

1 AN ACT relating to regulatory relief.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 9 of this Act, unless the context suggests otherwise:*

6 *(1) "Advisory committee" means the General Regulatory Sandbox Advisory*
7 *Committee;*

8 *(2) "Applicable agency" means a department or agency of the state that by law*
9 *regulates a business activity and persons engaged in the business activity,*
10 *including the issuance of licenses or other types of authorization, which the office*
11 *determines would otherwise regulate a sandbox participant;*

12 *(3) "Applicant" means a person that applies to participate in the regulatory sandbox;*

13 *(4) "Consumer" means a person that purchases or otherwise enters into a*
14 *transaction or agreement to receive an offering pursuant to a demonstration by a*
15 *sandbox participant;*

16 *(5) "Demonstrate" or "demonstration" means to temporarily provide an offering in*
17 *accordance with the provisions of the regulatory sandbox described in Sections 1*
18 *to 9 of this Act;*

19 *(6) "Director" means the director of the Kentucky Office of Regulatory Relief;*

20 *(7) "Innovation" means the use or incorporation of a new idea, a new or emerging*
21 *technology, or a new use of existing technology to address a problem, provide a*
22 *benefit, or otherwise offer a product, production method, or service;*

23 *(8) "Innovative offering" means an offering that includes an innovation;*

24 *(9) (a) "Offering" means a product, production method, or service.*

25 *(b) "Offering" shall not include a product, production method, or service that*
26 *is subject to regulation under:*

27 *1. KRS Chapter 292, the Securities Act of Kentucky; or*

1 2. KRS Chapter 216B, Licensure and Regulation of Health Facilities
2 and Services;

3 (10) "Product" means a commercially distributed good that is:

4 (a) Tangible personal property;

5 (b) The result of a production process; and

6 (c) Passed through the distribution channel before consumption;

7 (11) "Production" means the method or process of creating or obtaining a good,
8 which may include assembling, breeding, capturing, collecting, extracting,
9 fabricating, farming, fishing, gathering, growing, harvesting, hunting,
10 manufacturing, mining, processing, raising, or trapping a good;

11 (12) "Regulatory relief office" means the Kentucky Office of Regulatory Relief;

12 (13) "Sandbox" or "regulatory sandbox" means the General Regulatory Sandbox
13 Program, which allows a person to temporarily demonstrate an offering under a
14 waiver or suspension of one (1) or more administrative regulations;

15 (14) "Sandbox participant" means a person whose application to participate in the
16 regulatory sandbox is approved in accordance with Section 6 of this Act; and

17 (15) "Service" means any commercial activity, duty, or labor performed for another
18 person.

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) The General Regulatory Sandbox Advisory Committee is hereby established for
22 the purpose of advising and making recommendations to the Kentucky Office of
23 Regulatory Relief concerning the implementation and administration of the
24 General Regulatory Sandbox Program.

25 (2) The advisory committee shall consist of twelve (12) members as follows:

26 (a) Five (5) members representing the business community shall be appointed
27 by the Attorney General from a list of three (3) names for each position to

1 be submitted by the following organizations:

- 2 1. Kentucky Chamber of Commerce;
- 3 2. Kentucky Association of Manufacturers;
- 4 3. National Federation of Independent Business;
- 5 4. Kentucky Retail Federation; and
- 6 5. Kentucky Farm Bureau;

7 (b) Five (5) members consisting of the cabinet secretary or his or her designee
8 of the following state agencies:

- 9 1. Transportation Cabinet;
- 10 2. Energy and Environment Cabinet;
- 11 3. Cabinet for Economic Development;
- 12 4. Public Protection Cabinet; and
- 13 5. Education and Labor Cabinet; and

14 (c) Two (2) members of the Kentucky General Assembly, one (1) appointed by
15 the President of the Senate and one (1) appointed by the Speaker of the
16 House of Representatives, who shall be ex officio nonvoting members.

