
HOUSE BILL 2820

State of Washington

54th Legislature

1996 Regular Session

By Representatives Beeksma and Wolfe

Read first time 01/22/96. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the Washington credit union share guaranty
2 association; amending RCW 31.12A.050 and 31.12A.090; adding a new
3 section to chapter 31.12A RCW; adding new sections to chapter 31.12
4 RCW; creating a new section; repealing RCW 31.12A.005, 31.12A.010,
5 31.12A.020, 31.12A.030, 31.12A.040, 31.12A.050, 31.12A.060, 31.12A.070,
6 31.12A.080, 31.12A.090, 31.12A.100, 31.12A.110, 31.12A.120, 31.12A.130,
7 31.12A.140, 31.12A.900, 31.12A.910, 31.12A.920, 31.12A.930, and
8 31.12A.940; repealing 1996 c -- s 4 (section 4 of this act); providing
9 an effective date; providing an expiration date; and declaring an
10 emergency.

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

12 NEW SECTION. **Sec. 1.** The legislature finds that since its
13 creation in 1975 the Washington credit union share guaranty association
14 has provided security to member share accounts and other valuable
15 services to members.

16 The legislature further finds that although during that period
17 thirty member credit unions have been required to liquidate or merge
18 with other members with the assistance of the association, no depositor
19 has experienced any loss.

1 The legislature further finds that the changing financial services
2 environment, and ever-increasing competitive pressures have caused the
3 association to review its operation and capacity with the result that
4 the membership and officers have begun dissolution proceedings, and now
5 seek the adoption of standards and procedures by the legislature that
6 will direct and ensure an orderly transition to federal share
7 insurance.

8 Therefore, it is the intent of the legislature to effectuate a fair
9 and orderly transition of association members to federal share
10 insurance, and provide the highest available level of safety for share
11 accounts in keeping with depositors' expectations.

12 It is also the intent of the legislature that all unencumbered
13 reserves of member credit unions, including the contingency reserve
14 required by the association, be included as capital for determining
15 composite capital, asset quality, management, earnings, and liquidity
16 ratings by regulatory authorities.

17 **Sec. 2.** RCW 31.12A.050 and 1994 c 92 s 227 are each amended to
18 read as follows:

19 (1) Funding of the association shall be by transfers to a share
20 guaranty association contingency reserve as follows:

21 (a) Credit unions approved by the director and ratified by the
22 board for membership subsequent to those initial members shall
23 establish a share guaranty association contingency reserve by
24 transferring from their guaranty fund an amount equal to one-half of
25 one percent of the total guaranteeable outstanding share and deposit
26 balances as of the date of membership. When one member credit union is
27 merged into another member credit union, the continuing credit union
28 shall include in its share guaranty contingency reserve the share
29 guaranty contingency reserve of the merged credit union. A nonmember
30 credit union merging with a member credit union must transfer into the
31 share guaranty contingency reserve of the continuing credit union an
32 amount equal to one-half of one percent of the total guaranteeable
33 outstanding share and deposit balances of the nonmember credit union as
34 of the effective date of the merger, as determined by the director.

35 (b) On the first business day of each year, member credit unions
36 shall make a transfer of an amount sufficient to adjust the contingency
37 reserve to a level of one-half of one percent of the guaranteeable
38 outstanding share and deposit balances as of December 31st of the

1 previous year. If the member's guaranteeable outstanding share and
2 deposit balances decrease from the previous year, any excess which may
3 then appear in the contingency reserve may be transferred to the
4 guaranty fund.

5 (c) The board may require one additional transfer during the
6 calendar year of an amount not to exceed one-half of one percent of the
7 guaranteeable outstanding share and deposit balances as of December
8 31st of the previous year. Credit unions which have merged during the
9 year and credit unions which have joined during the year will be
10 subject to the one additional transfer, even if that required transfer
11 occurred before ratification of the joining member or the merger of the
12 two credit unions. The transfer will be based on the guaranteeable
13 share and deposit balances of those credit unions as of the following
14 dates:

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

16 (ii) For members that merge, the sum of the balances as of December
17 31st of the previous year;

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

21 (2) Sums specified in subsection (1) of this section may be offset
22 from the statutory transfer requirement to the guaranty fund and shall
23 be retained in the credit union share guaranty contingency reserve as
24 an integral part of its guaranty fund until such time and if necessary
25 to be drawn for the purposes set forth in this chapter.

26 (3) Members' share guaranty association contingency reserve funds
27 shall be invested in investments as permitted in the bylaws of the
28 association.

