

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1013

Short Title: NC Financial and Insurance Regulatory Sandbox. (Public)

Sponsors: Representative Saine.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Banking, if favorable, Insurance, if favorable, Finance, if favorable, Rules,
Calendar, and Operations of the House

April 29, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA FINANCIAL AND INSURANCE
3 REGULATORY SANDBOX ACT AND TO ESTABLISH THE NORTH CAROLINA
4 FINANCIAL AND INSURANCE INNOVATION COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

7 **"Chapter 53D.**

8 **"North Carolina Financial and Insurance Regulatory Sandbox Act.**

9 **"§ 53D-1. Short title.**

10 This Chapter may be cited as the North Carolina Financial and Insurance Regulatory Sandbox
11 Act.

12 **"§ 53D-2. Legislative findings.**

13 The North Carolina General Assembly finds all of the following:

- 14 (1) Financial and insurance services are major economic drivers in North
15 Carolina, and financial and insurance technology is undergoing a
16 transformational period. New technologies (Fintech and Insurtech) are
17 providing greater automation, connectivity, transparency, and opportunity for
18 financial and insurance products and services.
- 19 (2) The existing legal and regulatory frameworks are restricting financial and
20 insurance innovation because these frameworks were established largely at a
21 time when technology was not a fundamental component of financial and
22 insurance products and services. Innovators in the financial and insurance
23 industries require a flexible regulatory regimen to test new products and
24 services.
- 25 (3) North Carolina is among the nation's leaders in technology, innovation, and
26 regulatory reform. A Regulatory Sandbox provides unique Fintech and
27 Insurtech solutions and a framework to grow within the regulated financial
28 and insurance services sector. North Carolina has the opportunity to be a
29 leader in the creation of a Regulatory Sandbox that will encourage further
30 development of the Fintech and Insurtech industries.
- 31 (4) Certain nongovernmental partner organizations can help companies through
32 the Regulatory Sandbox process, provide guidance as to how each product or
33 service would fit within the given regulatory framework, and provide



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1 technical assistance to support design and implementation of tests of product
2 and services.

3 **"§ 53D-3. Definitions.**

4 The following definitions apply in this Chapter:

- 5 (1) Commissioner. – Commissioner of Banks.
6 (2) Controlling person. – As defined in G.S. 53-208.42.
7 (3) Innovation Commission. – The North Carolina Financial and Insurance
8 Innovation Commission.
9 (4) Regulatory Sandbox. – A testing environment overseen by the Innovation
10 Commission in which a registrant may test a product or service on consumers.

11 **"§ 53D-4. North Carolina Financial and Insurance Innovation Commission.**

12 (a) Mission. – There is established in the Office of the Commissioner of Banks the North
13 Carolina Financial and Insurance Innovation Commission. The Commission shall oversee the
14 Regulatory Sandbox under this Chapter. The mission of the Commission is to develop a
15 regulatory environment that encourages and supports innovation, investment, and job creation in
16 the financial and insurance industries among new and existing companies in this State.

17 (b) Membership. – The Commission shall have the following members:

- 18 (1) The Commissioner of Banks, or the Commissioner's designee, who shall serve
19 as the Chair.
20 (2) The Commissioner of Insurance, or the Commissioner's designee.
21 (3) The Secretary of State, or the Secretary's designee.
22 (4) The Attorney General, or the Attorney General's designee.
23 (5) The following public members, each of whom shall have a background in
24 either financial services or technology or insurance services or technology:

25 a. A public member appointed by the Governor.

26 b. A public member appointed by the President Pro Tempore of the
27 Senate.

28 c. A public member appointed by the Speaker of the House of
29 Representatives.

30 Each public member shall serve for a term of six years at the pleasure of the
31 members' appointee and may be reappointed.

32 (c) Quorum. – A majority of the members of the Commission constitutes a quorum.

33 (d) Compensation. – The public members shall receive reimbursement for attending
34 meetings of the Commission in accordance with G.S. 138-5. The State Banking Commission
35 shall use funds within its budget to pay these expenses.

36 **"§ 53D-5. Regulatory Sandbox.**

37 (a) A person registered under this Chapter as a Regulatory Sandbox registrant may
38 conduct a test of a product or service on consumers in accordance with this Chapter, any rules
39 adopted under it, and any conditions imposed on the test by the Innovation Commission. Unless
40 otherwise permitted by the Innovation Commission, the test shall not be conducted on more than
41 25,000 consumers and shall not affect transactions or policies exceeding fifty thousand dollars
42 (\$50,000) per consumer.

