

AN ACT

To amend sections 1761.05, 1761.06, 1761.08, 1761.09, 1761.10, 1761.12, 1761.13, and 1761.17 of the Revised Code relative to the operation of credit union share guaranty corporations, including with respect to the primary guaranteed amount, license renewals, reinsurance and lines of credit, corrective action agreements with participating credit unions, special premium assessments, and investments.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1761.05, 1761.06, 1761.08, 1761.09, 1761.10, 1761.12, 1761.13, and 1761.17 of the Revised Code be amended to read as follows:

Sec. 1761.05. (A) No person shall guarantee to a credit union payment of a credit union share account of an individual member or, as described in division (B)(2) of section 1761.02 of the Revised Code, a nonmember of a credit union or otherwise issue or effect credit union share guaranty insurance until the superintendent of insurance has licensed it to do so as a credit union share guaranty corporation under this chapter. Such license shall not be issued or renewed unless an applicant for a license or a credit union share guaranty corporation satisfies the following conditions:

(1) The articles of incorporation of the applicant or corporation, and any amendments thereto, are filed with and approved by the secretary of state and the attorney general;

(2) The articles of incorporation and the bylaws of the applicant or corporation, and any amendments thereto, are consistent with the provisions of this chapter and those chapters of Title XXXIX of the Revised Code specified in division (A) of section 1761.04 of the Revised Code, and are approved by the superintendent of insurance;

(3) The applicant holds bona fide applications for participation in the corporation from at least thirty credit unions which shall become effective immediately upon issuance of the license, or, in the case of a renewal of

such license, the corporation has at least thirty participating credit unions;

(4) The applicant or corporation maintains a reserve for guarantee losses in compliance with section 1761.15 of the Revised Code;

(5) The applicant or corporation has capital deposits in a principal sum no less than five million dollars and such capital deposits are invested in compliance with section 1761.13 of the Revised Code;

(6) The applicant or corporation submits an audited financial statement verified by the oath of the president and secretary of the corporation, which demonstrates the corporation's compliance with generally accepted accounting principles, and the applicant or corporation submits an annual statement in accordance with sections 3929.30 and 3941.29 of the Revised Code that demonstrates the applicant's or corporation's solvency according to principles of statutory accounting;

(7) The superintendent of credit unions certifies in writing to the superintendent of insurance that the applicant or corporation is in compliance with this chapter;

(8) The applicant or corporation is in compliance with those chapters of Title XXXIX of the Revised Code specified in division (A) of section 1761.04 of the Revised Code as determined by the superintendent of insurance.

(B) The superintendent shall issue, renew, refuse to renew, or deny the license required by this section by written order issued within thirty days after receipt of the application. The superintendent shall issue or renew the license if the conditions set forth in division (A) of this section are satisfied.

(C) In the event the superintendent determines to refuse to renew or deny the license, the superintendent shall specify all reasons for the refusal or denial in the superintendent's written order and shall set the matter for hearing under Chapter 119. of the Revised Code within thirty days after issuance of that written order. At such hearing, the applicant or credit union share guaranty corporation may present evidence to demonstrate its ability to satisfy the conditions required for the issuance or renewal of a license under division (A) of this section. Within twenty days after the conclusion of the hearing, the superintendent shall issue a final order either issuing, renewing, refusing to renew, or denying the license. The final order shall comply with the requirements of an adjudication order under Chapter 119. of the Revised Code. The applicant or credit union share guaranty corporation aggrieved by the final order may appeal in accordance with Chapter 119. of the Revised Code.

(D) The license required by this section shall be renewable annually on or before the anniversary date of the issuance of the original license thirtieth

day of June.

