

1 AN ACT relating to regulatory relief.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 9 of this Act, unless the context suggests otherwise:*

6 *(1) "Advisory committee" means the General Regulatory Sandbox Advisory*
7 *Committee;*

8 *(2) "Applicable agency" means a department or agency of the state that by law*
9 *regulates a business activity and persons engaged in the business activity,*
10 *including the issuance of licenses or other types of authorization, which the office*
11 *determines would otherwise regulate a sandbox participant;*

12 *(3) "Applicant" means a person that applies to participate in the regulatory sandbox;*

13 *(4) "Consumer" means a person that purchases or otherwise enters into a*
14 *transaction or agreement to receive an offering pursuant to a demonstration by a*
15 *sandbox participant;*

16 *(5) "Demonstrate" or "demonstration" means to temporarily provide an offering in*
17 *accordance with the provisions of the regulatory sandbox described in Sections 1*
18 *to 9 of this Act;*

19 *(6) "Director" means the director of the Kentucky Office of Regulatory Relief;*

20 *(7) "Innovation" means the use or incorporation of a new idea, a new or emerging*
21 *technology, or a new use of existing technology to address a problem, provide a*
22 *benefit, or otherwise offer a product, production method, or service;*

23 *(8) "Innovative offering" means an offering that includes an innovation;*

24 *(9) "Offering":*

25 *(a) Means a product, production method, or service; and*

26 *(b) Shall not include a product, production method, or service that is subject to*
27 *regulation under KRS Chapter 292, the Securities Act of Kentucky;*

1 (10) "Product" means a commercially distributed good that is:

2 (a) Tangible personal property;

3 (b) The result of a production process; and

4 (c) Passed through the distribution channel before consumption;

5 (11) "Production" means the method or process of creating or obtaining a good,
6 which may include assembling, breeding, capturing, collecting, extracting,
7 fabricating, farming, fishing, gathering, growing, harvesting, hunting,
8 manufacturing, mining, processing, raising, or trapping a good;

9 (12) "Regulatory relief office" means the Kentucky Office of Regulatory Relief;

10 (13) "Sandbox" or "regulatory sandbox" means the General Regulatory Sandbox
11 Program, which allows a person to temporarily demonstrate an offering under a
12 waiver or suspension of one (1) or more administrative regulations;

13 (14) "Sandbox participant" means a person whose application to participate in the
14 regulatory sandbox is approved in accordance with Section 6 of this Act; and

15 (15) "Service" means any commercial activity, duty, or labor performed for another
16 person.

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) The General Regulatory Sandbox Advisory Committee is hereby established for
20 the purpose of advising and making recommendations to the Kentucky Office of
21 Regulatory Relief concerning the implementation and administration of the
22 General Regulatory Sandbox Program.

23 (2) The advisory committee shall consist of twelve (12) members as follows:

24 (a) Five (5) members representing the business community shall be appointed
25 by the Attorney General from a list of three (3) names for each position to
26 be submitted by the following organizations:

27 1. Kentucky Chamber of Commerce;

- 1 2. Kentucky Association of Manufacturers;
- 2 3. National Federation of Independent Business;
- 3 4. Kentucky Retail Federation; and
- 4 5. Kentucky Farm Bureau;
- 5 (b) Five (5) members consisting of the cabinet secretary or his or her designee
- 6 of the following state agencies:
- 7 1. Transportation Cabinet;
- 8 2. Energy and Environment Cabinet;
- 9 3. Cabinet for Economic Development;
- 10 4. Public Protection Cabinet; and
- 11 5. Education and Labor Cabinet; and
- 12 (c) Two (2) members of the Kentucky General Assembly, one (1) appointed by
- 13 the President of the Senate and one (1) appointed by the Speaker of the
- 14 House of Representatives, who shall be ex officio nonvoting members.
- 15 (3) After the initial appointments, members of the advisory committee who are
- 16 appointed under subsection (2)(a) of this section shall serve a term of four (4)
- 17 years.
- 18 (4) The Attorney General shall select a chair of the committee on an annual basis.
- 19 (5) Notwithstanding the requirements of subsection (3) of this section, the Attorney
- 20 General may adjust the length of terms of appointments and reappointments to
- 21 the committee so that half of the advisory committee is appointed every two (2)
- 22 years.
- 23 (6) A member of the advisory committee shall not receive compensation or benefits
- 24 for the member's service, but a member appointed under subsection (2)(a) of this
- 25 section shall receive per diem and travel expenses consistent with the
- 26 reimbursement policy for state employees.
- 27 (7) A majority of the advisory committee constitutes a quorum for the purpose of

1 conducting advisory committee business, and the action of the majority of a
2 quorum constitutes the action of the advisory committee.

