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March 2, 2018

E-MAIL

The Honorable Michael Sirotkin
Chair, Senate Committee on Economic Development,
Housing and General Affairs
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: Comment Letter of CompTIA; eta; NetChoice; TechNet on S.269 dated February 28, 2018 (the "Comment Letter")

Dear Chair Sirotkin:

This letter is intended to address the concerns raised by the above-referenced trade associations in the Comment Letter with respect to S.269. This letter reflects my views as a member of the Vermont Bar Association ("VBA") committee involved with the drafting of that legislation.

The comments in the Comment Letter have already been addressed through changes made to the version of S.269 as initially introduced. Each substantive comment in the Comment Letter is listed below along with a description of the relevant change to S.269.

1. The definition of "personal identity" is too broadly crafted.

That definition has been deleted from the revised bill.

2. This definition when combined with the requirements of the bill are so broad that it would turn every "girl scout collecting cookie orders" into a "personal trust company" required to obtain a certificate from the state.

The bill has been revised to only apply to persons holding personal information "under a trust relationship." We support the following revisions to Section 2453(b) to clarify that a person simply dealing with personal identity information would not be required to obtain a certificate of authority from the Department as a personal identity trust company:

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(b) A person shall not engage in ~~business as a~~ personal information trust ~~business~~ company in this State without first obtaining a certificate of authority from the Department.

The above language relies on the existing definition of “personal information trust business” in Section 2451 of the revised bill, which means “holding out by a person to the public by advertising, solicitation, or other means that the person is available to hold personal information in trust as a fiduciary.”

3. The statute allows the Department of Financial Regulation to impose annual fees on “personal identity trust companies”.

As discussed above, the definition of these companies should be narrowed to encompass only companies dealing with personal information under a trust relationship and engaging in personal information trust business. It is anticipated that these companies would qualify as trust companies under the statute and be regulated by the Department of Financial Regulation. However, we also understand that the provision with respect to charging fees by the Department of Financial Regulation may be deleted from the statute because of potential infringement on the authority of the General Assembly to set fees.

I hope that this letter adequately addresses the concerns set forth in the Comment Letter. The VBA committee would be happy to work with the authors of the Comment Letter or other parties to address any other issues related to S.269.

Very truly yours,

GRAVEL & SHEA PC



Peter S. Erly

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