



ARIZONA STATE SENATE
Fifty-Fourth Legislature, First Regular Session

FACT SHEET FOR H.B. 2673

property; products; services; sandbox

Purpose

Requires the Chief Executive Officer of the Arizona Commerce Authority (ACA) to establish a Property Technology Sandbox Program (PTSP), allowing persons to obtain limited access to the Arizona market to test innovative property products or services without other required authorization.

Background

The ACA was established to provide private sector leadership in growing and diversifying the economy and creating high-quality employment through the attraction, expansion and retention of business ([A.R.S. § 41-1502](#)). The ACA is required to: 1) set and collect application fees, registry fees and security deposits; 2) establish full-time positions; 3) educate entrepreneurs about licensure requirements; 4) post annual website reports; 5) administer grants; and 6) disclose requested information to the Office of Economic Opportunity ([A.R.S. § 41-1504](#)). The ACA is authorized to use various financial incentives, such as tax credits, grants and loans, to encourage economic growth in Arizona. The CEO of the ACA (CEO) negotiates grants to expand businesses that achieve performance targets or support rural, small or innovative businesses ([A.R.S. § 41-1545.02](#)).

The Arizona Commerce Authority Fund (Fund) is administered by the CEO and consists of withholding tax revenues allocated from the Job Creation Withholdings Clearing Account. Monies in the Fund must be used exclusively for the purposes of administering the ACA ([A.R.S. § 41-1506](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

PTSP Establishment

1. Requires the CEO to establish a PTSP in consultation with ADOA, the Arizona Department of Real Estate and other applicable agencies to enable a person to obtain limited access to the Arizona market to test innovative property products or services without obtaining authorization that otherwise might be required.

Application Requirements

2. Allows any person to apply for entry into the PTSP to test an innovation.

3. Requires the CEO to accept and review each application for entry into the PTSP (application) on a rolling basis.
4. Requires the application to demonstrate that an applicant:
 - a) is an entity or individual that is subject to the jurisdiction of Arizona; and
 - b) has established a physical or virtual location:
 - i. that is adequately accessible to the CEO;
 - ii. where testing will be developed and performed; and
 - iii. where all required records, documents and data will be maintained.
5. Requires persons that already possess an authorization under state laws that regulate a property product or service to file an application with the CEO to test an innovation within the PTSP for a property product or service outside the scope of the authorization.
6. Requires applications to contain the following:
 - a) sufficient information to demonstrate that an applicant has an adequate understanding of the innovation;
 - b) a sufficient plan to test, monitor and assess the innovation while ensuring that consumers are protected from a testing failure; and
 - c) the information required by a CEO-developed form that is made publicly available.
7. Allows the information required by the CEO-developed form to include:
 - a) 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 CEO deems necessary;
 - b) disclosure of any criminal convictions of the applicant or key personnel, if any; and
 - c) a description of the innovation desired to be tested, including statements regarding all of the following:
 - i. how an innovation is subject to regulation outside of the PTSP;
 - ii. how the innovation would benefit consumers;
 - iii. how the innovation is different from other property products or services available in Arizona;
 - iv. any risks to consumers;
 - v. how entering the PTSP would enable a successful test of the innovation;
 - vi. a description of the proposed testing plan, including estimated time periods for market entry, market exit and the pursuit of necessary licensure or authorization;
 - vii. how the applicant will wind down the test and protect consumers if the test fails; and
 - viii. how the applicant will use cybersecurity measures to avoid breaches and protect consumer and transaction data.
8. Requires the CEO to collect a nonrefundable processing fee from each applicant in an amount determined by the ACA.
9. Requires an applicant to file a separate application for each innovation sought to be tested.
10. Allows the CEO to seek additional information that it deems necessary after an applicant submits the information required on the CEO-developed form.

11. Requires the CEO to notify the applicant whether the application is approved for entry into the PTSP, within 90 days of application submittal.
12. Allows the CEO and applicant to agree to extend the time period for the CEO to determine whether an application is approved for entry into the PTSP.
13. Allows the CEO to deny applications at its discretion and specifies that a denial is not an appealable decision.

Agency Consultation

14. Requires the CEO to consult with an applicable agency before admitting an applicant into the PTSP and allows the consultation to include seeking information about:
 - a) whether the applicable agency previously issued a license or other authorization to the applicant; or
 - b) investigated, sanctioned or pursued legal action against the applicant.
15. Grants, notwithstanding the agency consultation requirement, the CEO sole authority to make the final decision whether to admit an applicant into the PTSP.