17 (3) After the initial appointments, members of the advisory committee who are
18 appointed under subsection (2)(a) of this section shall serve a term of four (4)
19 years.

20 (4) The Attorney General shall select a chair of the committee on an annual basis.

21 (5) Notwithstanding the requirements of subsection (3) of this section, the Attorney
22 General may adjust the length of terms of appointments and reappointments to
23 the committee so that half of the advisory committee is appointed every two (2)
24 years.

25 (6) A member of the advisory committee shall not receive compensation or benefits
26 for the member's service, but a member appointed under subsection (2)(a) of this
27 section shall receive per diem and travel expenses consistent with the

1 reimbursement policy for state employees.

2 (7) A majority of the advisory committee constitutes a quorum for the purpose of
 3 conducting advisory committee business, and the action of the majority of a
 4 quorum constitutes the action of the advisory committee.

5 (8) Meetings of the advisory committee shall not be subject to public disclosure
 6 pursuant to the Kentucky Open Records Act, KRS 61.805 to 61.850.

7 (9) The advisory committee shall be attached to the Office of the Attorney General
 8 for administrative purposes.

9 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
 10 READ AS FOLLOWS:

11 (1) The Kentucky Office of Regulatory Relief is hereby created within the Office of
 12 the Attorney General.

13 (2) (a) There shall be a director within the regulatory relief office responsible for
 14 administering Sections 1 to 9 of this Act. The director shall be appointed by
 15 the Attorney General.

16 (b) The director shall review all applications for admission to the regulatory
 17 sandbox. The director shall report to the Attorney General and may appoint
 18 staff subject to the approval of the Attorney General.

19 (3) The regulatory relief office shall:

20 (a) Administer the regulatory sandbox established in Section 4 of this Act;

21 (b) Establish a program to enable a person to obtain legal protections and
 22 limited access to the market in the state to demonstrate an innovative
 23 offering without obtaining a license or other authorization that might
 24 otherwise be required;

25 (c) Establish an application fee not to exceed one thousand dollars (\$1,000) for
 26 admission to the regulatory sandbox;

27 (d) Act as a liaison between private businesses and applicable agencies to

1 identify administrative regulations that may be waived or suspended under
2 the regulatory sandbox;

3 (e) Consult with each applicable agency; and

4 (f) Administer the provisions of Sections 1 to 9 of this Act.

5 (4) The regulatory relief office may:

6 (a) Review administrative regulations that may unnecessarily inhibit the
7 creation and success of new companies or industries, and provide
8 recommendations to the Governor and the General Assembly on modifying
9 those administrative regulations;

10 (b) Create a framework for analyzing the risk level to the health, safety, and
11 financial well-being of consumers related to permanently removing or
12 temporarily suspending administrative regulations that inhibit the creation
13 or success of new and existing companies or industries;

14 (c) Propose potential reciprocity agreements between states that use or may
15 propose to use similar regulatory sandbox programs as described in Section
16 4 of this Act;

17 (d) Enter into agreements with or adopt the best practices of corresponding
18 federal regulatory agencies or other states that may administer similar
19 programs;

20 (e) Consult with businesses in the state about existing or potential proposals for
21 the regulatory sandbox; and

22 (f) Promulgate administrative regulations concerning:

23 1. Administering the regulatory sandbox;

24 2. The application process;

25 3. Reporting requirements of sandbox participants; and

26 4. Cooperating and consulting with other agencies in the Commonwealth
27 that administer sandbox programs.

