

REGULATORY WAIVER PROCESS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Adam Robertson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates an insurance regulatory sandbox program in the Department of Insurance, which allows a participant to temporarily test innovative insurance products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state;
- ▶ describes the application process and the conditions of participating in the program;
- ▶ describes the responsibilities of the Department of Insurance in administering the program; and
- ▶ describes reporting requirements for participants in the program and for the Department of Insurance.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 **31A-47-101**, Utah Code Annotated 1953
- 29 **31A-47-102**, Utah Code Annotated 1953
- 30 **31A-47-103**, Utah Code Annotated 1953
- 31 **31A-47-104**, Utah Code Annotated 1953
- 32 **31A-47-105**, Utah Code Annotated 1953
- 33 **31A-47-106**, Utah Code Annotated 1953
- 34 **31A-47-107**, Utah Code Annotated 1953
- 35 **31A-47-108**, Utah Code Annotated 1953

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

Section 1. Section **31A-47-101** is enacted to read:

CHAPTER 47. INSURANCE REGULATORY SANDBOX PROGRAM

31A-47-101. Title.

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

Section 2. Section **31A-47-102** is enacted to read:

31A-47-102. Definitions.

As used in this chapter:

(1) "Applicable agency" means a department or agency of the state, including the department and the Department of Commerce, that by law regulates certain types of insurance-related business activity in the state and persons engaged in such insurance-related business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate an insurance sandbox participant.

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

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

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

59 (5) "Department" means the Department of Insurance.

60 (6) "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 department to have a comparable widespread offering in the state.

64 (7) "Innovative insurance product or service" means an insurance product or service
65 that includes an innovation.

66 (8) (a) "Insurance product or service" means an insurance product or insurance service
67 that requires state licensure, registration, or other authorization as regulated by Title 31A,
68 Insurance Code, including an insurance product or insurance service that includes a business
69 model, delivery mechanism, or element that requires a license, registration, or other
70 authorization to do an insurance business, act as an insurance producer or consultant, or engage
71 in insurance adjusting as regulated by Title 31A, Insurance Code.

72 (b) "Insurance product or service" does not include a product or service that is
73 governed by Title 61, Chapter 1, Utah Uniform Securities Act.

74 (9) "Insurance regulatory sandbox" means the Insurance Regulatory Sandbox Program
75 created by Section 31A-47-103, which allows a person to temporarily test an innovative
76 insurance product or service on a limited basis without otherwise being licensed or authorized
77 to act under the laws of the state.

78 (10) "Insurance sandbox participant" means a person whose application to participate
79 in the insurance regulatory sandbox is approved in accordance with the provisions of this
80 chapter.

81 (11) "Test" means to provide an innovative insurance product or service in accordance
82 with the provisions of this chapter.

83 Section 3. Section 31A-47-103 is enacted to read:

84 **31A-47-103. Insurance Regulatory Sandbox Program -- Application**
85 **requirements.**

86 (1) There is created in the department the Insurance Regulatory Sandbox Program.

87 (2) In administering the insurance regulatory sandbox, the department:

88 (a) shall consult with each applicable agency;

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

90 in the state to test an innovative insurance product or service without obtaining a license or
91 other authorization that might otherwise be required; and

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

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

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

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

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

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

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

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

110 (i) how the innovative insurance product or service is subject to licensing or other
111 authorization requirements outside of the insurance regulatory sandbox, including a specific list
112 of all state laws, regulations, and licensing or other requirements that the applicant is seeking to
113 have waived during the testing period;

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

115 (iii) how the innovative insurance product or service is different from other insurance
116 products or services available in the state;

117 (iv) what risks may confront consumers that use or purchase the innovative insurance
118 product or service;

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

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

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

125 (viii) how the applicant will end the test and protect consumers if the test fails,
126 including providing evidence of sufficient liability coverage and financial reserves to protect
127 consumers and to protect against insolvency by the applicant; and

128 (g) provides any other required information as determined by the department.

129 (4) The department may collect an application fee from an applicant that is set in
130 accordance with Section [63J-1-504](#).