Sec. 1761.06. (A) In carrying out its general purposes as set forth in section 1761.03 of the Revised Code, a credit union share guaranty corporation may do any of the following:

(1) Guarantee to participating credit unions the payment of any deficiency in the individual member's or, as described in division (B)(2) of section 1761.02 of the Revised Code, a nonmember's credit union share accounts caused by insolvency or any other reason;

(2) Issue credit union share guaranty insurance policies or otherwise effect credit union share guaranty insurance;

(3) Advance funds in accordance with agreed lending terms and conditions to aid participating credit unions to operate and to meet liquidity requirements, regulatory capital requirements, or both;

(4) Upon the written order of the superintendent of credit unions or other credit union supervisory authority, and at such compensation as shall be agreed upon, the corporation may assume control of the property and business of any participating credit union and operate it at the direction of the superintendent or other authority until its financial stability has been reestablished to the satisfaction of the superintendent or other authority, or the credit union has been liquidated or merged into another credit union;

(5) Assist in the merger, consolidation, or liquidation of credit unions;

(6) Purchase or otherwise acquire, lease as lessee, invest in, hold, use, lease as lessor, encumber, sell, exchange, transfer, and dispose of property of any description or any interest therein;

(7) Borrow money, and issue, sell, and pledge its notes, bonds, and other evidences of indebtedness, and secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property, and guarantee or secure obligations of participating credit unions, subject to section 3901.72 of the Revised Code;

(8) Enter into contracts of insurance or reinsurance, insuring in whole or in part its contractual guarantees to participating credit unions and any other insurance or bonding company contracts necessary or advisable in the conduct of its business, provided a credit union share guaranty corporation shall not assume as reinsurer any risks from another insurer;

(9) Receive money or other property from its participating credit unions, or any person;

(10) Invest its funds as provided in section 1761.13 of the Revised Code;

(11) Receive by assignment, mortgage, or purchase any asset or interest therein owned or held by a participating credit union;

(12) Sell, assign, mortgage, encumber, or transfer property of any nature;

(13) Conduct investigations, examinations, and audits of any applicant or participating credit union in order to determine the financial condition and operations of the applicant or participating credit union;

(14) Become a member or shareholder in any organization, domestic or foreign, regional or national, organized and operated for the purpose of assisting the corporation in carrying out its purposes and, subject to the approval of the superintendent of credit unions, delegate to such organization any one or more of the functions for which it is responsible under this chapter;

(15) Conduct its affairs in and outside of this state, provided it shall maintain its offices, books, and records in the location stated in its articles of incorporation as its principal place of business.

(B) The corporation may obtain, and continuously maintain in effect, reinsurance and a line of credit, each from one or more insurance companies or financial institutions and in such amount as determined by its board of directors. The superintendent of credit unions or the superintendent of insurance may require the corporation to obtain and maintain reinsurance or a line of credit but only in the event the superintendent of credit unions or the superintendent of insurance first finds that such reinsurance or line of credit is actuarially or financially necessary and is reasonably available to the corporation. Such determination shall be made on a year-to-year basis.

In the event of lapse of either reinsurance or the line of credit of the corporation, the corporation shall immediately notify the superintendent of credit unions, the superintendent of insurance, the president of the senate, and the speaker of the house of representatives, and shall confirm this communication in writing.

(C) All written communication with regulatory significance from a credit union supervisory authority of another state to the corporation shall be copied and such copy shall be sent by the corporation to the superintendent of credit unions and the superintendent of insurance within three days of receipt.

(D) The corporation shall not publicly represent in any manner that it is an agency of the state or federal government. Any public representations of the corporation's status or legal existence are further subject to rules adopted by the superintendent of credit unions and the superintendent of insurance.

(E) The corporation shall submit its standard contract of share guaranty, and any amendments thereto, to the superintendent of credit unions and the superintendent of insurance annually. The contract of share guaranty shall

reflect all terms governing the guarantee of payment of a credit union share account and shall constitute the policy of credit union share guaranty insurance.

Sec. 1761.08. (A)(1) In order to permit the credit union share guaranty corporation to assess the financial condition and performance of a credit union, upon the written request of the corporation, the superintendent of credit unions or other credit union supervisory authority or the national credit union administration may furnish to the corporation a copy of unaudited financial statements filed by a participating credit union or a credit union making application to participate in the corporation pursuant to divisions (B) and (C) of section 1733.32 of the Revised Code or a comparable state or federal statute or of any examination reports of the superintendent or other credit union supervisory authority which were prepared pursuant to division (A) of section 1733.32 of the Revised Code or a comparable state or federal statute.