3 (8) Meetings of the advisory committee shall not be subject to public disclosure
4 pursuant to the Kentucky Open Records Act, KRS 61.805 to 61.850.

5 (9) The advisory committee shall be attached to the Office of the Attorney General
6 for administrative purposes.

7 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) The Kentucky Office of Regulatory Relief is hereby created within the Office of
10 the Attorney General.

11 (2) (a) There shall be a director within the regulatory relief office responsible for
12 administering Sections 1 to 9 of this Act. The director shall be appointed by
13 the Attorney General.

14 (b) The director shall review all applications for admission to the regulatory
15 sandbox. The director shall report to the Attorney General and may appoint
16 staff subject to the approval of the Attorney General.

17 (3) The regulatory relief office shall:

18 (a) Administer the regulatory sandbox established in Section 4 of this Act;

19 (b) Establish a program to enable a person to obtain legal protections and
20 limited access to the market in the state to demonstrate an innovative
21 offering without obtaining a license or other authorization that might
22 otherwise be required;

23 (c) Establish an application fee not to exceed one thousand dollars (\$1,000) for
24 admission to the regulatory sandbox;

25 (d) Act as a liaison between private businesses and applicable agencies to
26 identify administrative regulations that may be waived or suspended under
27 the regulatory sandbox;

- 1 (e) Consult with each applicable agency; and
- 2 (f) Administer the provisions of Sections 1 to 9 of this Act.
- 3 (4) The regulatory relief office may:
- 4 (a) Review administrative regulations that may unnecessarily inhibit the
5 creation and success of new companies or industries, and provide
6 recommendations to the Governor and the General Assembly on modifying
7 those administrative regulations;
- 8 (b) Create a framework for analyzing the risk level to the health, safety, and
9 financial well-being of consumers related to permanently removing or
10 temporarily suspending administrative regulations that inhibit the creation
11 or success of new and existing companies or industries;
- 12 (c) Propose potential reciprocity agreements between states that use or may
13 propose to use similar regulatory sandbox programs as described in Section
14 4 of this Act;
- 15 (d) Enter into agreements with or adopt the best practices of corresponding
16 federal regulatory agencies or other states that may administer similar
17 programs;
- 18 (e) Consult with businesses in the state about existing or potential proposals for
19 the regulatory sandbox; and
- 20 (f) Promulgate administrative regulations concerning:
- 21 1. Administering the regulatory sandbox;
- 22 2. The application process;
- 23 3. Reporting requirements of sandbox participants; and
- 24 4. Cooperating and consulting with other agencies in the Commonwealth
25 that administer sandbox programs.

26 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
27 READ AS FOLLOWS:

- 1 (1) The General Regulatory Sandbox Program is hereby created within the Kentucky
2 Office of Regulatory Relief to provide relevant information regarding the
3 regulatory sandbox program, including informing an applicant whether it may be
4 more suitable to apply for the program described in this section or Section 12 of
5 this Act.
- 6 (2) An applicant for the regulatory sandbox may contact the regulatory relief office
7 to request a consultation regarding the regulatory sandbox before submitting an
8 application.
- 9 (3) An applicant for the regulatory sandbox shall submit to the regulatory relief
10 office:
- 11 (a) The required application fee as determined by the regulatory relief office;
12 (b) A written application on a form prescribed by the regulatory relief office
13 that:
- 14 1. Confirms the applicant is subject to the jurisdiction of the state;
15 2. Confirms the applicant has established a physical or virtual location
16 in the state, from which the demonstration of an innovative offering
17 will be developed and performed and where all required records,
18 documents, and data will be maintained;
19 3. Contains relevant personal and contact information for the applicant,
20 including legal names, addresses, telephone numbers, email addresses,
21 website addresses, and other information required by the regulatory
22 relief office;
23 4. Discloses criminal convictions of the applicant or other participating
24 personnel, if any;
25 5. Contains a description of the innovative offering to be demonstrated,
26 including statements regarding:
27 a. How the offering is subject to licensing, legal prohibition, or

1 other authorization requirements outside of the regulatory
2 sandbox;

