

HOUSE BILL 250

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(PRE-FILED)

4lr0235
CF 4lr0236

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 13, 2024

CHAPTER _____

1 AN ACT concerning

2 **Financial Institutions – Third-Party Service Providers – Examinations**

3 FOR the purpose of authorizing the Commissioner of Financial Regulation to examine a
4 third-party service provider as to services and activities performed on behalf of an
5 entity licensed or chartered by the Office of Financial Regulation; and generally
6 relating to the Commissioner of Financial Regulation and the power to examine
7 third-party service providers.

8 BY repealing and reenacting, without amendments,
9 Article – Financial Institutions
10 Section 1–101(a)
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2023 Supplement)

13 BY adding to
14 Article – Financial Institutions
15 Section 1–101(w) and (x) and 2–122
16 Annotated Code of Maryland
17 (2020 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Financial Institutions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 1–101.

2 (a) In this article, unless the context clearly requires otherwise, the following
3 words have the meanings indicated.

4 (w) **“REGULATED ENTITY” MEANS A PERSON WHO IS LICENSED OR**
5 **CHARTERED BY THE OFFICE OF FINANCIAL REGULATION.**

6 (x) (1) **“THIRD–PARTY SERVICE PROVIDER” MEANS A PERSON WHO**
7 **PERFORMS ACTIVITIES RELATING TO FINANCIAL SERVICES ON BEHALF OF A**
8 **REGULATED ENTITY FOR THAT REGULATED ENTITY’S CUSTOMERS.**

9 (2) **“THIRD–PARTY SERVICE PROVIDER” INCLUDES A PERSON WHO**
10 **PROVIDES:**

11 (i) **DATA PROCESSING SERVICES;**

12 (ii) **ACTIVITIES THAT SUPPORT FINANCIAL SERVICES,**
13 **INCLUDING:**

14 1. **LENDING;**

15 2. **FUNDS TRANSFER;**

16 3. **FIDUCIARY ACTIVITIES;**

17 4. **TRADING ACTIVITIES; AND**

18 5. **DEPOSIT TAKING;**

19 (iii) **INTERNET–RELATED SERVICES, INCLUDING:**

20 1. **WEB SERVICES AND ELECTRONIC BILL PAYMENTS;**

21 2. **MOBILE APPLICATIONS;**

22 3. **SYSTEM AND SOFTWARE DEVELOPMENT AND**
23 **MAINTENANCE; AND**

24 4. **SECURITY MONITORING; OR**

25 (iv) **ANY OTHER SIMILAR ACTIVITY THE COMMISSIONER**
26 **DESIGNATES BY REGULATION AS RELATED TO FINANCIAL SERVICES.**

(3) "THIRD-PARTY SERVICE PROVIDER" DOES NOT INCLUDE A PROVIDER OF AN INTERACTIVE COMPUTER SERVICE OR A GENERAL AUDIENCE INTERNET OR COMMUNICATIONS PLATFORM, EXCEPT TO THE EXTENT THAT THE SERVICE OR PLATFORM IS SPECIALLY DESIGNED OR ADAPTED FOR FINANCIAL SERVICES AND ACTIVITIES RELATED TO FINANCIAL SERVICES.

2-122.

(A) THE COMMISSIONER MAY EXAMINE A THIRD-PARTY SERVICE PROVIDER AS TO SERVICES AND ACTIVITIES PERFORMED ON BEHALF OF THE REGULATED ENTITY TO THE SAME EXTENT AS IF THE SERVICE OR ACTIVITY WAS PERFORMED BY THE REGULATED ENTITY.

(B) THE POWER OF THE COMMISSIONER TO EXAMINE A THIRD-PARTY SERVICE PROVIDER UNDER THIS SECTION IS NOT LIMITED TO SERVICES AND ACTIVITIES CONDUCTED ON THE PREMISES OF A REGULATED ENTITY.

(C) THE COMMISSIONER MAY COLLECT A FEE IN CONNECTION WITH EACH EXAMINATION TO COVER THE COST OF THE EXAMINATION FROM:

(1) THE EXAMINED THIRD-PARTY SERVICE PROVIDER; OR

(2) ~~THE~~ IF THE EXAMINED THIRD-PARTY SERVICE PROVIDER FAILS TO COVER THE COST OF THE EXAMINATION WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER SENDS AN INVOICE FOR THE EXAMINATION TO THE THIRD-PARTY SERVICE PROVIDER, THE REGULATED ENTITY THAT CONTRACTS WITH THE THIRD-PARTY SERVICE PROVIDER.

(D) THE COMMISSIONER MAY ACCEPT THE RESULTS OF AN EXAMINATION OF A FEDERAL SUPERVISORY AGENCY OR RESPONSIBLE SUPERVISORY AGENCY OF ANOTHER STATE AS THE RESULTS OF AN EXAMINATION BY THE COMMISSIONER UNDER THIS SECTION ~~IF THE EXAMINATION HAS BEEN CONDUCTED WITHIN THE PRECEDING 24 MONTHS.~~

(E) THE COMMISSIONER MAY EXAMINE:

(1) ALL BOOKS, ACCOUNTS, AND RECORDS OF A REGULATED ENTITY OR A THIRD-PARTY SERVICE PROVIDER AS THE COMMISSIONER DETERMINES NECESSARY TO CONDUCT A COMPLETE EXAMINATION; AND

(2) ANY OFFICER, DIRECTOR, OR EMPLOYEE OF THE REGULATED ENTITY OR THE THIRD-PARTY SERVICE PROVIDER, UNDER OATH, WHO MAY PROVIDE INFORMATION ON BEHALF OF THE REGULATED ENTITY OR THE THIRD-PARTY SERVICE PROVIDER.

(F) (1) THE COMMISSIONER IS AUTHORIZED TO TAKE AN ENFORCEMENT ACTION AGAINST ANY THIRD-PARTY SERVICE PROVIDER WHO:

(I) REFUSES TO SUBMIT TO AN EXAMINATION;

(II) REFUSES TO PAY ANY ASSESSED FEE FOR THE COST OF THE EXAMINATION; OR

(III) ENGAGES IN ACTIVITIES THAT THE COMMISSIONER DEEMS UNSAFE OR UNSOUND.

(2) THE COMMISSIONER MAY ADVISE ANY REGULATED ENTITY THAT USES THE SERVICES OF A THIRD-PARTY SERVICE PROVIDER WHO REFUSES TO SUBMIT TO EXAMINATION OR ENGAGES IN UNSAFE OR UNSOUND ACTIVITIES THAT THE CONTINUED USE OF THE THIRD-PARTY SERVICE BY THE REGULATED ENTITY MAY CONSTITUTE UNSAFE OR UNSOUND ACTIVITY.

(G) THE COMMISSIONER, AND ANY EMPLOYEE OF THE COMMISSIONER'S OFFICE, SHALL HOLD AS CONFIDENTIAL, AS PROVIDED IN §§ 2-117 AND 2-117.1 OF THIS SUBTITLE, ANY INFORMATION OBTAINED OR GENERATED IN THE COURSE OF EXERCISING THE COMMISSIONER'S AUTHORITY TO EXAMINE THIRD-PARTY SERVICE PROVIDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.