

2021 Regular Session

HOUSE BILL NO. 482

BY REPRESENTATIVE WRIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FINANCIAL INSTITUTIONS: Creates a regulatory sandbox program within the office of financial institutions

1 AN ACT

2 To enact Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 6:1401 through 1406, relative to the financial technology regulatory sandbox
4 program; to provide definitions; to create the regulatory sandbox program; to provide
5 for administration of the program; to establish an application process; to authorize
6 a fee; to provide for eligibility; to provide standards of review; to require compliance
7 with the program; to provide for licensing and regulation requirements; to provide
8 for consumer protection; to provide a procedure for exiting the program; to allow for
9 extensions; to require record keeping; to require reporting; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 22 of Title 6 of the Louisiana Revised Statutes of 1950,
13 comprised of R.S. 6:1401 through 1406, is hereby enacted to read as follows:

14 CHAPTER 22. FINANCIAL TECHNOLOGY REGULATORY

15 SANDBOX PROGRAM

16 §1401. Definitions

17 For purposes of this Chapter:

18 (1) "Applicable agency" means a department or agency of the state,
19 including the Office of Financial Institutions, that by law regulates certain types of
20 business activity in the state and persons engaged in such business activity, including

1 the issuance of licenses or other types of authorization, which the office determines
2 would otherwise regulate a sandbox participant.

3 (2) "Applicant" means any natural or juridical person who is applying to
4 participate in the regulatory sandbox.

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

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

12 (5)(a) "Financial product or service" means either of the following:

13 (i) A financial product or financial service that requires state licensure or
14 registration.

15 (ii) A financial product or financial service that includes a business model,
16 delivery mechanism, or element that may require a license or other authorization to
17 act as a financial institution, enterprise, or other entity that is regulated by this Title
18 or any other applicable banking law of this state.

19 (b) "Financial product or service" does not include a product or service that
20 is governed by either of the following:

21 (i) Insurance regulation, as provided for in Title 37 of the Louisiana
22 Administrative Code.

23 (ii) Louisiana securities law, as provided for in Title 51 of the Louisiana
24 Revised Statutes of 1950.

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

1 (7) "Innovative product or service" means a financial product or service that
2 includes an innovation.

3 (8) "Office" means Office of Financial Institutions.

4 (9) "Regulatory sandbox" means the regulatory sandbox program established
5 in R.S. 6:1402, which allows a person to temporarily test an innovative product or
6 service on a limited basis without otherwise being licensed or authorized to act under
7 the laws of this state.

8 (10) "Sandbox participant" means a person whose application to participate
9 in the regulatory sandbox is approved in accordance with the provisions of this
10 Chapter.

11 (11) "Test" means to provide an innovative product or service in accordance
12 with the provisions of this Chapter.

13 §1402. Regulatory sandbox program; creation; administration; standards and
14 procedure for application; fees allowed; consultation; standards of review;
15 procedure for approval and denial

16 A. The office shall create and maintain a regulatory sandbox program.

17 B. In administering the regulatory sandbox, the office shall do each of the
18 following:

19 (1) Consult with each applicable agency.

20 (2) Establish a procedure allowing a person to obtain limited access to the
21 market in this state, in order to test an innovative product or service without
22 obtaining a license or other authorization that is otherwise required.

23 C. The office may enter into agreements with, or follow the best practices
24 of, the Consumer Financial Protection Bureau or other states that are administering
25 similar programs.

26 D. An applicant for the regulatory sandbox shall submit an application to the
27 office. The office shall prescribe the form of the application, and the application is
28 to achieve all of the following:

1 (1) Allow the applicant to demonstrate that he is subject to the jurisdiction
2 of the state.

3 (2) Allow the applicant to demonstrate that he has established a physical
4 location in the state, where testing will be developed and performed and where all
5 required records, documents, and data will be maintained.

6 (3) Allow the applicant to provide relevant personal and contact information
7 for the applicant including legal names, addresses, telephone numbers, email
8 addresses, website addresses, and other information required by the office.

9 (4) Allow the applicant to disclose criminal convictions of the applicant or
10 other participating personnel.

11 (5) Allow the applicant to demonstrate that he has the necessary personnel,
12 financial and technical expertise, and access to capital required to participate in the
13 regulatory sandbox.

14 (6) Allow the applicant to demonstrate that he has developed a plan to test,
15 monitor, and assess the innovative product or service.

16 (7) Allow the applicant to provide a description of the innovative product or
17 service to be tested, including statements regarding all of the following:

18 (a) How the innovative product or service is subject to licensing or other
19 authorization requirements outside of the regulatory sandbox.

