

- Good morning Mr. Chairman members of the Committee
- For the record Chris D'Elia, President of the VT Bankers Association
- As with any legislation that is of interest to the industry, I sent this out to our membership and received several responses, which I will summarize for you
- But first let me say welcome to the world of the payment systems, a world that is complex and changing dramatically
- There are six significant players in the payment processing system
- Player one
 - Acquirers: bank or financial institution that processes credit or debit card payments on behalf of a merchant. The acquirer allows merchants to accept credit/debit card payments from card-issuing banks
- Player two
 - Payment processors: a company, often a third party appointed by the merchant to handle transactions from various channels such as credit cards and debit cards
 - Processor analyzes and transmits transaction data
 - Vantiv, First Data, Heartland, Fiserv, Elavon, Worldpay, Adyen, Cielo to name a few
- Player three
 - Issuers: financial institutions that issue credit cards and debit cards
 - Chase, Capital One, American Express, UsBank, Citibank, even some of my members either directly or through a third party
 - Also keep in mind affinity cards issued by financial institutions for some entity or store
- Player four
 - Card networks
 - Visa, Mastercard, Discover, American Express, others
- Player five
 - Gateways: merchant services provided by an e-commerce application service provider that authorizes credit card or direct payments processing for e-businesses, online retailers, traditional bricks and mortar
 - Authorize the transfer of funds between the merchant and the customer
 - Paypal, Square, Worldpay, Stripe, Bluepay, etc
- Player six
 - Independent sales organizations ISOs: the payment card industry defines an ISO as an organization or individual that is not an association member (meaning not a Visa or Mastercard member bank), but which has a bank card relationship with an association member. Such relationships involve various things as acquiring or issuing functions, soliciting new customers, arranging for terminal purchases or leases, providing customer service
 - NorthAmerican Bancard, Paywire, Everlink, Versapay, Pivotal Payments

- When you look at the total payment system, there are hundreds if not thousands of entities in the payments processing chain that engage with merchants to help ensure they are able to accept electronic payments
- The market is very competitive, merchants have numerous sales channels for equipment and processing services
- I won't disagree it is overwhelming, but many of these players including the banks are not the problem
- I think you are trying to go after some of those bad actors that come in and say they have a great deal for you
- Let's keep in mind these are business to business transactions when it comes to credit card processing, so all parties bear some responsibility for understanding what they are doing and signing up for
- In the case of my members, some of the smaller banks do not offer merchant services, but they are still part of the system because they have small business accounts
- Some of the medium sized or large banks do offer merchant services either directly or through a third party
- I did not find one that was leasing equipment, they either sell or rent
- Banks often stay involved because they want to maintain that direct customer relationship
- The banks have a vested interest in that relationship because it is their customer, they want what is best for the customer
- The merchant providers that work with banks already abide by what is being discussed in the bill
- For the banks, the disclosures are clear, and the customer has the necessary information to make an informed decision
- So again, focus on the bad actors, because as written this bill could have unintended consequences for a small Vermont market
- Let me address the bill
- Just because you are leasing equipment doesn't mean it is a bad deal. There are hundreds of different point of sale configuration options for merchants and variations in discount pricing are available. A merchant could have a small lease amount and pay a higher transaction fee and vice versa. It really depends on the needs of the merchant
- We oppose the bill's requirement that lease agreements include a cap on the amount a merchant will pay based on the purchase price or manufacturing cost of the equipment
- This provision is problematic because lease pricing is not solely based on the cost of the hardware
- Other services include set-up, certification, software loads, encryption installation, customer service, replacement of broken equipment and technology upgrades
- We believe it also sets a bad precedent for business transactions in Vermont
- Are we asking car dealers, appliance dealers, or other industries to disclose their pricing and only be entitled to the manufacturing costs, what about other development and overhead costs
- We should not be legislating profit margins

- Understanding who you are working with is important and should be clear, but keep in mind some of what you are asking for in section 1 (b)(1) may not be known by the person who solicits a lease
- The merchant makes the decision who they want to work with, if I am leasing the equipment to them I may not know some of the other parties involved
- The leasing company would have information on the sales channel from which it procures the lease, but would not have all the additional information on all of the companies the merchant deals with related to its systems
- If you are looking for disclosure regarding the main point of contact pertaining to the lease agreement and equipment, that seems reasonable, but I understand it already exists today as well as other disclosures
- Concerning the record keeping, while keeping records itself is not a problem for copies of the lease and acquisitions cost of the lease, what are we trying to accomplish with the other information being asked for and why four years
- Regarding the judicial forum, this would seem to be a significant change to existing contract law. It would also require state specific contracting processes, which will entail a great deal of resources for compliance and legal support
- Can you imagine trying to comply with fifty different states laws regarding credit card equipment leasing
- Vermont is not a large enough market for some of those to make the changes, they will walk away from the few hundred clients they may have
- Under the violations section, I find it hard to believe merchants do not have remedies today to deal with bad actors given these transactions are already covered by the UCC statutes, why do we have to create a specific violation
- Do not support rulemaking authority, if the Attorney General doesn't get what they want in the bill, pursue it in the rules, the process is not as transparent or open as the legislative process
- Do not support the bill as currently drafted