

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

**House Bill 2764**

BY DELEGATES CAPITO, KEATON AND L. PACK

[Passed March 19, 2021; in effect ninety days from passage.]

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1 AN ACT to amend and reenact §31A-8G-3 of the Code of West Virginia, 1931, as amended,  
2 relating to allowing the Division of Financial Institutions enter into agreements with state,  
3 federal or foreign regulatory agencies to allow persons who make an innovative financial  
4 product or service available in West Virginia, under the program available under the West  
5 Virginia FinTech Regulatory Sandbox Act, to make their products or services available in  
6 other jurisdictions and to allow persons operating in similar regulatory sandboxes in other  
7 jurisdictions to make innovative financial products and services available in West Virginia  
8 under the standards provided in the West Virginia FinTech Regulatory Sandbox Act.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 8G. THE WEST VIRGINIA FINTECH REGULATORY SANDBOX PROGRAM.**

**§31A-8G-3. Regulatory Sandbox Program; administration; application requirements; fee;  
rulemaking.**

1 (a) There is created in the Division of Financial Institutions the Regulatory Sandbox  
2 Program.

3 (b) In administering the regulatory sandbox program, the Division of Financial Institutions:

4 (1) Shall consult with the West Virginia Development Office relating to the economic  
5 development opportunities relating to the potential regulatory sandbox participant and may  
6 consult with any applicable agency which otherwise may have jurisdiction or authority relating to  
7 any activity proposed for the regulatory sandbox program for which the applicant is seeking to  
8 proceed without authorization or license;

9 (2) Shall have the authority to promulgate rules in accordance with §31A-2-4 and §29A-3-  
10 1 *et seq.* of this code for the purposes of administering the regulatory sandbox program;

11 (3) Shall establish a program permitting an individual or an entity to obtain limited access  
12 to the market in the state to test an innovative product or service without obtaining a license or  
13 other authorization that might otherwise be required;

14 (4) May enter into cooperative, coordinating, or information-sharing agreements with or  
15 follow the best practices of the federal Consumer Financial Protection Bureau or other states that  
16 are administering similar programs as well as other state and federal agencies to carry out the  
17 mandates of this article; and

18 (5) May enter into agreements with state, federal or foreign regulatory agencies to allow  
19 persons who make an innovative financial product or service available in West Virginia through  
20 the regulatory sandbox program to make their products or services available in other jurisdictions  
21 and to allow persons operating in similar regulatory sandboxes in other jurisdictions to make  
22 innovative financial products and services available in West Virginia under the standards of this  
23 article.

24 (c) An applicant for the regulatory sandbox program shall provide to the Division of  
25 Financial Institutions an application in a form prescribed by the Division of Financial Institutions  
26 that:

27 (1) Demonstrates that the applicant is subject to the jurisdiction of the state;

28 (2) Demonstrates that the applicant has established a physical location in the state; where  
29 all required records, documents, and data relating to any approved testing can be made available  
30 for examination and review by the Division of Financial Institutions and any other applicable  
31 agency with jurisdiction;

32 (3) Demonstrates that the applicant has attempted in good faith to establish a partnership  
33 with a bank operating within the State of West Virginia or another financial institution licensed by  
34 the State of West Virginia to implement the applicant's proposed test of an innovative product or  
35 service within the regulatory sandbox program: *Provided*, That the applicant may not be excluded  
36 from participation in the regulatory sandbox program solely based on the applicant's ability to  
37 establish a partnership with a bank operating within the State of West Virginia or another financial  
38 institution licensed by the State of West Virginia;

39 (4) Contains relevant personal and contact information for the applicant, including legal  
40 names, addresses, telephone numbers, email addresses, website addresses, and other  
41 information required by the Division of Financial Institutions;

42 (5) Discloses any and all criminal convictions of the applicant or other participating  
43 personnel, if any, and submits to a criminal background investigation, including requiring  
44 fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or  
45 entity authorized to receive such information for a state, national or international criminal history  
46 check;

47 (6) Demonstrates that the applicant has the necessary personnel, financial and technical  
48 expertise, access to capital, and a developed plan to test, monitor, and assess the innovative  
49 product or service;

50 (7) Contains a description of the innovative product or service to be tested, including  
51 statements regarding all of the following:

52 (A) How the innovative product or service is subject to licensing or other authorization  
53 requirements outside of the regulatory sandbox program;

54 (B) How the innovative product or service would benefit consumers;

55 (C) How the innovative product or service is different from other products or services  
56 available in the state;