1 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
2 READ AS FOLLOWS:

3 *(1) The General Regulatory Sandbox Program is hereby created within the Kentucky*
4 *Office of Regulatory Relief to provide relevant information regarding the*
5 *regulatory sandbox program, including informing an applicant whether it may be*
6 *more suitable to apply for the program described in this section or Section 12 of*
7 *this Act.*

8 *(2) An applicant for the regulatory sandbox may contact the regulatory relief office*
9 *to request a consultation regarding the regulatory sandbox before submitting an*
10 *application.*

11 *(3) An applicant for the regulatory sandbox shall submit to the regulatory relief*
12 *office:*

13 *(a) The required application fee as determined by the regulatory relief office;*

14 *(b) A written application on a form prescribed by the regulatory relief office*
15 *that:*

16 *1. Confirms the applicant is subject to the jurisdiction of the state;*

17 *2. Confirms the applicant has established a physical or virtual location*
18 *in the state, from which the demonstration of an innovative offering*
19 *will be developed and performed and where all required records,*
20 *documents, and data will be maintained;*

21 *3. Contains relevant personal and contact information for the applicant,*
22 *including legal names, addresses, telephone numbers, email addresses,*
23 *website addresses, and other information required by the regulatory*
24 *relief office;*

25 *4. Discloses criminal convictions of the applicant or other participating*
26 *personnel, if any;*

27 *5. Contains a description of the innovative offering to be demonstrated,*

- 1 including statements regarding:
- 2 a. How the offering is subject to licensing, legal prohibition, or
- 3 other authorization requirements outside of the regulatory
- 4 sandbox;
- 5 b. Each administrative regulation that the applicant seeks to have
- 6 waived or suspended while participating in the regulatory
- 7 sandbox program;
- 8 c. How the offering would benefit consumers;
- 9 d. How the offering is different from other offerings available in
- 10 the state;
- 11 e. What risks might exist for consumers who use or purchase the
- 12 offering;
- 13 f. How participating in the regulatory sandbox would enable a
- 14 successful demonstration of the offering;
- 15 g. A description of the proposed demonstration plan, including
- 16 estimated time periods for beginning and ending the
- 17 demonstration;
- 18 h. Recognition that the applicant will be subject to administrative
- 19 regulations pertaining to the applicant's offering after
- 20 conclusion of the demonstration; and
- 21 i. How the applicant will end the demonstration and protect
- 22 consumers if the demonstration fails; and
- 23 6. Lists each governmental agency, if any, that the applicant knows
- 24 regulates the applicant's business; and
- 25 (c) Any other required information that the regulatory relief office deems
- 26 necessary.
- 27 (4) An applicant shall file a separate application for each innovative offering that the

1 applicant wishes to demonstrate.

2 (5) A person shall not be eligible to make an application under this section if the
3 person is seeking regulatory relief that is available under KRS 304.3-700 to
4 304.3-735.

5 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) Upon receipt of an application, the regulatory relief office shall:

8 (a) Classify the application and any related information provided by the
9 applicant as a protected record in accordance with the Kentucky Open
10 Records Act, KRS 61.870 to 61.884;

11 (b) Consult with each applicable governmental agency that regulates the
12 applicant's business regarding whether more information is needed from
13 the applicant; and

14 (c) Seek additional information from the applicant that the regulatory relief
15 office determines is necessary.

16 (2) No later than five (5) business days after the day on which a complete application
17 is received by the regulatory relief office, the regulatory relief office shall:

18 (a) Review the application and refer the application to each applicable
19 governmental agency that regulates the applicant's business; and

20 (b) Provide to the applicant:

21 1. An acknowledgment of receipt of the application; and

22 2. The identity and contact information of each regulatory agency to
23 which the application has been referred for review.

24 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) (a) Subject to paragraphs (c) and (g) of this subsection, no later than thirty (30)
27 days after the day on which an applicable agency receives a complete

1 application for review, the applicable agency shall provide a written report
2 to the director of the applicable agency's findings.

3 (b) The report shall:

4 1. Describe any identifiable, likely, and significant harm to the health,
5 safety, or financial well-being of consumers that the relevant
6 administrative regulation protects against; and

7 2. Make a recommendation to the regulatory relief office that the
8 applicant either be admitted or denied entrance into the regulatory
9 sandbox.

