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REGULATORY SANDBOX

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a regulatory sandbox program in GOED, which allows a participant to temporarily test innovative financial products or services, or innovative peer-to-peer services, on a limited basis without otherwise being licensed or authorized to act under the laws of the state;
- ▶ describes who may participate in the program;
- ▶ describes how GOED shall administer the program; and
- ▶ describes reporting requirements for participants in the program and GOED.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63N-14-101, Utah Code Annotated 1953

H.B. 378



- 28 **63N-14-102**, Utah Code Annotated 1953
- 29 **63N-14-103**, Utah Code Annotated 1953
- 30 **63N-14-104**, Utah Code Annotated 1953
- 31 **63N-14-105**, Utah Code Annotated 1953
- 32 **63N-14-106**, Utah Code Annotated 1953
- 33 **63N-14-107**, Utah Code Annotated 1953
- 34 **63N-14-108**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **63N-14-101** is enacted to read:

38 **CHAPTER 14. REGULATORY SANDBOX PROGRAM**

39 **63N-14-101. Title.**

40 This chapter is known as the "Regulatory Sandbox Program."

41 Section 2. Section **63N-14-102** is enacted to read:

42 **63N-14-102. Definitions.**

43 As used in this chapter:

44 (1) "Applicable agency" means a department or agency of the state, including the
45 Department of Financial Institutions, that by law regulates certain types of business activity in
46 the state and persons engaged in such business activity, including the issuance of licenses or
47 other types of authorization, which the office determines would otherwise regulate a sandbox
48 participant.

49 (2) "Applicant" means an individual or entity that is applying to participate in the
50 regulatory sandbox.

51 (3) "Consumer" means a person that purchases or otherwise enters into a transaction or
52 agreement to receive an innovative product or service that is being tested by a sandbox
53 participant.

54 (4) "Financial product or service" means:

55 (a) a product or service that requires state licensure or registration; or

56 (b) a product or service that includes a business model, delivery mechanism, or
57 element that may require a license or other authorization to act as a financial institution,
58 enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related

59 provisions.

60 (5) "Innovation" means the use or incorporation of a new or emerging technology or a
61 new use of existing technology, including blockchain technology, to address a problem,
62 provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism
63 that is not known by the office to have a comparable widespread offering in the state.

64 (6) "Innovative product or service" means:

65 (a) a financial product or service that includes an innovation; or

66 (b) a peer-to-peer product or service that includes an innovation.

67 (7) "Peer-to-peer company" means an entity that uses a peer-to-peer platform to
68 connect independent individuals who agree to exchange a product or service.

69 (8) "Peer-to-peer platform" means an Internet-connected software service:

70 (a) that a peer-to-peer company provides; and

71 (b) through which independent individuals agree to exchange a product or service.

72 (9) "Peer-to-peer product or service" means:

73 (a) a product or service provided by a peer-to-peer company through a peer-to-peer
74 platform that requires state licensure or registration; or

75 (b) a product or service provided by a peer-to-peer company through a peer-to-peer
76 platform that includes a business model, delivery mechanism, or element that may require a
77 license or other authorization from the state.

78 (10) "Regulatory sandbox" means the Regulatory Sandbox Program created by Section
79 [63N-14-103](#), which allows a person to temporarily test innovative products or services on a
80 limited basis without otherwise being licensed or authorized to act under the laws of the state.

81 (11) "Sandbox participant" means a person whose application to participate in the
82 regulatory sandbox is approved in accordance with the provisions of this chapter.

83 (12) "Test" means to provide products and services in accordance with the provisions
84 of this chapter.

85 Section 3. Section **63N-14-103** is enacted to read:

86 **63N-14-103. Regulatory Sandbox Program -- Application requirements.**

87 (1) There is created in the office the Regulatory Sandbox Program.

88 (2) In administering the regulatory sandbox, the office:

89 (a) shall consult with each applicable agency;

90 (b) shall establish a program to enable a person to obtain limited access to the market
91 in the state to test innovative products or services without obtaining a license or other
92 authorization that might otherwise be required; and

93 (c) may enter into agreements with or follow the best practices of the Consumer
94 Financial Protection Bureau or other states that are administering similar programs.

95 (3) An applicant for the regulatory sandbox shall provide to the office an application in
96 a form prescribed by the office that:

97 (a) demonstrates the applicant is subject to the jurisdiction of the state;

98 (b) demonstrates the applicant has established a physical location in the state, from
99 which testing will be developed and performed and where all required records, documents, and
100 data will be maintained;

101 (c) contains relevant personal and contact information for the applicant, including legal
102 names, addresses, telephone numbers, email addresses, website addresses, and other
103 information required by the office;

104 (d) discloses criminal convictions of the applicant or other participating personnel, if
105 any; and

106 (e) contains a description of the innovative product or service to be tested, including
107 statements regarding all of the following:

108 (i) how the innovative product or service is subject to licensing or other authorization
109 requirements outside of the regulatory sandbox;

110 (ii) how the innovative product or service would benefit consumers;

