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TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Thursday, February 22, 2018  
12:30 p.m.

**TESTIMONY ON HOUSE BILL NO. 2257, H.D. 2 , RELATING TO VIRTUAL CURRENCY.**

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2257, H.D. 2, Relating to Virtual Currency. My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (“Commissioner”) for the Department’s Division of Financial Institutions (“DFI”). The Department submits comments on the Uniform Law Commission (“ULC”) portion of this bill (section 1 of this bill, hereinafter the “ULC amendments”). The Department supports the portion of this bill that amends Hawaii Revised Statutes (“HRS”) chapter 489D, the Money Transmitters Act (bill sections 2 through 10, hereinafter, the “chapter 489D amendments”). The content of the chapter 489D amendments is companion to S.B. 3082.

H.B. 2257, H.D. 2 is a compilation of two pathways to manage the virtual currency industry:

- The ULC amendments (bill section 1) contain portions of the proposed ULC model law, Uniform Regulation of Virtual Currency Businesses Act (“model

- law”). The ULC amendments propose a framework for regulating virtual currencies as a new regulatory scheme for DFI to supervise and regulate; and
- The chapter 489D amendments (bill sections 2 through 10) extend the Money Transmitters Act to expressly apply to persons engaged in the transmission of virtual currency.

DFI regulates money transmitters under HRS chapter 489D, including licensees that transmit virtual currency. DFI has been investigating virtual currency regulation for several years. Last summer, DFI sent a staff member to the ULC Annual Meeting in San Diego, California, to observe proceedings which led to the ULC’s approval of the model law. After the Annual Meeting, the Commissioner and staff had a conference call with the ULC drafting committee chairperson and reporter seeking clarification of the ULC’s model law and the thoughts behind some of its provisions. The Department recognizes the work that the ULC and drafting committee put into developing the model law.

### **ULC Amendments**

The Department’s main concerns about the ULC amendments are: 1) lack of specificity; 2) the three tiers of licensure comprised of an unlicensed “sandbox,” registration for up to \$35,000 of virtual currency business activity, and licensure for activity over that amount; 3) reciprocity, given the different licensure standards for virtual currency among the states; and 4) creation of a new regulatory program without adequate staffing.

This bill places the ULC amendments under DFI. DFI is self-funded from fees paid by licensees of its various programs. To establish this program, DFI would need funds to appoint one examiner to set up the program, as well as additional examiners the following year to conduct examinations and investigations. To maintain this new program, the program would need to generate revenues sufficient to cover the additional staff members.

### **Regulation of Virtual Currency through Chapter 489D Amendments**

The Department supports the provisions of the bill that extend HRS chapter 489D, the Money Transmitters Act, to expressly apply to persons engaged in the

transmission of virtual currency. The chapter 489D amendments make clear which virtual currency businesses are subject to regulation under HRS chapter 489D. They specifically authorize DFI to accept like-kind virtual currency as permissible investments. This addresses the concern of some virtual currency money transmitters that they cannot afford to hold cash and cash-like permissible investments to cover their virtual currency transactions, as HRS chapter 489D currently requires. The chapter 489D amendments warn consumers before they transact that virtual currency is volatile by nature and that they may lose all their virtual currency which is not backed or insured by the government. The chapter 489D amendments provide a framework for DFI to regulate the still-emerging virtual currency industry under the Money Transmitters Act, including requirements for licensure, license renewal, examination, record keeping, reporting, prohibited practices, sanctions, and penalties.

The Department supports the chapter 489D amendments and believes they will allow virtual currency companies to become licensed and operate in Hawaii and provide protections to consumers. Accordingly, the Department respectfully requests that the effective date of the bill be changed to “upon approval.” As the Department has concerns about the ULC amendments, it suggests their deletion from this bill.

Thank you for the opportunity to comment on the ULC amendments and to testify in support of the chapter 489D amendments with an “upon approval” effective date.

**HB-2257-HD-2**

Submitted on: 2/20/2018 6:03:20 PM

Testimony for FIN on 2/22/2018 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gary H. Namba	Individual	Oppose	No

Comments:

Good afternoon.

My name is Gary Namba. I am a private citizen that is involved in the local cryptocurrency community. I am a member of the Honolulu Bitcoin Group; a Meetup of cryptocurrency advocates and interested novices. I was also a member the informal working group established by Representatives Chris Lee and Mark Nakashima for the purpose of informing the Representatives about blockchain technology and bitcoin (cryptocurrencies). They are sponsors of HB 1481. I am not acting as a representative of either group.

