

SENATE BILL 886

I1, C3, E1

0lr0634
CF HB 990

By: ~~Senator Klausmeier~~ **Senators Klausmeier and Middleton**

Introduced and read first time: February 15, 2010

Assigned to: Rules

Re-referred to: Finance, February 19, 2010

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2010

CHAPTER _____

1 AN ACT concerning

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

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

21 BY repealing and reenacting, with amendments,
22 Article – Commercial Law
23 Section 13–305

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2009 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Criminal Law
5 Section 12–106
6 Annotated Code of Maryland
7 (2002 Volume and 2009 Supplement)

8 BY adding to
9 Article – Financial Institutions
10 Section 1–211 and 6–716
11 Annotated Code of Maryland
12 (2003 Replacement Volume and 2009 Supplement)

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

15 **Article – Commercial Law**

16 13–305.

17 (a) This section does not apply to:

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

20 (2) State lottery tickets issued under the authority of Title 9, Subtitle
21 1 of the State Government Article;

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

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

26 **OR**

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

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

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

5 (1) \$40; or

6 (2) The lesser of:

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

9 (ii) \$400.

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

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

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

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

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

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

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

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

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

31 (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

1 Property Article, the provisions of those laws or regulations shall apply if the
2 provisions are more stringent than this section.

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

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

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

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

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

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

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

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

20 (i) Purchase goods or services;

21 (ii) Pay any money; or

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

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

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

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

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

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

3 (ii) Pay any money; or

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

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

7 Article – Criminal Law

8 12–106.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **(IV) THE SAVINGS PROMOTION RAFFLE WILL NOT:**

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

11 **2. MISLEAD THE DEPOSITORY INSTITUTION'S**
12 **CUSTOMERS.**

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

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

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

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

22 **6-716.**

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

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

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

30 **(II) IS A MEMBER IN GOOD STANDING;**

1 (III) IS AN ADULT; AND

2 (IV) IS A RESIDENT OF THIS STATE.

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

6 (4) "SAVINGS PROMOTION RAFFLE" MEANS A PRIZE-LINKED
7 SAVINGS PRODUCT OFFERED BY A PARTICIPATING CREDIT UNION TO AN
8 ELIGIBLE CREDIT UNION MEMBER.

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

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

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

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

19 (4) THE SAVINGS PROMOTION RAFFLE WILL NOT:

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

22 (II) MISLEAD THE CREDIT UNION'S MEMBERS.

23 (C) THE COMMISSIONER MAY:

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2010, contingent on depository institutions that are subject to regulation by
30 the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the
31 Federal Deposit Insurance Corporation, or the Federal Reserve Board being allowed to

1 provide prize-linked savings products such as a savings promotion raffle authorized
 2 by this Act. The Commissioner of Financial Regulation shall monitor federal
 3 regulatory and legislative action relating to the authorization of depository
 4 institutions to provide prize-linked savings products such as savings promotion
 5 raffles, and shall notify the Department of Legislative Services within 30 days after
 6 learning that federal action has been taken to allow depository institutions to provide
 7 prize-linked products such as a savings promotion raffle authorized by this Act. If
 8 notice from the Commissioner is not received by the Department on or before October
 9 1, 2014, this Act shall be null and void without the necessity of further action by the
 10 General Assembly.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.