Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  

As Engrossed:  S2/6/17  S2/13/17  S3/8/17

A Bill

SENATE BILL 208

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".

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
institute 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.


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.


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