3 b. Each administrative regulation that the applicant seeks to have
4 waived or suspended while participating in the regulatory
5 sandbox program;

6 c. How the offering would benefit consumers;

7 d. How the offering is different from other offerings available in
8 the state;

9 e. What risks might exist for consumers who use or purchase the
10 offering;

11 f. How participating in the regulatory sandbox would enable a
12 successful demonstration of the offering;

13 g. A description of the proposed demonstration plan, including
14 estimated time periods for beginning and ending the
15 demonstration;

16 h. Recognition that the applicant will be subject to administrative
17 regulations pertaining to the applicant's offering after
18 conclusion of the demonstration; and

19 i. How the applicant will end the demonstration and protect
20 consumers if the demonstration fails; and

21 6. Lists each governmental agency, if any, that the applicant knows
22 regulates the applicant's business; and

23 (c) Any other required information that the regulatory relief office deems
24 necessary.

25 (4) An applicant shall file a separate application for each innovative offering that the
26 applicant wishes to demonstrate.

27 (5) A person shall not be eligible to make an application under this section if the

1 person is seeking regulatory relief that is available under KRS 304.3-700 to
2 304.3-735.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Upon receipt of an application, the regulatory relief office shall:

6 (a) Classify the application and any related information provided by the
7 applicant as a protected record in accordance with the Kentucky Open
8 Records Act, KRS 61.870 to 61.884;

9 (b) Consult with each applicable governmental agency that regulates the
10 applicant's business regarding whether more information is needed from
11 the applicant; and

12 (c) Seek additional information from the applicant that the regulatory relief
13 office determines is necessary.

14 (2) No later than five (5) business days after the day on which a complete application
15 is received by the regulatory relief office, the regulatory relief office shall:

16 (a) Review the application and refer the application to each applicable
17 governmental agency that regulates the applicant's business; and

18 (b) Provide to the applicant:

19 1. An acknowledgment of receipt of the application; and

20 2. The identity and contact information of each regulatory agency to
21 which the application has been referred for review.

22 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) (a) Subject to paragraphs (c) and (g) of this subsection, no later than thirty (30)
25 days after the day on which an applicable agency receives a complete
26 application for review, the applicable agency shall provide a written report
27 to the director of the applicable agency's findings.

1 **(b) The report shall:**

2 **1. Describe any identifiable, likely, and significant harm to the health,**
3 **safety, or financial well-being of consumers that the relevant**
4 **administrative regulation protects against; and**

5 **2. Make a recommendation to the regulatory relief office that the**
6 **applicant either be admitted or denied entrance into the regulatory**
7 **sandbox.**

8 **(c) 1. The applicable agency may request an additional five (5) business**
9 **days to deliver the written report by providing notice to the director,**
10 **and the request shall automatically be granted.**

11 **2. The applicable agency may only request one (1) extension per**
12 **application.**

13 **(d) If the applicable agency recommends an applicant under this section be**
14 **denied entrance into the regulatory sandbox, the written report shall include**
15 **a description of the reasons for the recommendation, including why a**
16 **temporary waiver or suspension of the relevant administrative regulations**
17 **would potentially significantly harm the health, safety, or financial well-**
18 **being of consumers or the public and the likelihood of such harm**
19 **occurring.**

20 **(e) If the applicable agency determines that the consumer's or public's health,**
21 **safety, or financial well-being can be protected through less restrictive**
22 **means than the existing relevant administrative regulations, then the**
23 **applicable agency shall provide a recommendation of how that can be**
24 **achieved.**

25 **(f) If an applicable agency fails to deliver a written report as described in this**
26 **subsection, the director shall assume that the applicable agency does not**
27 **object to the temporary waiver or suspension of the relevant administrative**

1 regulations for an applicant seeking to participate in the regulatory
2 sandbox.

3 (g) Notwithstanding any other provision of this section, an applicable agency
4 may by written notice to the regulatory relief office:

5 1. Within the thirty (30) days after the day on which the applicable
6 agency receives a complete application for review, or within thirty-five
7 (35) days if an extension has been requested by the applicable agency,
8 reject an application if the applicable agency determines, in the
9 applicable agency's sole discretion, that the applicant's offering fails
10 to comply with standards or specifications:

11 a. Required by federal law or regulation; or

12 b. Previously approved for use by a federal agency; or

13 2. Reject an application preliminarily approved by the regulatory relief
14 office, if the applicable agency:

15 a. Recommends rejection of the application in accordance with
16 paragraph (d) of this subsection in the agency's written report;
17 and

18 b. Provides in the written notice under this paragraph a description
19 of the applicable agency's reasons why approval of the
20 application would create a substantial risk of harm to the health
21 or safety of the public, or create unreasonable expenses for
22 taxpayers in the state.

