

The Arizona State Fifty-Third Legislature, second regular session, adjourned *sine die* on May 4th, 2018 at 12:26 A.M. The following bills were passed and signed into law by Governor Doug Ducey. If you have questions relating to the bills below please contact the Department's Legislative Liaison at [sbriggs@azdfi.gov](mailto:sbriggs@azdfi.gov). The general effective date for legislation is August 3, 2018 unless otherwise stated.

*Please be advised that this list is not comprehensive and therefore may not include all bills that directly or indirectly affect DFI licensees. Please visit the state legislature's website at <http://www.azleg.gov/> for more information.*

## **Laws 2018, Chapter 3 ([H2013](#)): Liquid Capital; Definition**

ARS Titles Affected: [6](#)

Amends ARS § 6-851:

- Modifies the definition of liquid capital to include legal tender for trust company certification.
- Defines legal tender as a medium of exchange, including specie that is authorized by the U. S. Constitution or Congress for the payments of debts, public charges, taxes and dues.
- Defines specie as coins having precious metal content.

## **Laws 2018, Chapter 8 ([H2061](#)): Financial Institutions Department; Superintendent Duties**

ARS Titles Affected: [6](#)

Amends ARS § 6-531:

- Removes the mandatory examination time periods for certain financial enterprises.
- Makes conforming changes.

## **Laws 2018, Chapter 44 ([H2423](#)): Financial Products; Regulatory Exemption Program**

**NOTE:** The Regulatory Exemption Program or Sandbox is not regulated by the Arizona Department of Financial Institution. Please, direct all matters concerning a sandbox participant to the Attorney General's Office of Consumer Protection. For consumer inquiries, or to request a complaint form, call (602) 542-5763 (Phoenix), (520) 628-6648 (Tucson), or toll-free outside of metro Phoenix, (800) 352-8431.

ARS Titles Affected: [41](#), [44](#)

Amends ARS § 41-1491.10:

- Requires the Attorney General (AG) to include the results of the Regulatory Sandbox Program (Sandbox) in the statutorily required annual report that recommends legislative or other action pertaining to Fair Housing.

Creates Chapter 55 to A.R.S. Title 41, titled Regulatory Sandbox Program.

Creates ARS § 41-5602:

- Authorizes the AG to establish a Sandbox in consultation with state agencies, which permits a person limited access to the Arizona market to test innovative financial products or services without first getting a license or other authorization to operate.

Creates ARS § 41-5603:

- Allows a person to apply for entry into the Sandbox to test an innovation.

- Requires the AG to accept and review each application for entry into the Sandbox on a rolling basis.
- Requires the application to demonstrate that an applicant is both:
  - An entity or individual that is subject to the jurisdiction of the AG through incorporation, residency, presence agreement or otherwise; and
  - Subjects applicants to the AG's accessibility and jurisdiction as outlined and requires a physical or virtual location to develop and test the innovative product or services, demonstrating proper record keeping of all documents and data.
- Requires persons that already possess a license or other authorization under state laws regulating a financial product or service to file an application with the AG in order to test innovative financial products or services within the Sandbox.
- Applications must contain the sufficient information to demonstrate that an applicant has an adequate understanding of the innovation and a sufficient plan to test, monitor and assess the innovation while ensuring consumers are protected from a test's failure.
- Requires applications to contain the information required by a form that is developed and made publicly available by the AG.
- Specifies that information required by the form may include:
  - Relevant personal and contact information for the applicant, including full legal names, addresses, telephone numbers, e-mail addresses, website addresses and other information that the AG deems necessary;
  - disclosure of any criminal convictions relating to the applicant or key personnel, if any; and
  - A description of the innovation desired to be tested, including statements regarding all of the following:
    - How an innovation is subject to regulation outside of the Sandbox;
    - How the innovation would benefit consumers;
    - How the innovation is different from other products or services available in Arizona;
    - What risks will confront consumers that use or purchase the innovative financial product or service;
    - How entering the Sandbox would enable a successful test fo the innovation;
    - A description of the proposed testing plan, including estimated time period for market entry, market exit and pursuit of necessary licensure or authorization; and
    - How the applicant will wind down the test and protect consumers if the test fails.
- Authorizes the AG to set and collect an application fee, which is deposited into the Consumer Protection-Consumer Fraud Revolving Fund.
- Requires a separate application to be filed for each innovation sought to be tested.
- Allows the AG to seek additional information that it deems necessary following an application submittal.
- Requires, within 90 days of an application's initial submittal, the AG to notify the applicant whether the application is approved for entry into the Sandbox. The AG and the applicant may

mutually agree to extend the time period for the AG to determine whether an application is approved.

