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TEXAS CREDIT UNION ACT



Credit Union Department
State of Texas
Act of 1975, As Amended By
The 74th Legislature

Effective June 16, 1995

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TEXAS CREDIT UNION ACT

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**CHAPTER 1. SHORT TITLE,
DEFINITION AND PURPOSES**

**SECTION 1.01.
SHORT TITLE**

This Act may be cited as the Texas Credit Union Act.

**SECTION 1.02.
DEFINITIONS**

In this Act:

(1) "Credit union," unless the context relates to a federal credit union, means a voluntary, cooperative, nonprofit financial institution, authorized to do business in this state under this Act for the purposes of encouraging thrift among its members, creating a source of credit at fair and reasonable rates of interest, providing an opportunity for its members to use and control their own money in order to improve their economic and social condition, and conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members, subject to this Act and the rules adopted under this Act.

(2) "Commission" means the Credit Union Commission.

(3) "Commissioner" means the Credit Union Commissioner.

(4) "Department" means the Credit Union Department.

(5) "Deputy commissioner" means the Deputy Credit Union Commissioner.

(6) "Foreign credit union" means a credit union that is not organized under the laws of this state or the United States.

**SECTION 1.03.
EFFECT OF HEADINGS**

The division of this Act into chapters and sections and the use of section and chapter headings are solely for convenience and have no legal effect in construing this Act.

**SECTION 1.04.
APPLICATION OF ACT**

All creditunions organized and existing under the laws of this state are governed by and are subject to this Act and are authorized to do business under it.

**SECTION 1.05.
PURPOSES**

The purposes of the legislature in enacting this Act are to safeguard the public interest, to promote public confidence in credit unions doing business in this state, to provide for the protection of the interests, shares, and deposits of credit unions,

to delegate to the department rulemaking and discretionary authority that may be necessary to assure that credit unions operating under this Act may be sufficiently flexible and readily responsive to changes in economic conditions and practices, to maintain sound credit union growth and financial integrity, fiscal responsibility, and independent judgment in the management of the business affairs of credit unions, to permit Credit unions to effectively provide a full array of financial and financially-related services, to provide effective supervision and regulation of credit unions and their fields of membership, and to clarify and modernize the law governing the credit unions doing business in this state. It is also the intent of the legislature that this Act be liberally construed to accomplish and effectuate these purposes. Therefore, this Act is declared to be the public policy of this state and necessary to the public welfare.

CHAPTER 2. ORGANIZATION PROCEDURE

SECTION 2.01. INCORPORATORS

Any seven or more adult individuals, a majority of whom are residents of this state, each of whom has subscribed for at least 10 shares and all of whom share the definable community of interest stated in the proposed articles of incorporation, may apply to incorporate a credit union under this Act by signing, subscribing before an officer competent to administer oaths, and delivering in duplicate to the commissioner articles of incorporation for the credit union. The submission of an application constitutes a representation by the incorporators that they desire to avail themselves, and those persons comprising the field of membership of the proposed credit union whom they represent, of the benefits of this Act, and that they bind themselves to comply with all laws, rules, and regulations applicable to credit unions doing business in this state.

SECTION 2.02. ARTICLES OF INCORPORATION

The articles of incorporation shall set forth:

- (1) the name of the proposed credit union;
- (2) the town or city and county where the proposed credit union will have its principal place of business;
- (3) the term of existence of the credit union, which shall be perpetual;
- (4) the fiscal year of the credit union, which must be the calendar year;
- (5) the initial sham accounts of the credit union;

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(6) the name and address of each incorporator and the number of shares subscribed by each;

(7) the number of directors constituting the initial board of directors and the names and addresses of the persons who will serve as directors until the first annual meeting or until their successors are duly elected and qualified; and

(8) a description of the definable community of interest shared by the members of the credit union at the time of incorporation.

SECTION 2.03.
INCORPORATION PROCEDURE

(a) The incorporators shall file with the commissioner:

- (1) the original articles of incorporation in duplicate;
- (2) standard bylaws for the general operation of the credit union in duplicate;
- (3) a completed application in a form prescribed by the commission; and
- (4) the fees required and set by the commission.

(b) The commissioner may conduct any investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary.

(c) The commission shall adopt rules establishing procedures concerning notice of applications to incorporate and conditions under which a hearing may be available.

(d) The commissioner shall approve the application for incorporation if the incorporators have complied with this Act and the rules adopted under this Act and the commissioner finds from the information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and the information in the official records in the department that:

(1) the character and general fitness of the incorporators and the members of the initial board of directors warrant belief that the business and affairs of the credit union will be properly administered in accordance with this Act and the rules adopted under this Act;

(2) the character and size of the field of membership proposed to be served by the credit union conforms with this Act and the rules adopted under this Act and are favorable to the economic viability of the credit union; and

(3) the incorporators and the members of the initial board of directors are acting in good faith and are making the application in accordance with the purposes of this Act.

(e) In addition to the findings under Subsection (d) of this section, the commissioner shall, in accordance with rules the commission may adopt consider the effect of overlapping fields of membership on the applicant credit union and existing state or federal credit unions doing business in this state, and the commissioner

may, as a condition of approval of the application, require the applicant credit union to limit or eliminate overlaps, in accordance with the rules, if any, in order to achieve the purposes of this Act and promote the welfare and stability of those credit unions.

(f) Not later than 90 days after the later of the date on which an application is filed or the date on which a hearing on the application is held, the commissioner shall state his findings in a written order that approves or denies the application to incorporate.

(g) The commission shall adopt rules providing for appeal by an incorporator or aggrieved person. The commissioner's order may be appealed to the commission not later than 60 days after the date of the order. The commission shall, by written order, affirm or reverse the decision of the commissioner after reviewing the information or evidence it considers necessary or relevant.

(h) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail. If the application is approved by the commissioner, in the absence of an appeal, or by the commission after conclusion of an appeal, the commissioner shall issue a certificate of incorporation, deliver copies of the approved articles of incorporation and bylaws to the incorporators, and retain copies of these documents in the department's permanent files.

SECTION 2.04. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION

The corporate existence of a credit union begins at the time the commissioner issues a certificate of incorporation. The certificate of incorporation is conclusive evidence of the incorporators' compliance with the requirements of this Act and of the credit union's incorporation under this Act. The acceptance of a certificate of incorporation is conclusive evidence of the authorization of the credit union to do business under this Act, and of the representation by the incorporators on behalf of the credit union that it has availed itself of the benefits of this Act and has bound itself to comply with this Act and the rules adopted under this Act.

SECTION 2.05. COMMENCING BUSINESS

(a) A credit union may not transact any business or incur any indebtedness, except such as is incidental to its organization or to obtaining subscriptions to or payment for its shares or deposits, until:

- (1) it has received paid-in shares or deposits of at least \$ 1,000;
- (2) it has a membership of at least 100 persons;
- (3) it has fulfilled all agreements and conditions related to approval of an

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application for incorporation and issuance of a certificate of incorporation; and

(4) it has so notified the department.

(b) The commission may adopt reasonable rules requiring greater minimum membership and paid-in shares or deposits and prescribing additional requirements that a credit union must meet before transacting business or incurring indebtedness. The commissioner may waive any requirement that is set forth in this section or in the rules adopted under this section if the commissioner finds that the credit union does not have supervisory problems that adversely affect its ability to operate properly and that it is adequately capitalized.

(c) A credit union shall commence business before six months after the date of the order approving its application to incorporate. If it has not timely commenced business, the commissioner, on request and good cause shown, may grant a reasonable extension of the time for commencing business to give the credit union an opportunity to overcome the cause for the delay. If the commissioner refuses the request for an extension, the incorporators may appeal the commissioner's decision to the commission in accordance with rules adopted by the commission. If a credit union fails to commence business within the time allotted, the commissioner may cancel the certificate of incorporation in accordance with rules adopted by the commission.

SECTION 2.06.

FORM OF ARTICLES OF INCORPORATION AND BYLAWS; AMENDMENTS

(a) In order to simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws, which shall be used by credit union incorporators. These articles of incorporation and bylaws shall be made available without charge to persons desiring to organize a credit union.

(b) The board of directors may amend the articles of incorporation or bylaws and shall submit amendments to the commissioner. The commissioner shall approve or disapprove an amendment in writing not later than 60 days after the date of submission, the date of any required publication in the department's newsletter, or the date on which a hearing on the amendment is held, whichever is later. In approving an amendment, the commissioner shall make the findings and may take the actions provided by Subsections (d) and (e) of Section 2.03 of this Act. The commissioner may not approve an amendment if the commissioner finds that it violates this Act or the rules adopted under this Act. The commissioner shall state the reasons for a disapproval with reasonable specificity. Amendments become effective on approval by the commissioner.

(c) The board of directors shall report an amendment to the membership of the credit union not later than the next membership meeting after approval by the commissioner.

(d) The commission shall adopt rules concerning the appeal of the commissioner's decision on an amendment. The commissioner's order approving or disapproving an amendment may be appealed to the commission not later than 60 days after the date of the order.

SECTION 2.07.

RESTRICTIONS ON USE OF NAME

(a) No person other than a credit union authorized to do business in this state under this Act or the Federal Credit Union Act, or an organization, corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may use a name or title containing the words "credit union" or any derivation thereof, represent itself as a credit union, conduct business as a credit union, or do business under a name or title that indicates or reasonably implies that the person carries on or transacts the kind of business carried on or transacted by a credit union or that is calculated to lead any person to believe that the business is that of a credit union.

(b) A person who violates Subsection (a) of this section commits a Class A misdemeanor. The commissioner may petition a court of competent jurisdiction to enjoin a violation of this section.

(c) The name of each credit union must include the words "credit union" and an appropriate descriptive word or words, or acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner.

(d) The commissioner may not issue a certificate of incorporation to a credit union or approve the change of the name of an existing credit union if doing so would result in the credit union having the same name as any other credit union authorized to do business in this state or a name so nearly resembling it as to be calculated to deceive, except in the case of a credit union formed by merger or consolidation.

SECTION 2.08.

PLACE OF BUSINESS

A credit union shall maintain on file with the department a statement specifying the street and post office address of its principal place of business. If a credit union gives the commissioner prior written notification, a credit union may establish and maintain, at locations other than its principal place of business, additional offices and service facilities that are reasonably necessary to furnish services to its members.

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SECTION 2.09.
REPORTS

On or before February 1 of each year, each credit union authorized to do business under this Act shall report to the department on a form supplied by the department for this purpose. On filing the report, a credit union shall pay to the commissioner any required filing fee. The commission may set a reasonable fee for processing a report. The commissioner may require a credit union to file additional reports. If a credit union does not file a report or pay the filing fee before the 16th day after the day it is due, the commissioner shall charge a late fee in an amount set by the commission for each day that the report or fee is in arrears, except the commissioner may waive payment of all or part of the late fee for good cause shown. Failure of a credit union to file a report before the 31st day after the date it is due constitutes grounds for imposing the sanctions provided by Chapters 5 and 10 of this Act.

SECTION 2.10.
EXEMPTION FROM CERTAIN TAXES

Each credit union authorized to do business in this state is exempt from all franchise and other license taxes. However, a credit union is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the credit union is exempted by that chapter. The intangible property of a credit union organized under this Act is not taxable.

SECTION 2.11.
FOREIGN CREDIT UNIONS

A foreign credit union may do business in this state if it is organized in a state or country that allows credit unions organized under this Act to do business in that state or country. The foreign credit union is subject to the rules adopted under this Act and any additional requirements established by the commission. The commissioner may suspend or revoke a foreign credit union's authority to do business in this state if the commissioner finds that the credit union has violated the rules adopted under this Act or fails to meet the requirements established by the commission.

CHAPTER 3. MEMBERSHIP

SECTION 3.01.
MEMBERSHIP DEFINED

(a) Membership in a credit union is limited to the incorporators and other persons, including incorporated and unincorporated organizations, who:

(1) share a definable community of interest, in accordance with the articles of incorporation or bylaws of the credit union, including a community of interest based on occupation, association, or residence;

(2) have paid an entrance fee or membership fee, or both, as required by the bylaws;

(3) have complied with the minimum share, including membership share, requirements or other qualifying account requirements established by the board of directors; and

(4) have complied with any other requirements contained in the articles of incorporation and bylaws.