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

133 (6) After an application is filed, the department may seek additional information from
134 the applicant that the department determines is necessary.

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

138 (8) The department and an applicant may mutually agree to extend the 90-day time
139 period described in Subsection (7) for the department to determine whether an application is
140 approved for entry into the insurance regulatory sandbox.

141 (9) (a) In reviewing an application under this section, the department shall consult
142 with, and get approval from, each applicable agency before admitting an applicant into the
143 insurance regulatory sandbox.

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

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

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

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

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

154 (10) In reviewing an application under this section, the department shall consider
155 whether a competitor to the applicant is or has been an insurance sandbox participant and, if so,
156 weigh that as a factor in favor of allowing the applicant to also become an insurance sandbox
157 participant.

158 (11) If the department and each applicable agency approve admitting an applicant into
159 the insurance regulatory sandbox an applicant may become an insurance sandbox participant.

160 (12) The department may deny any application submitted under this section, for any
161 reason, at the department's discretion.

162 (13) If the department denies an application submitted under this section, the
163 department shall provide to the applicant a written description of the reasons for the denial as
164 an insurance sandbox participant.

165 Section 4. Section **31A-47-104** is enacted to read:

166 **31A-47-104. Scope of the insurance regulatory sandbox.**

167 (1) If the department approves an application under Section [31A-47-103](#), the insurance
168 sandbox participant has 12 months after the day on which the application was approved to test
169 the innovative insurance product or service described in the insurance sandbox participant's
170 application.

171 (2) An insurance sandbox participant testing an innovative insurance product or service
172 within the insurance regulatory sandbox is subject to the following:

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

174 (b) the department may, on a case by case basis, specify the maximum number of
175 consumers that may enter into an agreement with the insurance sandbox participant to use the
176 innovative insurance product or service;

177 (c) the department may, if applicable and on a case by case basis, specify the maximum
178 number of items and the maximum coverage amount for each item that may be offered by an
179 insurance sandbox participant during the testing of the innovative insurance product or service;
180 and

181 (d) the department may, on a case by case basis, specify liability coverage requirements
182 and minimum financial reserves requirements that the insurance sandbox participant shall meet

183 during the testing of the innovative insurance product or service.

184 (3) This section does not restrict an insurance sandbox participant who holds a license
185 or other authorization in another jurisdiction from acting in accordance with that license or
186 other authorization.

187 (4) An insurance sandbox participant is deemed to possess an appropriate license under
188 the laws of the state for the purposes of any provision of federal law requiring state licensure or
189 authorization.

190 (5) An insurance sandbox participant that is testing an innovative insurance product or
191 service is not subject to state laws, regulations, licensing requirements, or authorization
192 requirements that were identified by the insurance sandbox participant in the insurance
193 sandbox participant's application and have been waived in writing by the department.

194 (6) Notwithstanding any other provision of this chapter, an insurance sandbox
195 participant does not have immunity related to any criminal offense committed during the
196 insurance sandbox participant's participation in the insurance regulatory sandbox.

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

201 (8) The department and the department's employees are not liable for any business
202 losses or the recouping of application expenses related to the insurance regulatory sandbox,
203 including for:

204 (a) denying an applicant's application to participate in the insurance regulatory sandbox
205 for any reason; or

206 (b) ending an insurance sandbox participant's participation in the insurance regulatory
207 sandbox at any time and for any reason.

208 Section 5. Section **31A-47-105** is enacted to read:

209 **31A-47-105. Consumer protection for insurance regulatory sandbox.**

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

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

213 (b) that the innovative insurance product or service is authorized pursuant to the

214 insurance regulatory sandbox and, if applicable, that the insurance sandbox participant does not
215 have a license or other authorization to provide an insurance product or service under state laws
216 that regulate insurance products or services outside the insurance regulatory sandbox;

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

219 (d) that the provider of the innovative insurance product or service is not immune from
220 civil liability for any losses or damages caused by the innovative insurance product or service;

221 (e) that the state does not endorse or recommend the innovative insurance product or
222 service;

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

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

226 (h) that a consumer may contact the department to file a complaint regarding the
227 innovative insurance product or service being tested and provide the department's telephone
228 number and website address where a complaint may be filed.

