

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 shall be thereafter ruled invalid for any reason by a court of
2 competent jurisdiction.

3 "§5-3A-1.

4 "(a) For purposes of this section, a bank holding
5 company is a holding company organized under the laws of
6 Alabama or another state in the United States that directly
7 owns a majority of the voting securities of an Alabama state
8 bank.

9 "(b) Every bank other than national banks shall be
10 subject to the supervision and inspection of the
11 superintendent and the regulations and supervision thereof.
12 The superintendent shall, by competent examiner appointed by
13 him or her, visit and examine every bank organized under the
14 laws of Alabama at least once in each eighteen-month period.
15 The examination of banks shall be at irregular intervals. On
16 every examination, inquiry shall be made as to the conditions
17 and resources of the bank, the mode of conducting and managing
18 the affairs of the bank, the action of its directors, the
19 investment of the funds of the bank, the safety and prudence
20 of the management of the bank, whether the requirements of its
21 charter and of law have been complied with in the
22 administration of the affairs of the bank, and such other
23 matters as the superintendent may prescribe. In addition, the
24 superintendent may in like manner examine or cause to be
25 examined the affairs of every bank, every bank holding

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

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