

BILL ANALYSIS

C.S.H.B. 1628
By: Johnson
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns regarding the financial vulnerability of many Texans who lack significant savings and have little experience with mainstream financial institutions such as banks and credit unions. The parties assert that other states have authorized banks and credit unions to implement programs that encourage people to save by offering them prizes for making deposits into their savings accounts. C.S.H.B. 1628 seeks to address this issue and encourage Texans to engage with mainstream financial institutions and to save additional money.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Credit Union Commission and to the Finance Commission of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1628 amends the Finance Code to authorize a credit union or 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 manner that does not jeopardize the ability of the credit union or financial institution to operate in a safe and sound manner and does not mislead the credit union's members or the financial institution's depositors, as applicable. The bill defines "savings promotion raffle" as a raffle conducted by a credit union or financial institution in which the sole action required for a chance of winning a designated prize is the deposit of at least a specified amount of money in a savings account or other savings program offered by the credit union or financial institution.

C.S.H.B. 1628 prohibits a credit union or financial institution from requiring consideration for participation in a savings promotion raffle but establishes 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. The bill prohibits a credit union or 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 credit union or financial institution charges for opening or using comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

C.S.H.B. 1628 prohibits a credit union or 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 credit

union or financial institution imposes on comparable savings accounts or savings programs that are not subject to a savings promotion raffle, but establishes that such prohibition does not prohibit a credit union or 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. The bill requires a credit union or financial institution to charge an interest rate on a savings account or other savings program that is commensurate with the interest rate that the credit union or financial institution charges on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

C.S.H.B. 1628 requires a credit union or financial institution that conducts a savings promotion raffle under the bill's provisions to maintain all records that the Credit Union Commission or the Finance Commission of Texas, respectively, determines are necessary for the Credit Union Department or applicable financial regulatory agency to examine the raffle. The bill's provisions regarding credit unions apply to an organization composed exclusively of credit unions, and the bill's provisions regarding financial institutions apply to an organization composed exclusively of financial institutions. The bill requires the Credit Union Commission to adopt rules and procedures for the administration of the savings promotion raffles conducted by credit unions and requires the finance commission to adopt rules and procedures for the administration of the savings promotion raffles conducted by financial institutions.

C.S.H.B. 1628 establishes that, for purposes of Penal Code provisions relating to gambling or other state law, opening or making a deposit in an account is neither considered a purchase, payment, or provision of a thing of value for participation in a savings promotion raffle nor considered to require a substantial expenditure of time, effort, or inconvenience.

C.S.H.B. 1628 amends the Business & Commerce Code to exempt a savings promotion raffle from statutory provisions governing sweepstakes.

C.S.H.B. 1628 amends the Occupations Code to exempt a savings promotion raffle from the Charitable Raffle Enabling Act.

C.S.H.B. 1628 amends the Penal Code to establish a defense to prosecution for a gambling offense if the conduct was authorized under the bill's provisions governing a savings promotion raffle and to establish that opening or making a deposit in a savings account or other savings program subject to a savings promotion raffle does not constitute consideration for purposes of Penal Code gambling offenses.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1628 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The legislature finds that:
(1) many Texans have little experience with mainstream financial services, such as checking and savings accounts;
(2) an estimated one in three households in

the state does not have a savings account and an estimated one-half of all households in the state do not have sufficient savings to pay for basic expenses for three months in case of an emergency;

(3) Texans' inexperience with mainstream financial services and lack of savings has many negative consequences, including causing financially vulnerable Texans to turn to predatory lenders outside of the mainstream financial system for credit;

(4) mainstream financial institutions in states across the country offer savings promotion raffles to help familiarize people with the mainstream financial system and to encourage people to open savings accounts and to save money;

(5) savings promotion raffles are normal financial products offered by mainstream financial institutions, like traditional savings accounts, with the added feature of offering chances to win prizes for saving money;

(6) savings promotion raffles are not lotteries but are pro-savings alternatives to lotteries;

(7) unlike lotteries, savings promotion raffles do not require consideration for the chance to win a prize;

(8) unlike lotteries, savings promotion raffles have the purpose and effect of increasing an individual's savings and financial security; and

(9) encouraging people to save money is in the interest of the state.

SECTION 1. Subchapter B, Chapter 622, Business & Commerce Code, is amended.

SECTION 2. Subtitle 2, Title 3, Finance Code, is amended by adding Chapter 279 to read as follows:

CHAPTER 279. SAVINGS PROMOTION RAFFLE

Sec. 279.001. DEFINITIONS.

Sec. 279.002. SAVINGS PROMOTION RAFFLE BY CREDIT UNION. (a) A credit union may conduct a savings promotion raffle if:

SECTION 2. Same as introduced version.

SECTION 3. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 279 to read as follows:

CHAPTER 279. SAVINGS PROMOTION RAFFLE

Sec. 279.001. SHORT TITLE. This chapter may be cited as the Texas Savings Promotion Act.