(2) There shall be no liability on the part of, and no cause of action of any nature shall arise against this state or any state, the superintendent of credit unions or other credit union supervisory authority, or the national credit union administration for the release of any information furnished to the corporation pursuant to this division.

(3) Financial statements and analyses furnished to the corporation pursuant to division (A) of this section are not public documents, and the information contained therein is privileged and confidential to the corporation for its sole use in carrying out its statutory functions.

(B)(1) Each participating credit union shall submit to the credit union share guaranty corporation quarterly, or more frequently as considered necessary by the corporation, a copy of its financial statements, delinquent loan report, and any other information considered necessary by the credit union share guaranty corporation in order to assess the financial performance of the participating credit union. The corporation may require that participating credit unions submit financial information in the format required by the corporation.

(2) Financial statements submitted to the corporation by participating credit unions pursuant to division (B)(1) of this section are public documents.

(C) Each participating credit union shall submit to the credit union share guaranty corporation upon written request of the corporation any other information as is necessary to effect the corporation's purposes.

(D)(1) In addition to other powers conferred in this chapter a credit union share guaranty corporation may do the following:

(a) Appoint an independent certified public accountant or public accountant to prepare an audit report containing audited financial statements together with such other information as the corporation, in good faith, requires regarding the financial condition of any participating credit union;

(b) Upon notification to its participating credit union and after notice to the superintendent of credit unions, or other credit union supervisory authority, or the national credit union administration, send a specialized employee to investigate the operations of a participating credit union.

(2) Costs and expenses for an audit report or special investigation report under division (D)(1)(a) of this section shall be paid by the corporation.

(E)(1) Upon determination by the superintendent of credit unions or the credit union share guaranty corporation that a participating credit union is operating in an unsafe or unsound manner, or that financial statements, delinquent loan reports, and other data received or examined by the corporation is unreliable or the participating credit union investment in the corporation is in excess of five per cent of the corporation's fund, the corporation shall require that an audit of the books and records of the participating credit union be conducted. The audit shall be completed in accordance with generally accepted auditing standards, and include such testing of the records necessary to render an opinion of an independent certified public accountant.

(2) If the report, certificate, or opinion of the independent accountant, as described in division (E)(1) of this section, is in any way qualified, the corporation shall require the credit union to take such action as the corporation considers necessary to permit an independent accountant to remove such qualification from the report, certificate, or opinion. If such qualification is not remedied within the time period designated, the corporation shall report such qualification in writing to the superintendent within three days thereof.

(3) In addition to other action described in this division, the corporation may do the following:

(a) Recommend appropriate corrective measures to the operational policies and procedures of the participating credit unions;

(b) Enter into a written agreement of corrective action with any participating credit union, which agreement may include the superintendent or appropriate credit union supervisory authority or the national credit union administration;

(c) Make appropriate recommendations to the superintendent or appropriate credit union supervisory authority or the national credit union administration including the recommendation that the participating credit

union be liquidated or consolidated;

~~(e)~~(d) Submit reports and make recommendations to the superintendent of credit unions, other credit union supervisory authority, or the national credit union administration regarding the financial condition of any participating credit union. Such reports and recommendations are not public documents.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the corporation or its participating credit unions, directors, officers, employees, or agents, or the superintendent or other credit union supervisory authority or the national credit union administration, for any statements made by them in any reports or recommendations made in accordance with division (E) of this section.

(F) When an examination or investigation of any participating credit union is considered necessary for good cause shown by the superintendent of credit unions under this chapter, the corporation shall pay to the superintendent of credit unions the cost thereof, including the salary or other compensation paid to the persons making the examination or rendering special services and overhead cost incurred in connection with the examination or investigation as fixed by the superintendent. In determining the costs of services or examinations, the superintendent may use the estimated hourly cost for all persons performing services for, or examinations of, the corporation for the fiscal year. Travel expenses shall be paid by the division of financial institutions.

