HB 1507 - AS INTRODUCED

2024 SESSION

24-2735
10/08

HOUSE BILL ***1507***

AN ACT relative to innovative financial services

SPONSORS: Rep. Sweeney, Rock. 25

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill grants the banking department authority to allows businesses to trial new products, services, and business models while bypassing laws and rules unsuited for their innovative idea, and establishes the financial services regulatory sandbox fund.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2735
10/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to innovative financial services

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Financial Services Regulatory Sandbox. Amend RSA by inserting after chapter 384-G the following new chapter:

CHAPTER 384-H

FINANCIAL SERVICES REGULATORY SANDBOX

384-H:1 Definitions. In this chapter:

I. "Applicable agency" means a department or agency of the state that by law regulates certain types of financial services-related business activity in the state and persons engaged in such financial services-related business activity. This includes the issuance of licenses or any other types of authorization, which the department determines would otherwise regulate a financial services specific sandbox participant.

II. "Applicant" means an individual or entity that is applying to participate in the financial services specific regulatory sandbox under this chapter.

III. "Consumer" means a person that purchases or otherwise enters into a transaction agreement to receive an innovative financial services specific product or service that is being tested by a financial services specific regulatory sandbox participant.

IV. "Department" means the banking department, which shall be responsible for overseeing the financial services specific sandbox program.

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

VI. "Innovative financial services product or service" means a financial services product or financial services service that includes an innovation.

VII. "Financial services product or service" means a financial services product or service that requires state licensure, registration, or other authorization as regulated by state law or rules, including a financial services specific product or financial services service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do a financial services specific business, act as a financial services producer, or consultant.

VIII. "Financial services regulatory sandbox" means the financial services regulatory sandbox program created in this chapter, which allows a person to temporarily test an innovative

financial services product or service on a limited basis without otherwise being licensed or authorized to act under the law or administrative rules of the state.

IX. "Financial services sandbox participant" means a person whose application to participate in the financial services regulatory sandbox is approved in accordance with the provisions of this chapter.

X. "Test" means to provide an innovative financial services product or service in accordance with the provisions of this chapter.

384-H:2 Application Process.

I. The department shall create and administer the financial services regulatory sandbox program.

II. In administering the financial services regulatory sandbox, the department:

(a) Shall consult with each applicable agency;

(b) Shall establish a program to enable a person to obtain limited access to the market in the state to test an innovative financial services product or service without obtaining a license or other authorization that might otherwise be required;

(c) May enter into agreements with or follow the best practices of the Consumer Financial Protection Bureau or other state regulatory entities that are administering similar programs; and

(d) May not approve participation in the financial services regulatory sandbox by an applicant or any other participant who has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for a serious crime involving theft, fraud, or dishonesty, or that bears a substantial relationship to the applicant's or participant's ability to safely or competently participate in the financial services regulatory sandbox program.

III. An applicant for the financial services regulatory sandbox shall provide to the department an application in a form prescribed by the department that:

(a) Includes a nonrefundable application fee determined in rules adopted by the bank commissioner

(b) Demonstrates the applicant is subject to the jurisdiction of the state.

(c) Demonstrates the applicant has established a physical or virtual location that is adequately accessible to the department, from which testing will be developed and performed and where all required records, documents, and data will be maintained.

(d) Contains relevant personal and contact information for the application, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the department;

(e) Discloses criminal conviction of the applicant or other participating personnel, if any;

(f) Demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and developed plan to test, monitor, and assess the innovative financial services product or service.

(g) Contains a description of the innovative financial services product or service to be tested, including statements regarding the following:

(1) How the innovative financial services product or service is subject to licensing or other authorization requirements outside of the financial services regulatory sandbox, including a specific list of all state laws, rules, and licensing or other requirements that the applicant is seeking to have waived during the testing period.

(2) How the innovative financial services product or service would benefit consumers;

(3) How the innovative financial services product or service is different from other financial services products or services available in the state;

(4) What risks may confront consumers that use or purchase the innovative financial services product or service.

(5) How participating in the financial services regulatory sandbox would enable a successful test of the innovative financial services product or service;

(6) A description of how the applicant will perform ongoing duties after the test; and

(7) How the applicant will end the test and protect consumers if the test fails, including providing evidence of sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the applicant; and

(8) Provides any other required information as determined by the department.

