

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

As Engrossed: S2/6/17
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
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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.



1 (B) "Covered service" includes:

2 (i) Data processing services;

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

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

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

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

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

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

18 (B) "Technology service provider" does not mean an
19 internet service provider.

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21 23-46-603. Technology service providers subject to examination by Bank
22 Commissioner.

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

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29 23-46-604. Authorization for agreements with bank supervisory agencies
30 regarding use of examiners.

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

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

36 (2) Provide the services of the State Bank Department's

1 examiners to the bank supervisory agency at a reasonable rate of
2 compensation.

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4 23-46-605. Authorization for joint examinations or joint enforcement
5 actions with bank supervisory agencies.

6 The Bank Commissioner may enter into joint examinations or joint
7 enforcement actions with a bank supervisory agency having jurisdiction over a
8 technology service provider.

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10 23-46-606. Acceptance of examinations from bank supervisory agency.

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

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15 23-46-607. Enforcement – Rules.

16 The Bank Commissioner may by rule:

17 (1) Adopt additional procedures to implement this subchapter;
18 and

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

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

1 exist, and this act being immediately necessary for the preservation of the
2 public peace, health, and safety shall become effective on:

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

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

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

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