PTSP Scope

16. Deems an applicant a PTSP participant upon application approval by the CEO and specifies that both of the following apply:
 - a) the PTSP participant has 24 months after the date of approval to test the innovation described in the PTSP participant's application; and
 - b) the CEO must issue the PTSP participant a registration number.
17. Specifies that the scope of PSTP regulation does not restrict a PTSP participant that holds an authorization in another jurisdiction from acting pursuant to and in accordance with that authorization.
18. Specifies that a PTSP participant is deemed to possess an appropriate authorization under Arizona law for purposes of any provision of federal law requiring state authorization.
19. Exempts PTSP participants from Arizona laws that establish requirements pursuant to an authorization issued by an applicable agency that otherwise would or may regulate a property product or service, except as otherwise provided under PTSP regulation.
20. Allows the CEO to determine that certain state laws regulating a property product or service apply to a PTSP participant and requires, if such a determination is made, the CEO to notify the PTSP participant of the specific state regulatory laws applicable to the PTSP participant.
21. Allows a PTSP participant to:
 - a) electronically obtain, record, provide or maintain any required information, writing, signature, record or disclosure; and
 - b) substitute any substantially similar equivalent information, writing, signature, record or disclosure that is approved by the CEO.

Consumer Protection

22. Requires a PTSP participant to disclose the following to consumers before providing an innovative product or service:
- a) the name and contact information of the PTSP participant, including the CEO-provided registration number;
 - b) that the innovative property product or service is authorized pursuant to the PTSP and, if applicable, that the PTSP participant does not have authorization to generally provide products or services under state laws that regulate a property product or service that is outside the PTSP;
 - c) that Arizona does not endorse or recommend the innovation;
 - d) that the innovative property 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
 - e) that complaints may be filed with the CEO regarding the innovative property product or service being tested and the CEO's telephone number and website address where complaints may be filed.
23. Requires the consumer disclosures to be provided to consumers in a clear and conspicuous form in both English and Spanish and requires, for internet or application-based innovative property products or services, consumers to acknowledge receipt of the disclosures before completion of a transaction.
24. Allows the CEO to require a PTSP participant to make additional disclosures to consumers and requires the CEO to notify that PTSP participant of the additional disclosures upon application approval.

Removal from PTSP

25. Allows the CEO to remove a PTSP participant from the PTSP or order a PTSP participant to exit the PTSP if the CEO has reasonable cause to believe that a PTSP participant was admitted into the PTSP in violation of PTSP regulation or has engaged in, is engaging in or is about to engage in any practice or transaction that:
- a) violates PTSP regulation established by this legislation;
 - b) constitutes an unlawful practice under consumer fraud statutes; or
 - c) violates a state or federal criminal law.
26. Specifies that removal from the PTSP is not an appealable agency action.

PTSP Exit Requirements

27. Requires a PTSP participant, 30 days before the end of the 24-month testing period, to notify the CEO that the PTSP participant will exit the PTSP, wind down its test and cease offering any innovative property products or services in the PTSP within 60 days after the 24-month testing period ends.
28. Requires a PTSP participant to immediately cease offering innovative property products or services at the end of the 24-month testing period, if the CEO does not receive the 30-day exit notification.

29. Requires, for a test that includes offering products or services that require ongoing duties, a PTSP participant to continue to fulfill those duties or arrange for another person to fulfill those duties after the date the PTSP participant exits the PTSP.

Recordkeeping and Reporting Requirements

30. Requires a PTSP participant to retain records, documents and data produced in the ordinary course of business regarding an innovation tested in the PTSP.
31. Requires, for an innovation that fails before the end of the testing period, a PTSP participant to notify the CEO and report on actions taken to ensure consumers have not been harmed as a result of the innovation's failure.
32. Requires a PTSP participant to notify the CEO of any security systems breaches.
33. Specifies that records submitted to or obtained by the CEO in administering PTSP regulation are not public records or open for public inspection.
34. Allows records and information to be disclosed to any of the following:
- a) state and federal agencies;
 - b) representatives of foreign countries that have property technology or supervisory authority over the activities of the PTSP participant;
 - c) a federal, state or county grand jury in response to a lawful subpoena; and
 - d) the Auditor General for the purpose of conducting audits authorized by law.
35. Specifies that the CEO and any applicable agencies consulted by the CEO are not liable for the disclosure of records, information or data received or obtained pursuant to PTSP regulation.
36. Allows the CEO to establish periodic reporting requirements for PTSP participants.
37. Allows the CEO to request records, documents and data from PTSP participants and requires PTSP participants to make such records, documents and data available for inspection by the CEO.

Miscellaneous

38. Subjects PTSP participants to consumer fraud regulation.
39. Allows the CEO to enter into agreements with state, federal or foreign regulators that allow PTSP participants to operate in other jurisdictions and allow entities authorized to operate in other jurisdictions to be recognized as PTSP participants in Arizona.
40. Requires ADOA to provide the ACA a list of state-owned buildings and properties that are available for a PTSP participant to use.
41. Exempts real estate professions from PTSP regulation.
42. Requires all application processing fees collected to be deposited in the Fund and to be used exclusively for PTSP purposes.

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- 43. Terminates the PTSP on July 1, 2029.
- 44. Defines terms.
- 45. Makes technical changes.
- 46. Becomes effective on the general effective date.

House Action

COM	2/19/19	DP	6-2-0-1
3 rd Read	2/26/19		46-12-2

Prepared by Senate Research

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MG/g