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The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

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SB 231 Engrossed

DIGEST  
2021 Regular Session

Robert Mills

Proposed law creates the Insurance Regulatory Sandbox Act.

Proposed law provides that the commissioner of insurance will establish a program to enable a person to obtain limited access to the insurance market in the state to test an innovative insurance product or service without obtaining a license or other authorization that might otherwise be required. Proposed law defines "innovative insurance product or service" as an insurance product or service that includes an innovation that is different from, or used in a different manner than, other insurance products that are already licensed pursuant to present law.

Proposed law provides that the commissioner may execute agreements with or follow the best practices of the U.S. Consumer Financial Protection Bureau or the best practices of another state that is administering similar innovative insurance programs.

Proposed law provides that the commissioner may not approve an application of or the participation in the insurance regulatory sandbox program by any person to whom any of the following applies:

- (1) The conviction or nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence and probation pursuant to C.Cr.P. Art. 893, or conviction of any misdemeanor involving breach of trust, moral turpitude, or public corruption.
- (2) The conviction of a felony involving dishonesty or breach of trust pursuant to 18 U.S.C. 1033 and 1034, without written consent from the commissioner pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
- (3) If the applicant or participant is a business entity, refusal to remove or discharge any person who has been convicted of or pleaded nolo contendere to any felony, participated in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence, and probation pursuant to C.Cr.P. Art. 893, or been convicted of any misdemeanor involving breach of trust, moral turpitude, or public corruption.

Proposed law provides that an applicant for the insurance regulatory sandbox will provide to the commissioner an application in a form prescribed by the commissioner and submit a nonrefundable application fee of \$4,500. The fee may be waived or reduced by the commissioner if the applicant holds a license issued by the department of insurance under the provisions of present law.

Proposed law requires that the applicant show that he is subject to the jurisdiction of this state and demonstrate that he has established a physical or virtual location that is adequately accessible to the department from which testing will be developed and performed and where all required records, documents, and data will be maintained.

Proposed law requires that the applicant provide relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the commissioner.

Proposed law requires that the applicant disclose any criminal convictions of the applicant or other participating personnel and demonstrate that he has the necessary personnel, financial and technical expertise, access to capital, and developed plan to test, monitor, and assess the innovative insurance product or service.

Proposed law provides that, after an application is filed and before approving an application, the commissioner may seek any additional information from the applicant and from the department's own research that he determines is necessary, including all of the following:

- (1) Proof of sufficient assets, accounts, liability coverage, and surety bond coverage.
- (2) Other preparation by the applicant to ensure that consumers are protected and that the applicant will be able to cover ongoing duties when the test ends or if the test ends early.
- (3) Industry ratings and past performance of the applicant in other states as a sandbox participant or in the La. insurance market.

Proposed law provides that, not later than 90 days after the day on which a complete application is received, the commissioner shall inform the applicant as to whether the application is approved for entry into the insurance regulatory sandbox, unless the commissioner and an applicant mutually agree to extend the 90-day period.

Proposed law provides that, if the commissioner finds that the applicant needs approval from another state office or department before selling the innovative insurance product or service, the commissioner shall consult with and get approval from each applicable agency before admitting an applicant into the insurance regulatory sandbox.

Proposed law provides that the consultation with an applicable agency may include seeking information about whether any of the following apply:

- (1) Whether the applicable agency has previously issued a license or other authorization to the applicant.
- (2) Whether the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

- (3) Whether the applicant could obtain a license or other authorization from the applicable agency after exiting the insurance regulatory sandbox.
- (4) Whether certain licensure or other regulations should not be waived even if the applicant is accepted into the insurance regulatory sandbox.

Proposed law provides that, in reviewing an application, the commissioner shall consider whether a competitor to the applicant is or has been an insurance sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become an insurance sandbox participant.

Proposed law provides that if the commissioner and any applicable agency approve admitting an applicant into the insurance regulatory sandbox, an applicant may become an insurance sandbox participant.

Proposed law authorizes the commissioner to deny any sandbox participant's application for any reason and at his discretion and that, if the commissioner denies an application then the commissioner shall provide to the applicant a written description of the reasons for the denial as an insurance sandbox participant.

Proposed law provides that if the commissioner approves an application, the insurance sandbox participant has 24 months after the day on which the application was approved to test the innovative insurance product or service described in the insurance sandbox participant's application.

Proposed law provides that an insurance sandbox participant testing an innovative insurance product or service within the insurance regulatory sandbox is subject to all of the following requirements:

- (1) Consumers who are offered the innovative insurance products must be La. residents.
- (2) The commissioner may, on a case-by-case basis, specify the maximum number of consumers that may enter into an agreement with the insurance sandbox participant to use the innovative insurance product or service.
- (3) The commissioner may specify the maximum number of items and the maximum coverage amount for each item that may be offered by an insurance sandbox participant.
- (4) The commissioner may, on a case-by-case basis, specify liability coverage requirements and minimum financial reserves requirements that the insurance sandbox participant will meet during the testing of the innovative insurance product or service.

Proposed law provides that an insurance sandbox participant is deemed to possess an appropriate license under La. law for the purposes of any provision of federal law requiring a state insurance license or authorization.

Proposed law provides that an insurance sandbox participant that is testing an innovative insurance product or service is not subject to state laws, regulations, licensing requirements, or authorization

requirements that were identified by the insurance sandbox participant in the insurance sandbox participant's application and have been waived in writing by the commissioner.

Proposed law provides that an insurance sandbox participant does not have immunity related to any criminal offense committed during the insurance sandbox participant's participation in the insurance regulatory sandbox.

Proposed law authorizes the commissioner by written notice to end an insurance sandbox participant's program at any time and for any reason, including if the commissioner determines an insurance sandbox participant is not operating in good faith to bring an innovative insurance product or service to market.

