

---

**SUBSTITUTE SENATE BILL 6579**

---

**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Fraser, Sellar, Roach, Snyder, Sutherland and Winsley)

Read first time 02/02/96.

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 has recommended an orderly dissolution, and now seeks  
5 the adoption of standards and procedures by the legislature that will  
6 direct and ensure an orderly transition to federal share insurance.

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

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

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

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

29 (b) On the first business day of each year, member credit unions  
30 shall make a transfer of an amount sufficient to adjust the contingency  
31 reserve to a level of one-half of one percent of the guaranteeable  
32 outstanding share and deposit balances as of December 31st of the  
33 previous year. If the member's guaranteeable outstanding share and  
34 deposit balances decrease from the previous year, any excess which may  
35 then appear in the contingency reserve may be transferred to the  
36 guaranty fund.

37 (c) The board may require one additional transfer during the  
38 calendar year of an amount not to exceed one-half of one percent of the

1 guaranteeable outstanding share and deposit balances as of December  
2 31st of the previous year. Credit unions which have merged during the  
3 year and credit unions which have joined during the year will be  
4 subject to the one additional transfer, even if that required transfer  
5 occurred before ratification of the joining member or the merger of the  
6 two credit unions. The transfer will be based on the guaranteeable  
7 share and deposit balances of those credit unions as of the following  
8 dates:

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

10 (ii) For members that merge, the sum of the balances as of December  
11 31st of the previous year;

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

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

20 (3) Members' share guaranty association contingency reserve funds  
21 shall be invested in investments as permitted in the bylaws of the  
22 association.

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

26 ~~((5) Membership in this association may be terminated upon  
27 approval by a majority of the credit union members responding to such  
28 a proposal and subject further to acceptance by the national credit  
29 union administration of continued share insurance coverage under the  
30 national credit union administration share insurance program. Notice  
31 of such intentions shall be in writing to the association's board of  
32 directors at least twelve months prior to such contemplated action:  
33 PROVIDED, That in the event that the credit union board has voted to  
34 recommend to the membership liquidation, conversion from state to  
35 federal credit union charter, or merger with or conversion to a credit  
36 union organized under the laws of another state, the liquidating,  
37 converting, or merging member will notify the association in writing  
38 within seven days after the credit union board has taken such action.  
39 Share guarantee coverage through the association will terminate with~~

1 ~~the effective date of the new charter or completion of the liquidation~~  
2 ~~or merger as determined by the director.~~

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

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

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

34 (2) Within thirty days after receipt by the association of the  
35 foregoing information, the board shall notify the remaining members of  
36 the association of the aggregate amount required to make good the  
37 probable net loss to share accounts, subject to the following  
38 conditions:

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

5 (b) To the amount of the assessment as otherwise determined  
6 pursuant to this section, the board may add such amount as it may deem  
7 to be reasonably necessary to cover its clerical, mailing and other  
8 expense connected with the assessment and distribution of the proceeds  
9 thereof to shareholders of the liquidating credit union, not to exceed  
10 actual costs of such mailing and clerical services.

11 (c) The amount of the assessment shall be prorated among the  
12 assessed members against their share guaranty contingency reserve:  
13 PROVIDED, That members shall not be liable for any amount of assessment  
14 exceeding their share guaranty contingency reserve or for any  
15 assessments exceeding those permitted in RCW 31.12A.050 as now or  
16 hereafter amended.

17 (d) That a plan for an orderly and expeditious liquidation be  
18 presented to the board of directors for their consideration and  
19 approval. In cases where a central or other eligible credit union is  
20 authorized to act as liquidator or liquidating agent, the association  
21 would provide an indemnity against loss to such authorized credit  
22 union.

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

31 (4) The association may also assess members under this section, as  
32 if a credit union were placed in liquidation, in order to provide  
33 financial assistance to facilitate conversion of the credit union to  
34 federal insurance or merger with another credit union that is federally  
35 insured or has applied for federal insurance.

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

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

4 (a) Completed application for insurance of share accounts with the  
5 national credit union administration to become insured under the  
6 federal share insurance program, with a copy promptly forwarded to the  
7 director by the applicant;

8 (b) Completed application to merge into a credit union with the  
9 director under RCW 31.12.695; or

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

12 Members with a composite capital adequacy, asset quality,  
13 management, earnings, and liquidity rating of one or two shall  
14 accomplish one of the acts set forth in (a) through (c) of this  
15 subsection by December 1, 1996.

16 Each member shall promptly forward a copy of the application or  
17 notice to the association.

18 If a member fails to file the application or notice as required by  
19 this section the failure will constitute an unsafe and unsound  
20 condition or practice that seriously jeopardizes the interests of the  
21 member's depositors and shareholders. The failure shall constitute  
22 grounds for the director to issue a temporary order under RCW 31.12.595  
23 requiring the member to complete the application or notice and to take  
24 such other action as the director deems necessary, and shall constitute  
25 grounds for the director to issue a notice of charges under RCW  
26 31.12.585.

27 (2) The association's guarantee of a member credit union will cease  
28 upon the member's completion of conversion to insurance of share  
29 accounts under the federal share insurance program, or merger into a  
30 federally insured credit union, or liquidation, as applicable.