(G) Neither the corporation nor any participating credit union, as an agent of the corporation or of its participating credit unions, or any other person shall use information obtained under division (A), (B), (C), (D), or (E) of this section for any purpose not authorized by this section. The conviction for violation of this division by any person located outside this state shall be reported to the appropriate credit union supervisory authority or the national credit union administration for prosecution under the laws of that jurisdiction.

Sec. 1761.09. (A) Each credit union share account of an individual member or, as described in division (B)(2) of section 1761.02 of the Revised Code, a nonmember of a participating credit union shall be guaranteed in amounts established from time to time by the credit union share guaranty corporation. Such primary guaranteed amount shall not be less than the amount of the credit union share account but, in no event, shall exceed two hundred fifty thousand dollars or the primary guaranteed amount insured by the national credit union administration, whichever is greater.

(B) In addition to the primary guaranteed amount, the corporation may

establish an excess coverage guarantee for the benefit of those participating credit unions that voluntarily elect to obtain such additional guarantee.

(C) The guarantees provided pursuant to this chapter do not apply to credit union share accounts until the credit union has applied for and been admitted as a participating credit union, and cease to apply to the share accounts of any credit union upon the later of any of the following:

(1) The termination of the credit union's participation in the corporation pursuant to section 1761.12 of the Revised Code;

(2) The completion of the liquidation of the credit union;

(3) The withdrawal of the credit union from participation in the corporation.

Sec. 1761.10. (A)(1) A credit union share guaranty corporation shall establish and maintain a guarantee fund. The fund shall be maintained at a normal operating level as defined by the board of directors of the corporation and approved by the superintendent of insurance, except that the normal operating level shall at all times be no less than one per cent of the aggregate share capital of participating credit unions, irrespective of how denominated. The fund of the corporation shall be comprised of the following:

(a) The account for each participating credit union;

(b) Retained and undivided earnings;

(c) Any reserves required by statute or order of the superintendent of credit unions;

(d) Borrowings made in accordance with section 3901.72 of the Revised Code.

(2)(a) Each participating credit union shall contribute to and maintain with the corporation a capital contribution to be credited to its account, in an amount equal to at least one per cent of its aggregate share capital as is established as the normal operating level of the fund by the board of directors pursuant to division (A)(1) of this section and approved by the superintendent of insurance. Each participating credit union's account shall be adjusted annually to reflect changes in the participating credit union's aggregate share capital in accordance with procedures adopted by the board of directors and may be adjusted more frequently if an increase in the aggregate share capital or a change in the financial condition of the participating credit union warrants such adjustment. Those credit unions participating in excess coverage shall pay a premium as prescribed by the board of directors of the corporation and as filed and approved under Chapter 3937. of the Revised Code.

(b) The approval of the superintendent of insurance concerning the

normal operating level of the guarantee fund expires upon written determination by the superintendent of insurance that there is cause for additions to the guarantee fund. This determination is not subject to any hearing requirement under Chapter 119. of the Revised Code, provided a credit union guaranty corporation may request a supervisory conference under section 1761.19 of the Revised Code.

(3) If, at the close of a fiscal year, the guarantee fund exceeds the normal operating level determined by the board of directors of a credit union share guaranty corporation, the board of directors may make a distribution of the excess to participating credit unions. Any distribution shall be made to each participating credit union in the proportion that each participating credit union's account bears to the total aggregate participating credit union accounts of the corporation. No determination by the board of directors is effective until approved by the superintendent of insurance. No distribution shall be made, nor shall it confer any rights, until approved by the superintendent of insurance.

(4) The amount of the account of each participating credit union shall be carried on the books of the individual participant as a deposit with the corporation.

