

1 State of Arkansas *As Engrossed: S2/6/17 S2/13/17 S3/8/17*

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 to provide financial services to their customers.

3 (B) "Covered service" includes:

4 (i) Data processing services;

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

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

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

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

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

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

20 (B) "Technology service provider" does not mean:

21 (i) An internet service provider or a general
22 audience internet platform;

23 (ii) A person, company, corporation, or other legal
24 entity licensed under the Uniform Money Services Act, § 23-55-101 et seq.; or

25 (iii) An authorized delegate of a licensee under the
26 Uniform Money Services Act, § 23-55-101 et seq.

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28 23-46-603. Technology service providers subject to examination by Bank
29 Commissioner.

30 When a depository institution receives a covered service, by contract
31 or otherwise, the performance of that service by a technology service
32 provider to the depository institution is subject to examination by the Bank
33 Commissioner to the same extent as if the covered service was performed by
34 the depository institution itself.

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36 23-46-604. Authorization for agreements with bank supervisory agencies

1 regarding use of examiners.

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

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

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

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11 23-46-605. Authorization for joint examinations or joint enforcement
12 actions with bank supervisory agencies.

13 The Bank Commissioner may enter into joint examinations or joint
14 enforcement actions with a bank supervisory agency having jurisdiction over a
15 technology service provider.

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17 23-46-606. Acceptance of examinations from bank supervisory agency.

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

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22 23-46-607. Enforcement – Rules.

23 The Bank Commissioner may by rule:

24 (1) Adopt additional procedures to implement this subchapter;
25 and

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

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31 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that the connections between banks
33 and technology service providers create unknown risks to the financial system
34 as banks are increasingly reliant on third parties to provide everyday
35 services or enable access to key banking functions; that because of the vital
36 role technology service providers play in the safety and soundness of banks

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

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

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

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

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17 */s/Maloch*

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20 **APPROVED: 03/24/2017**