(b) For the purposes of Subsection (a) of this section, the State of Texas acting through the state comptroller as administrator of the State of Texas deferred compensation program or a political subdivision acting through the appropriate officer of the political subdivision as administrator of the political subdivision's deferred compensation program shall be considered a person for membership qualifications in order to fund a deferred compensation program. Notwithstanding the provisions of Subsection (a) of this section, the payment of an entrance fee may not be a membership requirement for the State of Texas or a political subdivision funding a deferred compensation program.

(c) A member who leaves the field of membership may be permitted to retain membership in the credit union under reasonable standards established by the board of directors.

(d) A member may be expelled for good cause or for failure to maintain the requirements necessary for membership in the credit union, under the conditions and in accordance with the procedures provided in the bylaws.

SECTION 3.02.

MEETINGS OF MEMBERS

Members of a credit union shall hold annual and special meetings at the time, place, and in the manner provided in the bylaws. In determining a question requiring action by the members, each member may cast only one vote, regardless of his shareholdings, which vote may be cast by mail if authorized by the board of directors. No member may vote by proxy, except a member that is an organization may be represented and vote by one of its members or shareholders who is authorized, in writing, by the organization's governing body to represent the organization. Mail balloting shall be conducted in accordance with rules adopted by the commission.

CHAPTER 4. POWERS OF CREDIT UNION ^{OCT 11 1995}

SECTION 4.01.

GENERAL POWERS

(a) A credit union may exercise all powers necessary or appropriate to accomplish the purposes for which it is organized and all powers granted corporations authorized to do business in this state. These powers include, but are not limited to, the power to:

- (1) make contracts;
- (2) sue and be sued in the name of the credit union;
- (3) adopt and use a common seal and alter its seal at pleasure;
- (4) purchase, hold, lease, or dispose of property necessary or incidental to its operations or purposes, subject to rules issued by the commission;
- (5) receive payments on shares and deposits and to provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the board of directors determines best serve the convenience and needs of members and depositors;
- (6) develop and offer to its members and depositors, in accordance with rules adopted by the commission, investment programs and in connection with those programs issue and sell securities;
- (7) act as agent for its members and depositors, in accordance with rules adopted by the commission, in the purchase, sale, or other disposition of securities, interests in mutual funds, and interests or participations in any other type of investment;
- (8) act as agent or depository of the United States, any agent or instrumentality of the United States, this or any other state, or any city, town, village, county, school district, municipal corporation, political subdivision, or taxing authority of this or any other state, accept for deposit the funds of such an entity, or both;
- (9) lend its funds in accordance with applicable law;
- (10) purchase or otherwise provide insurance for the benefit or convenience of its members;
- (11) borrow money from any source, but if the total debt of the credit union, including deposits of nonmember financial institutions, will exceed an amount equal to 500 percent of the credit union's unencumbered reserves and undivided earnings, the debt may not be incurred without the prior approval of the commissioner, and the commissioner shall grant or deny a request for approval under this subdivision within 10 days after it is made;
- (12) act under the order of appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, receive investments from a person acting in such a capacity under the Texas Probate Code or Subtitle

B, Title 9, Property Code, and act as depository for any money paid into court and for any money constituting the estates of deceased persons, minors, or incompetents;

(13) accept, execute, administer as trustee any trust and accept funds or money for deposit by fiduciaries, trustees, receivers, guardians, executors, or administrators;

(14) accept funds for deposit by savings and loan associations, savings associations, savings departments of banks, commercial banks, savings banks, trust companies, insurance companies, or any intermediary or other person managing or holding funds on behalf of the credit union or any of its members or depositors;

(15) act as custodian or trustee of individual retirement accounts, pension funds of self-employed individuals or of the sponsor of a credit union, or as custodian or trustee under any other pension or profit-sharing plan;

(16) hold membership in other credit unions organized under this Act or other laws and hold membership in other organizations as may be approved by the board of directors;

(17) declare and pay dividends on shares, contract for and pay interest on deposits, and pay interest refunds to borrowers;

(18) change its principal place of business to another place in the state, or change the location in the state of any subsidiary places of business, on giving written notice to the commissioner;

(19) collect, receive, and disburse money in connection with the sale of travelers checks, money orders, cashier's checks or drafts, treasurer's drafts, similar instruments, and securities of all types, and for other purposes that may provide benefit or convenience for its members, and for these services, levy and collect charges;

(20) levy and collect fees and charges determined by the board of directors for other services and administrative costs including, but not limited to, a charge for a check or draft that is returned because it is drawn against a closed account or an account containing insufficient or uncollected funds, because of a stop payment order, or because of another similar reason; these charges are in addition to interest authorized by law and are not a part of interest collected or agreed to be paid on a loan, but are expenses of administration;

(21) establish, operate, or participate in systems that allow the transfer of credit union funds or the shares or deposits of members by electronic or other means, including but not limited to clearinghouse associations, data processing and other electronic networks, the Federal Reserve System, or any other government payment or liquidity programs;

(22) make donations or contributions to any nonprofit, civic, charitable, or community organization as authorized by the board of directors;

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(23) operate as a central credit union, with the approval of the commissioner;
(24) cause any or all records kept by the credit union to be copied by any means and dispose of the original record in accordance with rules adopted by the commission; and

(25) act as fiscal agent or transfer agent, receive and disburse money, transfer registered and countersigned certificates of stock, bonds, or other evidences of indebtedness, and guarantee signatures.

(b) Any copy of a record shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification, or certified copy shall, for all purposes, be deemed a facsimile, exemplification, or certified copy of the original record.

SECTION 4.02.

INCIDENTAL POWERS

A credit union may exercise all rights, privileges, and incidental powers necessary or appropriate to exercise its specific powers and to accomplish the purposes for which the credit union is organized.

SECTION 4.03.

CONFORMITY TO FEDERALLY CHARTERED CREDIT UNIONS

Notwithstanding any other law, the commission by rule may authorize a credit union authorized to do business under this Act to engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

CHAPTER 5. DIRECTION OF AFFAIRS

SECTION 5.01.

MANAGEMENT

(a) The business and affairs of a credit union shall be directed by a board of directors of not less than five members. Each director shall take and subscribe to an oath or affirmation that the director will diligently and honestly perform his duties in administering the affairs of the credit union, that while the director may delegate to others the performance of those duties, he is not relieved from his responsibilities for the performance of the duties, and that the director will not knowingly violate or willingly permit to be violated any law or rule applicable to the credit union.

(b) The commission shall adopt rules establishing qualifications for directors. The rules shall, at a minimum, provide that a person may not serve as a director if the person:

(1) has been convicted of a criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage under the blanket bond required by Section 5.06 of this Act and any rules adopted under this Act; or

(3) has defaulted in the payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss.

(c) A credit union may elect to indemnify its directors, officers, employees, agents, and other persons and purchase insurance by adopting the indemnification and insurance procedures set out in Section 2.22A, Texas Non-Profit Corporation Act (Article 1396-2.22A, Vernon's Texas Civil Statutes), or in another manner as the board of directors determines.

SECTION 5.02. CERTIFICATE OF ELECTION

The chairman of the board and the secretary shall execute a certificate of election that sets forth the names and addresses of the officers, directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within 30 days after the election or appointment. The commission by rule may authorize the commissioner to obtain other confidential reports relating to those persons when they are newly elected or appointed.

SECTION 5.03. BOARD OF DIRECTORS

(a) Directors of the credit union are elected at an annual membership meeting, by and from the membership, and in the manner provided in the bylaws.

(b) The duties of the board of directors must be prescribed by the bylaws.

(c) The terms of the members of the board of directors must be prescribed in the bylaws, except that a term may not exceed three years. Directors may serve more than one term.

(d) The board of directors may appoint not more than three individuals to serve at the pleasure of the board as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out its duties and responsibilities. An honorary or advisory director need not be eligible for membership in the credit union. An honorary or advisory director is not considered a member of the board of directors and is not entitled to vote on any matter before the board. He may participate, however, in all deliberations of the board.

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(e) The board of directors may appoint from its membership an executive committee of not less than three persons to exercise, between meetings of the board of directors, authority specifically delegated by the board under conditions specified by the board.

(f) The office of a member of the board of directors is vacant on the death, resignation, or removal of the director or if the director does not possess or maintain the qualifications required to serve on the board of directors.

(g) Unless otherwise provided by the bylaws, a vacancy occurring in the board of directors shall be filled by the affirmative vote of the majority of the remaining directors even if the remaining directors do not constitute a quorum of the board of directors. A director elected by the board of directors to fill a vacancy holds office only until the next annual membership meeting, at which the position shall be filled for the remainder of the unexpired term by vote of the members.

(h) A director may be removed from office according to the procedure for removal provided by the bylaws.

SECTION 5.04.

OFFICERS

(a) The board of directors shall elect from its membership the following officers of the credit union: a chairman, a vice-chairman, a treasurer, and a secretary, each of whom shall serve for one year or until his successor is elected and qualified, and each of whom has the duties prescribed in the bylaws.

(b) The board of directors may employ, elect, or appoint a chief executive officer, who is in charge of operations and whose title is president, who may or may not be a member of the board of directors, but who may not be chairman, vice-chairman, or secretary of the credit union. The president serves at the pleasure of the board of directors.

(c) Subject to any guidelines set by the board of directors, the president shall appoint, employ, or hire, and may discharge, other officers and employees that the president considers necessary for the operation of the credit union. The president shall prescribe the titles of those officers and employees.

SECTION 5.05.

CREDIT COMMITTEE

The board of directors may delegate all or part of its power to approve or disapprove loans to a credit committee, one or more other committees, or one or more individuals.

SECTION 5.06.
COMPENSATION AND BOND;
CONFLICTS OF INTEREST

(a) No director, honorary director, advisory director, or committee member may receive compensation for serving as a director, honorary director, advisory director, or committee member, except that those persons may be:

(1) provided with reasonable health, life, accident, liability, and similar insurance protection;

(2) reimbursed for necessary expenses incident to the performance of their duties; and

(3) paid the fees and reimbursed for the other expenditures authorized by rules adopted by the commission.

(b) The board of directors shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering all directors, honorary directors, advisory directors, officers, employees, members of official committees, attorneys at law, and other agents of the credit union as required by commission rule.

(c) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

(1) participate, directly or indirectly or in any manner, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested, except that an interest only as a member of the credit union shared in common with all other members is not a pecuniary interest within the meaning of this subdivision; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired by reason of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

SECTION 5.07.
FINANCIAL REPORTING; AUDITS

(a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission.

(b) The board of directors shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union, in accordance with established principles and rules adopted by the commission, and submit a summary of the audit report to the members of the credit union at the next annual meeting. The

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board of directors shall make or cause to be made any supplementary audits or examinations that it deems necessary or that the commissioner requires. The commission by rule may require verifications of the accounts of members with the records of the credit union.

(c) If the commissioner, by examination or other credible evidence, finds that the board of directors is failing or refusing to comply with this section or a rule adopted under it, the commissioner may appoint an independent person or persons from outside the credit union and its membership to perform an audit, the costs and expenses of which are borne by the credit union.

SECTION 5.08.

MISCONDUCT AND PENALTIES FOR MISCONDUCT

(a) A director, honorary director, advisory director, committee member, officer, or employee of a credit union who knowingly demands or receives, directly or indirectly, any bonus, commission, or other consideration on account of the making of a specific loan or investment or the purchase of any asset by a credit union commits a Class A misdemeanor.

(b) Any director, honorary director, advisory director, committee member, officer, or employee of a credit union who knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember commits a Class B misdemeanor. Additionally, the offender is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is no defense in any action of the credit union to recover on the loan. Extension of credit to a nonmember as a comaker with a member, or extension of credit to a nonmember for the sale of real or personal property owned by the credit union or for the sale of assets acquired in liquidation or repossession is authorized and shall not be construed as a loan to a nonmember. The acquisition of a promissory note or other asset by a share and deposit guaranty corporation or credit union authorized under Subsection (e) of Section 11.10 of this Act, on which a nonmember is liable, shall not be construed as a loan to a nonmember.