23 (h) If an applicable agency rejects an application under paragraph (g) of this
24 subsection, the regulatory relief office shall not approve the application.

25 (2) (a) Upon receiving a written report described in subsection (1) of this section,
26 the director shall provide the application and the written report to the
27 advisory committee.

- 1 (b) The director may call the advisory committee to meet as needed, but not less
2 than once per quarter if applications are available for review.
- 3 (c) After receiving and reviewing the application and each written report, the
4 advisory committee shall provide to the director the advisory committee's
5 recommendation as to whether the applicant may be admitted as a sandbox
6 participant under this section and Section 4 of this Act.
- 7 (d) As part of the advisory committee's review of each written report, the
8 advisory committee shall use the criteria required for an applicable agency
9 as described in subsection (1) of this section.
- 10 (3) (a) In reviewing an application and each applicable agency's written report, the
11 regulatory relief office shall consult with each applicable agency and the
12 advisory committee before admitting an applicant into the regulatory
13 sandbox.
- 14 (b) The consultation with each applicable agency and the consultation with the
15 advisory committee may include seeking information about whether the
16 applicable agency has previously:
- 17 1. Issued a license or other authorization to the applicant; and
18 2. Investigated, sanctioned, or pursued legal action against the applicant.
- 19 (4) In reviewing an application under this section, the regulatory relief office and
20 each applicable agency shall consider whether a competitor to the applicant is or
21 has been a sandbox participant and, if so, weigh that as a factor in favor of
22 allowing the applicant to also become a sandbox participant.
- 23 (5) In reviewing an application under this section, the regulatory relief office shall
24 consider whether:
- 25 (a) The applicant's plan will adequately protect consumers from potential harm
26 identified by an applicable agency in the applicable agency's written report;
27 (b) The risk of harm to consumers is outweighed by the potential benefits to

1 consumers from the applicant's participation in the regulatory sandbox;
2 and

3 (c) Certain administrative regulations that regulate an offering shall not be
4 waived or suspended even if the applicant is approved as a sandbox
5 participant, including applicable antifraud or disclosure provisions.

6 (6) (a) An applicant becomes a sandbox participant if the regulatory relief office
7 approves the application for the regulatory sandbox and enters into a
8 written agreement with the applicant describing the specific administrative
9 regulations that may be waived or suspended as part of participation in the
10 regulatory sandbox.

11 (b) Notwithstanding any other provision of Sections 1 to 9 of this Act, the
12 regulatory relief office shall not enter into a written agreement with an
13 applicant that waives or suspends a tax, fee, or charge that is administered
14 by the Department of Revenue or that is described in KRS Chapters 131 to
15 144.

16 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) The director shall deny an application for participation in the regulatory sandbox
19 if the applicant or any person who seeks to participate with the applicant in
20 demonstrating an offering has been convicted, entered a plea of nolo contendere,
21 or entered a plea of guilty or nolo contendere held in abeyance, for any crime
22 involving significant theft, fraud, or dishonesty if the crime bears a significant
23 relationship to the applicant's or other participant's ability to safely and
24 competently participate in the regulatory sandbox.

25 (2) When an applicant is approved for participation in the regulatory sandbox, the
26 director may provide notice of the approval to competitors of the applicant and to
27 the public.

1 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) Once an application is approved by the regulatory relief office, the sandbox
4 participant has twelve (12) months after the day on which the application was
5 approved to demonstrate the offering described in the sandbox participant's
6 application.

7 (2) An offering that is demonstrated within the regulatory sandbox shall be subject to
8 the following:

9 (a) Each consumer shall be a resident of the state; and

10 (b) No administrative regulation shall be suspended to preclude any person
11 from recovering civil liability damages or workers' compensation damages
12 from the sandbox participant in the event that person is harmed as a result
13 of the sandbox participant's product, conduct, or both.

14 (3) This section shall not restrict a sandbox participant who holds a license or other
15 authorization in another jurisdiction from acting in accordance with that license
16 or other authorization.

