
OLR Bill Analysis

sSB 482

AN ACT ESTABLISHING THE FINTECH REGULATORY SANDBOX PROGRAM AND THE INSURTECH REGULATORY SANDBOX INITIATIVE.

SUMMARY

This bill establishes a Fintech Regulatory Sandbox program to allow eligible companies to make innovative products or services and temporarily offer them to consumers without the companies having to obtain any required licenses or other authorization to do so. It establishes (1) an 11-member Innovation Council within the Department of Banking to oversee the program and (2) the program's criteria and requirements. It also allows the council to partner with nonprofits to help implement the program and help companies participating in the program and requires certain agencies to adopt regulations to provide for expedited licensure or authorization after a company finishes participating in the program.

The bill also requires the insurance commissioner, in consultation with CTNext's board of directors, to establish an Insurtech Regulatory Sandbox initiative to help develop new technologies and types of insurance for start-up insurance companies that lack the capital and labor resources to comply with the state's insurance laws and regulations. The bill outlines requirements and goals for the initiative, including that the commissioner must waive licensing requirements for participating companies and establish a light regulatory framework consisting of only the requirements he deems crucial to protecting consumers.

EFFECTIVE DATE: July 1, 2022

FINTECH REGULATORY SANDBOX

The bill establishes the Fintech Regulatory Sandbox program to allow

companies to make financial products or services that include innovations (i.e., an “innovative product or service”), including those related to cryptocurrency (a digital currency that uses blockchain technology to verify transactions and maintain records), available to consumers temporarily without obtaining a license or other authorization that would otherwise be required. The program is overseen by the Innovation Council the bill creates (see below).

Under the bill, a “financial product or service” is one that (1) requires licensure or registration under state statute or (2) includes a business model, delivery mechanism, or an element that may require licensure or registration to act as a financial institution, enterprise, or other entity regulated under the state’s banking laws. It does not include products regulated under the state’s insurance or securities laws.

“Innovation” means the use or incorporation of a new or emerging technology or the use of existing technology to address a problem; provide a benefit; or offer a product, service, business model, or delivery mechanism that is not known by the “applicable agency” as widely offered in the state. “Innovation” specifically includes blockchain technology, which is an electronic method for storing data in a decentralized system that (1) uses cryptography to secure the data, (2) is consensus-based, (3) is mathematically verified, and (4) is distributed across multiple locations. “Applicable agency” is a state department or agency that may regulate an innovative product or service or the people or companies that provide the product or service.

Under the bill, the council or applicable agencies may enter into agreements with regulators in other jurisdictions to advance the sandbox program’s purposes, and the agreements may include permission for program participants to operate in other jurisdictions.

Waivers

The bill requires applicable agencies to grant waivers to Fintech Sandbox participants of any license or other authorization required under state statute or regulations, unless the applicable agency determines that the waiver should not be granted and provides

evidence supporting their determination to the Innovation Council. The bill also allows applicable agencies to grant participants waivers of specific statutory and regulatory requirements that do not currently permit the innovative product or service to be offered to in-state consumers.

The bill requires that waivers of specific statutory and regulatory requirements be (1) no more extensive than the applicable agency determines is necessary to accomplish the bill's purposes and (2) valid for a 36-month program period and any extension period (see below). It also specifies that program participants are not immune from liability for criminal offenses committed while participating in the program.

Applicable agencies must provide the Innovation Council with a list of the waivers each agency granted to each participating company.

Under the bill, program participants are deemed to possess an appropriate license or authorization under state law for the purposes of any federal law requiring state licensure or authorization.

Innovation Council

The bill establishes an Innovation Council, within the banking department for administrative purposes only, to support in-state innovation, investment, and job creation by encouraging and promoting Fintech Sandbox participation. The banking department must provide administrative support to the council.

