



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 624: North Carolina Regulatory Sandbox Act.

2021-2022 General Assembly

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| Committee: | Senate Finance. If favorable, re-refer to Rules and Operations of the Senate | Date: | September 21, 2021 |
| Introduced by: | Reps. Saine, Turner, Lofton, Szoka | Prepared by: | Cindy Avrette |
| Analysis of: | Third Edition | | Staff Attorney |

OVERVIEW: House Bill 624 is substantially the same as Senate Bill 470¹ that passed the Senate on June 14, 2021. The bill would help facilitate the development of innovative financial and insurance products or services that utilize new or emerging technology. It does so by creating a "regulatory sandbox program" whereby an overseeing agency would be allowed to waive, with limited exceptions and for a limited time, statutory or regulatory requirements that otherwise would not permit a participant to offer the product or service to consumers. An innovative product or service could participate in the sandbox program for a period of up to 24 months.

BILL ANALYSIS: House bill 624 would enact the North Carolina Regulatory Sandbox Act of 2021 as new Chapter 169 of the General Statutes. The new chapter would establish the North Carolina Innovation Council, consisting of 11 members as follows:

- The Commissioner of Banks or appointed designee.
- The Commissioner of Insurance and Fire Marshall or appointed designee.
- The Secretary of State or appointed designee.
- The Attorney General or appointed designee.
- Two public members appointed by the Governor.
- One public member appointed by the Lt. Governor.
- Two public members appointed from academia by the Senate President Pro Tempore.
- Two public members appointed from the North Carolina entrepreneurial or blockchain community by the House Speaker.

The Council would be charged with selecting persons or entities wishing to offer an innovative product or service for participation in a 24-month program under the oversight of either the Office of the Commissioner of Banks or the Department of Insurance, depending on the product or service being offered. A participant and its assigned agency could agree to extend the initial 24-month period or to alter the parameters of the product or service being offered under the program.

An "innovative product or service" would be defined as a financial or insurance product or service utilizing new or emerging technology, including blockchain technology, or involving a new use of existing technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model or delivery mechanism to the public that is not known to have a comparable widespread offering in this State.

¹ S470, introduced by Sens. Johnson and Hise, was received in the House on June 15th and referred to House Commerce on July 6th.

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In determining admission to the program, the Council would be required to consider:

- The nature of the innovation product or service and the potential risk to consumers.
- The methods for protecting consumers and resolving complaints during the sandbox period.
- The applicant's business plan.
- Whether the entity's management has sufficient expertise to conduct a pilot of the proposed product or service.
- Whether any person substantially involved in the development, operation or management of the innovative product or service has been convicted of or under investigation for fraud or State or federal securities law violations.
- Any other factor the Council or the applicable agency deems relevant.

Applicants that are entities would be required to have a physical presence in the State. Applicants would pay a fee of \$50 and if selected as a participant in the sandbox program, would pay a participation fee of \$450 to cover reasonable agency expenses. Additional participation fees may apply depending on factors such as the size of an entity or the number of customers an entity may have. The Innovation Council will determine and publish a fee schedule for these additional participation fees. A sandbox participant may be required to post a consumer protection bond with the applicable State agency.

The Council could deny an application in its discretion if it gives defined reasons for the denial. Denied applicants would not be entitled to initiate a contested case or seek judicial review under the Administrative Procedure Act but could utilize the APA's informal dispute resolution procedures.

The assigned oversight agency would have authority to grant an "innovation waiver" of specified requirements imposed by statute or rule that would not currently permit the product or service to be offered to consumers. The agency would have the discretion to publish a list of sandbox participants or a public notice of the existence of any innovation waivers. The agency could not waive, alter, or amend criminal or consumer protection laws and is specifically restricted from granting an innovation waiver that alters or amends any of the following laws: Chapter 24, Interest; Chapter 25A, Retail Installment Sales Act; Chapter 25B, Credit; Article 15 of Chapter 53, Consumer Finance Act; Article 70 of Chapter 58, Collection Agencies; Article 20 of Chapter 66, Loan Brokers; Chapter 75, Monopolies, trusts, and Consumer Protection; Article 12 of Chapter 20, Motor Vehicle Dealers and Manufacturers Licensing Law.

Participants would have to make the following disclosures to consumers before offering an innovative product or service to consumers:

- The participant's name and contact information.
- That the product or service is authorized pursuant to the sandbox program for a temporary testing period.
- That the product or service is not endorsed by the State or the applicable agency, which are not liable for any losses or damages caused by the product or service.
- That the consumer can file complaints with the applicable agency or the Attorney General and provide contact information where complaints or other comments may be filed.

At the conclusion of the sandbox period, the sandbox participant must submit a final report. If the participant cannot obtain regulatory compliance within 90 days following the expiration of the sandbox period, the participant must wind down operations with existing consumers. If a sandbox participant's business objectives fail before the end of the sandbox period, the participant must notify the applicable State agency to ensure consumers have not been harmed because of the innovative product or service.

EFFECTIVE DATE: This act would become effective October 1, 2021.

Bill Patterson, counsel to the Senate Commerce Committee, substantially contributed to this summary.