

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6579

54th Legislature
1996 Regular Session

Passed by the Senate February 9, 1996
YEAS 49 NAYS 0

President of the Senate

Passed by the House February 27, 1996
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6579** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6579

Passed Legislature - 1996 Regular Session

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.

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