

As Introduced

**130th General Assembly
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S. B. No. 390

Senator Hughes

Cosponsor: Senator Seitz

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A B I L L

To amend sections 1761.05, 1761.06, 1761.08, 1761.09, 1
1761.10, 1761.12, 1761.13, and 1761.17 of the 2
Revised Code relative to the operation of credit 3
union share guaranty corporations, including with 4
respect to the primary guaranteed amount, license 5
renewals, reinsurance and lines of credit, 6
corrective action agreements with participating 7
credit unions, special premium assessments, and 8
investments. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1761.05, 1761.06, 1761.08, 1761.09, 10
1761.10, 1761.12, 1761.13, and 1761.17 of the Revised Code be 11
amended to read as follows: 12

Sec. 1761.05. (A) No person shall guarantee to a credit union 13
payment of a credit union share account of an individual member 14
or, as described in division (B)(2) of section 1761.02 of the 15
Revised Code, a nonmember of a credit union or otherwise issue or 16
effect credit union share guaranty insurance until the 17
superintendent of insurance has licensed it to do so as a credit 18
union share guaranty corporation under this chapter. Such license 19

shall not be issued or renewed unless an applicant for a license 20
or a credit union share guaranty corporation satisfies the 21
following conditions: 22

(1) The articles of incorporation of the applicant or 23
corporation, and any amendments thereto, are filed with and 24
approved by the secretary of state and the attorney general; 25

(2) The articles of incorporation and the bylaws of the 26
applicant or corporation, and any amendments thereto, are 27
consistent with the provisions of this chapter and those chapters 28
of Title XXXIX of the Revised Code specified in division (A) of 29
section 1761.04 of the Revised Code, and are approved by the 30
superintendent of insurance; 31

(3) The applicant holds bona fide applications for 32
participation in the corporation from at least thirty credit 33
unions which shall become effective immediately upon issuance of 34
the license, or, in the case of a renewal of such license, the 35
corporation has at least thirty participating credit unions; 36

(4) The applicant or corporation maintains a reserve for 37
guarantee losses in compliance with section 1761.15 of the Revised 38
Code; 39

(5) The applicant or corporation has capital deposits in a 40
principal sum no less than five million dollars and such capital 41
deposits are invested in compliance with section 1761.13 of the 42
Revised Code; 43

(6) The applicant or corporation submits an audited financial 44
statement verified by the oath of the president and secretary of 45
the corporation, which demonstrates the corporation's compliance 46
with generally accepted accounting principles, and the applicant 47
or corporation submits an annual statement in accordance with 48
sections 3929.30 and 3941.29 of the Revised Code that demonstrates 49
the applicant's or corporation's solvency according to principles 50

of statutory accounting; 51

(7) The superintendent of credit unions certifies in writing 52
to the superintendent of insurance that the applicant or 53
corporation is in compliance with this chapter; 54

(8) The applicant or corporation is in compliance with those 55
chapters of Title XXXIX of the Revised Code specified in division 56
(A) of section 1761.04 of the Revised Code as determined by the 57
superintendent of insurance. 58

(B) The superintendent shall issue, renew, refuse to renew, 59
or deny the license required by this section by written order 60
issued within thirty days after receipt of the application. The 61
superintendent shall issue or renew the license if the conditions 62
set forth in division (A) of this section are satisfied. 63

(C) In the event the superintendent determines to refuse to 64
renew or deny the license, the superintendent shall specify all 65
reasons for the refusal or denial in the superintendent's written 66
order and shall set the matter for hearing under Chapter 119. of 67
the Revised Code within thirty days after issuance of that written 68
order. At such hearing, the applicant or credit union share 69
guaranty corporation may present evidence to demonstrate its 70
ability to satisfy the conditions required for the issuance or 71
renewal of a license under division (A) of this section. Within 72
twenty days after the conclusion of the hearing, the 73
superintendent shall issue a final order either issuing, renewing, 74
refusing to renew, or denying the license. The final order shall 75
comply with the requirements of an adjudication order under 76
Chapter 119. of the Revised Code. The applicant or credit union 77
share guaranty corporation aggrieved by the final order may appeal 78
in accordance with Chapter 119. of the Revised Code. 79

