

1 HB417
2 192649-5
3 By Representative Blackshear
4 RFD: Financial Services
5 First Read: 15-FEB-18



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ENROLLED, An Act,

To establish the Examination of Bank Service Providers Act; to authorize the Superintendent of Banks, through examiners appointed by the superintendent, to examine service providers that provide services to certain banks, subject to supervision and inspection by the superintendent.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The existing provisions of Chapter 3A, consisting of Sections 5-3A-1 to 5-3A-17, inclusive, of Title 5, Code of Alabama 1975, are designated as Article 1 of Chapter 3A of Title 5, Code of Alabama 1975.

Section 2. Article 2, commencing with Section 5-3A-30, of Chapter 3A, Title 5, is added to the Code of Alabama 1975, to read as follows:

Article 2.

§5-3A-30.

This article shall be known and may be cited as the Examination of Bank Service Providers Act.

§5-3A-31.

The Legislature finds and declares that the connections between banks and service providers create risks to the financial system, as banks are increasingly reliant on third parties to provide or enable key banking functions and other services. Because of the role service providers have in

1 the safety and soundness of banks and the stability of the
2 financial system, the Legislature finds that it is necessary
3 for banking agencies to have authority to examine service
4 providers. The purpose of this article is to authorize the
5 Superintendent of Banks, through examiners appointed by the
6 superintendent, to examine service providers that provide
7 services to banks, other than national banks, subject to
8 supervision and inspection by the superintendent.

9 §5-3A-32.

10 For the purposes of this article, the following
11 terms shall have the following meanings:

12 (1) SERVICE PROVIDER. Any person, company,
13 corporation, or other legal entity that provides a covered
14 service listed in Section 5-3A-33 to a serviced bank.

15 (2) SERVICED BANK. Every bank, bank holding company,
16 bank service company, or any subsidiary or affiliate of a bank
17 that is subject to the supervision of the superintendent
18 pursuant to Section 5-3A-1, and for which covered services are
19 performed by a service provider.

20 §5-3A-33.

21 (a) Whenever a serviced bank causes to be performed
22 for itself, by contract or otherwise, any of the covered
23 services listed in this section, the performance, condition,
24 and affairs of the service provider are subject to regulation
25 and examination to the same extent as if the services were

1 being performed by the serviced bank itself when deemed
2 necessary by the superintendent to ensure the safe and sound
3 operation of a serviced bank or serviced banks or to respond
4 to a danger, or potential danger, to the public welfare.

5 (b) For the purposes of this section, covered
6 services include all of the following:

7 (1) Data processing services.

8 (2) Activities that support financial services
9 including, but not limited to, lending, funds transfer,
10 fiduciary activities, trading activities, and deposit taking.

11 (3) Internet related services including, but not
12 limited to, web services and electronic bill payments, mobile
13 applications, system and software development and maintenance,
14 and security monitoring.

15 (c) For the purposes of this section, covered
16 services do not include the following:

17 (1) Provision to a serviced bank of an interactive
18 computer service or a general audience Internet or
19 communications platform, except to the extent that the service
20 or platform is specially designed or adapted for the business
21 of banking and activities relating to the business of banking.

22 (2) When performed by attorneys who are not
23 employees of the serviced bank, legal services the provision
24 of which is conditioned by law on the existence and

1 maintenance of a professional license to practice law by the
2 attorney providing the legal services.

3 (d) In order to promote regulatory efficiency, in
4 the event that a service provider has been examined by another
5 state or federal financial services regulatory agency or by a
6 member of the Federal Financial Institution Examinations
7 Council (FFIEC), or any successor entity, in the immediately
8 preceding 24 months, the superintendent may accept the results
9 of the examination in lieu of conducting his or her own
10 examination. Nothing in this article shall be construed as
11 limiting or otherwise restricting the superintendent from
12 participating in any examination by any other state or federal
13 agency or a member of the FFIEC.

14 §5-3A-34.

15 Examination reports of service providers created or
16 obtained by the superintendent or State Banking Department are
17 confidential subject to Sections 5-3A-3 and 5-3A-11. The
18 superintendent may furnish a copy, or portions thereof, of a
19 report of any examination performed by the superintendent of
20 the performance, condition, and affairs of any service
21 provider and any other information obtained through
22 examination of the service provider to entities as provided in
23 Section 5-3A-3, including the board of directors of the
24 serviced bank, under the same terms and with the same
25 limitations as set forth for other examination reports, data,

1 and information under Section 5-3A-3. Additionally, the
 2 superintendent may furnish copies of his or her reports of
 3 examination, and any other information obtained through
 4 examination of the service provider, to the FFIEC, and to the
 5 board of directors of the service provider, under the same
 6 terms and with the same limitations as provided in Section
 7 5-3A-3.

8 §5-3A-35.

9 (a) The superintendent may enter into agreements,
 10 which shall be deemed sole source, one vendor, and one
 11 supplier contracts under the procurement laws of this state
 12 and shall be exempt from competitive and other bid
 13 requirements, with any bank supervisory agency that has
 14 concurrent jurisdiction over a service provider to do either
 15 of the following:

16 (1) Engage the services of the examiners of any bank
 17 supervisory agency at a reasonable rate of compensation.

18 (2) Provide the services of the examiners of the
 19 State Banking Department to any bank supervisory agency at a
 20 reasonable rate of compensation.

21 (b) The superintendent may enter into corrective
 22 agreements with a service provider or may issue corrective
 23 orders to a service provider if the superintendent determines
 24 the actions are necessary to ensure the safe and sound

1 operation of a serviced bank or serviced banks or to respond
2 to a danger, or potential danger, to the public welfare.

3 (c) The superintendent may enter into joint
4 examinations or joint enforcement actions with other bank
5 supervisory agencies having concurrent jurisdiction over a
6 service provider.

7 Section 3. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.

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Mac McClatchey

Speaker of the House of Representatives

Dale Mahan

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 15-MAR-18, as amended.

Jeff Woodard
Clerk

Senate

27-MAR-18

Passed

APPROVED

4/3/18

TIME

5:00pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-500
Bill Num...: H-417