would be worth over \$40,000 dollars today.

In addition, I can't get access to Celsius Network which provides 13.3% annual returns in a high yield, low risk savings account. The lack of access to my preferred service reduces my annual savings returns by 30%.

The digital currency and asset industry will soon reach 2 trillion dollars. It's time to create sensible regulations that open access to this valuable service. I ask for the removal of the 100% asset reserve requirement immediately and any other regulation that is preventing digital currency companies from participating in the Hawaiian financial economy.

HR-94

Submitted on: 3/19/2021 12:14:48 PM

Testimony for CPC on 3/19/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Edmunds	Individual	Support	No

Comments:

Please pass HR94 so that we may purchase cryptocurrency. Purchasing cryptocurrency is an investment, much like purchasing stocks, or real estate is an investment. If we are able to invest our money in the former, we should be able to invest our money in cryptocurrency. We live in the land of the free, and as such, we should be free to spend and invest our money however we choose to. Thank you for your consideration.

HR-94

Submitted on: 3/19/2021 12:20:26 PM

Testimony for CPC on 3/19/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Danny Casler	Individual	Support	No

Comments:

Aloha committee. I took a chance on crypto currency while living in California back in 2017 and it has without a doubt changed my life. I sit here with more than a downpayment to purchase a home in Hawaii after moving home from the mainland and it would not have been possible if I didnt take that leap of faith. I literally started with a very small amount of capital and its grown beyond my wildest dreams. I helped others purchase based off my experiences and they have all done very well. I realize this is not the circumstance for everyone but we should all have the opportunity to make our choices on how we want to invest whether it be real estate, stock market, cryptocurrency.

I am humbly asking you to allow the opportunity to have our autonomy to invest for ourselves or for my case, now my kids. Allow exchanges and platforms who follow our legal law and requirements to exist. Please... its incredibly not hard to see how this is beneficial. People said Amazon would never be successful. People would never buy books online. That digital music would never reach critical mass. We saw what happened to book stores and record stores. Be progressive! Dont allow fear to hinder the future.

Aloha!

- Danny Casler