

House Bill 763

By: Representatives Jones of the 25th and Caldwell of the 20th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to create a sandbox program for the testing of financial
3 products or services and the granting of limited waivers of certain regulatory requirements;
4 to provide for definitions; to provide for the administration of the sandbox program by the
5 Attorney General; to provide for reporting requirements; to provide for standards and
6 procedures for program applications, operation, and supervision; to provide for criminal
7 history background checks; to provide that moneys deposited under this program shall only
8 be appropriated for programs of the office of the Attorney General; to provide for
9 confidentiality; to provide for an expiration of this article; to provide for a short title; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 This Act shall be known and may be cited as the "Financial Technology Sandbox Act."

14 style="text-align:center">**SECTION 2.**

15 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
16 trade practices, is amended by adding a new article to read as follows:

17 style="text-align:center">"ARTICLE 35

18 10-1-930.

19 As used in this article, the term:

20 (1) 'Applicable agency' means the department of this state established by law to regulate
21 certain types of business activity in this state and the persons engaging in such types of
22 business activity, including the issuance of licenses and registrations, that the Attorney

23 General determines would regulate a program participant if such participant were not
24 operating in accordance with this article.

25 (2) 'Consumer' means a person that enters into a transaction or agreement to receive an
26 innovative financial product or service that is being offered under this article.

27 (3) 'Financial product or service' means a financial product or service that requires a
28 license or registration or that includes a business model, delivery mechanism, or element
29 that would otherwise require a license, registration, or other authorization to act as a
30 financial institution.

31 (4) 'Innovative' means the use of new or emerging technology or the reimagining of
32 existing technology to address a problem, provide a benefit, or otherwise offer a product,
33 service, business model, or delivery mechanism that is not known by the Attorney
34 General to have comparable widespread offering.

35 (5) 'Innovative financial product or service' means a financial product or service that is
36 considered innovative by the Attorney General.

37 (6) 'Program' means the regulatory sandbox program established under this article that
38 allows a person, without being licensed or registered under the laws of this state, to test
39 innovative financial products or services for a limited time and on a limited basis.

40 (7) 'Program participant' means a person whose application to participate in the program
41 is approved and in good standing.

42 (8) 'Test' means to provide a financial product or service to the extent allowed under this
43 article.

44 10-1-931.

45 A program participant is considered to be licensed, registered, or otherwise authorized to
46 act in this state for purposes of any federal law that requires a person to be licensed,
47 registered, or otherwise authorized to act.

48 10-1-932.

49 If there is a conflict between this article and another law or regulation of this state, this
50 article controls. Notwithstanding any provision of law to the contrary, nothing in this
51 article shall exempt a program participant from any federal law or regulation.

52 10-1-933.

53 (a) The Attorney General, in consultation with applicable agencies in this state, shall create
54 a regulatory sandbox program that enables a person to obtain limited access to the market
55 in this state to test innovative financial products or services without obtaining a license,
56 registration, or other regulatory authorization.

57 (b) The program shall be administered by the office of the Attorney General.

58 10-1-934.

59 (a) Not later than December 31 of each odd-numbered year beginning in 2021, the
60 Attorney General shall deliver a report to each legislative committee with jurisdiction over
61 each applicable agency.

62 (b) The report shall give an overview of the program, including detailed recommendations
63 on regulations appropriate for certain financial products or services tested in the program.

64 10-1-935.

65 (a) A person shall obtain approval from the Attorney General before testing an innovative
66 financial product or service as a program participant. A separate application is required for
67 each financial product or service to be tested under the program.

68 (b) A person that is licensed or registered or that has otherwise gained regulatory
69 authorization to provide a financial product or service in this state shall submit an
70 application to test a new financial product or service under the program.

71 10-1-936.

72 (a) The Attorney General shall review each submitted application to test a financial
73 product or service under the program.

74 (b) The Attorney General shall accept and review applications on a rolling basis.

75 (c) The application shall be on a form prescribed pursuant to Code Section 10-1-937 and
76 demonstrate that the applicant:

77 (1) Is subject to the Attorney General's jurisdiction through incorporation, residency,
78 present agreement, or some other means;

79 (2) Has an established location that the Attorney General can access, either physically
80 or virtually, from which testing will be developed and performed and where all required
81 records, documents, and data will be maintained; and

82 (3) Has an adequate understanding of the financial product or service and a sufficient
83 plan to:

84 (A) Test, monitor, and assess the financial product or service; and

85 (B) Ensure that consumers are protected from any failure of the test.

86 10-1-937.

87 The Attorney General by rule shall prescribe an application form. Such form shall require
88 the applicant to:

- 89 (1) Provide personal and contact information for the applicant, including the applicant's
90 full legal name, home address, phone number, email address, internet website address,
91 and other information the Attorney General requires;
92 (2) Disclose any criminal convictions of the applicant or the officers and directors of the
93 applicant; and
94 (3) Provide a detailed description of the innovative financial product or service that the
95 applicant desires to test in the program, including:
96 (A) The regulation to which such product or service would be subject outside of the
97 program;
98 (B) The benefit that such product or service would provide to consumers;
99 (C) How such product or service is different from products and services available to
100 consumers in this state;
101 (D) Any risks to consumers that use or purchase such product or service;
102 (E) How participation in the program will allow for a successful test of such product
103 or service;
104 (F) The proposed testing plan, including the estimated time period needed for market
105 entry, market exit, and pursuit of necessary licensure, registration, or other regulatory
106 authorization; and
107 (G) How the applicant will unwind the test and protect consumers if such product or
108 service fails.