(D) The license required by this section shall be renewable 80
annually on or before the ~~anniversary date of the issuance of the~~ 81

~~original license thirtieth day of June.~~ 82

Sec. 1761.06. (A) In carrying out its general purposes as set 83
forth in section 1761.03 of the Revised Code, a credit union share 84
guaranty corporation may do any of the following: 85

(1) Guarantee to participating credit unions the payment of 86
any deficiency in the individual member's or, as described in 87
division (B)(2) of section 1761.02 of the Revised Code, a 88
nonmember's credit union share accounts caused by insolvency or 89
any other reason; 90

(2) Issue credit union share guaranty insurance policies or 91
otherwise effect credit union share guaranty insurance; 92

(3) Advance funds in accordance with agreed lending terms and 93
conditions to aid participating credit unions to operate and to 94
meet liquidity requirements, regulatory capital requirements, or 95
both; 96

(4) Upon the written order of the superintendent of credit 97
unions or other credit union supervisory authority, and at such 98
compensation as shall be agreed upon, the corporation may assume 99
control of the property and business of any participating credit 100
union and operate it at the direction of the superintendent or 101
other authority until its financial stability has been 102
reestablished to the satisfaction of the superintendent or other 103
authority, or the credit union has been liquidated or merged into 104
another credit union; 105

(5) Assist in the merger, consolidation, or liquidation of 106
credit unions; 107

(6) Purchase or otherwise acquire, lease as lessee, invest 108
in, hold, use, lease as lessor, encumber, sell, exchange, 109
transfer, and dispose of property of any description or any 110
interest therein; 111

(7) Borrow money, and issue, sell, and pledge its notes,	112
bonds, and other evidences of indebtedness, and secure any of its	113
obligations by mortgage, pledge, or deed of trust of all or any of	114
its property, and guarantee or secure obligations of participating	115
credit unions, subject to section 3901.72 of the Revised Code;	116
(8) Enter into contracts of insurance or reinsurance,	117
insuring in whole or in part its contractual guarantees to	118
participating credit unions and any other insurance or bonding	119
company contracts necessary or advisable in the conduct of its	120
business, provided a credit union share guaranty corporation shall	121
not assume as reinsurer any risks from another insurer;	122
(9) Receive money or other property from its participating	123
credit unions, or any person;	124
(10) Invest its funds as provided in section 1761.13 of the	125
Revised Code;	126
(11) Receive by assignment, mortgage, or purchase any asset	127
or interest therein owned or held by a participating credit union;	128
(12) Sell, assign, mortgage, encumber, or transfer property	129
of any nature;	130
(13) Conduct investigations, examinations, and audits of any	131
applicant or participating credit union in order to determine the	132
financial condition and operations of the applicant or	133
participating credit union;	134
(14) Become a member or shareholder in any organization,	135
domestic or foreign, regional or national, organized and operated	136
for the purpose of assisting the corporation in carrying out its	137
purposes and, subject to the approval of the superintendent of	138
credit unions, delegate to such organization any one or more of	139
the functions for which it is responsible under this chapter;	140
(15) Conduct its affairs in and outside of this state,	141

provided it shall maintain its offices, books, and records in the 142
location stated in its articles of incorporation as its principal 143
place of business. 144

(B) The corporation may obtain, and continuously maintain in 145
effect, reinsurance and a line of credit, each from one or more 146
insurance companies or financial institutions and in such amount 147
as determined by its board of directors. The superintendent of 148
credit unions or the superintendent of insurance may require the 149
corporation to obtain and maintain reinsurance or a line of credit 150
but only in the event the superintendent of credit unions or the 151
superintendent of insurance first finds that such reinsurance or 152
line of credit is actuarially or financially necessary and is 153
reasonably available to the corporation. Such determination shall 154
be made on a year-to-year basis. 155