(5) Notwithstanding any other provision of this chapter, the corporation shall require the participating credit unions to make capital contributions to maintain the normal operating level set by division (A)(1) of this section during any calendar year in which the fund has been reduced below the minimum operating level as a result of payment of any deficiencies in credit union share accounts.

(B)(1) The corporation may annually or more frequently levy and collect additions to the capital contribution as the board of directors of the corporation considers appropriate. ~~The corporation shall notify, if~~ the superintendent of credit unions and the superintendent of insurance approve of such additions. Whenever the superintendent of credit unions or the superintendent of insurance considers it necessary for the maintenance of the normal operating level of the fund, the superintendent shall order the corporation to levy and collect additions to the capital contributions. Such order shall specify the amount of the addition and the reasons upon which the order is based.

(2) The corporation shall send a written notice of capital contributions required pursuant to division (B)(1) of this section to each participating credit union within ten days after the levy of any capital contributions. Capital contributions shall be paid to the corporation by each participating credit union not later than thirty days following mailing of written notice of

any required capital contribution.

(C)(1) In the event of potential impairment of the fund, a special assessment of the fund may be levied by the corporation with the approval of the superintendent of credit unions or the superintendent of insurance. Impairment for this purpose is deemed to exist when the corporation's liabilities and share capital exceed its assets. Whenever the superintendent of credit unions or the superintendent of insurance considers it necessary to avoid an impairment of the fund, the superintendent shall order the corporation to levy a special assessment. Such order shall specify the amount of the assessment and the reasons upon which the order is based.

(2) The corporation shall send a written notice of the special assessment required pursuant to division (C)(1) of this section to each participating credit union within ten days after the levy thereof. Special assessments shall be paid to the corporation by each participating credit union not later than thirty days following mailing of written notice of any special assessment unless for good cause shown the time period is extended.

(D)(1) The corporation may annually, or more frequently, levy on and collect special premium assessments from participating credit unions as the board of directors of the corporation considers necessary when the guarantee fund has experienced, or is expected to experience, a net loss for any one year, if the superintendent of credit unions and the superintendent of insurance approve of the special premium assessment.

(2) The corporation shall send a written notice of the special premium assessment levied under division (D)(1) of this section to each participating credit union within thirty days after receipt of the approval of the superintendent of credit unions and the superintendent of insurance to charge the assessment. Special premium assessments shall be paid to the corporation by each participating credit union not later than thirty days after receipt of the notice of the assessment.

(3)(a) With the written approval of the superintendent of insurance, the corporation may declare and pay a cash dividend to those participating credit unions that are participating credit unions as of the date of the declaration and that have paid special premium assessments to the corporation. The amount of the dividend allocable to a participating credit union shall 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.

(b) The superintendent shall approve or disapprove a corporation's request for approval to pay a cash dividend as provided in division (D)(3)(a) of this section within thirty days after receiving the corporation's request for

approval.

(E) A report of each capital contribution that may be required pursuant to division (B) of this section shall be made to the superintendent of credit unions and the superintendent of insurance within ninety days of the special assessment levy. A report of each special assessment or special premium assessment that is required pursuant to division (C) or (D) of this section shall be made to the superintendent of credit unions and the superintendent of insurance within ten days after mailing the written notice thereof to participating credit unions.

~~(E)~~(F)(1) In the event any participating credit union fails to pay an annual capital contribution when due, the corporation shall report such default in writing to the superintendent of credit unions and the superintendent of insurance and the appropriate credit union supervisory authority or the national credit union administration within twenty-four hours of such default, and shall revoke after thirty days' notice the participating credit union's participation in the corporation, unless good cause is shown for the delay.

(2) In the event any participating credit union fails to pay any additional capital contribution, premium, fee, or assessment when due, the corporation shall report such default in writing to the superintendent of credit unions and the superintendent of insurance and the appropriate credit union supervisory authority or the national credit union administration within twenty-four hours of such default, and shall revoke after thirty days' notice the participating credit union's participation in the corporation, unless good cause is shown for the delay.

(3) The thirty-day notice of revocation required under divisions ~~(E)~~(F)(1) and (2) of this section does not apply to the revocation of excess coverage.

