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Bill Analysis
Legislative Service Commission

H.B. 506

124th General Assembly
(As Introduced)

Reps. Salerno, Husted, Wolpert, R. Miller, Allen, Setzer, G. Smith, Peterson, Webster, Reidelbach, Britton, Sykes

BILL SUMMARY

- Authorizes credit union share guaranty corporations to insure credit union share accounts of nonmembers of credit unions.
- Modifies eligibility requirements to serve on a board of directors of a credit union share guaranty corporation.
- Lessens the number of participating credit unions necessary for licensure of a credit union share guaranty corporation.
- Modifies the reporting duty of federally chartered credit unions seeking participation in a credit union share guaranty corporation and reporting requirements of all participating credit unions.
- Modifies the composition of a guarantee fund to include specified borrowings made in accordance with the Insurance Law.
- Authorizes credit union share guaranty corporations to invest or deposit funds in bonds or other evidences of indebtedness of corporations meeting specified conditions and modifies the authority of credit union share guaranty corporations to invest or deposit in investments authorized by the Superintendent of Financial Institutions or Superintendent of Insurance.

CONTENT AND OPERATION

Overview

Generally, Ohio-chartered credit unions are insured by (1) the National Credit Union Administration, which is established and regulated by federal law, or

(2) credit union share guaranty corporations or other qualified insurers that are established and regulated by Ohio law (sec. 1733.041, not in the bill). In Ohio, Chapter 1761. provides for regulation of credit union share guaranty corporations by the Department of Commerce and the Department of Insurance. This law generally provides for establishment and management of credit union share guaranty corporations, licensing by the Department of Insurance and regulation by the Department of Insurance and the Department of Commerce, eligibility requirements for participating credit unions, account insurance requirements, investment or deposit of funds requirements, reporting requirements, and enforcement provisions.

The bill modifies provisions of the Credit Union Guaranty Corporations Law relating to insurable accounts, composition of a board of directors of a credit union share guaranty corporation, eligibility requirements for licensure as a credit union share guaranty corporation, participation by federally chartered credit unions, 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. Each of these provisions is discussed below.

Expanded insurance authority; nonmember accounts

(secs. 1761.01, 1761.02(B), 1761.03, 1761.05(A), 1761.06, 1761.09, and 1761.10(A)(5))

Currently, a credit union share guaranty corporation is authorized to guarantee payment of a credit union share account of an individual member of a credit union.

The bill adds that a credit union share guaranty corporation may guarantee payment of a credit union share account of a *nonmember* of a credit union. The bill specifies that nonmember share accounts are subject to this guaranty in an amount not exceeding 20% of the aggregate share accounts of the participating credit union. Under the bill, nonmember share accounts are share accounts that are (1) received by a participating credit union that has been designated by its supervisory authority as serving predominantly 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 supervisory authority" to be received by that credit union consistent with law. (A "participating credit union" is a credit union that has applied for and been admitted to participation in a credit union share guaranty corporation, the participation of which has not been terminated (sec. 1761.01(J)). And "credit union supervisory authority" is defined as the official who regulates credit unions in another state (sec. 1761.01(G)).

The bill makes conforming changes in several provisions of the law to recognize the proposed 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 bill 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 in provisions about capital contribution requirements of participating credit unions (sec. 1761.10(A)(5)), taking possession or liquidation of a participating credit union (sec. 1761.11, not in the bill), taking possession of a credit union share guaranty corporation by the Superintendent of Credit Unions or the Superintendent of Insurance for not fulfilling requirements (sec. 1761.17, not in the bill), and nonstate liability for payments of credit union share guaranty corporations (sec. 1761.24, not in the bill).

Composition of board of directors of a credit union share guaranty corporation

(sec. 1761.02(D))

Current law prohibits certain persons from constituting a majority on the board of directors of a credit union share guaranty corporation. These include persons who are officers, directors, or employees of participating credit unions. The bill eliminates this prohibition.

Existing law also prohibits persons who receive a commission, salary, or other emolument for services arising out of their association with a credit union share guaranty corporation from constituting a majority of the membership on the board of directors of a credit union share guaranty corporation. The bill 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 credit union share guaranty corporation or of a committee of the board of directors.

Eligibility requirements for licensure

(sec. 1761.05(A)(3))

Current law requires that a credit union share guaranty corporation be licensed by the Department of Insurance and sets forth conditions for this licensure. One of the conditions is that the applicant for original licensure as a

credit union share guaranty corporation have bona fide applications for participation in the applicant seeking original licensure from at least 50 credit unions; these bona fide applications must become effective upon issuance of a license from the Superintendent of Insurance. If an applicant is seeking a renewal license as a credit union share guaranty corporation, the applicant also must have at least 50 participating credit unions.

The bill 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

(sec. 1761.07)

Under existing law, credit unions chartered by the federal government are authorized to participate in a credit union share guaranty corporation provided that specified conditions are met. One of these conditions is that participating credit unions insured by the federal 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 bill modifies this condition to specify that provision of the reports and other information by participating credit unions be only "to the extent permitted by federal law."

Reporting requirements

(sec. 1761.08)

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

Requirements of a guarantee fund

(sec. 1761.10)

A credit union share guaranty corporation is required by current 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. In addition, 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. However, current law specifies that the guarantee fund of the credit union share guaranty corporation is to be composed of (1) an 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 bill adds that the guarantee fund of a credit union share guaranty corporation also includes any borrowings made in accordance with the Insurance Law. That Law, which is unchanged by the bill, 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 with requirements of a cash guarantee fund. That Law also continues to specify additional requirements applicable to these borrowings and relating to (1) a maximum interest rate for the borrowing, (2) how the borrowings are to be treated for accounting purposes, (3) repayment of the borrowings, (4) approval of borrowings and repayments by the Superintendent of Insurance unless the borrowing is authorized by other law, (5) prohibited commissions or promotional expenses for the borrowings, and (6) reporting requirements.

Investing or depositing of funds by credit union share guaranty corporations

(sec. 1761.13)

Current law

Generally, a credit union share guaranty corporation is authorized under current 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, an Ohio-chartered credit union or federal insured credit union, (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 current law, a credit union share guaranty corporation also may invest or deposit funds in any investment expressly approved by the Superintendent of Financial Institutions or Superintendent of Insurance or permitted by administrative rules of the superintendents. The existing law provides that investments under this authority must not exceed 20% of the capital contributions of the credit union share guaranty corporation.

The bill

The bill 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 are not in default as to principal or interest and that are valid obligations issued, assumed, or guaranteed by any *corporation* incorporated under the laws of the United States or a state. These eligible investments also must be described in the Insurance Law regulating investment of accumulated funds or surplus by domestic (other than life) insurance companies. However, under the bill, 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.

In addition, the bill modifies 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 or the Superintendent of Insurance or permitted by the administrative rules of the superintendents. The bill adds that investments under this authority must not exceed the sum of 20% of capital contributions, retained and undivided earnings, and borrowings made in accordance with the Insurance Law authorizing a domestic insurance company or health insuring corporation to accept from any person funds advanced to assist the company or corporation for specified purposes (described above in "**Requirements of a guarantee fund**").

HISTORY

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