

HOUSE BILL REPORT

SSB 5232

As Passed House - Amended:
April 1, 2011

Title: An act relating to prize-linked savings deposits.

Brief Description: Authorizing prize-linked savings deposits.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kilmer, Hobbs, Carrell, Keiser and Kohl-Welles).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 3/9/11, 3/17/11 [DPA].

Floor Activity:

Passed House - Amended: 4/1/11, 91-2.

**Brief Summary of Substitute Bill
(As Amended by House)**

- Allows a financial institution to conduct a drawing that includes only persons who deposited funds in a savings program.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass as amended. Signed by 11 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst, McCoy and Miloscia.

Staff: Joan Elgee (786-7106).

Background:

To constitute "gambling" under the Gambling Act (Act), the elements of prize, chance, and consideration must be present. The Act specifically permits a business to conduct a promotional contest of chance as an advertising and promotional undertaking in which the element of consideration is not present. A promotional contest of chance may not require a

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person to pay any consideration to the contest promoter or purchase anything of value from the business. Visiting a location, completing a form or survey, obtaining a coupon by purchasing a newspaper, and other acts are defined to not be consideration. These contests are specifically stated not to be "gambling" under the Act.

Certain requirements relating to deceptive promotional advertising apply to promotions, such as sweepstakes and contests. The odds of being awarded a prize and other matters must be disclosed.

Some states, including Michigan, Rhode Island, and Maryland, allow financial institutions to offer prizes linked to savings accounts. In Michigan, for example, credit union members may open a year-long share certificate and earn one entry into a monthly prize drawing and one entry into an end of the year drawing for a grand prize. Additional entries are earned for each \$25 deposited.

Summary of Amended Bill:

The Gambling Act is amended to allow a financial institution to conduct a particular type of promotional contest of chance. The permitted contest (contest) is a drawing for a prize in which only persons who deposited funds in a savings account, certificate of deposit, or any other savings program are eligible for prizes. The drawing may be for an annual prize in which case eligible prize recipients are those who retained the funds for at least 12 months in the savings account, certificate of deposit, or other savings program. Drawings for other prizes may be held from time to time. No contest may be conducted, wholly or partially, by means of the Internet. A person may not be required to pay any consideration, other than the deposit of funds, or purchase anything of value from the financial institution. The contests authorized are not "gambling." A financial institution includes banks, trust companies, mutual savings banks, savings and loan associations, and credit unions.

The Director of the Department of Financial Institutions (Director) may prohibit a contest if it is: (1) likely to or does adversely affect the financial institution's safety and soundness; (2) administered in an unsafe and unsound or imprudent manner, or in a manner that is likely to or does result in actual or potential reputational harm to the financial institution; or (3) likely to or has misled the financial institution's members, depositors, or the general public. The Director may examine the conduct of a contest and exercise enforcement powers, and may issue a cease and desist order for a violation. Financial institutions must maintain records sufficient to facilitate an audit and must provide the records to the Director upon request.

Specific authority is given to credit unions, commercial banks, and mutual savings banks to conduct a contest.

The deceptive promotional advertising requirements do not apply to financial institution savings deposit promotions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 7 and 8, relating to commercial banks and mutual banks, which take effect when the Director determines that a federal regulatory agency has interpreted federal law to permit these banks to conduct a promotional contest.

Staff Summary of Public Testimony:

(In support) Americans do a poor job of saving. More than one-third of Americans have no savings. Prize-linked savings is not a game of risk with winners and losers or a big, new government program; it is a way to empower the private sector to offer a new product. People open up a 12-month certification of deposit with only \$25, and for each \$25 deposited, they are entered into a raffle. Several states and 19 countries offer prize-linked savings. Michigan saw a 144 percent increase in savings and a 329 percent increase in the amount of money saved in participating credit unions. Some credit unions are interested in offering this program. It is another tool to help people save.

The substitute bill makes the changes needed for the Department of Financial Institutions to regulate the program.

(Opposed) None.

Persons Testifying: Senator Kilmer, prime sponsor; Linda Jekel, Department of Financial Institutions; Mark Minickiello, Northwest Credit Union Association; and Lee Wojnar, O Bee Credit Union and Asset Building Coalition.

Persons Signed In To Testify But Not Testifying: None.