

Chapter 628

(House Bill 990)

AN ACT concerning

Financial Institutions – Credit Unions *and Depository Institutions* – Authority to Conduct Savings Promotion Raffles

FOR the purpose of authorizing a credit union, subject to the approval of the Commissioner of Financial Regulation, to conduct a savings promotion raffle for the exclusive benefit of eligible members of the credit union; authorizing a depository institution to conduct a savings promotion raffle for the exclusive benefit of eligible customers of the depository institution; specifying the conditions under which a credit union and a depository institution may conduct a savings promotion raffle; exempting ~~a certain~~ savings promotion ~~raffle~~ raffles from certain provisions of law relating to the award of prizes by chance; authorizing the Commissioner to take certain actions relating to a savings promotion raffle; authorizing a certain credit union and a certain depository institution to conduct a savings promotion raffle notwithstanding any other provision of the Criminal Law Article; defining certain terms; making this Act subject to a certain contingency; requiring the Commissioner to monitor certain federal action and give certain notice to the Department of Legislative Services at a certain time; providing for the termination of this Act under certain circumstances; and generally relating to ~~credit unions and~~ savings promotion raffles.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–305
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–106
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY adding to
Article – Financial Institutions
Section 1–211 and 6–716
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Commercial Law

13–305.

(a) This section does not apply to:

(1) Trading stamps, as defined by § 13–101 of the Business Regulation Article;

(2) State lottery tickets issued under the authority of Title 9, Subtitle 1 of the State Government Article;

(3) Retail promotions, not involving the offer of gifts and prizes, which offer savings on consumer goods or services including “one-cent sales”, “two-for-the-price-of-one-sales”, or manufacturer’s “cents-off” coupons; [or]

(4) Games of skill competition not involving sales promotion efforts;

OR

(5) A SAVINGS PROMOTION RAFFLE CONDUCTED BY A CREDIT UNION UNDER § 6–716 OF THE FINANCIAL INSTITUTIONS ARTICLE OR BY A DEPOSITORY INSTITUTION UNDER § 1–211 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(b) A person may not notify any other person by any means, as part of an advertising scheme or plan, that the other person has won a prize, received an award, or has been selected or is eligible to receive anything of value if the other person is required to purchase goods or services, pay any money to participate in, or submit to a sales promotion effort.

(c) In addition to the exceptions provided in subsection (a) of this section, subsection (b) of this section does not prohibit the offer of prizes requiring the person to purchase other goods and services if the retail price of the prize offered does not exceed the greater of:

(1) \$40; or

(2) The lesser of:

(i) 20% of the purchase price of the goods or services that must be purchased; or

(ii) \$400.

(d) The exception provided in subsection (c) of this section does not apply to the offer of a prize requiring the person either to pay any money to participate in or to submit to a sales promotion effort, or to a prize promotion involving the award of prizes by chance.

(e) When a person offers prizes in a sales promotion effort relating to the sale, lease, or rental of real property not prohibited by this section, that person shall disclose to each offeree, in writing, clearly and conspicuously:

(1) That the purpose of the sales promotion effort is to solicit the purchase, lease, or rental of real property;

(2) The exact number of each prize offered in each category to be made available during the sales promotion;

(3) The manufacturer's suggested retail price or comparable retail price of each prize offered;

(4) (i) If calculable in advance, the odds against winning each prize; or

(ii) If not calculable in advance, a statement to that effect, or that the odds of winning will be determined by the number of entries;

(5) Whether all prizes offered will be awarded and when a determination of winners will be made; and

(6) If prizes with retail prices or monetary values in excess of \$100 are offered, where and when a list of winners of those prizes can be obtained.

(f) Where provisions of law or regulations relating to the awarding of prizes in the sale, lease, or rental of real property exist, including § 11A-119 of the Real Property Article, the provisions of those laws or regulations shall apply if the provisions are more stringent than this section.

(g) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The exact number of each prize offered in each category to be made available during the contest, sweepstakes, or sales promotion;

(2) The manufacturer's suggested retail price, or comparable retail price, of each prize offered;

(3) If calculable in advance, the odds against winning each prize and if not calculable in advance, a statement that the odds of winning will be determined by the number of entries;

(4) Whether all prizes offered will be awarded and when a determination of winners will be made;

(5) What, if any, conditions must be met in order to receive a prize;

(6) If prizes with retail prices or monetary values in excess of \$100 are offered, where and when a list of winners of those prizes can be obtained; and

(7) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(h) If a person offers a contest, sweepstakes, or other sales promotion effort not prohibited by this section, not involving the award of prizes by chance, that person shall disclose to each offeree in writing:

(1) The manufacturer's suggested retail price, or comparable retail price of each prize offered;

(2) What, if any, conditions must be met in order to receive a prize;
and

(3) That in order to receive the prize offered in the sales promotion you may not be required to:

(i) Purchase goods or services, unless the retail price of the prize is within the limits set by subsection (c) of this section;

(ii) Pay any money; or

(iii) Where applicable, submit to a sales promotion effort.

(i) The disclosures shall appear on the first page of the prize notification document.

Article – Criminal Law

12-106.

(a) (1) Notwithstanding any other provision of this subtitle, Subtitle 2 of this title, or Title 13 of this article and except as otherwise provided in this subsection, a bona fide charitable organization in this State may conduct a raffle for the exclusive benefit of the charitable organization if the prize awarded is real property:

(i) to which the charitable organization holds title; or

(ii) for which the charitable organization has the ability to convey title.

(2) A charitable organization may not conduct more than two raffles of real property in a calendar year.

(3) The Secretary of State may adopt regulations governing a raffle of real property by a charitable organization under this subsection.

(b) (1) Notwithstanding any other provision of this article and except as otherwise provided in this subsection, a political committee or candidate for public office may conduct a raffle if the prizes awarded are money or merchandise.

