



Ohio Legislative Service Commission

Final Analysis

Carla Napolitano

H.B. 652

130th General Assembly
(As Passed by the General Assembly)

Reps. Batchelder and Hackett, Brenner, Brown, Antonio, Barnes, Boyce, Buchy, Celebrezze, Fedor, Gerberry, Green, C. Hagan, Hall, Letson, Mallory, Milkovich, O'Brien, Reece, Retherford, Ruhl, Schuring, Sears, Sprague

Sens. Kearney, Bacon, Balderson, Hughes, Manning, Obhof, Patton, Peterson, Schaffer, Seitz, Widener

Effective date: March 23, 2015

ACT SUMMARY

- Modifies the law governing credit union share guaranty corporations, including with respect to:
 - The primary guaranteed amount;
 - Reinsurance and lines of credit;
 - Investment authority;
 - Relationship with participating credit unions;
 - The collection of special premium assessments and capital contributions for purposes of a corporation's guarantee fund; and
 - Annual license renewals.

CONTENT AND OPERATION

Credit union share guaranty corporations

Primary guaranteed amount

The act increases the primary amount of coverage that can be provided by a credit union share guaranty corporation for each credit union share account. A credit

union share guaranty corporation is a corporation that guarantees payment of a credit union share account or otherwise issues credit union share guaranty insurance. Under the prior law, the primary guaranteed amount had to be at least the amount of the particular share account but not more than \$250,000. The act changes the maximum to \$250,000 *or* the primary guaranteed amount insured by the National Credit Union Administration (NCUA), *whichever is greater*.¹

Reinsurance and lines of credit

Under continuing law the Superintendent of Credit Unions or the Superintendent of Insurance may require a share guaranty corporation to obtain reinsurance or a line of credit if the respective superintendent finds that it is actuarially or financially necessary. The act adds an additional stipulation: the respective superintendent must also find that the reinsurance or line of credit is reasonably available to the corporation.²

Investment authority

The act modifies the investment authority of share guaranty corporations. First, it permits investment in the common stock of any federal home loan bank of which the corporation is a member, for the purpose of maintaining a line of credit or source of liquidity through borrowings from the bank, if the bank requires its members to purchase and hold its common stock referred to as:

--Membership stock, subject to an annual adjustment made by the bank based on the corporation's admitted total assets as reported in its filing with the Superintendent of Insurance; or

--Activity stock, as may be required by the bank whenever the corporation borrows from the bank and for as long as any of those funds remain outstanding.³

Additionally, the act limits investment in corporate stock. Under the prior law, a corporation was prohibited from taking a position in any corporate stock without the express written approval of the corporation's board of directors, the Superintendent of Credit Unions, and the Superintendent of Insurance. The act instead specifically permits investment in publicly traded preferred and common stocks, in an aggregate amount not to exceed the corporation's statutory unassigned surplus as reduced by its authorized control level risk-based capital, *if* the investment is one authorized under

¹ R.C. 1761.09 and R.C. 1761.01, not in the act.

² R.C. 1761.06(B).

³ R.C. 1761.13(A)(8).



existing law for domestic insurance companies other than life⁴ and the written approval of the board of directors and the superintendents is obtained.⁵ Risk-based capital is a method of measuring the minimum amount of capital appropriate for the corporation to support its overall business operations in consideration of its size and risk profile. Risk-based capital limits the amount of risk the corporation can take.⁶

Relationship with participating credit unions

Corrective action agreements

The act permits a share guaranty corporation to take additional actions if the corporation or the Superintendent of Credit Unions determines that a participating credit union is operating in an unsafe or unsound manner, that the financial statements examined by the corporation are unreliable, or that the credit union's investment in the corporation exceeds 5% of the corporation's fund. Under any of those circumstances, the corporation is authorized by the act to also enter into a written agreement of corrective action with the credit union, which agreement may include the Superintendent or appropriate credit union supervisory authority or the NCUA.⁷ If the credit union fails to comply with the agreement, the corporation may terminate the credit union's participating in the corporation.⁸

Advancement of funds

Under continuing law, a corporation may advance funds to aid participating credit unions to operate and to meet liquidity requirements. The act permits the advancement of funds for an additional purpose – to help credit unions meet regulatory capital requirements.⁹

Control of property

Continuing law permits a corporation to assume control of the property and business of a participating credit union until its financial stability has been reestablished or it has been liquidated or merged with another credit union, if so ordered by the

⁴ See R.C. 3925.08, not in the act.

⁵ R.C. 1761.13(E).

⁶ National Association of Insurance Commissioners, *Risk-Based Capital*, www.naic.org/cipr_topics/topic_risk_based_capital.htm.

⁷ R.C. 1761.08(E).

⁸ R.C. 1761.12.

⁹ R.C. 1761.06(A)(3).

Superintendent of Credit Unions. The act additionally permits a corporation to assume control on the order of another credit union supervisory authority.¹⁰

Guarantee fund

Capital contributions

A share guaranty corporation is required under continuing law to establish a guarantee fund and maintain it at a normal operating level defined by the corporation's board of directors and approved by the Superintendent of Insurance. Participating credit unions must make capital contributions to the corporation to maintain that normal operating level. Under prior law, a corporation could levy and collect additions to the capital contribution as the board of directors considered appropriate, but had to notify the Superintendent of Credit Unions and the Superintendent of Insurance of the additions. Under the act, such additions instead require the approval of both superintendents.¹¹

Special premium assessments

The act permits corporations to also levy on participating credit unions and collect any special premium assessments the corporation's board of directors considers necessary when the guarantee fund has experienced, or is expected to experience, a net loss for any one year. The Superintendent of Credit Unions and the Superintendent of Insurance must approve of the special assessment. Within 30 days after receipt of that approval, the corporation is required to send a written notice of the assessment to each participating credit union, and the assessment must be paid not later than 30 days after receipt of the notice. If a corporation fails to collect such assessments, the Superintendent of Credit Unions or the Superintendent of Insurance may take possession of the property and business of the corporation until it does so.

With the approval of the Superintendent of Insurance, the corporation may declare and pay a cash dividend to those credit unions that have paid special premium assessments if they are participating credit unions as of the date of the declaration. The amount of the dividend allocable to a credit union is to be determined based on the proportion of the special premium assessments paid by the credit union as compared to the total of all special premium assessments collected by the corporation.¹²

¹⁰ R.C. 1761.06(A)(4).

¹¹ R.C. 1761.10(A) and (B)(1).

¹² R.C. 1761.10(D) and 1761.17.



Annual license renewals

Under the act, a share guaranty corporation is required to renew its license on or before June 30 of each year, rather than on the anniversary date of the issuance of its original license, as was required under the prior law.¹³

HISTORY

ACTION	DATE
Introduced	11-05-14
Reported, H. Financial Institutions, Housing & Urban Development	11-19-14
Passed House (93-0)	11-19-14
Reported, S. Insurance & Financial Institutions	12-04-14
Passed Senate (32-0)	12-04-14

14-HB652-130.docx/ks

¹³ R.C. 1761.05(D).

