

# AN ACT

To enact sections 1355.01, 1355.02, 1355.03, 1355.04, 1355.05, 1355.06, 1355.07, 1355.08, 1355.09, 1355.10, and 1355.11 of the Revised Code to create a regulatory sandbox program for novel financial products and services.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 1355.01, 1355.02, 1355.03, 1355.04, 1355.05, 1355.06, 1355.07, 1355.08, 1355.09, 1355.10, and 1355.11 of the Revised Code be enacted to read as follows:

Sec. 1355.01. As used in this chapter:

(A) "Applicable agency" means a department or agency of the state to which both of the following apply:

(1) It is authorized to regulate certain types of business activity in this state and persons engaged in such business, including the issuance of licenses or other types of authorization.

(2) The superintendent of financial institutions determines the department or agency would regulate a sandbox participant if the person were not a sandbox participant.

(B) "Consumer" means a person that obtains, from a sandbox participant, a novel financial product or service that is to be used primarily for personal, family, household, or business purposes. "Consumer" includes a legal representative of the person.

(C) "Financial product or service" means a product or service that requires licensure or other authorization under, or that includes a business model, delivery mechanism, or element that requires a license or other authorization to act as a financial institution or other person that is regulated by, Title XI or Chapter 1315., 1321., 1322., 1733., 4712., 4727., or 4728. of the Revised Code. "Financial product or service" does not include a product or service that requires licensure under, or that includes a business model, delivery mechanism, or element that requires a license to act as a person regulated by, Chapter 1707. of the Revised Code.

(D) "Novel financial product or service" means a financial product or service that makes use of or incorporates new or emerging technology, or reimagines uses of existing technologies, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the superintendent of financial institutions to have a comparable widespread offering in this state.

(E) "Person" has the same meaning as in section 1.59 of the Revised Code.

(F) "Regulatory sandbox" means the program established by this chapter under which a person is licensed to temporarily test a novel financial product or service on a limited basis without otherwise being licensed or authorized to act under the laws of this state.

(G) "Sandbox participant" means a person that has been granted a license to test a novel financial product or service in the regulatory sandbox.

(H) "Test" means to provide products and services as allowed by this chapter.

Sec. 1355.02. The superintendent of financial institutions shall establish a regulatory sandbox program in consultation with applicable agencies to enable a person to obtain limited access to the market in this state to test novel financial products or services without obtaining any other license or authorization that otherwise would be required.

Sec. 1355.03. (A)(1) Any person may apply to enter the regulatory sandbox to test a novel financial product or service.

(2) A person shall file an application with the superintendent of financial institutions in order to test a novel financial product or service if either of the following applies:

(a) The person does not hold a license or other authorization under Title XI or Chapter 1315., 1321., 1322., 1733., 4712., 4727., or 4728. of the Revised Code.

(b) The person holds a license or other authorization under Title XI or Chapter 1315., 1321., 1322., 1733., 4712., 4727., or 4728. of the Revised Code, and the novel financial product falls outside the scope of that license or authorization.

(3) A person shall file a separate application for each novel financial product or service sought to be tested.

(B) The superintendent shall develop and make publicly available an application form.

(1) The application form shall require the applicant to provide all of the following:

(a) Evidence that the applicant is subject to the jurisdiction of the superintendent, which may be demonstrated through incorporation, residency, an agreement with the superintendent by which the sandbox participant agrees to be subject to the laws and courts of this state relating to any action arising out of the applicant's testing a novel financial product or service in the regulatory sandbox, or otherwise;

(b) Evidence that the applicant has established a location in the United States, whether physical or virtual, that is adequately accessible to the superintendent from which testing will be developed and performed and where all required records, documents, and data will be maintained;

(c) Payment of an application fee established by the superintendent.

(2) The application form may require the applicant to provide the following information:

(a) Relevant personal and contact information for the applicant, including full legal names, addresses, telephone numbers, electronic mail addresses, web site addresses, and other information that the superintendent considers necessary;

(b) Disclosure of any criminal convictions or pleas of guilty of the applicant and key personnel;

(c) A description of the novel financial product or service desired to be tested, including statements regarding all of the following:

(i) How a novel financial product or service is subject to regulation outside of the regulatory sandbox;

(ii) How the novel financial product or service would benefit consumers;

(iii) How the novel financial product or service is different from other products or services available in this state;

(iv) What risks will confront consumers that use or purchase the novel financial product or service;

(v) How entering the regulatory sandbox would enable a successful test of the novel financial product or service;

(vi) A description of the proposed testing plan, including estimated time periods for market entry, market exit, and the pursuit of necessary licensure or authorization;

(vii) How the applicant would wind down the test and protect consumers if the test fails.

