
HOUSE BILL 2127

State of Washington

54th Legislature

1996 Regular Session

By Representatives L. Thomas, Huff, Robertson, Sterk and Dyer

Read first time 01/08/96. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to funding the credit union share guaranty
2 association; amending RCW 31.12A.010, 31.12A.050, and 31.12A.940;
3 creating new sections; providing an effective date; and declaring an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that credit unions are
7 presently in good financial condition, and that the Washington credit
8 union share guaranty association has successfully resolved the small
9 credit union failures that have occurred since its inception. However,
10 the legislature also finds that now, in a period of financial stability
11 for credit unions, it is appropriate to improve the ability of the
12 guaranty association to protect depositors in the event of future
13 problems. The legislature intends to improve the liquidity of the
14 guaranty association and its ability to respond to potential problems
15 rapidly by having the association maintain a reserve, rather than the
16 individual member credit unions.

17 **Sec. 2.** RCW 31.12A.010 and 1994 c 92 s 225 are each amended to
18 read as follows:

1 As used in this chapter, unless the context otherwise requires, the
2 terms defined in this section shall have the meanings indicated.

3 (1) "Assessment" means the amount levied by the association against
4 its members in order to carry out its stated purposes.

5 (2) "Association" means the credit union share guaranty association
6 created in RCW 31.12A.020.

7 (3) "Board" means board of directors of the guaranty association.

8 (4) "Contracted guarantees" means those liabilities specifically
9 agreed to by the association for providing assistance to member credit
10 unions or for indemnifying any other entity against loss because of its
11 participation in the absorption or liquidation of a distressed member
12 credit union.

13 (5) "Credit union" means a credit union organized and authorized
14 under laws contained in chapter 31.12 RCW, as now or hereafter amended.

15 (6) "Director" means the director of financial institutions.

16 (7) "Initial member" means a member qualified by the director
17 within sixty days after September 1, 1975, but not yet ratified by the
18 board.

19 (8) "Member" means a member of the guaranty association, ratified
20 by the board.

21 (9) "Share account" of a credit union shareholder includes the
22 share and/or deposit accounts and the share and/or deposit certificates
23 of which the shareholder is owner of record with the credit union.

24 (10) "Shareholder" includes both members and nonmembers of a credit
25 union, who have either shares and/or deposits in the credit union,
26 including deposits of deferred compensation as referred to in RCW
27 31.12.125(10).

28 (11) (~~("Transfer" means entering on the credit union's books of~~
29 ~~account a decrease to one account and a corresponding increase to~~
30 ~~another account)) "Share guaranty association contingency reserve" or
31 "contingency reserve" means an account controlled and administered by
32 the association into which payments from member credit unions under RCW
33 31.12A.050 are deposited.~~

34 **Sec. 3.** RCW 31.12A.050 and 1994 c 92 s 227 are each amended to
35 read as follows:

36 (1) Funding of the association shall be by (~~transfers to~~) payment
37 by members into a share guaranty association contingency reserve as
38 follows:

1 (a) Credit unions approved by the director and ratified by the
2 board for membership subsequent to those initial members shall
3 ~~((establish a))~~ pay into the share guaranty association contingency
4 reserve ~~((by transferring from their guaranty fund))~~ an amount equal to
5 ~~((one-half of))~~ one percent of the total guaranteeable outstanding
6 share and deposit balances as of the date of membership or the
7 effective date of this act, whichever is later. When one member credit
8 union is merged into another member credit union, the continuing credit
9 union shall include in its share guaranty contingency reserve payment
10 amount the share guaranty contingency reserve payment amount of the
11 merged credit union. A nonmember credit union merging with a member
12 credit union must ~~((transfer))~~ pay into the share guaranty contingency
13 reserve ~~((of the continuing credit union))~~ an amount equal to ~~((one-~~
14 ~~half of))~~ one percent of the total guaranteeable outstanding share and
15 deposit balances of the nonmember credit union as of the effective date
16 of the merger, as determined by the director.

17 (b) On the first business day of each year, member credit unions
18 shall ~~((make a transfer of))~~ pay into the contingency reserve an amount
19 sufficient to adjust the member's portion of the contingency reserve to
20 a level of ~~((one-half of))~~ one percent of the guaranteeable outstanding
21 share and deposit balances as of December 31st of the previous year.
22 If the member's guaranteeable outstanding share and deposit balances
23 decrease from the previous year, and no moneys were spent from the
24 contingency reserve, any excess which may then ~~((appear))~~ exist in the
25 contingency reserve ~~((may be transferred to the guaranty fund))~~ due to
26 the decrease in the pro rata share of the member's obligation may be
27 returned to the member.

