



# HOUSE BILL 624: North Carolina Regulatory Sandbox Act.

2021-2022 General Assembly

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<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	September 23, 2021
<b>Introduced by:</b>	Reps. Saine, Turner, Lofton, Szoka	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	Fourth Edition		Staff Attorney

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**OVERVIEW:** *House Bill 624 would create a "regulatory sandbox program" under which an applicable State agency (either the Office of the Commissioner of Banks or the Department of Insurance) would be authorized to waive statutory or regulatory requirements to permit a program participant to offer an innovative financial, insurance, or emerging technology product or service to consumers for a limited time under the agency's supervision, with disclosures to the consumers that the product or service is authorized to be offered for a temporary testing period and is not endorsed or recommended by the State or the supervising agency.*

**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 ("Council") with the following 11 members:

- 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 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 the applicable State 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.

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

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

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- 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 a violation of State or federal securities law
- Any other factor the Council or the applicable State agency deems relevant

Applicants that are entities would be required to have a physical presence in the State. Applicants would pay an application fee of \$50 and selected participants would pay a participation fee of \$450 to cover reasonable expenses of the applicable State agency. Additional participation fees could be required depending on factors such as the size of an entity or the number of its customers, under a fee schedule to be determined and published by the Council.

The applicable State agency would have the discretion to publish a list of sandbox participants or a public notice of the existence of any innovation waivers. Sandbox participants could be required to post a consumer protection bond or a deposit of cash or readily marketable securities with the applicable State agency, as security for potential losses suffered by consumers.

The Council would be required to provide specific reasons for denying an application. Denied applicants could utilize the informal dispute resolution procedures of the Administrative Procedure Act, but would not be entitled to initiate a contested case or seek judicial review of a denial.

The applicable State agency would have authority to grant an "innovation waiver" of specified requirements imposed by statutes or rules currently not permitting the product or service to be offered to consumers.

Upon request of a sandbox participant made no later than 30 days before the end of the sandbox period, the applicable State agency would be permitted to grant an extension of the sandbox period of up to 12 months in order for the sandbox participant to obtain a license or other authorization required by law. The Council and applicable State agency would be required to provide an expedited process for an innovative service or product that is substantially similar to one for which a waiver was previously granted.

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

An innovation waiver could not be granted that alters or amends specified consumer protection statutes, and a participant would be required to make the following disclosures to consumers before offering an innovative product or service:

- The participant's name and contact information
- The product or service is authorized for a temporary testing period pursuant to the sandbox program
- The product or service is not endorsed by the State or the applicable State agency, neither of which is liable for any losses or damages caused by the product or service
- The consumer can file complaints with the applicable State agency or the Attorney General and provide contact information where complaints or other comments may be filed

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Nothing in the Act would affect the applicable State agency's exercise of its authority with respect to the efficacy of an innovative product or service, or limit its ability to ensure a sandbox participant's financial capability.

Participants would be required to maintain records and data regarding the tested product or service for at least five years after conclusion of the testing period or as required under the record retention policy of the applicable State agency.

Personal information obtained by the Council or applicable State agency could not be disclosed without the consent of the subject of the personal information unless required by law or regulation. Information obtained by the applicable State agency in the course of review and approval of an innovative product or service could not be disclosed under the public records laws or pursuant to subpoena or discovery, and would not be admissible in a civil action. An insurance carrier would be required to keep confidential any information disclosed to it by a sandbox participant with the approval of the applicable State agency for the purpose of obtaining required participant insurance coverage.

For purposes of any provision of federal law requiring State licensure or authorization, a participant would be deemed to possess the appropriate license. The Council or applicable State agency would be authorized to enter into reciprocity agreements with other State, federal or foreign regulators to advance the purposes of the regulatory sandbox, including agreements permitting a participant to operate in other jurisdictions.

**EFFECTIVE DATE:** This act would be effective when it becomes law.

*Cindy Avrette, counsel to the House Finance Committee, substantially contributed to this summary.*