(c) A person commits a felony of the third degree if the person, with the intent to deceive, knowingly:

(1) makes a false entry on the books or records or a report or statement of a credit union; or

(2) in connection with an examination or investigation of the credit union by the commissioner, deputy commissioner, or an authorized examiner of the department, exhibits a false or fictitious paper, instrument, or security or gives under oath a false answer to any question, directly related to the examination or investigation, propounded to him by the commissioner, deputy commissioner, or an authorized examiner of the department.

(d) A person who, for the purpose of concealing a fact or information from the commissioner, deputy commissioner, or an authorized examiner of the department, knowingly removes, destroys, or conceals any book or record of the credit union commits a felony of the third degree.

SECTION 5.09.
OFFICERS, DIRECTORS, AND EMPLOYEES;
CEASE AND DESIST; REMOVAL; APPEAL

(a) The commissioner may determine in the performance of his duties under this Act that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions;

(2) violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission;

(3) willfully neglected to perform official or legal duties, or willfully committed a breach of trust or fiduciary duty;

(4) committed any fraudulent or questionable practice in the conduct of the credit union's business which endangers the credit union's reputation or threatens its solvency;

(5) refused to submit to examination under oath, or to permit examination of the credit union's books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;

(6) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union's books, papers, records, or accounts in the other person's care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person;

(7) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;

(8) concealed, destroyed, removed, falsified, or perjured a book, record, paper, report, statement, or account related to the business and affairs of the credit union;

(9) transacted business while the credit union was in an unsafe or unsound condition;

(10) violated any conditions of the credit union's articles of incorporation or of any written agreement entered with the commissioner or the commission; or

(11) committed a criminal act that constitutes a substantial detriment to the reputation and conduct of the business of the credit union.

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(b) If, on examination or at any other time, the commissioner makes any of the findings set out in Subsection (a) of this section, he shall issue a demand letter giving notice in writing to the credit union and the offending person or persons stating the particular violations or practices found. The commissioner promptly shall call a meeting of the members of the board of directors of the credit union, who shall attend the meeting, and lay before them the findings contained in the demand letter and demand a discontinuance of the violations and practices found.

(c) If the commissioner makes any of the findings set out in Subsection (a) of this section and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, then at the directors' meeting or within 30 days thereafter the commissioner may serve on the credit union, its board of directors, and any offending person or persons a written order to cease and desist from the violations and practices enumerated in the order and to take such affirmative action that the commissioner considers necessary to correct the conditions resulting from the violations or practices found. Service of the order on the credit union and any offending person must be either by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by the records of the department, or by delivery to any officer or director of the credit union. Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The cease and desist order is effective and binding immediately on service if the commissioner finds that the solvency of the credit union is endangered, that there is a continuing violation of this Act or the rules adopted under this Act, or that there is a threat of immediate and irreparable harm to the general public or the credit union, its depositors, creditors, or members; otherwise, the order shall state the effective date, not less than 10 days after service of the order. Unless the credit union through its board of directors files a written notice of appeal, including a duly certified resolution of the board, with the commissioner within 10 days after the service of the order, the order is final. A copy of the order shall be entered in the minutes of the meeting of the members of the board of directors, who shall certify to the commissioner in writing that each has read the order.

(d) If the commissioner subsequently finds by examination or other credible evidence that the offending person or persons have continued violations or practices previously charged and found by the commissioner after notice and demand made under Subsection (b) of this section, and further finds that removal from office or employment is necessary and in the best interest of the credit union and its depositors, creditors, and members, then the commissioner may issue an order removing the offending person or persons.

(e) Notwithstanding any other provision of this Act, if the commissioner, by examination or other credible evidence, makes any of the findings in Subsection (a) of this section and determines that the removal of the offending person or persons from office or employment is immediately necessary because the person or persons have committed or are about to commit a fraudulent or criminal act involving the conduct of the business of the credit union, an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency, or an act that otherwise threatens immediate and irreparable harm to the general public or the credit union or its members, depositors, or creditors, the commissioner may issue an order of removal.

(f) An order of removal must state the grounds for removal with reasonable certainty. It shall be promptly served in the same manner as a cease and desist order on the person or persons removed and on the credit union. On issuance of the order, the offending person or persons have no rights, duties, or authority of office or employment in the credit union. Unless the person or persons removed or the credit union, through its board of directors as evidenced by a duly certified resolution, files a written notice of appeal with the commissioner not more than 10 days after the day the order of removal is served, the order is final as of the date it is issued, and the person or persons removed may not hold office in, be employed by, or participate in the affairs of the credit union. A copy of the order of removal shall be entered in the minutes of the board of directors, and an officer shall acknowledge receipt of the order and certify to the commissioner that the person or persons named in the order of removal have been removed from office.

(g) If the credit union or a person removed duly files a notice of appeal of a cease and desist order or an order for removal, the commissioner shall set a time and place for hearing the appeal by the commission in accordance with rules adopted by the commission to govern the fair hearing and adjudication of the questions appealed. The filing of an appeal does not suspend the effect of the order of removal, or cease and desist order, and the order remains in force pending final disposition of the appeal. At the conclusion of the hearing on the appeal, the commission may either vacate, affirm, or modify the order of the commissioner and order that appropriate action be taken.

(h) A cease and desist order or an order of removal becomes final on completion of an appeal or otherwise as provided by this section. If a credit union or a person designated in the order fails or refuses to comply with a final order, then the commissioner may, after giving notice, assess a civil penalty against the credit union, the designated person, or both, in an amount not less than \$100 or more than \$10,000 each for each day of the violation of the order. The credit union may not reimburse or indemnify a person for all or part of the civil penalty. The commis-

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sioner may institute a suit for injunction and for collection of the civil penalty in a district court of Travis County, in addition to any other remedy provided by law.

(i) An order to cease and desist, an order for removal from office, and each copy of a notice, correspondence, or other record relating to an order concerning violations or unsound practices are confidential and may not be revealed to the public except in a lawsuit authorized by this Act or by other lawful order or authority. However, the commissioner may disclose this information to a share and deposit guaranty corporation or credit union, or a department, agency, or instrumentality of this state or the United States if he determines the disclosure to be necessary or proper for the enforcement of the laws of this state or the United States.

**SECTION 5.10.
DEFAMATION**

A person who knowingly makes, utters, circulates, or transmits to another person a statement that is false and derogatory to the financial condition of a credit union authorized to do business in this state, with intent to injure that credit union, or who counsels, aids, procures, or induces another person to make, utter, circulate, or transmit such a statement, with such an intent, commits a felony of the third degree.

CHAPTER 6. CAPITAL ACCOUNTS

**SECTION 6.01.
CAPITAL**

(a) The capital of a credit union consists of the aggregate amount of the share accounts of its members plus all reserves and undivided earnings of the credit union.

(b) A share account consists of payments on shares of a member, including membership shares, which may be of different types or classes and may be with or without par value as determined by the board of directors.

(c) A deposit account consists of payments made under an agreement between the credit union and the depositor, including but not limited to a draft account, checking account, savings account, certificate of deposit, and any other similar account or arrangement.

**SECTION 6.02.
REPEALED**

**SECTION 6.03.
REPEALED**

SECTION 6.04.
REPEALED

SECTION 6.05.
MULTIPLE-PARTY ACCOUNTS

(a) A member, including a member of a federal credit union doing business in this state, may designate any person or persons, including organizations, associations, corporations, or partnerships, to own share or deposit accounts with the member jointly, with or without the right of survivorship, or in a multiple-party account as that term is defined by the Texas Probate Code. One or more or all of the parties to an account may make payments on share accounts and deposit accounts and make withdrawals subject to the terms of the account agreements accepted by the credit union. Subject to a policy adopted by the board of directors, a member by written notice to the credit union may change or cancel a designation, change the form of the account, or stop or vary payment under the terms of the account. No party, unless also a member, may vote, obtain loans, or hold office in the credit union. Payment of part or all of an account to any one or more of the parties discharges, to the extent of the payment, the liability of the credit union to all.

(b) The net contribution of a party to an account, as of any given time, is the sum of all payments on shares or deposits made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The net contribution includes, in addition, any life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question. Unless the account agreement provides otherwise, and in the absence of satisfactory proof of the net contributions, those who are parties from time to time shall be presumed to own the joint account in equal undivided interests.

(c) The death of any party to an account has no effect on the beneficial ownership of the account, other than to transfer the decedent's right in the account to the estate of the decedent, unless the account or trust agreement provides otherwise. An account that does not expressly provide for right of survivorship is presumed to be a nonsurvivorship account. If the credit union complies with the terms of the account agreement, the credit union may pay out any funds representing shares or deposits on the order of any party, either before or after the death of any other party, after which the credit union does not have further liability for the amounts so paid.

(d) Without qualifying any other statutory right to a setoff or lien, and subject to any contractual provisions accepted by the credit union, when a party to an account is indebted to a credit union, the credit union has a right to setoff against the entire amount of the account.

(e) Nothing in this Act shall be construed as in conflict with the laws of the United States or of the State of Texas as those laws govern the taxation of multiple-party accounts.

(f) This section is cumulative of Chapter XI, Texas Probate Code.

SECTION 6.06.
MINOR ACCOUNTS

(a) A credit union may issue share and deposit accounts in the name of a minor, receive payments on these accounts by or for the minor, pay withdrawals, accept pledges to the credit union by or for the minor, and act in any other matter with respect to the accounts on the order of the minor. A minor may vote in the meetings of the members if permitted by the bylaws,

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except no minor may vote through his parent or guardian. No minor is eligible for any office or committee membership within the credit union unless the bylaws specify otherwise.

(b) A payment or delivery of rights by a credit union, including a federal credit union, to a minor, any party to the account, or to the parent or guardian of a deceased minor, is a valid and sufficient release and discharge of the credit union to the extent of the payment or delivery. The payment and any receipt, pledge, or other action required by the credit union is binding on the minor as if the minor were of legal age and capacity.

SECTION 6.07.

TRUST ACCOUNTS

(a) A credit union may issue shares or receive deposits:

(1) in a revocable trust, if:

(A) a settlor is a member; or

(B) a trustee or beneficiary is a member, and a settlor is a member of the trustee's or beneficiary's family as that term is defined by the board of directors in written board policy; or

(2) in an irrevocable trust, if a settlor, trustee, or beneficiary is a member.

(b) On opening a trust account, the names of the beneficiaries must be disclosed to the credit union. Unless a beneficiary is a member, the beneficiary may not vote, obtain a loan, or hold office and is not required to pay an entrance fee. Subject to limitations imposed by this Act or a rule adopted under this Act, a credit union may make a fully secured loan to a nonmember trustee to enable or assist the trustee in performing the trustee's fiduciary responsibilities.

(c) Payment of part of all of the shares and deposits to a trustee or other person authorized to request present payment, to the extent of the payment, discharges the liability of the credit union to any settlor, trustee, and beneficiary. The credit union does not have a duty to inquire of a trustee the reason for a transaction or the intended use for which funds are withdrawn or borrowed.

(d) On termination of the trust, the credit union shall pay funds remaining in a trust account as:

(1) directed by the trustee;

(2) prescribed by the trust agreement; or

(3) provided by applicable law, in the absence of direction from the trustee or by the trust agreement.

(e) The death of a trustee does not affect the ownership or disposition of a trust account unless:

(1) the trust agreement provides otherwise;

(2) the account is a trust account subject to Chapter XI, Texas Probate Code, as amended, and there is not a surviving trustee; or

(3) there is not a surviving trustee and written evidence of the terms of the trust does not exist.

(f) On the death of a trustee for a trust account described by Subdivision (1), (2), or (3) of Subsection (e) of this section, the credit union may pay out the funds:

(1) in accordance with the trust agreement; or

(2) in the absence of written evidence of the terms of the trust, to a beneficiary or any other person authorized by law to request or receive payment.

