

1 ENGROSSED SENATE
2 BILL NO. 1792

By: Montgomery of the Senate

3 and

4 Osburn of the House

5
6 [financial technology - Oklahoma Financial
7 Technology Access and Improvement Act - codification
8 - effective date]
9

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5061.12 of Title 74, unless
13 there is created a duplication in numbering, reads as follows:

14 This act shall be known and may be cited as the "Oklahoma
15 Financial Technology Access and Improvement Act".

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 5061.13 of Title 74, unless
18 there is created a duplication in numbering, reads as follows:

19 As used in the Oklahoma Financial Technology Access and
20 Improvement Act:

21 1. "Applicable agency" means a Department or agency of the
22 state, that by law regulates business activity in the state and
23 persons engaged in such business activity, including the issuance of
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1 licenses or other types of authorization, which the Department
2 determines would otherwise regulate a sandbox participant;

3 2. "Applicant" means an individual or entity that is applying
4 to participate in the regulatory sandbox;

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

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

13 5. "Department" means the Oklahoma Department of Commerce;

14 6. "Financial product or service" means:

- 15 a. a financial product or financial service that requires
16 state licensure or registration, or
- 17 b. a financial product or financial service that includes
18 a business model, delivery mechanism or element that
19 may require a license or other authorization to act as
20 a financial institution, enterprise or other entity
21 that is regulated by this state or other related
22 provisions.

1 "Financial product or service" does not include a product or service
2 that is governed by Title 36 of or Title 71 of the Oklahoma
3 Statutes;

4 7. "Innovation" means the use or incorporation of a new or
5 emerging technology or a new use of existing technology, including
6 blockchain technology, to address a problem, provide a benefit or
7 otherwise offer a product, service, business model or delivery
8 mechanism that is not known by the Department to have a comparable
9 widespread offering in the state;

10 8. "Innovative product or service" means a financial product or
11 service that includes an innovation;

12 9. "Regulatory sandbox" means the Regulatory Sandbox Program
13 created by Section 3 of this act, which allows a person to
14 temporarily test an innovative product or service on a limited basis
15 without otherwise being licensed or authorized to act under the laws
16 of the state;

17 10. "Sandbox participant" means a person whose application to
18 participate in the regulatory sandbox is approved in accordance with
19 the provisions of this act;

20 11. "Test" means to provide an innovative product or service in
21 accordance with the provisions of this chapter.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5061.14 of Title 74, unless
24 there is created a duplication in numbering, reads as follows:

1 A. There is created in the Oklahoma Department of Commerce the
2 Regulatory Sandbox Program. In administering the regulatory
3 sandbox, the Department:

4 1. Shall consult with each applicable agency;

5 2. Shall establish a program to enable a person to obtain
6 limited access to the market in the state to test an innovative
7 product or service without obtaining a license or other
8 authorization that might otherwise be required; and

9 3. May enter into agreements with or follow the best practices
10 of the other state agencies or other states that are administering
11 similar programs.

12 B. An applicant for the regulatory sandbox shall provide to the
13 Department an application in a form prescribed by the Department
14 that:

15 1. Demonstrates the applicant is subject to the jurisdiction of
16 the state;

17 2. Demonstrates the applicant has established a physical
18 location in the state, from which testing will be developed and
19 performed and where all required records, documents and data will be
20 maintained;

21 3. Contains relevant personal and contact information for the
22 applicant, including legal names, addresses, telephone numbers,
23 email addresses, website addresses and other information required by
24 the Department;

1 4. Discloses criminal convictions of the applicant or other
2 participating personnel, if any;

3 5. Demonstrates that the applicant has the necessary personnel,
4 financial and technical expertise, access to capital and developed
5 plan to test, monitor and assess the innovative product or service;

6 6. Contains a description of the innovative product or service
7 to be tested including statements regarding the following:

8 a. how the innovative product or service is subject to
9 licensing or other authorization requirements outside
10 of the regulatory sandbox,

11 b. how the innovative product or service would benefit
12 consumers,

13 c. how the innovative product or service is different
14 from other products or services available in the
15 state,

16 d. what risks may confront consumers that use or purchase
17 the innovative product or service,

18 e. how participating in the regulatory sandbox would
19 enable a successful test of the innovative product or
20 service,

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

- g. a description of how the applicant will perform ongoing duties after the test,
- h. how the applicant will end the test and protect consumers if the test fails, and
- i. provides any other required information as determined by the Department.

