

SENATE BILL REPORT

SSB 5232

As Amended by House, 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: Labor, Commerce & Consumer Protection: 1/25/11, 2/07/11 [DPS].

Passed Senate: 2/23/11, 46-2.

Passed House: 4/01/11, 91-2.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5232 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

Staff: Edith Rice (786-7444)

Background: The percentage of workers who said they have less than \$10,000 in savings grew to 43 percent in 2010, from 39 percent in 2009, according to the Employee Benefit Research Institute's annual Retirement Confidence Survey. The US Bureau of Economic Analysis reported in February 2007, that the rate of personal savings has declined steadily since the 1980s and in 2005 was negative for the first time since 1933. This has raised concerns about families ability to save enough for retirement and for protection against financial setbacks. Financial institutions play a significant role in exploring creative options to increase personal savings.

Current law permits a business to conduct a promotional contest of chance if a prize and chance are involved but the element of consideration is not. A promotional contest of chance is not gambling as it is defined in RCW 9.46.0237.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A financial institution is defined in state law as a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law. The Washington State Department of Financial Institutions (DFI) regulates and examines a variety of state chartered financial services. DFI also provides education to the public to protect consumers from financial fraud.

Credit unions are financial institutions formed by an organized group of people with a common bond. Members of credit unions pool their assets to provide loans and other financial services to each other. They are not-for-profit cooperatives, owned by members and operated by mostly volunteer boards. Credit unions are chartered and supervised by the National Credit Union Administration.

Mutual savings banks are financial institutions chartered through the state or federal government for the purpose of saving and investing savings in mortgages, loans, stocks and bonds, and other securities.

Banks are financial institutions which are corporations with the ability to invest in bonds, notes, and investment securities.

Summary of Substitute Bill: Financial institutions are conditionally authorized to conduct a promotional contest of chance.

Promotional contest of chance is defined as a drawing for a prize that includes only those persons who deposited funds in a savings account, certificate of deposit, or any other savings program of the financial institution as eligible prize recipients. This means that depositors in a savings program of the financial institution conducting a promotional contest of chance are eligible to receive a prize in a drawing. Those eligible to receive a prize are not required to pay for, or purchase, any services or goods other than the participation in the savings program.

In order to conduct a promotional contest of chance, a financial institution must get approval from its board of directors. A financial institution cannot conduct a promotional contest of chance if it is likely to adversely affect the institution's safety or soundness, harm the institution's reputation, or mislead the institutions members or the general public. The director of DFI is given authority to examine banks, mutual savings banks, and credit unions which are conducting a promotional contest of chance. DFI may issue a cease and desist order for violations under this act. Financial institutions must maintain sufficient audit records and make them available to DFI if requested.

Banks, trust companies, and mutual savings banks are given authority to conduct a promotional contest of chance only if the director of DFI finds that a federal regulatory agency has interpreted federal law to permit them to conduct a promotional contest of chance.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This concept has been successful in other states and countries. Families need to save more money, and participants can't lose. This is not an expansion of gambling. We can work with all parties interested in this bill. This provides opportunities for families to save for the future without costing anything. It is a tool that promotes financial education and provides an economic lift for low income families. It helps build positive assets. It is paid for from the marketing budget of the financial institution.

OTHER: Tribes are concerned about unintended consequences. There should be an age limit, this should be under the gambling commission and the program is not free.

Persons Testifying: PRO: Senator Kilmer, prime sponsor; Mark Minickiello, Northwest Credit Union League; David Sieminski, Express Credit Union; Rebeca Poltasnick, Washington Asset Building Coalition; Karan Gill, Burst for Prosperity; Lee Wojnar O'BEE Credit Union.

OTHER: Linda Jekel, Joe Vincent, Department of Financial Institutions; Amy Hunter, Washington State Gambling Commission; Brad Tower, Community Banks of Washington; Martin Durkan, Muckleshoot.

House Amendment(s): Provisions which required a savings account, certificate of deposit, or other savings program – for which a depositor would be an eligible prize recipient – to pay comparable interest are removed. A requirement to retain funds in the savings account, certificate of deposit, or other savings program for at least one year to be eligible for a prize applies only to a drawing for an annual prize. Allows other drawings for which depositors may be eligible and defines promotional contest by cross-referencing the gambling statute rather than restating the definition.