

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

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. The existing provisions of Chapter 3A,  
15 consisting of Sections 5-3A-1 to 5-3A-17, inclusive, of Title  
16 5, Code of Alabama 1975, are designated as Article 1 of  
17 Chapter 3A of Title 5, Code of Alabama 1975.

18 Section 2. Article 2, commencing with Section  
19 5-3A-30, of Chapter 3A, Title 5, is added to the Code of  
20 Alabama 1975, to read as follows:

21 Article 2.

22 §5-3A-30.

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

25 §5-3A-31.

26 The Legislature finds and declares that the  
27 connections between banks and service providers create risks

1 to the financial system, as banks are increasingly reliant on  
2 third parties to provide or enable key banking functions and  
3 other services. Because of the role service providers have in  
4 the safety and soundness of banks and the stability of the  
5 financial system, the Legislature finds that it is necessary  
6 for banking agencies to have authority to examine service  
7 providers. The purpose of this article is to authorize the  
8 Superintendent of Banks, through examiners appointed by the  
9 superintendent, to examine service providers that provide  
10 services to banks, other than national banks, subject to  
11 supervision and inspection by the superintendent.

12 §5-3A-32.

13 For the purposes of this article, the following  
14 terms shall have the following meanings:

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

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

23 §5-3A-33.

24 (a) Whenever a serviced bank causes to be performed  
25 for itself, by contract or otherwise, any of the covered  
26 services listed in this section, the performance, condition,  
27 and affairs of the service provider are subject to regulation

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

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

8 (1) Data processing services.

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

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

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

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

23 (2) When performed by attorneys who are not  
24 employees of the serviced bank, legal services the provision  
25 of which is conditioned by law on the existence and  
26 maintenance of a professional license to practice law by the  
27 attorney providing the legal services.

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

12 §5-3A-34.

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

1 board of directors of the service provider, under the same  
2 terms and with the same limitations as provided in Section  
3 5-3A-3.

4 §5-3A-35.

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

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

14 (2) Provide the services of the examiners of the  
15 State Banking Department to any bank supervisory agency at a  
16 reasonable rate of compensation.

17 (b) The superintendent may enter into corrective  
18 agreements with a service provider or may issue corrective  
19 orders to a service provider if the superintendent determines  
20 the actions are necessary to ensure the safe and sound  
21 operation of a serviced bank or serviced banks or to respond  
22 to a danger, or potential danger, to the public welfare.

23 (c) The superintendent may enter into joint  
24 examinations or joint enforcement actions with other bank  
25 supervisory agencies having concurrent jurisdiction over a  
26 service provider.

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

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... 15-FEB-18

Read for the second time and placed  
on the calendar with 1 substitute  
and..... 08-MAR-18

Read for the third time and passed  
as amended..... 15-MAR-18

Yeas 88, Nays 7, Abstains 1

Jeff Woodard  
Clerk