20 (b) How the innovative product or service would benefit consumers.

21 (c) How the innovative product or service is different from other products
22 or services available in the state.

23 (d) What risks, if any, may confront consumers who purchase or use the
24 innovative product or service.

25 (e) How participating in the regulatory sandbox would enable a successful
26 test of the innovative product or service.

27 (f) A description of the proposed testing plan, including estimated time
28 periods for beginning the test, ending the test, and obtaining necessary licensure or
29 authorizations after the testing is complete.

1 (g) A description of how the applicant will perform ongoing duties after the
2 testing is complete.

3 (h) The manner in which the applicant will end the test and protect
4 consumers if the test fails.

5 (8) Allow the applicant to provide any other required information as
6 determined by the office.

7 E. The office may collect an application fee from an applicant that is set in
8 accordance with state law.

9 F. An applicant shall file a separate application for each innovative product
10 or service that the applicant wants to test.

11 G. After an application is filed, the office may seek additional information
12 from the applicant as the office deems necessary.

13 H. Subject to the provisions of Subsection I of this Section, not later than
14 ninety days after the day on which a completed application is received by the office,
15 the office shall inform the applicant as to whether the applicant is approved for entry
16 into the regulatory sandbox.

17 I. The office and an applicant may mutually agree to extend the ninety day
18 time period provided for in Subsection H of this Section.

19 J.(1) In reviewing an application pursuant to this Section, the office shall
20 consult with, and get approval from, each applicable agency before admitting an
21 applicant into the regulatory sandbox.

22 (2) In consulting with an applicable agency, pursuant to Paragraph (1) of this
23 Subsection, the office shall seek information to determine the following:

24 (a) If the applicable agency has previously issued a license or other
25 authorization to the applicant.

26 (b) If the applicable agency has previously investigated, sanctioned, or
27 pursued legal action against the applicant.

28 (c) If the applicant could obtain a license or other authorization from the
29 applicable agency after exiting the regulatory sandbox.

1 (d) Which licensure requirements or other regulations, if any, should not be
2 waived even if the applicant is accepted into the regulatory sandbox.

3 K. In reviewing an application pursuant to this Section, the office shall
4 consider whether a competitor to the applicant is or has been a sandbox participant
5 and, if so, weigh that as a factor in favor of allowing the applicant to also become a
6 sandbox participant.

7 L. If the office and each applicable agency approve admitting an applicant
8 into the regulatory sandbox, an applicant shall become a sandbox participant.

9 M.(1) The office may deny any application submitted pursuant to this
10 Section, for any reason, at the office's discretion.

11 (2) If the office denies an application submitted pursuant to this Section, the
12 office shall provide to the applicant a written description of the reasons for the denial
13 as a sandbox participant.

14 §1403. Scope of the regulatory sandbox

15 A. If the office approves an application pursuant to R.S. 6:1402, the sandbox
16 participant has twenty-four months after the day on which the application was
17 approved, in which to test the innovative product or service described in the sandbox
18 participant's application.

19 B. An innovative product or service that is tested within the regulatory
20 sandbox is subject to the following conditions:

21 (1) Consumers shall be residents of the state.

22 (2) The office may, on a case-by-case basis, specify the maximum number
23 of consumers who may transact through or enter into an agreement to use the
24 innovative product or service.

25 (3) If a sandbox participant is testing a consumer loan, the office may, on
26 a case-by-case basis, specify the maximum amount of an individual loan that may
27 be issued to an individual consumer and the maximum amount of aggregate loans
28 that may be issued to an individual consumer.

1 (4) If a sandbox participant testing an innovative product or service that
2 would normally require a money transmitters license under state law , the office may,
3 on a case-by-case basis, specify the maximum amount of a single transaction for an
4 individual consumer and the maximum aggregate number of transactions for an
5 individual consumer.

6 C. This Section does not restrict a sandbox participant who holds a license
7 or other authorization in another jurisdiction from acting in accordance with that
8 license or other authorization.

9 D. A sandbox participant shall be deemed to possess an appropriate license
10 under the laws of this state for the purposes of any provision of federal law requiring
11 state licensure or authorization.

12 E. Except as otherwise provided in this Chapter, including Subsections F and
13 G of this Section, a sandbox participant who is testing an innovative product or
14 service is not subject to state laws that regulate financial products or services.

