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3 SENATE GOVERNMENTAL AFFAIRS COMMITTEE SUBSTITUTE FOR SB321  
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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.  
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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 section, the performance, condition,  
13 and affairs of the service provider are subject to regulation  
14 and examination to the same extent as if the services were  
15 being performed by the serviced bank itself when deemed  
16 necessary by the superintendent to ensure the safe and sound  
17 operation of a serviced bank or serviced banks or to respond  
18 to a danger, or potential danger, to the public welfare.

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

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

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

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

26 §5-3A-34.

1 Examination reports of service providers created or  
2 obtained by the superintendent or State Banking Department are  
3 confidential subject to Sections 5-3A-3 and 5-3A-11. The  
4 superintendent may furnish a copy, or portions thereof, of a  
5 report of any examination performed by the superintendent of  
6 the performance, condition, and affairs of any service  
7 provider and any other information obtained through  
8 examination of the service provider to entities as provided in  
9 Section 5-3A-3, including the board of directors of the  
10 serviced bank, under the same terms and with the same  
11 limitations as set forth for other examination reports, data,  
12 and information under Section 5-3A-3. Additionally, the  
13 superintendent may furnish copies of his or her reports of  
14 examination, and any other information obtained through  
15 examination of the service provider, to the FFIEC, and to the  
16 board of directors of the service provider, under the same  
17 terms and with the same limitations as provided in Section  
18 5-3A-3.

19 §5-3A-35.

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

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

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

6           (b) The superintendent may enter into corrective  
7 agreements with a service provider or may issue corrective  
8 orders to a service provider if the superintendent determines  
9 the actions are necessary to ensure the safe and sound  
10 operation of a serviced bank or serviced banks or to respond  
11 to a danger, or potential danger, to the public welfare.

12           (c) The superintendent may enter into joint  
13 examinations or joint enforcement actions with other bank  
14 supervisory agencies having concurrent jurisdiction over a  
15 service provider.

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