(3) As part of its application, an applicant may request that in testing a novel financial product or service, the applicant be exempt from the operation of any state law other than this chapter, including sections 1345.01 to 1345.13 of the Revised Code. In requesting an exemption, an applicant shall demonstrate why compliance would burden the applicant or hinder the test. The superintendent may grant or deny the request at the superintendent's discretion.

(C)(1) After the applicant submits the application with the information required by division (B) of this section, the superintendent shall review the application.

Not later than ninety days after an application is initially submitted, the superintendent shall approve or deny the application and notify the applicant of the decision unless the superintendent notifies the applicant within this time period that additional information is required. If additional information is required, the applicant shall have thirty days to file the additional information with the superintendent, and the superintendent shall have an additional ninety days from receipt of the additional information to approve or deny the application.

The superintendent shall accept and review applications for entry into the regulatory sandbox on a rolling basis.

(2) The superintendent may only approve an application if all of the following conditions are met:

(a) The applicant has provided to the superintendent all of the information required by the application form and any additional information requested by the superintendent.

(b) The applicant has paid the application fee.

(c) The superintendent has consulted with all applicable agencies as described in section 1355.04 of the Revised Code.

(d) The application contains sufficient information to demonstrate that the applicant has an adequate understanding of the novel financial product or service and a sufficient plan to test, monitor, and assess the novel financial product or service while ensuring consumers are protected from a test's failure.

(e) If the novel financial product or service is a type of loan that would otherwise be subject to Chapter 1321. of the Revised Code, the applicant has proven that the consumer will not be charged interest and fees in connection with the loan that exceed the maximum otherwise permitted for that type of loan under Chapter 1321. of the Revised Code.

(f) The applicant has met any other condition imposed by the superintendent.

(3) The superintendent may consider the number of an applicant's competitors already in the sandbox as a factor in approving the application for the purpose of maintaining an appropriate level of competition within the sandbox.

(4) The superintendent may deny an application in the superintendent's discretion but shall inform the applicant of all reasons for the denial. A denial is not an appealable action for the purposes of section 119.12 of the Revised Code.

(D) The superintendent has sole authority to make the final decision whether to admit a person into the regulatory sandbox.

Sec. 1355.04. The superintendent of financial institutions shall consult with all applicable agencies before admitting a person into the regulatory sandbox. This consultation may include seeking information about any of the following:

(A) Whether the applicable agency previously has either:

(1) Issued a license or other authorization to the applicant;

(2) Investigated, sanctioned, or pursued legal action against the applicant.

(B) Whether the applicant could obtain a license or other authorization from an applicable agency after exiting the regulatory sandbox.

Sec. 1355.05. (A) If the superintendent of financial institutions approves an application for entry into the regulatory sandbox, the applicant is considered a sandbox participant and the superintendent shall issue the sandbox participant a license number.

(B) The superintendent and sandbox participant shall enter into an agreement regarding the scope of the sandbox participant's test including any restrictions or limits on testing such as the number of consumers permitted to use the novel financial product or service and any dollar limits.

(C) The sandbox participant may test the novel financial product or service for a period of twenty-four months following the date of approval, unless the sandbox participant and superintendent agree to a shorter period of time. A sandbox participant may opt out of the sandbox prior to the expiration of the testing period. If a sandbox participant opts out early, it must comply with the requirements of section 1355.07 of the Revised Code.

(D) This section does not restrict a sandbox participant that holds another license or authorization from acting pursuant to and in accordance with that other license or authorization. A sandbox participant that holds another license or authorization may continue to operate in accordance with that license or authorization with regard to financial products or services that are not the novel financial product or service being tested in the regulatory sandbox.

(E) Except as otherwise provided in this chapter, a sandbox participant is not subject to state laws that establish requirements pursuant to a license or authorization issued by an applicable agency that otherwise would or may regulate a novel financial product or service.

