

2024 Regular Session

HOUSE BILL NO. 701

BY REPRESENTATIVE CARVER

INSURANCE DEPARTMENT: Creates the Insurance Regulatory Sandbox Act

1 AN ACT

2 To enact Subpart M-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 22:1430.1 through 1430.4, relative to the regulation
4 of insurance; to create the Insurance Regulatory Sandbox Act; to provide for a short
5 title; to provide for innovation waivers; to provide for requirements of applicants; to
6 provide relative to the authority of the commissioner of insurance; to provide for
7 consumer protections; to provide for disclosures; to provide for extensions of time;
8 to provide for rulemaking; to require reporting; to provide for reciprocity; to provide
9 for a termination date; to provide for an effective date; to provide for redesignation
10 of laws; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Subpart M-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised
13 Statutes of 1950, comprised of R.S. 22:1430.1 through 1430.4, is hereby enacted to read as
14 follows:

15 SUBPART M-1. INSURANCE REGULATORY SANDBOX ACT

16 §1430.1. Short Title

17 This Act shall be known and may be cited as the "Insurance Regulatory
18 Sandbox Act."

19 §1430.2. Regulatory sandbox and innovation waivers; application requirements;
20 fees; disclosures; prohibitions; rules; extensions

1 A. The commissioner may grant a variance or waiver with respect to the
2 specific requirements of any insurance law, regulation, directive, or bulletin if a
3 person subject to that law, regulation, directive, or bulletin demonstrates all of the
4 following to the commissioner's satisfaction:

5 (1) The application of the law, regulation, directive, or bulletin would
6 prohibit the introduction of an innovative or more efficient insurance product or
7 service that the applicant intends to offer during the period for which the proposed
8 waiver is granted.

9 (2) The public policy goals of the law, regulation, directive, or bulletin will
10 be or have been achieved by other means.

11 (3) The waiver will not substantially or unreasonably increase any risk to
12 consumers.

13 (4) The waiver is in the public interest.

14 B. A person shall include in an application for innovation waiver all of the
15 following:

16 (1) The identity of the person applying for the waiver.

17 (2) The identity of the directors and executive officers of the applicant, any
18 persons who are beneficial owners of ten percent or more of the voting securities of
19 the applicant, and any individuals with power to direct the management and policies
20 of the applicant.

21 (3) A description of the product or service to be offered if the waiver is
22 granted, including how the product or service functions, and the manner and terms
23 on which it will be offered.

24 (4) A description of the potential benefits to consumers of the product or
25 service.

26 (5) A description of the potential risks to consumers posed by the product or
27 service or the approval of the proposed waiver and how the applicant proposes to
28 mitigate such risks.

1 (6) An identification of the statutory or regulatory provision that prohibits
2 the introduction, sale, or offering of the product or service.

3 (7) A filing fee in an amount determined by the commissioner.

4 (8) Any additional information required by the commissioner.

5 C.(1) If approved by the commissioner, an innovation waiver shall be
6 granted for an initial period of up to three years.

7 (2) Prior to the end of the initial waiver period, the commissioner may grant
8 a one-time extension for up to an additional three years. If a person requests to
9 extend a waiver, the person shall make an extension request to the commissioner at
10 least thirty days prior to the end of the initial waiver period and shall include the
11 length of the extension period requested and specific reasons why the extension is
12 necessary. The commissioner shall grant or deny an extension request before the end
13 of the initial waiver period.

14 D. The commissioner shall include in an innovation waiver any terms,
15 conditions, and limitations deemed appropriate by the commissioner, including limits
16 on the amount of premium that may be written in relation to the underlying product
17 or service and the number of consumers that may purchase or utilize the underlying
18 product or service, provided that in no event shall a product or service subject to an
19 innovation waiver be purchased or utilized by more than ten thousand consumers.

20 E. A person offering a product or service pursuant to an innovation waiver
21 shall clearly and conspicuously disclose to consumers all of the following:

22 (1) The name and contact information of the person providing the product
23 or service.