57 (D) What risks may confront consumers that use or purchase the innovative product or  
58 service;

59 (E) What measures will be put into place to limit potential risks and harm to consumers  
60 and to resolve complaints during the regulatory sandbox testing period;

61 (F) How participating in the regulatory sandbox program would enable a successful test  
62 of the innovative product or service;

63 (G) A description of the proposed testing plan, including estimated time periods  
64 for beginning the test, ending the test, and obtaining necessary licensure or authorizations after  
65 the testing is complete;

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

67 (I) How the applicant will end the test and protect consumers if the test fails;

68 (8) Sets forth whether the applicant has been provided any license or authorization by any  
69 state or federal agency; whether any state or federal agency has previously investigated,  
70 sanctioned, or pursued legal action against the applicant; and whether the applicant has had  
71 licensure or authorization denied or withdrawn by any state or federal agency;

72 (9) Demonstrates registration with the West Virginia Secretary of State;

73 (10) Demonstrates that the applicant has an exit plan to limit consumer harm at the  
74 conclusion of the regulatory sandbox testing period, including a plan to notify consumers and  
75 advise them of next steps; and

76 (11) Provides any other information as required by the Division of Financial Institutions.

77 (d) The Division of Financial Institutions may collect an application fee of not more than  
78 \$1,500 from an applicant.

79 (e) An applicant shall file a separate application for each innovative product or service that  
80 the applicant wants to test.

81 (f) After an application is filed, the Division of Financial Institutions may seek  
82 additional information from the applicant as it deems necessary.

83 (g) Subject to subsection (h) of this section, not later than 90 days after the day on which  
84 a complete application is received by the Division of Financial Institutions, the division shall inform  
85 the applicant as to whether the application is approved for entry into the regulatory sandbox  
86 program.

87 (h) The Division of Financial Institutions and an applicant may mutually agree to extend  
88 the 90-day time period described in subsection (g) of this section in order for the Division to  
89 determine whether an application is approved for entry into the regulatory sandbox program.

90 (i)(1) In reviewing an application under this section, the Division of Financial Institutions  
91 may consult with, and seek the approval of, any applicable agency before admitting an applicant  
92 into the regulatory sandbox program.

93 (2) The consultation with an applicable agency may include but is not limited to seeking  
94 information about whether:

95 (A) The applicant could obtain a license or other authorization from the applicable agency  
96 after exiting the regulatory sandbox program; and

97 (B) Certain licensure or other regulations should not be waived even if the applicant is  
98 accepted into the regulatory sandbox program.

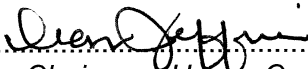
99 (j) In reviewing an application under this section, the Division of Financial Institutions shall  
100 consider whether a competitor to the applicant is or has been a regulatory sandbox participant  
101 and, if so, weigh that as a factor in favor of allowing the applicant to also become a regulatory  
102 sandbox participant.

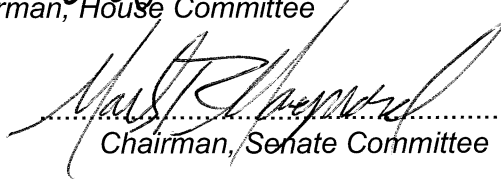
103 (k) If the Division of Financial Institutions approves admitting an applicant into the  
104 regulatory sandbox program, an applicant may become a regulatory sandbox participant.

105 (l)(1) The Division of Financial Institutions may deny any application submitted under this  
106 section, for any reason, at the division's discretion.

107 (2) If the Division of Financial Institutions denies an application submitted under this  
108 section, the division shall provide to the applicant a written description of the reasons for the denial  
109 as a regulatory sandbox participant.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

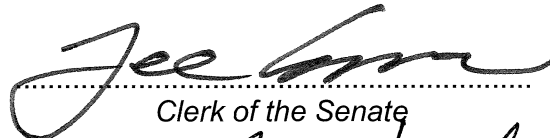
  
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Chairman, House Committee

  
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Chairman, Senate Committee

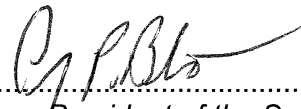
Originating in the House.

In effect ninety days from passage.


  
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Clerk of the House of Delegates

  
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Clerk of the Senate

  
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Speaker of the House of Delegates

  
.....  
President of the Senate

The within is approved this the 30th  
day of March, 2021.

  
.....  
Governor



PRESENTED TO THE GOVERNOR

MAR 24 2021

Time 3:16pm