

1 HOUSE BILL 356

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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5 and Antonio Maestas
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10 AN ACT

11 RELATING TO LICENSURE; ENACTING THE TECHNOLOGY SANDBOX ACT;
12 PROVIDING TEMPORARY AND LIMITED REGULATORY WAIVERS TO CERTAIN
13 APPLICANTS THAT PROVIDE AN INNOVATIVE USE OF BLOCKCHAIN
14 TECHNOLOGY; ESTABLISHING APPLICATIONS AND PROCEDURES; PROVIDING
15 PROTECTIONS FOR CONSUMERS; LIMITING AN APPLICANT'S RIGHT TO
16 PROTEST THE DENIAL OF A REGULATORY WAIVER; LIMITING A SANDBOX
17 PARTICIPANT'S RIGHT TO PROTEST THE SUSPENSION OF A REGULATORY
18 WAIVER; MAKING AN APPROPRIATION.
19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
22 cited as the "Technology Sandbox Act".

23 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Technology Sandbox Act:

25 A. "applicable agency" means a department, agency

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1 of the state or board that regulates an activity or a person
2 engaged in such activity for which an applicant may seek a
3 regulatory waiver pursuant to the Technology Sandbox Act;

4 B. "applicant" means an individual or entity that
5 applies for a regulatory waiver;

6 C. "blockchain technology" means the use of a
7 digital database containing records of transactions, which can
8 be simultaneously used and shared within a decentralized,
9 publicly accessible network and can record transactions between
10 two or more parties in a verifiable and permanent way;

11 D. "consumer" means a state resident that enters
12 into a transaction or agreement to receive a sandbox product or
13 service;

14 E. "innovative use" means the use or incorporation
15 of blockchain technology to address a problem, provide a
16 benefit or otherwise offer a product, service, business model
17 or delivery mechanism that is determined by the attorney
18 general to not have a comparable widespread offering within the
19 state;

20 F. "regulatory waiver" means a waiver provided by
21 the attorney general pursuant to the Technology Sandbox Act
22 that allows a sandbox participant to provide a sandbox product
23 or service to a consumer without the need of a license or other
24 type of authorization otherwise required by law;

25 G. "sandbox participant" means an individual or

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1 entity who has been granted a regulatory waiver; and

2 H. "sandbox product or service" means a product or
3 service that is provided by a sandbox participant pursuant to a
4 regulatory waiver.

5 SECTION 3. [NEW MATERIAL] REGULATORY WAIVERS--

6 APPLICABILITY.--Notwithstanding any other provision of law, the
7 attorney general may issue a regulatory waiver, pursuant to the
8 Technology Sandbox Act, for any licensing requirement provided
9 by law. A regulatory waiver shall confer the same rights,
10 privileges and responsibilities as a regular license issued
11 pursuant to law, except as otherwise provided by the Technology
12 Sandbox Act.

13 SECTION 4. [NEW MATERIAL] REGULATORY WAIVERS--

14 APPLICATIONS--TERMS AND DISCLAIMERS.--

15 A. The attorney general shall receive and review
16 applications for regulatory waivers. An applicant shall submit
17 an application for each product for which the applicant seeks a
18 waiver. The attorney general shall approve or deny
19 applications within sixty days of receipt of an application and
20 notify applicants of approval or denial. Regulatory waivers
21 shall be for a period not exceeding three years. The attorney
22 general shall coordinate with any applicable agencies that
23 would otherwise regulate or oversee the sandbox products or
24 services described in an application. The attorney general may
25 issue a regulatory waiver if:

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1 (1) the attorney general determines, in
2 concurrence with any applicable agencies, that an applicant is
3 able to provide a sandbox product or service that demonstrates
4 an innovative use of blockchain technology;

5 (2) the applicant pays a licensing fee for a
6 regulatory waiver to the attorney general in an amount
7 determined by the attorney general; and

8 (3) the proposed provision of sandbox products
9 or services does not conflict with any existing federal law.

10 B. An application shall include:

11 (1) the nature of the sandbox product or
12 service proposed to be made available to consumers pursuant to
13 the regulatory waiver;

14 (2) any known or reasonably expected risks to
15 consumers and methods that shall be used to protect consumers
16 and resolve complaints;

17 (3) a business plan, including a projected
18 financial statement for no less than a period of three years;
19 provided that proprietary information shall be confidential and
20 shall be disclosed for no purpose other than the application;

21 (4) the personnel and the financial and
22 technical expertise needed to provide the sandbox product or
23 service;

24 (5) whether any person involved in the
25 development, operation or management of the sandbox product or

1 service has been convicted of, or is currently under
2 investigation for, any state or federal criminal violations;

3 (6) a copy of the required disclosures that
4 will be provided to consumers; and

5 (7) any other factor or information that the
6 attorney general determines to be relevant.

7 C. If a regulatory waiver is granted, the attorney
8 general shall specify the statutory requirements for which the
9 waiver is granted and the length of the regulatory waiver as
10 determined by the attorney general. The attorney general shall
11 also make the application, a summary of the sandbox product or
12 service and the contact information of the sandbox participant
13 publicly available.

