ELECTRONIC TRANSACTIONS ASSOCIATION
1620 L Street NW, Suite 1020
Washington, DC 20036
202.828.2635
electran.org

February 14, 2020

Chairman Paul Bailey
Senate Commerce and Labor Committee
425 5th Avenue North
Suite 736
Cordell Hull Bldg.
Nashville, TN 37243

Re: ETA Opposes - Money Transmitter License Changes – TN S 2166

Dear Chairman Bailey:

The Electronic Transactions Association ("ETA") appreciates the opportunity to provide comments on behalf of the payments and FinTech industry. ETA is opposed to TN S 2166. ETA encourages states to work together to harmonize requirements for money transmitters and urges all system participants including regulators, policymakers, and money transmitters to move towards a regulatory framework that can promote innovation rather than hamper it. The regulatory framework must allow for innovation and changing expectations of consumers brought on by technology while protecting consumers, providing stability of transactions, and guarding against fraud.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA's members include financial institutions, mobile payment service providers, mobile wallet providers, money transmitters, and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives.

Money Transmission

Money transmitters provide critical services for a large section of the United States population including consumers and small businesses. The services provided by money transmitters help underserved and underbanked consumers have access to financial services through a variety of products including peer-to-peer payments, bill payment services, and mobile wallets.

Technology is changing customers' expectations of financial services and companies are looking for the best way to provide those services in all 50 states. However, the current patchwork of state laws, regulations, guidance, and regulatory expectations limits innovation and provides a significant obstacle for both incumbents and new entrants into the market.

Despite many similarities of state money transmission laws, each state defines and interprets money transmission and its exemptions differently. As a result, a significant amount of time and

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money is spent by stakeholders interpreting how money transmission is defined. These costs - in the form of additional financial spend or in some cases the inability to provide certain services in some states - are ultimately borne by consumers. Uniform adoption of exemptions and definitions across 50 states can help to provide clarity for industry participants and alleviate regulatory burdens.

Control

Change of control requirements across states offer a very disparate approach to what type of investment constitutes a control event triggering the requirements for notification to regulators including a formal application or notice. For example, for the definition of control, 29 states and the District of Columbia use 25% control of outstanding voting shares of an entity as the trigger for control, while, 11 other states use 10%. Nevada, Utah, and New York use 20%, Arizona uses 15%, and Hawaii uses 35%.[1] The reality of the current disparate landscape serves as a regulatory hurdle not built for the modern marketplace where startup payment companies often and predictably take on outside investment several times in their early years. These are positive actions with which the state of the segmented regulatory landscape makes expensive and time consuming to comply.

One instance of the requirements which are particularly onerous for licensees is the fingerprinting requirements required by this bill. Regardless of whether a person has limited or no contact with Tennessee, if the company requires licensure in Tennessee, then all control persons subject to biographical requirements must comply. Control persons, including those with only an investment interest must physically appear to fulfill this requirement, creating a significant burden for investment including time, travel, and cost. To help alleviate this burden, universally accepted fingerprinting done through a central depository like the CSBS's Nationwide Mortgage Licensing System and Registry ("NMLS") could provide a mechanism to lower the barrier to entry for investment in money transmission companies.

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We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any issues, please contact me or ETA Senior Vice President, Scott Talbott at Stalbott@electran.org.

Respectfully submitted,

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[1] Those 25% states include: Alabama, Alaska, Arkansas, California, Colorado, D.C., Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, and Wyoming. 10% states include: Connecticut, Georgia, Mississippi, Minnesota, Nebraska, New Hampshire, Maryland, North Carolina, Rhode Island, Wisconsin, West Virginia (which may also require a spouse).

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PJ Hoffman,
Director of Regulatory Affairs
Electronic Transactions Association
(202) 677-7417
PJHoffman@electran.org