

HOUSE BILL 1204

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2lr2808

By: **Delegate Grammer**

Introduced and read first time: February 11, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Decentralized Financial Regulatory Sandbox Program**

3 FOR the purpose of establishing the Decentralized Financial Regulatory Sandbox Program
4 to facilitate limited access to the financial market in the State in order to test certain
5 products or services without certain regulation; and generally relating to the
6 Decentralized Financial Regulatory Sandbox Program.

7 BY adding to

8 Article – Financial Institutions

9 Section 12–1101 through 12–1106 to be under the new subtitle “Subtitle 11.
10 Decentralized Financial Regulatory Sandbox Program”

11 Annotated Code of Maryland

12 (2020 Replacement Volume and 2021 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Financial Institutions**

16 **SUBTITLE 11. DECENTRALIZED FINANCIAL REGULATORY SANDBOX PROGRAM.**

17 **12–1101.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (B) “OFFICE” MEANS THE OFFICE OF THE COMMISSIONER OF FINANCIAL
21 REGULATION IN THE MARYLAND DEPARTMENT OF LABOR.

22 (C) “PRODUCT OR SERVICE” MEANS AN INNOVATIVE DECENTRALIZED

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 FINANCIAL PRODUCT OR SERVICE THAT:

2 (1) GENERALLY REQUIRES A LICENSE, REGISTRATION, OR OTHER
3 AUTHORIZATION IN THE STATE; AND

4 (2) USES OR INCORPORATES NEW OR EMERGING TECHNOLOGY OR A
5 NEW USE OF EXISTING TECHNOLOGY, INCLUDING BLOCKCHAIN TECHNOLOGY, TO
6 ADDRESS A PROBLEM, PROVIDE A BENEFIT, OR OTHERWISE OFFER A PRODUCT,
7 SERVICE, BUSINESS MODEL, OR DELIVERY MECHANISM THAT IS NOT KNOWN BY THE
8 OFFICE TO HAVE A COMPARABLE WIDESPREAD OFFERING IN THE STATE.

9 (D) "PROGRAM" MEANS THE DECENTRALIZED FINANCIAL REGULATORY
10 SANDBOX PROGRAM.

11 12-1102.

12 (A) THERE IS A DECENTRALIZED FINANCIAL REGULATORY SANDBOX
13 PROGRAM.

14 (B) THE OFFICE SHALL IMPLEMENT AND ADMINISTER THE PROGRAM.

15 (C) THE PURPOSE OF THE PROGRAM IS TO ENABLE A PERSON TO OBTAIN
16 LIMITED ACCESS TO THE FINANCIAL MARKET IN THE STATE IN ORDER TO TEST A
17 PRODUCT OR SERVICE WITHOUT OBTAINING A LICENSE OR OTHER AUTHORIZATION.

18 (D) A PARTICIPANT IN THE PROGRAM MAY ENTER INTO AGREEMENTS WITH
19 OR FOLLOW THE BEST PRACTICES OF:

20 (1) THE CONSUMER FINANCIAL PROTECTION BUREAU; OR

21 (2) SIMILAR PROGRAMS IN OTHER STATES.

22 (E) THE OFFICE MAY NOT APPROVE AN APPLICANT FOR PARTICIPATION IN
23 THE PROGRAM IF THE APPLICANT HAS BEEN CONVICTED OF, ENTERED A PLEA OF
24 NOLO CONTENDERE FOR, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE
25 HELD IN ABEYANCE FOR A SERIOUS CRIME:

26 (1) INVOLVING THEFT, FRAUD, OR DISHONESTY; OR

27 (2) THAT BEARS A SUBSTANTIAL RELATIONSHIP TO THE APPLICANT'S
28 ABILITY TO SAFELY OR COMPETENTLY PARTICIPATE IN THE PROGRAM.