24 (2) That the product or service is authorized pursuant to an innovation
25 waiver for a temporary period of time and may be discontinued at the end of the
26 waiver period, the date of which shall be specified.

27 (3) Contact information for the department, including how a consumer may
28 file a complaint with the department regarding the product or service.

29 (4) Any additional disclosures required by the commissioner.

1 F. The commissioner's decision to grant or deny a waiver or extension is not
2 subject to the contested-case provisions of the Administrative Procedure Act.

3 G.(1) The commissioner shall not grant a waiver with respect to any of the
4 following:

5 (a) Any law, regulation, directive, bulletin, or other provision that is not
6 subject to the commissioner's jurisdiction pursuant to this Title.

7 (b) Any law, regulation, directive, bulletin, or other provision concerning the
8 assets, deposits, investments, capital, surplus, or other solvency requirements
9 applicable to insurers.

10 (c) The required participation in any assigned risk plan, residual market, or
11 guaranty fund.

12 (d) Requirements with respect to insurance licensing, insurance trade
13 practices, or particular lines of insurance or insurance products.

14 (e) Any law, regulation, or bulletin required for the department to maintain
15 its accreditation by the National Association of Insurance Commissioners unless the
16 law or regulation permits variances or waivers.

17 (f) The application of any taxes or fees.

18 (g) Any other law, regulation, directive, or bulletin deemed ineligible by the
19 commissioner.

20 (2) The commissioner shall not grant or extend a waiver that would abridge
21 the recovery rights of consumers.

22 H. A person who receives a waiver pursuant to this Section shall possess or
23 obtain one or a combination of the following in an amount subject to conditions and
24 purposes the commissioner determines necessary for the protection of consumers:

25 (1) A contractual liability insurance policy.

26 (2) A surety bond issued by an authorized surety.

27 (3) Securities of the type eligible for deposit by authorized insurers in this
28 state.

1 (4) Evidence that the applicant has established an account payable to the
2 commissioner in a federally insured financial institution in this state and has
3 deposited money of the United States in an amount equal to an amount required by
4 the commissioner that is not available for withdrawal except by direct order of the
5 commissioner.

6 (5) A letter of credit issued by a qualified financial institution as defined in
7 R.S. 22:512.

8 (6) Another form of security authorized by the commissioner

9 I.(1) At least thirty days prior to granting an innovation waiver, the
10 commissioner shall provide public notice of the draft waiver by publishing all of the
11 following information:

12 (a) The specific statute, regulation, directive, or bulletin to which the draft
13 waiver applies.

14 (b) The proposed terms, conditions, and limitations of the draft waiver.

15 (c) The proposed duration of the draft waiver.

16 (d) Any additional information deemed appropriate by the commissioner.

17 (2) The commissioner may satisfy the notice requirement of this Subsection
18 by publication on the department's website.

19 J.(1) If a waiver is granted pursuant to this Section, the commissioner shall
20 provide public notice of the existence of the waiver by providing all of the following
21 information:

22 (a) The specific statute, regulation, directive, or bulletin to which the waiver
23 applies.

24 (b) The name of the person who applied for and received the waiver.

25 (c) The duration of and any other terms, conditions, or limitations of the
26 waiver.

27 (d) Any additional information deemed appropriate by the commissioner.

28 (2) The commissioner may satisfy the notice requirement of this Subsection
29 by publication on the department's website.

1 K.(1) The commissioner may revoke a waiver if the person who obtains the
2 waiver fails to comply with any terms, conditions, or limitations established by the
3 commissioner or the requirements of this Section or if the waiver is causing
4 consumer harm.

5 (2) In addition to any other penalties permitted by law, the commissioner
6 may impose a fine of not more than one thousand dollars on any person who obtains
7 a waiver who fails to comply with any terms, conditions, or limitations established
8 by the commissioner or the requirements of this Section.

