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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.C.R. 118, 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.



Written Statement of
Len Higashi
Acting Executive Director
Hawaii Technology Development Corporation
before the
House Committee On Consumer Protection & Commerce
Friday, March 19, 2021
2:00 p.m.
Videoconference

In consideration of
HCR118/HR94
**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, Vice Chair Kitagawa, and Members of the Committee.

The Hawaii Technology Development Corporation (HTDC) offers **comments** on HCR118/HR94.

HTDC defers to the Department regarding the regulatory aspects of this bill. HTDC would like to comment on our partnership with DCCA DFI for the Digital Currency Innovation Lab. Launched in March 2020, the feedback received from participating companies in Cohort 1 has been positive. The registration requirements, program guardrails, and modest fees have been well received by participants. Continuous enthusiasm has been demonstrated with more companies applying to be part of Cohort 2 (application closed end of February; review ongoing). In fact, our efforts in exploring economic development opportunities with participating companies has been described as “refreshing” and positions Hawai'i well in this emerging sector. We believe the structured approach to working with these companies has economic development value to the State. <https://www.htdc.org/programs/#dcil-section>

Thank you for the opportunity to offer these comments.

HCR-118

Submitted on: 3/18/2021 10:07:25 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.

HCR-118

Submitted on: 3/19/2021 12:16:01 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 HCR118 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.

HCR-118

Submitted on: 3/19/2021 12:23:35 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:

As I stated in my testimony for HR 94. Cryptocurrency has completely changed my life since I started investing in 2017 while living in California. I moved my family back and now we are in a financial spot where we can more than afford to purchase a home in the town of Kailua where I grew up. I never thought that would be possible and I know that if I wouldn't have took that chance in 2017 by investing in crypto I would not be in the situation I'm in right now. I am asking for you guys to please be progressive and allow our state to follow other states and give these platforms and exchanges the opportunity to exist here so that we can make the choice that is best for us and how we choose to invest our money. Whether it be the stock market, real estate, gold or silver or cryptocurrency, no one should prevent us from being able to make that decision on her own. These exchanges that are vetted and approved all across our country follow the same federal guidelines so there should be zero reason why they are unable to operate here in Hawaii. Please give my self and others the opportunity to create wealth by making investments that we feel are best for us and our families