29 (F) TO APPLY TO PARTICIPATE IN THE PROGRAM, AN APPLICANT SHALL:

1 **(1) PROVIDE TO THE OFFICE:**

2 **(I) THE COMPLETED APPLICATION REQUIRED BY THE OFFICE;**

3 **(II) A NONREFUNDABLE APPLICATION FEE IN AN AMOUNT**
4 **DETERMINED BY THE OFFICE; AND**

5 **(III) ALL RELEVANT PERSONAL AND CONTACT INFORMATION**
6 **FOR THE APPLICANT THAT THE OFFICE CONSIDERS NECESSARY, INCLUDING:**

7 **1. LEGAL NAMES;**

8 **2. ADDRESSES;**

9 **3. TELEPHONE NUMBERS;**

10 **4. E-MAIL ADDRESSES;**

11 **5. WEBSITE ADDRESSES; AND**

12 **6. ANY OTHER RELEVANT INFORMATION THE OFFICE**
13 **REQUIRES;**

14 **(2) DEMONSTRATE TO THE OFFICE THAT THE APPLICANT HAS:**

15 **(I) ESTABLISHED A PHYSICAL OR VIRTUAL LOCATION THAT IS**
16 **ADEQUATELY ACCESSIBLE TO THE OFFICE, FROM WHICH ALL TESTING WILL BE**
17 **DEVELOPED AND PERFORMED AND WHERE ALL REQUIRED RECORDS, DOCUMENTS,**
18 **AND DATA WILL BE MAINTAINED;**

19 **(II) THE NECESSARY PERSONNEL, FINANCIAL AND TECHNICAL**
20 **EXPERTISE, AND ACCESS TO CAPITAL; AND**

21 **(III) DEVELOPED A PLAN TO TEST, MONITOR, AND ASSESS THE**
22 **PRODUCT OR SERVICE;**

23 **(3) DISCLOSE TO THE OFFICE ANY CRIMINAL CONVICTION OF THE**
24 **APPLICANT OR PERSONNEL EMPLOYED BY THE APPLICANT; AND**

25 **(4) DESCRIBE THE PRODUCT OR SERVICE TO BE TESTED, INCLUDING**
26 **STATEMENTS REGARDING:**

1 **(I) HOW THE PRODUCT OR SERVICE IS SUBJECT TO LICENSING**
2 **REQUIREMENTS OUTSIDE OF THE PROGRAM AND A LIST OF THE REQUIREMENTS**
3 **THAT THE APPLICANT SEEKS TO HAVE WAIVED DURING THE TESTING PERIOD;**

4 **(II) HOW THE PRODUCT OR SERVICE WILL BENEFIT**
5 **CONSUMERS;**

6 **(III) THE DIFFERENCE BETWEEN THE PRODUCT OR SERVICE**
7 **AND OTHER SIMILAR PRODUCTS OR SERVICES AVAILABLE IN THE STATE;**

8 **(IV) POTENTIAL RISKS TO CONSUMERS FROM PURCHASING THE**
9 **PRODUCT OR SERVICE;**

10 **(V) HOW PARTICIPATION IN THE PROGRAM WILL FACILITATE A**
11 **SUCCESSFUL TEST OF THE PRODUCT OR SERVICE;**

12 **(VI) HOW THE APPLICANT WILL PERFORM ONGOING DUTIES**
13 **AFTER THE TESTING OF THE PRODUCT OR SERVICE; AND**

14 **(VII) HOW THE APPLICANT WILL END THE TESTING PERIOD AND**
15 **PROTECT CONSUMERS IF THE TEST FAILS, INCLUDING PROVIDING EVIDENCE OF**
16 **SUFFICIENT LIABILITY COVERAGE AND FINANCIAL RESERVES TO PROTECT AGAINST**
17 **INSOLVENCY.**

18 **(G) AN APPLICANT SHALL FILE A SEPARATE APPLICATION AS REQUIRED IN**
19 **SUBSECTION (F) OF THIS SECTION FOR EACH PRODUCT OR SERVICE.**

20 **(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, NOT LATER**
21 **THAN 90 DAYS AFTER THE DATE ON WHICH THE OFFICE RECEIVES AN APPLICATION**
22 **IN ACCORDANCE WITH THIS SECTION, THE OFFICE SHALL INFORM THE APPLICANT**
23 **IF THE APPLICATION IS APPROVED OR DENIED.**

