

By: Representative Zuber

To: Banking and Financial Services

HOUSE BILL NO. 1326

1 AN ACT TO CREATE NEW SECTION 81-1-139, MISSISSIPPI CODE OF
 2 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING AND CONSUMER
 3 FINANCE TO EXAMINE SERVICE PROVIDERS THAT PROVIDE CERTAIN SERVICES
 4 TO MISSISSIPPI FINANCIAL INSTITUTIONS; TO PROVIDE THAT THE TYPES
 5 OF SERVICES COVERED UNDER THIS SECTION ARE DATA PROCESSING
 6 SERVICES, ACTIVITIES THAT SUPPORT FINANCIAL SERVICES, INTERNET
 7 RELATED SERVICES, AND ACTIVITIES RELATED TO THE BUSINESS OF
 8 BANKING; TO PROVIDE THAT ALL EXAMINATION REPORTS AND RELATED
 9 INFORMATION AUTHORIZED UNDER THIS SECTION ARE CONFIDENTIAL TO THE
 10 DEPARTMENT OF BANKING; TO AUTHORIZE THE COMMISSIONER TO TAKE
 11 ENFORCEMENT ACTIONS AGAINST SERVICE PROVIDERS IF THE COMMISSIONER
 12 CONSIDERS THE ACTIONS TO BE NECESSARY OR APPROPRIATE; TO PROVIDE
 13 THAT THE COST OF ANY EXAMINATION OF A SERVICE PROVIDER PERFORMED
 14 BY THE DEPARTMENT SHALL BE BORNE BY THE SERVICE PROVIDER; AND FOR
 15 RELATED PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** The following shall be codified as Section
 18 81-1-139, Mississippi Code of 1972:

19 81-1-139. (1) The connections between financial depository
 20 institutions and their service providers create risks to the
 21 financial system, as institutions are increasingly reliant on
 22 third parties to provide or enable key functions and everyday
 23 services. In light of the vital role that service providers
 24 perform in the safety and soundness of institutions and the



25 stability of the financial system, it is imperative for banking
26 agencies to supervise and examine service providers. A
27 significant disruption affecting a single service provider could
28 have an adverse impact on a large number of depository
29 institutions, so understanding the interconnectivity between
30 institutions and service providers is crucial to avoiding such a
31 situation. The purpose of this section is to provide the
32 requisite legal authority for the Department of Banking and
33 Consumer Finance to examine service providers that provide
34 services to Mississippi financial institutions.

35 (2) For purposes of this section, the following terms shall
36 be defined as provided in this section:

37 (a) "Depository institution" means a state-chartered
38 financial institution that is legally allowed to accept insured
39 monetary deposits from consumers and is subject to the authority
40 of the Department of Banking and Consumer Finance.

41 (b) "Service provider" means any person, company,
42 corporation, or other legal entity that provides a service listed
43 in subsection (3) of this section to a depository institution.

44 (3) (a) Whenever a depository institution, or any
45 subsidiary or affiliate of such depository institution that is
46 subject to examination by the commissioner, causes to be performed
47 for itself, by contract or otherwise, any of the services listed
48 in paragraph (b) of this subsection, that performance shall be
49 subject to regulation and examination by the commissioner to the



50 same extent as if those services were being performed by the
51 depository institution itself.

52 (b) The following shall be covered services for the
53 purposes of this subsection:

54 (i) Data processing services;

55 (ii) Activities that support financial services,
56 including but not limited to, lending, funds transfer, fiduciary
57 activities, trading activities, and deposit taking;

58 (iii) Internet related services, including but not
59 limited to, web services and electronic bill payments, mobile
60 applications, system and software development and maintenance, and
61 security monitoring; and

62 (iv) Activities related to the business of
63 banking.

64 (4) The commissioner may, in his or her discretion, accept
65 examinations authorized or required to be conducted, that are
66 performed by any other authorized federal or state regulatory
67 agencies, in lieu of conducting an independent examination
68 authorized by this section.

69 (5) (a) All examination reports and related information
70 authorized under this section are confidential to the department
71 and shall be maintained in the strictest confidence in the same
72 manner as an examination of a depository institution under Title
73 81 of the Mississippi Code of 1972.



74 (b) Notwithstanding paragraph (a) of this subsection,
75 the commissioner may furnish a copy of a report of any examination
76 performed or relied upon by the commissioner, demonstrating the
77 condition and affairs of any service provider to the depository
78 institutions that use the service provider.

79 (6) (a) The commissioner may enter into agreements with any
80 depository institution regulatory agency that has concurrent
81 jurisdiction over a service provider to provide services in order
82 to efficiently accomplish the requirements of this section.

83 (b) The commissioner may take enforcement actions
84 against the service provider under the authority described in this
85 chapter, if the commissioner considers the actions to be necessary
86 or appropriate to carry out the department's responsibilities
87 under this chapter or to ensure compliance with the laws of the
88 state.

89 (c) The commissioner may enter into joint examinations
90 or joint enforcement actions with other bank regulatory agencies
91 having concurrent jurisdiction over a service provider.

92 (d) The cost of any examination performed by the
93 department shall be borne by the service provider.

94 **SECTION 2.** This act shall take effect and be in force from
95 and after July 1, 2018.