In the event of lapse of either reinsurance or the line of 156
credit of the corporation, the corporation shall immediately 157
notify the superintendent of credit unions, the superintendent of 158
insurance, the president of the senate, and the speaker of the 159
house of representatives, and shall confirm this communication in 160
writing. 161

(C) All written communication with regulatory significance 162
from a credit union supervisory authority of another state to the 163
corporation shall be copied and such copy shall be sent by the 164
corporation to the superintendent of credit unions and the 165
superintendent of insurance within three days of receipt. 166

(D) The corporation shall not publicly represent in any 167
manner that it is an agency of the state or federal government. 168
Any public representations of the corporation's status or legal 169
existence are further subject to rules adopted by the 170
superintendent of credit unions and the superintendent of 171
insurance. 172

(E) The corporation shall submit its standard contract of 173
share guaranty, and any amendments thereto, to the superintendent 174
of credit unions and the superintendent of insurance annually. The 175
contract of share guaranty shall reflect all terms governing the 176
guarantee of payment of a credit union share account and shall 177
constitute the policy of credit union share guaranty insurance. 178

Sec. 1761.08. (A)(1) In order to permit the credit union 179
share guaranty corporation to assess the financial condition and 180
performance of a credit union, upon the written request of the 181
corporation, the superintendent of credit unions or other credit 182
union supervisory authority or the national credit union 183
administration may furnish to the corporation a copy of unaudited 184
financial statements filed by a participating credit union or a 185
credit union making application to participate in the corporation 186
pursuant to divisions (B) and (C) of section 1733.32 of the 187
Revised Code or a comparable state or federal statute or of any 188
examination reports of the superintendent or other credit union 189
supervisory authority which were prepared pursuant to division (A) 190
of section 1733.32 of the Revised Code or a comparable state or 191
federal statute. 192

(2) There shall be no liability on the part of, and no cause 193
of action of any nature shall arise against this state or any 194
state, the superintendent of credit unions or other credit union 195
supervisory authority, or the national credit union administration 196
for the release of any information furnished to the corporation 197
pursuant to this division. 198

(3) Financial statements and analyses furnished to the 199
corporation pursuant to division (A) of this section are not 200
public documents, and the information contained therein is 201
privileged and confidential to the corporation for its sole use in 202
carrying out its statutory functions. 203

(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 266
credit union administration including the recommendation that the 267
participating credit union be liquidated or consolidated; 268

~~(e)~~(d) Submit reports and make recommendations to the 269
superintendent of credit unions, other credit union supervisory 270
authority, or the national credit union administration regarding 271
the financial condition of any participating credit union. Such 272
reports and recommendations are not public documents. 273

(4) There shall be no liability on the part of, and no cause 274
of action of any nature shall arise against, the corporation or 275
its participating credit unions, directors, officers, employees, 276
or agents, or the superintendent or other credit union supervisory 277
authority or the national credit union administration, for any 278
statements made by them in any reports or recommendations made in 279
accordance with division (E) of this section. 280

(F) When an examination or investigation of any participating 281
credit union is considered necessary for good cause shown by the 282
superintendent of credit unions under this chapter, the 283
corporation shall pay to the superintendent of credit unions the 284
cost thereof, including the salary or other compensation paid to 285
the persons making the examination or rendering special services 286
and overhead cost incurred in connection with the examination or 287
investigation as fixed by the superintendent. In determining the 288
costs of services or examinations, the superintendent may use the 289
estimated hourly cost for all persons performing services for, or 290
examinations of, the corporation for the fiscal year. Travel 291
expenses shall be paid by the division of financial institutions. 292

