

1 AN ACT relating to third-party service providers of depository institutions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 1 OF KRS CHAPTER 286 IS
4 CREATED TO READ AS FOLLOWS:

5 *As used in this chapter:*

6 *(1) "Commissioner" means the commissioner of the Department of Financial*
7 *Institutions; and*

8 *(2) "Department" means the Department of Financial Institutions.*

9 ➔SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS
10 CREATED TO READ AS FOLLOWS:

11 *(1) As used in this section:*

12 *(a) "Depository institution" means any:*

13 *1. State bank as defined in KRS 286.3-010;*

14 *2. Branch of an out-of-state bank as defined in KRS 286.3-010 that is*
15 *doing business under the laws of this state;*

16 *3. Trust company as defined in KRS 286.3-010; or*

17 *4. Credit union as defined in KRS 286.6-005;*

18 *(b) "Service provider" means any person, company, corporation, or other legal*
19 *entity that provides a covered service listed in paragraph (c) of this*
20 *subsection to a depository institution;*

21 *(c) "Covered service" means:*

22 *1. Data processing;*

23 *2. Any activity that supports financial services, including but not limited*
24 *to lending, funds transfer, fiduciary activity, trading activity, and*
25 *deposit taking; and*

26 *3. Internet-related services, including but not limited to Web services and*
27 *electronic bill payments, mobile applications, system and software*

- 1 development and maintenance, and security monitoring;
- 2 (2) A service provider shall be subject to regulation and examination by the
3 commissioner for any covered service it provides to a depository institution.
- 4 (3) The commissioner may accept an examination made by other properly authorized
5 state or federal regulatory agencies that have concurrent jurisdiction over a
6 service provider in lieu of any examination authorized or required under the laws
7 of this state.
- 8 (4) A report of examination and related correspondence shall be considered
9 confidential information. No person shall release any information contained in
10 the examination unless required by court order. Notwithstanding this subsection,
11 the department may furnish:
- 12 (a) A copy of a report of examination performed by the commissioner of the
13 condition and affairs of any service provider to the depository institutions
14 serviced by the service provider; and
- 15 (b) To and exchange information and reports of examinations with officials
16 and examiners of other properly authorized state or federal regulatory
17 authorities.
- 18 (5) Every official report concerning a service provider, and every report of
19 examination, shall be prima facie evidence of the facts contained in the report for
20 any purpose in any action in which the department or service provider is a party.
- 21 (6) The commissioner shall fix a scale of examination fees to be paid by service
22 providers. The fees shall be:
- 23 (a) Sufficient to cover the cost of the examination based upon a fair
24 compensation for time and actual expense;
- 25 (b) Assessed and paid by service providers promptly after completion of the
26 examination; and
- 27 (c) Set by administrative regulation.

1 (7) The commissioner may enter into cooperative agreements with other properly
2 authorized state or federal regulatory agencies that have concurrent jurisdiction
3 over a service provider to facilitate the examination process, including joint
4 examination, scheduling, resources, fee collection and sharing, report of
5 examination processing, and enforcement actions.