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

32 ~~((5) Membership in this association may be terminated upon
33 approval by a majority of the credit union members responding to such
34 a proposal and subject further to acceptance by the national credit
35 union administration of continued share insurance coverage under the
36 national credit union administration share insurance program. Notice
37 of such intentions shall be in writing to the association's board of
38 directors at least twelve months prior to such contemplated action:
39 PROVIDED, That in the event that the credit union board has voted to~~

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

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

19 **Sec. 3.** RCW 31.12A.090 and 1994 c 92 s 230 are each amended to
20 read as follows:

21 (1) In the event a member of the association is placed in
22 liquidation, either voluntary or involuntary, the director or his or
23 her representative shall determine as soon as is reasonably possible
24 the probable assessment, if any, resulting therefrom to its
25 shareholders. If an assessment seems to be indicated, the director or
26 his or her representative shall promptly inform the association in
27 writing of the probable amount of such assessment. In determining the
28 probable assessment for the liquidating member, charges, if any, for
29 services of the director or his or her representative, or his or her
30 staff, as well as accrued but unpaid interest or dividends on share
31 accounts, shall not be deemed liabilities of the liquidating credit
32 union; and, with the consent of the association, all illiquid holdings
33 (furniture, fixtures and other personal property) of the liquidating
34 member, at the fair recoverable value thereof, as determined by the
35 director or his or her representative, may be excluded as assets. In
36 determining the assessment as to a particular share account, the
37 director or his or her representative shall first deduct the amount of

1 any accrued and currently payable obligation of the shareholder to the
2 liquidating credit union.

3 (2) Within thirty days after receipt by the association of the
4 foregoing information, the board shall notify the remaining members of
5 the association of the aggregate amount required to make good the
6 probable net loss to share accounts, subject to the following
7 conditions:

8 (a) The amount of loss to be made good to any shareholder shall not
9 be less than provided by the national credit union administration share
10 insurance program, with authority vested in the association to increase
11 the coverage.

12 (b) To the amount of the assessment as otherwise determined
13 pursuant to this section, the board may add such amount as it may deem
14 to be reasonably necessary to cover its clerical, mailing and other
15 expense connected with the assessment and distribution of the proceeds
16 thereof to shareholders of the liquidating credit union, not to exceed
17 actual costs of such mailing and clerical services.

18 (c) The amount of the assessment shall be prorated among the
19 assessed members against their share guaranty contingency reserve:
20 PROVIDED, That members shall not be liable for any amount of assessment
21 exceeding their share guaranty contingency reserve or for any
22 assessments exceeding those permitted in RCW 31.12A.050 as now or
23 hereafter amended.

24 (d) That a plan for an orderly and expeditious liquidation be
25 presented to the board of directors for their consideration and
26 approval. In cases where a central or other eligible credit union is
27 authorized to act as liquidator or liquidating agent, the association
28 would provide an indemnity against loss to such authorized credit
29 union.

30 (3) In case of liquidation the board shall cause written notice to
31 each member only if a potential assessment is indicated and the
32 probable amount of such contingency as it relates to a percentage of
33 their total share guaranty contingency reserve. The actual assessment
34 shall be paid by members upon completion of liquidation or sooner, as
35 determined by the board of directors. In all cases the total reserve
36 structure of a liquidating credit union, including its share guaranty
37 contingency reserve, shall be utilized in concluding the liquidation.

38 (4) The association may also assess members under this section, as
39 if a credit union were placed in liquidation, if the credit union fails

1 to qualify for federal share insurance because the national credit
2 union administration determines that the credit union's capital is
3 inadequate.

4 NEW SECTION. Sec. 4. A new section is added to chapter 31.12A RCW
5 to read as follows:

6 (1) Members with a composite capital, asset quality, management,
7 earnings, and liquidity rating by the department of three, four, or
8 five shall, by September 1, 1996, file a:

9 (a) Completed application for insurance of share accounts with the
10 national credit union administration to become insured under the
11 federal share insurance program, with a copy promptly forwarded to the
12 director by the applicant;

13 (b) Completed application to merge into a credit union that is
14 insured under the federal share insurance program with the director
15 under RCW 31.12.565; or

16 (c) Detailed notice of liquidation of the credit union with the
17 director under RCW 31.12.725.

18 Members with a composite capital, asset quality, management,
19 earnings, and liquidity rating of one or two shall accomplish one of
20 the acts set forth in (a) through (c) of this subsection by December
21 31, 1996.

22 Each member shall promptly forward a copy of the application or
23 notice to the association.

24 If a member fails to complete the application or notice as required
25 by this section the failure will constitute an unsafe and unsound
26 condition or practice that seriously jeopardizes the interests of the
27 member's depositors and shareholders. The failure shall constitute
28 grounds for the director to issue a temporary order under RCW 31.12.595
29 requiring the member to complete the insurance conversion and to take
30 such other action as the director deems necessary, and shall constitute
31 grounds for the director to issue a notice of charges under RCW
32 31.12.585.

33 (2) The association's guarantee of a member credit union will
34 terminate upon the member's completion of conversion to insurance of
35 share accounts under the federal share insurance program, or merger or
36 liquidation, as applicable.

37 (3) If a member whose application for insurance of share accounts
38 is approved by the national credit union administration fails to

1 complete the insurance conversion in the time allowed by the national
2 credit union administration, the failure will constitute an unsafe and
3 unsound condition or practice that seriously jeopardizes the interests
4 of the member's depositors and shareholders. The failure shall
5 constitute grounds for the director to issue a temporary order under
6 RCW 31.12.595 requiring the member to complete the insurance conversion
7 and to take such other action as the director deems necessary, and
8 shall constitute grounds for the director to issue a notice of charges
9 under RCW 31.12.585. The authority granted to the director under this
10 subsection may be exercised only after January 1, 1998.