(G) Neither the corporation nor any participating credit 293
union, as an agent of the corporation or of its participating 294
credit unions, or any other person shall use information obtained 295
under division (A), (B), (C), (D), or (E) of this section for any 296
purpose not authorized by this section. The conviction for 297

violation of this division by any person located outside this 298
state shall be reported to the appropriate credit union 299
supervisory authority or the national credit union administration 300
for prosecution under the laws of that jurisdiction. 301

Sec. 1761.09. (A) Each credit union share account of an 302
individual member or, as described in division (B)(2) of section 303
1761.02 of the Revised Code, a nonmember of a participating credit 304
union shall be guaranteed in amounts established from time to time 305
by the credit union share guaranty corporation. Such primary 306
guaranteed amount shall not be less than the amount of the credit 307
union share account but, in no event, shall exceed two hundred 308
fifty thousand dollars or the primary guaranteed amount insured by 309
the national credit union administration, whichever is greater. 310

(B) In addition to the primary guaranteed amount, the 311
corporation may establish an excess coverage guarantee for the 312
benefit of those participating credit unions that voluntarily 313
elect to obtain such additional guarantee. 314

(C) The guarantees provided pursuant to this chapter do not 315
apply to credit union share accounts until the credit union has 316
applied for and been admitted as a participating credit union, and 317
cease to apply to the share accounts of any credit union upon the 318
later of any of the following: 319

(1) The termination of the credit union's participation in 320
the corporation pursuant to section 1761.12 of the Revised Code; 321

(2) The completion of the liquidation of the credit union; 322

(3) The withdrawal of the credit union from participation in 323
the corporation. 324

Sec. 1761.10. (A)(1) A credit union share guaranty 325
corporation shall establish and maintain a guarantee fund. The 326
fund shall be maintained at a normal operating level as defined by 327

the board of directors of the corporation and approved by the 328
superintendent of insurance, except that the normal operating 329
level shall at all times be no less than one per cent of the 330
aggregate share capital of participating credit unions, 331
irrespective of how denominated. The fund of the corporation shall 332
be comprised of the following: 333

(a) The account for each participating credit union; 334

(b) Retained and undivided earnings; 335

(c) Any reserves required by statute or order of the 336
superintendent of credit unions; 337

(d) Borrowings made in accordance with section 3901.72 of the 338
Revised Code. 339

(2)(a) Each participating credit union shall contribute to 340
and maintain with the corporation a capital contribution to be 341
credited to its account, in an amount equal to at least one per 342
cent of its aggregate share capital as is established as the 343
normal operating level of the fund by the board of directors 344
pursuant to division (A)(1) of this section and approved by the 345
superintendent of insurance. Each participating credit union's 346
account shall be adjusted annually to reflect changes in the 347
participating credit union's aggregate share capital in accordance 348
with procedures adopted by the board of directors and may be 349
adjusted more frequently if an increase in the aggregate share 350
capital or a change in the financial condition of the 351
participating credit union warrants such adjustment. Those credit 352
unions participating in excess coverage shall pay a premium as 353
prescribed by the board of directors of the corporation and as 354
filed and approved under Chapter 3937. of the Revised Code. 355

(b) The approval of the superintendent of insurance 356
concerning the normal operating level of the guarantee fund 357
expires upon written determination by the superintendent of 358

insurance that there is cause for additions to the guarantee fund. 359
This determination is not subject to any hearing requirement under 360
Chapter 119. of the Revised Code, provided a credit union guaranty 361
corporation may request a supervisory conference under section 362
1761.19 of the Revised Code. 363

(3) If, at the close of a fiscal year, the guarantee fund 364
exceeds the normal operating level determined by the board of 365
directors of a credit union share guaranty corporation, the board 366
of directors may make a distribution of the excess to 367
participating credit unions. Any distribution shall be made to 368
each participating credit union in the proportion that each 369
participating credit union's account bears to the total aggregate 370
participating credit union accounts of the corporation. No 371
determination by the board of directors is effective until 372
approved by the superintendent of insurance. No distribution shall 373
be made, nor shall it confer any rights, until approved by the 374
superintendent of insurance. 375

