

**12C.23 Payment of losses in a credit union.**

1. *a.* The pledging of securities by a credit union pursuant to this chapter constitutes consent by the credit union to the disposition of the securities in accordance with this section.

*b.* The acceptance of public funds by a credit union pursuant to this chapter constitutes consent by the credit union to assessments by the treasurer of state in accordance with this chapter.

2. The credit union and the security given for the public funds in its hands are liable for payment if the credit union fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order, or certificates of deposit, or any public funds entrusted to it if, in failing to pay, the credit union acts contrary to the terms of an agreement between the credit union and the public body treasurer. The credit union and the security given for the public funds in its hands are also liable for payment if the credit union fails to pay an assessment by the treasurer of state when the assessment is due.

3. If a credit union is closed by its primary regulatory officials, the public body with deposits in the credit union may sell the collateral to pay for any loss of principal and accrued interest.

*a.* In cooperation with the responsible regulatory officials for the credit union, the public body shall validate the amount of public funds on deposit at the defaulting credit union and the amount of deposit insurance applicable to the deposits.

*b.* The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting credit union, and then the assets of the defaulting credit union. The priority of claims are those established pursuant to section 533.404, subsection 1, paragraph “*b*”. To the extent permitted by federal law, in the distribution of an insolvent federally chartered credit union’s assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered credit union as provided in section 533.404, subsection 1, paragraph “*b*”.

*c.* The claim of a public depositor for purposes of this section shall be the amount of the depositor’s deposits plus interest to the date the funds are distributed to the public depositor at the rate the credit union agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

*d.* If the loss to public funds is not covered by insurance and the proceeds of the failed credit union’s assets which are liquidated within thirty days of the closing of the credit union and pledged collateral, the treasurer shall provide coverage of the remaining loss from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve-month period ending on the last day of the month immediately preceding the month the credit union was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this paragraph, the court shall order it to pay the assessment, court costs, reasonable attorney’s fees based upon the amount of time the attorney general’s office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state’s office. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

*e.* Any amount realized from the sale of collateral pursuant to paragraph “*d*”, in excess of the amount of a credit union’s assessment, shall continue to be held by the treasurer, in the same interest-bearing investments available for public funds, as collateral until that credit union provides substitute collateral or is otherwise entitled to its release.

85 Acts, ch 194, §6  
CS85, §453.23

92 Acts, ch 1156, §37 – 40

C93, §12C.23

94 Acts, ch 1023, §3; 99 Acts, ch 117, §11, 15; 99 Acts, ch 208, §43, 74; 2007 Acts, ch 174, §81; 2008 Acts, ch 1032, §201