17 (4) A sandbox participant is deemed to possess an appropriate license or other
18 authorization under the laws of the state for the purposes of any provision of
19 federal law requiring licensure or other authorization by the state.

20 (5) Subject to subsection (6) of this section:

21 (a) During the demonstration period, a sandbox participant shall not be subject
22 to the enforcement of administrative regulations identified in the written
23 agreement between the regulatory relief office and the sandbox pursuant to
24 subsection (6) of Section 6 of this Act;

25 (b) A prosecutor shall not file or pursue charges pertaining to an administrative
26 regulation identified in the written agreement between the regulatory relief
27 office and the sandbox participant described in subsection (6) of Section 6

- 1 of this Act that occurs during the demonstration period; and
- 2 (c) A state agency shall not file or pursue any punitive action against a sandbox
- 3 participant, including a fine or license suspension or revocation, for the
- 4 violation of an administrative regulation that:
- 5 1. Is identified as being waived or suspended in the written agreement
- 6 between the regulatory relief office and the sandbox participant
- 7 described in subsection (6) of Section 6 of this Act; and
- 8 2. Occurs during the demonstration period.
- 9 (6) Notwithstanding any other provision of Sections 1 to 9 of this Act, a sandbox
- 10 participant shall not have immunity related to any criminal offense committed
- 11 during the sandbox participant's participation in the regulatory sandbox.
- 12 (7) By written notice, the regulatory relief office may end a sandbox participant's
- 13 participation in the regulatory sandbox at any time and for any reason, including
- 14 if the director determines that a sandbox participant is not operating in good faith
- 15 to bring an innovative offering to market.
- 16 (8) The regulatory relief office and the employees of the regulatory relief office shall
- 17 not be liable for any business losses or the recouping of application expenses or
- 18 other expenses related to the regulatory sandbox, including for:
- 19 (a) Denying an applicant's application to participate in the regulatory sandbox
- 20 for any reason; or
- 21 (b) Ending a sandbox participant's participation in the regulatory sandbox at
- 22 any time and for any reason.
- 23 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
- 24 READ AS FOLLOWS:
- 25 (1) The director shall submit an annual written report to the Attorney General on the
- 26 activities of the regulatory relief office, which includes:
- 27 (a) Information regarding each participant in the regulatory sandbox created

1 in Section 4 of this Act, including which industries each participant
 2 represents and the anticipated or actual cost savings that each participant
 3 experienced;

4 (b) Recommendations regarding any administrative regulations that should be
 5 permanently modified;

6 (c) Information regarding outcomes for consumers; and

7 (d) Recommendations for changes to the regulatory sandbox or other duties of
 8 the regulatory relief office.

9 (2) The Attorney General shall provide a written report on the activities of the
 10 regulatory relief office to the Governor and the Legislative Research Commission
 11 by October 1 of each year, which shall include the director's report submitted
 12 under subsection (1) of this section.

13 ➔Section 10. KRS 15.010 is amended to read as follows:

14 (1) The Attorney General is the head of the Department of Law.

15 (2) The Department of Law shall include the following major organizational units:

16 (a) Department of Criminal Litigation;

17 1. Department of Criminal Investigations;

18 a. Public Corruption Division;

19 b. Special Victims Division;

20 c. Special Investigations Division; and

21 d. Protective Intelligence Division;

22 2. Office of Special Prosecutions;

23 3. Office of Medicaid Fraud and Abuse Control;

24 4. Office of Trafficking and Abuse Prevention and Prosecution;

25 5. Office of Prosecutors Advisory Council; and

26 6. Office of Victims Advocacy;

27 (b) Department of Civil Litigation;

- 1 1. Office of Consumer Protection;
- 2 2. Office of Civil and Environmental Law;
- 3 a. Open Records and Meetings Division; and
- 4 b. Administrative Hearings Division;
- 5 3. Office of Rate Intervention; and
- 6 4. Office of Senior Protection;
- 7 (c) Office of the Solicitor General;
- 8 1. Criminal Appeals Division; and
- 9 2. Civil Appeals Division;
- 10 (d) Office of Legal Counsel;
- 11 (e) Office of Communications;~~and~~
- 12 (f) Office of Administrative Services; **and**
- 13 **(g) Kentucky Office of Regulatory Relief.**

14 ➔Section 11. KRS 13A.250 is amended to read as follows:

- 15 (1) An administrative body that promulgates an administrative regulation shall consider
- 16 the cost that the administrative regulation may cause state or local government and
- 17 regulated entities to incur.
- 18 (2) (a) A two (2) part cost analysis shall be completed for each administrative
- 19 regulation.
- 20 (b) The first part of the cost analysis shall include the projected cost or cost
- 21 savings to the Commonwealth of Kentucky and each of its affected agencies,
- 22 and the projected cost or cost savings to affected local governments, including
- 23 cities, counties, fire departments, and school districts.
- 24 (c) The second part of the cost analysis shall include the projected cost or cost
- 25 savings to the regulated entities affected by the administrative regulation.
- 26 (d) Agencies or entities affected by the administrative regulation may submit
- 27 comments in accordance with KRS 13A.270(1) to the promulgating

1 administrative body or to a legislative committee reviewing the administrative
2 regulation.

3 (3) Each administrative body that promulgates an administrative regulation shall
4 prepare and submit with the administrative regulation a fiscal note. The fiscal note
5 shall state:

- 6 (a) The number of the administrative regulation;
- 7 (b) The name, e-mail address, and telephone number of the contact person of the
8 administrative body identified pursuant to KRS 13A.220(6)(d), and, if
9 applicable, the name, e-mail address, and telephone number of an alternate
10 person to be contacted with specific questions about the fiscal note;
- 11 (c) Each unit, part, or division of state or local government the administrative
12 regulation will affect;
- 13 (d) In detail, the aspect or service of state or local government to which the
14 administrative regulation relates, including identification of the applicable
15 state or federal statute or regulation that mandates the aspect or service or
16 authorizes the action taken by the administrative regulation;
- 17 (e) The estimated effect of the administrative regulation on the expenditures and
18 revenues of a state or local government agency or regulated entity for the first
19 full year the administrative regulation will be in effect. ~~The [If specific dollar~~
20 ~~estimates cannot be determined, the]~~ administrative body shall provide a
21 ~~[brief]~~ narrative to explain the fiscal impact of the administrative regulation
22 **and the methodology and resources it used to determine the fiscal impact;**
23 and
- 24 (f) The conclusion of the promulgating administrative body as to whether the
25 administrative regulation will have a major economic impact, as defined in
26 KRS 13A.010, to state and local government and regulated entities, **and an**
27 **explanation of the methodology and resources used by the administrative**

1 *body to reach this conclusion.*

2 (4) Any administrative body may request the advice and assistance of the Commission
3 in the preparation of the fiscal note.

4 ➔Section 12. KRS 304.3-705 is amended to read as follows:

5 (1) Except as provided in subsection (2) of this section, on or before December 31,
6 2025, a person may apply to the department for admission to the sandbox by
7 submitting an application in the form prescribed by the commissioner, accompanied
8 by the following:

9 (a) A filing fee of seven hundred fifty dollars (\$750);

10 (b) A detailed description of the innovation, which shall include:

11 1. An explanation of how the innovation will:

12 a. Add value to customers and serve the public interest;

13 b. Be economically viable for the applicant;

14 c. Provide suitable consumer protection; and

15 d. Not pose an unreasonable risk of consumer harm;

16 2. A detailed description of the statutory and regulatory issues that may
17 prevent the innovation from being currently utilized, issued, sold,
18 solicited, distributed, or advertised in the market;

19 3. A description of how the innovation functions and the manner in which
20 it will be offered or provided;

21 4. If the innovation involves the use of software, hardware, or other
22 technology developed for the purpose of implementing or operating it, a
23 technical white paper setting forth a description of the operation and
24 general content of technology to be utilized, including:

25 a. The problem addressed by that technology; and

26 b. The interaction between that technology and its users;

27 5. If the innovation involves the issuance of a policy of insurance, a

1 statement that either:

2 a. If the applicant will be the insurer on the policy, that the applicant
3 holds a valid certificate of authority and is authorized to issue the
4 insurance coverage in question; or

5 b. If some other person will be the insurer on the policy, that the
6 other person holds a valid certificate of authority and is authorized
7 to issue the insurance coverage in question; and

8 6. A statement by an officer of the applicant certifying that no product,
9 process, method, or procedure substantially similar to the innovation has
10 been used, sold, licensed, or otherwise made available in this
11 Commonwealth before the effective filing date of the application;

12 (c) The name, contact information, and bar number of the applicant's insurance
13 regulatory counsel, which shall be a person with experience providing
14 insurance regulatory compliance advice;