Membership and Meetings. Under the bill, the council consists of (1) three ex-officio members – the banking commissioner, the economic and community development commissioner, and the attorney general (or their designees) – and (2) eight appointed members, one by each of the legislative leaders and two by the governor. Most appointed members must have expertise in entrepreneurship, financial products or services, blockchain technology, or cryptocurrency, except that the members appointed by the House and Senate majority leaders must be academics. The bill requires the governor to appoint one of the ex-officio members as the council's chairperson, who must hold the council's first

meeting by October 1, 2022. At this meeting, the council's members must elect a vice chairperson from among the appointed members.

Under the bill, appointed members serve without pay, but must be reimbursed for necessary expenses incurred when performing their duties, within available funds.

Terms. Initial appointments must be made by September 1, 2022; most members serve an initial term of four years, except that one gubernatorial appointee and the House speaker's and Senate president pro tempore's appointees serve an initial term of two years. Initial appointments terminate on August 31, 2024 or 2026, as applicable, regardless of when the initial appointment was made. After the initial term, appointed members serve four-year terms and may be reappointed, but only for two consecutive terms. Vacancies must be filled by the appointing authority, and those occurring other than by term expiration must be filled for the unexpired term balance.

Conflicts of Interest. The bill specifies that it is not a conflict of interest for a trustee, director, partner, officer, stockholder, proprietor, counsel or employee of any company, or any individual with a financial interest in a company, to serve on the Innovation Council. But all council members are deemed public officials and must follow the state code of ethics, except that they do not have to file a statement of financial interest.

Powers and Duties. The bill gives the council the following powers and duties:

1. setting standards, principles, guidelines, and policy priorities for the innovations the sandbox will support;
2. helping publicize and encourage sandbox participation;
3. obtaining from any executive department, board, commission, or other state agency any assistance and data that is necessary and available to carry out the bill's purposes;
4. verifying applicant eligibility with applicable agencies,

reviewing program applications, and working collaboratively with applicable agencies to oversee the program and its participants;

5. exploring, receiving input on, analyzing and making recommendations on blockchain technology and cryptocurrency initiatives and applications of blockchain technology that would benefit the state and its consumers and industries;
6. limiting, to the extent practicable, the amount of risk exposure from the products and services offered under the program and establishing safeguards to protect consumers; and
7. performing other acts necessary and appropriate to carry out the duties described in the bill.

Under the bill, a majority of council members constitutes a quorum for conducting business. The council may make bylaws to govern its procedures.

Application Process

Under the bill, any company may apply to the Innovation Council to participate in the sandbox program for a 36-month period. Companies licensed or authorized in another jurisdiction may apply, as long as the company has a physical location in the state. The council must prescribe the form and manner for applying and the applicable application fee. Applicants must submit separate applications for each innovative product or service. The bill requires the council to forward a copy of each application to the applicable agency for the agency's review and recommendation.

Additionally, as a condition of participating in the program, applicants must agree to submit any employee who is substantially involved in the innovative product or service's development, operation, or management to a criminal history records check.

Application Contents. The bill requires each application to include the following information:

1. the applicant's contact information, including legal name, address, telephone number, e-mail address, and website;
2. disclosure of any criminal convictions of the applicant or any employee substantially involved in the development, operation, or management of the innovative product or service;
3. the information the Innovation Council must consider (see *Application Evaluation*, below); and
4. any other information reasonably necessary for the council to determine an applicant's eligibility.

Application Evaluation. The bill requires the Innovation Council to consider the following when evaluating applications:

1. the nature of the proposed innovative product or service, including any potential risks to consumers;
2. how the applicant will protect consumers and resolve complaints during the program period;
3. the applicant's business plan and availability of capital;
4. if the applicant's management has the necessary expertise to conduct a pilot of the innovative product or service during the program period;
5. whether any officer or director who is substantially involved in an innovative product's or service's development, operation, or management has been convicted of, or is currently under investigation for, fraud or a violation of state or federal securities law;
6. if the applicable agency has investigated, sanctioned, or pursued legal action against the applicant; and
7. any other factor the council or applicable agency finds necessary to determine whether the applicant or the innovative product or service furthers program's goals.

