

1 SB321  
2 191163-2  
3 By Senators Coleman-Madison and Ward  
4 RFD: Governmental Affairs  
5 First Read: 15-FEB-18

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would establish the Examination of  
9 Bank Service Providers Act, to authorize the  
10 Superintendent of Banks, through examiners  
11 appointed by the superintendent, to examine service  
12 providers that provide services to certain banks,  
13 subject to supervision and inspection by the  
14 superintendent.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT  
19

20 To establish the Examination of Bank Service  
21 Providers Act; to authorize the Superintendent of Banks,  
22 through examiners appointed by the superintendent, to examine  
23 service providers that provide services to certain banks,  
24 subject to supervision and inspection by the superintendent.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. The existing provisions of Chapter 3A,  
27 consisting of Sections 5-3A-1 to 5-3A-17, inclusive, of Title

1 5, Code of Alabama 1975, are designated as Article 1 of  
2 Chapter 3A of Title 5, Code of Alabama 1975.

3 Section 2. Article 2, commencing with Section  
4 5-3A-30, of Chapter 3A, Title 5, is added to the Code of  
5 Alabama 1975, to read as follows:

6 Article 2.

7 §5-3A-30.

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

10 §5-3A-31.

11 The Legislature finds and declares that the  
12 connections between banks and service providers create risks  
13 to the financial system, as banks are increasingly reliant on  
14 third parties to provide or enable key banking functions and  
15 other services. Because of the role service providers have in  
16 the safety and soundness of banks and the stability of the  
17 financial system, the Legislature finds that it is necessary  
18 for banking agencies to have authority to examine service  
19 providers. The purpose of this article is to authorize the  
20 Superintendent of Banks, through examiners appointed by the  
21 superintendent, to examine service providers that provide  
22 services to banks, other than national banks, subject to  
23 supervision and inspection by the superintendent.

24 §5-3A-32.

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

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

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

9 §5-3A-33.

10 (a) Whenever a serviced bank causes to be performed  
11 for itself, by contract or otherwise, any of the covered  
12 services listed in this subsection, the performance,  
13 condition, and affairs of the service provider are subject to  
14 regulation and examination to the same extent as if the  
15 services were being performed by the serviced bank itself when  
16 deemed necessary by the superintendent to ensure the safe and  
17 sound operation of a serviced bank or serviced banks or to  
18 respond to a danger, or potential danger, to the public  
19 welfare. For the purposes of this section, covered services  
20 include all of the following:

21 (1) Data processing services.

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

25 (3) Internet related services including, but not  
26 limited to, web services and electronic bill payments, mobile

1 applications, system and software development and maintenance,  
2 and security monitoring.

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

14 §5-3A-34.

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

1 examination, and any other information obtained through  
2 examination of the service provider, to the FFIEC, and to the  
3 board of directors of the service provider, under the same  
4 terms and with the same limitations as provided in Section  
5 5-3A-3.

6 §5-3A-35.

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

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

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

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

25 (c) The superintendent may enter into joint  
26 examinations or joint enforcement actions with other bank

1 supervisory agencies having concurrent jurisdiction over a  
2 service provider.

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