

## **BILL ANALYSIS**

C.S.H.B. 471  
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Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.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.

### **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 the Finance Commission of Texas in SECTION 3 of this bill.

### **ANALYSIS**

C.S.H.B. 471 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 that does not mislead the credit union's members or the financial institution's depositors. The bill defines, among other terms, "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. 471 prohibits a credit union or financial institution from requiring consideration for participation in a savings promotion raffle but clarifies 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. 471 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 the bill expressly 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 in order for the deposit to represent an entry in a savings promotion raffle. The bill requires a credit union or 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 credit union or financial institution pays on comparable savings accounts or savings programs that are not subject to a savings promotion raffle.

C.S.H.B. 471 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, as applicable, determines are necessary for the Credit Union Department or an applicable state 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 bill's provisions governing savings promotion raffles conducted by credit unions and requires the finance commission to adopt rules and procedures for the administration of the bill's provisions governing savings promotion raffles conducted by financial institutions.

C.S.H.B. 471 establishes, for purposes of Penal Code provisions relating to gambling or other state law, that 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.

C.S.H.B. 471 amends the Business & Commerce Code to exempt a savings promotion raffle authorized under the bill's provisions from statutory provisions governing sweepstakes.

C.S.H.B. 471 amends the Occupations Code to exempt a savings promotion raffle authorized under the bill's provisions from the Charitable Raffle Enabling Act.

C.S.H.B. 471 amends the Penal Code to establish as a defense to prosecution for a gambling offense that the conduct was authorized under the bill's provisions governing savings promotion raffles and to specify 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 a gambling offense.

### **EFFECTIVE DATE**

The date on which the constitutional amendment relating to legislative authority to permit credit unions and other financial institutions to award prizes by lot to promote savings takes effect, if approved by the voters.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 471 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

SECTION 1. The legislature finds that:  
(1) many Texans have little experience with

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

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

SECTION 3. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. SAVINGS PROMOTION RAFFLE

Sec. 280.001. SHORT TITLE.

Sec. 280.002. DEFINITIONS. In this chapter:

(1) "Credit union" has the meaning assigned by Section 121.002.

SECTION 2. Same as introduced version.

SECTION 3. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 280 to read as follows:

CHAPTER 280. SAVINGS PROMOTION RAFFLE

Sec. 280.001. SHORT TITLE.

Sec. 280.002. DEFINITIONS. In this chapter:

(1) "Credit union" means:

(A) a credit union as defined by Section 121.002; or

(B) a federal credit union doing business in

(2) "Deposit," with respect to a financial institution, has the meaning assigned by Section 31.002.

(3) "Finance commission" means the Finance Commission of Texas.

(4) "Financial institution" has the meaning assigned by Section 31.002.

(5) "Savings promotion raffle" means 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.

Sec. 280.003. 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 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

this state.

(2) "Deposit," with respect to a financial institution, has the meaning assigned by Section 31.002.

(3) "Finance commission" means the Finance Commission of Texas.

(4) "Financial institution" has the meaning assigned by Section 31.002.

(5) "Savings promotion raffle" means 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.

Sec. 280.003. 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 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.

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

(h) The Credit Union Commission shall adopt rules and procedures for the administration of this section.

Sec. 280.004. SAVINGS PROMOTION RAFFLE BY FINANCIAL INSTITUTION.

(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 financial 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.

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 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) 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.

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

(h) The Credit Union Commission shall adopt rules and procedures for the administration of this section.

Sec. 280.004. SAVINGS PROMOTION RAFFLE BY FINANCIAL INSTITUTION.

(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 financial 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 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. 280.005. ACCOUNT OR DEPOSIT NOT CONSIDERATION.

SECTION 4. Subchapter A, Chapter 2002, Occupations Code, is amended.

SECTION 5. Section 47.09(a), Penal Code, is amended.

SECTION 6. Chapter 47, Penal Code, is amended.

SECTION 7. This Act takes effect on the date the constitutional amendment proposed by the 85th Legislature, Regular Session, 2017, relating to legislative authority to

(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 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) 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. 280.005. ACCOUNT OR DEPOSIT NOT CONSIDERATION.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

permit credit unions and other financial institutions to award prizes by lot to promote savings is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.