14 D. An applicant shall have no recourse or means to
15 appeal the denial of a regulatory waiver.

16 E. A sandbox participant may make a sandbox product
17 or service available for consumer use pursuant to the
18 provisions of that sandbox participant's regulatory waiver.
19 The attorney general may specify the maximum number of
20 consumers permitted to receive a sandbox product or service
21 pursuant to a regulatory waiver. A sandbox participant shall
22 ensure, prior to engaging in a transaction to provide a sandbox
23 product or service, that every prospective consumer is provided
24 with the following:

25 (1) a disclaimer that the sandbox product or

1 service is subject to a regulatory waiver and may entail risk;

2 (2) the name and contact information of the
3 sandbox participant;

4 (3) a disclaimer that the state does not
5 endorse the sandbox product or service and is not subject to
6 liability for losses or damages caused by the sandbox product
7 or service;

8 (4) a disclaimer that the sandbox participant
9 is not immune from civil liability for any losses or damages
10 caused by the sandbox product or service;

11 (5) the expected end date of the regulatory
12 waiver;

13 (6) contact information for the attorney
14 general; and

15 (7) any other statements or disclosures as
16 provided by attorney general rule that are necessary to further
17 the purposes of the Technology Sandbox Act.

18 F. A sandbox participant shall maintain
19 comprehensive records, which shall include base level code
20 source and change logs to underlying code accessing state-level
21 data, as required by the attorney general, relating to the
22 sandbox product or service. The sandbox participant shall keep
23 these records for not less than five years after the expiration
24 of the regulatory waiver.

25 G. The attorney general may examine the records

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1 maintained by a sandbox participant at any time, with or
2 without notice. All direct and indirect costs of an
3 examination conducted under this subsection shall be paid by
4 the sandbox participant. Records made available to the
5 attorney general pursuant to this subsection shall not be
6 subject to disclosure under the Inspection of Public Records
7 Act but may be released to appropriate state and federal
8 agencies for the purposes of financial or criminal
9 investigations.

10 H. Not less than sixty days before the expiration
11 of the regulatory waiver, a sandbox participant shall provide
12 written notification to consumers regarding the expiration of
13 the regulatory waiver and shall not enter into any transactions
14 regarding the sandbox product or service with any new
15 consumers. The program participant shall ensure that
16 transactions with existing consumers cease by the expiration of
17 the regulatory waiver, except that, after the expiration of the
18 regulatory waiver, the sandbox participant may:

19 (1) collect and receive money owed to the
20 sandbox participant and service loans or other instruments of
21 debt based on agreements with consumers made before the
22 expiration of the regulatory waiver;

23 (2) pursue legal action related to the sandbox
24 product or service; and

25 (3) take other actions authorized by attorney

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1 general rule that are not inconsistent with the Technology
2 Sandbox Act.

3 SECTION 5. [NEW MATERIAL] REGULATORY WAIVERS--CONSUMER
4 PROTECTION BOND.--A sandbox participant shall post a sandbox
5 consumer protection bond with the attorney general as security
6 for potential losses and damages suffered by consumers. The
7 bond amount shall be determined by the attorney general, based
8 on risk profile of the product and the number of consumers it
9 will be available to, and shall be commensurate with the risk
10 profile of the sandbox product or service offered by that
11 sandbox participant. The attorney general may require that a
12 bond be increased or decreased at any time based on updated
13 information regarding the risk profile of the sandbox product
14 or service. Unless losses or damages are alleged, the attorney
15 general shall cancel the bond two years after the date of the
16 expiration of the regulatory waiver. If losses or damages are
17 proven in a court of competent jurisdiction, the bond posted
18 pursuant to this section may be used to compensate a consumer
19 pursuant to a court order.

20 SECTION 6. [NEW MATERIAL] SUSPENSION OF A REGULATORY
21 WAIVER.--

22 A. The attorney general may revoke or suspend a
23 regulatory waiver at any time if:

24 (1) the sandbox participant has violated any
25 provision of the Technology Sandbox Act or any rule promulgated

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1 pursuant to that act;

2 (2) a fact or condition exists or becomes
3 known that, if it had existed or become known at the time of
4 the application for a regulatory waiver, would have caused the
5 application to be denied;

6 (3) a material error, false statement,
7 misrepresentation or material omission was made in the
8 application for a regulatory waiver; or

9 (4) evidence exists that:

10 (a) continued use of the regulatory
11 waiver would be likely to harm consumers; or

12 (b) there no longer exists an innovative
13 use for the sandbox product or service.

14 B. The attorney general shall provide to the
15 sandbox participant notice of the suspension or revocation of a
16 regulatory waiver. A sandbox participant or past sandbox
17 participant shall have no recourse or means to appeal the
18 suspension or revocation of a regulatory waiver.

19 SECTION 7. [NEW MATERIAL] RULEMAKING.--By October 1,
20 2023, the attorney general shall propose rules necessary to
21 carry out the provisions of the Technology Sandbox Act,
22 including rules establishing criteria for acceptable
23 cryptocurrencies, prohibiting initial coin offerings and
24 accounting of those currencies. No later than December 31,
25 2023, the attorney general shall adopt the rules.

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SECTION 8. APPROPRIATION.--Four hundred thousand dollars (\$400,000) is appropriated from the general fund to the office of the attorney general for expenditure in fiscal year 2024 to fund additional full-time-equivalent positions to administer the provisions of the Technology Sandbox Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2024 shall revert to the general fund.