The bill allows the council to deny an application for any reason, but it must provide its specific reasons for doing so to the applicant. Any applicant who is denied may reapply to the sandbox program, as long as they have taken action to address the reasons.

Any application the council approves must not be against the public's interest and must not unreasonably increase consumers' risk.

Application Approval and Conditions. Upon approval, a participating company has a 36-month period to make the innovative product or service available to consumers. The applicable agency may (1) specify, on a case-by-case basis, the maximum number of consumers permitted to receive the product or service, the maximum value for a single transaction, or the maximum aggregate value or transactions and (2) require the company to execute a surety bond or to deposit cash or marketable securities with the agency, in an amount the agency determines, as security for potential loss by consumers. The bond, cash, or marketable securities must be cancelled or refunded when the company's waiver under the program expires or the agency determines that any consumer claims have been satisfied, whichever is later.

Under the bill, the council must post on each applicable agency's website (presumably, by providing the information to each agency) a list of approved participants, the innovated product or service offered, and any waiver granted.

Nonprofit Partners

The bill allows the Innovation Council to designate nonprofit organizations as partners to assist sandbox program applicants with the application process and program participants with designing and implementing innovative products or services during the program period or any extension. The organizations may explore, receive input on, analyze, and make recommendations to the council and program applicants and participants on innovations and applications of innovative technology that would provide benefits to the state, its consumers, and its industries. Nonprofits may apply to the council, in a form and manner the council prescribes, to serve as a partner.

Conditions of Program Participation

Program Participation Fees. The bill allows the council to impose (1) participation fees on each approved applicant and (2) additional fees based on factors like the company's size or number of consumers. Any fees imposed must not be unreasonably high or discourage participation. The council must post any fees it establishes on each applicable agency's website (presumably, by providing the information to each agency). (The bill does not specify or direct how fees may be used.)

Personal Information. The bill allows the Innovation Council and applicable agencies to collect personal information relevant and necessary to accomplish the bill's purposes. However, this personal information may not be further disclosed without the person's written consent. Any documents, materials, or other information the council or applicable agency controls or possesses obtained by, created by, or disclosed to the council, applicable agency, or another person in the course of reviewing or approving an innovative product or service is (1) confidential and privileged, (2) not subject to disclosure under the Freedom of Information Act, and (3) not subject to subpoena or discovery or admissible as evidence in a civil action in the state.

Required Consumer Disclosures. Under the bill, program participants must disclose to a consumer the following information, clearly and conspicuously in English and Spanish, before providing an innovative product or service to the consumer:

1. the participant's name and contact information;
2. that the innovative product or service is authorized under the bill for a temporary period;
3. that neither the state nor the applicable agency (a) endorses or recommends the innovative product or service or (b) is subject to any liability for losses or damages caused by it;
4. that the consumer may contact the applicable agency to file a complaint regarding the innovative product or service and the

contact information for the applicable agency; and

5. any other statements or disclosures that the applicable agency may require.

Termination. Under the bill, the council, in consultation with the applicable agency, may terminate a company's participation in the program at any time and for any reason, as long as the council provides the participant 10 days' notice. Participants are entitled to notice and hearing under the Uniform Administrative Procedure Act, but the council's decision is not subject to appeal.

Program participants may submit a written request to the council and applicable agency to exit the program at any time, as long as the applicant has resolved any consumer complaints and notified the applicable agency the consumers were not harmed by the innovative product or service.

Reporting. At the end of the program and any extensions, each program participant must submit a report to the Innovation Council and the applicable agency in the form and manner the applicable agency prescribes. The report must include a description of the innovative product or service, the number of consumers to which it was provided, and any other information the applicable agency requires.

Applicable agencies must establish reporting requirements for program participants, including information about any consumer complaints.

Extensions

The bill allows program participants to request to extend the program period. But the Innovation Council and the applicable agency must first agree that the extension furthers the bill's purposes and there are no unreasonable risks to consumers by extending the period.