28 (c) The board may require one additional ~~((transfer))~~ payment into
29 the contingency reserve during the calendar year of an amount not to
30 exceed ~~((one-half of))~~ one percent of the guaranteeable outstanding
31 share and deposit balances as of December 31st of the previous year.
32 Credit unions which have merged during the year and credit unions which
33 have joined during the year will be subject to the one additional
34 ~~((transfer))~~ payment, even if that required ~~((transfer))~~ payment
35 occurred before ratification of the joining member or the merger of the
36 two credit unions. The ~~((transfer))~~ payment will be based on the
37 guaranteeable share and deposit balances of those credit unions as of
38 the following dates:

39 (i) For new members, the balances as of the date of membership;

1 (ii) For members that merge, the sum of the balances as of December
2 31st of the previous year;

3 (iii) For a nonmember merging with a member, the sum of the
4 member's balances as of December 31st of the previous year, and of the
5 nonmember's balances as of the effective date of the merger.

6 (2) (~~Sums specified in subsection (1) of this section may be~~
7 ~~offset from the statutory transfer requirement to the guaranty fund and~~
8 ~~shall be retained in the credit union share guaranty contingency~~
9 ~~reserve as an integral part of its guaranty fund until such time and if~~
10 ~~necessary to be drawn for the purposes set forth in this chapter~~) The
11 association shall establish and administer the share guaranty
12 association contingency reserve to receive payments under subsection
13 (1) of this section and to expend funds to carry out the purposes of
14 this chapter. The association shall ensure a minimum balance in the
15 contingency reserve of one percent of the guaranteeable outstanding
16 share and deposit balances of all members each year as provided under
17 subsection (1)(b) of this section. If the funds in the contingency
18 reserve for any year, after payments are made under subsection (1)(b)
19 and (c) of this section, are insufficient to meet the obligations of
20 the association for that year and any previously unmet obligations, the
21 association shall fulfill obligations owed to depositors or
22 shareholders from previous years first. The association shall keep an
23 ongoing record of each member's pro rata share of funds in the
24 contingency reserve, including payments made into the contingency
25 reserve by each member and amounts expended from the contingency
26 reserve prorated by member.

27 (3) (~~Members~~) Share guaranty association contingency reserve
28 funds shall be invested in very short-term investments by the
29 association as permitted in the bylaws of the association and in
30 consultation with the department.

31 (4) The board, in concurrence with the director, may also suspend
32 or diminish the (~~transfer~~) payment in any given period after reaching
33 a normal operating sufficiency as provided in the bylaws.

34 (5) Membership in this association may be terminated upon approval
35 by a majority of the credit union members responding to such a proposal
36 and subject further to acceptance by the national credit union
37 administration of continued share insurance coverage under the national
38 credit union administration share insurance program. Notice of such
39 intentions shall be in writing to the association's board of directors

1 at least twelve months prior to such contemplated action: PROVIDED,
2 That in the event that the credit union board has voted to recommend to
3 the membership liquidation, conversion from state to federal credit
4 union charter, or merger with or conversion to a credit union organized
5 under the laws of another state, the liquidating, converting, or
6 merging member will notify the association in writing within seven days
7 after the credit union board has taken such action. Share guarantee
8 coverage through the association will terminate with the effective date
9 of the new charter or completion of the liquidation or merger as
10 determined by the director.

11 (6) Except for a credit union merging with a member credit union,
12 any credit union terminating membership in the association shall be
13 assessed its pro rata share of the difference, if any, between the
14 association's current liability for contracted guarantees and the
15 amount from previous assessments currently held for contracted
16 guarantees by the association. Such difference shall be determined by
17 the director at the time the membership is terminated. If the amount
18 of the assessment exceeds the amount of the actual obligation when
19 finalized, the excess shall be refunded in the same proportion as paid.

20 **Sec. 4.** RCW 31.12A.940 and 1975 1st ex.s. c 80 s 20 are each
21 amended to read as follows:

22 If any clause, sentence, paragraph, section or part of this ((act))
23 chapter shall for any reason be adjudged by any court of competent
24 jurisdiction to be invalid, such judgment shall not affect, impair or
25 invalidate the remainder thereof but shall be confined in its operation
26 to the clause, sentence, paragraph, section or part thereof directly
27 involved in the controversy in which such judgment has been rendered.

28 NEW SECTION. **Sec. 5.** The Washington credit union share guaranty
29 association shall amend the bylaws and take other actions necessary for
30 the timely implementation of this act.

31 NEW SECTION. **Sec. 6.** (1) Sections 1 through 4 of this act take
32 effect July 1, 1997.

33 (2) Section 5 of this act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect immediately.

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