111 (iii) how the innovative product or service is different from other products or services
112 available in the state;

113 (iv) what risks may confront consumers that use or purchase the innovative product or
114 service;

115 (v) how participating in the regulatory sandbox would enable a successful test of the
116 innovative product or service;

117 (vi) a description of the proposed testing plan, including estimated time periods for
118 beginning the test, ending the test, and obtaining necessary licensure or authorizations after the
119 testing is complete;

120 (vii) a description of how the applicant will perform ongoing duties after the test; and

- 121 (viii) how the applicant will end the test and protect consumers if the test fails.
- 122 (4) The office may collect an application fee from an applicant that is set in accordance
123 with Section [63J-1-504](#).
- 124 (5) An applicant shall file a separate application for each innovative product or service
125 that the applicant wants to test.
- 126 (6) After an application is filed, the office may seek additional information from the
127 applicant that the office determines is necessary.
- 128 (7) Subject to Subsection (8), not later than 90 days after the day on which a complete
129 application is received by the office, the office shall inform the applicant as to whether the
130 application is approved for entry into the regulatory sandbox.
- 131 (8) The office and an applicant may mutually agree to extend the 90-day time period
132 described in Subsection (7) for the office to determine whether an application is approved for
133 entry into the regulatory sandbox.
- 134 (9) (a) In reviewing an application under this section, the office shall consult with each
135 applicable agency before admitting an applicant into the regulatory sandbox.
- 136 (b) The consultation with an applicable agency may include seeking information about
137 whether:
- 138 (i) the applicable agency has previously issued a license or other authorization to the
139 applicant;
- 140 (ii) the applicable agency has previously investigated, sanctioned, or pursued legal
141 action against the applicant;
- 142 (iii) whether the applicant could obtain a license or other authorization from the
143 applicable agency after exiting the regulatory sandbox; and
- 144 (iv) whether certain licensure or other regulations should not be waived even if the
145 applicant is accepted into the regulatory sandbox.
- 146 (10) In reviewing an application under this section, the office shall consider whether a
147 competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor
148 in favor of allowing the applicant to also become a sandbox participant.
- 149 (11) Notwithstanding the provisions of Subsection (9), the office has sole authority to
150 make the final decision whether to admit an applicant into the regulatory sandbox.
- 151 (12) (a) The office may deny any application submitted under this section, for any

152 reason, at the office's discretion.

153 (b) If the office denies an application submitted under this section, the office shall
154 provide to the applicant a written description of the reasons for the denial as a sandbox
155 participant.

156 Section 4. Section **63N-14-104** is enacted to read:

157 **63N-14-104. Scope of the regulatory sandbox.**

158 (1) If the office approves an application under Section [63N-14-103](#), the sandbox
159 participant has 24 months after the day on which the application was approved to test the
160 innovative product or service described in the sandbox participant's application.

161 (2) An innovative product or service that is tested within the regulatory sandbox is
162 subject to the following:

163 (a) consumers shall be residents of the state;

164 (b) the office may, on a case by case basis, specify the maximum number of consumers
165 that may transact through or enter into an agreement to use the innovation;

166 (c) for a sandbox participant testing a consumer loan the office may, on a case by case
167 basis, specify the maximum amount of an individual loan that may be issued to an individual
168 consumer and the maximum amount of aggregate loans that may be issued to an individual
169 consumer; and

170 (d) for a sandbox participant testing a product or service that would normally require a
171 money transmission license under Section [7-25-201](#), the office may, on a case by basis, specify
172 the maximum amount of a single transaction for an individual consumer and the maximum
173 aggregate amount of transactions for an individual consumer.

174 (3) If applicable, each sandbox participant shall make, maintain, and preserve books
175 and records in accordance with the requirements imposed on a federal covered adviser under 17
176 Code of Federal Regulations, Section 275.204-2.

177 (4) This section does not restrict a sandbox participant who holds a license or other
178 authorization in another jurisdiction from acting in accordance with that license or other
179 authorization.

180 (5) A sandbox participant is deemed to possess an appropriate license under the laws of
181 the state for the purposes of any provision of federal law requiring state licensure or
182 authorization.

183 (6) Except as otherwise provided in this chapter, including in Subsections (7) and (8), a
184 sandbox participant that is testing:

185 (a) a financial product or service is not subject to state laws that regulate financial
186 products or services; and

187 (b) a peer-to-peer product or service is not subject to state laws that regulate
188 peer-to-peer products or services.

189 (7) (a) The office may only determine that certain state laws that regulate a financial
190 product or service apply to a sandbox participant if the office, at the office's sole discretion,
191 determines that:

192 (i) an applicant's plan to protect consumers will not adequately protect consumers from
193 the harm the state law addresses; and

194 (ii) the benefits to consumers of applying the law outweigh the potential benefits to
195 consumers from increased competition, innovation, and consumer access that waiving the law,
196 in conjunction with the applicant's ability to compensate consumers who are harmed, would
197 provide.

