

# ACT 2013 - 352

1 HB529  
2 151113-2  
3 By Representative Hill  
4 RFD: Financial Services  
5 First Read: 02-APR-13



1  
2 ENROLLED, An Act,

3           Relating to banks and banking; to amend Sections  
4 5-2A-8, 5-3A-1, 5-3A-3, and 5-3A-11, Code of Alabama 1975,  
5 relating to the regulation of state banks and state bank  
6 holding companies and certain other forms of banking related  
7 entities by the State Banking Department; to further provide  
8 for the examination of the banks, bank holding companies, or  
9 bank-related entities by the department; and to further  
10 specify the forms of other bank related entities.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12           Section 1. Sections 5-2A-8, 5-3A-1, 5-3A-3, and  
13 5-3A-11, Code of Alabama 1975, are amended to read as follows:

14           "§5-2A-8.

15           "The superintendent may, with the concurrence of a  
16 majority of the members of the State Banking Board or as  
17 otherwise provided in this title, promulgate such reasonable  
18 regulations, consistent with the laws of this state, as may be  
19 necessary to carry out the provisions ~~of Chapters 1A through~~  
20 ~~13B and Chapter 20~~ of this title over which the State Banking  
21 Department has jurisdiction. The superintendent shall, in  
22 addition, issue written interpretations of banking laws and  
23 regulations. Any bank or bank holding company and any officer  
24 or director thereof relying on any regulation or  
25 interpretation shall be fully protected even though the same

1 company, and every subsidiary or other affiliate or bank  
2 service company as defined pursuant to 12 U.S.C. §§1861-1867  
3 of the bank or bank holding company, except a national bank or  
4 a subsidiary or other affiliate of a national bank, whenever,  
5 in the judgment of the superintendent, the management and  
6 condition of the bank, bank holding company, or ~~affiliate~~ the  
7 affiliates or bank service companies of either renders render  
8 an examination of ~~its~~ the affairs of any of these entities  
9 necessary or expedient, or whenever, ~~in the opinion of the~~  
10 ~~superintendent, the interest of the public demands an~~  
11 ~~examination~~ the superintendent has reason to believe that a  
12 bank, bank holding company, or an affiliate or bank service  
13 company of either is not being operated in compliance with the  
14 laws of this state or in accordance with safe and sound  
15 banking practices.

16 "(c) The term "affiliate" shall include any  
17 corporation, business trust, association, or other ~~similar~~  
18 entity or organization under any of the following conditions:

19 "(1) When a bank or a bank holding company, directly  
20 or indirectly, owns or controls either a majority of the  
21 voting shares or more than 50 percent of the number of shares  
22 voted for the election of ~~its~~ the organization's directors,  
23 trustees, or other persons exercising similar functions at the  
24 preceding election, or controls in any manner the election of

1 a majority of ~~its~~ the organization's directors, trustees, or  
2 other persons exercising similar functions.

3 "(2) When control of a bank or bank holding company  
4 is held, directly or indirectly, through stock ownership or in  
5 any other manner, by the shareholders of a bank or bank  
6 holding company who own or control either a majority of the  
7 shares of the bank or bank holding company or more than 50  
8 percent of the number of shares voted for the election of  
9 directors of the bank or bank holding company at the preceding  
10 election, or by trustees for the benefit of the shareholders  
11 of the bank or bank holding company.

12 "(3) When a majority of the directors of the bank or  
13 bank holding company comprise a majority of the directors,  
14 trustees, or other persons exercising similar functions of the  
15 organization.

16 "(4) When the organization owns or controls,  
17 directly or indirectly, either a majority of the shares of  
18 capital stock of a bank or bank holding company or more than  
19 50 percent of the number of shares voted for the election of  
20 directors of a bank or bank holding company at the preceding  
21 election, or controls in any manner the election of a majority  
22 of the directors of a bank or bank holding company at the  
23 preceding election, or controls in any manner the election of  
24 a majority of the directors of a bank or bank holding company,  
25 or for the benefit of whose shareholders or members all or

1 substantially all the capital stock of a bank or bank holding  
2 company is held by trustees.

3 "§5-3A-3.

4 "(a) Neither the superintendent, any member of the  
5 Banking Board, nor any bank examiner or other state employee  
6 shall disclose the condition and affairs of any bank or bank  
7 holding company, or their subsidiaries or other affiliates,  
8 ascertained by an examination of such bank, or bank holding  
9 company, or affiliates, or report or give information as to  
10 persons who are depositors or debtors of a bank, except as  
11 authorized or required by law; provided, that this section  
12 shall not be construed to prevent bank examiners and other  
13 employees from reporting such information to the  
14 superintendent or such persons as the superintendent may  
15 lawfully designate.

16 "(b) Notwithstanding the provisions of subsection  
17 (a), the superintendent, at the superintendent's discretion,  
18 may disclose any information, otherwise protected under this  
19 section, to the members of the Banking Board and confer with  
20 the members of the Banking Board regarding the same and may  
21 disclose such information as is necessary in taking  
22 enforcement actions or other supervisory actions pursuant to  
23 this title.