I am not in support of HB 2257, not for the reason that I have objections to the entire bill itself or to specific sections within it. I am opposed to the adoption of this bill due to the lack of understanding there is about blockchain technology and cryptocurrencies and the possible implications and consequences of what this legislation may produce.

I see this divergence of understanding not just locally, but nationally also. The recent Senate hearings in Washington D.C. on regulating cryptocurrencies demonstrate that.  
<https://techcrunch.com/2018/02/06/virtual-currencies-oversight-hearing-sec-cftc-bitcoin/>

<https://www.ethnews.com/seven-takeaways-from-the-sec-and-cftcs-testimony-on-virtual-currency>

Nebraska recently had hearings on it's own bills regulating cryptocurrencies. It doesn't look like there is consensus on what action to take.

<https://venturebeat.com/2018/02/09/nebraska-considers-blockchain-and-cryptocurrency-legislation/>

<http://www.ketv.com/article/growing-interest-in-cryptocurrency-spurs-conversations-at-nebraska-state-capitol/16776351>

Nebraska and Hawaii are the first two states that seems to be part of a concerted effort to pass the Uniformed Regulation of Virtual Currency Business Act (URVCBA) state by state.

<http://www.uniformlaws.org/Act.aspx?title=Regulation%20of%20Virtual-Currency%20Businesses%20Act>

Nevada was the first state to a pass cryptocurrency bill (not based on URVCBA).

<https://www.coindesk.com/nevada-first-us-state-ban-blockchain-taxes/>

Reactions are positive from the crypto community.

<https://news.bitcoin.com/nevada-senate-opts-to-prohibit-tax-and-regulations-on-blockchain-technology/>

It is important to note that the URVCBA does not have the support of some sectors of the cryptocurrency community. The Bitcoin Foundation, the oldest and largest bitcoin advocacy organization, recommends to reject the URVCBA.

<https://bitcoinfoundation.org/reject-uniform-regulation-virtual-currency-businesses-act/>

[http://www.uniformlaws.org/shared/docs/regulation%20of%20virtual%20currencies/URVCBA\\_Comments\\_BitCoinFoundation\\_2017jul14.pdf](http://www.uniformlaws.org/shared/docs/regulation%20of%20virtual%20currencies/URVCBA_Comments_BitCoinFoundation_2017jul14.pdf)

The position I am presenting here is that Hawaii's legislators need to have a better understanding of blockchain technology and cryptocurrencies in order for productive legislation to be developed. The testimonies from different financial sectors in Hawaii (i.e. - banking industry, Coinbase, investment companies, etc.) that support the URVCBA and have a stake in the development of legislation that will benefit their interests. That type of legislation maybe not be entirely to Hawaii's general benefit.

It is important to note that blockchain technology is real and it's here to stay. Many different sources (even from the banking and financial industry) have conceded and recognized that it will be a dominant force in the future. It will have a bigger impact locally, nationally and globally than the Internet. But, the world of blockchain technology and cryptocurrency is constantly and quickly changing. It is not at a point of stability in terms of what is actually is and what part of it will stay.

In view of this, Hawaii's Legislature needs to be very careful in how we deal with this issue. If we don't do this right, we could fall behind the modernization curve that is eminent. We don't want to pass legislation now that we might have to undo in the future.

Currently, other states are aggressively vying to legally and socially develop a "bitcoin friendly" state so that they will be recognized as the blockchain technology and cryptocurrency center of the nation. Many economic and social benefits could be gained from such a status. Hawaii should join that race to the top. We will have to join this race eventually anyway.

The future effects of blockchain technology is far reaching and all encompassing. It can improve and maybe even solve the many issues and problems in our State (i.e. - our economy, tourism, Rail, homelessness, government waste, etc.). It shouldn't be taken lightly. Striking a balance between all parties involved in this issue will be difficult, but I hope the interest and benefit of our private citizens will be at the forefront.

Respectfully,

Gary H. Namba

**LATE**

Testimony of Bruce Harre: HB2257- Relating to Virtual Currency, 2/22/18, 12:30 pm, Conf Rm 308, State Capitol

### **Where does Hawaii stand now?**

Forbes Best States for Business 2017. <https://www.forbes.com/best-states-for-business/list/#tab:overall>

Hawaii ranks 44<sup>th</sup> overall and we are at 46 as far as the regulatory environment.