198 (b) If the office determines that certain state laws that regulate a financial product or
199 service apply to a sandbox participant, the office shall notify the sandbox participant of the
200 specific regulatory provisions that apply to the sandbox participant.

201 (8) (a) The office may determine that certain state laws that regulate a peer-to-peer
202 product or service apply to a sandbox participant.

203 (b) If the office determines that certain state laws that regulate a peer-to-peer product or
204 service apply to a sandbox participant, the office shall notify the sandbox participant of the
205 specific regulatory provisions that apply to the sandbox participant.

206 (9) By written notice, the office may end a sandbox participant's participation in the
207 regulatory sandbox at any time and for any reason, including if the office determines a sandbox
208 participant is not operating in good faith to bring an innovative product or service to market.

209 Section 5. Section **63N-14-105** is enacted to read:

210 **63N-14-105. Consumer protection for regulatory sandbox.**

211 (1) Before providing an innovative product or service to a consumer, a sandbox
212 participant shall disclose the following to the consumer:

213 (a) the name and contact information of the sandbox participant;

214 (b) that the innovative product or service is authorized pursuant to the regulatory
215 sandbox and, if applicable, that the sandbox participant does not have a license or other
216 authorization to provide a product or service under state laws that regulate products or services
217 outside the regulatory sandbox;

218 (c) that the state does not endorse or recommend the innovative product or service;

219 (d) that the innovative product or service is a temporary test that may be discontinued
220 at the end of the testing period;

221 (e) the expected end date of the testing period; and

222 (f) that a consumer may contact the office to file a complaint regarding the innovative
223 product or service being tested and provide the office's telephone number and website address
224 where a complaint may be filed.

225 (2) The disclosures required by Subsection (1) shall be provided to a consumer in a
226 clear and conspicuous form and, for an internet or application-based innovative product or
227 service, a consumer shall acknowledge receipt of the disclosure before a transaction may be
228 completed.

229 (3) The office may require that a sandbox participant make additional disclosures to a
230 consumer.

231 Section 6. Section **63N-14-106** is enacted to read:

232 **63N-14-106. Requirements for exiting regulatory sandbox.**

233 (1) At least 30 days before the end of the 24-month regulatory sandbox testing period,
234 a sandbox participant shall:

235 (a) notify the office that the sandbox participant will exit the regulatory sandbox,
236 discontinue the sandbox participant's test, and will stop offering any innovative product or
237 service in the regulatory sandbox within 60 days after the day on which the 24-month testing
238 period ends; or

239 (b) seek an extension in accordance with Section [63N-14-107](#).

240 (2) Subject to Subsection (3), if the office does not receive notification as required by
241 Subsection (1), the regulatory sandbox testing period ends at the end of the 24-month testing
242 period and the sandbox participant shall immediately stop offering all innovative products or
243 services being tested.

244 (3) If a test includes offering a product or service that requires ongoing duties, such as

245 servicing a loan, the sandbox participant shall continue to fulfill those duties or arrange for
246 another person to fulfill those duties after the date on which the sandbox participant exits the
247 regulatory sandbox.

248 Section 7. Section **63N-14-107** is enacted to read:

249 **63N-14-107. Extensions.**

250 (1) Not later than 30-days before the end of the 24-month regulatory sandbox testing
251 period, a sandbox participant may request an extension of the regulatory sandbox testing period
252 for the purpose of obtaining a license or other authorization required by law.

253 (2) The office shall grant or deny a request for an extension in accordance with
254 Subsection (1) by the end of the 24-month regulatory sandbox testing period.

255 (3) The office may grant an extension in accordance with this section for not more than
256 one year after the end of the regulatory sandbox testing period.

257 (4) A sandbox participant that obtains an extension in accordance with this section
258 shall provide the office with a written report every three months that provides an update on
259 efforts to obtain a license or other authorization required by law, including any submitted
260 applications for licensure or other authorization, rejected applications, or issued licenses or
261 other authorization.

262 Section 8. Section **63N-14-108** is enacted to read:

263 **63N-14-108. Record keeping and reporting requirements.**

264 (1) A sandbox participant shall retain records, documents, and data produced in the
265 ordinary course of business regarding an innovative product or service tested in the regulatory
266 sandbox.

267 (2) If an innovative product or service fails before the end of a testing period, the
268 sandbox participant shall notify the office and report on actions taken by the sandbox
269 participant to ensure consumers have not been harmed as a result of the failure.

270 (3) The office may establish periodic reporting requirements for a sandbox participant.

271 (4) The office may request records, documents, and data from a sandbox participant
272 and, upon the office's request, a sandbox participant shall make such records, documents, and
273 data available for inspection by the office.

274 (5) If the office determines that a sandbox participant has engaged in, is engaging in, or
275 is about to engage in any practice or transaction that is in violation of this chapter or that

276 constitutes a violation of a state or federal criminal law, the office may remove a sandbox
277 participant from the regulatory sandbox.

278 (6) The office shall include in the annual report described in Section [63N-1-301](#), a
279 report regarding each sandbox participant and the effectiveness of the Regulatory Sandbox
280 Program.