~~(F)~~(G) Any participating credit union that is voluntarily liquidated, any participating credit union that withdraws from participation in the corporation and obtains a different form of share guaranty or insurance pursuant to section 1733.041 of the Revised Code or similar state statute, or any participating credit union that merges with another credit union that becomes the surviving credit union whose shares are guaranteed or insured by a different form of guaranty or insurance may be refunded in an amount equal to the balance of its capital contribution account. Such reimbursement of a participating credit union's capital contribution account balance shall be paid only if and when the guarantee fund exceeds its normal operating level as calculated without the account of the withdrawing credit union.

~~(G)~~(H) In the event of a merger of two or more participating credit

unions where the surviving credit union is to be insured by the corporation, the funds in the capital contribution account of each credit union shall be transferred to the account of the surviving credit union.

~~(H)~~(I) If a credit union share guaranty corporation is dissolved, the net assets after settling any recorded, contingent, and contractual liabilities, and all costs of dissolution shall be distributed to the participating credit unions in accordance with their share balances, less any outstanding debts owed to the corporation.

Sec. 1761.12. (A) A credit union share guaranty corporation may terminate the participation in the corporation of a participating credit union for any of the following reasons:

(1) The participating credit union fails to satisfy the risk eligibility standards established by the corporation and applicable to all applying and participating credit unions;

(2) The participating credit union otherwise operates in an unsafe and unsound manner as determined by the corporation;

(3) The participating credit union fails to furnish financial statements, delinquent loan reports, or other information considered necessary by the corporation under division (B) or (C) of section 1761.08 of the Revised Code;

(4) The participating credit union fails to remedy in a timely manner a qualification arising from an audit under division (E) of section 1761.08 of the Revised Code;

(5) The participating credit union fails to pay when due a capital contribution or applicable premium, fee, or assessment under section 1761.10 of the Revised Code;

(6) The participating credit union fails to comply with any provision of this chapter ~~or~~, the articles of incorporation or bylaws of the corporation, or any corrective action agreement executed between the participating credit union and the corporation;

(7) Continued participation would result in a violation of this chapter or other applicable state or federal law by the corporation.

(B)(1) The credit union share guaranty corporation shall, at least thirty days prior to the effective date of any termination, notify in writing the participating credit union to be terminated and the superintendent of credit unions, any other credit union supervisory authority, or the national credit union administration of the pending termination and the reasons for such termination.

(2) The thirty-day notice of termination required under division (B)(1) of this section does not apply to the termination of excess coverage.

Sec. 1761.13. (A) A credit union share guaranty corporation shall invest or deposit its funds in the following manner:

(1) In banks incorporated under the laws of this or any other state, or the United States;

(2) In negotiable certificates of deposit and bankers acceptances;

(3) In share certificates deposited in or any form of evidence of interest or indebtedness of any credit union organized under Chapter 1733. of the Revised Code or comparable state law if insured, or whose member accounts are insured as provided for by Title II of the "Federal Credit Union Act," 84 Stat. 994, (1970), 12 U.S.C.A. 1781, as amended, or by comparable insurance. No investment under division (A)(3) of this section shall be in a participating credit union.

(4) In accounts with, investment certificates or withdrawable shares of, any savings and loan association that is an insured institution as defined by Title IV of the "National Housing Act," 48 Stat. 1255 (1934), 12 U.S.C.A. 1724, as amended.

(5) In United States government securities or United States government agency obligations;

(6) In bonds or other evidence of indebtedness rated in the three highest ratings of Standard and Poor's or Moody's service, not in default as to principal or interest, that are valid obligations issued, assumed, or guaranteed by any state, county, or municipal corporation of the United States;

(7) In bonds or other evidence of indebtedness rated in the three highest ratings by Standard and Poor's or Moody's service, not in default as to principal or interest, that are valid obligations issued, assumed, or guaranteed by any corporation incorporated under the laws of the United States or a state and described in division (D)(1) of section 3925.08 of the Revised Code. However, a credit union share guaranty corporation shall not invest in any such corporate security containing any provision of optionality, including, but not limited to, any derivative security.