SECTION 6.08.
THIRD PARTY CLAIMS

(a) No credit union authorized to do business under this Act, nor any federal credit union doing business in this state is required to recognize the claim of any third party to any share or deposit account, or to withhold payment of any share or deposit account to any party to the account, unless and until the credit union is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by the third party for the purpose of recovering or establishing an interest in the deposit or share account.

(b) Except in connection with an examination or audit by a government agency authorized by law to examine credit unions, no credit union authorized to do business under this Act is required to disclose or produce to third parties or permit third parties to examine records pertaining to the shares, deposits, loans, or other affairs of a member of the credit union, unless the member consents to the disclosure or production or the request for disclosure or production is made by the department or is in response to a subpoena or other order issued by a court of competent jurisdiction or to an administrative subpoena or summons issued by a state or federal agency as specifically authorized by law. The commission may promulgate reasonable rules regarding the confidentiality of members' accounts and the duties and obligations of the credit union to maintain that confidentiality and may authorize disclosure of member information under circumstances and conditions that the commission determines are appropriate or requisite in the daily operation of the credit union's business.

(c) Except in connection with an examination or audit by a government agency authorized by law to examine credit unions, a credit union authorized to do business under this Act or any federal credit union doing business in this state is entitled to recover from any third party the reasonable costs of reproduction, postage, delivery, or other actual expenses incurred in disclosing or producing records under this Act or other applicable law.

SECTION 6.09.
LIENS AND SETOFF; WITHDRAWALS

(a) In addition to any other right to a setoff or lien provided by law, a credit union authorized to do business under this Act has:

(1) a lien, which it may enforce with or without judicial process, on the shares and deposits and accumulation of dividends and interest of a member to the extent of any direct or indirect indebtedness of the member to the credit union; and

(2) the right to set off member indebtedness against the member's shares, deposits, and accumulation of dividends and interest to the extent of any direct or indirect indebtedness of the member to the credit union.

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(b) A credit union may allow withdrawals without affecting any right it has to a setoff or lien. A credit union may require up to 60 days' notice for withdrawals from share or deposit accounts. Such a notice may be imposed by the commissioner if he issues a cease and desist order under Chapter 5 of this Act. The commission by rule may require that any advance notice requirement for withdrawals apply to all members of the credit union. A membership share may not be withdrawn except on termination of membership in the credit union.

SECTION 6.10.

SAFE DEPOSIT BOXES

(a) A state or federal credit union may maintain and rent safe deposit boxes. The relationship of the credit union and the renter is, in the absence of a contract to the contrary, that of lessor and lessee and landlord and tenant. The rights and liabilities of the credit union are governed by the law governing those relationships, and the lessee is considered by law for all purposes to be in possession of the box and its contents.

(b) If a safe deposit box is held in the name of two or more persons jointly, any one of those persons is entitled to access to the box and shall be permitted to remove its contents. The credit union is not responsible for damage arising by reason of that access or removal by one of those persons. The death of one holder of a jointly held safe deposit box does not affect the right of another holder of the box to have access to and remove contents from the box.

(c) A credit union may not relocate a safe deposit box rented for a term of six months or longer if the box rental is not delinquent, or open the box to relocate its contents to another box or location, except in the presence of the lessee or with the lessee's written authorization, or except as provided by this subsection, Subsection (d) of this section, Sections 36B through 36F, Texas Probate Code, or other law. The new location's storage conditions must be as secure as the conditions at the original box location. The credit union shall give at least 30 days' notice by certified return receipt mail to the lessee stating the scheduled date and time of the relocation and whether the box will be opened during the relocation. The credit union shall notify the lessee of the new box number or location by certified return receipt mail no later than 30 days after the date of the relocation if the lessee does not personally supervise or authorize in writing the relocation, and if during the relocation the box is opened, two employees, at least one of whom is an officer or manager of the credit union and a notary public, shall inventory the contents of the box in detail, and the credit union shall include a copy of the signed and notarized inventory report with the notice of the new box number or location. All notices required by this subsection shall be sent to the lessee at the last known address of the lessee according to the books of the credit union, or, if the box is held in the name of two or more persons

jointly, to the last known address for each lessee according to the books of the credit union. Any one joint lessee may personally supervise or authorize in writing the relocation. The cost of certified return receipt mailings other than the first notice sent in connection with each relocation may be treated as box rental due and payable at the expiration of the rental term.

Text of subsection (d) as amended by Acts 1991, 72nd Leg., Chapter 498, section 2.

(d) A credit union is exempt from the requirements of Subsection (c) of this section and may relocate a safe deposit box or open the box to relocate its contents to another box or location if the security of the original box is threatened or destroyed by natural disaster, including tornado, flood, or fire, or other unforeseeable circumstances beyond the control of the credit union. The credit union shall notify the lessee of the new box number or location by certified return receipt mail no later than 90 days after the date of a relocation under this subsection. The notice required by this subsection shall be sent to the lessee at the last known address of the lessee according to the books of the credit union, or, if the box is held in the name of two or more persons jointly, to the last known address for each lessee according to the books of the credit union.

Text of subsection (d) as amended by Acts 1991, 72nd Leg., Chapter 751, section 2.

(d) A credit union that rents or permits access to a safe deposit box shall imprint all keys issued to the box after September 1, 1992, with its routing number or issue keys imprinted with the routing number. If available space on a key is insufficient for imprinting the routing number, the credit union shall attach to the key a tag imprinted with the routing number. If a credit union believes that the routing number imprinted on a key, or a tag attached to a key, used to access a safe deposit box has been altered or defaced so that the correct routing number is illegible, the credit union shall notify the Department of Public Safety, on a form designated by the commissioner, not later than the 10th day after the date the key is used to access the box. Nothing in this subsection requires a credit union to inspect the routing number imprinted on a key or an attached tag to determine if the number has been altered or defaced. A credit union that has identified the keys to a safe deposit box in accordance with this subsection and that follows applicable law and the credit union's established security procedures in permitting access to the box is not liable for any damage arising because of access to or removal of the contents of the safe deposit box.

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(e) If the box rental is delinquent for six months or longer, the credit union may send notice of the delinquency by certified return receipt mail addressed to the lessee at the lessee's last known address on the books of the credit union and must specify a date that is after the 60th day after the date on which the notice is mailed before which payment must be made. The credit union may open the box only if that notice is sent in accordance with this subsection and if the rent is not paid before the specified date. The box must be opened in the presence of two employees, at least one of whom is an officer or manager of the credit union and a notary public. The credit union shall inventory the contents of the box in detail as provided by reporting instructions of the state treasury and place the contents of the box in a sealed envelope or container bearing the name of the lessee. The credit union shall hold the contents of the box subject to a lien for its rental, the cost of opening the box, and the damages in connection with the box. If the rental, cost, and damages are not paid within two years after the date of opening of the box, the credit union may sell or part of the contents at public auction in the manner and on the notice prescribed for the sale of real property under deed of trust under Section 51.002, Property Code, and apply the proceeds to the rental, cost, and damages. Any unauctioned contents of boxes and any excess proceeds from the sale shall be remitted to the state treasury as provided by Chapter 74, Property Code.

CHAPTER 7. LOANS

SECTION 7.01.

PURPOSE, TERMS, AND INTEREST RATE

If made in accordance with rules adopted by the commission, a credit union may make loans to members for such purposes as it may approve on such security and terms as it may require, at rates of interest not exceeding one and one-half percent per month on the unpaid balance, or higher rates otherwise authorized by law, including the rates authorized by Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon's Texas Civil Statutes). Chapter 15 and Subtitle 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), do not apply to a credit union loan or extension of credit unless the agreement evidencing that transaction specifically provides otherwise. Every loan must be evidenced by a written instrument.

SECTION 7.02.

LOAN LIMIT

No credit union may make a loan or aggregate of loans to any one member, including loans to the member's business interests, in an amount greater than 10 percent of the credit union's total assets or a lesser amount established by commission rule.

SECTION 7.03.

OPEN-END CREDIT

A credit union may enter into a written agreement with a member, allowing that member to borrow money from time to time, under which interest may from time to time be computed on an outstanding unpaid balance. The credit union may also approve in advance a line of credit and grant advances to a member within the limit of the extension of credit. Additional loan applications are not required under an open-end credit plan or line of credit if the aggregate obligation does not exceed a limit of the extension of credit established by the credit union.

SECTION 7.04.

PARTICIPATION LOANS
AND OTHER LOAN PROGRAMS

(a) A credit union may market and sell participations in loans to members originated by the credit union to other credit unions, corporations, or financial organizations.

(b) A credit union may participate in guaranteed loan programs of the federal and state governments and other government loan programs approved by the commission.

SECTION 7.05.

LOANS TO OFFICIALS

(a) A credit union may make loans and extend lines of credit to its directors, employees, loan officers, credit manager, members of its credit committee, and members of the immediate families of those persons, if:

(1) the loan complies with the requirements of this Act and rules adopted under this Act with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and

(2) before making or agreeing to make the loan, the board of directors has approved the loan, if the loan or aggregate of outstanding loans to any one person, his business interests, and members of his immediate family is greater than \$10,000 or a higher amount established by a commission rule, plus pledged shares and deposits.

(b) A credit union may permit a director, employee, loan officer, credit manager, and member of its credit committee to act as comaker, guarantor, or endorser of a loan to another member, unless the loan standing alone or added to any outstanding loan or loans to the comaker, guarantor, or endorser exceeds \$10,000 or a higher amount established by a commission rule, plus pledged shares and deposits, in which case prior approval of the board of directors is required.

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SECTION 7.06.

PREPAYMENT PRIVILEGE

Any loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business, except that the credit union may require a partial prepayment on a loan secured by a lien, mortgage, or other type of security interest in real property to be made on the date monthly installments are due and in the amount of that part of one or more monthly installments that would be applicable to principal.

SECTION 7.07.

COLLECTION OF ILLEGAL LOANS

Illegality of a loan is not a defense in an action by the credit union to recover on the loan and does not prevent enforcement or collection of the loan against or from the borrower, a person in the position of a guarantor or surety, or a person who is otherwise liable in regard to the loan.

SECTION 7.08.

EXPENSES, FEES, AND PENALTIES

(a) A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties. Those payments may be collected by the credit union from the member and retained by the credit union or paid to a person rendering services in connection with the payment, or the payments may be paid directly by the member to third parties to whom they are payable. The fees or expenses are in addition to interest authorized by law and are not a part of interest collected or agreed to be paid on a loan.

(b) A credit union, in accordance with its bylaws, may charge a member a penalty when a payment on a loan is in arrears. Only one penalty may be charged by the credit union on each past due payment. The penalty, when charged in the amount authorized, is not interest under any law that defines interest or limits the rate of interest that may be charged and may be charged and collected in addition to the interest authorized by law.

CHAPTER 8. INVESTMENTS

SECTION 8.01.

INVESTMENT OF FUNDS

A credit union may invest funds not used in loans to members:

(1) in capital shares, obligations, participation certificates, or common or preferred stock of any agency, association, company, network, stock company,

mutual association, mutual company, membership association, membership company, partnership, joint venture, or trust company, if the membership or ownership of the agency, association, or company is confined or restricted to credit unions and their members or organizations of credit unions, and if the agency, association, or company is designed primarily to serve or otherwise assist credit union operations; in loans to any credit union association or corporation, national or state, of which the credit union is a member; investments in any one agency, association, company or other entity of the type described in this subdivision may not exceed five percent of the credit union's total assets or an amount equal to its reserves and undivided earnings, whichever is less; however, the commission may adopt rules authorizing investments in the securities of any agency, association, company, or other entity of a type described in this subdivision whose membership or ownership is not confined to credit unions and their members or organizations of credit unions, whether or not the entity is designed primarily to serve or otherwise assist credit union operations;

(2) in obligations, bonds, notes, or other evidences of indebtedness of any state, city, town, village, county, school district, municipal corporation, taxing authority, or political subdivision;

(3) in certificates of deposit or other accounts issued by a state or national bank, savings and loan association, savings association, or mutual savings bank;

(4) in securities, obligations, participations, or other instruments of or issued by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in the same;

(5) in loans to, shares of, or deposits in other credit unions, central credit unions, corporate credit unions, central liquidity facilities established under state or federal law, trusts, or organizations established for lending directly or collectively to credit unions;

(6) in securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in those investments;

(7) in participation loans with other credit unions, corporations, credit organizations, or financial organizations;

(8) in the notes receivable, loans to members, or other assets of any credit union operating under this Act or the Federal Credit Union Act; and

(9) in other investments that may be authorized by rules adopted by the commission, which rules must be responsive to changes in economic conditions or competitive practices, and the need for safety and soundness of credit union investments.

