

2018 Regular Session

SENATE BILL NO. 334

BY SENATOR MARTINY

FINANCIAL INSTITUTIONS. Provides relative to examination of service providers to Louisiana state-chartered financial institutions. (8/1/18)

1 AN ACT

2 To enact Part VI of Chapter 6 of Title 6 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 6:550 through 550.6, relative to service providers; to provide for
4 definitions; to provide for the regulation and examination of service providers; to
5 provide for duties of the commissioner of the office of financial institutions; to
6 provide for immunity; to provide for terms, procedures, and conditions; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part VI of Chapter 6 of Title 6 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 6:550 through 550.6, is hereby enacted to read as follows:

11 **PART VI. SERVICE PROVIDERS**

12 **§550. Definitions**

13 **The following definitions shall apply for purposes of this Part:**

14 **(1) "Affiliate" means any person that controls, is controlled by, or under**
15 **common control with another person.**

16 **(2) "Control" means the power or authority, whether exercised directly**
17 **or indirectly, to direct or cause the direction of management or policies of**

1 another person by contract or otherwise.

2 (3) "Person" means any natural or juridical person.

3 (4) "Service provider" means any person who provides a service listed
4 in R.S. 6:550.

5 §550.1. Examination of service providers

6 A. A service provider who agrees to perform any of the services listed
7 in Subsection B of this Section for a state-chartered financial institution, or any
8 affiliate of the state-chartered financial institution, that is subject to
9 examination by the commissioner shall be subject to the regulation and
10 examination by the commissioner to the same extent as if the services were
11 being performed by the financial institution itself.

12 B. Covered services include:

13 (1) Data processing services.

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

17 (3) Internet-related services including but not limited to web services
18 and electronic bill payments, mobile application, system and software
19 development and maintenance, and security monitoring.

20 (4) Activities related to the business of banking.

21 §550.2. Acceptance of examinations from other agencies

22 The commissioner may accept an examination performed by one or more
23 other state or federal agencies in lieu of an examination authorized or required
24 by law.

25 §550.3. Confidentiality of service provider records

26 A. All service provider examination records and reports shall be kept
27 strictly confidential and subject to the same disclosure requirements as the
28 state-chartered financial institution for which they perform services.

29 B. Notwithstanding any other provision of law to the contrary, there

1 shall be no liability on the part of, and no cause of action against, the office of
2 financial institutions or its agents or employees for the following:

3 (1) Any good faith release or disclosure of information.

4 (2) Statements made in good faith in any administrative hearings.

5 (3) Statements made in good faith in any report or communication
6 concerning safety, soundness, or other regulatory issues.

7 (4) The supervision and regulation of all entities under the jurisdiction
8 of the office of financial institutions.

9 §550.4. Agreement with regulatory agencies

10 The commissioner may enter into agreements with any financial
11 institution regulatory agency that has concurrent jurisdiction over a service
12 provider to do either of the following:

13 (1) Engage the services of the agency's examiners at a reasonable rate
14 of compensation.

15 (2) Provide the services of state examiners to the other agency at a
16 reasonable rate of compensation.

17 §550.5. Enforcement powers of the commissioner

18 A. The commissioner may take actions against service providers for
19 violations of this Part, any rule, or any order issued by the commissioner, if he
20 considers the action to be appropriate to carry out his duties and
21 responsibilities. A decision shall be issued pursuant to the provisions of R.S.
22 6:132, and review of such decision is subject to the provisions of Part III of
23 Chapter 2 of this Title.

24 B. The commissioner shall have the power to subpoena any person for
25 the purpose of discovering a violation of this Part.

26 C. The commissioner may enter into joint examinations, joint
27 enforcement actions, or consent agreements with other financial institution
28 regulatory agencies having concurrent jurisdiction over a service provider.

29 §550.6. Rulemaking

1 The commissioner may adopt rules in accordance with the
2 Administrative Procedure Act to implement the provisions of this Part.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

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Proposed law provides for the regulation and examination of service providers.

Proposed law defines:

- (1) "Affiliate" to mean any person that controls, is controlled by, or under common control with another person.
- (2) "Control" to mean the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management or policies of another person by contract or otherwise.
- (3) "Person" to mean any natural or juridical person.
- (4) "Service provider" to mean any person that provides certain services.

Proposed law provides that a service provider who agrees to perform certain services for a state-chartered financial institution, or any affiliate of the state-chartered financial institution, that is subject to examination by the commissioner shall be subject to the regulation and examination by the commissioner to the same extent as if the services were being performed by the financial institution itself.

Proposed law provides that a covered service shall include:

- (1) Data processing services.
- (2) Activities that support financial services.
- (3) Internet-related services.
- (4) Activities related to the business of banking.

Proposed law authorizes the commissioner to accept an examination performed by one or more other state or federal agencies in lieu of an examination authorized or required by law.

Proposed law provides for confidentiality of service provider examination records and reports.

Proposed law provides that there shall be no liability on the part of, and no cause of action against, the office of financial institutions or its agents or employees for the following:

- (1) Any good faith release or disclosure of information.
- (2) Statements made in good faith in any administrative hearings.
- (3) Statements made in good faith in any report or communication concerning safety, soundness, or other regulatory issues.

- (4) The supervision and regulation of all entities under the jurisdiction of the office of financial institutions.

Proposed law allows that the commissioner may enter into agreements with any financial institution regulatory agency that has concurrent jurisdiction over a service provider to do either of the following:

- (1) Engage the services of the agency's examiners at a reasonable rate of compensation.
- (2) Provide the services of state examiners to the other agency at a reasonable rate of compensation.

Proposed law provides that the commissioner may take actions against a service provider who violates proposed law, any rule, or any order issued by the commissioner.

Proposed law authorizes the commissioner to subpoena any person for the purpose of discovering a violation.

Proposed law provides that the commissioner may enter into joint examinations, joint enforcement action, or consent agreements with other financial institution regulatory agencies having concurrent jurisdiction over a service provider.

Proposed law authorizes the commissioner to adopt rules to implement proposed law.

Effective August 1, 2018.

(Adds R.S. 6:550-550.6)