

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1669

By: Dahm

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5  
6 AS INTRODUCED

7 An Act relating to financial technology; making  
8 legislative findings; creating the financial  
9 technology sandbox for the testing of financial  
10 products and services in Oklahoma; authorizing  
11 limited waivers of statutes and rules under certain  
12 conditions; establishing standards and procedures for  
13 sandbox applications, operations and supervision;  
14 authorizing reciprocity agreements with other  
15 regulators; requiring criminal history background  
16 checks; creating an account; requiring a consumer  
17 protection bond; specifying standards for the  
18 suspension and revocation of sandbox authorization;  
19 authorizing rules and orders; providing for  
20 codification; and providing for effective dates.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3500 of Title 6, unless there is  
24 created a duplication in numbering, reads as follows:

25 The Legislature finds the following:

26 1. Financial technology is undergoing a transformational period  
27 in which new technologies are providing greater automation,  
28 connectivity and transparency for financial products and services;

1           2. Existing legal frameworks are restricting financial  
2 technology innovation because these frameworks were largely  
3 established at a time when technology was not a fundamental  
4 component of financial products and services;

5           3. Financial technology innovators require a supervised,  
6 flexible regulatory sandbox to test new products and services using  
7 waivers of statutes and rules under defined conditions;

8           4. Jurisdictions, which establish regulatory sandboxes, are  
9 more likely to provide a welcoming business environment for  
10 technology innovators and may experience significant business  
11 growth;

12           5. Other jurisdictions have enacted, or are considering,  
13 regulatory sandboxes for financial technology innovators in their  
14 jurisdictions; and

15           6. The State of Oklahoma intends to offer one of the best  
16 business environments in the United States for blockchain and  
17 financial technology innovators and should offer a regulatory  
18 sandbox for these innovators to develop the next generation of  
19 financial technology products and services in this state.

20           SECTION 2.       NEW LAW       A new section of law to be codified  
21 in the Oklahoma Statutes as Section 3500.1 of Title 6, unless there  
22 is created a duplication in numbering, reads as follows:

23           This act shall be known and may be cited as the "Financial  
24 Technology Sandbox Act".

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3500.2 of Title 6, unless there  
3 is created a duplication in numbering, reads as follows:

4 Definitions.

5 A. As used in this act:

6 1. "Blockchain" means a digital ledger or database which is  
7 chronological, consensus based, decentralized and mathematically  
8 verified in nature;

9 2. "Commissioner" means the Commissioner of the Oklahoma State  
10 Banking Department;

11 3. "Consumer" means a person, whether a natural person or a  
12 legal entity, in Oklahoma who purchases or enters into an agreement  
13 to receive an innovative financial product or service made available  
14 through the financial technology sandbox;

15 4. "Financial product or service" means a product or service  
16 related to finance, including banking, securities, consumer credit  
17 or money transmission, which is subject to statutory or rule  
18 requirements and is under the jurisdiction of the Commissioner or  
19 Secretary;

20 5. "Financial technology sandbox" means the program created by  
21 this act which allows a person to make an innovative financial  
22 product or service available to consumers during a sandbox period  
23 through a waiver of existing statutory and rule requirements, or  
24 portions thereof, by the Commissioner or Secretary;

1           6. "Innovative" means new or emerging technology, or new uses  
2 of existing technology, that provides a product, service, business  
3 model or delivery mechanism to the public and has no substantially  
4 comparable, widely available analogue in Oklahoma, including  
5 blockchain technology;

6           7. "Sandbox period" means the period of time, initially not  
7 longer than twenty four (24) months, in which the Commissioner has  
8 authorized an innovative financial product or service to be made  
9 available to consumers, which shall also encompass any extension  
10 granted; and

11           8. "Secretary" means the Secretary of State.

12           SECTION 4.        NEW LAW        A new section of law to be codified  
13 in the Oklahoma Statutes as Section 3500.3 of Title 6, unless there  
14 is created a duplication in numbering, reads as follows:

15           Financial technology sandbox waiver; applicability of criminal  
16 and consumer protection statutes; referral to investigatory  
17 agencies; civil liability.

