

2022 Regular Session

HOUSE BILL NO. 564

BY REPRESENTATIVE AMEDEE

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 1412, relative to the financial technology regulatory sandbox
4 program; to create the financial technology sandbox council; to create the regulatory
5 sandbox program; to provide for definitions; to provide for the application of
6 standards and procedures; to provide for fees; to provide for disclosure and penalties;
7 to provide for waivers; to provide for suspension and termination of waivers; to
8 provide for a testing period; to provide for recordkeeping; to provide for
9 confidentiality of records; to provide for reporting; to provide for reciprocity; and to
10 provide for related 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, comprised
13 of R.S. 6:1401 through 1412, is hereby enacted to read as follows:

14 CHAPTER 22. FINANCIAL TECHNOLOGY REGULATORY SANDBOX

15 PROGRAM

16 §1401. Definitions

17 For the purposes of this Chapter, the following terms have the meanings
18 ascribed to them:

19 (1) "Applicant" means a person who applies to participate in the regulatory
20 sandbox or to obtain a no action letter.

1 (2) "Consumer" means a person who purchases or otherwise enters into a
2 transaction or agreement that involves an innovative product that is made available
3 through the regulatory sandbox that is being tested by a participant.

4 (3) "Financial Technology Sandbox Council or council" means the council
5 created pursuant to R.S. 6:1402.

6 (4) "Market entry" means the date on which a sandbox participant may test
7 an innovation pursuant to this Chapter.

8 (5) "Market exit" means the date on which a sandbox participant must cease
9 the test of an innovation.

10 (6) "Office" means the Office of Financial Institutions.

11 (7) "Person" means an individual or legal entity.

12 (8) "Regulatory sandbox" means the program established by this Chapter that
13 permits a person to test a product to consumers without being subject to certain
14 regulatory or statutory obligations imposed in accordance with applicable state laws.

15 (9) "Sandbox participant" means a person whose application to participate
16 in the regulatory sandbox is approved pursuant to this Chapter.

17 (10) "Test" means to use, sell, license, or otherwise make available a product
18 or service upon acceptance in the regulatory sandbox program pursuant to this
19 Chapter for a limited period of time.

20 (11) "Waiver" means a document issued pursuant to this Chapter by the
21 office that allows an innovation participant to test a product or service.

22 §1402. Financial Technology Sandbox Council; creation; membership; meetings

23 A. The Financial Technology Sandbox Council is hereby established for the
24 purpose of supporting innovation, investment, and job creation in this state by
25 encouraging participation in the regulatory sandbox created in this Chapter.

26 B. The council shall be composed of nine members as follows:

27 (1) A member of the Louisiana Blockchain Association or a member of the
28 Louisiana blockchain community.

29 (2) The secretary of state or his designee.

1 (3) The secretary of the Department of Economic Development or his
2 designee.

3 (4) The attorney general or his designee.

4 (5) The governor or his designee.

5 (6) A member from the financial services industry appointed by the speaker
6 of the House of Representatives.

7 (7) A member from the financial services industry appointed by the president
8 of the Senate.

9 (8) A member of the House of Representatives appointed by the speaker of
10 the House of the House of Representatives.

11 (9) A member of the Senate appointed by the president of the Senate.

12 C. Members of the council shall serve a term of four years. Any vacancies
13 among appointed members shall be filled by the appointing authority and be for the
14 remainder of the unexpired term.

15 D. The secretary of the Department of Economic Development or his
16 designee shall serve as the chair of the council.

17 E. A majority of the innovation council shall constitute a quorum for the
18 purpose of conducting council business, and the action of the majority of a quorum
19 constitutes the action of the council.

20 F.(1) The council shall meet at least quarterly but may meet more frequently
21 upon the call of the chair.

22 (2) The council shall conduct its first meeting not later than September 1,
23 2022.

24 G. Members of the council shall serve without compensation but may
25 receive reimbursement of travel expenses for council business from the appointing
26 authority.

27 H. Any member who is absent for more than fifty percent of scheduled
28 council meetings in a calendar year may be removed by the chair as a member of the
29 council.