C. The Department is hereby authorized to establish a fee for application to the regulatory sandbox program by rule.

D. An applicant shall file a separate application for each innovative product or service to be tested.

E. After an application is filed, the Department may seek additional information from the applicant that the Department determines is necessary.

F. Except as otherwise provided in this subsection, not later than ninety (90) days after the day on which a complete application is received by the Department, the Department shall inform the applicant whether the application is approved for entry into the regulatory sandbox. The Department and an applicant may mutually agree to extend the 90-day time period described in this subsection for the Department to determine whether an application is approved.

G. In reviewing an application under this section, the Department shall consult with, and get approval from, each applicable agency before admitting an applicant into the regulatory

1 sandbox. Such consultation may include seeking information about
2 whether:

3 1. The applicable agency has previously issued a license or
4 other authorization to the applicant;

5 2. The applicable agency has previously investigated,
6 sanctioned or pursued legal action against the applicant;

7 3. Whether the applicant could obtain a license or other
8 authorization from the applicable agency after exiting the
9 regulatory sandbox; and

10 4. Whether certain licensure or other regulations should not
11 be waived even if the applicant is accepted into the regulatory
12 sandbox.

13 H. In reviewing an application under this section, the
14 Department shall consider whether a competitor to the applicant is
15 or has been a sandbox participant and, if so, weigh that as a factor
16 in favor of allowing the applicant to also become a sandbox
17 participant.

18 I. If the Department and each applicable agency approve
19 admitting an applicant into the regulatory sandbox an applicant may
20 become a sandbox participant. The Department may deny any
21 application submitted under this section, for any reason, at the
22 Department's discretion. If the Department denies an application
23 submitted under this section, the Department shall provide to the
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1 applicant a written description of the reasons for the denial as a
2 sandbox participant.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5061.15 of Title 74, unless
5 there is created a duplication in numbering, reads as follows:

6 A. If the Department approves an application under Section 3 of
7 this act, the sandbox participant has twenty-four (24) months after
8 the day on which the application was approved to test the innovative
9 product or service described in the sandbox participant's
10 application. An innovative product or service that is tested within
11 the regulatory sandbox is subject to the following:

12 1. Consumers shall be residents of the state;

13 2. The Department may, on a case by case basis, specify the
14 maximum number of consumers that may transact through or enter into
15 an agreement to use the innovative product or service;

16 3. For a sandbox participant testing a consumer loan the
17 Department may, on a case by case basis, specify the maximum amount
18 of an individual loan that may be issued to an individual consumer
19 and the maximum amount of aggregate loans that may be issued to an
20 individual consumer; and

21 4. For a sandbox participant testing an innovative product or
22 service that would normally require a money transmission license
23 under Section 1513 of Title 6 of the Oklahoma Statutes, the
24 Department may, on a case by case basis, specify the maximum amount

1 of a single transaction for an individual consumer and the maximum
2 aggregate amount of transactions for an individual consumer.

3 B. This section does not restrict a sandbox participant who
4 holds a license or other authorization in another jurisdiction from
5 acting in accordance with that license or other authorization.

6 C. A sandbox participant is deemed to possess an appropriate
7 license under the laws of this state for the purposes of any
8 provision of federal law requiring state licensure or authorization.

9 D. Except as otherwise provided in this act, a sandbox
10 participant that is testing an innovative product or service is not
11 subject to state laws that regulate financial products or services.
12 The Department may only determine that certain state laws that
13 regulate a financial product or service apply to a sandbox
14 participant if the Department, at the Department's sole discretion,
15 determines that:

16 1. An applicant's plan to protect consumers will not adequately
17 protect consumers from the harm the state law addresses; and

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

23 E. If the Department determines that certain state laws that
24 regulate a financial product or service apply to a sandbox

1 participant, the Department shall notify the sandbox participant of
2 the specific regulatory provisions that apply to the sandbox
3 participant.

4 F. Notwithstanding any other provision of this act, a sandbox
5 participant does not have immunity related to any criminal offense
6 committed during participation.