(F) The superintendent may determine that certain state laws that regulate a financial product or service apply to a sandbox participant. If the superintendent makes this determination and approves an application for entry into the regulatory sandbox, the superintendent shall notify the sandbox participant of the specific state regulatory laws that will apply to the sandbox participant.

(G) The superintendent may require applicants and sandbox participants to utilize a multistate licensing system in accordance with section 1181.23 of the Revised Code in complying with this chapter.

(H) It is the intent of the general assembly that a sandbox participant is deemed to possess an appropriate license under the laws of this state for purposes of any provision of federal law requiring state licensure or authorization.

Sec. 1355.06. (A) Before providing a novel financial product or service to a consumer, a sandbox participant shall disclose to the consumer all of the following:

(1) The name and contact information of the sandbox participant, including the license

number provided by the superintendent of financial institutions pursuant to division (A) of section 1355.05 of the Revised Code;

(2) That the novel financial product or service is authorized pursuant to the regulatory sandbox and, if applicable, that the sandbox participant does not have a license or other authorization to generally provide products or services under state laws that regulate a financial product or service that is outside the regulatory sandbox;

(3) That the state does not endorse or recommend the novel financial product or service;

(4) That the novel financial product or service is a temporary test that may be discontinued at the end of the testing period, including the expected end date of the testing period;

(5) That consumers may contact the superintendent to file complaints regarding the novel financial product or service being tested and provide the superintendent's telephone number and web site address where complaints may be filed.

(B) The notifications prescribed by division (A) of this section shall be provided to consumers in a clear and conspicuous form. For internet- or application-based novel financial products or services, the sandbox participant shall require consumers to acknowledge receipt of these notifications before completion of a transaction.

(C) The superintendent may require a sandbox participant to make additional disclosures to consumers. When the superintendent approves an application for entry into the regulatory sandbox, the superintendent shall notify the sandbox participant of any additional required disclosures.

Sec. 1355.07. (A) Not less than thirty days before the end of a sandbox participant's testing period, the sandbox participant shall do either of the following:

(1) Notify the superintendent of financial institutions that the sandbox participant will exit the regulatory sandbox, wind down its test, and cease offering the novel financial product or service in the regulatory sandbox within sixty days of the end of the testing period;

(2) Seek an extension pursuant to section 1355.08 of the Revised Code to pursue a license or other authorization required by law.

(B) If the superintendent does not receive notification pursuant to division (A) of this section, the regulatory sandbox testing period ends at the expiration of the time period designated by the superintendent pursuant to division (C) of section 1355.05 of the Revised Code, and the sandbox participant shall immediately cease offering novel financial products or services.

(C) If a test includes offering products or services that require ongoing duties, such as servicing a loan, the sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date the sandbox participant exits the regulatory sandbox.

Sec. 1355.08. (A) A sandbox participant may request an extension of the regulatory sandbox testing period for the purpose of pursuing a license or other authorization required by law.

(B) The superintendent of financial institutions may grant or deny a request for an extension pursuant to division (A) of this section by the end of the testing period. The superintendent shall not grant an extension that is effective for more than one year following the end of the initial regulatory sandbox testing period.

(C) A sandbox participant that obtains an extension pursuant to division (B) of this section shall provide the superintendent with a written report every three months that provides an update on the sandbox participant's efforts to obtain a license or other authorization, including any submitted

applications for licensure or other authorization, rejected applications, or issued licenses or other authorizations.

Sec. 1355.09. (A) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding a novel financial product or service tested in the regulatory sandbox.

(B) If a novel financial product or service fails before the end of the testing period, the sandbox participant shall notify the superintendent of financial institutions and report on actions taken to ensure consumers have not been harmed as a result of the failure of the novel financial product or service.

(C) A sandbox participant is subject to the requirements of section 1349.19 of the Revised Code and shall notify the superintendent of any breach of the security of the system as defined in section 1349.19 of the Revised Code.

Sec. 1355.10. (A) Except for the name of a sandbox participant and overview of a sandbox participant's novel financial product or service, records that are submitted to or obtained by the superintendent of financial institutions or an applicable agency pursuant to this chapter are not public records for the purposes of section 149.43 of the Revised Code and shall not be disclosed except in accordance with this section. The name of a sandbox participant and an overview of a sandbox participant's novel financial product or service are public records and may be disclosed.

