



Am. H.B. 506

124th General Assembly
(As Passed by the General Assembly)

- Reps.** Salerno, Husted, Wolpert, R. Miller, Allen, Setzer, G. Smith, Peterson, Webster, Reidelbach, Britton, Sykes, Blasdel, Schmidt, Evans, Hoops, Ogg, Sulzer, Beatty, Kilbane, Flowers, Hughes, McGregor, Collier, Raga, Coates, Kearns, Flannery, Lendrum, Perry, Barrett, Hartnett, Otterman, D. Miller, Cirelli, Widowfield, Clancy, DeBose
- Sens.** Spada, Prentiss, Carnes, Amstutz, Mallory, Brady, Hagan, Roberts, Harris, DiDonato

Effective date: *

ACT SUMMARY

- Lessens the number of participating credit unions necessary for licensure of a credit union share guaranty corporation.
- Authorizes a credit union share guaranty corporation to insure the share account of a nonmember of a credit union.
- Eliminates certain restrictions relative to who may constitute the majority of the board of directors of a credit union share guaranty corporation.
- Modifies the reporting requirements of credit unions participating in a credit union share guaranty corporation.
- Specifies that the guarantee fund of a credit union share guaranty corporation includes specified borrowings made in accordance with the Insurance Law.
- Modifies the investment authority of credit union share guaranty corporations.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Overview

Credit unions doing business in Ohio are required to obtain insurance for the protection of their members' accounts from either (1) the National Credit Union Administration, which is established and regulated by federal law, or (2) a credit union share guaranty corporation or other qualified insurer established and regulated by Ohio law (R.C. 1733.041, not in the act). The Credit Union Guaranty Corporations Law (R.C. Chapter 1761.) generally provides for the establishment and operation of credit union share guaranty corporations, licensing by the Department of Insurance, regulation by the Departments of Insurance and Commerce, eligibility requirements for participating credit unions, account insurance requirements, investment or deposit of funds requirements, reporting requirements, and enforcement provisions.

The act modifies the Credit Union Guaranty Corporations Law with respect to requirements for licensure as a credit union share guaranty corporation, participation by federally chartered credit unions, insurable accounts, composition of a board of directors of a credit union share guaranty corporation, reporting requirements, requirements of a guarantee fund of a credit union share guaranty corporation, and investment or deposit of credit union share guaranty corporation funds.

Requirements for licensure: number of participating credit unions

(R.C. 1761.05(A)(3))

Ongoing law requires that a credit union share guaranty corporation be licensed by the Department of Insurance. One of the conditions of licensure was that the applicant hold bona fide applications for participation in the corporation from at least 50 credit unions. If an applicant was seeking a renewal license as a credit union share guaranty corporation, the applicant also had to have at least 50 participating credit unions.

The act reduces to 30, the number of bona fide applications from participating credit unions necessary for original licensure of a credit union share guaranty corporation and the number of participating credit unions necessary for renewal licensure of a credit union share guaranty corporation.

Participation by federally chartered credit unions

(R.C. 1761.07)

Under ongoing law, credit unions chartered by the federal government are authorized to participate in a credit union share guaranty corporation provided specified conditions are met. One of these conditions is that participating credit unions insured by the National Credit Union Administration agree to furnish to the credit union share guaranty corporation copies of all financial and examination reports and other information about those credit unions necessary to accomplish the purposes of the credit union share guaranty corporation.

The act places a limitation on this condition, so that the furnishing of financial and examination reports and other information is required only "to the extent permitted by federal law or regulation."

Expanded insurance authority: nonmember accounts

(R.C. 1761.01, 1761.02(B), 1761.03, 1761.05(A), 1761.06, and 1761.09)

A credit union share guaranty corporation was authorized under prior law only to guarantee payment of a credit union share account of an individual member of a credit union.¹

The act permits a credit union share guaranty corporation to guarantee payment of a credit union share account of a *nonmember* of a credit union. (For background purposes, a credit union is authorized under ongoing law to receive funds for deposit from its members, from other credit unions, and from an officer, employee, or agent of the federal, state, or local governments, or political subdivisions of the state, in accordance with the terms established by the credit union's board of directors (R.C. 1733.24(A), not in the act).

Under the act, nonmember share accounts are (1) nonmember share accounts that are received by a participating credit union that has been designated by its supervisory authority as serving predominately low-income members, (2) share accounts of other credit unions, and (3) share accounts of public units or political subdivisions, "to the extent determined by the participating credit union's supervisory authority to be received by that credit union consistent with law."²

¹ "Credit union share account" means the funds deposited in any shares, accounts, deposits, or certificates of a participating credit union (R.C. 1761.01(D)).

² The act defines "supervisory authority" for purposes of this provision as (1) the Superintendent of Financial Institutions, if the credit union is doing business in Ohio, and

The act specifies that nonmember share accounts are subject to guaranty provided by the credit union share guaranty corporation *not exceeding* 20% of the aggregate share accounts of the participating credit union.

The act makes conforming changes in several other provisions of the Credit Union Guaranty Corporations Law to recognize the authority of credit union share guaranty corporations to insure nonmember accounts. These provisions relate to definitions; purposes, powers, and duties of credit union share guaranty corporations; licensure requirements; and guaranteed amounts of share accounts.

