

State of Arkansas *As Engrossed: S2/6/17 S2/13/17 S3/8/17*
91st General Assembly **A Bill**
Regular Session, 2017

SENATE BILL 208

By: Senator Maloch
By: Representative Shepherd

For An Act To Be Entitled

AN ACT TO AUTHORIZE THE BANK COMMISSIONER TO CONDUCT
EXAMINATIONS OF TECHNOLOGY SERVICE PROVIDERS; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE THE BANK COMMISSIONER TO
CONDUCT EXAMINATIONS OF TECHNOLOGY
SERVICE PROVIDERS; AND TO DECLARE AN
EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 46, is amended to add an
additional subchapter to read as follows:

Subchapter 6 – Examination of Technology Service Providers Act

23-46-601. Title.

This subchapter shall be known and may be cited as the "Examination of
Technology Service Providers Act".

23-46-602. Definitions.

As used in this subchapter:

(1) "Bank supervisory agency" means the same as defined in § 23-
45-102;

(2)(A) "Covered service" means a service provided by a
technology service provider to a depository institution in this state to the



extent that the service is designed and marketed specifically for use by depository institutions to provide financial services to their customers.

(B) "Covered service" includes:

(i) Data processing services;

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

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

(iv) Activities related to the business of banking;

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

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

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

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

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

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

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

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

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

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

regarding use of examiners.

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

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

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

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

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

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

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

23-46-607. Enforcement – Rules.

The Bank Commissioner may by rule:

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

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

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

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

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

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

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

/s/Maloch

APPROVED: 03/24/2017