

286.2-040 Examination of service provider by commissioner or other state or federal regulatory agency -- Confidentiality and evidentiary value of report -- Examination fees -- Cooperative agreements.

- (1) As used in this section:
 - (a) "Covered service" means:
 1. Data processing;
 2. Any activity that supports financial services, including but not limited to lending, funds transfer, fiduciary activity, trading activity, and deposit taking; and
 3. Internet-related services, including but not limited to Web services and electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring;
 - (b) "Depository institution" means any:
 1. State bank as defined in KRS 286.3-010;
 2. Branch of an out-of-state bank as defined in KRS 286.3-010 that is doing business under the laws of this state;
 3. Trust company as defined in KRS 286.3-010; or
 4. Credit union as defined in KRS 286.6-005; and
 - (c) "Service provider" means any person that provides a covered service listed in paragraph (a) of this subsection to a depository institution, except any:
 1. Bank service company that is examined and regulated by the appropriate federal banking agency. For the purposes of this subparagraph, "bank service company" and "appropriate federal banking agency" have the meanings set forth in the Bank Service Company Act, 12 U.S.C. sec. 1861, as amended, or any successor statute;
 2. Depository institution, holding company of a depository institution, or subsidiary of that holding company; and
 3. Federally chartered depository institution, holding company of a federally chartered depository institution, or subsidiary of that holding company. For the purposes of this subparagraph, "federally chartered depository institution" means a bank, savings association, or credit union organized pursuant to the laws of the United States.
- (2) The commissioner may examine a service provider for any covered service it provides to a depository institution if the examination is conducted in conjunction with an examination conducted by a properly authorized federal regulatory agency.
- (3) The commissioner may accept an examination made by other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider in lieu of any examination authorized or required under the laws of this state.
- (4) A report of examination and related correspondence shall be considered confidential information. No person shall release any information contained in

the examination unless required by court order. Notwithstanding this subsection, the department may furnish:

- (a) A copy of a report of examination performed by the commissioner of the condition and affairs of any service provider to the depository institutions serviced by the service provider; and
 - (b) To and exchange information and reports of examinations with officials and examiners of other properly authorized state or federal regulatory agencies.
- (5) Every official report concerning a service provider, and every report of examination, shall be prima facie evidence of the facts contained in the report for any purpose in any action in which the department or service provider is a party.
- (6) The commissioner shall fix a scale of examination fees to be paid by service providers. The fees shall be:
- (a) Sufficient to cover the cost of the examination based upon a fair compensation for time and actual expense;
 - (b) Assessed and paid by service providers promptly after completion of the examination; and
 - (c) Set by administrative regulation.
- (7) The commissioner may enter into cooperative agreements with other properly authorized state or federal regulatory agencies that have concurrent jurisdiction over a service provider to facilitate the examination process, including joint examination, scheduling, resources, fee collection and sharing, report of examination processing, and enforcement actions.

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