(4) The amount of the account of each participating credit 376
union shall be carried on the books of the individual participant 377
as a deposit with the corporation. 378

(5) Notwithstanding any other provision of this chapter, the 379
corporation shall require the participating credit unions to make 380
capital contributions to maintain the normal operating level set 381
by division (A)(1) of this section during any calendar year in 382
which the fund has been reduced below the minimum operating level 383
as a result of payment of any deficiencies in credit union share 384
accounts. 385

(B)(1) The corporation may annually or more frequently levy 386
and collect additions to the capital contribution as the board of 387
directors of the corporation considers appropriate. ~~The~~ 388
~~corporation shall notify, if~~ the superintendent of credit unions 389
and the superintendent of insurance approve of such additions. 390

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 423
on and collect special premium assessments from participating 424
credit unions as the board of directors of the corporation 425
considers necessary when the guarantee fund has experienced, or is 426
expected to experience, a net loss for any one year, if the 427
superintendent of credit unions and the superintendent of 428
insurance approve of the special premium assessment. 429

(2) The corporation shall send a written notice of the 430
special premium assessment levied under division (D)(1) of this 431
section to each participating credit union within thirty days 432
after receipt of the approval of the superintendent of credit 433
unions and the superintendent of insurance to charge the 434
assessment. Special premium assessments shall be paid to the 435
corporation by each participating credit union not later than 436
thirty days after receipt of the notice of the assessment. 437

(3)(a) With the written approval of the superintendent of 438
insurance, the corporation may declare and pay a cash dividend to 439
those participating credit unions that are participating credit 440
unions as of the date of the declaration and that have paid 441
special premium assessments to the corporation. The amount of the 442
dividend allocable to a participating credit union shall be 443
determined based on the proportion of the special premium 444
assessments paid by the credit union as compared to the total of 445
all special premium assessments collected by the corporation. 446

(b) The superintendent shall approve or disapprove a 447
corporation's request for approval to pay a cash dividend as 448
provided in division (D)(3)(a) of this section within thirty days 449
after receiving the corporation's request for approval. 450

(E) A report of each capital contribution that may be 451
required pursuant to division (B) of this section shall be made to 452
the superintendent of credit unions and the superintendent of 453
insurance within ninety days of the special assessment levy. A 454

report of each special assessment or special premium assessment 455
that is required pursuant to division (C) or (D) of this section 456
shall be made to the superintendent of credit unions and the 457
superintendent of insurance within ten days after mailing the 458
written notice thereof to participating credit unions. 459

~~(E)~~(F)(1) In the event any participating credit union fails 460
to pay an annual capital contribution when due, the corporation 461
shall report such default in writing to the superintendent of 462
credit unions and the superintendent of insurance and the 463
appropriate credit union supervisory authority or the national 464
credit union administration within twenty-four hours of such 465
default, and shall revoke after thirty days' notice the 466
participating credit union's participation in the corporation, 467
unless good cause is shown for the delay. 468

(2) In the event any participating credit union fails to pay 469
any additional capital contribution, premium, fee, or assessment 470
when due, the corporation shall report such default in writing to 471
the superintendent of credit unions and the superintendent of 472
insurance and the appropriate credit union supervisory authority 473
or the national credit union administration within twenty-four 474
hours of such default, and shall revoke after thirty days' notice 475
the participating credit union's participation in the corporation, 476
unless good cause is shown for the delay. 477

(3) The thirty-day notice of revocation required under 478
divisions ~~(E)~~(F)(1) and (2) of this section does not apply to the 479
revocation of excess coverage. 480