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**CHAPTER 9. RESERVE ALLOCATIONS;
DIVIDENDS; SHARE REDUCTION**

SECTION 9.01.

RESERVE ALLOCATIONS

(a) The commission shall adopt rules requiring credit unions to maintain reserves necessary to protect the interests of their members. Those rules may prescribe the purposes for which the reserves may be used and may authorize the commissioner to approve other uses.

(b) The board of directors may establish reserves in addition to the required reserves.

SECTION 9.02.

DIVIDENDS AND INTEREST

Dividends and interest may be paid at rates and on conditions that the board of directors authorizes. The commissioner may impose actions on the payment of dividends if he issues a cease and desist order under Chapter 5 of this Act or as necessary to protect the member's interests and preserve solvency of the credit union as authorized by commission rule.

SECTION 9.03.

SHARE REDUCTION

If the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and any reserves and the estimated value of its assets is less than the total amount due the shareholders, the credit union may, by a majority vote of the members of the credit union present at a meeting of members called for that purpose, order a reduction in the membership shares of each of its shareholders to divide the loss proportionately among them.

CHAPTER 10. CHANGE IN CORPORATE STATUS

SECTION 10.01.

CONSERVATION

(a) The commissioner may determine in the performance of his duties under this Act that the credit union is insolvent or in imminent danger of insolvency, or that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions;

(2) violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission;

(3) refused to submit to examination under oath, or to permit examination of the credit union's books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;

(4) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union's books, papers, records, or accounts in the other person's care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person; or

(5) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner.

(b) If the commissioner makes any of these findings and determines that the findings are of such severity that immediate affirmative action is needed to prevent further dissipation of the assets of the credit union, the commissioner may immediately issue order of conservation and appoint a conservator to manage the affairs of the credit union. Service of the order of conservation shall be delivered to an officer or director of the credit union by the commissioner, the deputy commissioner, or any other authorized designee. If no officer or director is available for service on the date of issuance, mail delivery is authorized. Service by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by the records of the department is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The order must clearly state the grounds for conservation.

(c) After a conservation order has been served on the credit union, the commissioner shall take possession and control of the books, records, property, assets, and business of the credit union, and the credit union shall cease all operations, except those authorized by the commissioner and conducted under his supervision. Subject to rules adopted by the commission and under the supervision of the commissioner, the conservator may:

(1) take charge of the books, records, property, assets, and business of the credit union and conduct the business and affairs of the credit union;

(2) determine the existence of and the amount of any claims and allow proved claims of security, preference, or priority or disallow claims of security, preference, or priority not proved;

(3) repudiate any contract or unexpired lease the conservator considers burdensome to the credit union;

(4) sell or assign assets to himself or herself;

(5) settle, compromise, or release claims in favor of or against the credit union; and

(6) do all other things that may be necessary in connection with the conservation.

(d) The conservator shall take the steps toward the removal of the causes and conditions that have necessitated the order that the commissioner directs. During the conservatorship, the conservator shall make the reports to the commissioner

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from time to time that the commissioner requires. The conservator may:

(1) take all necessary measures to preserve, protect, and recover the assets or property of the credit union, including claims or causes of action belonging to or that may be asserted by the credit union;

(2) deal with that property in his or her own name as conservator; and

(3) file, prosecute, or defend against a suit by or against the credit union if the conservator considers this action necessary to protect the interested parties or property affected by the suit.

(e) The commissioner shall determine the cost incident to the conservatorship. This cost is a charge against the assets and funds of the credit union to be allowed and paid as the commissioner directs.

(f) A court may not restrain or affect the exercise of the powers or functions of the conservator of a credit union, and no court has jurisdiction over claims against the conservator or the credit union, until all administrative remedies have been exhausted. A suit filed against a credit union or its conservator while a conservatorship order is in effect must be brought in a court of competent jurisdiction in Travis County. The conservator may file suit in a court of competent jurisdiction in Travis County against any person for the purpose of preserving, protecting, or recovering assets or property of the credit union, including a claim or cause of action belonging to or that may be asserted by the credit union.

(g) The conservator shall serve for the period necessary to accomplish the purposes of the conservatorship as intended by this Act. If the credit union is rehabilitated, it shall be returned to the management of the board of directors under the terms that are reasonable and necessary to prevent recurrence of the conditions that occasioned the conservatorship.

(h) If the commissioner determines that the credit union in conservatorship is not in a condition to continue business and cannot be rehabilitated as provided by this section, he may issue an order of liquidation appointing a liquidating agent.

(i) An agreement that tends to diminish or defeat the right, title, or interest of the conservator in any asset acquired by the conservator under this section, either as security for a loan or by purchase, is invalid against the conservator unless the agreement is:

(1) in writing;

(2) executed by the credit union and each person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(3) approved by the board of directors of the credit union, with the approval recorded in the minutes of the board; and

(4) an official record of the credit union continuously from the time of its execution.

(j) Not later than the 30th day after the date an order of conservation is served, the board of directors of the credit union shall file a written reply to the order. In addition, the credit union board of directors may appeal the order to the commission

by filing with the commissioner a written appeal, including a duly certified resolution of the board. If the board of directors files an appeal and requests a hearing, the commissioner shall promptly request a hearing date from the State Office of Administrative Hearings that is not less than 10 or more than 30 days after the date of receipt of the request. The commissioner shall give notice to the credit union of the date, time, and place of the hearing. The filing of an appeal does not suspend the effect of the order of conservation, and the order remains in force pending final disposition of the appeal by the commission. Not later than the 45th day after receipt of a proposal for decision from the State Office of Administrative Hearings, the commission shall meet to consider the proposal for decision.

(k) If the board of directors of the credit union does not file a reply to the order of conservation as required by this section or fails to request and appear at the hearing provided for by this section, the commissioner may dispose of the matter as he considers appropriate. The credit union is presumed to have consented to this action and may not contest it.

(l) The date and time of the hearings provided for by this section may be extended by agreement of the parties.

(m) Orders of conservation and copies of all notices and correspondence relating to those orders are confidential and may not be publicized or revealed to the public except in related legal proceedings or as otherwise authorized by law.

SECTION 10.02.

LIQUIDATION

(a) The commissioner may issue an order of liquidation appointing a liquidating agent, and directing that the credit union be liquidated, after he has issued an order of suspension or conservation and provided an opportunity for hearing as provided in Section 10.01 of this Act:

(1) if the board of directors of the credit union requests that an order of liquidation be issued and that the credit union be liquidated;

(2) if the credit union otherwise consents to the action; or

(3) if the commissioner finds that it is in the public interest and the best interest of the members, depositors, and creditors of the credit union that it be closed and its assets liquidated.

(b) Unless the commissioner has issued an order of liquidation, the board of directors of the credit union may adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of liquidation be submitted to the members. Not later than five days after the day of the adoption of the resolution, the chairman shall notify the commissioner in writing setting forth the reasons for the proposed liquidation. A majority of the credit union members voting at a meeting specially called to consider the matter, but not less than a quorum, may vote to dissolve and liquidate the credit union. Notwithstanding any

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other law or the articles of incorporation or bylaws of the credit union, notice of the special meeting to consider the matter of liquidation shall be mailed, by first-class mail, to each member of the credit union and to the commissioner not later than 10 days before the day of the meeting. Immediately after the mailing of a notice of a special meeting called to consider the matter of liquidation, the credit union shall cease to operate except for the purposes of accepting payments on loans or other obligations due the credit union. If the vote to dissolve and liquidate the credit union passes, the credit union may do no further business except that incidental to liquidation. The chairman of the board or the president and the secretary shall, within five days following the meeting and the affirmative vote to dissolve and liquidate, notify the commissioner of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses. The board of directors shall appoint a liquidating agent for the purpose of conserving and collecting the assets of the credit union, winding up its affairs, discharging its debts, distributing its assets, and all other actions necessary and incidental to the liquidation of the credit union.

(c) The commissioner shall serve an order of liquidation in the same manner as provided for service of an order of suspension or conservation. At any time within five days after the commissioner served an order of liquidation, the credit union acting through its directors, as evidenced by a duly certified resolution of the board, may sue in the district court of the county in which the principal office of the credit union is located to enjoin the commissioner from liquidating the credit union if the credit union has not requested or consented to the order of liquidation. The court may, without notice or hearing, restrain the commissioner from liquidating the assets of such credit union pending hearing of the suit on the merits, and shall, in that event, instruct the commissioner to hold the assets of the credit union in the commissioner's possession and control pending final disposition of the suit. The commissioner may, with approval of the court, take such actions as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit on the merits and shall enter a judgment either enjoining the commissioner from liquidating the assets of the credit union or refusing an injunction. Appeal shall lie from the judgment as in other civil cases, but the commissioner, irrespective of the character of judgment entered by the trial court or of any supersedeas bond filed, shall retain possession and control of the assets of such credit union pending final disposition on appeal.

(d) The credit union in liquidation shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The liquidating agent shall use the assets of the credit union to pay, in the following order:

- (1) secured creditors to the extent of the value of their collateral;
- (2) costs and expenses of liquidation, including any surety bond that may be required;
- (3) depositors;
- (4) general creditors, including secured creditors to the extent that their claims exceed the value of their collateral; and
- (5) distributions to members proportionate to the shares held by each member.

(e) Subject to the rules adopted by the commission, and under the supervision of the commissioner, the liquidating agent shall:

(1) receive and take possession of the books, records, assets, and property of the credit union in liquidation; sell, enforce collection of, and liquidate all assets and property; compound all bad or doubtful debts; sue in the name of the liquidating agent or in the name of the credit union in liquidation; and defend actions brought against the liquidating agent or against the credit union;

(2) determine the existence of and the amount of any claims and allow proved claims of security, preference, or priority or disallow claims of security, preference, or priority not proved; repudiate any contract or unexpired lease the liquidating agent considers burdensome to the credit union; sell or assign assets to himself, subject to Subsection (h) of this section; and settle, compromise, or release claims in favor of or against the credit union;

(3) make distribution and payment to creditors and members as their interests may appear;

(4) execute such documents and papers and do such other acts and things that the liquidating agent may deem necessary or desirable to discharge his duties;

(5) cause notice to be given to creditors and members to present and make legal proof of their claims, which notice must be published once a week in each of three successive weeks in a newspaper of general circulation in each county where the credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that when the aggregate book value of the assets and property of the credit union in liquidation is less than \$10,000, the commissioner shall declare the credit union in liquidation to be a "no publication" liquidation, and publication notice to creditors and members is not required in such case;

(6) from time to time make a ratable liquidation dividend on all claims that have been proved to the satisfaction of the board of directors or the liquidating agent or adjusted in a court of competent jurisdiction and, after the assets of the credit union have been liquidated, make further liquidation dividends on all claims previously proved or adjusted (the statement of any amount due to the creditor as shown on the books and records of the credit union may be accepted in lieu of a formal proof of claim on behalf of any creditor or member); but all claims not filed before payment

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of the final dividend are barred; claims rejected or disallowed by the liquidating agent are also barred unless suit is instituted within three months after notice of rejection or disallowance;

(7) in a "no publication" liquidation, determine from all sources available, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after 60 days have elapsed from the date of appointment of the liquidating agent distribute the funds of the credit union to creditors and members ratably and as their interests may appear; and

(8) have the power to do all other things that may be necessary in connection with this subsection.