(8) 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 either of the following:

(a) Membership stock, subject to an annual adjustment made by the bank based on the corporation's admitted total assets as reported in its filings with the superintendent of insurance;

(b) 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.

(9) In any other investments that are expressly approved by the superintendent of credit unions and the superintendent of insurance or are permitted by rules adopted by the superintendents pursuant to division (C) of section 1761.04 of the Revised Code, but such other investments shall not exceed twenty per cent of the sum of the capital contributions, retained and undivided earnings, and any borrowings made in accordance with section 3901.72 of the Revised Code of the corporation. The superintendents shall not permit the corporation to make any investment in any unrelated corporation or unrelated subsidiary without the prior written approval of the superintendent of credit unions and the superintendent of insurance.

(B) The maximum investment in securities of any one corporation shall not exceed ten per cent of the guarantee fund at the time the investment is made.

(C) The corporation's directors, officers, committee members, and employees, and immediate family members of such individuals, are prohibited from receiving pecuniary or any other type of consideration in connection with the making of an investment or deposit by the corporation.

(D) Within thirty days of appointment, each officer, agent, or employee having control or access to funds or securities owned by or pledged with a credit union share guaranty corporation shall be provided with fidelity bond coverage by the corporation in an amount commensurate with the risk involved.

(E) ~~The corporation shall not take a position in any corporate stock without~~ With the express written approval of the board of directors and the superintendent of credit unions and the superintendent of insurance, the corporation may invest in publicly traded preferred and common stocks, as permitted by section 3925.08 of the Revised Code, in an aggregate amount not to exceed the corporation's statutory unassigned surplus as reduced by its authorized control level risk-based capital.

Sec. 1761.17. (A) The superintendent of credit unions or the superintendent of insurance may forthwith take possession of the property and business of the credit union share guaranty corporation and retain possession until the corporation satisfies the superintendent that it will operate in conformity with this chapter whenever it appears to the superintendent that the corporation has done any of the following:

(1) Failed to pay the annual fee required by division (B) of section 1761.04 of the Revised Code;

(2) Not paid deficiencies up to the maximum guaranteed amount within

the time frame set forth in section 1761.11 of the Revised Code;

(3) Invested its funds in violation of section 1761.13 of the Revised Code;

(4) Not collected required capital contributions ~~or~~, special assessments, or special premium assessments in accordance with section 1761.10 of the Revised Code;

(5) Knowingly violated any cease-and-desist order;

(6) Neglected or refused to submit any item specifically required by the superintendent under this chapter to the inspection of any examiner or other agent of the superintendent.

(B) During the time the superintendent of credit unions retains possession of the property and business of the corporation pursuant to division (A) of this section, ~~he~~ the superintendent shall perform the duties and carry out the obligations of the corporation.

(C) Whenever the superintendent has taken possession of the property and business of the corporation, if it considers itself aggrieved thereby, the corporation may, within ten days after such taking, apply to the common pleas court of Franklin county to enjoin further proceedings. The court, after citing the superintendent to show cause why further proceedings should not be enjoined, and after a hearing and a determination of the facts upon the merits, may dismiss such application or enjoin the superintendent from further proceedings and direct ~~him~~ the superintendent to surrender the property and business to the corporation, or make such further order as may be just.

(D) An appeal may be taken from the judgment of the court by the superintendent or by the corporation in the manner provided by law for appeals from the judgment of a court of common pleas. An appeal from the judgment of the court shall not operate as a stay of the judgment unless the court, on good cause, so orders.

(E) Any action by the superintendent of insurance to take possession of the property and business of a credit union share guaranty corporation shall be under Chapter 3903. of the Revised Code.

SECTION 2. That existing sections 1761.05, 1761.06, 1761.08, 1761.09, 1761.10, 1761.12, 1761.13, and 1761.17 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

H. B. No. 652

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____