18           A. Notwithstanding any other provision of law, a person who  
19 makes an innovative financial product or service available to  
20 consumers in the financial technology sandbox may be granted a  
21 waiver of specified requirements imposed by statute or rule, or  
22 portions thereof, if these statutes or rules do not currently permit  
23 the product or service to be made available to consumers. A waiver  
24 under this subsection shall be no broader than necessary to

1 accomplish the purposes and standards set forth in this act, as  
2 determined by the Commissioner of the Oklahoma State Banking  
3 Department or Secretary of State. The banking, finance and consumer  
4 credit statutes, and the rules adopted under them, or portions of  
5 these statutes and rules, may be waived by the Commissioner or  
6 Secretary for the sandbox period, upon receipt and approval of an  
7 application made pursuant to this act; provided, no provisions  
8 relating to the liability of incorporators, directors and officers  
9 shall be eligible for a waiver and provided, further no provisions  
10 relating to the liability of organizers, managers and members shall  
11 be eligible for a waiver;

12 B. A person who makes an innovative financial product or  
13 service available to consumers in the financial technology sandbox  
14 is:

15 1. Not immune from civil damages for acts and omissions  
16 relating to this act; and

17 2. Subject to all criminal and consumer protection laws.

18 C. The Commissioner or Secretary may refer suspected violations  
19 of law relating to this act to appropriate state or federal agencies  
20 for investigation, prosecution, civil penalties and other  
21 appropriate enforcement actions.

22 D. If service of process on a person making an innovative  
23 financial product or service available to consumers in the financial  
24

1 technology sandbox is not feasible, service on the Secretary shall  
2 be deemed service on the person.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3500.4 of Title 6, unless there  
5 is created a duplication in numbering, reads as follows:

6 Financial technology sandbox application; standards for  
7 approval; consumer protection bond.

8 A. A person shall apply to the Commissioner of the Oklahoma  
9 State Banking Department or Secretary of State to make an innovative  
10 financial product or service available to consumers in the financial  
11 technology sandbox, based on the office that administers the statute  
12 or rule, or portion thereof, for which a waiver is sought. If both  
13 the Commissioner and the Secretary jointly administer a statute or  
14 rule, or if the appropriate office is not known, an application may  
15 be filed with either the Commissioner or the Secretary. If an  
16 application is filed with an office that does not administer the  
17 statute or rule for which a waiver is sought, the receiving office  
18 shall forward the application to the correct office. The person  
19 shall specify in an application the statutory or rule requirements  
20 for which a waiver is sought, and the reasons why these requirements  
21 prohibit the innovative financial product or service from being made  
22 available to consumers. The application shall also contain the  
23 elements required for authorization which are set forth in  
24

1 subsection F of this section. The Commissioner and Secretary shall  
2 each, by rule, prescribe a method of application.

3 B. A business entity making an application under this section  
4 shall be a domestic corporation or other organized domestic entity  
5 with a physical presence, other than that of a registered office or  
6 agent, in Oklahoma.

7 C. Before an employee applies on behalf of an institution, firm  
8 or other entity intending to make an innovative financial product or  
9 service available through the financial technology sandbox, the  
10 employee shall obtain the consent of the institution, firm or entity  
11 before filing an application under this section.

12 D. The individual filing an application under this section and  
13 the individuals who are substantially involved in the development,  
14 operation or management of the innovative financial product or  
15 service shall, as a condition of an application, submit to a  
16 criminal history background check and its costs.

17 E. An application made under this section shall be accompanied  
18 by a fee of Five Hundred Dollars (\$500.00). The fee shall be  
19 deposited into the financial technology innovation account created  
20 in this act.

21 F. The Commissioner or Secretary, as applicable, shall  
22 authorize or deny a financial technology sandbox application in  
23 writing within ninety (90) days of receiving the application. The  
24 Commissioner or Secretary and the person who has made an application

1 may jointly agree to extend the time beyond ninety (90) days. The  
2 Commissioner or Secretary may impose conditions on any  
3 authorization, consistent with this act. In deciding to authorize  
4 or deny an application under this subsection, the commissioner or  
5 secretary shall consider each of the following:

6 1. The nature of the innovative financial product or service  
7 proposed to be made available to consumers in the sandbox, including  
8 all relevant technical details, which may include whether the  
9 product or service utilizes blockchain technology;

10 2. The potential risk to consumers and methods which will be  
11 used to protect consumers and resolve complaints during the sandbox  
12 period;

13 3. A business plan proposed by the person, including a  
14 statement of arranged capital;

15 4. Whether the person has the necessary personnel, adequate  
16 financial and technical expertise and a sufficient plan to test,  
17 monitor and assess the innovative financial product or service;

18 5. Whether any person substantially involved in the  
19 development, operation or management of the innovative financial  
20 product or service has been convicted of, or is currently under  
21 investigation for, fraud, state or federal securities violations or  
22 any property-based offense;

23 6. A copy of the disclosures required in this act that will be  
24 provided to consumers; and

1           7. Any other factor that the Commissioner or Secretary  
2 determines to be relevant.