31 (3) If a member whose application for insurance of share accounts  
32 is approved by the national credit union administration fails to  
33 complete the insurance conversion in the time allowed by the national  
34 credit union administration, the failure will constitute an unsafe and  
35 unsound condition or practice that seriously jeopardizes the interests  
36 of the member's depositors and shareholders. The failure shall  
37 constitute grounds for the director to issue a temporary order under  
38 RCW 31.12.595 requiring the member to complete the insurance conversion  
39 and to take such other action as the director deems necessary, and

1 shall constitute grounds for the director to issue a notice of charges  
2 under RCW 31.12.585. The authority granted to the director under this  
3 subsection may be exercised only after January 1, 1998.

4 (4) In addition to the action authorized in subsection (3) of this  
5 section, if a member fails to obtain federal share insurance, merge  
6 into a federally insured credit union, or liquidate by December 31,  
7 1998, the director may appoint a liquidating agent for the involuntary  
8 liquidation of the member under RCW 31.12.675 and 31.12.685 as if the  
9 member were insolvent.

10 (5) Members that obtain share insurance under the federal share  
11 insurance program or merge with a credit union insured under the  
12 federal share insurance program shall continue to maintain their  
13 contingency reserve under RCW 31.12A.050, and capital reserve required  
14 by the association, and shall continue to be liable for assessments  
15 under RCW 31.12A.090, as if they were members, until December 31, 1998.

16 (6) The contingency and capital reserve required by the association  
17 shall be included as capital for determining composite capital  
18 adequacy, asset quality, management, and earnings and liquidity ratings  
19 by regulatory authorities.

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

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

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

27 (1) After December 31, 1998, credit unions must be insured under  
28 the federal share insurance program or an equivalent share insurance  
29 program as defined in this section. For the purposes of this section  
30 an equivalent share insurance program is a program that: (a) Holds  
31 reserves proportionately equal to the federal share insurance program;  
32 (b) maintains adequate reserves and access to additional sources of  
33 funds through replenishment features, reinsurance, or other sources of  
34 funds; and (c) has share insurance contracts that reflect a national  
35 geographic diversity.

36 (2) Before any credit union may insure its share deposits with a  
37 share insurance program other than the federal share insurance program,

1 the director must make a finding that the alternative share insurance  
2 program meets the standards set forth in this section, following a  
3 public hearing and a report on the basis for such finding to the  
4 appropriate standing committees of the legislature. All such findings  
5 shall be made before December 1st of any year and shall not take effect  
6 until the end of the regular legislative session of the following year.

7 (3) Any alternative share insurance program approved under this  
8 section shall be reviewed annually by the director to determine whether  
9 the program currently meets the standards in this section. The  
10 director shall prepare a written report of his or her findings  
11 including supporting analysis and forward the report to the appropriate  
12 standing committees of the legislature. If the director finds that the  
13 alternative share insurance program does not currently meet the  
14 standards of this section the director shall notify all credit unions  
15 that insure their shares under the alternative share insurance program,  
16 and shall include notice of a public hearing for the purpose of  
17 receiving comment on the director's finding. Following the hearing the  
18 director may either rescind his or her finding or reaffirm the finding  
19 that the alternative share insurance program does not meet the  
20 standards in this section. If the finding is reaffirmed, the director  
21 shall order all credit unions whose shares are insured with the  
22 alternative share insurance program to file, immediately, an  
23 application with the national credit union administration to convert to  
24 the federal share insurance program.

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

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

28 (2) RCW 31.12A.010 and 1994 c 92 s 225, 1985 c 7 s 98, 1983 c 48 s  
29 1, 1982 c 67 s 2, 1980 c 41 s 11, & 1975 1st ex.s. c 80 s 3;

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

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

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

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

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



- 1 (8) RCW 31.12A.070 and 1994 c 92 s 228 & 1975 1st ex.s. c 80 s 9;  
2 (9) RCW 31.12A.080 and 1994 c 92 s 229 & 1975 1st ex.s. c 80 s 10;  
3 (10) RCW 31.12A.090 and 1996 c . . . s 3 (section 3 of this act),  
4 1994 c 92 s 230, 1982 c 67 s 7, & 1975 1st ex.s. c 80 s 11;  
5 (11) RCW 31.12A.100 and 1994 c 92 s 231 & 1975 1st ex.s. c 80 s 12;  
6 (12) RCW 31.12A.110 and 1975 1st ex.s. c 80 s 13;  
7 (13) RCW 31.12A.120 and 1994 c 92 s 232 & 1975 1st ex.s. c 80 s 14;  
8 (14) RCW 31.12A.130 and 1975 1st ex.s. c 80 s 15;  
9 (15) RCW 31.12A.140 and 1994 c 92 s 233 & 1975 1st ex.s. c 80 s 16;  
10 (16) RCW 31.12A.900 and 1975 1st ex.s. c 80 s 17;  
11 (17) RCW 31.12A.910 and 1975 1st ex.s. c 80 s 18;  
12 (18) RCW 31.12A.920 and 1975 1st ex.s. c 80 s 19;  
13 (19) RCW 31.12A.930 and 1975 1st ex.s. c 80 s 21;  
14 (20) RCW 31.12A.940 and 1975 1st ex.s. c 80 s 20; and  
15 (21) 1996 c ... s 4 (section 4 of this act).

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

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

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

--- END ---