Proposed law provides that the commissioner and his employees are not liable for any business losses or the recouping of application expenses related to the insurance regulatory sandbox, including for denying an applicant's application or for ending an insurance sandbox participant's project for any reason once it has been approved.

Proposed law provides that no guaranty association in the state shall be held liable for business losses or liabilities incurred as a result of activities undertaken by a participant in the insurance sandbox.

Proposed law provides that, before providing an innovative insurance product or service to a consumer, an insurance sandbox participant will disclose all of the following to the consumer:

- (1) The name and contact information of the insurance sandbox participant.
- (2) That the innovative insurance product or service is authorized pursuant to the insurance regulatory sandbox and, if applicable, that the insurance sandbox participant does not have a license or other authorization to provide an insurance product or service under state laws that regulate insurance products or services outside the insurance regulatory sandbox.
- (3) That the innovative insurance product or service is undergoing testing and may not function as intended and may expose the customer to financial risks of loss.
- (4) That the provider of the innovative insurance product or service is not immune from civil liability for any losses or damages caused by the innovative insurance product or service.
- (5) That the state does not endorse or recommend the innovative insurance product or service.
- (6) That the innovative insurance product or service is a temporary test that may be discontinued at the end of the testing period.
- (7) The expected end date of the testing period.
- (8) That a consumer may contact the department to file a complaint regarding the innovative

insurance product or service being tested and provide the commissioner's telephone number and website address where a complaint may be filed.

Proposed law provides that the disclosures to a consumer will be in a clear and conspicuous form. For an internet or application-based innovative insurance product or service, a consumer will acknowledge receipt of the disclosure before a transaction may be completed.

Proposed law authorizes the commissioner to require that an insurance sandbox participant make additional disclosures to a consumer.

Proposed law provides that, at least 30 days before the end of the 24-month insurance regulatory sandbox testing period, a participant will notify the commissioner that the insurance sandbox participant will exit the insurance regulatory sandbox, discontinue the insurance sandbox participant's test, and will stop offering any innovative insurance product or service in the insurance regulatory sandbox within 60 days after the day on which the 24-month testing period ends or seek an extension. Proposed law further provides that if the commissioner does not receive notification, the insurance regulatory sandbox testing period ends at the end of the 24-month testing period and the insurance sandbox participant will immediately stop offering each innovative insurance product or service being tested.

Proposed law provides that if a test includes offering an innovative insurance product or service that requires ongoing duties, the insurance sandbox participant will continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the insurance sandbox participant exits the insurance regulatory sandbox program.

Proposed law provides that, not later than 30 days before the end of the 24-month regulatory insurance sandbox testing period, an insurance sandbox participant may request an extension of the insurance regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law and authorizes the commissioner to deny a request for an extension by the end of the 24-month testing period. The commissioner may grant an extension for not more than six months after the end of the insurance regulatory sandbox testing period.

Proposed law requires that an insurance sandbox participant that obtains an extension provide the commissioner with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected applications, or issued licenses or other authorization.

Proposed law provides that an insurance sandbox participant will retain records, documents, and data produced in the ordinary course of business regarding an innovative insurance product or service tested in the insurance regulatory sandbox.

Proposed law provides that if an innovative insurance product or service fails before the end of a testing period, the insurance sandbox participant will notify the department and report on actions taken by the insurance sandbox participant to ensure consumers have not been harmed as a result of the failure.

Proposed law requires that the commissioner establish quarterly reporting requirements for an insurance sandbox participant, including information about any customer complaints.

Proposed law authorizes the commissioner to request records, documents, and data from an insurance sandbox participant and, upon the department's request, an insurance sandbox participant will make such records, documents, and data available for inspection.

Proposed law authorizes the commissioner to remove an insurance sandbox participant if he determines that an insurance sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is a violation or constitutes a violation of a state or federal criminal law.

Proposed law provides for the following definitions:

- (1) "Applicable agency" means a department or agency of the state, other than the Department of Insurance, that by law regulates certain types of business activities in the state which are related to the sale of insurance but are not regulated by the Department of Insurance, including but not limited to the office of financial institutions, which the department determines would be necessary to regulate an insurance sandbox participant's particular proposed innovative insurance product or service.
- (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.
- (5) "Department" means the Department of Insurance.
- (6) "Innovation" means the use or incorporation of a new or emerging technology or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the department to have a comparable widespread offering in the state.
- (7) "Innovative insurance product or service" means an insurance product or service that includes an innovation that is different than or used in a different manner than other insurance products that are already licensed pursuant to present law.
- (8) "Insurance product or service" means an insurance product or insurance service that requires

state licensure, registration, or other authorization as provided in this Subpart including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to engage in the insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by La. commercial law.

- (9) "Insurance regulatory sandbox" means the Insurance Regulatory Sandbox Program created by this Subpart that allows a person to temporarily test an innovative insurance product or service on a limited basis without otherwise being licensed or authorized to act under the laws of this state.
- (10) "Insurance sandbox participant" means a person whose application to participate in the insurance regulatory sandbox is approved in accordance with the provisions of proposed law.
- (11) "Test" means to provide an innovative insurance product or service in accordance with the provisions of proposed law.

Proposed law provides that beginning on or before October 1, 2022, the commissioner shall provide an annual written report to the Senate Insurance Committee and the House Insurance Committee that provides information regarding each insurance sandbox participant and recommendations regarding the effectiveness of the program.

Effective August 1, 2021.

(Adds R.S. 22:1430.1-1430.8)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Insurance to the original bill

- 1. Adds provisions prohibiting approval of an application or participation by any person to who has been convicted or plead nolo contendere to a felony.