AN ACT relating to the insurance regulatory sandbox.

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

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

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

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

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

1. An explanation of how the innovation will:

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

b. Be economically viable for the applicant;

c. Provide suitable consumer protection; and

d. Not pose an unreasonable risk of consumer harm;

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

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

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

a. The problem addressed by that technology; and

b. The interaction between that technology and its users;

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

a. If the applicant will be the insurer on the policy, that the applicant holds a valid certificate of authority and is authorized to issue the insurance coverage in question; or

b. If some other person will be the insurer on the policy, that the other person holds a valid certificate of authority and is authorized to issue the insurance coverage in question; and

6. A statement by an officer of the applicant certifying that no product, process, method, or procedure substantially similar to the innovation has been used, sold, licensed, or otherwise made available in this Commonwealth before the effective filing date of the application;

(c) The name, contact information, and bar number of the applicant's insurance regulatory counsel, which shall be a person with experience providing insurance regulatory compliance advice;

(d) A detailed description of the specific conduct that the applicant proposes should be permitted by the limited no-action letter;

(e) Proposed terms and conditions to govern the applicant's beta test, which shall include:

1. Citation to the provisions of Kentucky law that should be excepted in the notice of acceptance issued under KRS 304.3-710(6); and

2. Any request for an extension of the time period for a beta test under KRS 304.3-720(1) and the grounds for the request;

(f) Proposed metrics by which the department may reasonably test the innovation's utility during the beta test;

(g) Disclosure of all:

1. Persons who are directors and executive officers of the applicant;

2. General partners of the applicant if the applicant is a limited partnership;

3. Members of the applicant if the applicant is a limited liability applicant;

4. Persons who are beneficial owners of ten percent (10%) or more of the voting securities of the applicant;
5. Other persons with direct or indirect power to direct the management and policies of the applicant by contract, other than a commercial contract for goods or nonmanagement services; and
6. Conflicts of interest with respect to any person listed in this paragraph and the department;

(h) A statement that the applicant has funds of at least twenty-five thousand dollars ($25,000) available to guarantee its financial stability through one (1) or a combination of any of the following:

1. A contractual liability insurance policy;
2. A surety bond issued by an authorized surety;
3. Securities of the type eligible for deposit by authorized insurers in this Commonwealth;
4. Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this Commonwealth and has deposited money of the United States in an amount equal to the amount required by this paragraph that is not available for withdrawal, except by direct order of the commissioner;
5. A letter of credit issued by a qualified United States financial institution as defined in KRS 304.9-700; or
6. Another form of security authorized by the commissioner; and

(i) A statement confirming that the applicant is not seeking authorization for, nor shall it engage in, any conduct that would render the applicant unauthorized to make an application under subsection (2) of this section.

(2) (a) The following persons shall not be authorized to make an application to the department for admission to the sandbox:

1. Any person seeking to sell or license an insurance innovation directly to any federal, state, or local government entity, agency, or instrumentality as the insured person or end user of the innovation;
2. Any person seeking to sell, license, or use an insurance innovation that is not in compliance with subsection (1)(b)5. of this section;
3. Any person seeking to make an application that would result in the person having more than five (5) active beta tests ongoing within the Commonwealth at any one (1) time; and
4. Any person seeking a limited or extended no-action letter or exemption from any administrative regulation or statute concerning:
   a. Assets, deposits, investments, capital, surplus, or other solvency requirements applicable to insurers;
   b. Required participation in any assigned risk plan, residual market, or guaranty fund;
   c. Any licensing or certificate of authority requirements; or
   d. The application of any taxes or fees.

(b) For the purposes of this subsection, "federal, state, or local government entity, agency, or instrumentality" includes any county, city, municipal corporation, urban-county government, charter county government, consolidated local government, unified local government, special district, special purpose governmental entity, public school district, or public institution of education.

(3) Notwithstanding any other provision of this chapter, a person regulated under this chapter may participate in the regulatory sandbox described in KRS 15.268 if the person is:

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

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

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

(1) One hundred twenty days (120) days prior to the start of the ~~[2021, 2022, 2023, 2024, and 2025]~~***2026, 2027, 2028, 2029, and 2030*** regular sessions of the General Assembly, the commissioner shall submit a written report to the Interim Joint Committee on Banking and Insurance that meets the requirements of subsection (2) of this section. Thereafter, the commissioner shall submit the report annually, upon request.

(2) The report shall include the following:

(a) The number of:

1. Applications filed and accepted;

2. Beta tests conducted; and

3. Extended letters issued;

(b) A description of the innovations tested;

(c) The length of each beta test;

(d) The results of each beta test;

(e) A description of each safe harbor created under KRS 304.3-725;

(f) The number and types of orders or other actions taken by the commissioner or any other interested party under KRS 304.3-700 to 304.3-725;

(g) Identification of any statutory barriers for consideration of amendment by the General Assembly following successful beta tests and the issuance of extended letters; and

(h) Any other information or recommendations deemed relevant by the commissioner.

(3) The commissioner shall also provide the Interim Joint Committee on Banking and Insurance a detailed briefing, upon request, to discuss and explain any report submitted under this section.