3           G. If an application is authorized under subsection F of this  
4 section, the commissioner or secretary shall specify the statutory  
5 or rule requirements, or portions thereof, for which a waiver is  
6 granted and the length of the initial sandbox period, consistent  
7 with this act. The commissioner or secretary shall also post notice  
8 of the approval of a sandbox application under this subsection, a  
9 summary of the innovative financial product or service and the  
10 contact information of the person making the product or service  
11 available through the sandbox on the Internet website of the  
12 Commissioner or Secretary.

13           H. A person authorized under subsection F of this section to  
14 enter into the financial technology sandbox shall post a consumer  
15 protection bond with the Commissioner or Secretary as security for  
16 potential losses suffered by consumers. The bond amount shall be  
17 determined by the Commissioner or Secretary in an amount not less  
18 than Ten Thousand Dollars (\$10,000.00) and shall be commensurate  
19 with the risk profile of the innovative financial product or  
20 service. The Commissioner or Secretary may require that a bond  
21 under this subsection be increased or decreased at any time based on  
22 risk profile. Unless a bond is enforced, the Commissioner or  
23 Secretary shall cancel or allow the bond to expire two (2) years  
24 after the date of the conclusion of the sandbox period.

1 I. A person authorized under subsection F of this section to  
2 enter into the financial technology sandbox shall be deemed to  
3 possess an appropriate license for the purposes of federal law  
4 requiring state licensure or authorization.

5 J. Authorization under subsection F of this section shall not  
6 be construed to create a property right.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 3500.5 of Title 6, unless there  
9 is created a duplication in numbering, reads as follows:

10 Financial technology innovation account.

11 A. There is created the Financial Technology Innovation Fund in  
12 the State Treasury. Funds within this fund shall only be expended  
13 by legislative appropriation. All funds within the revolving fund  
14 shall be invested by the state treasurer and all investment earnings  
15 from the revolving fund shall be credited to the General Revenue  
16 fund. The revolving fund shall be divided into two (2) subaccounts  
17 controlled by the Commissioner of the Oklahoma State Banking  
18 Department or Secretary of State, respectively, for the purposes of  
19 administrative management. For the purposes of accounting and  
20 investing only, the subaccounts shall be treated as separate  
21 accounts.

22 B. Subject to legislative appropriation, application fees  
23 remitted to the fund pursuant to this act shall be deposited into  
24 the subaccount controlled by the Commissioner or Secretary, as  
25

1 applicable, based on the receiving official. These funds, and any  
2 additional funds appropriated by the Legislature, shall be used only  
3 for the purposes of administering this act, including processing of  
4 sandbox applications and monitoring, examination and enforcement  
5 activities relating to this act.

6 SECTION 7. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3500.6 of Title 6, unless there  
8 is created a duplication in numbering, reads as follows:

9 Operation of financial technology sandbox.

10 A. Except as otherwise provided in this act, a person  
11 authorized to enter into the financial technology sandbox may make  
12 an innovative financial product or service available to consumers  
13 during the sandbox period.

14 B. The Commissioner of the Oklahoma State Banking Department or  
15 Secretary of State may, on a case by case basis, specify the maximum  
16 number of consumers permitted to receive an innovative financial  
17 product or service, after consultation with the person authorized to  
18 make the product or service available in the financial technology  
19 sandbox.

20 C. Before a consumer purchases or enters into an agreement to  
21 receive an innovative financial product or service through the  
22 financial technology sandbox, the person making the product or  
23 service available shall provide a written statement of the following  
24 to the consumer:

1           1. The name and contact information of the person making the  
2 product or service available to consumers;

3           2. That the product or service has been authorized to be made  
4 available to consumers for a temporary period by the Commissioner or  
5 Secretary, as applicable, under the laws of Oklahoma;

6           3. That the State of Oklahoma does not endorse the product or  
7 service and is not subject to liability for losses or damages caused  
8 by the product or service;

9           4. That the product or service is undergoing testing, may not  
10 function as intended and may entail financial risk;

11           5. That the person making the product or service available to  
12 consumers is not immune from civil liability for any losses or  
13 damages caused by the product or service;

14           6. The expected end date of the sandbox period;

15           7. The name and contact information of the commissioner or  
16 secretary, as applicable, and notification that suspected legal  
17 violations, complaints or other comments related to the product or  
18 service may be submitted to the commissioner or secretary;

19           8. Any other statements or disclosures required by rule of the  
20 Commissioner or Secretary which are necessary to further the  
21 purposes of this act.