Post-Program

Under the bill, if a program participant is unable to get a license or other authorization for the innovative product or service from the

applicable agency within 90 days after the program and any extension expires, the participant must wind down its operations with its existing consumers. However, the participant may, with respect to the product or service (1) collect or receive money a consumer owes based on an agreement made before the program expired, (2) take any necessary legal action, and (3) take other action authorized by the applicable agency. If the participant has ongoing duties after the 90-day period expires, the participant must continue fulfilling only those duties or arrange for another company to do so.

Expedited Licensure or Authorization. Under the bill, each applicable agency must adopt regulations to establish an expedited process for participants to receive a license or authorization after the program and any extension is complete. Participants must have resolved any consumer complaints and be in good standing with the Innovation Council and applicable agency.

Contracts. Contracts between program participants and another party, entered into during the program, must be governed by their terms and do not expire or terminate just because the company's program participation does, unless such a provision was included in the contract. Under the bill, self-executing contracts entered into and stored through blockchain technology are valid and enforceable.

Record Retention. Participants must retain, for at least three years after the program and any extension expires, all records, documents, and data regarding the product and service that were produced during the ordinary course of business. They must also make these records, documents, and data available to the applicable agency upon written request.

Program Annual Reports

The bill requires the Innovation Council to annually report on the Fintech Regulatory Sandbox program to the governor and the Banking; Commerce; and Finance, Revenue and Bonding committees, and the first report is due January 1, 2024. The reports must include (1) the number of program applicants and program participants from the

previous calendar year, (2) a description of each innovative product or service made available to consumers through the program, and (3) policy or legislative recommendations for improving or expanding the program or administering it more efficiently.

INSURTECH REGULATORY SANDBOX

The bill requires the insurance commissioner to establish and begin implementing by January 1, 2023, an Insurtech Regulatory sandbox initiative to facilitate the development of new technologies and types of insurance for start-up insurance companies that do not have the capital or labor resources to comply with the state's insurance requirements. The commissioner must establish the initiative in consultation with CTNext's board of directors.

Program Details

Under the bill, the initiative (presumably, through the insurance commissioner) must set conditions for participating in it and provide an application process for new companies. The commissioner must accept all applicants that meet the conditions it sets, except that he may limit the number of participants in the initiatives' first two years. He may also remove participating companies at any time if he determines there is unreasonable risk to the company's policy holders or customers.

The initiative must also:

1. provide that the commissioner must waive the requirement for participating companies to get licensed in the state;
2. establish a light regulatory framework consisting of only the requirements the commissioner deems crucial to protecting consumers;
3. designate an employee or employees to exclusively oversee and manage the initiative;
4. permit in-state consumers to purchase products offered by participating companies while ensuring that the consumers are aware that the products have less regulatory oversight;

5. ensure the initiative is structured to match the pace of product offerings and participating companies' growth, including allowing for more rapid product testing and product adjustments on a weekly or more frequent basis;
6. allow participating companies to remain in the initiative for an initial 36-month period (or a longer period under conditions set by the commissioner);
7. establish clear steps that participating companies must meet to demonstrate their products and services are viable and can be made available to a wider market; and
8. make reporting requirements for participating companies.

The initiative must also establish the maximum number of policy holders or named insured or customers and the maximum amount of risk exposure each participating company may have, and the insurance commissioner may specify the demographics that participating companies may serve, in order to protect those least able to make informed choices about insurance products and understand the relevant risks of a product offered by a participating company.

Initiative Annual Reports

The bill requires the insurance commissioner to annually submit to the Commerce; Finance, Revenue and Bonding; and Insurance committees a report summarizing (1) the number of participating companies, (2) any products or services they offer, (3) any products or services deemed to be viable or offered to a wider market, (4) any participating companies that have established themselves in the state and become licensed insurance companies, and (5) any other information the commissioner deems relevant. The first report is due by January 1, 2024.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 29 Nay 21 (04/05/2022)