~~(F)~~(G) Any participating credit union that is voluntarily 481
liquidated, any participating credit union that withdraws from 482
participation in the corporation and obtains a different form of 483
share guaranty or insurance pursuant to section 1733.041 of the 484
Revised Code or similar state statute, or any participating credit 485
union that merges with another credit union that becomes the 486

surviving credit union whose shares are guaranteed or insured by a 487
different form of guaranty or insurance may be refunded in an 488
amount equal to the balance of its capital contribution account. 489
Such reimbursement of a participating credit union's capital 490
contribution account balance shall be paid only if and when the 491
guarantee fund exceeds its normal operating level as calculated 492
without the account of the withdrawing credit union. 493

~~(G)~~(H) In the event of a merger of two or more participating 494
credit unions where the surviving credit union is to be insured by 495
the corporation, the funds in the capital contribution account of 496
each credit union shall be transferred to the account of the 497
surviving credit union. 498

~~(H)~~(I) If a credit union share guaranty corporation is 499
dissolved, the net assets after settling any recorded, contingent, 500
and contractual liabilities, and all costs of dissolution shall be 501
distributed to the participating credit unions in accordance with 502
their share balances, less any outstanding debts owed to the 503
corporation. 504

Sec. 1761.12. (A) A credit union share guaranty corporation 505
may terminate the participation in the corporation of a 506
participating credit union for any of the following reasons: 507

(1) The participating credit union fails to satisfy the risk 508
eligibility standards established by the corporation and 509
applicable to all applying and participating credit unions; 510

(2) The participating credit union otherwise operates in an 511
unsafe and unsound manner as determined by the corporation; 512

(3) The participating credit union fails to furnish financial 513
statements, delinquent loan reports, or other information 514
considered necessary by the corporation under division (B) or (C) 515
of section 1761.08 of the Revised Code; 516

(4) The participating credit union fails to remedy in a 517
timely manner a qualification arising from an audit under division 518
(E) of section 1761.08 of the Revised Code; 519

(5) The participating credit union fails to pay when due a 520
capital contribution or applicable premium, fee, or assessment 521
under section 1761.10 of the Revised Code; 522

(6) The participating credit union fails to comply with any 523
provision of this chapter ~~or~~, the articles of incorporation or 524
bylaws of the corporation, or any corrective action agreement 525
executed between the participating credit union and the 526
corporation; 527

(7) Continued participation would result in a violation of 528
this chapter or other applicable state or federal law by the 529
corporation. 530

(B)(1) The credit union share guaranty corporation shall, at 531
least thirty days prior to the effective date of any termination, 532
notify in writing the participating credit union to be terminated 533
and the superintendent of credit unions, any other credit union 534
supervisory authority, or the national credit union administration 535
of the pending termination and the reasons for such termination. 536

(2) The thirty-day notice of termination required under 537
division (B)(1) of this section does not apply to the termination 538
of excess coverage. 539

Sec. 1761.13. (A) A credit union share guaranty corporation 540
shall invest or deposit its funds in the following manner: 541

(1) In banks incorporated under the laws of this or any other 542
state, or the United States; 543

(2) In negotiable certificates of deposit and bankers 544
acceptances; 545

(3) In share certificates deposited in or any form of 546

evidence of interest or indebtedness of any credit union organized 547
under Chapter 1733. of the Revised Code or comparable state law if 548
insured, or whose member accounts are insured as provided for by 549
Title II of the "Federal Credit Union Act," 84 Stat. 994, (1970), 550
12 U.S.C.A. 1781, as amended, or by comparable insurance. No 551
investment under division (A)(3) of this section shall be in a 552
participating credit union. 553

(4) In accounts with, investment certificates or withdrawable 554
shares of, any savings and loan association that is an insured 555
institution as defined by Title IV of the "National Housing Act," 556
48 Stat. 1255 (1934), 12 U.S.C.A. 1724, as amended. 557

(5) In United States government securities or United States 558
government agency obligations; 559