22           D. A person authorized to make an innovative financial product  
23 or service available to consumers in the financial technology  
24 sandbox shall maintain comprehensive records relating to the

1 innovative financial product or service. The person shall keep  
2 these records for not less than five (5) years after the conclusion  
3 of the sandbox period. The Commissioner and Secretary may specify  
4 further records requirements under this subsection by rule.

5 E. The Commissioner or Secretary, as applicable, may examine  
6 the records maintained under subsection D of this section at any  
7 time, with or without notice. All direct and indirect costs of an  
8 examination conducted under this subsection shall be paid by the  
9 person making the innovative financial product or service available  
10 in the financial technology sandbox. Records made available to the  
11 Commissioner or Secretary under this subsection shall be  
12 confidential and shall not be subject to disclosure under the  
13 Oklahoma Open Records Act but may be released to appropriate state  
14 and federal agencies for the purposes of investigation.

15 F. Unless granted an extension pursuant to this act, not less  
16 than thirty (30) days before the conclusion of the sandbox period, a  
17 person who makes an innovative financial product or service  
18 available in the financial technology sandbox shall provide written  
19 notification to consumers regarding the conclusion of the sandbox  
20 period and shall not make the product or service available to any  
21 new consumers after the conclusion of the sandbox period until legal  
22 authority outside of the sandbox exists to make the product or  
23 service available to consumers. The person shall wind down  
24 operations with existing consumers within sixty (60) days after the

1 conclusion of the sandbox period, except that, after the sixtieth  
2 day, the person may:

3 1. Collect and receive money owed to the person and service  
4 loans made by the person, based on agreements with consumers made  
5 before the conclusion of the sandbox period;

6 2. Take necessary legal action; and

7 3. Take other actions authorized by the Commissioner or  
8 Secretary by rule which are not inconsistent with this subsection.

9 G. The Commissioner and the Secretary may, jointly or  
10 separately, enter into agreements with state, federal or foreign  
11 regulatory agencies to allow persons who make an innovative  
12 financial product or service available in Oklahoma through the  
13 financial technology sandbox to make their products or services  
14 available in other jurisdictions and to allow persons operating in  
15 similar financial technology sandboxes in other jurisdictions to  
16 make innovative financial products and services available in  
17 Oklahoma under the standards of this act.

18 SECTION 8. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 3500.7 of Title 6, unless there  
20 is created a duplication in numbering, reads as follows:

21 Revocation or suspension of financial technology sandbox  
22 authorization.

1 A. The Commissioner of the Oklahoma State Banking Department or  
2 Secretary of State may, by order, revoke or suspend authorization  
3 granted to a person under this act if:

4 1. The person has violated or refused to comply with this act  
5 or any lawful rule, order or decision adopted by the Commissioner or  
6 Secretary;

7 2. A fact or condition exists that, if it had existed or become  
8 known at the time of the financial technology sandbox application,  
9 would have warranted denial of the application or the imposition of  
10 material conditions;

11 3. A material error, false statement, misrepresentation or  
12 material omission was made in the financial technology sandbox  
13 application; or

14 4. After consultation with the person, continued testing of the  
15 innovative financial product or service would:

16 a. be likely to harm consumers, or

17 b. no longer serve the purposes of this act because of  
18 the financial or operational failure of the product or  
19 service.

20 B. Written notification of a revocation or suspension order  
21 made under subsection A of this section shall be served using any  
22 means authorized by law, and if the notice relates to a suspension,  
23 include any conditions or remedial action which shall be completed  
24

1 before the suspension will be lifted by the Commissioner or  
2 Secretary.

