

1 AN ACT relating to the insurance regulatory sandbox.

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

3 ➔Section 1. KRS 304.3-705 is amended to read as follows:

4 (1) Except as provided in subsection (2) of this section, on or before December 31,  
5 2030~~[2025]~~, a person may apply to the department for admission to the sandbox by  
6 submitting an application in the form prescribed by the commissioner, accompanied  
7 by the following:

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

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

10 1. An explanation of how the innovation will:

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

12 b. Be economically viable for the applicant;

13 c. Provide suitable consumer protection; and

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

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

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

20 4. If the innovation involves the use of software, hardware, or other  
21 technology developed for the purpose of implementing or operating it, a  
22 technical white paper setting forth a description of the operation and  
23 general content of technology to be utilized, including:

24 a. The problem addressed by that technology; and

25 b. The interaction between that technology and its users;

26 5. If the innovation involves the issuance of a policy of insurance, a  
27 statement that either:

- 1           a.    If the applicant will be the insurer on the policy, that the applicant  
2                   holds a valid certificate of authority and is authorized to issue the  
3                   insurance coverage in question; or
- 4           b.    If some other person will be the insurer on the policy, that the  
5                   other person holds a valid certificate of authority and is authorized  
6                   to issue the insurance coverage in question; and
- 7           6.    A statement by an officer of the applicant certifying that no product,  
8                   process, method, or procedure substantially similar to the innovation has  
9                   been used, sold, licensed, or otherwise made available in this  
10                  Commonwealth before the effective filing date of the application;
- 11       (c)   The name, contact information, and bar number of the applicant's insurance  
12                  regulatory counsel, which shall be a person with experience providing  
13                  insurance regulatory compliance advice;
- 14       (d)   A detailed description of the specific conduct that the applicant proposes  
15                  should be permitted by the limited no-action letter;
- 16       (e)   Proposed terms and conditions to govern the applicant's beta test, which shall  
17                  include:
- 18                  1.    Citation to the provisions of Kentucky law that should be excepted in  
19                          the notice of acceptance issued under KRS 304.3-710(6); and
- 20                  2.    Any request for an extension of the time period for a beta test under  
21                          KRS 304.3-720(1) and the grounds for the request;
- 22       (f)   Proposed metrics by which the department may reasonably test the  
23                  innovation's utility during the beta test;
- 24       (g)   Disclosure of all:
- 25                  1.    Persons who are directors and executive officers of the applicant;
- 26                  2.    General partners of the applicant if the applicant is a limited partnership;
- 27                  3.    Members of the applicant if the applicant is a limited liability applicant;

- 1           4.   Persons who are beneficial owners of ten percent (10%) or more of the
- 2                 voting securities of the applicant;
- 3           5.   Other persons with direct or indirect power to direct the management
- 4                 and policies of the applicant by contract, other than a commercial
- 5                 contract for goods or nonmanagement services; and
- 6           6.   Conflicts of interest with respect to any person listed in this paragraph
- 7                 and the department;
- 8           (h)  A statement that the applicant has funds of at least twenty-five thousand
- 9                 dollars (\$25,000) available to guarantee its financial stability through one (1)
- 10                or a combination of any of the following:
- 11                1.   A contractual liability insurance policy;
- 12                2.   A surety bond issued by an authorized surety;
- 13                3.   Securities of the type eligible for deposit by authorized insurers in this
- 14                Commonwealth;
- 15                4.   Evidence that the applicant has established an account payable to the
- 16                commissioner in a federally insured financial institution in this
- 17                Commonwealth and has deposited money of the United States in an
- 18                amount equal to the amount required by this paragraph that is not
- 19                available for withdrawal, except by direct order of the commissioner;
- 20                5.   A letter of credit issued by a qualified United States financial institution
- 21                as defined in KRS 304.9-700; or
- 22                6.   Another form of security authorized by the commissioner; and
- 23           (i)  A statement confirming that the applicant is not seeking authorization for, nor
- 24                 shall it engage in, any conduct that would render the applicant unauthorized to
- 25                 make an application under subsection (2) of this section.
- 26           (2)  (a)  The following persons shall not be authorized to make an application to the
- 27                 department for admission to the sandbox:

- 1           1. Any person seeking to sell or license an insurance innovation directly to  
2           any federal, state, or local government entity, agency, or instrumentality  
3           as the insured person or end user of the innovation;
- 4           2. Any person seeking to sell, license, or use an insurance innovation that  
5           is not in compliance with subsection (1)(b)5. of this section;
- 6           3. Any person seeking to make an application that would result in the  
7           person having more than five (5) active beta tests ongoing within the  
8           Commonwealth at any one (1) time; and
- 9           4. Any person seeking a limited or extended no-action letter or exemption  
10          from any administrative regulation or statute concerning:
- 11           a. Assets, deposits, investments, capital, surplus, or other solvency  
12           requirements applicable to insurers;
- 13           b. Required participation in any assigned risk plan, residual market,  
14           or guaranty fund;
- 15           c. Any licensing or certificate of authority requirements; or
- 16           d. The application of any taxes or fees.
- 17          (b) For the purposes of this subsection, "federal, state, or local government entity,  
18          agency, or instrumentality" includes any county, city, municipal corporation,  
19          urban-county government, charter county government, consolidated local  
20          government, unified local government, special district, special purpose  
21          governmental entity, public school district, or public institution of education.
- 22          (3) Notwithstanding any other provision of this chapter, a person regulated under this  
23          chapter may participate in the regulatory sandbox described in KRS 15.268 if the  
24          person is:
- 25           (a) Not authorized to make an application under this section; or
- 26           (b) Seeking regulatory relief that is not available under KRS 304.3-700 to 304.3-  
27           735.

1           ➔Section 2. KRS 304.3-735 is amended to read as follows:

- 2       (1) One hundred twenty days (120) days prior to the start of the ~~{2021, 2022, 2023,~~  
3           ~~2024, and 2025}~~2026, 2027, 2028, 2029, and 2030 regular sessions of the General  
4           Assembly, the commissioner shall submit a written report to the Interim Joint  
5           Committee on Banking and Insurance that meets the requirements of subsection (2)  
6           of this section. Thereafter, the commissioner shall submit the report annually, upon  
7           request.
- 8       (2) The report shall include the following:
- 9           (a) The number of:
- 10               1. Applications filed and accepted;
- 11               2. Beta tests conducted; and
- 12               3. Extended letters issued;
- 13           (b) A description of the innovations tested;
- 14           (c) The length of each beta test;
- 15           (d) The results of each beta test;
- 16           (e) A description of each safe harbor created under KRS 304.3-725;
- 17           (f) The number and types of orders or other actions taken by the commissioner or  
18               any other interested party under KRS 304.3-700 to 304.3-725;
- 19           (g) Identification of any statutory barriers for consideration of amendment by the  
20               General Assembly following successful beta tests and the issuance of  
21               extended letters; and
- 22           (h) Any other information or recommendations deemed relevant by the  
23               commissioner.
- 24       (3) The commissioner shall also provide the Interim Joint Committee on Banking and  
25           Insurance a detailed briefing, upon request, to discuss and explain any report  
26           submitted under this section.