

BILL ANALYSIS

Senate Research Center

H.B. 471
By: Johnson, Eric (Hancock)
Business & Commerce
7/28/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that Texas should follow the example of other states that have authorized banks and credit unions to institute programs encouraging citizens to save by offering them certain prizes for depositing funds into their savings accounts. H.B. 471 seeks to incentivize saving among Texans by authorizing financial institutions and credit unions to offer prize-linked savings programs with legislative permission if the associated proposed constitutional amendment is approved by Texas voters.

H.B. 471 amends current law relating to permitting credit unions and other financial institutions to award prizes by lot to promote savings.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Credit Union Commission in SECTION 3 (Section 280.003, Finance Code) of this bill.

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 3 (Section 280.004, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth legislative findings.

SECTION 2. Amends Subchapter B, Chapter 622, Business & Commerce Code, by adding Section 622.0545, as follows:

Sec. 622.0545. SAVINGS PROMOTION RAFFLE. Provides that this chapter (Sweepstakes) does not apply to a savings promotion raffle authorized under Chapter 280, Finance Code.

SECTION 3. Amends Subtitle Z, Title 3, Finance Code, by adding Chapter 280, as follows:

CHAPTER 280. SAVINGS PROMOTION RAFFLE

Sec. 280.001. SHORT TITLE. Authorizes this chapter to be cited as the Texas Savings Promotion Act.

Sec. 280.002. DEFINITIONS. Defines "credit union," "deposit," "finance commission," "financial institution," and "savings promotion raffle."

Sec. 280.003. SAVINGS PROMOTION RAFFLE BY CREDIT UNION. (a) Authorizes a credit union to conduct a savings promotion raffle if each ticket or token representing an entry in the raffle has an equal probability of being drawn and the raffle is conducted in a certain manner.

(b) Prohibits a credit union from requiring consideration for participation in a savings promotion raffle. Provides that a deposit of an amount of money in a

savings account or other savings program that results in an entry in a savings promotion raffle is not consideration.

(c) Prohibits a credit union from requiring a person to pay a premium or fee for opening or using a savings account or other savings program that is subject to a savings promotion raffle, unless the premium or fee is commensurate with the premium or fee that the credit union charges for opening or using comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(d) Prohibits a credit union from limiting the withdrawal of money from a savings account or other savings program that is subject to a savings promotion raffle, unless the withdrawal limits are commensurate with the withdrawal limits that the credit union imposes on comparable savings accounts or savings programs that are not subject to a savings promotion raffle. Provides that this subsection does not prohibit a credit union from requiring a deposit of an amount of money to remain in a savings account or other savings program for a certain period of time in order for the deposit to represent an entry in a savings promotion raffle.

(e) Requires a credit union to pay interest or dividends on a savings account or other savings program that is subject to a savings promotion raffle at a rate that is commensurate with the interest or dividend rate that the credit union pays on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(f) Requires a credit union that conducts a savings promotion raffle to maintain all records that the Credit Union Commission (CUC) determines are necessary for the Texas Credit Union Department (TCUD) to examine the raffle.

(g) Provides that the provisions of this section applicable to a credit union apply to an organization composed exclusively of credit unions.

(h) Requires CUC to adopt rules and procedures for the administration of this section.

Sec. 280.004. SAVINGS PROMOTION RAFFLE BY FINANCIAL INSTITUTION. (a) Authorizes a financial institution to conduct a savings promotion raffle if each ticket or token representing an entry in the raffle has an equal probability of being drawn and the raffle is conducted in a certain manner.

(b) Prohibits a financial institution from requiring consideration for participation in a savings promotion raffle. Provides that a deposit of an amount of money in a savings account or other savings program that results in an entry in a savings promotion raffle is not consideration.

(c) Prohibits a financial institution from requiring a person to pay a premium or fee for opening or using a savings account or other savings program that is subject to a savings promotion raffle, unless the premium or fee is commensurate with the premium or fee that the financial institution charges for opening or using comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(d) Prohibits a financial institution from limiting the withdrawal of money from a savings account or other savings program that is subject to a savings promotion raffle, unless the withdrawal limits are commensurate with the withdrawal limits that the financial institution imposes on comparable savings accounts or savings programs that are not subject to a savings promotion raffle. Provides that this subsection does not prohibit a financial institution from requiring a deposit of an amount of money to remain in a savings account or other savings program for a

certain period of time in order for the deposit to represent an entry in a savings promotion raffle.

(e) Requires a financial institution to pay interest or dividends on a savings account or other savings program that is subject to a savings promotion raffle at a rate that is commensurate with the interest or dividend rate that the financial institution pays on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(f) Requires a financial institution that conducts a savings promotion raffle to maintain all records that the Finance Commission of Texas (finance commission) determines are necessary for the financial regulatory agency of this state having regulatory jurisdiction over that financial institution to examine the raffle.

(g) Provides that the provisions of this section applicable to a financial institution apply to an organization composed exclusively of financial institutions.

(h) Requires the finance commission to adopt rules and procedures for the administration of this section.

Sec. 280.005. ACCOUNT OR DEPOSIT NOT CONSIDERATION. Provides that, for purposes of Chapter 47 (Gambling), Penal Code, or other state law, opening or making a deposit in an account is not considered a purchase, payment, or provision of a thing of value for participation in a savings promotion raffle and is not considered to require a substantial expenditure of time, effort, or inconvenience.

SECTION 4. Amends Subchapter A, Chapter 2002, Occupations Code, by adding Section 2002.005, as follows:

Sec. 2002.005. APPLICABILITY. Provides that this chapter (Charitable Raffles) does not apply to a savings promotion raffle authorized under Chapter 280, Finance Code.

SECTION 5. Amends Section 47.09(a), Penal Code, to provide that it is a defense to prosecution under this chapter that the conduct was authorized under, in addition to certain chapters, Chapter 280, Finance Code. Makes nonsubstantive changes.

SECTION 6. Amends Chapter 47, Penal Code, by adding Section 47.11, as follows:

Sec. 47.11. DEPOSITS IN CERTAIN ACCOUNTS NOT CONSIDERATION. Provides that, for purposes of this chapter, opening or making a deposit in a savings account or other savings program subject to a savings promotion raffle under Chapter 280, Finance Code, does not constitute consideration.

SECTION 7. Effective date: contingent upon approval by the voters of the constitutional amendment relating to legislative authority to permit credit unions and other financial institutions to award prizes by lot to promote savings.