

Arizona Proposes Fintech Sandbox

February 26, 2018 | [Wingrove S. Lynton](#)

On January 18, 2018, Representative Jeff Weninger introduced [House Bill 2434](#) (Regulatory Sandbox Program). If enacted, HB 2434 would make Arizona the first state in the country to create a fintech "regulatory sandbox" that fosters innovation and provides regulatory relief to startups, entrepreneurs, and even established companies.

HB 2434 defines a "regulatory sandbox" as a program established by the legislation that allows a person to temporarily test innovative financial products or services on a limited basis without otherwise being licensed or authorized to act under Arizona law. Arizona Attorney General Mark Brnovich, who understands that regulatory sandboxes can help states advance fintech, is a staunch supporter of HB 2434. Brnovich recognizes that his top priority is to protect consumers, but realizes that this includes being proactive and recognizing that consumers benefit from innovation. Brnovich indicated that "[t]he best protection for a consumer may be a low-cost product yet to be invented."

Under HB 2434, the attorney general is required to establish the regulatory sandbox program in consultation with applicable state agencies and must approve or deny any person who applies to enter the regulatory sandbox to test an innovation. An applicant must provide a description of the innovation it plans to test, which may include information regarding:

- How an innovation is subject to regulation outside of the regulatory sandbox;
- How the innovation would benefit consumers;
- How the innovation is different from other products or services in Arizona;
- What risks will confront consumers that use or purchase the innovative financial product or service;
- How entering the regulatory sandbox would enable a successful test of the innovation;
- The proposed testing plan, including estimated time periods for market entry, market exit, and the pursuit of necessary licensure or authorization; and
- How the applicant will wind down the test and protect consumers if the test fails.

If the attorney general approves an application, the sandbox participant has 24 months to test the innovative financial product or service. The attorney general has the authority to grant the sandbox participant an extension beyond the initial 24-month period.

There are restrictions and limitations on the innovative financial products or services. For example, consumers must be Arizona residents; no more than 10,000 consumers may transact through or enter into an agreement to use the innovation; for loans subject to the Arizona Consumer Loan Act, individual transactions with a consumer may not be more than \$15,000; and the aggregate transactions with a consumer may not be more than \$50,000.

The legislation also contains certain consumer participation safeguards, such as making sandbox participants clearly disclose information about the innovation and the sandbox. For example, a sandbox participant must disclose to consumers:

- The name and contact information of the sandbox participant;
- That the innovative financial product or service is authorized pursuant to the regulatory sandbox, and, if applicable, that the sandbox participant does not have a license or other authorization to generally provide the product or service;
- That Arizona does not endorse or recommend the innovation;
- That the innovative financial product or service is a temporary test that may be discontinued at the end of the testing period, including the expected end date of the testing period; and
- That consumers may contact the attorney general to file complaints regarding the innovative financial product or service.

Regulatory sandboxes currently exist in countries such as the United Kingdom, Singapore, and Australia. We also understand that Illinois is considering sandbox legislation and that six New England states are considering ideas for implementing a regional sandbox.

HB 2434 is in the initial stages of review and could be amended. We will monitor this legislation for further developments.

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