15 F.(1) The office may only determine that certain state laws that regulate a
16 financial product or service apply to a sandbox participant if the office, at the office's
17 sole discretion, determines that the following conditions are met:

18 (a) An applicant's plan to protect consumers will not adequately protect
19 consumers from the harm the state law addresses.

20 (b) The benefits to consumers of applying the law outweigh the potential
21 benefits to consumers from increased competition, innovation, and consumer access
22 that waiving the law, in conjunction with the applicant's ability to compensate
23 consumers who may be harmed, would provide.

24 (2) If the office determines that certain state laws that regulate a financial
25 product or service apply to a sandbox participant, the office shall notify the sandbox
26 participant of the specific regulatory provisions that apply to the sandbox participant.

27 G. Notwithstanding any other provision of this Chapter, a sandbox
28 participant does not have immunity related to any criminal offense committed during
29 the sandbox participant's participation in the regulatory sandbox.

1 H. By written notice, the office may end a sandbox participant's participation
2 in the regulatory sandbox at any time and for any reason, including if the office
3 determines a sandbox participant is not operating in good faith to bring an innovative
4 product or service to market.

5 §1403. Consumer protection

6 A. Prior to providing an innovative product or service to a consumer, a
7 sandbox participant shall disclose all of the following to the consumer:

8 (1) The name and contact information of the sandbox participant.

9 (2) That the innovative product or service is authorized pursuant to the
10 regulatory sandbox and, if applicable, that the sandbox participant does not have a
11 license or other authorization to provide a product or service under state laws that
12 regulate products or services outside the regulatory sandbox.

13 (3) That the innovative product or service is undergoing testing and may not
14 function as intended and may expose the customer to financial risk.

15 (4) That the provider of the innovative product or service is not immune
16 from civil liability for any losses or damages caused by the innovative product or
17 service.

18 (5) That the state does not endorse or recommend the innovative product or
19 service.

20 (6) That the innovative product or service is a temporary test that may be
21 discontinued at the end of the testing period.

22 (7) The expected end date of the testing period.

23 (8) That a consumer may contact the office to file a complaint regarding the
24 innovative product or service being tested and provide the office's telephone number
25 and website address where a complaint may be filed.

26 B. The disclosures required by Subsection A of this Section shall be
27 provided to a consumer in a clear and conspicuous form and, for an internet or
28 application-based innovative product or service, a consumer shall acknowledge
29 receipt of the disclosure before a transaction may be completed.

1 C. The office may require that a sandbox participant make additional
2 disclosures to a consumer.

3 §1404. Requirements for exit

4 A. At least thirty days prior to the end of the twenty-four month regulatory
5 sandbox testing period, a sandbox participant shall notify the office of either of the
6 following:

7 (1) That the sandbox participant will exit the regulatory sandbox, discontinue
8 the sandbox participant's test, and stop offering any innovative product or service in
9 the regulatory sandbox within sixty days after the day on which the twenty-four
10 month testing period ends.

11 (2) That the sandbox participant will seek an extension in accordance with
12 R.S. 6:1405.

13 B. Subject to Subsection C of this Section, if the office does not receive
14 notification as required by Subsection A of this Section, the regulatory sandbox
15 testing period ends at the end of the twenty-four month testing period and the
16 sandbox participant shall immediately stop offering each innovative product or
17 service being tested.

18 C. If a test includes offering an innovative product or service that requires
19 ongoing duties, such as servicing a loan, the sandbox participant shall continue to
20 fulfill those duties or arrange for another person to fulfill those duties after the date
21 on which the sandbox participant exits the regulatory sandbox.

22 §1405. Extensions

23 A. Not later than thirty days before the end of the twenty-four month
24 regulatory sandbox testing period, a sandbox participant may request an extension
25 of the regulatory sandbox testing period for the purpose of obtaining a license or
26 other authorization required by law.

27 B. The office shall grant or deny a request for an extension in accordance
28 with Subsection A of this Section by the end of the twenty-four month regulatory
29 sandbox testing period.

1 C. The office may grant an extension in accordance with this Section for not
2 more than six months after the end of the regulatory sandbox testing period.

3 D. A sandbox participant who obtains an extension in accordance with this
4 Section shall provide the office with a written report every three months that
5 provides an update on efforts to obtain a license or other authorization required by
6 law, including any applications submitted for licensure or other authorization, any
7 rejected applications, and any issued licenses or other authorization.

8 §1406. Record keeping; reporting requirements

9 A. A sandbox participant shall retain records, documents, and data produced
10 in the ordinary course of business regarding an innovative product or service tested
11 in the regulatory sandbox.