1 I. The Department of Economic Development shall provide administrative
2 staff support for the council.

3 §1403. Regulatory sandbox program; creation; administration; standards and
4 procedure for application; fees allowed; standards of review; procedure for
5 approval and denial

6 A. There is hereby created the financial technology regulatory sandbox
7 program to be managed by the Office of Financial Institutions and overseen by the
8 Financial Technology Sandbox Council.

9 B.(1) The council shall be responsible for ensuring that the office provides
10 information on its website about the financial technology regulatory sandbox that
11 shall include, at a minimum, an application, a list of all past and present participants
12 in the sandbox, and all publicly facing reports created by the council and the office.

13 (2) The website shall contain an online form to receive inquiries and
14 consumer complaints and a phone number which is staffed by a live operator during
15 regular advertised business hours.

16 C. A person may apply for a waiver as a participant by applying to the office
17 on a form prescribed by the council.

18 D. An applicant for the regulatory sandbox shall submit an application to the
19 office. The office shall prescribe the form of the application and the application shall
20 achieve all of the following:

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

23 (2) Allow the applicant to demonstrate that he has a process to easily provide
24 the office and council with all required records, documents, and data.

25 (3) Allow the applicant to provide relevant personal and contact information
26 for the applicant. If the applicant is an entity, information regarding the applicant's
27 management and organizational structure, including, as applicable:

28 (a) The name and contact information of each incorporator named in the
29 entity's articles of incorporation, pursuant to R.S. 12:1-202.

1 (b) The name and contact information of the entity's board of directors,
2 pursuant to R.S. 12:1-801.

3 (c) The name and contact information of the entity's registered agent,
4 pursuant to R.S. 12:1-501.

5 (d) The name and contact information of the entity's secretary and any other
6 such officers as described in its bylaws or appointed by the board of directors,
7 pursuant to R.S. 12:1-840.

8 (e) All persons who are beneficial owners of ten percent or more of the
9 voting securities of the applicant.

10 (f) All persons with direct or indirect power by contract to direct the
11 management and policies of the applicant, other than a commercial contract for
12 goods or non-management services.

13 (g) All conflicts of interest or potential conflicts of interest between a person
14 listed pursuant to this Subsection and the office or the office's employees.

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

17 (a) How the product or service would benefit consumers.

18 (b) What risks, if any, may confront consumers who use, purchase, or
19 participate in the innovation and plans to address those risks.

20 (c) How participating in the regulatory sandbox would enable a successful
21 test of the innovative product or service.

22 (d) A description of the proposed testing plan, including estimated time
23 periods for beginning the test, ending the test, and obtaining necessary licensure or
24 authorizations after the testing is complete.

25 (e) A description of how the applicant will end the test and protect
26 consumers if the test fails to comply with the terms of the waiver.

27 (f) Any additional information the council or the office deems reasonably
28 necessary to evaluate the application.

1 E. After an application is filed, the office may seek additional information
2 from the applicant that is deemed necessary for review of the application.

3 F. The applicant shall submit the application electronically to the office as
4 directed on the application form. Upon receipt, the office shall provide the applicant
5 with an acknowledgment of receipt of the application and shall forward a copy of the
6 application to the council. The office shall provide the applicant with the name and
7 contact information of the designated person to whom questions about the
8 application review process may be addressed.

9 G. In reviewing an application, the office shall consider all of the following:

10 (1) Whether the applicant's plan will adequately protect consumers from
11 potential harm identified by the office.

12 (2) Whether the risk of harm to consumers is outweighed by the potential
13 benefits to consumers from the applicant's participation in the regulatory sandbox.

14 (3) Whether the applicant has an adequate understanding of its product.

15 (4) Whether the applicant has an adequate plan to test, monitor, and assess
16 the innovation.

17 H. The office shall provide a written determination to the applicant and to
18 the council as to whether the application has been approved or denied no later than
19 forty-five days after the application is received. If the application is denied, the
20 determination shall include the reasons therefor. If the application is approved, the
21 office shall notify the applicant of the approval in writing and include a document
22 certifying that the applicant has been granted regulatory relief for the duration of the
23 test.