15 (d) A detailed description of the specific conduct that the applicant proposes
16 should be permitted by the limited no-action letter;

17 (e) Proposed terms and conditions to govern the applicant's beta test, which shall
18 include:

19 1. Citation to the provisions of Kentucky law that should be excepted in
20 the notice of acceptance issued under KRS 304.3-710(6); and

21 2. Any request for an extension of the time period for a beta test under
22 KRS 304.3-720(1) and the grounds for the request;

23 (f) Proposed metrics by which the department may reasonably test the
24 innovation's utility during the beta test;

25 (g) Disclosure of all:

26 1. Persons who are directors and executive officers of the applicant;

27 2. General partners of the applicant if the applicant is a limited partnership;

- 1 3. Members of the applicant if the applicant is a limited liability applicant;
- 2 4. Persons who are beneficial owners of ten percent (10%) or more of the
- 3 voting securities of the applicant;
- 4 5. Other persons with direct or indirect power to direct the management
- 5 and policies of the applicant by contract, other than a commercial
- 6 contract for goods or nonmanagement services; and
- 7 6. Conflicts of interest with respect to any person listed in this paragraph
- 8 and the department;
- 9 (h) A statement that the applicant has funds of at least twenty-five thousand
- 10 dollars (\$25,000) available to guarantee its financial stability through one (1)
- 11 or a combination of any of the following:
- 12 1. A contractual liability insurance policy;
- 13 2. A surety bond issued by an authorized surety;
- 14 3. Securities of the type eligible for deposit by authorized insurers in this
- 15 Commonwealth;
- 16 4. Evidence that the applicant has established an account payable to the
- 17 commissioner in a federally insured financial institution in this
- 18 Commonwealth and has deposited money of the United States in an
- 19 amount equal to the amount required by this paragraph that is not
- 20 available for withdrawal, except by direct order of the commissioner;
- 21 5. A letter of credit issued by a qualified United States financial institution
- 22 as defined in KRS 304.9-700; or
- 23 6. Another form of security authorized by the commissioner; and
- 24 (i) A statement confirming that the applicant is not seeking authorization for, nor
- 25 shall it engage in, any conduct that would render the applicant unauthorized to
- 26 make an application under subsection (2) of this section.
- 27 (2) (a) The following persons shall not be authorized to make an application to the

1 department for admission to the sandbox:

- 2 1. Any person seeking to sell or license an insurance innovation directly to
- 3 any federal, state, or local government entity, agency, or instrumentality
- 4 as the insured person or end user of the innovation;
- 5 2. Any person seeking to sell, license, or use an insurance innovation that
- 6 is not in compliance with subsection (1)(b)5. of this section;
- 7 3. Any person seeking to make an application that would result in the
- 8 person having more than five (5) active beta tests ongoing within the
- 9 Commonwealth at any one (1) time; and
- 10 4. Any person seeking a limited or extended no-action letter or exemption
- 11 from any administrative regulation or statute concerning:
 - 12 a. Assets, deposits, investments, capital, surplus, or other solvency
 - 13 requirements applicable to insurers;
 - 14 b. Required participation in any assigned risk plan, residual market,
 - 15 or guaranty fund;
 - 16 c. Any licensing or certificate of authority requirements; or
 - 17 d. The application of any taxes or fees.

18 (b) For the purposes of this subsection, "federal, state, or local government entity,

19 agency, or instrumentality" includes any county, city, municipal corporation,

20 urban-county government, charter county government, consolidated local

21 government, unified local government, special district, special purpose

22 governmental entity, public school district, or public institution of education

23 **(3) Notwithstanding any other provision of this chapter, a person regulated under**

24 **this chapter may participate in the regulatory sandbox described in Section 4 of**

25 **this Act if the person is:**

26 **(a) Not authorized to make an application under this section; or**

27 **(b) Seeking regulatory relief that is not available under KRS 304.3-700 to**

1 304.3-735.

2 ➔Section 13. The initial appointments to the General Regulatory Sandbox
3 Advisory Committee under subsection (2)(a) and (c) of Section 2 of this Act shall be
4 staggered to provide continuity, as follows:

- 5 (1) Four members shall serve a term of three years;
6 (2) Two members shall serve a term of two years; and
7 (3) One member shall serve a term of one year.

8 ➔Section 14. This Act takes effect March 15, 2024.