24 "(c) The superintendent may furnish to the Federal  
25 Reserve, Federal Deposit Insurance Corporation, ~~the Office of~~

1 ~~Thrift Supervision~~, the Comptroller of the Currency, or to any  
2 successor banking supervisory agency of the United States  
3 reports of examination and other data as the superintendent  
4 deems advisable. The Federal Reserve, Federal Deposit  
5 Insurance Corporation, ~~Office of Thrift Supervision~~, or the  
6 Comptroller of the Currency, or any successor banking  
7 supervisory agency of the United States may use such reports  
8 of examination and other information in taking their  
9 enforcement and other supervisory actions. Any disclosure by  
10 these agencies to third parties must be made with the prior  
11 consent of the superintendent and subject to such  
12 confidentiality restrictions required by this title or as the  
13 superintendent may require.

14           "(d) The superintendent may also furnish copies of  
15 his or her reports of examination and any other information to  
16 the board of directors of the bank, bank holding company, or  
17 affiliate, which was examined and to any bank holding company  
18 owning more than 50 percent of the capital stock of such bank.

19           "(e) Any reports or information furnished or  
20 disclosed under subsection (a), (b), (c), or (d) shall remain  
21 the property of the Banking Department and, except as provided  
22 in this section and Section 5-3A-11, may not be disclosed to  
23 any person other than the officers, directors, attorneys, and  
24 auditors of such bank or bank holding company or affiliate,  
25 consultants or advisors to such bank, ~~or~~ bank holding company.

1 or affiliate, and, subject to appropriate confidentiality  
2 agreements, persons considering the possible acquisition of,  
3 merger with, or investment in such bank, ~~or~~ bank holding  
4 company, or affiliate. No person receiving such reports or  
5 information may (1) use such report or information other than  
6 in connection with the bank, ~~or~~ bank holding company, or  
7 affiliate, and its business and affairs, (2) retain that  
8 report or information or copies thereof, or (3) except as  
9 expressly permitted by law, disclose such report or  
10 information to any person not authorized to receive the same  
11 under this subsection. For purposes of this title, a bank  
12 service company pursuant to 12 U.S.C. §§1861-1867 shall be  
13 subject to the same confidentiality requirements as an  
14 affiliate or a bank or bank holding company.

15 " (f) Any person violating this section shall be  
16 guilty of a Class A misdemeanor.

17 "§5-3A-11.

18 "All reports of examination, records reflecting  
19 action of a bank or bank holding company, or affiliate of  
20 either, taken pursuant thereto, and records and minutes of  
21 meetings of the Banking Board relating to a bank or several  
22 banks or a bank holding company, or affiliate of either, shall  
23 be confidential and shall not be subject to subpoena or  
24 inspection except by subpoena from a grand jury served on the  
25 superintendent."

1                   Section 2. 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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Speaker of the House of Representatives

*Kay Ivey*

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 25-APR-13.

Jeff Woodard  
Clerk

Senate

20-MAY-13

Passed

APPROVED May 23, 2013

TIME 3:08 p.m.

*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-352  
Bill Num...: H-529

Recv'd 05/24/13 11:20amSLF

SPONSOR  
*Bill*  
SPONSORS

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HOUSE ACTION

DATE: 4.2 2013  
RD 1 RFD *F5*

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on

*Financial Services* was

acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be

Passed w/amend(s) w/sub this *10* day of *April*, 20 *13*.

*R. J. V. S.*, Chairperson

DATE: *4-10* 2013  
RF RD 2 CAL

DATE: \_\_\_\_\_ 20\_\_\_\_  
RE-REFERRED  RE-COMMITTED   
Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,

HB *529* *96* NAYS *0*  
JEFF WOODARD, Clerk

SENATE ACTION

DATE: 4-30 2013  
RD 1 RFD *BFI*

This Bill was referred to the Standing Committee of the Senate on *BFI*

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report

w/amd(s) \_\_\_\_\_ w/sub \_\_\_\_\_ w/eng sub \_\_\_\_\_

by a vote of *4* nays *0* abstain

this *State* day of *April*, 2013  
*State*, Chairperson

DATE: *5-2* 2013  
RF RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,

HB \_\_\_\_\_ NAYS \_\_\_\_\_  
YEAS \_\_\_\_\_ NAYS \_\_\_\_\_  
PATRICK HARRIS, Secretary

DATE: *5-20-13* RD 3 at length  
PASSED  PASSED AS AMENDED

YEAS *31* NAYS *1*  
And was ordered returned forthwith to the House.

PATRICK HARRIS, Secretary

DATE: \_\_\_\_\_ 20\_\_\_\_  
INDEFINITELY POSTPONED YEARS \_\_\_\_\_ NAYS \_\_\_\_\_

DATE: \_\_\_\_\_ 20\_\_\_\_  
RECONSIDERED YEARS \_\_\_\_\_ NAYS \_\_\_\_\_