3 SECTION 9. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3500.8 of Title 6, unless there  
5 is created a duplication in numbering, reads as follows:

6 Extension of sandbox period.

7 A person granted authorization under this act may apply for an  
8 extension of the initial sandbox period for not more than twelve  
9 (12) additional months. An application for an extension shall be  
10 made not later than sixty (60) days before the conclusion of the  
11 initial sandbox period specified by the Commissioner of the Oklahoma  
12 State Banking Department or Secretary of State. The Commissioner or  
13 Secretary shall approve or deny the application for extension in  
14 writing not later than thirty-five (35) days before the conclusion  
15 of the initial sandbox period. An application for extension by a  
16 person shall cite one of the following reasons as the basis for the  
17 application and provide all relevant supporting information:

18 1. Statutory or rule amendments are necessary to conduct  
19 business in Oklahoma on a permanent basis; or

20 2. An application for a license or other authorization required  
21 to conduct business in Oklahoma on a permanent basis has been filed  
22 with the appropriate office and approval is currently pending.

1 SECTION 10. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3500.9 of Title 6, unless there  
3 is created a duplication in numbering, reads as follows:

4 Rules and orders; enforcement of bond; restitution;  
5 applicability of Administrative Procedure Act.

6 A. The Commissioner of the Oklahoma State Banking Department or  
7 Secretary of State shall each adopt rules to implement this act.

8 The rules adopted by the Commissioner and Secretary under this  
9 subsection shall be as consistent as reasonably possible but shall  
10 account for differences in the statutes and programs administered by  
11 the Commissioner and Secretary.

12 B. The Commissioner or Secretary may issue:

13 1. All necessary orders to enforce this act, including ordering  
14 the payment of restitution, and enforce these orders in any court of  
15 competent jurisdiction;

16 2. An order under paragraph 1 of this subsection to enforce the  
17 bond posted under this act, or a portion of this bond, and use  
18 proceeds from the bond to offset losses suffered by consumers as a  
19 result of an innovative financial product or service.

20 C. All actions of the Commissioner or Secretary under this act  
21 shall be subject to the Administrative Procedure Act.

22 SECTION 11. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3500.10 of Title 6, unless there  
24 is created a duplication in numbering, reads as follows:

1 A. Criminal history record information shall be disseminated by  
2 criminal justice agencies in this state, whether directly or through  
3 any intermediary, only to the Commissioner of the Oklahoma State  
4 Banking Department or Secretary of State for purposes of obtaining  
5 background information on persons specified as part of a financial  
6 technology sandbox application.

7 B. Persons specified as part of a financial technology sandbox  
8 application shall be required to submit to fingerprinting in order  
9 to obtain state and national criminal history record information.

10 SECTION 12. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 3500.11 of Title 6, unless there  
12 is created a duplication in numbering, reads as follows:

13 General applicability.

14 This act applies to all banks in this state organized under this  
15 act and to national banks where specifically provided by this act.

16 SECTION 13. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3500.12 of Title 6, unless there  
18 is created a duplication in numbering, reads as follows:

19 Electronic records and signatures; applicability.

20 This act authorizes the filing of records and signatures, when  
21 specified by provisions of this act or by a rule adopted or order  
22 issued under this act, in a manner consistent with 15 U.S.C. Section  
23 7004(a).

1 SECTION 14. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3500.13 of Title 6, unless there  
3 is created a duplication in numbering, reads as follows:

4 Reservation of power to amend or repeal; applicability.

5 The Legislature has power to amend or repeal all or part of this  
6 act at any time and all domestic and foreign corporations subject to  
7 this act are governed by the amendment or repeal.

8 SECTION 15. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3500.14 of Title 6, unless there  
10 is created a duplication in numbering, reads as follows:

11 Rules and regulations; applicability.

12 The Secretary of State shall have the power reasonably necessary  
13 to perform the duties required of the Secretary by this act. The  
14 Secretary of State shall promulgate reasonable rules and regulations  
15 necessary to carry out the purposes of this act.

16 SECTION 16. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3500.15 of Title 6, unless there  
18 is created a duplication in numbering, reads as follows:

19 Supplemental principles of law; applicability.

20 Unless displaced by particular provisions of this act, the  
21 principles of law and equity supplement this act.

22 SECTION 17. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3500.16 of Title 6, unless there  
24 is created a duplication in numbering, reads as follows:

1 Applicability.

2 This act applies to any electronic record or electronic  
3 signature created, generated, sent, communicated, received or stored  
4 on or after the effective date of this act.

5 SECTION 18. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3500.17 of Title 6, unless there  
7 is created a duplication in numbering, reads as follows:

8 The Commissioner of the Oklahoma State Banking Department or  
9 Secretary of State shall adopt rules to implement this act on or  
10 before January 1, 2021.

11 SECTION 19. This act shall become effective November 1, 2020.

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