(f) The commissioner shall prescribe the certificate to be completed by the liquidating agent attesting to liquidation, that distribution has been made and that liquidation has been completed. The commissioner, on receipt and approval of the certificate, shall cancel the certificate of incorporation of the credit union. The corporate existence of the credit union shall continue for a period of three years from the date of cancellation of its certificate of incorporation, during which period the liquidating agent, or any duly appointed successor, or such persons as the commissioner may designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(g) If the commissioner finds that the liquidating agent has failed to properly perform his duties in a timely and efficient manner or has violated this Act or any rule adopted under this Act, the commissioner may take possession and control of the books, records, property, assets, and business of the credit union in liquidation by issuing an order of removal. The order shall remove the liquidating agent and appoint a successor liquidating agent to complete the process of liquidation and the winding up of the affairs of the credit union subject to the supervision and control of the commissioner. The order of removal shall be served on the liquidating agent being removed and is effective immediately on service. The commissioner shall also fill any vacancy caused by the resignation, death, illness, removal, desertion, or incapacity to function of the liquidating agent.

(h) Unless the commissioner grants prior approval in writing, no liquidating agent may acquire any of the assets of the credit union in liquidation or purchase any loans of the credit union. No liquidating agent may obtain from the liquidation any compensation or profit for personal benefit, whether directly, indirectly, for the benefit of any member of the liquidating agent's family or any person related to or associated with the liquidating agent, or for the benefit of any business enterprise with which the liquidating agent is associated, except for the credit union in liquidation. The liquidating agent may receive reasonable compensation and

nothing in this Act shall prevent compensation of the liquidating agent or those salaried employees and salaried officers of the credit union during the pendency of the liquidation, which payments shall be considered expenses incidental to liquidation.

(i) Except as provided by Subsection (c) of this section, no court may restrain or affect the exercise of the powers or functions of the liquidating agent of a credit union, and no court has jurisdiction over claims against the liquidating agent or the credit union, until all administrative remedies have been exhausted. A suit filed against a credit union or its liquidating agent while an order of liquidation is in effect must be brought in a court of competent jurisdiction in Travis County. The liquidating agent may file suit in a court of competent jurisdiction in Travis County against any person for the purpose of preserving, protecting, or recovering assets or property of the credit union, including a claim or cause of action belonging to or that may be asserted by the credit union.

(j) No agreement that tends to diminish or defeat the right, title, or interest of the liquidating agent in any asset acquired by it under this section, either as security for a loan or by purchase, is valid against the liquidating agent unless the agreement is:

- (1) in writing;
- (2) executed by the credit union and each person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the credit union;
- (3) approved by the board of directors of the credit union, with the approval recorded in the minutes of the board; and
- (4) an official record of the credit union continuously from the time of its execution.

SECTION 10.03.

MERGER OR CONSOLIDATION

(a) A credit union may, in accordance with rules adopted by the commission and with the approval of the commissioner, merge or consolidate with any other credit union, under the existing articles of incorporation of the other credit union or otherwise, pursuant to a plan agreed to by the majority of the board of directors of each credit union joining in the merger or consolidation and approved by a majority of the members of each credit union voting at the meetings of members called for that purpose. The commissioner may waive the requirement that the plan be approved by the members of either credit union.

(b) After agreement by the directors and approval by the members, if applicable, of each credit union, the president and secretary of each credit union shall execute a certificate of merger or consolidation containing the following information:

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(1) the time and place of the meeting of the board of directors at which the plan of merger or consolidation was agreed to;

(2) the vote of the board of directors in favor of and against the adoption of the plan;

(3) a copy of the resolution or other action by which the plan of merger or consolidation was agreed to;

(4) the time and place of the meeting of the members at which the plan was approved, if applicable;

(5) the vote of the membership in favor of and against approval of the plan, if applicable; and

(6) the name of the surviving credit union.

(c) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the plan of merger or consolidation to the commissioner. On approving the merger or consolidation, the commissioner shall return the certificates and plan to the merging or consolidating credit unions. However, the commissioner may make his approval of a merger or consolidation conditional, and, in this event, shall set out the condition in his order approving the merger or consolidation. The commissioner may not deliver the approved certificate until the condition has been met. If the commissioner disapproves the merger or consolidation, or imposes a condition, the merging or consolidating credit unions may appeal the commissioner's decision to the commission in the same manner as provided for an appeal on an application to incorporate a credit union.

(d) After a merger or consolidation is effected, all property, property rights, and interests of the merged or consolidated credit union vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged or consolidated credit union are assumed by the surviving credit union under whose charter the merger or consolidation is effected.

(e) This section shall be construed, whenever possible, to permit a credit union authorized to do business in this state under any other act to merge or consolidate with one authorized to do business under this Act.

(f) Notwithstanding any other law, the commissioner may authorize a merger or consolidation of a credit union that is insolvent or is in danger of insolvency with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:

(1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;

(2) other options are not reasonably available; and

(3) the public interest would best be served by approval of the merger, consolidation, purchase, or assumption.

**SECTION 10.04.
CONVERSION**

(a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission to facilitate the conversion, if any.

(b) A credit union organized under the laws of this state may convert to a credit union under the laws of another state on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission, if any.

(c) A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with the requirements of the jurisdiction under which it is organized and the rules adopted by the commission.

**SECTION 10.05.
APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT**

The commissioner may appoint any person or entity, including the share and deposit guaranty corporation or credit union provided for by Subsection (e) of Section 11.10 of this Act, to be a conservator or a liquidating agent under this chapter.

CHAPTER 11. REGULATORY BODY

**SECTION 11.01.
CREDIT UNION COMMISSION**

(a) The Credit Union Commission consists of nine members. The commission shall supervise, consult with, advise, and make recommendations to the commissioner. The jurisdiction, authority, powers, and duties previously conferred and imposed by law on the Banking Commissioner in relation to the management, control, regulation, and general supervision of credit unions are conferred and imposed on the commission and the commissioner.

(b) The Credit Union Department is composed of the Credit Union Commission and a Credit Union Commissioner, together with other officers and employees within the department. The department shall supervise and shall regulate, as provided in this Act, all credit unions organized under the laws of the State of Texas. The department shall periodically make comprehensive studies of the statutes of

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this state as they pertain to credit union operations. The commissioner shall report the recommendations of the department when and as necessary to the legislature for consideration. During January of each year, the department shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding year. The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(c) The Credit Union Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this Act expires September 1, 1997.

SECTION 11.02.
ELIGIBILITY OF MEMBERS

(a) Six members of the commission must be individuals who are currently engaged in the exercise of the duties, responsibilities, rights, and powers of a duly authorized director, officer, or committee member of a credit union that is organized and doing business in this state under this Act or the Federal Credit Union Act and that has its principal office in this state, and who have five years or more of active experience as such a director, officer, or committee member. No more than one person from a federal credit union may serve on the commission at any time. Experience as a commissioner, deputy commissioner, or examiner is equivalent to the type of experience required by this subsection. If a person holding a position in accordance with this subsection ceases to be engaged in the exercise of the duties, responsibilities, rights, and powers prescribed by this subsection for a period exceeding 90 days, the person is ineligible to serve as a member and the person's position on the commission is vacant.

(b) Three members of the commission are representatives of the general public. An individual appointed to serve in that capacity may not, at the time of the individual's appointment to or while serving on the commission:

(1) be engaged in the management or direction of a financial institution, such as a credit union, bank, or savings and loan association; or

(2) have, other than as a member or customer, a financial interest in a financial institution, such as a credit union, bank, or savings and loan association.

(c) No two members of the commission may be residents of the same state senatorial district.

(d) A person currently serving as chairman, first vice-chairman, president, vice-president, secretary, or treasurer of a state trade association in the credit union industry, or an employee of such an organization, may not serve as a member of the commission.

(e) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the commission or act as the general counsel to the commission.

SECTION 11.03.

APPOINTMENT AND TERMS OF MEMBERS

(a) The members of the commission are appointed, without regard to race, creed, sex, religion, or national origin, by the governor, with the advice and consent of the senate, for terms of six years, with the terms of three members expiring February 15 of each odd-numbered year. The governor shall appoint the members who are representatives of the general public on the basis of recognized business ability.

(b) Each member serves until the member's successor is appointed and qualified.

SECTION 11.04.

VACANCIES; REMOVAL

(a) The office of a member of the commission becomes vacant on January 1 if the member failed to attend more than one-half of the meetings of the commission held during the preceding calendar year, excluding any meetings held before the member assumed office.

(b) The governor may remove a member from the member's position on the commission for neglect of duty, incompetence, or fraudulent or criminal conduct.

(c) It is grounds for removal from the commission if a member violates a prohibition established by Section 11.02(e) of this Act.

(d) The office of a member of the commission is vacant in the event of the death, resignation, or removal of the member, or if the member ceases to have the qualifications necessary to serve as a member.

(e) In the event of a vacancy on the commission for any cause, the governor, with the advice and consent of the senate, shall promptly appoint a qualified person to fill the unexpired term.

(f) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

SECTION 11.05.

COMPENSATION; EXPENSES OF MEMBERS

(a) Notwithstanding any other law, a member of the commission may not receive any compensation or benefit, except as provided by Subsection (b) of this section, as a result or by virtue of the member's service as a member.

(b) Each member of the commission is entitled to per diem, including compensatory per diem, actual expenses for meals and lodging, and transportation, all as set by legislative appropriation, for each day that the member engages in the business of the commission.

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SECTION 11.06.

MEETINGS

(a) The commission shall hold regular meetings at least twice each year. The chairman of the commission, the commissioner, or any five members of the commission may call special meetings. The commission shall adopt reasonable rules governing the time and place of meetings and the conduct of all meetings, including the form in which minutes of the meetings are maintained. All meetings of the commission are subject to the Open Meetings Law, Chapter 271, Acts of the 60th Legislature, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(b) A majority of the membership of the commission constitutes a quorum for the purpose of transacting any business.

(c) The commission shall annually elect a chairman and vice-chairman from among its members. The chairman shall preside at all meetings of the commission, and the vice-chairman shall preside in the absence of the chairman. If both the chairman and vice-chairman are absent from a meeting, the most senior member of the commission in attendance at the meeting shall serve as acting chairman.

(d) The commissioner shall attend meetings of the commission but may not vote at any meeting.

(e) No commission member may act on matters under consideration which directly and specifically relate to any credit union of which the member of the commission is an officer, director, or member.

(f) The chairman of the commission may appoint individuals who are not members of the commission to serve on official committees of the commission that are charged with evaluating industry methods or problems and presenting formal recommendations to the commission for possible action. The individuals appointed are entitled to reimbursement for reasonable and necessary expenses incidental to travel incurred in connection with the performance of official duties.

SECTION 11.07.

RULEMAKING POWER

(a) The commission may adopt reasonable rules necessary for the administration of this Act, and in doing so, may exercise its discretion to regulate and classify credit unions according to criteria that the commission determines are appropriate and necessary to accomplish the purposes of this Act, including, but not limited to, the character of field of membership, amount of assets, number of members, or financial condition.

(b) All rules adopted under this Act must be adopted in accordance with the rulemaking provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The commission shall promulgate reasonable rules to prescribe all supervision fees, charges, and revenues required to be paid by credit unions authorized to do business under this Act.

SECTION 11.08.

CREDIT UNION COMMISSIONER

(a) The commission shall appoint, by the affirmative vote of two-thirds of the membership, a Credit Union Commissioner who shall serve as an employee and at the pleasure of the commission.

(b) The commissioner must have at least 5 years' practical experience in the operation of credit unions within the 10 years immediately preceding his appointment. The experience may consist of experience in the exercise of the duties, responsibilities, rights, and powers of a duly authorized director, officer, or committee member of a credit union or in the employment of a credit union regulatory agency.

(c) The commissioner may not be:

(1) a salaried officer, salaried employee, or salaried consultant of a trade association in the credit union industry; or

(2) related within the second degree by affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is a salaried officer, salaried employee, or salaried consultant of a trade association in the credit union industry.

SECTION 11.09.

