

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S2/6/17 S2/13/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

SENATE BILL 208

4

5 By: Senator Maloch

6 By: Representative Shepherd

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## 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.

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## Subtitle

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

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

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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

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27 23-46-601. Title.

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

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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 in this state to the



1 extent that the service is designed and marketed specifically for use by  
2 depository institutions or other financial institutions to provide financial  
3 services to their customers.

4 (B) "Covered service" includes:

5 (i) Data processing services;

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

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

12 (iv) Activities related to the business of banking;

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

17 (4) "Internet service provider" means any provider that provides  
18 a subscriber with access to the internet; and

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

21 (B) "Technology service provider" does not mean an  
22 internet service provider or a general audience internet platform used for  
23 advertising.

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25 23-46-603. Technology service providers subject to examination by Bank  
26 Commissioner.

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

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33 23-46-604. Authorization for agreements with bank supervisory agencies  
34 regarding use of examiners.

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

1 to:

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

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

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8 23-46-605. Authorization for joint examinations or joint enforcement  
9 actions with bank supervisory agencies.

10 The Bank Commissioner may enter into joint examinations or joint  
11 enforcement actions with a bank supervisory agency having jurisdiction over a  
12 technology service provider.

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14 23-46-606. Acceptance of examinations from bank supervisory agency.

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

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19 23-46-607. Enforcement – Rules.

20 The Bank Commissioner may by rule:

21 (1) Adopt additional procedures to implement this subchapter;

22 and

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

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28 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
29 General Assembly of the State of Arkansas that the connections between banks  
30 and technology service providers create unknown risks to the financial system  
31 as banks are increasingly reliant on third parties to provide everyday  
32 services or enable access to key banking functions; that because of the vital  
33 role technology service providers play in the safety and soundness of banks  
34 and the stability of the financial system, it is imperative for bank  
35 supervisory agencies to examine technology service providers because a  
36 significant disruption affecting a single technology service provider could

1 have an adverse impact on a large number of banks; and that this act is  
2 immediately necessary because it provides the requisite legal authority for  
3 bank supervisory agencies to examine technology service providers that  
4 provide covered services to banks. Therefore, an emergency is declared to  
5 exist, and this act being immediately necessary for the preservation of the  
6 public peace, health, and safety shall become effective on:

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

8 (2) If the bill is neither approved nor vetoed by the Governor,  
9 the expiration of the period of time during which the Governor may veto the  
10 bill; or

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

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14 */s/Maloch*  
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