10 (c) 1. The applicable agency may request an additional five (5) business
11 days to deliver the written report by providing notice to the director,
12 and the request shall automatically be granted.

13 2. The applicable agency may only request one (1) extension per
14 application.

15 (d) If the applicable agency recommends an applicant under this section be
16 denied entrance into the regulatory sandbox, the written report shall include
17 a description of the reasons for the recommendation, including why a
18 temporary waiver or suspension of the relevant administrative regulations
19 would potentially significantly harm the health, safety, or financial well-
20 being of consumers or the public and the likelihood of such harm
21 occurring.

22 (e) If the applicable agency determines that the consumer's or public's health,
23 safety, or financial well-being can be protected through less restrictive
24 means than the existing relevant administrative regulations, then the
25 applicable agency shall provide a recommendation of how that can be
26 achieved.

27 (f) If an applicable agency fails to deliver a written report as described in this

1 subsection, the director shall assume that the applicable agency does not
2 object to the temporary waiver or suspension of the relevant administrative
3 regulations for an applicant seeking to participate in the regulatory
4 sandbox.

5 (g) Notwithstanding any other provision of this section, an applicable agency
6 may by written notice to the regulatory relief office:

7 1. Within the thirty (30) days after the day on which the applicable
8 agency receives a complete application for review, or within thirty-five
9 (35) days if an extension has been requested by the applicable agency,
10 reject an application if the applicable agency determines, in the
11 applicable agency's sole discretion, that the applicant's offering fails
12 to comply with standards or specifications:

13 a. Required by federal law or regulation; or

14 b. Previously approved for use by a federal agency; or

15 2. Reject an application preliminarily approved by the regulatory relief
16 office, if the applicable agency:

17 a. Recommends rejection of the application in accordance with
18 paragraph (d) of this subsection in the agency's written report;
19 and

20 b. Provides in the written notice under this paragraph a description
21 of the applicable agency's reasons why approval of the
22 application would create a substantial risk of harm to the health
23 or safety of the public, or create unreasonable expenses for
24 taxpayers in the state.

25 (h) If an applicable agency rejects an application under paragraph (g) of this
26 subsection, the regulatory relief office shall not approve the application.

27 (2) (a) Upon receiving a written report described in subsection (1) of this section,

1 the director shall provide the application and the written report to the
2 advisory committee.

3 (b) The director may call the advisory committee to meet as needed, but not less
4 than once per quarter if applications are available for review.

5 (c) After receiving and reviewing the application and each written report, the
6 advisory committee shall provide to the director the advisory committee's
7 recommendation as to whether the applicant may be admitted as a sandbox
8 participant under this section and Section 4 of this Act.

9 (d) As part of the advisory committee's review of each written report, the
10 advisory committee shall use the criteria required for an applicable agency
11 as described in subsection (1) of this section.

12 (3) (a) In reviewing an application and each applicable agency's written report, the
13 regulatory relief office shall consult with each applicable agency and the
14 advisory committee before admitting an applicant into the regulatory
15 sandbox.

16 (b) The consultation with each applicable agency and the consultation with the
17 advisory committee may include seeking information about whether the
18 applicable agency has previously:

19 1. Issued a license or other authorization to the applicant; and

20 2. Investigated, sanctioned, or pursued legal action against the applicant.

21 (4) In reviewing an application under this section, the regulatory relief office and
22 each applicable agency shall consider whether a competitor to the applicant is or
23 has been a sandbox participant and, if so, weigh that as a factor in favor of
24 allowing the applicant to also become a sandbox participant.