43 (b) To the extent this section conflicts with a provision of State law not listed in this
44 subsection, this section controls. To the extent this section conflicts with a provision listed in this
45 subsection, the listed provision controls:

46 (1) Chapter 24 of the General Statutes.

47 (2) Chapter 25A of the General Statutes.

48 (3) Chapter 25B of the General Statutes.

49 (4) Article 20 of Chapter 66 of the General Statutes.

50 (5) Chapter 75 of the General Statutes.

51 **"§ 53D-6. Application to register in the Regulatory Sandbox.**

1 (a) Information About the Applicant. – A person may apply to register in the Regulatory
2 Sandbox by submitting a written application to the Innovation Commission. The application shall
3 be verified by oath or affirmation of the applicant or a designee of the applicant and shall include
4 all of the following:

- 5 (1) The legal name, along with any assumed business name, principal address,
6 contact information, and Social Security number or taxpayer identification
7 number of the applicant.
- 8 (2) The applicant's form and place of organization, if applicable.
- 9 (3) A certificate of good standing from the state in which the applicant was
10 organized, if applicable.
- 11 (4) A certificate of authority from the North Carolina Secretary of State to
12 conduct business in this State, if required by Article 15 of Chapter 55 of the
13 General Statutes, or other evidence of the applicant's registration or
14 qualification to do business in this State.
- 15 (5) The most recent audited annual financial statement of the applicant, or if the
16 applicant is a wholly owned subsidiary, of the applicant's parent entity. This
17 statement shall include the balance sheet, statement of income or loss,
18 statement of changes in shareholder equity, if applicable, and statement of
19 changes in financial position.
- 20 (6) A record of any criminal convictions for the applicant, controlling person, or
21 any key management personnel for a 10-year period prior to the date of the
22 application, including authorization to perform a federal and State criminal
23 background check.
- 24 (7) Any additional information requested by the Innovation Commission.

25 (b) Information About the Product or Service to Be Tested. – The application shall also
26 include the following information about each product or service the applicant proposes to test:

- 27 (1) Whether the product or service is a financial innovation or an insurance
28 innovation or both.
- 29 (2) The potential benefits of the product or service.
- 30 (3) The provisions of State law that would be superseded under G.S. 53D-5(b), if
31 the Innovation Commission allowed the applicant to conduct a test of the
32 product or service.
- 33 (4) The plan for testing, monitoring, and assessing the product or service,
34 including risk management and cybersecurity measures to protect consumers.

35 (c) Fee. – An applicant shall include a nonrefundable fee of five hundred dollars
36 (\$500.00) with the application.

37 (d) Investigation. – On receipt of the application and fee, the Innovation Commission
38 shall notify the Office of the Commissioner of Banks. The Office of the Commissioner of Banks
39 shall investigate all of the following:

- 40 (1) The applicant's financial condition and responsibility, financial and business
41 experience, and character and general fitness.
- 42 (2) The extent of the risk to consumers of testing the product or service and the
43 adequacy of the applicant's proposed plan under subdivision (b)(4) of this
44 section.

45 If one or more of the products or services is an insurance innovation, the Office of the
46 Commissioner of Banks shall consult with the Department of Insurance in conducting the
47 investigation. The Office of the Commissioner of Banks shall report its findings to the Innovation
48 Commission.

49 (e) Abandoned Application. – The Innovation Commission may consider an application
50 abandoned if all of the following are true:

- 1 (1) The applicant fails to respond to a request for information by the Innovation
2 Commission within 30 days of the date of the request.
- 3 (2) The Innovation Commission has given the applicant 15 days' written notice of
4 the Commission's intention to consider the application abandoned.
- 5 (f) Issuance of Registration. – The Innovation Commission shall decide on the
6 application no later than 90 days after the date the application was submitted. The Innovation
7 Commission may issue a Regulatory Sandbox registration to an applicant if the Commission
8 finds all of the following:
- 9 (1) The applicant's financial condition is sound.
- 10 (2) The applicant's business will be conducted honestly, fairly, equitably,
11 carefully, efficiently, consistent with this Chapter's purposes and intent, and
12 in a manner commanding the community's confidence and trust.
- 13 (3) The applicant and the applicant's controlling persons and key management
14 personnel are qualified and of good character.
- 15 (4) The applicant's plan under subdivision (b)(4) of this section includes adequate
16 risk management and cybersecurity measures to protect consumers.
- 17 (5) No person on behalf of the applicant has knowingly made a material
18 misstatement or omission in the application.
- 19 (6) The applicant meets other similar requirements determined by the
20 Commission.
- 21 (g) The Innovation Commission may impose conditions on a Regulatory Sandbox
22 registrant's test.
- 23 (h) Denial of Registration. – If the Innovation Commission denies an application, the
24 Innovation Commission shall inform the applicant of each ground for the denial.

25 **"§ 53D-7. License expiration and renewal.**

- 26 (a) Expiration. – A Regulatory Sandbox registrant's registration expires two years after
27 issuance.
- 28 (b) Renewal. – A Regulatory Sandbox registrant may apply to renew the registration by
29 submitting a written application to the Commissioner no later than 30 days before the expiration
30 date. The renewal application shall contain the same information and include the same fee as the
31 initial application as provided in G.S. 53D-6. An application that is submitted after the date 30
32 days before the expiration date but before the expiration date shall also include a nonrefundable
33 late fee of one hundred dollars (\$100.00). The Commissioner shall consider a renewal application
34 and investigate the registrant in the same manner as an initial application as provided in
35 G.S. 53D-6. The registrant's registration shall be effective during the pendency of the renewal
36 application.

37 **"§ 53D-8. Surety bond.**

- 38 (a) The Innovation Commission may require that a Regulatory Sandbox registrant post a
39 surety bond for the benefit of any consumers harmed by the test. If the Commission does require
40 a bond, the Commission shall specify the amount of the bond. The Innovation Commission may
41 also require the Regulatory Sandbox registrant to obtain insurance coverage to address any
42 cybersecurity risks of the test. Any consumers harmed by the test shall be the beneficiaries of
43 this insurance coverage.
- 44 (b) In lieu of a surety bond, the Innovation Commission may allow a Regulatory Sandbox
45 registrant to deposit the following with the Commissioner, or with a bank in this State approved
46 by the Commissioner, in an aggregate amount, based upon principal amount or market value,
47 whichever is lower, of not less than the amount of the surety bond:
- 48 (1) Unencumbered cash.
- 49 (2) Unencumbered interest-bearing bonds.
- 50 (3) Unencumbered notes.
- 51 (4) Unencumbered debentures.

1 (5) Unencumbered obligations of the United States or of any agency or
2 instrumentality of the United States or unencumbered obligations guaranteed
3 by the United States.

4 (6) Unencumbered obligations of this State or of any political subdivision of this
5 State or unencumbered obligations guaranteed by this State.

6 A deposit under this subsection shall be for the benefit of any consumers harmed by the test,
7 but the Regulatory Sandbox registrant is entitled to all interest and dividends earned on the
8 deposit.

9 (c) The surety bond or deposit shall remain in place for no less than one year after the
10 Regulatory Sandbox registrant ceases to be registered. The Regulatory Sandbox registrant shall
11 give the Commissioner 90 days' written notice before cancelling the surety bond or withdrawing
12 the deposit.

13 **"§ 53D-9. Prohibited conduct.**

14 A Regulatory Sandbox registrant is prohibited from doing any of the following:

15 (1) Employing, directly or indirectly, any scheme, device, or artifice to defraud
16 or mislead a person.

17 (2) Making any false statement or omitting a material fact in connection with (i)
18 any information or report filed with a State or federal agency or (ii) any
19 investigation or examination conducted by the Commissioner or another State
20 or federal agency.

21 (3) Knowingly withholding, concealing, mutilating, or destroying any evidence
22 during an investigation or examination by the Commissioner under this
23 Chapter.

24 (4) Violating any applicable federal law.

25 (5) Violating any State laws listed in G.S. 53D-5(b).

26 **"§ 53D-10. Commissioner's authority to investigate and examine.**

27 (a) Investigation and Examination. – In addition to the Commissioner's authority to
28 investigate an applicant in connection with an initial application under G.S. 53D-6 or a renewal
29 application under G.S. 53D-7, the Commissioner may investigate and examine a Regulatory
30 Sandbox registrant at any time to determine compliance with this Chapter.