The act also authorizes a credit union share guaranty corporation to insure *deficiencies* in nonmember accounts. A "deficiency" is the difference between the insured amount of an individual member's or nonmember's account by a guarantee fund and proceeds from the liquidation of a participating credit union. This authority affects provisions of law relating to payments of these deficiencies by credit union share guaranty corporations with respect to capital contribution requirements of participating credit unions (R.C. 1761.10(A)(5)), taking possession or liquidation of a participating credit union (R.C. 1761.11, not in the act), taking possession of a credit union share guaranty corporation by the Superintendent of Financial Institutions or the Superintendent of Insurance for not fulfilling requirements (R.C. 1761.17, not in the act), and nonstate liability for payments of credit union share guaranty corporations (R.C. 1761.24, not in the act).

Composition of a board of directors

(R.C. 1761.02(D))

Prior law prohibited persons who were officers, directors, or employees of participating credit unions from constituting a majority on the board of directors of a credit union share guaranty corporation. The act eliminates this prohibition.

Under ongoing law, persons who receive from a credit union share guaranty corporation a commission, salary, or other emolument for services arising out of their association with the corporation are prohibited from constituting a majority of the membership on the board of directors of the corporation. The act specifies that this prohibition does not apply to persons who receive only an emolument consisting of fees or expense reimbursements for serving as a member of the board of directors of the corporation or of a committee of the board of directors.

(2) the official who regulates credit unions in another state, if the credit union is doing business in that state.



Reporting requirements

(R.C. 1761.08)

Prior law required each participating credit union to *monthly* submit to the credit union share guaranty corporation a copy of its financial statements, delinquent loan report, and any other information considered necessary by the corporation to assess the financial performance of that credit union. The act requires that these statements, reports, or other information be provided *quarterly or more frequently* as considered necessary by the credit union share guaranty corporation. In addition, the act specifies that financial statements provided by a participating credit union pursuant to this provision are public documents.

Requirements of a guarantee fund

(R.C. 1761.10)

A credit union share guaranty corporation is required by ongoing law to establish and maintain a guarantee fund. The fund is to be maintained at a normal operating level as defined by the corporation's board of directors and approved by the Superintendent of Insurance. However, the law specifies a minimum normal operating level that at all times is no less than 1% of the aggregate share capital of participating credit unions.

The guarantee fund of a credit union share guaranty corporation is to be composed of (1) the account for each participating credit union, (2) retained and undivided earnings, and (3) any reserves required by statute or order of the Superintendent of Financial Institutions. The act adds that the guarantee fund also must include any borrowings made in accordance with section 3901.72 of the Insurance Law. That statute, which is unchanged by the act, authorizes a domestic insurance company or health insuring corporation to accept from any person funds advanced to assist that company or corporation in carrying out its business or in complying with the law, or as a cash guarantee fund.

Investing or depositing of funds

(R.C. 1761.13)

Generally, a credit union share guaranty corporation is authorized under ongoing law to invest or deposit funds in (1) banks, (2) negotiable certificates of deposit and banker acceptances, (3) share certificates of deposit in, or any evidence of interest or indebtedness of, certain credit unions, (4) specified accounts of insured savings and loan associations, (5) United States government securities or federal government agency obligations, and (6) bonds or other evidences of indebtedness rated in the three highest categories by Standard and

Poor's or Moody's service that are not in default as to principal or interest and that are valid obligations issued, assumed, or guaranteed by any state, county, or municipal corporation of the United States.

Under ongoing law, a credit union share guaranty corporation also may invest or deposit funds in any investment expressly approved by the Superintendent of Financial Institutions and the Superintendent of Insurance, or permitted by administrative rule of the superintendents. Prior law provided that investments under this authority could not exceed 20% of the capital contributions of the credit union share guaranty corporation.

The act adds that a credit union share guaranty corporation may invest or deposit funds in bonds or other evidence of indebtedness rated in the three highest ratings by Standard and Poor's or Moody's service, that (1) are not in default as to principal or interest, and are valid obligations issued, assumed, or guaranteed by any *corporation* incorporated under the laws of the United States or a state, *and* (2) are permissible investments under the Insurance Law (section 3925.08(D)(1)) for the investment of accumulated funds or surplus by domestic (other than life) insurance companies. Such investments generally include bonds or other evidences of indebtedness issued by a business entity, if (1) the bonds or other evidences of indebtedness are rated 1 or 2 by the Securities Valuation Office of the National Association of Insurance Commissioners or (2) the business entity has been in existence for at least five years. However, under the act, a credit union share guaranty corporation is prohibited from investing in any such corporate security containing any provision of optionality, including, but not limited to, any derivative security. (Generally, a "derivative security" is a security the value of which depends in some way upon the value of underlying securities, such as a call option on a stock.)

With respect to the authority of a credit union share guaranty corporation to invest or deposit funds in any investment expressly approved by the Superintendent of Financial Institutions and the Superintendent of Insurance, or permitted by their administrative rules, the act specifies that such investments cannot exceed 20% of the sum of the capital contributions, retained and undivided earnings, and any borrowings made in accordance with section 3901.72 of the Insurance Law (see "*Requirements of a guarantee fund*," above).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-12-02	p. 1382
Reported, H. Financial Institutions	03-14-02	pp. 1550-1551
Passed House (94-0)	04-24-02	pp. 1711-1712
Reported, S. Finance & Financial Institutions	05-29-02	pp. 1841-1842
Passed Senate (33-0)	05-29-02	pp. 1848-1849
House concurred in Senate amendments (93-0)	05-30-02	p. 1876

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