25 (5) In reviewing an application under this section, the regulatory relief office shall
26 consider whether:

27 (a) The applicant's plan will adequately protect consumers from potential harm

- 1 identified by an applicable agency in the applicable agency's written report;
2 (b) The risk of harm to consumers is outweighed by the potential benefits to
3 consumers from the applicant's participation in the regulatory sandbox;
4 and
5 (c) Certain administrative regulations that regulate an offering shall not be
6 waived or suspended even if the applicant is approved as a sandbox
7 participant, including applicable antifraud or disclosure provisions.
8 (6) (a) An applicant becomes a sandbox participant if the regulatory relief office
9 approves the application for the regulatory sandbox and enters into a
10 written agreement with the applicant describing the specific administrative
11 regulations that may be waived or suspended as part of participation in the
12 regulatory sandbox.
13 (b) Notwithstanding any other provision of Sections 1 to 9 of this Act, the
14 regulatory relief office shall not enter into a written agreement with an
15 applicant that waives or suspends a tax, fee, or charge that is administered
16 by the Department of Revenue or that is described in KRS Chapters 131 to
17 144.
18 (c) Notwithstanding any other provision of Sections 1 to 9 of this Act, the
19 regulatory relief office shall not enter into a written agreement with an
20 applicant that waives or suspends a requirement for licensure or regulation
21 of a health facility by the Cabinet for Health and Family Services pursuant
22 to KRS Chapter 216B.

23 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
24 READ AS FOLLOWS:

- 25 (1) The director shall deny an application for participation in the regulatory sandbox
26 if the applicant or any person who seeks to participate with the applicant in
27 demonstrating an offering has been convicted, entered a plea of nolo contendere,

1 or entered a plea of guilty or nolo contendere held in abeyance, for any crime
2 involving significant theft, fraud, or dishonesty if the crime bears a significant
3 relationship to the applicant's or other participant's ability to safely and
4 competently participate in the regulatory sandbox.

5 (2) When an applicant is approved for participation in the regulatory sandbox, the
6 director may provide notice of the approval to competitors of the applicant and to
7 the public.

8 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Once an application is approved by the regulatory relief office, the sandbox
11 participant has twelve (12) months after the day on which the application was
12 approved to demonstrate the offering described in the sandbox participant's
13 application.

14 (2) An offering that is demonstrated within the regulatory sandbox shall be subject to
15 the following:

16 (a) Each consumer shall be a resident of the state; and

17 (b) No administrative regulation shall be suspended to preclude any person
18 from recovering civil liability damages or workers' compensation damages
19 from the sandbox participant in the event that person is harmed as a result
20 of the sandbox participant's product, conduct, or both.

21 (3) This section shall not restrict a sandbox participant who holds a license or other
22 authorization in another jurisdiction from acting in accordance with that license
23 or other authorization.

24 (4) A sandbox participant is deemed to possess an appropriate license or other
25 authorization under the laws of the state for the purposes of any provision of
26 federal law requiring licensure or other authorization by the state.

27 (5) Subject to subsection (6) of this section:

- 1 (a) During the demonstration period, a sandbox participant shall not be subject
2 to the enforcement of administrative regulations identified in the written
3 agreement between the regulatory relief office and the sandbox pursuant to
4 subsection (6) of Section 6 of this Act;
- 5 (b) A prosecutor shall not file or pursue charges pertaining to an administrative
6 regulation identified in the written agreement between the regulatory relief
7 office and the sandbox participant described in subsection (6) of Section 6
8 of this Act that occurs during the demonstration period; and
- 9 (c) A state agency shall not file or pursue any punitive action against a sandbox
10 participant, including a fine or license suspension or revocation, for the
11 violation of an administrative regulation that:
- 12 1. Is identified as being waived or suspended in the written agreement
13 between the regulatory relief office and the sandbox participant
14 described in subsection (6) of Section 6 of this Act; and
- 15 2. Occurs during the demonstration period.
- 16 (6) Notwithstanding any other provision of Sections 1 to 9 of this Act, a sandbox
17 participant shall not have immunity related to any criminal offense committed
18 during the sandbox participant's participation in the regulatory sandbox.
- 19 (7) By written notice, the regulatory relief office may end a sandbox participant's
20 participation in the regulatory sandbox at any time and for any reason, including
21 if the director determines that a sandbox participant is not operating in good faith
22 to bring an innovative offering to market.
- 23 (8) The regulatory relief office and the employees of the regulatory relief office shall
24 not be liable for any business losses or the recouping of application expenses or
25 other expenses related to the regulatory sandbox, including for:
- 26 (a) Denying an applicant's application to participate in the regulatory sandbox
27 for any reason; or