IV. An applicant shall file a separate application for each innovative financial services product or service the applicant wants to test.

(a) After an application is filed and before approving the application, the department may seek any additional information from the applicant that the department determines is necessary,

(b) Subject to subparagraph (c), not later than 90 days after the day on which a complete application is received by the department, the department shall inform the applicant as to whether the application is approved for entry into the financial services regulatory sandbox.

(c) The department and an applicant may mutually agree to extend the 90-day timeline under subparagraph (b) for the department to determine whether an application is approved for entry into the financial services regulatory sandbox.

V.(a) In reviewing an application, the department shall consult with, and get approval from, each applicable agency before admitting an applicant into the financial services regulatory sandbox. The consultation with an applicable agency may include seeking information about whether:

(1) The applicable agency has previously issued a licensed or other authorization to the applicant;

(2) The applicant or its innovative financial services product or service is the subject of any pending or past investigations or enforcement actions by the applicable agency or any other regulatory agency;

(3) The applicant's or its financial condition is such that admission into the financial services regulatory sandbox poses a risk to consumers; and

(4) There is any information the applicable agency believes the department should consider when reviewing the application.

(b) The department shall approve the application only if the applicable agency approves of the application, or the applicant secures a waiver from the applicable agency allowing the department to admit the applicant into the financial services regulatory sandbox without the applicable agency's approval.

VI. The department may admit an applicant into the financial services regulatory sandbox only if the department, in consultation with the applicable agency, determines that:

(a) Admission is in the best interest of the state;

(b) Admission would be consistent with the purposes of this section; and

(c) The applicant's innovative financial services product or service poses no undue risk to consumers or to the stability or integrity of the state's financial services marketplace.

VII.(a) The department shall report to the fiscal committee of the general court, on a biannual basis, each of the following for each application:

(1) A brief description of the applicant's innovative financial services product or service.

(2) The date the department received the application.

(3) Whether the applicant's application was approved or denied.

(4) If the application was denied, the reason for denial.

(5) If the application was approved, whether the department secured a waiver from the applicable agency.

(6) If the application was approved, whether the department determined that admission was in the best interest of the state.

(7) If the application was approved, whether the department determined that admission would be consistent with the purposes of this chapter.

(8) If the application was approved, whether the department determined that the applicant's innovative financial services product or service posed no undue risk to consumers or to the stability or integrity of the state's financial services marketplace.

(9) The date the department's determination was made.

(10) Any additional information the department determines is necessary to provide to the legislative fiscal analyst and to the legislative fiscal committee.

(b) As part of its biannual reporting to the fiscal committee of the general court, the department shall report on all innovative financial services products or services that are currently being tested by participants in the financial services regulatory sandbox. The report shall include the following information for each innovative financial services product or service:

(1) A brief description of the innovative financial services product or service.

(2) The name of the participant that is testing the innovative financial services product or service.

(3) The date the participant was admitted into the financial services regulatory sandbox.

(4) A statement that the innovative financial services product or service is being tested under the financial services regulatory sandbox program.

VIII. If an application is approved, the department shall do the following:

(a) Issue to the applicant a letter of approval that describes the innovative financial services product or service to be tested, lists the terms and conditions imposed on the applicant, and specifies any laws, rules, or regulations from which the applicant is exempt while testing the innovative financial services product or service.

(b) Transmit a copy of the letter of approval to the legislative fiscal analyst.

(c) Publish the letter of approval on the department's website and post on the website any updates or amendments to the letter.

(d) Provide a copy of the letter of approval to the applicant's applicable agency.

IX. If an application is denied, the department shall do the following:

(a) Notify the applicant, in writing, of the denial and the reasons for the denial.

(b) Transmit a copy of the notice of denial to the legislative fiscal analyst.

(c) Provide the applicant with a copy of the application.

(d) Maintain a copy of the application in the applicant's file.

(e) If the applicant requests, the department shall provide the applicant with an opportunity to appear before the department to discuss the reasons for the denial.

(f) The department shall promptly publish the notice of denial on the department's website.

(g) If the application is denied, the applicant may reapply to the financial services regulatory sandbox program at any time.

(h) A reapplication shall be treated as a new application and shall be subject to the same provisions and requirements as a new application.

(i) The department shall inform each applicable agency of the denial and the reasons for the denial.

384-H:3 Duties of Participants in the Financial Services Regulatory Sandbox.