24 I. If the office fails to provide a written determination within sixty days from
25 the date of application, the council shall assume that the office does not object to the
26 applicant participating in the regulatory sandbox program and deems the application
27 approved, and direct the office to do all of the following:

28 (1) Determine the rules, regulations, and laws that should and should not
29 apply to the applicant, pursuant to R.S. 6:1404.

1 (2) Provide a document certifying that the applicant has been granted
2 regulatory relief as outlined in Paragraph (1) of this Subsection for the duration of
3 the test. If the office does not provide such a document, the council may request that
4 the attorney general provide a letter of no action to the applicant to allow him to
5 offer his product in Louisiana.

6 J.(1) The office may deny any application submitted in accordance with this
7 Section if it determines that there exists a preponderance of evidence that suspending
8 enforcement of a law or regulation would cause a significant risk of harm to
9 consumers or residents of the state.

10 (2) The office shall deny an application if the applicant or any person who
11 seeks to participate with the applicant in the test has been convicted, entered a plea
12 of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance,
13 for any crime involving significant theft, fraud, or dishonesty if the crime bears a
14 significant relationship to the applicant's or other participant's ability to safely and
15 competently participate in the regulatory sandbox program.

16 K.(1) The office shall notify the council in writing of its determination on
17 all applications reviewed pursuant to this Section and shall issue a report that
18 outlines all of the following information:

19 (a) Whether the office has previously issued a license or other authorization
20 to the applicant.

21 (b) Whether the office has previously investigated, sanctioned, or pursued
22 legal action against the applicant.

23 (c) If the applicant could obtain a license or other authorization from the
24 office after exiting the regulatory sandbox.

25 (d) Any rules, regulations, and laws provided for in R.S. 6:1404 that the
26 participant must comply with in order to ensure the health and safety of Louisiana
27 consumers and to serve as a custom regulatory structure for the duration of the test.

28 (e) Any identifiable, likely, and significant harm to the health, safety, or
29 financial wellbeing of consumers for which current relevant regulations exist.

1 (2) If the office fails to deliver a written report as required in this Section,
2 the council shall consider the application pursuant to timelines set forth and
3 provisions outlined in Subsection I of this Section.

4 L. The council shall consider whether to override any denial issued by the
5 office and approve such application. The council may consider an appeal by any
6 applicant approved for participation in the program, but who believes that the
7 regulatory relief granted by the office is insufficient to conduct an effective test.

8 M. The council may approve any application by a majority vote. Upon
9 approval of any application, the council shall direct the office to provide a document
10 certifying that the applicant has been granted regulatory relief for the duration of the
11 test. If no such document is provided, the council may notify the attorney general and
12 request that a letter of no action be issued to the applicant for the duration of the test
13 to allow the product to be offered in this state.

14 §1404. Scope of the regulatory sandbox

15 A. Applicants approved to participate in the sandbox program shall be
16 exempt from any and all rules and regulations promulgated by the office and the
17 following laws, subject to the provisions of Subsection B of this Section:

18 (1) Louisiana Revised Statutes Title 6, Chapter 13: Sale of Checks and
19 Money Transmission (R.S. 6:1031 through 1054).

20 (2) Louisiana Revised Statutes Title 6, Chapter 21: Virtual Currency
21 Businesses (R.S. 6:1381 through 1394).

22 (3) Louisiana Revised Statutes Title 9, Chapter 2, Parts I through XVI:
23 Louisiana Consumer Credit Law (R.S. 9:3510 through 3574.10).

24 B. The office shall determine if sandbox program participants shall be
25 required to adhere to any of the rules, regulations, or laws waived in Subsection A
26 of this Section in order to protect consumer health and safety and to ensure a
27 successful test during the period of sandbox program participation. The office shall
28 ensure that sandbox program participants are exempted from only those rules,
29 regulations, and laws that are necessary to ensure a successful test.

1 C. The office shall notify sandbox program participants in writing of the
2 rules, regulations, and laws that have and have not been waived for purposes of the
3 program.

4 D. A waiver may not be granted with regard to any of the following:

5 (1) The application of taxes or fees.

6 (2) The application of federal requirements.