(B) The superintendent or applicable agency may disclose records and information that are submitted or obtained pursuant to this chapter to any of the following:

(1) State and federal agencies;

(2) Representatives of foreign countries that have regulatory or supervisory authority over the activities of the sandbox participant;

(3) A federal, state, or county grand jury in response to a lawful subpoena;

(4) The auditor of state for the purpose of conducting an audit authorized by law.

(C) The superintendent and any applicable agency consulted by the superintendent pursuant to section 1355.04 of the Revised Code are not liable for the disclosure of records, information, or data received or obtained pursuant to this chapter.

(D)(1) The disclosure pursuant to division (B) of this section of a complaint or the results of an examination, inquiry, or investigation of a sandbox participant does not make that information a public record and the superintendent or appropriate agency shall not disclose that information unless otherwise permitted to do so by a provision of the Revised Code.

(2) If a sandbox participant or the sandbox participant's holding company obtains information as a result of an examination, inquiry, or investigation, the sandbox participant or the sandbox participant's holding company shall not disclose that information to the general public unless the disclosure is required by law. A sandbox participant or the sandbox participant's holding company shall not disclose, use, or reference in any form comments, conclusions, or results of an examination, inquiry, or investigation in any type of communication to a consumer or potential consumer. A violation of division (D)(2) of this section is an unconscionable act or practice for the purposes of Chapter 1345. of the Revised Code.

(E) This section shall not be construed to prohibit the disclosure of information that is admissible in evidence in a civil or criminal proceeding brought by a state or federal law enforcement

agency to enforce or prosecute civil or criminal violations of law.

Sec. 1355.11. (A) The superintendent of financial institutions may establish periodic reporting requirements for sandbox participants.

(B) The superintendent may seek records, documents, and data from sandbox participants. Upon the superintendent's request, a sandbox participant shall make such records, documents, and data available for inspection by the superintendent.

(C) If the superintendent has reasonable cause to believe that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter, that constitutes an unfair act or practice or an unconscionable act or practice under Chapter 1345. of the Revised Code, or that constitutes a violation of a state or federal criminal law, the superintendent may revoke the person's license to test one or more novel financial products or services or order the sandbox participant to immediately discontinue a novel financial product or service in the regulatory sandbox. If, following revocation of a license or discontinuance of a novel financial product or service in accordance with this division, the person has any ongoing duties with respect to a novel financial product or service, the superintendent shall, in the order, provide for the fulfillment of those duties.

(D) The revocation of a license or discontinuance of a novel financial product or service described in division (C) of this section is not an appealable action for the purposes of section 119.12 of the Revised Code.

(E) If a novel financial product or service is a type of loan that would otherwise be subject to Chapter 1321. of the Revised Code, the sandbox participant offering that product or service shall not charge interest and fees in connection with the loan that exceed the maximum otherwise permitted for that type of loan under Chapter 1321. of the Revised Code.

(F) A sandbox participant is subject to sections 1345.01 to 1345.13 of the Revised Code unless exempted pursuant to division (B)(3) of section 1355.03 of the Revised Code. A new motor vehicle dealer licensed under Chapter 4517. of the Revised Code or any other third party who assists a consumer in financing a good or service with a novel financial product or service offered by a sandbox participant is not subject to sections 1345.01 to 1345.13 of the Revised Code with respect to such assistance.

(G) The superintendent may enter into agreements with state, federal, or foreign regulators that allow sandbox participants to operate in other jurisdictions and allow entities authorized to operate in other jurisdictions to be recognized as sandbox participants in this state.

(H) The superintendent may work with any other state or federal agency to implement the regulatory sandbox program, including innovateohio and the office of the attorney general.

(I) The superintendent shall publish and make publicly available a report every two years on the performance of sandbox participants and their novel financial products and services. The report shall include an assessment of how the ability of sandbox participants to operate without being subject to regulations to which the sandbox participants otherwise would have been subject affected the development and performance of the novel financial products and services. The report shall not disclose any proprietary information nor any information the disclosure of which is prohibited under section 1355.10 of the Revised Code.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



Sub. S. B. No. 249

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_