24 **(2) THE OFFICE AND AN APPLICANT MAY AGREE TO EXTEND THE**
25 **90-DAY PERIOD ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION.**

26 **(I) (1) IN REVIEWING AN APPLICATION SUBMITTED UNDER THIS**
27 **SECTION, THE OFFICE SHALL:**

28 **(I) CONSULT WITH AND RECEIVE APPROVAL FROM EACH**
29 **APPLICABLE UNIT RELATING TO THE PRODUCT OR SERVICE UNDER**
30 **CONSIDERATION; AND**

31 **(II) CONSIDER WHETHER AN INDUSTRY COMPETITOR OF THE**

1 APPLICANT IS OR HAS BEEN A PARTICIPANT IN THE PROGRAM.

2 (2) THE CONSULTATION REQUIRED UNDER PARAGRAPH (1)(I) OF
3 THIS SUBSECTION MAY INCLUDE A DISCUSSION REGARDING WHETHER:

4 (I) THE UNIT PREVIOUSLY ISSUED A LICENSE OR OTHER
5 AUTHORIZATION TO THE APPLICANT;

6 (II) THE UNIT PREVIOUSLY INVESTIGATED, SANCTIONED, OR
7 PURSUED LEGAL ACTION AGAINST THE APPLICANT;

8 (III) THE APPLICANT CAN OBTAIN A LICENSE OR OTHER
9 AUTHORIZATION AFTER PARTICIPATION IN THE PROGRAM; AND

10 (IV) SPECIFIED LICENSE AND AUTHORIZATION REQUIREMENTS
11 SHOULD BE WAIVED IF THE APPLICANT'S APPLICATION IS APPROVED.

12 (J) (1) IF THE OFFICE APPROVES AN APPLICATION SUBMITTED IN
13 ACCORDANCE WITH THIS SECTION, THE OFFICE SHALL:

14 (I) NOTIFY OTHER BUSINESSES IN THE APPLICANT'S INDUSTRY
15 THAT THE APPLICATION HAS BEEN APPROVED; AND

16 (II) EXTEND AN INVITATION TO THE BUSINESSES TO APPLY TO
17 THE PROGRAM.

18 (2) IF THE OFFICE DENIES AN APPLICATION SUBMITTED IN
19 ACCORDANCE WITH THIS SECTION, THE OFFICE SHALL PROVIDE TO THE APPLICANT
20 A WRITTEN DESCRIPTION OF THE REASONS FOR THE DENIAL.

21 12-1103.

22 (A) ON APPROVAL BY THE PROGRAM, A PARTICIPANT SHALL HAVE 12
23 MONTHS AFTER THE DATE ON WHICH THE APPLICATION WAS APPROVED TO TEST
24 THE PRODUCT OR SERVICE.

25 (B) A PARTICIPANT IN THE PROGRAM IS SUBJECT TO THE FOLLOWING
26 CONDITIONS:

27 (1) EACH CONSUMER DURING THE TEST OF THE PRODUCT OR
28 SERVICE MUST BE A RESIDENT OF THE STATE; AND

29 (2) THE OFFICE MAY SPECIFY THE MAXIMUM NUMBER OF PRODUCTS

1 OR SERVICES THAT A PARTICIPANT MAY OFFER TO A CONSUMER AS PART OF A TEST
2 OF A PRODUCT OR SERVICE.

3 (C) (1) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A
4 PARTICIPANT THAT IS TESTING A PRODUCT OR SERVICE IS NOT SUBJECT TO STATE
5 LAWS, REGULATIONS, OR LICENSING OR AUTHORIZATION REQUIREMENTS
6 IDENTIFIED IN THE APPLICATION REQUIRED UNDER § 12-1102 OF THIS SUBTITLE.

7 (2) A PARTICIPANT SHALL MAINTAIN APPROPRIATE LICENSING AND
8 AUTHORIZATION IN ACCORDANCE WITH FEDERAL LAW.