DEPUTY CREDIT UNION COMMISSIONER

Subject to the approval of the commission, the commissioner may appoint a Deputy Credit Union Commissioner. The deputy commissioner must meet the same qualifications as does the commissioner. The deputy commissioner, if any, shall serve at the pleasure of the commissioner. He may exercise, at the direction of the commissioner, all the powers and prerogatives of the commissioner and shall perform all the duties of the commissioner during the commissioner's absence or inability to act.

SECTION 11.10.

POWERS OF CREDIT UNION COMMISSIONER

(a) On the appointment and qualification of a commissioner, the commissioner shall supervise and regulate all credit unions doing business in this state, except federal credit unions organized and existing under federal law, in accordance with this Act and the rules and regulations promulgated under this Act.

(b) The commissioner shall enforce the provisions of this Act and the rules and regulations promulgated from time to time.

(c) The commissioner shall levy and collect all supervision fees, charges, and revenues required to be paid by credit unions as provided by Subsection (c), Section 11.07, of this Act. All money collected under this Act shall be deposited in the credit union department expense fund, which is created as a special fund in the state treasury. Money in the fund may be used only for the administration of this Act. Income earned on the money deposited in the credit union department expense fund shall be credited to that fund.

(d) Repealed by Acts 1983, 68th Leg., p. 2337, ch. 468, § 57, eff. Sept. 1, 1983.

(e) The commission shall promulgate, and the commissioner shall enforce, reasonable rules requiring credit unions to provide or cause to be provided share and deposit insurance protection for their members and depositors, including the authorization and establishment of a share and deposit guaranty corporation or credit union under the exclusive regulation of the department to enable the department to carry out the purposes of this Act. Share and deposit insurance protection may also be provided through other sources approved by the department, including such a program of the National Credit Union Administration.

(f) The commissioner shall supervise the establishment and maintenance of files regarding complaints about credit unions received by the department. The files must include all relevant information regarding the nature, status, and disposition of the complaints. The commissioner shall take the steps that the commissioner determines to be necessary to notify each complainant of the procedures and remedies available for the resolution of complaints. After a written complaint is filed, the commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(g) The commissioner shall supervise the preparation of information regarding the regulatory functions of the department, procedures for filing and resolution of complaints, and other matters of general interest regarding the credit union movement and shall supervise the dissemination of that information to the general public and appropriate state agencies.

SECTION 11.10A.

RESTRICTIONS ON MEMBERS AND COMMISSIONER

A member of the commission or the commissioner may not communicate directly or indirectly with a party or the representative of a party to any proceeding before the commission or the commissioner if such a communication violates the provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), relating to ex parte communications.

**SECTION 11.11.
CREDIT UNION EXAMINERS**

Subject to recruitment and qualifications approved by the commission, the commissioner shall appoint credit union examiners in sufficient number to perform fully the duties and responsibilities under this Act and the laws of this state.

**SECTION 11.12.
EXAMINATIONS**

(a) The department, by and through its duly appointed examiners and in accordance with the rules adopted by the commission, shall perform periodic examinations of the books and records of each credit union authorized to do business under this Act. The officers, directors, agents, and employees of each credit union shall furnish the examiner full and free access to all books, papers, securities, records, and other sources of information that relate to the business of the credit union. The commissioner or any examiner may summon witnesses or administer oaths or affirmations in the examination of the credit union, its officers, directors, agents, or employees, or any other person concerning the credit union's business, transactions, and condition and may compel the production of books, papers, securities, records, or other documents by court order if they are not voluntarily produced.

(b) All information, except statements intended for publication, obtained by the department relative to the financial conditions of credit unions, whether obtained through examination or otherwise, and all files and records of the department relative to that information are confidential and not for public record or inspection. The commissioner may disclose to the commission any information, files, or records pertinent to any hearing or matter pending before the commission or the commissioner. If the commissioner determines it is necessary or proper for the enforcement of the laws of this state applicable to credit unions or rules adopted under those laws, the commissioner may disclose any files, records, or other information of the department to the Texas Share Guaranty Credit Union or any department, agency, or instrumentality of this state or the United States.

(c) Examiners shall report results of each examination on a form prescribed by the commissioner and approved by the commission. The examiner shall include in the report a general statement of the affairs of the credit union. The department shall send a copy of the report to the board of directors of the credit union examined within 30 days after the examination. Each credit union shall pay an examination fee established by the commission and based on the costs of performing the examination.

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SECTION 11.13.

OATHS OF OFFICE; BOND

The commissioner, the deputy commissioner, if any, each credit union examiner, and every other officer and employee of the commission, shall, before assuming the duties of office, take an oath and make fidelity bond in the sum of \$10,000 payable to the governor and all successors in the office of governor, in individual, schedule, or blanket form, executed by a surety appearing on the list of approved sureties acceptable to the United States government. Each oath and bond required under this Act must be in a form approved by the commission. The premiums for the bond are paid out of the funds of the department.

SECTION 11.14.

DEFENSE BY ATTORNEY GENERAL

The attorney general shall defend any action brought against any member of the commission or against any of its officers or employees by reason of the official act or omission of the person, whether or not the person is a member, officer, or employee of the commission at the time of the initiation of the action. Suits against the commission, its officers, or employees shall be brought in Travis County, Texas, and not elsewhere.

SECTION 11.15.

COMPENSATION OF EMPLOYEES

The commissioner, the deputy commissioner, each credit union examiner, and every other officer of the commission and department, except commission members, are employees of the commission, subject to its orders and directions, and are entitled to receive compensation fixed by the commission, but in no event may any employee receive compensation exceeding that paid to the governor. The compensation is paid from funds of the department collected from credit unions. The Position Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil Statutes) applies to all positions of the department, except credit union examiner positions, classified in salary groups 1-21 under the position classification plan in effect on January 1, 1991, or a comparable position under a successor plan. The legislature in the General Appropriations Act shall determine the total amount appropriated to the department. The commission, subject to the limits provided by this section, shall determine the salaries of employees of the department in exempt and credit union examiner positions. The department may use funds appropriated to it for any purpose to pay the salaries determined by the commission.

SECTION 11.16.

TRANSFERS TO GENERAL REVENUE FUND

The department shall transfer \$1,000 each year to the general revenue fund to cover the costs of governmental service rendered by other departments.

SECTION 11.17.

EXEMPTION FROM SECURITIES LAWS

Credit unions, whether authorized to do business under this Act or the Federal Credit Union Act, their officers, employees, and agents in the sale, issuance, or offering of any security issued by any state or federal credit union are exempt from the provisions of the laws of this state, other than as required by this Act, which provide for the supervision, registration, or regulation in connection with the sale, issuance, or offering of securities as the term is defined in Section 4, Securities Act, as amended (Article 581-4, Vernon's Texas Civil Statutes). The sale, issuance, or offering of any such security is legal without any action or approval on the part of any official, other than the credit union commissioner, authorized to license, regulate, or supervise the sale, issuance, or offering of securities.

SECTION 11.18.

CAREER PROGRAM; PERFORMANCE EVALUATION

(a) The commissioner or his designee shall develop an intra-agency career ladder program, one part of which shall be an intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

(b) The commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this section.

CHAPTER 12. MISCELLANEOUS

SECTION 12.01.

HEARINGS

The conduct of all hearings held under this Act and the judicial review of the final decisions following those hearings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). The commission may adopt rules of procedure consistent with the Administrative Procedure and Texas Register Act, as amended, for the fair hearing and adjudication of all issues in a hearing held under this Act.

SECTION 12.02.
APPLICATION OF OTHER LAW

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(a) In this section:

(1) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money.

(2) "Credit union" means a credit union authorized to do business in this state under this Act or the Federal Credit Union Act.

(b) Unless otherwise provided by written agreement of the parties, the rights, responsibilities, and liabilities of a person regarding an item drawn on a credit union, transferred to a credit union, or presented, remitted, collected, settled, negotiated, or otherwise handled by a credit union, are determined by Chapters 3 and 4, Business & Commerce Code, as if it were drawn on a bank, transferred to a bank, or presented, remitted, collected, settled, negotiated, or otherwise handled by a bank.

SECTION 12.02.
APPLICATION OF OTHER LAW

(a) In this section:

(1) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money.

(2) "Credit union" means a credit union authorized to do business in this state under this Act or the Federal Credit Union Act.

(b) Unless otherwise provided by written agreement of the parties, the rights, responsibilities, and liabilities of a person regarding an item drawn on a credit union, transferred to a credit union, or presented, remitted, collected, settled, negotiated, or otherwise handled by a credit union, are determined by Chapters 3 and 4, Business & Commerce Code, as if it were drawn on a bank, transferred to a bank, or presented, remitted, collected, settled, negotiated, or otherwise handled by a bank.

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional _____ Credit Union,

Longview Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (special) meeting of the (board) membership of this credit union was held on 21st day of October, 1999.

3. That there were 8 members present and that 8 votes were cast in favor of the proposal and 0 votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III, Section 3.02(c), of the credit union's bylaws be amended to hereafter read as follows:

(c) Members whose loans or extensions of credit are defaulted and charged off as a loss automatically forfeit membership. If any funds on deposit are not applied toward the loan balance or any other indebtedness of the member, the credit union shall, within a reasonable time, close all accounts of the member and mail the funds to the member's last known address as shown on the records of the credit union. Reinstatement of membership in case of forfeiture may only be by majority vote of the board of directors.

Continue on back of form.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

x V. Ruthdye McClaram
Chairman of the Board

x Henry M. Britton
Secretary

Approved this 29th day of October, 1999.

David E. Feeney
Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional _____ Credit Union,
Longview Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (special) meeting of the (board) membership of this credit union was held on _____ 16th _____ day of
September _____, 19 99.

3. That there were 8 members present and that 8
votes were cast in favor of the proposal and 0 votes were
cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____, Section 3.01,
of the credit union's bylaws be amended to hereafter read as follows:

1. Individuals who live or work in the following counties: Gregg, Upshur, Harrison or Nacogdoches, excluding those individuals who are members of an occupational credit union whose home office is located within these counties
2. Persons employed or certified to work in education, health care, professional fields, government/social services, and students (as outlined in written Board policy) in the following counties: Gregg, Upshur, Harrison, Nacogdoches, Panola, Camp and Marion. Also eligible are persons employed or certified to work in the education field in the following cities: Daingerfield in Morris County, Hughes Springs and Avinger in Cass County.
Any business or organization whose employees or members are within this field of membership.
3. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas.
4. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties.
5. Employees of the following companies in the cities as noted:
Longview - Wilson Distributing; Ahle, Inc.; Longview News Journal; Fronck Pipe Support Sales, Inc. (all offices included); T & P Longview Federal Credit Union; Trinity Industries, Inc.
Kilgore - Mobley Industries and Martin Gas Sales, Inc.
Marshall - Panola Harrison Electric Cooperative, Inc.
Uncertain - Motor Supply Warehouse, Inc.

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Scottsville - Conductor Products, Inc.

Nacogdoches - International Paper/Composite Panel Facility

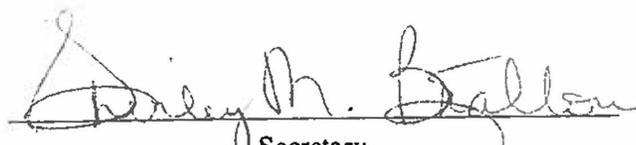
Henderson - International Paper/Henderson Lumber Mill

6. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.
7. Spouses of persons who died while within the field of membership of this credit union.
8. Members of Employees CU of HCP on December 31, 1995 and employees of Boral Bricks, Inc., Henderson Brick Division.

And members of the family of such persons. "Members of the family" shall be defined by the Board of Directors in written policy.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.


Chairman of the Board


Secretary

Approved this 23rd day of May, 2000


Deputy Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional _____ Credit Union,
Longview _____ Texas, charter number 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) membership of this credit union was held on _____ 18th _____ day of _____
January _____, 19 96 _____.

