

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 208

5 By: Senator Maloch
6 By: Representative Shepherd
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE BANK COMMISSIONER TO CONDUCT
10 EXAMINATIONS OF TECHNOLOGY SERVICE PROVIDERS; TO
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AUTHORIZE THE BANK COMMISSIONER TO
16 CONDUCT EXAMINATIONS OF TECHNOLOGY
17 SERVICE PROVIDERS; AND TO DECLARE AN
18 EMERGENCY.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 23, Chapter 46, is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 6 – Examination of Technology Service Providers Act
26

27 23-46-601. Title.

28 This subchapter shall be known and may be cited as the "Examination of
29 Technology Service Providers Act".
30

31 23-46-602. Definitions.

32 As used in this subchapter:

33 (1) "Bank supervisory agency" means the same as defined in § 23-
34 45-102;

35 (2)(A) "Covered service" means a service provided by a
36 technology service provider to a depository institution.



(B) "Covered service" includes:

(i) Data processing services;

(ii) Activities that support financial services, including without limitation lending, funds transfer, fiduciary activities, trading activities, and deposit-taking;

(iii) Internet-related services, including without limitation web services, electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring; and

(iv) Activities related to the business of banking;

(3) "Depository institution" means an entity or financial institution as defined in § 23-45-102(a)(19) or § 23-45-102(a)(21), including any subsidiary or affiliate of the depository institution that is subject to examination by the Bank Commissioner; and

(4) "Technology service provider" means a person, company, corporation, or other legal entity that provides a covered service.

23-46-603. Technology service providers subject to examination by Bank Commissioner.

When a depository institution receives a covered service, by contract or otherwise, the technology service provider that provided the covered service to the depository institution is subject to examination by the Bank Commissioner to the same extent as if the covered service was performed by the depository institution itself.

23-46-604. Authorization for agreements with bank supervisory agencies regarding use of examiners.

The Bank Commissioner may enter into agreements with any bank supervisory agency that has jurisdiction over a technology service provider to:

(1) Engage the services of the bank supervisory agency's examiners at a reasonable rate of compensation; or

(2) Provide the services of the State Bank Department's examiners to the bank supervisory agency at a reasonable rate of compensation.

23-46-605. Authorization for joint examinations or joint enforcement

1 actions with bank supervisory agencies.

2 The Bank Commissioner may enter into joint examinations or joint
3 enforcement actions with a bank supervisory agency having jurisdiction over a
4 technology service provider.

5
6 23-46-606. Acceptance of examinations from bank supervisory agency.

7 The Bank Commissioner may accept an examination that is conducted by a
8 bank supervisory agency that has jurisdiction over a technology service
9 provider as a substitution for an examination under this subchapter.

10
11 23-46-607. Enforcement – Rules.

12 The Bank Commissioner may by rule:

13 (1) Adopt additional procedures to implement this subchapter;
14 and

15 (2) Impose sanctions under § 23-46-205 for violations of this
16 subchapter by a technology service provider if the commissioner considers the
17 enforcement action to be necessary or appropriate to enforce this subchapter
18 and ensure compliance with the laws of this state.

19
20 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that the connections between banks
22 and technology service providers create unknown risks to the financial system
23 as banks are increasingly reliant on third parties to provide everyday
24 services or enable access to key banking functions; that because of the vital
25 role technology service providers play in the safety and soundness of banks
26 and the stability of the financial system, it is imperative for bank
27 supervisory agencies to examine technology service providers because a
28 significant disruption affecting a single technology service provider could
29 have an adverse impact on a large number of banks; and that this act is
30 immediately necessary because it provides the requisite legal authority for
31 bank supervisory agencies to examine technology service providers that
32 provide covered services to banks. Therefore, an emergency is declared to
33 exist, and this act being immediately necessary for the preservation of the
34 public peace, health, and safety shall become effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36