31 (b) Powers. – In investigating and examining a Regulatory Sandbox registrant, the
32 Commissioner may do any of the following:

33 (1) Access any records, regardless of the location, possession, control, or custody
34 of the records. The Commissioner may take possession of and control access
35 to the records in the place where they are usually kept. No person shall remove
36 or attempt to remove the records except pursuant to a court order or with the
37 Commissioner's consent.

38 (2) Subpoena any person to produce any evidence the Commissioner deems
39 relevant to the investigation or examination.

40 (3) Administer oaths and examine any person under oath concerning the
41 registrant's business.

42 (4) Retain attorneys, accountants, other professionals, and specialists as
43 investigators, examiners, or auditors to conduct or assist in conducting the
44 investigation or examination.

45 (5) Enter into agreements or relationships with other government officials or
46 regulatory associations to improve efficiencies and reduce regulatory burden
47 by sharing resources, standardized or uniform methods or procedures, and
48 evidence obtained under the Commissioner's authority.

49 (6) Use, hire, contract for, or employ publicly or privately available analytical
50 systems, methods, or software to investigate or examine a registrant.

1 (7) Accept and rely on investigation and examination reports made by other
2 government officials.

3 (8) Accept audit reports made by an independent certified public accountant for
4 the registrant on the same general subject matter as the audit and incorporate
5 the audit report in a report by the Commissioner.

6 (c) Regulatory Sandbox Registrant's Access. – The Commissioner shall not prevent a
7 Regulatory Sandbox registrant from accessing its own records as necessary to conduct its
8 ordinary business unless the Commissioner has reason to believe there is a risk that the records
9 will be altered or destroyed to conceal a violation of this Chapter.

10 (d) Extraordinary Review. – If the Commissioner determines that the investigation or
11 examination requires an extraordinary review, the Commissioner may assess against the
12 Regulatory Sandbox registrant the actual costs of conducting the extraordinary review, including
13 time spent at the hourly rate for the Commissioner's staff, to be determined by the State Banking
14 Commission.

15 **"§ 53D-11. Confidentiality.**

16 (a) All information obtained by the Commissioner under this Chapter is subject to
17 confidential treatment as provided in G.S. 53C-2-7.

18 (b) The Commissioner may enter into agreements or sharing arrangements with any state
19 or federal agency and may share otherwise confidential information pursuant to these
20 agreements, but only to the extent permitted by G.S. 53C-2-7(d). Information shared pursuant to
21 these agreements retain all applicable privileges and confidentiality protections provided by State
22 or federal law.

23 **"§ 53D-12. Commissioner's authority to discipline and enforce; private civil remedy.**

24 (a) Disciplinary Authority. – The Commissioner may limit, suspend, revoke, or refuse to
25 renew a Regulatory Sandbox registration issued under this Chapter for any violation of this
26 Chapter or any rule adopted under it.

27 (b) Cease and Desist Order. – The Commissioner may order a Regulatory Sandbox
28 registrant to cease and desist from violating this Chapter or any rule adopted under it.

29 (c) Injunction. – The Commissioner may apply to the Wake County Superior Court for
30 an order enjoining a Regulatory Sandbox registrant from violating this Chapter or any rule
31 adopted under it.

32 (d) Civil Remedy. – A consumer harmed by a test conducted by a Regulatory Sandbox
33 registrant may bring an action for damages against the registrant.

34 **"§ 53D-13. Service of process.**

35 (a) A Regulatory Sandbox registrant is deemed to have done all of the following:

36 (1) Consented to the jurisdiction of the courts of this State for an action arising
37 under this Chapter.

38 (2) Appointed the Secretary of State as the registrant's agent for the purpose of
39 accepting service of process in an action arising under this Chapter.

40 (b) For purposes of this Chapter, the Commissioner is deemed to have complied with the
41 requirements of law concerning service of process upon mailing by certified mail notice to a
42 Regulatory Sandbox registrant, postage prepaid and addressed to the last known address on file
43 with the Commissioner.

44 **"§ 53D-14. Rules.**

45 The State Banking Commission may adopt rules to implement this Chapter."

46 **SECTION 2.** This act becomes effective October 1, 2020.