12 B. If an innovative product or service fails before the end of a testing period,
13 the sandbox participant shall notify the office and report on actions taken by the
14 sandbox participant to ensure consumers have not been harmed as a result of the
15 failure.

16 C. The office may establish periodic reporting requirements for a sandbox
17 participant.

18 D. The office may request records, documents, and data from a sandbox
19 participant and, upon the office's request, a sandbox participant shall make the
20 records, documents, and data available for inspection by the office.

21 E. If the office determines that a sandbox participant has engaged in, is
22 engaging in, or is about to engage in any practice or transaction that is in violation
23 of this Chapter or that constitutes a violation of a state or federal criminal law, the
24 office may remove a sandbox participant from the regulatory sandbox.

25 F. On or before October 1st of each year, the office shall provide an annual
26 written report to the House Committee on Commerce and Senate Committee on
27 Commerce, Consumer Protection, and International Affairs. The report is to provide
28 information regarding each sandbox participant and make recommendations relative
29 to the effectiveness of the regulatory sandbox.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 482 Engrossed

2021 Regular Session

Wright

Abstract: Creates a regulatory sandbox program to be administered by the Office of Financial Institutions.

Proposed law defines "applicable agency", "applicant", "blockchain technology", "consumer", "office", "financial product or service", "innovation", "innovative product or service", "regulatory sandbox", "sandbox participant", and "test".

Proposed law requires the Office of Financial Institutions ("office") to create a regulatory sandbox program and imposes duties relative to the administration of the program.

Proposed law requires the office to produce an application that an applicant can use to apply for the program, and provides the information that is to be gathered through the application.

Proposed law allows the office to collect an application fee from the applicant in accordance with present law.

Proposed law requires an applicant to submit a separate application for each innovative product or service the applicant wants to test.

Proposed law allows the office to seek additional information, outside of the information required in proposed law from the applicant.

Proposed law requires the office to notify an applicant of the approval or rejection of his application within 90 days from the submission of the application.

Proposed law allows for a mutually agreed upon extension of the 90-day requirement.

Proposed law requires the office to consult with applicable agencies and provides parameters and procedures for the consultation.

Proposed law requires the office to consider an applicant's competitors in making a determination on the approval or denial of the application.

Proposed law allows the office to deny an application for any reason, but requires the office to provide a written explanation to the applicant.

Proposed law provides a 24-month period for a participant to test the innovative product or service.

Proposed law provides conditions for the testing of the innovative product or service.

Proposed law provides specific conditions for the testing of a consumer loan and for testing a product or service that would normally require a money transmitter's license under present law.

Proposed law provides that a participant who is engaged in the 24-month testing process, is deemed to have any necessary licenses for purposes of present law.

Proposed law provides that a participant who is engaged in the 24-month testing process is not subject to provisions of present law that regulate financial products or services, but allows the office to determine that some provisions of present law remain applicable under certain conditions.

Proposed law requires the office to notify a participant of the provisions of present law that are still applicable, if the office has determined that the provisions still apply.

Proposed law does not give a participant immunity related to any criminal offense.

Proposed law allows the office to end a participant's involvement in the program at any time and for any reason and requires the office to provide written notice to the participant.

Proposed law requires a participant to disclose certain information to a consumer prior to providing the product or service to the consumer. The information is to be disclosed in a clear and conspicuous form and the consumer is required to acknowledge receipt.

Proposed law allows the office to add to the list of information that is to be disclosed to a consumer.

Proposed law requires a participant to notify the office of his intention to exit or extend his participation in the sandbox program at least 30 days prior to the end of the 24-month testing period. If the participant does not provide this notification in the manner required, proposed law provides that the test period ends at the end of the 24-month period, and prohibits the applicant from offering the product or service being tested.

Proposed law requires the participant to ensure that for any products or services that require ongoing duties, the duties are still fulfilled either by the participant or a third party.

Proposed law allows a participant to request an extension of the 24-month testing period. The office is required to make a determination on the request before the end of the testing period.

Proposed law limits the extension to no more than 6 months.

Proposed law requires a participant who is granted an extension to submit a report to the office every 3 months that provides an update on the efforts to obtain a license.

Proposed law requires a participant to retain certain records.

If a product or service fails, proposed law requires the participant to notify the office and report on steps the participant has taken to keep consumers from harm.

Proposed law allows the office to require additional reports.

Proposed law allows the office to remove a participant for violating proposed law or present law.

Proposed law requires the office to provide an annual report that provides participant information and recommendations.

(Adds R.S. 6:1401-1406)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.