1 **(b) Ending a sandbox participant's participation in the regulatory sandbox at**
 2 **any time and for any reason.**

3 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
 4 READ AS FOLLOWS:

5 **(1) The director shall submit an annual written report to the Attorney General on the**
 6 **activities of the regulatory relief office, which includes:**

7 **(a) Information regarding each participant in the regulatory sandbox created**
 8 **in Section 4 of this Act, including which industries each participant**
 9 **represents and the anticipated or actual cost savings that each participant**
 10 **experienced;**

11 **(b) Recommendations regarding any administrative regulations that should be**
 12 **permanently modified;**

13 **(c) Information regarding outcomes for consumers; and**

14 **(d) Recommendations for changes to the regulatory sandbox or other duties of**
 15 **the regulatory relief office.**

16 **(2) The Attorney General shall provide a written report on the activities of the**
 17 **regulatory relief office to the Governor and the Legislative Research Commission**
 18 **by October 1 of each year, which shall include the director's report submitted**
 19 **under subsection (1) of this section.**

20 ➔Section 10. KRS 15.010 is amended to read as follows:

21 (1) The Attorney General is the head of the Department of Law.

22 (2) The Department of Law shall include the following major organizational units:

23 (a) Department of Criminal Litigation;

24 1. Department of Criminal Investigations;

25 a. Public Corruption Division;

26 b. Special Victims Division;

27 c. Special Investigations Division; and

- 1 d. Protective Intelligence Division;
- 2 2. Office of Special Prosecutions;
- 3 3. Office of Medicaid Fraud and Abuse Control;
- 4 4. Office of Trafficking and Abuse Prevention and Prosecution;
- 5 5. Office of Prosecutors Advisory Council; and
- 6 6. Office of Victims Advocacy;
- 7 (b) Department of Civil Litigation;
- 8 1. Office of Consumer Protection;
- 9 2. Office of Civil and Environmental Law;
- 10 a. Open Records and Meetings Division; and
- 11 b. Administrative Hearings Division;
- 12 3. Office of Rate Intervention; and
- 13 4. Office of Senior Protection;
- 14 (c) Office of the Solicitor General;
- 15 1. Criminal Appeals Division; and
- 16 2. Civil Appeals Division;
- 17 (d) Office of Legal Counsel;
- 18 (e) Office of Communications;~~and~~
- 19 (f) Office of Administrative Services; ***and***
- 20 ***(g) Kentucky Office of Regulatory Relief.***
- 21 ➔Section 11. KRS 13A.250 is amended to read as follows:
- 22 (1) An administrative body that promulgates an administrative regulation shall consider
- 23 the cost that the administrative regulation may cause state or local government and
- 24 regulated entities to incur.
- 25 (2) (a) A two (2) part cost analysis shall be completed for each administrative
- 26 regulation.
- 27 (b) The first part of the cost analysis shall include the projected cost or cost

1 savings to the Commonwealth of Kentucky and each of its affected agencies,
2 and the projected cost or cost savings to affected local governments, including
3 cities, counties, fire departments, and school districts.

4 (c) The second part of the cost analysis shall include the projected cost or cost
5 savings to the regulated entities affected by the administrative regulation.

6 (d) Agencies or entities affected by the administrative regulation may submit
7 comments in accordance with KRS 13A.270(1) to the promulgating
8 administrative body or to a legislative committee reviewing the administrative
9 regulation.