7 (3) The application of requirements related to consumer protection pursuant
8 to R.S. 51:1401 et seq.

9 E. A sandbox participant shall have two years from the date of approval and
10 waiver determination to test the product or service for which the application was
11 approved. A sandbox participant shall comply with the terms of the waiver granted.

12 F. Sandbox participants shall remain subject to all statutory and regulatory
13 requirements not exempted in the waiver.

14 G. A sandbox participant shall be recognized as possessing an appropriate
15 license or other authorization under the laws of the state for the purposes of any
16 provision of federal law requiring licensure or other authorization by the state.

17 §1405. Disclosures and penalties

18 A. Before marketing a product or service to consumers, a sandbox
19 participant shall disclose to consumers all of the following:

20 (1) That the product or service is authorized pursuant to a waiver from the
21 council and may not be required to comply with all statutory and regulatory
22 requirements, including the specific statutory and regulatory requirements with
23 which it is not required to comply.

24 (2) That the state will refrain from endorsing, warranting, or recommending
25 the product or service.

26 (3) That the product or service is currently being tested and may be
27 discontinued at the end of the testing period, listing the expected end date of the
28 testing period.

1 B. A sandbox participant shall clearly and conspicuously provide the
2 disclosures required pursuant to Subsection A of this Section and shall submit such
3 disclosures to the office before marketing the product or service.

4 C. The office may require a sandbox participant to make additional
5 disclosures to consumers and may require a specific format for disclosure.

6 D. Sandbox participants are subject to the civil penalty provisions that are
7 otherwise applicable to the sandbox participant under applicable licensure laws and
8 rules.

9 E. A waiver shall not affect the legal rights of a third party against the
10 sandbox participant.

11 F. This Chapter shall not create a private cause of action against the state.

12 §1406. End of test period; extension application

13 A. At least sixty days before the end of the test period, a sandbox participant
14 shall do one of the following:

15 (1) Notify the office that the sandbox participant will exit the market at the
16 end of the test period.

17 (2) Request an extension of the test period for the purpose of additional
18 testing.

19 (3) Pursue a license or other authorization required by law.

20 B. (1) When requesting an extension, the sandbox participant shall submit
21 a detailed description of the results of the initial test, which shall include all of the
22 following:

23 (a) A description of how the product or service:

24 (i) Added value to consumers and served the public interest.

25 (ii) Was economically viable for the applicant.

26 (iii) Avoided unreasonable risk of consumer harm and provided suitable
27 consumer protection.

1 (b) A description of statutory and regulatory issues that continue to limit the
2 product or service from being utilized, issued, sold, solicited, distributed, or
3 advertised in the market.

4 (c) A description of how the product or service is functioning in the market
5 and the manner in which it is offered or provided.

6 (d) A log of consumer complaints, if any, and a description of the process
7 for addressing consumer complaints.

8 (e) Other information the council reasonably requires.

9 (2) All of the information in this Subsection shall be made available to the
10 council and be integrated into the record of the applicant on the office's website.

11 C. The office shall grant or deny an extension. An extension shall not exceed
12 two years from the end of the initial test period. The office may grant only one
13 extension. If an extension is not granted by the office, the council may approve the
14 request by majority vote.

15 §1407. Recordkeeping

16 Sandbox participants shall retain records in the ordinary course of business
17 regarding the innovation and the test to the extent the office requires.

18 §1408. Confidentiality of records

19 A. The council may use the materials, documents, or other records in
20 furtherance of regulatory or legal action brought as part of the council's official
21 duties.

22 B. Neither the council nor a person acting in accordance with the authority
23 of the council who receives or views materials, documents, or other records pursuant
24 to this Chapter, other than information regularly submitted with an application for
25 licensure, is permitted or required to testify in a private civil action concerning
26 materials, documents, or other records made confidential pursuant to Subsection A
27 of this Section.

1 §1409. Reports to the sandbox council

2 A. Sandbox participants shall submit reports to the council and office as
3 frequently as required, but no less than annually. The reports shall be submitted on
4 a form prescribed by the council and include all of the following information:

5 (1) The success of the product or service.

