COMMITTEE REPORT

May 5, 2016

**S. 652**

Introduced by Senator L. Martin

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Read the first time June 3, 2015.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 652) to amend Title 34, Code of Laws of South Carolina, 1976, by adding Chapter 45, so as to authorize financial institutions that do business in South Carolina to conduct, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 34‑45‑20(1), as contained in SECTION 1, page 2, by deleting the item in its entirety and inserting:

/ (1) ‘Appropriate state or federal regulatory agency of a financial institution’ means the South Carolina State Board of Financial Institutions, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve System, the National Credit Union Administration, or other state or federal regulatory agency that is statutorily responsible for the supervision of all or part of the operations of a participating financial institution. Nothing in this chapter prohibits financial institutions that are under supervision of these state and federal regulatory agencies from participating in prize linked savings programs with other state or federally regulated financial institutions. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND TITLE 34, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 45, SO AS TO AUTHORIZE FINANCIAL INSTITUTIONS THAT DO BUSINESS IN SOUTH CAROLINA TO CONDUCT SAVINGS PROMOTION CONTESTS FOR MEMBERS AND CUSTOMERS OF THE FINANCIAL INSTITUTIONS, SUBJECT TO CERTAIN REQUIREMENTS, AND TO AUTHORIZE THE APPROPRIATE FEDERAL OR STATE REGULATORY AGENCY OF EACH FINANCIAL INSTITUTION TO OVERSEE THE CONDUCT OF THE CONTESTS AND ISSUE CEASE AND DESIST ORDERS WHEN NECESSARY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 34 of the 1976 Code is amended by adding:

“Chapter 45

Savings Promotion Contests

Section 34‑45‑10. The South Carolina General Assembly finds that:

(1) Savings promotion contests encourage people to save money by adding a feature to personal savings accounts that include a chance to win prizes;

(2) Savings promotion contests are not lotteries, because they do not require individuals to pay consideration for a chance to win a prize, and the individual maintains ownership of the money that is deposited into a savings or other qualifying account;

(3) The prizes are funded through the interest that accrues across the pool of savings accounts participating in a savings promotion contest;

(4) Federal law allows both depository financial institutions and credit unions to hold savings promotions contests, subject to certain conditions and authorization under state law;

(5) Savings promotion contests in other states and countries have led to an increase in the number and amount of funds in personal savings accounts; and

(6) It is in the best interest of the citizens of South Carolina to encourage increases in personal savings accounts.

Section 34‑45‑20. As used in this chapter, the following terms shall mean:

(1) ‘Appropriate state or federal regulatory agency of a financial institution’ means the South Carolina State Board of Financial Institutions, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve System, the National Credit Union Administration, or other state or federal regulatory agency that is statutorily responsible for the supervision of all or part of the operations of a participating financial institution.

(2) ‘Depositor’ means an individual member or customer of a financial institution who:

(a) maintains a qualifying account at a financial institution participating in a savings promotion contest;

(b) is in good standing at a financial institution authorized to do business in South Carolina; and

(c) is 18 years of age or older.

(3) ‘Entry’ means a chance or chances obtained by a depositor to win a designated prize or prizes in a savings promotion contest by complying with the terms and conditions of a savings promotion contest.

(4) ‘Financial Institution’ means a bank, a savings institution, or a credit union authorized to do business in South Carolina under federal or state law.

(5) ‘Participating financial institution’ means a financial institution authorized to do business in South Carolina that is sponsoring a savings promotion contest.

(6) ‘Qualifying account’ means:

(a) a savings account or other savings product or program offered by a participating financial institution into which deposits may be made by a depositor;

(b) the account is evidenced by periodic statements that are delivered to the depositor or are available to the depositor through electronic access; and

(c) the interest rate for the qualifying account is similar to, and not less than, the interest rates of other comparable non‑qualifying accounts.

(7) ‘Savings promotion contest’ means a contest or promotion sponsored by a financial institution or a group of financial institutions in which a chance of winning designated prizes is obtained by a depositor when the depositor (a) deposits a specified amount of money or makes a specified number of deposits into the depositor’s qualifying account; or (b) participates in one or more savings products or programs.

Section 34‑45‑30. A financial institution authorized to do business in South Carolina under federal or state law, subject to the supervision of the appropriate state or federal regulatory agency of the participating financial institution, may conduct a savings promotion contest in accordance with the provisions of this chapter and this title for the purposes of encouraging its depositors to maintain savings accounts and to increase personal savings.

Section 34‑45‑40. A participating financial institution may conduct a savings promotion contest for the benefit of its depositors only if all of the following conditions are met:

(1) The terms and conditions of the savings promotion contest must allow a depositor to obtain one or more entries to win a specified prize or prizes. Subject to any limits that the participating financial institution may place on the number of entries that a depositor is allowed to obtain for any savings promotion contest, as set forth in the terms and conditions of a specific savings promotion contest, the participating financial institution must allow a depositor to obtain an entry for a savings promotion contest only by doing either or both of the following:

(a) depositing a minimum specified amount of money or making a specified number of deposits into a qualifying account in accordance with the terms and conditions of a specific savings promotion contest;

(b) participating in one or more savings products or programs in accordance with the terms and conditions of a specific savings promotion contest.

(2) A savings promotion contest must comply with all applicable consumer protection laws.

(3) A participating financial institution conducting a savings promotion contest shall not require any depositor or other individual to pay a consideration for a chance of winning a prize or prizes designated in a savings promotion contest.

(4) A depositor does not make a payment for consideration if the depositing of a specified amount of money, the making of a specified number of deposits, or the participating in one or more savings programs or products are all made or involve the depositor’s accounts.

(5) Each entry in a savings promotion contest must have an equal chance of being drawn.

(6) Participating depositors in a savings promotion contest are not required to be present at a drawing to win a prize.

(7) A participating financial institution must maintain books and records necessary to facilitate an audit of a savings promotion contest and, upon written request, must provide those records to the appropriate state or federal regulatory agency of that financial institution.

(8) A participating financial institution must not conduct a savings promotion contest in a manner that jeopardizes the safety or soundness of the financial institution or misleads its depositors.

(9) A participating financial institution must post, online and in any location where entries may be submitted, the terms and conditions of the savings promotion contest.

Section 34‑45‑50. Each savings promotion contest is subject to oversight by the appropriate state or federal regulatory agency of the participating financial institution, and the appropriate state or federal regulatory agency may issue cease and desist orders relating to the savings promotion contests if the regulatory agency concludes, based on substantial evidence, that a financial institution is engaging in unsafe or unsound practices or that the financial institution is in violation of any law, regulation, or any condition or written agreement imposed by the regulatory agency.

Section 34‑45‑60. A savings promotion contest offered in accordance with this chapter is not nor does it promote unlawful gambling or an unlawful lottery or raffle.”

SECTION 2. This act takes effect upon approval by the Governor.

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