10 (3) Each administrative body that promulgates an administrative regulation shall
11 prepare and submit with the administrative regulation a fiscal note. The fiscal note
12 shall state:

13 (a) The number of the administrative regulation;

14 (b) The name, e-mail address, and telephone number of the contact person of the
15 administrative body identified pursuant to KRS 13A.220(6)(d), and, if
16 applicable, the name, e-mail address, and telephone number of an alternate
17 person to be contacted with specific questions about the fiscal note;

18 (c) Each unit, part, or division of state or local government the administrative
19 regulation will affect;

20 (d) In detail, the aspect or service of state or local government to which the
21 administrative regulation relates, including identification of the applicable
22 state or federal statute or regulation that mandates the aspect or service or
23 authorizes the action taken by the administrative regulation;

24 (e) The estimated effect of the administrative regulation on the expenditures and
25 revenues of a state or local government agency or regulated entity for the first
26 full year the administrative regulation will be in effect. ~~The~~ If specific dollar
27 ~~estimates cannot be determined, the~~ administrative body shall provide a

1 ~~brief~~ narrative to explain the fiscal impact of the administrative regulation
2 and the methodology and resources it used to determine the fiscal impact;
3 and

4 (f) The conclusion of the promulgating administrative body as to whether the
5 administrative regulation will have a major economic impact, as defined in
6 KRS 13A.010, to state and local government and regulated entities, and an
7 explanation of the methodology and resources used by the administrative
8 body to reach this conclusion.

9 (4) Any administrative body may request the advice and assistance of the Commission
10 in the preparation of the fiscal note.

11 ➔Section 12. KRS 304.3-705 is amended to read as follows:

12 (1) Except as provided in subsection (2) of this section, on or before December 31,
13 2025, a person may apply to the department for admission to the sandbox by
14 submitting an application in the form prescribed by the commissioner, accompanied
15 by the following:

16 (a) A filing fee of seven hundred fifty dollars (\$750);

17 (b) A detailed description of the innovation, which shall include:

18 1. An explanation of how the innovation will:

19 a. Add value to customers and serve the public interest;

20 b. Be economically viable for the applicant;

21 c. Provide suitable consumer protection; and

22 d. Not pose an unreasonable risk of consumer harm;

23 2. A detailed description of the statutory and regulatory issues that may
24 prevent the innovation from being currently utilized, issued, sold,
25 solicited, distributed, or advertised in the market;

26 3. A description of how the innovation functions and the manner in which
27 it will be offered or provided;

- 1 4. If the innovation involves the use of software, hardware, or other
2 technology developed for the purpose of implementing or operating it, a
3 technical white paper setting forth a description of the operation and
4 general content of technology to be utilized, including:
- 5 a. The problem addressed by that technology; and
6 b. The interaction between that technology and its users;
- 7 5. If the innovation involves the issuance of a policy of insurance, a
8 statement that either:
- 9 a. If the applicant will be the insurer on the policy, that the applicant
10 holds a valid certificate of authority and is authorized to issue the
11 insurance coverage in question; or
12 b. If some other person will be the insurer on the policy, that the
13 other person holds a valid certificate of authority and is authorized
14 to issue the insurance coverage in question; and
- 15 6. A statement by an officer of the applicant certifying that no product,
16 process, method, or procedure substantially similar to the innovation has
17 been used, sold, licensed, or otherwise made available in this
18 Commonwealth before the effective filing date of the application;
- 19 (c) The name, contact information, and bar number of the applicant's insurance
20 regulatory counsel, which shall be a person with experience providing
21 insurance regulatory compliance advice;
- 22 (d) A detailed description of the specific conduct that the applicant proposes
23 should be permitted by the limited no-action letter;
- 24 (e) Proposed terms and conditions to govern the applicant's beta test, which shall
25 include:
- 26 1. Citation to the provisions of Kentucky law that should be excepted in
27 the notice of acceptance issued under KRS 304.3-710(6); and