9 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A
10 PARTICIPANT IS NOT IMMUNE FROM CRIMINAL LIABILITY FOR ACTS COMMITTED
11 DURING THE PERIOD OF TESTING FOR THE PRODUCT OR SERVICE.

12 (E) (1) ON WRITTEN NOTICE TO THE PARTICIPANT, THE OFFICE MAY
13 TERMINATE A PARTICIPANT'S PARTICIPATION IN THE PROGRAM.

14 (2) THE FOLLOWING ENTITIES MAY NOT BE HELD LIABLE FOR
15 BUSINESS LOSSES OF THE PARTICIPANT DUE TO THE PARTICIPANT'S INVOLVEMENT
16 IN THE PROGRAM:

17 (I) THE OFFICE;

18 (II) EMPLOYEES OF THE OFFICE; AND

19 (III) A GUARANTEE ASSOCIATION IN THE STATE.

20 12-1104.

21 (A) BEFORE A PARTICIPANT MAY PROVIDE A PRODUCT OR SERVICE TO A
22 CONSUMER, THE PARTICIPANT SHALL PROVIDE THE FOLLOWING INFORMATION TO
23 THE CONSUMER:

24 (1) THE NAME AND CONTACT INFORMATION OF THE PARTICIPANT;

25 (2) A NOTIFICATION THAT:

26 (I) THE PRODUCT OR SERVICE:

27 1. IS AUTHORIZED IN ACCORDANCE WITH THE
28 PROGRAM;

1 **2. IS UNDERGOING TESTING, MAY NOT FUNCTION AS**
2 **INTENDED, AND MAY EXPOSE THE CONSUMER TO FINANCIAL RISK; AND**

3 **3. MAY BE DISCONTINUED AT THE CONCLUSION OF THE**
4 **TESTING PERIOD;**

5 **(II) THE PARTICIPANT IS NOT IMMUNE FROM CIVIL LIABILITY**
6 **FOR LOSSES OR DAMAGES INCURRED AS A RESULT OF THE PRODUCT OR SERVICE;**

7 **(III) THE STATE DOES NOT ENDORSE THE PRODUCT OR SERVICE;**
8 **AND**

9 **(IV) THE CONSUMER MAY CONTACT THE OFFICE TO FILE A**
10 **COMPLAINT REGARDING THE PRODUCT OR SERVICE; AND**

11 **(3) THE EXPECTED END DATE OF THE TESTING PERIOD.**

12 **(B) (1) A PARTICIPANT SHALL PROVIDE THE DISCLOSURES REQUIRED**
13 **UNDER SUBSECTION (A) OF THIS SECTION TO A CONSUMER IN A CLEAR AND**
14 **CONSPICUOUS MANNER.**

15 **(2) FOR AN ONLINE PRODUCT OR SERVICE, THE CONSUMER SHALL**
16 **ACKNOWLEDGE RECEIPT OF THE DISCLOSURES REQUIRED UNDER SUBSECTION (A)**
17 **OF THIS SECTION BEFORE THE COMPLETION OF ANY TRANSACTION.**

18 **(C) THE OFFICE MAY REQUIRE A PARTICIPANT TO MAKE ADDITIONAL**
19 **DISCLOSURES TO A CONSUMER.**

20 **12-1105.**

21 **(A) AT LEAST 30 DAYS BEFORE THE END OF THE 12-MONTH TESTING**
22 **PERIOD FOR A PRODUCT OR SERVICE, A PARTICIPANT SHALL NOTIFY THE OFFICE**
23 **THAT THE PARTICIPANT WILL, WITHIN 60 DAYS AFTER THE END OF THE 12-MONTH**
24 **TESTING PERIOD:**

25 **(1) EXIT THE PROGRAM;**

26 **(2) DISCONTINUE TESTING OF THE PRODUCT OR SERVICE; AND**

27 **(3) STOP OFFERING THE PRODUCTS OR SERVICES TO CONSUMERS.**

28 **(B) IF THE OFFICE DOES NOT RECEIVE NOTICE IN ACCORDANCE WITH**
29 **SUBSECTION (A) OF THIS SECTION, THE PARTICIPANT SHALL END TESTING OF THE**