Sec. 279.002. DEFINITIONS.

Sec. 279.003. SAVINGS PROMOTION RAFFLE BY CREDIT UNION. (a) A credit union may conduct a savings promotion raffle if:

(1) each ticket or token representing an entry in the raffle has an equal probability of being drawn; and
(2) the raffle is conducted in a manner that:
(A) does not jeopardize the ability of the credit union to operate in a safe and sound manner; and
(B) does not mislead the credit union's members.

(b) A credit union shall maintain all records the Credit Union Commission determines are necessary to conduct an audit of a savings promotion raffle by the Credit Union Department.

(c) The Credit Union Commission shall adopt rules and procedures for the

(1) each ticket or token representing an entry in the raffle has an equal probability of being drawn; and
(2) the raffle is conducted in a manner that:
(A) does not jeopardize the ability of the credit union to operate in a safe and sound manner; and
(B) does not mislead the credit union's members.

(b) A credit union may not require consideration for participation in a savings promotion raffle. 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) A credit union may not require 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) A credit union may not limit 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. 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) A credit union shall charge an interest rate on a savings account or other savings program that is commensurate with the interest rate that the credit union charges on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(f) A credit union that conducts a savings promotion raffle under this section shall maintain all records that the Credit Union Commission determines are necessary for the Credit Union Department to examine the raffle.

(h) The Credit Union Commission shall adopt rules and procedures for the

administration of this section.

(d) The provisions of this section applicable to a credit union apply to an organization composed exclusively of credit unions.

Sec. 279.003. SAVINGS PROMOTION RAFFLE BY CERTAIN FINANCIAL INSTITUTIONS. (a) A financial institution may conduct a savings promotion raffle if:

(1) each ticket or token representing an entry in the raffle has an equal probability of being drawn; and

(2) the raffle is conducted in a manner that:

(A) does not jeopardize the ability of the institution to operate in a safe and sound manner; and

(B) does not mislead the institution's depositors.

administration of this section.

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

Sec. 279.004. SAVINGS PROMOTION RAFFLE BY FINANCIAL INSTITUTIONS. (a) A financial institution may conduct a savings promotion raffle if:

(1) each ticket or token representing an entry in the raffle has an equal probability of being drawn; and

(2) the raffle is conducted in a manner that:

(A) does not jeopardize the ability of the institution to operate in a safe and sound manner; and

(B) does not mislead the institution's depositors.

(b) A financial institution may not require consideration for participation in a savings promotion raffle. 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) A financial institution may not require 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) A financial institution may not limit 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. 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) A financial institution shall charge an interest rate on a savings account or other savings program that is commensurate with the interest rate that the financial institution

(b) A financial institution that conducts a savings promotion raffle under this section shall maintain all records the finance commission determines are necessary to conduct an audit of the raffle by the financial regulatory agency of this state having regulatory jurisdiction over that financial institution.

(c) The provisions of this section applicable to a financial institution apply to an organization composed exclusively of financial institutions of the type approved by the finance commission to conduct a savings promotion raffle under Subsection (a).

(d) The finance commission shall adopt rules and procedures for the administration of this section.

Sec. 279.004. ACCOUNT OR DEPOSIT NOT CONSIDERATION.

No equivalent provision.

No equivalent provision.

charges on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

(f) A financial institution that conducts a savings promotion raffle under this section shall maintain all records that the 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) The provisions of this section applicable to a financial institution apply to an organization composed exclusively of financial institutions.

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

Sec. 279.005. ACCOUNT OR DEPOSIT NOT CONSIDERATION.

SECTION 4. Subchapter A, Chapter 2002, Occupations Code, is amended by adding Section 2002.005 to read as follows:

Sec. 2002.005. APPLICABILITY. This chapter does not apply to a savings promotion raffle authorized under Chapter 279, Finance Code.

SECTION 5. Section 47.09(a), Penal Code, is amended to read as follows:

(a) It is a defense to prosecution under this chapter that the conduct:

(1) was authorized under:

(A) Chapter 2001, Occupations Code;

(B) Chapter 2002, Occupations Code; ~~[or]~~

(C) the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(D) Chapter 279, Finance Code;

(2) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code; or

(3) was a necessary incident to the operation of the state lottery and was directly or indirectly authorized by:

(A) Chapter 466, Government Code;

(B) the lottery division of the Texas Lottery Commission;

(C) the Texas Lottery Commission; or

(D) the director of the lottery division of the Texas Lottery Commission.

No equivalent provision.

SECTION 6. Chapter 47, Penal Code, is amended by adding Section 47.11 to read as follows:

Sec. 47.11. DEPOSITS IN CERTAIN ACCOUNTS NOT CONSIDERATION. 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 279, Finance Code, does not constitute consideration.

SECTION 3. This Act takes effect September 1, 2015.

SECTION 7. Same as introduced version.