- Allows the AG to deny applications at its discretion and specifies that a denial is not an appealable agency action.

Creates ARS § 41-5604:

- Requires the AG to consult with an applicable agency before admitting a person into the Sandbox, including seeding information regarding:
  - Whether the applicable agency has previously either issued a license or other authorization to the applicant or investigated, sanctioned or pursued legal action against the applicant; and
  - Whether the applicant could obtain a license or other authorization from an applicable agency after exiting the Sandbox.
- **Specifies, notwithstanding the above requirement, that the AG has sole authority to make the final decision on whether to admit a person into the Sandbox.**

Creates ARS § 14-5605:

- States that the approved applicants are Sandbox Participants (Participants) with 24 months to test the innovative financial product or service and instructs the AG to issue a registration number to each participant.
- Restricts the innovative financial products or services that are provided as follows:
  - Consumers must be Arizona residents;
  - Limits participants to 10,000 people;
  - For consumer lenders - limits individual transactions to \$15,000 per consumer, and aggregate transactions to a maximum \$50,000, with loans subject to statutory consumer lender finance charges;
  - For money transmitters - limits individual transactions to a maximum \$2,500 per consumer and a maximum \$25,000 aggregate transactions;
  - For sales finance companies - subjects the Sandbox Participants to noted current laws;
  - For investment management - outlines record-keeping and filing requirements consistent with federal law and the Arizona Corporation Commission's current statutes and rules.
- Authorizes the AG to allow Participants demonstrating financial capitalization, risk and management oversight to utilize up to 17,500 consumers to use the innovation; and or increase the transaction totals for money transmitters up to \$15,000 per consumer and \$50,000 aggregate transactions per consumer.
- States that Participants are subject to the provisions in the bill and the AG may require additional disclosures, which will be given to applicants upon approval and entry to the Sandbox.

Creates ARS § 41-5606:

- Details the information Participants must disclose to consumers before ever providing an innovative financial product or service.
- Requires information in a clear and conspicuous form in English and Spanish, for Internet or application-based, with consumers acknowledging receipt:

- States the AG may require additional disclosures to consumers and must notify the Participant.

Creates ARS §§ 41-5607 and 41-5608:

- Requires a Participant, at least 30 days before the end of the test period, to either notify the AG that the participant will exit the Sandbox, wind-down operations and cease offering products or services within 60 days after the 24-month testing period ends or seek an extension to get a license or other lawful authorization.
- Considers the testing period final at the end of the 24-month period and the Participant must cease operations.
- Provides details for a test that requires ongoing duties.
- Permits a participant to obtain an extension for one year, which requires quarterly reports detailing efforts to obtain a license or other necessary authorization to operate.

Creates ARS §§ 41-5609, 41-5610 and 41-5611:

- Directs Participants to retain records, documents and data as detailed in the bill.
- Requires Participants to notify the AG and report the actions taken to ensure no consumers are harmed if an innovation fails before the end of the test period.
- Makes Participants subject to reporting requirements when there is a security breach.
- asserts that records submitted to or obtained by the AG are not considered public records and may not be disclosed as such, except as outlined.
- Authorizes the disclosure of information admissible in a civil or criminal case brought by federal or state officials.
- Permits the AG to adopt periodic reporting requirements for Participants and to request records, documents and data.
- Authorizes the AG to remove Participants from the Sandbox if the AG believes they may violate the Consumer Fraud Act or any federal or state criminal law; specifies removal is not an appealable agency action.
- Allows the AG to enter into agreements with federal, state and foreign regulators to allow Participants and entities operating in other jurisdictions to be recognized as Arizona Participants.
- Sunsets the Sandbox on July 1, 2028.

## **Laws 2018, Chapter 214 ([S1150](#)): Application Fees; Financial Institutions Department**

ARS Titles Affected: [6](#)

Amends ARS § 6-126:

- Reduces the nonrefundable application fees for the following financial institutions and enterprises:
  - The organization and establishment of financial institutions to which an application or investigation fee is not specified by law, from \$2,500 to \$1,000;
  - Trust company license, from \$5,000 to \$1,000;
  - Commercial mortgage banker, mortgage broker, sales finance company or debt management company license, from \$800 to \$500.
  - Banking permit, from \$5,000 to \$1,000.

- Reduces the following nonrefundable application fees to convert:
  - A federal savings and loan charter or national bank to a state chartered institution, from \$5,000 to \$1,000.
  - A federal credit union to a state chartered credit union, from \$1,000 to \$500.