Meanwhile, Let's look at what's going on in Texas which ranks #2 on the list.

<http://austinblockchaincollective.com>

Austin has become a magnet for blockchain technology investment:  
<https://news.crunchbase.com/news/austin-emerges-hub-crypto-blockchain-startups/>

"A prime example in Austin is Factom, a top 30 global cryptocurrency company that uses the blockchain to keep records and identities more secure. It has a valuation of around \$500 million and counts the Department of Homeland Security and the Bill and Melinda Gates Foundation among its customers".

Factom co-founder and former CTO Jack Lu moved on from the startup to create a new cryptofocused company called Wanchain in late 2016. In about one year, the startup—which originated in Asia but has headquarters in Austin—quietly executed one of 2017's largest ICOs. In the ICO for its currency, Waincoin, Wanchain raised approximately 120,000 ETH (ethereum) worth approximately \$36M.

The City of Austin won a grant from Bloomberg Philanthropies that will help city officials develop a program that uses blockchain technology to manage identifications and other records for the city's homeless population. Austin was one of 35 cities to win a \$100,000 grant for an innovative idea to improve their jurisdiction.

Austin boasts a unique combination of technological and cognitive assets, including a diversified tech ecosystem, a business-friendly environment, a socially-conscious government and excellent transport links. Less than a year ago, there were approximately a dozen blockchain companies in Austin. Today that number is more than 50 and growing. The University of Texas at Austin recently added blockchain content to its graduate programs will host a conference on April 13 2018.

Among the speakers and panelists will be:

Jim Schneider Senior Research Analyst (Goldman Sachs).

Tim Brown, vice president of IT innovation research and development at USAA.

Michele D'Alessandro (Merck & Co.).

Dave Hirsch (SEC).

Shimon Kogan of the MIT Sloan School of Management

Frank Yiannas Vice President of Food Safety (Walmart)

Kenneth Singleton Stanford University Professor of Economics, and many others.

You really can't find a major tech company today that isn't investing in or taking a serious look at the many uses of blockchain technology.

Meanwhile back in Hawaii, despite years of politicians in Hawaii campaigning on a platforms of embracing technology, fostering businesses and investment we have stuff like this bill and other roadblocks to new technology such as DCCA's regulatory advisory that has effectively shut down access to bitcoin for Hawaii businesses and individual users.

### **Coinbase is forced to shutdown in Hawaii**

May 01, 2017. "Although we strive to provide continuous access to Coinbase services in all states in the US, Coinbase must indefinitely suspend its business in Hawaii.

The Hawaii Division of Financial Institutions (DFI) has communicated regulatory policies which we believe will render continued Coinbase operations there impractical".

<https://support.coinbase.com/customer/en/portal/articles/2754027-coinbase-accounts---hawaii>

I have spoken to two people who have left the state or are planning to leave because of the hostile stance that Hawaii has taken towards blockchain technology. One of them even shut down their restaurant in Kaimuki where people were gainfully employed, customers enjoyed eating and bitcoin transactions were conducted. Jobs LOST.

By regulating out of existence certain aspects of blockchain technology and use in Hawaii because the entire technology is interwoven. By nipping blockchain investment in the bud, what you are really doing is hobbling the future of technology and investment in Hawaii. It doesn't seem to me that you have even been able to define the very thing you are trying to regulate. All you have really done this far is to quash development.

Hawaii has become the laughingstock of the country with its recent missile scare at the Hawaii Emergency Management Agency. The length of time it took to get the all clear out and sent out to all of the various network providers and the spotty delivery of the initial message is a great example of where blockchain technology might be used to increase the efficiency getting the messages out.

Before you do any more damage to emerging technologies in Hawaii I would encourage you to explore the many possible applications of blockchain technology by doing some searches for "Blockchain Uses". Here are just a few:

Medical records. Improving Government Efficiency. Preventing voter fraud. Tacking the Refugee Crisis. Creating financial avenues for the world's most impoverished people. Supply chain and logistics management...



I don't know what kind of jobs you expect there to be in Hawaii if you continue to have this hostile regulatory climate here. Sure, there is always the military, tourism and subsidized agriculture and as long as those hold out there will be construction, but where will the tech sector be?