229 (2) The disclosures required by Subsection (1) shall be provided to a consumer in a
230 clear and conspicuous form and, for an Internet or application-based innovative insurance
231 product or service, a consumer shall acknowledge receipt of the disclosure before a transaction
232 may be completed.

233 (3) The department may require that an insurance sandbox participant make additional
234 disclosures to a consumer.

235 Section 6. Section **31A-47-106** is enacted to read:

236 **31A-47-106. Requirements for exiting insurance regulatory sandbox.**

237 (1) At least 30 days before the end of the 12-month insurance regulatory sandbox
238 testing period, an insurance sandbox participant shall:

239 (a) notify the department that the insurance sandbox participant will exit the insurance
240 regulatory sandbox, discontinue the insurance sandbox participant's test, and will stop offering
241 any innovative insurance product or service in the insurance regulatory sandbox within 60 days
242 after the day on which the 12-month testing period ends; or

243 (b) seek an extension in accordance with Section [31A-47-107](#).

244 (2) Subject to Subsection (3), if the department does not receive notification as

245 required by Subsection (1), the insurance regulatory sandbox testing period ends at the end of
246 the 12-month testing period and the insurance sandbox participant shall immediately stop
247 offering each innovative insurance product or service being tested.

248 (3) If a test includes offering an innovative insurance product or service that requires
249 ongoing duties, the insurance sandbox participant shall continue to fulfill those duties or
250 arrange for another person to fulfill those duties after the date on which the insurance sandbox
251 participant exits the insurance regulatory sandbox.

252 Section 7. Section **31A-47-107** is enacted to read:

253 **31A-47-107. Extensions.**

254 (1) Not later than 30-days before the end of the 12-month regulatory insurance sandbox
255 testing period, an insurance sandbox participant may request an extension of the insurance
256 regulatory sandbox testing period for the purpose of obtaining a license or other authorization
257 required by law.

258 (2) The department shall grant or deny a request for an extension in accordance with
259 Subsection (1) by the end of the 12-month insurance regulatory sandbox testing period.

260 (3) The department may grant an extension in accordance with this section for not
261 more than six months after the end of the insurance regulatory sandbox testing period.

262 (4) An insurance sandbox participant that obtains an extension in accordance with this
263 section shall provide the department with a written report every three months that provides an
264 update on efforts to obtain a license or other authorization required by law, including any
265 submitted applications for licensure or other authorization, rejected applications, or issued
266 licenses or other authorization.

267 Section 8. Section **31A-47-108** is enacted to read:

268 **31A-47-108. Record keeping and reporting requirements.**

269 (1) An insurance sandbox participant shall retain records, documents, and data
270 produced in the ordinary course of business regarding an innovative insurance product or
271 service tested in the insurance regulatory sandbox.

272 (2) If an innovative insurance product or service fails before the end of a testing period,
273 the insurance sandbox participant shall notify the department and report on actions taken by the
274 insurance sandbox participant to ensure consumers have not been harmed as a result of the
275 failure.

276 (3) The department may establish periodic reporting requirements for an insurance
277 sandbox participant.

278 (4) The department may request records, documents, and data from an insurance
279 sandbox participant and, upon the department's request, an insurance sandbox participant shall
280 make such records, documents, and data available for inspection by the department.

281 (5) If the department determines that an insurance sandbox participant has engaged in,
282 is engaging in, or is about to engage in any practice or transaction that is in violation of this
283 chapter or that constitutes a violation of a state or federal criminal law, the department may
284 remove an insurance sandbox participant from the insurance regulatory sandbox.

285 (6) By October 1, the department shall provide an annual written report to the Business
286 and Labor Interim Committee that provides information regarding each insurance sandbox
287 participant and that provides recommendations regarding the effectiveness of the Insurance
288 Regulatory Sandbox Program.