9 L.(1) In accordance with the Administrative Procedure Act, the
10 commissioner shall adopt rules and procedures for the submission, granting, denying,
11 monitoring, and revocation of petitions for a waiver pursuant to this Section. The
12 commissioner shall set forth in the procedures all of the following:

13 (a) The requirements for the ongoing monitoring, examination, supervision
14 of, and reporting by, each person granted a waiver pursuant to this Section.

15 (b) An expedited application process for a product or service that is
16 substantially similar to one for which a waiver has previously been granted by the
17 commissioner.

18 (c) Procedure that provides an opportunity for public comment on draft
19 waivers under consideration by the commissioner.

20 (2) The commissioner may attach reasonable conditions or limitations on the
21 conduct permitted pursuant to a waiver.

22 (3) The commissioner may adopt any other rules necessary to effectuate the
23 purposes of this Subpart.

24 M. Upon expiration of an innovation waiver, the person who obtained the
25 waiver shall cease all activities that were only permitted as a result of the waiver and
26 comply with all generally applicable laws and regulations.

27 N. The commissioner's authority to grant a waiver pursuant to this Section
28 does not limit or otherwise affect his authority to exercise discretion to waive or
29 enforce any provision of this Title or applicable administrative regulations.

1 O. On or before January first of each calendar year, the commissioner shall
2 submit a report for the previous calendar year to the Senate Committee on Insurance
3 and the House Committee on Insurance providing all of the following information:

4 (1) The total number of applications for waivers that have been received,
5 granted, and denied by the commissioner.

6 (2) For each waiver granted by the commissioner, the information specified
7 pursuant to Paragraph (J)(1) of this Section.

8 (3) A list of any regulations, directives, or bulletins that have been adopted
9 or amended as a result of or in connection with a waiver granted pursuant to this
10 Section.

11 (4) With respect to each statute to which a waiver applies, the
12 commissioner's recommendation as to whether such statute should be continued,
13 eliminated, or amended in order to promote innovation and establish a uniform
14 regulatory system for all regulated entities.

15 (5) A list of any waivers that have lapsed or been revoked and, if revoked,
16 a description of other regulatory or disciplinary actions, if any, that resulted in,
17 accompanied, or resulted from such revocation.

18 P. The commissioner shall not grant new waivers or extensions after June 30,
19 2029.

20 §1430.3. Reciprocity

21 The commissioner may enter into agreements with other states that have
22 enacted laws substantially similar to this Subpart in order to advance the purposes
23 of this Subpart and to facilitate the consideration of applications for innovation
24 waivers from persons who have satisfied the requirements of this Subpart and
25 received similar waivers in other states.

26 §1430.4. Effectiveness of Subpart

27 This Subpart shall terminate on June 30, 2032.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

3 Section 3. The Louisiana State Law Institute is hereby directed to redesignate
4 Subpart M of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950,
5 comprised of R.S. 22:1431, as "Subpart M-2. Portable Electronics".

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 701 Reengrossed

2024 Regular Session

Carver

Abstract: Creates the Insurance Regulatory Sandbox Act.

Proposed law (R.S. 22:1430.1 and 1430.2) provides for regulatory sandbox and innovation waivers to allow persons to introduce insurance products or services for a certain period of time. Authorizes the commissioner of insurance (commissioner) to grant a variance or waiver with respect to specific requirements of any insurance law, regulation, directive, or bulletin if a person demonstrates that it's application would prohibit the introduction of an innovative or more efficient insurance product or service that the applicant intends to offer during the period for which the proposed waiver is granted.

Proposed law provides other facets for applicants to demonstrate for purposes of applying for a waiver, including but not limited to showing that the waiver will not substantially or unreasonably increase risks to consumers, and the waiver is in the public interest.

Proposed law requires certain information in applications for innovation waivers, including but not limited to the identity of the person applying for the waiver, identities of the applicant's directors and executive officers, any persons who are beneficial owners of 10 % or more of the voting securities of the applicant, and any individuals with power to direct the management and policies of the applicant. Further requires an application fee in an amount determined by the commissioner.

