

By: Representatives Zuber, Burnett

To: Banking and Financial Services

HOUSE BILL NO. 1155

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 subject to the authority of the  
39 Department of Banking and Consumer Finance.

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

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



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

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

53 (i) Data processing services;

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

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

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

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

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



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

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

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

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

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

93 **SECTION 2.** This act shall take effect and be in force from  
94 and after July 1, 2016.