1 PRODUCT OR SERVICE AND STOP OFFERING PRODUCTS OR SERVICES TO
2 CONSUMERS AT THE END OF THE 12-MONTH TESTING PERIOD.

3 (C) (1) A PARTICIPANT MAY REQUEST AN EXTENSION OF THE 12-MONTH
4 TESTING PERIOD FROM THE OFFICE FOR THE PURPOSE OF OBTAINING:

5 (I) A LICENSE; OR

6 (II) OTHER AUTHORIZATION.

7 (2) (I) THE OFFICE SHALL MAKE A DETERMINATION ON AN
8 EXTENSION REQUEST NOT LATER THAN THE LAST DAY OF THE ORIGINAL 12-MONTH
9 TESTING PERIOD.

10 (II) THE OFFICE MAY GRANT AN EXTENSION UNDER THIS
11 PARAGRAPH OF NOT MORE THAN 12 MONTHS.

12 (3) IN ADDITION TO THE REPORTS REQUIRED UNDER § 12-1106(C) OF
13 THIS SUBTITLE, IF A PARTICIPANT RECEIVES AN EXTENSION IN ACCORDANCE WITH
14 THIS SUBSECTION, THE PARTICIPANT SHALL REPORT TO THE OFFICE AT LEAST
15 ONCE EVERY 3 MONTHS ON EFFORTS TO OBTAIN A LICENSE OR OTHER
16 AUTHORIZATION.

17 12-1106.

18 (A) A PARTICIPANT IN THE PROGRAM SHALL RETAIN RECORDS,
19 DOCUMENTS, AND DATA PRODUCED DURING THE 12-MONTH TESTING PERIOD
20 REGARDING THE PRODUCT OR SERVICE PRODUCED.

21 (B) IF A PRODUCT OR SERVICE FAILS DURING THE 12-MONTH TESTING
22 PERIOD, THE PARTICIPANT SHALL:

23 (1) NOTIFY THE OFFICE; AND

24 (2) REPORT TO THE OFFICE ON ACTIONS TAKEN TO ENSURE
25 CONSUMERS ARE NOT HARMED BY THE FAILURE.

26 (C) A PARTICIPANT SHALL REPORT QUARTERLY, ON OR BEFORE A DATE
27 DETERMINED BY THE OFFICE, ON COMPLAINTS RECEIVED DURING THE TESTING
28 PERIOD FROM CONSUMERS OF THE PRODUCT OR SERVICE.

29 (D) (1) IN ADDITION TO THE REPORTS REQUIRED UNDER SUBSECTION (C)
30 OF THIS SECTION, THE OFFICE MAY REQUEST RECORDS, DOCUMENTS, OR DATA

1 FROM A PARTICIPANT.

2 (2) ON REQUEST BY THE OFFICE UNDER PARAGRAPH (1) OF THIS
3 SUBSECTION, A PARTICIPANT SHALL MAKE THE RECORDS, DOCUMENTS, OR DATA
4 AVAILABLE FOR INSPECTION BY THE OFFICE.

5 (E) IF THE OFFICE DETERMINES THAT A PARTICIPANT HAS ENGAGED IN, IS
6 ENGAGING IN, OR IS ABOUT TO ENGAGE IN ANY PRACTICE OR TRANSACTION THAT IS
7 IN VIOLATION OF THIS SUBTITLE OR THAT CONSTITUTES A VIOLATION OF FEDERAL
8 OR STATE CRIMINAL LAW, THE OFFICE MAY TERMINATE THE PARTICIPANT'S
9 INVOLVEMENT IN THE PROGRAM.

10 (F) ON OR BEFORE OCTOBER 1 EACH YEAR, BEGINNING IN 2023, THE
11 OFFICE SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
12 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF THIS
13 SUBTITLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2022.