HB417
192649-5
By Representative Blackshear
RFD: Financial Services
First Read: 15-FEB-18
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
the safety and soundness of banks and the stability of the
financial system, the Legislature finds that it is necessary
for banking agencies to have authority to examine service
providers. The purpose of this article is to authorize the
Superintendent of Banks, through examiners appointed by the
superintendent, to examine service providers that provide
services to banks, other than national banks, subject to
supervision and inspection by the superintendent.

§5-3A-32.

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

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

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

§5-3A-33.

(a) Whenever a serviced bank causes to be performed
for itself, by contract or otherwise, any of the covered
services listed in this section, the performance, condition,
and affairs of the service provider are subject to regulation
and examination to the same extent as if the services were
being performed by the serviced bank itself when deemed
necessary by the superintendent to ensure the safe and sound
operation of a serviced bank or serviced banks or to respond
to a danger, or potential danger, to the public welfare.

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

(1) Data processing services.

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

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

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

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

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

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

§5-3A-34.

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

§5-3A-35.

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

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

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

(b) The superintendent may enter into corrective
agreements with a service provider or may issue corrective
orders to a service provider if the superintendent determines
the actions are necessary to ensure the safe and sound
operation of a serviced bank or serviced banks or to respond
to a danger, or potential danger, to the public welfare.
(c) The superintendent may enter into joint
examinations or joint enforcement actions with other bank
supervisory agencies having concurrent jurisdiction over a
service provider.
Section 3. This act shall become effective
immediately following its passage and approval by the
Governor, or its otherwise becoming law.
HB417

Speaker of the House of Representatives

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
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