

Representative Marc K. Roberts proposes the following substitute bill:

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 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:



- 26 [63N-14-101](#), Utah Code Annotated 1953
- 27 [63N-14-102](#), Utah Code Annotated 1953
- 28 [63N-14-103](#), Utah Code Annotated 1953
- 29 [63N-14-104](#), Utah Code Annotated 1953
- 30 [63N-14-105](#), Utah Code Annotated 1953
- 31 [63N-14-106](#), Utah Code Annotated 1953
- 32 [63N-14-107](#), Utah Code Annotated 1953
- 33 [63N-14-108](#), Utah Code Annotated 1953



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

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

37 **CHAPTER 14. REGULATORY SANDBOX PROGRAM**

38 **63N-14-101. Title.**

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

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

41 **63N-14-102. Definitions.**

42 As used in this chapter:

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

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

50 (3) "Blockchain technology" means the use of a digital database containing records of
51 financial transactions, which can be simultaneously used and shared within a decentralized,
52 publicly accessible network and can record transactions between two parties in a verifiable and
53 permanent way.

54 (4) "Consumer" means a person that purchases or otherwise enters into a transaction or
55 agreement to receive an innovative product or service that is being tested by a sandbox
56 participant.

57 (5) (a) "Financial product or service" means:

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

59 (ii) a product or service that includes a business model, delivery mechanism, or

60 element that may require a license or other authorization to act as a financial institution,

61 enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related

62 provisions.

63 (b) "Financial product or service" does not include a product or service that is governed

64 by Title 31A, Insurance Code.

65 (6) "Innovation" means the use or incorporation of a new or emerging technology or a

66 new use of existing technology, including blockchain technology, to address a problem,

67 provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism

68 that is not known by the office to have a comparable widespread offering in the state.

69 (7) "Innovative product or service" means a financial product or service that includes

70 an innovation.

71 (8) "Regulatory sandbox" means the Regulatory Sandbox Program created by Section

72 63N-14-103, which allows a person to temporarily test innovative products or services on a

73 limited basis without otherwise being licensed or authorized to act under the laws of the state.

74 (9) "Sandbox participant" means a person whose application to participate in the

75 regulatory sandbox is approved in accordance with the provisions of this chapter.

76 (10) "Test" means to provide products and services in accordance with the provisions

77 of this chapter.

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

79 **63N-14-103. Regulatory Sandbox Program -- Application requirements.**

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

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

82 (a) shall consult with each applicable agency;

83 (b) shall establish a program to enable a person to obtain limited access to the market

84 in the state to test innovative products or services without obtaining a license or other

85 authorization that might otherwise be required; and

86 (c) may enter into agreements with or follow the best practices of the Consumer

87 Financial Protection Bureau or other states that are administering similar programs.

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

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

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

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

97 (d) discloses criminal convictions of the applicant or other participating personnel, if
98 any;

99 (e) demonstrates that the applicant has the necessary personnel, financial and technical
100 expertise, access to capital, and developed plan to test, monitor, and assess the innovative
101 product or service;

102 (f) contains a description of the innovative product or service to be tested, including
103 statements regarding all of the following:

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

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

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

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

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

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

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

117 (viii) how the applicant will end the test and protect consumers if the test fails; and

118 (g) provides any other required information as determined by the office.

119 (4) The office may collect an application fee from an applicant that is set in accordance
120 with Section 63J-1-504.

121 (5) An applicant shall file a separate application for each innovative product or service
122 that the applicant wants to test.

123 (6) After an application is filed, the office may seek additional information from the
124 applicant that the office determines is necessary.

125 (7) Subject to Subsection (8), not later than 90 days after the day on which a complete
126 application is received by the office, the office shall inform the applicant as to whether the
127 application is approved for entry into the regulatory sandbox.

128 (8) The office and an applicant may mutually agree to extend the 90-day time period
129 described in Subsection (7) for the office to determine whether an application is approved for
130 entry into the regulatory sandbox.

131 (9) (a) In reviewing an application under this section, the office shall consult with, and
132 get approval from, each applicable agency before admitting an applicant into the regulatory
133 sandbox.

134 (b) The consultation with an applicable agency may include seeking information about
135 whether:

136 (i) the applicable agency has previously issued a license or other authorization to the
137 applicant;

138 (ii) the applicable agency has previously investigated, sanctioned, or pursued legal
139 action against the applicant;

140 (iii) whether the applicant could obtain a license or other authorization from the
141 applicable agency after exiting the regulatory sandbox; and

142 (iv) whether certain licensure or other regulations should not be waived even if the
143 applicant is accepted into the regulatory sandbox.

144 (10) In reviewing an application under this section, the office shall consider whether a
145 competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor
146 in favor of allowing the applicant to also become a sandbox participant.

147 (11) If the office and each applicable agency approve admitting an applicant into the
148 regulatory sandbox, the office shall present information regarding the applicant to the board for
149 the board's final approval before an applicant may become a sandbox participant.

150 (12) (a) The office may deny any application submitted under this section, for any
151 reason, at the office's discretion.

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

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

156 **63N-14-104. Scope of the regulatory sandbox.**

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

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

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

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

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

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

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

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

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

181 authorization.

182 (6) Except as otherwise provided in this chapter, including in Subsection (7), a
183 sandbox participant that is testing a financial product or service is not subject to state laws that
184 regulate financial products or services.

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

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

190 (ii) the benefits to consumers of applying the law outweigh the potential benefits to
191 consumers from increased competition, innovation, and consumer access that waiving the law,
192 in conjunction with the applicant's ability to compensate consumers who may be harmed,
193 would provide.

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

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

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

201 **63N-14-105. Consumer protection for regulatory sandbox.**

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

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

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

209 (c) that the innovative product or service is undergoing testing and may not function as
210 intended and may expose the customer to financial risk;

211 (d) that the provider of the innovative product or service is not immune from civil

212 liability for any losses or damages caused by the innovative product or service;

213 (e) that the state does not endorse or recommend the innovative product or service;

214 (f) that the innovative product or service is a temporary test that may be discontinued at
215 the end of the testing period;

216 (g) the expected end date of the testing period; and

217 (h) that a consumer may contact the office to file a complaint regarding the innovative
218 product or service being tested and provide the office's telephone number and website address
219 where a complaint may be filed.

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

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

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

227 **63N-14-106. Requirements for exiting regulatory sandbox.**

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

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

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

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

239 (3) If a test includes offering an innovative product or service that requires ongoing
240 duties, such as servicing a loan, the sandbox participant shall continue to fulfill those duties or
241 arrange for another person to fulfill those duties after the date on which the sandbox participant
242 exits the regulatory sandbox.

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

244 **63N-14-107. Extensions.**

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

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

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

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

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

258 **63N-14-108. Record keeping and reporting requirements.**

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

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

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

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

269 (5) If the office determines that a sandbox participant has engaged in, is engaging in, or
270 is about to engage in any practice or transaction that is in violation of this chapter or that
271 constitutes a violation of a state or federal criminal law, the office may remove a sandbox
272 participant from the regulatory sandbox.

273 (6) The office shall include in the annual report described in Section [63N-1-301](#), a

274 report regarding each sandbox participant and the effectiveness of the Regulatory Sandbox
275 Program.