

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1792

By: Montgomery

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5  
6 AS INTRODUCED

7 An Act relating to financial technology; creating  
8 Oklahoma Financial Technology Access and Improvement  
9 Act; defining terms; creating regulatory sandbox  
10 program within Oklahoma Department of Commerce;  
11 establishing duties and authority of Department in  
12 administering program; enumerating information to be  
13 included in application form prescribed by  
14 Department; authorizing application fee; requiring  
15 application for each product or service; authoring  
16 Department to seek additional information;  
17 prescribing time period for application consideration  
18 and authorizing extension under specified conditions;  
19 requiring specified consultation by Department in  
20 consideration of application and authorizing  
21 consideration of, and attributing certain weight to,  
22 specified factors; authorizing denial of application  
23 and requiring written description; establishing time  
24 limit for testing of product or service if  
application is approved; enumerating requirements for  
product or service tested; clarifying authority of  
participant to act in certain capacity; providing  
status of participant with respect to certain state  
regulatory powers and authorizing certain  
determination; requiring notice by Department with  
respect to application of certain regulatory powers;  
prohibiting immunity for criminal offenses as  
participant; authorizing Department to terminate  
participation and requiring written notice; requiring  
participant to provide specified items of notice to  
consumer in certain forms; authorizing Department to  
require additional disclosures to consumer; setting  
timeframe and procedures for terminating  
participation in regulatory sandbox; requiring  
participant to continue certain activity under  
specified circumstances; authorizing participant to

1 request extension and establishing related  
2 procedures; authorizing Department to grant extension  
3 for specified time period; requiring participant to  
4 retain certain records, documents and data; requiring  
5 certain participant reporting under specified  
6 circumstance; authorizing Department to require  
7 certain records and to compel participant to make  
8 records available; providing conditions for  
9 participant removal from program; providing for  
10 codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

12           6. "Financial product or service" means:

13           a. a financial product or financial service that requires  
14 state licensure or registration, or

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

21 "Financial product or service" does not include a product or service  
22 that is governed by Title 36 of or Title 71 of the Oklahoma  
23 Statutes;

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

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

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

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

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

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

21           A. There is created in the Oklahoma Department of Commerce the  
22 Regulatory Sandbox Program. In administering the regulatory  
23 sandbox, the Department:

24           1. Shall consult with each applicable agency;

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

5           3. May enter into agreements with or follow the best practices  
6 of the other state agencies or other states that are administering  
7 similar programs.

8           B. An applicant for the regulatory sandbox shall provide to the  
9 Department an application in a form prescribed by the Department  
10 that:

11           1. Demonstrates the applicant is subject to the jurisdiction of  
12 the state;

13           2. Demonstrates the applicant has established a physical  
14 location in the state, from which testing will be developed and  
15 performed and where all required records, documents, and data will  
16 be maintained;

17           3. Contains relevant personal and contact information for the  
18 applicant, including legal names, addresses, telephone numbers,  
19 email addresses, website addresses, and other information required  
20 by the Department;

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

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

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

- 6           a. how the innovative product or service is subject to  
7           licensing or other authorization requirements outside  
8           of the regulatory sandbox,
- 9           b. how the innovative product or service would benefit  
10           consumers,
- 11           c. how the innovative product or service is different  
12           from other products or services available in the  
13           state,
- 14           d. what risks may confront consumers that use or purchase  
15           the innovative product or service,
- 16           e. how participating in the regulatory sandbox would  
17           enable a successful test of the innovative product or  
18           service,
- 19           f. a description of the proposed testing plan, including  
20           estimated time periods for beginning the test, ending  
21           the test, and obtaining necessary licensure or  
22           authorizations after the testing is complete,
- 23           g. a description of how the applicant will perform  
24           ongoing duties after the test,

- 1           h.    how the applicant will end the test and protect  
2                    consumers if the test fails, and  
3           i.    provides any other required information as determined  
4                    by the Department.

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

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

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

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

19           G.    In reviewing an application under this section, the  
20 Department shall consult with, and get approval from, each  
21 applicable agency before admitting an applicant into the regulatory  
22 sandbox. Such consultation may include seeking information about  
23 whether:

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

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

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

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

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

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



1 SECTION 4. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 5061.15 of Title 74, unless  
3 there is created a duplication in numbering, reads as follows:

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

10 1. Consumers shall be residents of the state;

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

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

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

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

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

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

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

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

21 E. If the Department determines that certain state laws that  
22 regulate a financial product or service apply to a sandbox  
23 participant, the Department shall notify the sandbox participant of  
24

1 the specific regulatory provisions that apply to the sandbox  
2 participant.

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

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

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

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

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

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

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

6 1. Notify the Department that the sandbox participant will exit  
7 the regulatory sandbox, discontinue the sandbox participant's test,  
8 and will stop offering any innovative product or service in the  
9 regulatory sandbox within sixty (60) days after the day on which the  
10 24-month testing period ends; or

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

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

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

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5061.18 of Title 74, unless  
24 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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