- 1 2. Any request for an extension of the time period for a beta test under
2 KRS 304.3-720(1) and the grounds for the request;
- 3 (f) Proposed metrics by which the department may reasonably test the
4 innovation's utility during the beta test;
- 5 (g) Disclosure of all:
- 6 1. Persons who are directors and executive officers of the applicant;
- 7 2. General partners of the applicant if the applicant is a limited partnership;
- 8 3. Members of the applicant if the applicant is a limited liability applicant;
- 9 4. Persons who are beneficial owners of ten percent (10%) or more of the
10 voting securities of the applicant;
- 11 5. Other persons with direct or indirect power to direct the management
12 and policies of the applicant by contract, other than a commercial
13 contract for goods or nonmanagement services; and
- 14 6. Conflicts of interest with respect to any person listed in this paragraph
15 and the department;
- 16 (h) A statement that the applicant has funds of at least twenty-five thousand
17 dollars (\$25,000) available to guarantee its financial stability through one (1)
18 or a combination of any of the following:
- 19 1. A contractual liability insurance policy;
- 20 2. A surety bond issued by an authorized surety;
- 21 3. Securities of the type eligible for deposit by authorized insurers in this
22 Commonwealth;
- 23 4. Evidence that the applicant has established an account payable to the
24 commissioner in a federally insured financial institution in this
25 Commonwealth and has deposited money of the United States in an
26 amount equal to the amount required by this paragraph that is not
27 available for withdrawal, except by direct order of the commissioner;

- 1 5. A letter of credit issued by a qualified United States financial institution
2 as defined in KRS 304.9-700; or
- 3 6. Another form of security authorized by the commissioner; and
- 4 (i) A statement confirming that the applicant is not seeking authorization for, nor
5 shall it engage in, any conduct that would render the applicant unauthorized to
6 make an application under subsection (2) of this section.
- 7 (2) (a) The following persons shall not be authorized to make an application to the
8 department for admission to the sandbox:
- 9 1. Any person seeking to sell or license an insurance innovation directly to
10 any federal, state, or local government entity, agency, or instrumentality
11 as the insured person or end user of the innovation;
- 12 2. Any person seeking to sell, license, or use an insurance innovation that
13 is not in compliance with subsection (1)(b)5. of this section;
- 14 3. Any person seeking to make an application that would result in the
15 person having more than five (5) active beta tests ongoing within the
16 Commonwealth at any one (1) time; and
- 17 4. Any person seeking a limited or extended no-action letter or exemption
18 from any administrative regulation or statute concerning:
- 19 a. Assets, deposits, investments, capital, surplus, or other solvency
20 requirements applicable to insurers;
- 21 b. Required participation in any assigned risk plan, residual market,
22 or guaranty fund;
- 23 c. Any licensing or certificate of authority requirements; or
- 24 d. The application of any taxes or fees.
- 25 (b) For the purposes of this subsection, "federal, state, or local government entity,
26 agency, or instrumentality" includes any county, city, municipal corporation,
27 urban-county government, charter county government, consolidated local

1 government, unified local government, special district, special purpose
2 governmental entity, public school district, or public institution of education.

3 **(3) Notwithstanding any other provision of this chapter, a person regulated under**
4 **this chapter may participate in the regulatory sandbox described in Section 4 of**
5 **this Act if the person is:**

6 **(a) Not authorized to make an application under this section; or**

7 **(b) Seeking regulatory relief that is not available under KRS 304.3-700 to**
8 **304.3-735.**

9 ➔Section 13. The initial appointments to the General Regulatory Sandbox
10 Advisory Committee under subsection (2)(a) and (c) of Section 2 of this Act shall be
11 staggered to provide continuity, as follows:

12 (1) Four members shall serve a term of three years;

13 (2) Two members shall serve a term of two years; and

14 (3) One member shall serve a term of one year.

15 ➔Section 14. This Act takes effect March 15, 2024.