109 10-1-938.

- 110 (a) The Attorney General shall begin accepting applications no later than July 1, 2021.
111 (b) The Attorney General shall collect an application fee for each application submitted.
112 (c) The Attorney General by rule shall set the application fee amount.
113 (d) All application fees collected under this Code section shall be remitted for deposit in
114 the general fund of the state treasury. Moneys deposited under this Code section shall be
115 appropriated only for programs of the office of the Attorney General.

116 10-1-939.

- 117 (a) Before acting on an application pursuant to Code Section 10-1-940, the Attorney
118 General shall consult with the applicable agency.
119 (b) In consulting with the applicable agency, the Attorney General shall seek information
120 regarding if:
121 (1) The applicant is able to obtain a license, registration, or other authorization from the
122 applicable agency; and
123 (2) The applicable agency has:

- 124 (A) Issued a license or registration to the applicant; or
125 (B) Investigated, sanctioned, or disciplined, or pursued legal action against, the
126 applicant.

127 10-1-940.

128 (a) Not later than the ninetieth day after the date the application is submitted, the Attorney
129 General shall notify the applicant if the application is approved for participation in the
130 program.

131 (b) The Attorney General and an applicant may mutually agree to extend the time to
132 review an application under subsection (a) of this Code section.

133 (c) In reviewing an application, the Attorney General may request any additional
134 information necessary to make a determination.

135 (d) Not later than the thirtieth day after the date the applicant receives notice of denial of
136 an application by the Attorney General, the applicant may file with the Attorney General
137 an appeal of the Attorney General's determination requesting a time and place for a hearing
138 before a hearing officer designated by the Attorney General. The applicant is entitled to
139 a hearing not later than the sixtieth day after the date of the request. A hearing under this
140 subsection shall be governed by Chapter 13 of Title 50, the 'Georgia Administrative
141 Procedure Act.' The final decision shall be governed by Code Section 50-13-17.

142 10-1-941.

143 (a) Upon approval of an application by the Attorney General, the applicant shall be issued
144 a registration number.

145 (b) The program participant shall test the financial product or service under the program
146 for not longer than 24 months after the date the application is approved.

147 10-1-942.

148 A financial product or service tested under the program shall not be offered for sale or use
149 to more than 10,000 consumers.

150 10-1-943.

151 Unless authorized by other states, program participants shall only offer financial products
152 or services to residents of this state.

153 10-1-944.

154 (a) The Attorney General may determine that an applicant whose application is approved
155 is exempt from certain laws or regulations.

156 (b) If the Attorney General makes such a determination, the Attorney General shall advise
157 such applicant in writing of such exemption or exemptions.

158 10-1-945.

159 (a) The Attorney General may require program participants to periodically report
160 information requested by the Attorney General.

161 (b) Program participants shall make records, documents, and data available for inspection
162 by the Attorney General.

163 10-1-946.

164 (a) Subject to subsection (b) of this Code section, records provided to the Attorney General
165 by a program participant are confidential and do not constitute public information for
166 purposes of Article 4 of Chapter 18 of Title 50.

167 (b) Records provided to the Attorney General by a program participant may be disclosed
168 to:

169 (1) Federal and state agencies;

170 (2) Representatives of foreign governments who have regulatory authority over a
171 program participant;

172 (3) A state or federal grand jury in response to a subpoena; and

173 (4) The state auditor for the purpose of conducting audits authorized by law.

174 10-1-947.

175 (a) If the Attorney General believes a program participant is in violation of an applicable
176 state or federal regulation, the Attorney General may remove such participant from the
177 program immediately and without a hearing.

178 (b) The decision to remove a program participant may be appealed using the process
179 provided for in Code Section 10-1-940.

180 10-1-948.

181 (a) Before providing an innovative financial product or service to a consumer, the program
182 participant shall disclose to the consumer:

183 (1) The name and contact information of such participant, including the registration
184 number assigned by the Attorney General pursuant to Code Section 10-1-941;

185 (2) That the financial product or service is authorized under the program and that the
186 participant does not have a license, registration, or other regulatory authorization to
187 provide financial products or services under the laws of this state that regulate financial
188 products or services;

189 (3) That the state does not endorse or recommend the financial product or service;

190 (4) That the financial product or service is a temporary test under the program, that such
191 product or service may be discontinued at the end of the testing period, and the expected
192 end date of the test; and

193 (5) That consumers may contact the office of the Attorney General regarding the
194 financial product or service and such office's phone number, email address, and internet
195 website where complaints may be filed.

196 (b) The disclosure required by subsection (a) of this Code section shall be:

197 (1) Clear and conspicuous; and

198 (2) Physically or digitally signed by the consumer.

199 10-1-949.

200 (a) If a financial product or service fails, the program participant shall notify the Attorney
201 General not later than the thirtieth day before the date the program participant will cease
202 operation.

203 (b) The program participant shall implement the plan to unwind the test as described in
204 subparagraph (G) of paragraph (3) of Code Section 10-1-937.

205 10-1-950.

206 This article shall expire on December 31, 2030.

207 10-1-951.

208 The Attorney General shall make all necessary preparations to ensure that all program
209 participants' tests of financial products or services are concluded before December 31,
210 2030."

211 **SECTION 3.**

212 All laws and parts of laws in conflict with this Act are repealed.