



# Ohio Legislative Service Commission

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## Bill Analysis

Nick Thomas

### **H.B. 652\***

130th General Assembly

(As Reported by S. Insurance and Financial Institutions)

**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

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## **BILL 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.

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\* This analysis was prepared before the report of the Senate Insurance and Financial Institutions Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### Credit union share guaranty corporations

#### Primary guaranteed amount

The bill 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. Currently, the primary guaranteed amount must be at least the amount of the particular share account but not more than \$250,000. The bill changes the maximum to \$250,000 *or* the primary guaranteed amount insured by the National Credit Union Administration (NCUA), *whichever is greater*.<sup>1</sup>

#### Reinsurance and lines of credit

The Superintendent of Credit Unions or the Superintendent of Insurance currently 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 bill adds an additional stipulation: the respective superintendent must also find that the reinsurance or line of credit is reasonably available to the corporation.<sup>2</sup>

#### Investment authority

The bill 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.<sup>3</sup>

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<sup>1</sup> R.C. 1761.09 and R.C. 1761.01, not in the bill.

<sup>2</sup> R.C. 1761.06(B).

<sup>3</sup> R.C. 1761.13(A)(8).



Additionally, the bill limits investment in corporate stock. Under current law, a corporation is 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 bill 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 existing law for domestic insurance companies other than life<sup>4</sup> *and* the written approval of the board of directors and the superintendents is obtained.<sup>5</sup> 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.<sup>6</sup>

## **Relationship with participating credit unions**

### **Corrective action agreements**

The bill 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 bill 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.<sup>7</sup> If the credit union fails to comply with the agreement, the corporation may terminate the credit union's participating in the corporation.<sup>8</sup>

### **Advancement of funds**

Under current law, a corporation may advance funds to aid participating credit unions to operate and to meet liquidity requirements. The bill permits the advancement

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<sup>4</sup> See R.C. 3925.08, not in the bill.

<sup>5</sup> R.C. 1761.13(E).

<sup>6</sup> National Association of Insurance Commissioners, *Risk-Based Capital*, [http://www.naic.org/cipr\\_topics/topic\\_risk\\_based\\_capital.htm](http://www.naic.org/cipr_topics/topic_risk_based_capital.htm) (accessed November 10, 2014).

<sup>7</sup> R.C. 1761.08(E).

<sup>8</sup> R.C. 1761.12.



of funds for an additional purpose – to help credit unions meet regulatory capital requirements.<sup>9</sup>

### **Control of property**

Existing 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 Superintendent of Credit Unions. The bill permits a corporation to assume control on the order of another credit union supervisory authority.<sup>10</sup>

### **Guarantee fund**

#### **Capital contributions**

A share guaranty corporation is required under current 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. A corporation can levy and collect additions to the capital contribution as the board of directors considers appropriate, but must notify the Superintendent of Credit Unions and the Superintendent of Insurance of the additions. Under the bill, such additions instead require the approval of both superintendents.<sup>11</sup>

#### **Special premium assessments**

The bill 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.

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<sup>9</sup> R.C. 1761.06(A)(3).

<sup>10</sup> R.C. 1761.06(A)(4).

<sup>11</sup> R.C. 1761.10(A) and (B)(1).



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.<sup>12</sup>

### **Annual license renewals**

Under the bill, 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 is required under current law.<sup>13</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
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	---

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<sup>12</sup> R.C. 1761.10(D) and 1761.17.

<sup>13</sup> R.C. 1761.05(D).