11 (4) In addition to the action authorized in subsection (3) of this
12 section, if a member fails to complete one of the actions set forth in
13 subsection (1) of this section by December 31, 1998, the director may
14 appoint a liquidating agent for the involuntary liquidation of the
15 member under RCW 31.12.675 and 31.12.685 as if the member were
16 insolvent.

17 (5) Members that obtain share insurance under the federal share
18 insurance program or merge with a credit union insured under the
19 federal share insurance program shall continue to maintain their
20 contingency reserve under RCW 31.12A.050, and shall continue to be
21 liable for assessments under RCW 31.12A.090, as if they were members,
22 until December 31, 1998.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 31.12 RCW
24 to read as follows:

25 Credit unions must be insured by the federal share insurance
26 program under the national credit union administration on or before
27 December 31, 1998.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 31.12 RCW
29 to read as follows:

30 (1) After December 31, 1998, credit unions must be insured under
31 the federal share insurance program or an equivalent share insurance
32 program as defined in this section. For the purposes of this section
33 an equivalent share insurance program is a program that: (a) Holds
34 reserves substantially equal to the federal program; and (b) has share
35 insurance contracts that reflect a geographic diversity substantially
36 equal to the federal share insurance program.

1 (2) Before any credit union may insure its share deposits with a
2 share insurance program other than the federal share insurance program,
3 the director must make a finding that the alternative share insurance
4 program meets the standards set forth in this section, following a
5 public hearing and a report on the basis for such finding to the
6 appropriate standing committees of the legislature. All such findings
7 shall be made before December 1st of any year and shall not take effect
8 until the end of the regular legislative session of the following year.

9 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
10 repealed:

11 (1) RCW 31.12A.005 and 1982 c 67 s 1 & 1975 1st ex.s. c 80 s 2;

12 (2) RCW 31.12A.010 and 1994 c 92 s 225, 1985 c 7 s 98, 1983 c 48 s
13 1, 1982 c 67 s 2, 1980 c 41 s 11, & 1975 1st ex.s. c 80 s 3;

14 (3) RCW 31.12A.020 and 1975 1st ex.s. c 80 s 4;

15 (4) RCW 31.12A.030 and 1985 c 7 s 99, 1982 c 67 s 3, & 1975 1st
16 ex.s. c 80 s 5;

17 (5) RCW 31.12A.040 and 1994 c 92 s 226, 1982 c 67 s 4, & 1975 1st
18 ex.s. c 80 s 6;

19 (6) RCW 31.12A.050 and 1996 c ... s 2 (section 2 of this act), 1994
20 c 92 s 227, 1983 c 48 s 2, 1982 c 67 s 5, 1980 c 41 s 12, & 1975 1st
21 ex.s. c 80 s 7;

22 (7) RCW 31.12A.060 and 1982 c 67 s 6 & 1975 1st ex.s. c 80 s 8;

23 (8) RCW 31.12A.070 and 1994 c 92 s 228 & 1975 1st ex.s. c 80 s 9;

24 (9) RCW 31.12A.080 and 1994 c 92 s 229 & 1975 1st ex.s. c 80 s 10;

25 (10) RCW 31.12A.090 and 1994 c 92 s 230, 1982 c 67 s 7, & 1975 1st
26 ex.s. c 80 s 11;

27 (11) RCW 31.12A.100 and 1994 c 92 s 231 & 1975 1st ex.s. c 80 s 12;

28 (12) RCW 31.12A.110 and 1975 1st ex.s. c 80 s 13;

29 (13) RCW 31.12A.120 and 1994 c 92 s 232 & 1975 1st ex.s. c 80 s 14;

30 (14) RCW 31.12A.130 and 1975 1st ex.s. c 80 s 15;

31 (15) RCW 31.12A.140 and 1994 c 92 s 233 & 1975 1st ex.s. c 80 s 16;

32 (16) RCW 31.12A.900 and 1975 1st ex.s. c 80 s 17;

33 (17) RCW 31.12A.910 and 1975 1st ex.s. c 80 s 18;

34 (18) RCW 31.12A.920 and 1975 1st ex.s. c 80 s 19;

35 (19) RCW 31.12A.930 and 1975 1st ex.s. c 80 s 21;

36 (20) RCW 31.12A.940 and 1975 1st ex.s. c 80 s 20; and

37 (21) 1996 c ... s 4 (section 4 of this act).

1 NEW SECTION. **Sec. 8.** (1) Sections 1 and 2 of this act are
2 necessary for the immediate preservation of the public peace, health,
3 or safety, or support of the state government and its existing public
4 institutions, and shall take effect immediately.

5 (2) Section 7 of this act shall take effect December 31, 2000.

6 NEW SECTION. **Sec. 9.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

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