(6) In bonds or other evidence of indebtedness rated in the 560
three highest ratings of Standard and Poor's or Moody's service, 561
not in default as to principal or interest, that are valid 562
obligations issued, assumed, or guaranteed by any state, county, 563
or municipal corporation of the United States; 564

(7) In bonds or other evidence of indebtedness rated in the 565
three highest ratings by Standard and Poor's or Moody's service, 566
not in default as to principal or interest, that are valid 567
obligations issued, assumed, or guaranteed by any corporation 568
incorporated under the laws of the United States or a state and 569
described in division (D)(1) of section 3925.08 of the Revised 570
Code. However, a credit union share guaranty corporation shall not 571
invest in any such corporate security containing any provision of 572
optionality, including, but not limited to, any derivative 573
security. 574

(8) In the common stock of any federal home loan bank of 575
which the corporation is a member, for the purpose of maintaining 576
a line of credit or source of liquidity through borrowings from 577

the bank, if the bank requires its members to purchase and hold 578
its common stock referred to as either of the following: 579

(a) Membership stock, subject to an annual adjustment made by 580
the bank based on the corporation's admitted total assets as 581
reported in its filings with the superintendent of insurance; 582

(b) Activity stock as may be required by the bank whenever 583
the corporation borrows from the bank and for as long as any of 584
those funds remain outstanding. 585

(9) In any other investments that are expressly approved by 586
the superintendent of credit unions and the superintendent of 587
insurance or are permitted by rules adopted by the superintendents 588
pursuant to division (C) of section 1761.04 of the Revised Code, 589
but such other investments shall not exceed twenty per cent of the 590
sum of the capital contributions, retained and undivided earnings, 591
and any borrowings made in accordance with section 3901.72 of the 592
Revised Code of the corporation. The superintendents shall not 593
permit the corporation to make any investment in any unrelated 594
corporation or unrelated subsidiary without the prior written 595
approval of the superintendent of credit unions and the 596
superintendent of insurance. 597

(B) The maximum investment in securities of any one 598
corporation shall not exceed ten per cent of the guarantee fund at 599
the time the investment is made. 600

(C) The corporation's directors, officers, committee members, 601
and employees, and immediate family members of such individuals, 602
are prohibited from receiving pecuniary or any other type of 603
consideration in connection with the making of an investment or 604
deposit by the corporation. 605

(D) Within thirty days of appointment, each officer, agent, 606
or employee having control or access to funds or securities owned 607
by or pledged with a credit union share guaranty corporation shall 608

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. 639

(B) During the time the superintendent of credit unions 640
retains possession of the property and business of the corporation 641
pursuant to division (A) of this section, ~~he~~ the superintendent 642
shall perform the duties and carry out the obligations of the 643
corporation. 644

(C) Whenever the superintendent has taken possession of the 645
property and business of the corporation, if it considers itself 646
aggrieved thereby, the corporation may, within ten days after such 647
taking, apply to the common pleas court of Franklin county to 648
enjoin further proceedings. The court, after citing the 649
superintendent to show cause why further proceedings should not be 650
enjoined, and after a hearing and a determination of the facts 651
upon the merits, may dismiss such application or enjoin the 652
superintendent from further proceedings and direct ~~him~~ the 653
superintendent to surrender the property and business to the 654
corporation, or make such further order as may be just. 655

(D) An appeal may be taken from the judgment of the court by 656
the superintendent or by the corporation in the manner provided by 657
law for appeals from the judgment of a court of common pleas. An 658
appeal from the judgment of the court shall not operate as a stay 659
of the judgment unless the court, on good cause, so orders. 660

(E) Any action by the superintendent of insurance to take 661
possession of the property and business of a credit union share 662
guaranty corporation shall be under Chapter 3903. of the Revised 663
Code. 664

Section 2. That existing sections 1761.05, 1761.06, 1761.08, 665
1761.09, 1761.10, 1761.12, 1761.13, and 1761.17 of the Revised 666
Code are hereby repealed. 667