6 (2) The challenges of the product or service.

7 (3) How the sandbox participant has worked to ensure that consumer health
8 and safety are protected during the test.

9 (4) Any other information the council reasonably requires.

10 B. If a sandbox participant fails to comply with the terms of the waiver
11 before the end of the test period, the sandbox participant shall notify the office and
12 report on actions taken to ensure consumers have not been harmed as a result of the
13 innovation's failure to comply with those terms.

14 §1410. Suspension and termination of a waiver

15 A. The office may suspend a waiver under an emergency basis at any time
16 if it determines the innovation is causing consumer harm or the innovation
17 participant is violating the terms of the waiver.

18 B. The emergency suspension shall only be applicable for twenty-one days.
19 No more than forty-eight hours after the emergency suspension the office shall
20 inform the council of the emergency suspension. The suspension can be made
21 permanent only by a majority of the council voting to terminate the waiver.

22 C. The office may only suspend a waiver under an emergency basis once
23 without the approval of the council during any twelve month period.

24 §1411. Reports to the legislature

25 A. Each December thirty-first, and annually thereafter, the office shall
26 provide to the House Committee on Commerce and Senate Committee on
27 Commerce, Consumer Protection, and International Affairs an annual report of all
28 active and expired sandbox participants. The report shall include the name of each
29 sandbox participant and the terms of each sandbox participant's waivers, including

1 the statutory and regulatory requirements from which each sandbox participant has
2 been exempted, a description of each product or service, and a description of any
3 complaints received in relation to each product or service.

4 B. The committees, meeting separately or jointly, shall annually consider
5 whether state laws and regulations that would otherwise apply to innovation
6 participants should remain unchanged, be repealed, or be revised in order to avoid
7 inhibiting sandbox participants' success or that of future similar innovations in the
8 state and to provide a less restrictive means of protecting consumer health and safety.

9 C. Upon making the determination pursuant to Subsection B of this Section,
10 the House Committee on Commerce and Senate Committee on Commerce,
11 Consumer Protection, and International Affairs shall provide to the president of the
12 Senate and the speaker of the House of Representatives a report of the committees'
13 recommendations.

14 §1412. Reciprocity

15 A. The council or the office may enter into agreements with other state,
16 federal, or foreign regulators to advance the purpose of the regulatory sandbox,
17 which may include permission for any sandbox participant to operate in other
18 jurisdictions.

19 B.(1) Holding licenses from other state, federal, or foreign jurisdictions are
20 presumed eligible to be recognized as sandbox participants in this state.

21 (2) Any previous sandbox application may be submitted to the office and
22 council for participation in the sandbox program.

23 Section 2. The annual report required by the provisions of R.S. 6:1411 as enacted
24 by Section 1 of this Act shall be due beginning no later than December 31, 2023.

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 564 Original

2022 Regular Session

Amedee

Abstract: Creates a regulatory sandbox program within the Office of Financial Institutions.

Proposed law defines "applicant", "consumer", "financial technology sandbox council", "market entry", "market exit", "office", "person", "regulatory sandbox", "sandbox participant", "test", and "waiver".

Proposed law provides that the Financial Technology Sandbox Council is established for the purpose of supporting innovation, investment, and job creation in La. by encouraging participation in the regulatory sandbox.

Proposed law provides that the council shall be comprised of the following members:

- (1) A member of the La. Blockchain Assoc. or a member of the La. blockchain community.
- (2) The secretary of state or his designee.
- (3) The secretary of the Dept. of Economic Development or his designee.
- (4) The attorney general or his designee.
- (5) The governor or his designee.
- (6) A member from the financial services industry appointed by the speaker of the House of Representatives.
- (7) A member from the financial services industry appointed by the president of the Senate.
- (8) A member of the House of Representatives appointed by the speaker of the House of Representatives.
- (9) A member of the Senate appointed by the president of the Senate.

Proposed law provides that members of the council shall serve a term of four years. Proposed law further provides that any vacancies among appointed members shall be filled by the appointing authority and be for the remainder of the unexpired term.

Proposed law provides that the council shall meet at least quarterly but may meet more frequently upon the call of the chair.

