

January 16, 2018

Chairman John B. Hunt
107 N Main Street
LOB 302
Concord, NH 03301

Re: House Bill No. 1800 (Usury)

Dear Chairman Hunt:

The Electronic Transactions Association (“ETA”) opposes House Bill 1800 because it would apply an unworkable usury cap onto commercial lending. If enacted, HB 1800 would certainly lead to a decrease in access to capital for New Hampshire small businesses.

ETA is the leading trade association for the payments industry, representing more than 500 companies worldwide involved in electronic transaction processing products and services. ETA’s membership spans the breadth of the payments industry, and includes financial institutions, payment processors, independent sales organizations, online small business lenders, and equipment suppliers. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, secure, and rewarding payment solutions.

House Bill 1800

As written, HB 1800 would create a blanket usury cap of 4% on all business transactions in which interest is paid or secured. Any interest charged above and beyond 4% would be ipso facto usury under the proposed bill carrying with it a penalty of \$10,000 payable to the state treasury by each violator. Additionally, HB 1800 removes language from the current law which allows for agreements in writing to include charges other than simple interest. It is unusual for states to have usury caps on commercial credit and HB 1800 would institute an extremely low 4% usury limit on all credit including commercial credit.

Small Business Lending

Access to credit is the lifeblood for small businesses. It is imperative to recognize the differences between consumer lending and small business lending. Commercial and consumer credit are distinctly different types of credit. A public policy approach, such as the blanket usury cap on all credit proposed by HB 1800, that would conflate the two would have detrimental effects for both online small business lenders and the small business community by limiting access to credit and available lending options. There are many differences between consumer loans and commercial loans, including: (i) how the loan proceeds are used; (ii) the different expectations of the parties and general level of sophistication of the borrower; and (iii) how commercial loans are marketed, structured, and repaid.

According to the Fiscal Note associated with HB 1800, The New Hampshire Banking Department assumes that this bill would impact the financial viability of entities chartered and licensed in New Hampshire and some may choose to stop offering credit products in New Hampshire. ETA opposes HB 1800 because it would harm small businesses in New Hampshire by denying them the access to credit that is so crucial for growth and sustainability.

ETA thanks you for the opportunity to submit comments on this important issue. If you have any additional comments, please contact me or ETA Senior Vice President of Government Affairs, Scott Talbott at Stalbott@electran.org.

Respectfully submitted,



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Cc: Members of the House Commerce and Consumers Affairs Committee