I. The department shall have a continuing role with respect to a participant admitted into the financial services regulatory sandbox and with respect to the participant's innovative financial services product or service.

II. A participant shall comply with all terms and conditions imposed by the department as set forth in the participant's letter of approval.

III. A participant shall provide to the department any information, reports, documents, records, data, and other materials as required by the department to supervise the testing of the participant's innovative financial services product or service.

IV. During the term of a participant's admission into the financial services regulatory sandbox, the department may require a participant to do one or more of the following:

(a) Submit regular progress reports to the department;

(b) Allow the department to examine and audit the participant's records and data and the records and data of any third party with which the participant has contracted to develop, implement, or support the innovative financial services product or service;

(c) Terminate the test and protect consumers if the test fails, including providing evidence of sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the participant;

(d) Limit the participant's ability to provide the innovative financial services product or service in accordance with certain terms and conditions or to certain consumers;

(e) Amend the terms and conditions of the participant's letter of approval;

(f) Require the participant to submit regular progress reports and notify the department of significant changes to the participant's application; or

(g) Any other requirement that the department determines is necessary to ensure the participant's compliance with the provisions of this section and the terms and conditions of the participant's letter of approval.

V. A participant shall promptly respond to any request from the department for additional information, records, or data.

VI. A participant shall provide to the department information and documents demonstrating that the participant has sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the participant.

VII. A participant shall cooperate with the department and any applicable agency in any investigation, examination, or enforcement action relating to the participant's innovative financial services product or service.

VIII. The department may terminate a participant's admission into the financial services regulatory sandbox if the department determines that the participant's innovative financial services

product or service poses an undue risk to consumers or to the stability or integrity of the state's financial services marketplace.

IX. A participant may voluntarily withdraw from the financial services regulatory sandbox at any time by notifying the department in writing.

X. A participant shall provide to the department evidence demonstrating that the participant has terminated the test and protected consumers if the test fails, including evidence of sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the participant.

384-H:4 Compliance with Laws, Rules, and Regulations.

I. Except as provided in RSA 384-H:2 a participant admitted into the financial services regulatory sandbox shall comply with all state and federal laws, rules, and regulations applicable to the provision of the innovative financial services product or service.

II. Nothing in this section shall be construed to relieve a participant from any obligation to comply with federal law or to seek any necessary approvals or exemptions from a federal agency.

III. During the term of a participant's admission into the financial services regulatory sandbox, the department may exempt the participant from specified state laws, rules, and regulations, if the department determines that such exemptions are necessary to facilitate the testing of the innovative financial services product or service.

IV. An exemption granted under this section shall not exempt a participant from any obligation to comply with federal law or to seek any necessary approvals or exemptions from a federal agency.

384-H:5 Fees.

I. The department may assess fees on participants in the financial services regulatory sandbox to offset the department's costs in administering and supervising the program.

II. The department may adopt rules establishing the amount and frequency of fees to be assessed on participants.

III. The fees collected under this section shall be deposited in the financial services regulatory sandbox fund created in RSA 384-H:6.

384-H:6 Financial Services Regulatory Sandbox Fund. The financial services regulatory sandbox fund is created within the state treasury. The fund shall consist of fees collected and any other funds appropriated by the legislature. The department shall use the fund to offset the department's costs in administering and supervising the financial services regulatory sandbox program. The fund shall be nonlapsing and continually appropriated to the department. Interest and earnings on the fund shall be credited to the fund.

384-H:7 Rulemaking Authority. The bank commissioner may adopt rules under RSA 541-A to implement the provisions of this chapter. The rules may include provisions related to the following:

I. Application procedures;

II. Criteria for admission into the financial services regulatory sandbox;

III. Terms and conditions of admission;

IV. Reporting requirements for participants;

V. Supervision and examination of participants;

VI. Termination of admission;

VII. Exemptions from state laws and rules;

VIII. Fees assessed on participants;

IX. The financial services regulatory sandbox fund; and

X. Any other provisions necessary to carry out the purposes of this chapter.

2 New Subparagraph; Application of Receipts; Dedicated Funds; Financial Services Regulatory Sandbox Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (394) the following new subparagraph:

(395) Moneys deposited in the financial services regulatory sandbox fund established in RSA 384-H:6.

3 Severability Clause. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

4 Effective Date. This act shall take effect July 1, 2024.