7 G. By written notice, the Department may end a sandbox
8 participant's participation in the regulatory sandbox at any time
9 and for any reason, including if the Department determines a sandbox
10 participant is not operating in good faith to bring an innovative
11 product or service to market.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 5061.16 of Title 74, unless
14 there is created a duplication in numbering, reads as follows:

15 A. Before providing an innovative product or service to a
16 consumer, a sandbox participant shall disclose the following to the
17 consumer:

- 18 1. The name and contact information of the sandbox participant;
- 19 2. That the innovative product or service is authorized
20 pursuant to the regulatory sandbox and, if applicable, that the
21 sandbox participant does not have a license or other authorization
22 to provide a product or service under state laws that regulate
23 products or services outside the regulatory sandbox;

1 3. That the innovative product or service is undergoing testing
2 and may not function as intended and may expose the customer to
3 financial risk;

4 4. That the provider of the innovative product or service is
5 not immune from civil liability for any losses or damages caused by
6 the innovative product or service;

7 5. That the state does not endorse or recommend the innovative
8 product or service;

9 6. That the innovative product or service is a temporary test
10 that may be discontinued at the end of the testing period;

11 7. The expected end date of the testing period; and

12 8. That a consumer may contact the Department to file a
13 complaint regarding the innovative product or service being tested
14 and provide the Department's telephone number and website address
15 where a complaint may be filed.

16 B. The disclosures required by subsection A of this section
17 shall be provided to a consumer in a clear and conspicuous form and,
18 for an internet or application-based innovative product or service,
19 a consumer shall acknowledge receipt of the disclosure before a
20 transaction may be completed.

21 C. The Department may require that a sandbox participant make
22 additional disclosures to a consumer.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5061.17 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. At least thirty (30) days before the end of the 24-month regulatory sandbox testing period, a sandbox participant shall:

1. Notify the Department that the sandbox participant will exit the regulatory sandbox, discontinue the sandbox participant's test and will stop offering any innovative product or service in the regulatory sandbox within sixty (60) days after the day on which the 24-month testing period ends; or

2. Seek an extension pursuant to Section 7 of this act.

B. If the Department does not receive notification as required by subsection A of this section, the regulatory sandbox testing period ends at the end of the 24-month testing period and the sandbox participant shall immediately stop offering each innovative product or service being tested.

C. If a test includes offering an innovative product or service that requires 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 on which the sandbox participant exits the regulatory sandbox.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5061.18 of Title 74, unless there is created a duplication in numbering, reads as follows:

1 A. Not later than thirty (30) days before the end of the 24-
2 month regulatory sandbox testing period, a sandbox participant may
3 request an extension of the regulatory sandbox testing period for
4 the purpose of obtaining a license or other authorization required
5 by law.

6 B. The Department shall grant or deny a request for an
7 extension in accordance with subsection A of this section by the end
8 of the 24-month regulatory sandbox testing period.

9 C. The Department may grant an extension in accordance with
10 this section for not more than six (6) months after the end of the
11 regulatory sandbox testing period.

12 D. A sandbox participant that obtains an extension in
13 accordance with this section shall provide the Department with a
14 written report every three (3) months that provides an update on
15 efforts to obtain a license or other authorization required by law,
16 including any submitted applications for licensure or other
17 authorization, rejected applications or issued licenses or other
18 authorization.

19 SECTION 8. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5061.19 of Title 74, unless
21 there is created a duplication in numbering, reads as follows:

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

1 B. If an innovative product or service fails before the end of
2 a testing period, the sandbox participant shall notify the
3 Department and report on actions taken by the sandbox participant to
4 ensure consumers have not been harmed as a result of the failure.

5 C. The Department may establish periodic reporting requirements
6 for a sandbox participant.

7 D. The Department may request records, documents and data from
8 a sandbox participant and, upon the Department's request, a sandbox
9 participant shall make such records, documents and data available
10 for inspection by the Department.

11 E. If the Department determines that a sandbox participant has
12 engaged in, is engaging in or is about to engage in any practice or
13 transaction that is in violation of this act or that constitutes a
14 violation of a state or federal criminal law, the Department may
15 remove a sandbox participant from the Regulatory Sandbox Program.

16 SECTION 9. This act shall become effective November 1, 2020.
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1 Passed the Senate the 9th day of March, 2020.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2020.

7
8 _____
9 Presiding Officer of the House
10 of Representatives