Proposed law authorizes the commissioner to grant a waiver for an initial period of up to 3 years. Authorizes the commissioner to grant a one-time extension for up to an additional 3 years. Requires a person requesting an extension to request the extension at least 30 days prior to the end of the initial waiver period. Further requires the commissioner to grant or deny an extension request before the end of the initial waiver period.

Proposed law requires the commissioner to include terms, conditions, and limitations deemed appropriate within the innovation waiver, including certain limits regarding written premiums and consumer utilization. Further prohibits a product or service subject to an innovation waiver to be purchased or utilized by more than 10,000 consumers.

Proposed law requires a person offering a product or service by innovation waiver to conspicuously disclose certain information to consumers, including but not limited to the name and contact information of the person providing the product or service; the product or service authorized by an innovation waiver for a temporary period of time; contact information for the La. Dept. of Insurance (LDI), including how a consumer may file a complaint with LDI regarding the product or service; and other disclosures required by the commissioner.

Proposed law provides that the commissioner's decision to grant or deny a waiver or extension is not subject to the contested-case provisions of the APA.

Proposed law prohibits the commissioner from granting a waiver under certain circumstances, including but not limited to laws, regulations, directives, or bulletins that are not subject to the commissioner's jurisdiction under the La. Insurance Code, the application of taxes or fees, and any other law deemed ineligible by the commissioner. Further prohibits the commissioner from granting or extending waivers that abridge consumers' recovery rights.

Proposed law requires a person receiving a waiver to possess or obtain certain financial securities.

At least 30 days prior to granting an innovation waiver, proposed law requires the commissioner to provide public notice of the draft waiver by publishing certain information regarding the draft waiver. Further authorizes publication on LDI's website.

Proposed law requires the commissioner to provide public notice of a granted waiver by publishing certain information regarding the waiver. Further authorizes publication on LDI's website.

Proposed law authorizes the commissioner to revoke a waiver if the person who obtains the waiver fails to comply with any terms, conditions, or limitations established by the commissioner or proposed law, or if use of the waiver is causing consumer harm.

Proposed law authorizes the commissioner to impose a fine of not more than \$1,000 on a person granted a waiver who fails to comply with any terms, conditions, or limitations established by the commissioner. Further authorizes other penalties permitted by law.

Proposed law requires the commissioner to adopt rules in accordance with the APA for the submission, granting, denying, monitoring, and revocation of petitions for a waiver. Requires other specific rules and authorizes the commissioner to adopt any other rules necessary to effectuate proposed law.

Proposed law requires a person granted an innovation waiver, upon expiration of the waiver, to cease all activities that were only permitted as a result of the waiver.

Proposed law provides that the commissioner's authority to grant a waiver does not limit or affect his discretion to waive or enforce requirements pursuant to any present law of the La. Insurance Code or applicable administrative regulations.

Proposed law requires the commissioner to annually submit a report on Jan. 1st to the Senate and House committees on insurance and requires reporting of certain information, including but not limited to the total number of applications for waivers the commissioner has received, granted, and denied; a list of regulations, directives, or bulletins that have been adopted or amended as a result of the waiver; and the commissioner's recommendation as to whether a statute should be continued, eliminated, or amended in order to promote innovation of a uniform regulatory system for all regulated entities.

Proposed law prohibits the commissioner from granting new waivers or extensions after June 30, 2029.

Proposed law (R.S. 22:1430.3) authorizes the commissioner to make agreements with other states with laws substantially similar to proposed law to consider applications for innovation waivers from persons who have received similar waivers in other states.

Proposed law (R.S. 22:1430.4) terminates on June 30, 2032.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1430.1-1430.4)

Summary of Amendments Adopted by House

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

1. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Authorize the commissioner to waive issued directives with respect to innovation waivers.
2. Change the termination date of proposed law from June 30, 2029 to June 30, 2032.
3. Make technical changes.