Proposed law provides that the Dept. of Economic Development shall provide administrative staff support for the council.

Proposed law provides that the financial technology regulatory sandbox program shall be managed by the Office of Financial Institutions and overseen by the Financial Technology Sandbox Council.

Proposed law provides that the council shall be responsible for providing information on its website. Proposed law further provides that the website shall contain an online form for receiving inquiries and consumer complaints.

Proposed law provides that an applicant for the regulatory sandbox shall submit an application to the office.

Proposed law provides that after an application is filed, the office may seek additional information from the applicant that is necessary for review of the application.

Proposed law provides that the applicant shall submit the application electronically to the office. Proposed law further provides that upon receipt, the office shall provide the applicant with an acknowledgment of receipt of the application and shall forward a copy of the application to the council.

Proposed law provides that the office shall provide the applicant with the name and contact information of the designated person to whom questions about the application review process may be addressed.

Proposed law provides that the office shall provide a written determination to the applicant and to the council as to whether the application has been approved or denied no later than 45 days after the application is received.

Proposed law provides that if the application is denied, the determination shall include the reasons. Proposed law further provides that if the application is approved, the office shall notify the applicant of the approval in writing and include a document certifying that the applicant has been granted regulatory relief for the duration of the test.

Proposed law provides that if the office fails to provide a written determination within 60 days from the date of application, the council shall assume that the office does not object to the applicant participating in the regulatory sandbox program and deems the application approved.

Proposed law provides that the council shall consider whether to override any denial issued by the office and approve such application. Proposed law further provides that the council may consider an appeal by any applicant approved for participation in the program, but who believes that the regulatory relief granted by the office is insufficient to conduct an effective test.

Proposed law provides that the council may approve any application by a majority vote.

Proposed law provides that upon approval of any application, the council shall direct the office to provide a document certifying that the applicant has been granted regulatory relief for the duration of the test. Proposed law further provides that if no such document is provided, the council may notify the attorney general and request that a letter of no action be issued to the applicant for the duration of the test to allow the product to be offered in La.

Proposed law provides that applicants approved to participate in the sandbox program shall be exempt from certain rules and regulations promulgated by the office and provisions pursuant to proposed law.

Proposed law provides that the office shall determine if sandbox program participants shall be required to adhere to provisions waived pursuant to proposed law in order to protect consumer health and safety and to ensure a successful test during the period of sandbox program participation.

Proposed law provides that the sandbox participant shall have two years from the date of approval and waiver determination to test the product or service for which the application

was approved. Proposed law further provides that a sandbox participant shall comply with the terms of the waiver granted.

Proposed law provides that sandbox participants shall retain records in the ordinary course of business regarding the innovation and the test to the extent the office requires.

Proposed law further provides that sandbox participants shall submit reports to the council and office as frequently as required, but no less than annually. Proposed law further provides the reports must be submitted on a form prescribed by the council and include the following information:

- (1) The success of the product or service.
- (2) The challenges of the product or service.
- (3) How the sandbox participant has worked to ensure that consumer health and safety are protected during the test.
- (4) Any other information the council reasonably requires.

Proposed law provides that each December 31st, and annually thereafter, the office shall provide to the House and Senate committees on commerce an annual report of all active and expired sandbox participants.

Proposed law provides that the report shall include the name of each sandbox participant and the terms of each sandbox participant's waivers, including the statutory and regulatory requirements from which each sandbox participant has been exempted, a description of each product or service, and a description of any complaints received in relation to each product or service.

Proposed law further provides that the House and Senate committees on commerce shall provide to the president of the Senate and the speaker of the House of Representatives a report of the committees' recommendations.

Proposed law provides that the council or the office may enter into agreements with other state, federal, or foreign regulators to advance the purpose of the regulatory sandbox, which may include permission for any sandbox participant to operate in other jurisdictions.

Proposed law provides that holding licenses from other state, federal, or foreign jurisdictions are presumed eligible to be recognized as sandbox participants in this state. Proposed law further provides that any previous sandbox application may be submitted to the office and council for participation in the sandbox program.

(Adds R.S. 6:1401-1412)