(2) (i) The cost of a raffle ticket under this subsection may not exceed \$5.

(ii) An individual may not purchase more than \$50 worth of tickets.

(3) This subsection does not relieve a political committee or candidate from the reporting and record keeping requirements under the Election Law Article.

(c) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CREDIT UNION ORGANIZED UNDER TITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 6-716 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A DEPOSITORY INSTITUTION, AS DEFINED IN § 1-211 OF THE FINANCIAL INSTITUTIONS ARTICLE, MAY CONDUCT A SAVINGS PROMOTION RAFFLE UNDER § 1-211 OF THE FINANCIAL INSTITUTIONS ARTICLE.

Article – Financial Institutions

1-211.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DEPOSITORY INSTITUTION” MEANS ANY STATE-CHARTERED OR FEDERALLY CHARTERED FINANCIAL INSTITUTION, OTHER-STATE BANK, OR FOREIGN BANK THAT:

(I) IS LOCATED IN THIS STATE OR MAINTAINS A BRANCH IN THIS STATE; AND

(II) IS AUTHORIZED TO MAINTAIN QUALIFYING DEPOSIT ACCOUNTS.

(3) “ELIGIBLE CUSTOMER” MEANS AN INDIVIDUAL CUSTOMER OF A DEPOSITORY INSTITUTION WHO:

(I) MAINTAINS A QUALIFYING DEPOSIT ACCOUNT AT A DEPOSITORY INSTITUTION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS AN ADULT; AND

(III) IS A RESIDENT OF THIS STATE.

(4) “QUALIFYING DEPOSIT ACCOUNT” MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CUSTOMER FOR A SAVINGS PROMOTION RAFFLE.

(5) “SAVINGS PROMOTION RAFFLE” MEANS A PRIZE-LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING DEPOSITORY INSTITUTION TO AN ELIGIBLE CUSTOMER.

(B) (1) A DEPOSITORY INSTITUTION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CUSTOMERS IF:

(I) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING DEPOSIT ACCOUNT;

(II) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(III) THE DEPOSITORY INSTITUTION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(IV) THE SAVINGS PROMOTION RAFFLE WILL NOT:

1. HARM THE DEPOSITORY INSTITUTION'S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

2. MISLEAD THE DEPOSITORY INSTITUTION'S CUSTOMERS.

(2) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A SAVINGS PROMOTION RAFFLE CONDUCTED BY A BANKING INSTITUTION MUST BE APPROVED BY THE COMMISSIONER.

(C) EXCEPT AS PREEMPTED BY FEDERAL LAW, THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE;
AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 5-808 OF THIS ARTICLE FOR A VIOLATION OF THIS SECTION.

6-716.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ELIGIBLE CREDIT UNION MEMBER" MEANS AN INDIVIDUAL MEMBER OF A CREDIT UNION WHO:

(I) MAINTAINS A QUALIFYING SHARE CERTIFICATE ACCOUNT AT A CREDIT UNION PARTICIPATING IN A SAVINGS PROMOTION RAFFLE;

(II) IS A MEMBER IN GOOD STANDING;

(III) IS AN ADULT; AND

(IV) IS A RESIDENT OF THIS STATE.

(3) "QUALIFYING SHARE CERTIFICATE ACCOUNT" MEANS A SAVINGS ACCOUNT, SAVINGS PROGRAM, OR OTHER TIME DEPOSIT OFFERED TO AN ELIGIBLE CREDIT UNION MEMBER FOR A SAVINGS PROMOTION RAFFLE.

(4) “SAVINGS PROMOTION RAFFLE” MEANS A PRIZE-LINKED SAVINGS PRODUCT OFFERED BY A PARTICIPATING CREDIT UNION TO AN ELIGIBLE CREDIT UNION MEMBER.

(B) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A CREDIT UNION MAY CONDUCT A SAVINGS PROMOTION RAFFLE FOR THE EXCLUSIVE BENEFIT OF ELIGIBLE CREDIT UNION MEMBERS IF:

(1) THE SOLE CONSIDERATION REQUIRED FOR A CHANCE TO WIN A SPECIFIED PRIZE IS THE DEPOSIT OF A MINIMUM SPECIFIED AMOUNT OF MONEY IN A QUALIFYING SHARE CERTIFICATE ACCOUNT;

(2) EACH TICKET OR ENTRY IN THE SAVINGS PROMOTION RAFFLE HAS AN EQUAL CHANCE OF BEING DRAWN;

(3) THE CREDIT UNION MAINTAINS BOOKS AND RECORDS RELATING TO THE SAVINGS PROMOTION RAFFLE; AND

(4) THE SAVINGS PROMOTION RAFFLE WILL NOT:

(I) HARM THE CREDIT UNION’S ABILITY TO OPERATE IN A SAFE AND SOUND MANNER; OR

(II) MISLEAD THE CREDIT UNION’S MEMBERS.

(C) THE COMMISSIONER MAY:

(1) EXAMINE THE CONDUCT OF A SAVINGS PROMOTION RAFFLE;
AND

(2) ISSUE A CEASE AND DESIST ORDER UNDER § 6-906 OF THIS TITLE FOR A VIOLATION OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010, contingent on depository institutions that are subject to regulation by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to provide prize-linked savings products such as a savings promotion raffle authorized by this Act. The Commissioner of Financial Regulation shall monitor federal regulatory and legislative action relating to the authorization of depository institutions to provide prize-linked savings products such as savings promotion raffles, and shall notify the Department of Legislative Services within 30 days after learning that federal action has been taken to allow depository institutions to provide prize-linked products such as a savings promotion raffle authorized by this Act. If notice from the Commissioner is not

received by the Department on or before October 1, 2014, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.