3. That there were _____ members present and that _____ votes were cast in favor of the proposal and _____ votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III _____, Section 3.01 _____, of the credit union's bylaws be amended to hereafter read as follows:

1. Groups of employees or members of companies/associations that are located within Gregg, Upshur, Harrison, Nacogdoches and Rusk Counties which have furnished written evidence of sponsor support to the credit union; provided, however, that (1) any group having more than 300 employees or 500 members or (2) any group already being served as primary members of another credit union shall be admitted only by an amendment of this section which specifically names the group being admitted.
2. Persons employed or certified to work in education, health care, professional fields, government/social services, and students (as outlined in written Board policy) in the following counties: Gregg, Upshur, Harrison, Nacogdoches, Panola, Camp and Marion. Also eligible are persons employed or certified to work in the education field in the following cities: Daingerfield in Morris County, Hughes Springs and Avinger in Cass County.
Any business or organization whose employees or members are within this field of membership.
3. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas.
4. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties.
5. Previous members and persons eligible for membership in Harrison County Progressive Federal Credit Union.
6. Employees of the following companies in the cities as noted:
Longview - Wilson Distributing; Ahle, Inc.; Longview News Journal; Fronek Pipe Support Sales, Inc. (all offices included); T P Longview Federal Credit Union; Tonya Lynn's Fabric & Clothing Outlet, Trinity Industries, Inc.

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Kilgore - Mobley Industries and Martin Gas Sales, Inc.

Marshall - Panola Harrison Electric Cooperative, Inc.

Jefferson - U.S. Precision Glass

Uncertain - Motor Supply Warehouse, Inc.

Scottsville - Conductor Products, Inc.

Nacogdoches - International Paper/Composite Panel Facility

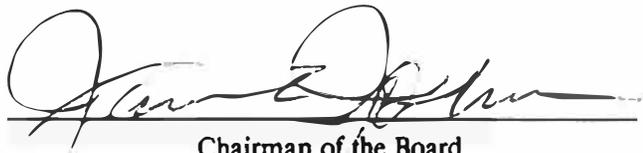
Henderson - International Paper/Henderson Lumber Mill

7. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.
8. Persons who work or reside in Gregg, Harrison, Nacogdoches, Panola, Marion, Upshur, Camp, Anderson, Henderson, and Rusk counties and the northern half of Cherokee county and who are members or eligible for membership in AARP (age 50 and older).
9. Spouses of persons who died while within the field of membership of this credit union.
- ~~10. Previous members and persons eligible for membership in Employees Credit Union of HCP.~~

And members of the family of such persons. "Members of the family" shall be defined by the Board of Directors in written policy.

10. Members of Employees CU of HCP on December 31, 1995 and employees of Boral Bricks, Inc., Henderson Brick Division.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.


Chairman of the Board


Secretary

Approved this 8TH day of FEBRUARY, 1996.


Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional Credit Union,
Longview Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) member-
ship of this credit union was held on 15th day of
December, 19 94.

3. That there were 8 members present and that 8
votes were cast in favor of the proposal and 0 votes were
cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____, Section _____,
of the credit union's bylaws be amended to hereafter read as follows:

1. Groups of employees or members of companies/associations that are located within Gregg, Upshur, Harrison, Nacogdoches and Musk Counties which have furnished written evidence of sponsor support to the credit union; provided, however, that (1) any group having more than 300 employees or 500 members or (2) any group already being served as primary members of another credit union shall be admitted only by an amendment of this section which specifically names the group being admitted.
2. Persons employed or certified to work in education, health care, professional fields, government/social services, and students (as outlined in written Board policy) in the following counties: Gregg, Upshur, Harrison, Nacogdoches, Panola, Camp and Marion. Also eligible are persons employed or certified to work in the education field in the following cities: Daingerfield in Morris County, Hughes Springs and Avinger in Cass County.
Any business or organization whose employees or members are within this field of membership.
3. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas.
4. Previous members of Citizens Credit Union and family members as defined in written Board Policy.
5. Previous members and persons eligible for membership in Harrison County Progressive Federal Credit Union.

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6. Employees of the following companies in the cities as noted:

- Longview-Wilson Distributing, Ahle, Inc.; Longview News Journal; Fronek Pipe Support Sales, Inc.(all offices included); T P Longview Federal Credit Union; Tonya Lynn's Fabric & Clothing Outlet, Trinity Industries, Inc.
- Kilgore-Mobley Industries and Martin Gas Sales, Inc.
- Marshall-Panola Harrison Electric Cooperative, Inc.
- Jefferson-U.S. Precision Glass
- Uncertain-Motor Supply Warehouse, Inc.
- Scottsville-Conductor Products, Inc.
- Nacogdoches-International Paper/Composite Panel Facility
- Henderson-International Paper/Henderson Lumber Mill

- 7. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.
- 8. Persons who work or reside in Gregg, Harrison, Nacogdoches, Panola, Marion, Upshur, Camp, Anderson, Henderson, and Fusk counties and the northern half of Cherokee county and who are members or eligible for membership in AARP (age 50 and older).
- 9. Spouses of persons who died while within the field of membership of this credit union.

and members of the family of such persons. "Members of the family" shall be defined by the Board of Directors in written policy.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.



 Chairman of the Board



 Secretary

Approved this 7th day of March 19 95



 Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the East
Texas Professional Credit Union,
Longview Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) ~~member-~~
~~ship~~ of this credit union was held on 18th day of
June, 19 92.

3. That there were nine members present and that nine
votes were cast in favor of the proposal and no votes were
cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____, Section _____,
of the credit union's bylaws be amended to hereafter read as follows:

1. ~~Persons who work or reside in the following counties
Gregg, Upshur, Harrison, Nacogdoches, and Rusk,
excluding from membership persons eligible for primary
membership in any occupation or association based credit
union that has an office in Gregg, Upshur, Harrison,
Nacogdoches or Rusk Counties at the time such membership
is sought.~~

JA
8.19.92

Groups of employees or members of companies/associations
that are located within Gregg, Upshur, Harrison, Nacogdoches
and Rusk Counties which have furnished written evidence of
sponsor support to the credit union; provided, however, that
(1) any group having more than 300 employees or 500 members
or (2) any group already being served as primary members of
another credit union shall be admitted only by an amendment
of this section which specifically names the group being
admitted.

2. Persons employed or certified to work in education, health
care, professional fields, government/social services, and
students (as outlined in written Board policy) in the
following counties: Panola, Camp and Marion. Also eligible
are persons employed or certified to work in the education
field in the following cities: Daingerfield in Morris
County, Hughes Springs and Avinger in Cass County.
Any business or organization whose employees or members
are within this field of membership.

Continue on back of form.

3. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas.
4. Previous members of Citizens Credit Union and family members as defined in written Board Policy.
5. Employees of the following companies in the cities as noted:
Longview-Wilson Distributing, Ahle, Inc.; Longview News Journal; Fronck Pipe Support Sales, Inc.(all offices included); T P Longview Federal Credit Union.
Kilgore-Mobley Industries and Martin Gas Sales, Inc.
Marshall-Panola Harrison Electric Cooperative, Inc.
Uncertain-Motor Supply Warehouse, Inc.
Scottsville-Conductor Products, Inc.
Nacogdoches-International Paper/Composite Panel Facility
Henderson-International Paper/Henderson Lumber Mill
6. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.
7. Spouses of persons who died while within the field of membership of this credit union.

And members of the family of such persons. "Members of the family " shall be defined by the Board of Directors in written policy.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Bobby Meace
 Chairman of the Board

C. F. Kump
 Secretary

Approved this 19th day of August, 19 92.

[Signature]
 Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional _____ Credit Union,
Longview _____ Texas, charter number 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) ~~member-~~
~~ship~~ of this credit union was held on 17th _____ day of
September _____, 1992 _____.

3. That there were 8 _____ members present and that 8 _____
votes were cast in favor of the proposal and 0 _____ votes were
cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____, Section _____,
of the credit union's bylaws be amended to hereafter read as follows:

1. Groups of employees or members of companies/associations that are located within Gregg, Upshur, Harrison, Nacogdoches and Rusk Counties which have furnished written evidence of sponsor support to the credit union; provided, however, that (1) any group having more than 300 employees or 500 members or (2) any group already being served as primary members of another credit union shall be admitted only by an amendment of this section which specifically names the group being admitted.
2. Persons employed or certified to work in education, health care, professional fields, government/social services, and students (as outlined in written Board policy) in the following counties: Gregg, Upshur, Harrison, Nacogdoches, Panola, Camp and Marion. Also eligible are persons employed or certified to work in the education field in the following cities: Daingerfield in Morris County, Hughes Springs and Avinger in Cass County.
Any business or organization whose employees or members are within this field of membership.
3. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas.
4. Previous members of Citizens Credit Union and family members as defined in written Board Policy.
5. Previous members and persons eligible for membership in Harrison County Progressive Federal Credit Union.

Continue on back of form.

6. Employees of the following companies in the cities as noted:
Longview-Wilson Distributing, Ahle, Inc.; Longview News Journal; Fronek Pipe Support Sales, Inc.(all offices included); T P Longview Federal Credit Union; Tonya Lynn's Fabric & Clothing Outlet
Kilgore-Mobley Industries and Martin Gas Sales, Inc.
Marshall-Panola Harrison Electric Cooperative, Inc.
Jefferson-U.S. Precision Glass
Uncertain-Motor Supply Warehouse, Inc.
Scottsville-Conductor Products, Inc.
Nacogdoches-International Paper/Composite Panel Facility
Henderson-International Paper/Henderson Lumber Mill
7. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.
8. Spouses of persons who died while within the field of membership of this credit union.

And members of the family of such persons. "Members of the family " shall be defined by the Board of Directors in written policy.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Bobby Moore
 Chairman of the Board

C. F. [Signature]
 Secretary

Approved this 7th day of January, 19 92.

[Signature]
 Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional Credit Union,
Longview Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) (~~member-~~
~~ship~~) of this credit union was held on THE 16th day of
August 19 90

3. That there were 8(eight) members present and that 8(eight)
votes were cast in favor of the proposal and NO votes were
cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III, Section 3.01,
of the credit union's bylaws be amended to hereafter read as follows:

1. Persons employed or certified to work in education, health care, professional fields, government and social service; and students as outlined in written Board policy, in the following counties: Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion Counties, Tatum in Rusk County, Daingerfield in Morris County, and Hughes Springs and Avinger in Cass County*;
2. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas;
3. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties;
4. Employees of Mobley Industries, Kilgore, Texas;
5. Employees of Armco Atlantic, Inc. or Building Technologies, Longview, Texas;

Continue on back of form.

6. Employees of Wilson Distributing, Longview, Texas and Ahle, Incorporated, Longview, Texas;
7. Employees of Mid-South Bottling Company, Longview, Texas;
8. Any business or organization whose employees or members are within this field of membership;
9. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership;
10. Spouses of persons who died while within the field of membership of this credit union;
11. Employees of Martin Gas Sales, Inc., Kilgore, Texas;
12. Employees of Panola Harrison Electric Cooperative, Inc., Marshall, Texas;
13. Employees of Motor Supply Warehouse Inc., Uncertain, Texas;
14. Employees of Conductor Products, Inc., Scottsville, Texas;
15. Employees of Longview News, Journal, Longview, Texas;

*Membership for the education profession only is limited to the cities specified. All other persons outlined are eligible to join through employment within the counties specified.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Bobby Moore
Chairman of the Board

C. F. Kendall
Secretary

Approved this 19th day of December, 19 90.

John R. Hall
Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the EAST TEXAS
PROFESSIONAL Credit Union,
LONGVIEW Texas, charter number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (special) meeting of the (board) membership of this credit union was held on THE 17th day of August, 19 89.

3. That there were 7 members present and that 6 votes were cast in favor of the proposal and 1 votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III, Section 3.01, of the credit union's bylaws be amended to hereafter read as follows:

2. (continued): Additionally, another regular meeting of the Board membership of this credit union was held on September 21, 1989.

3. (continued): That there were 9 members present and that 8 votes were cast in favor of the proposal and 1 vote was cast against such proposal. The following resolution was therefore adopted, and the credit union's bylaws shall hereafter be amended to read:

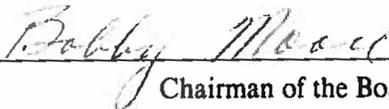
1. Persons employed or certified to work in education, health care, professional fields, government and social service; and students as outlined in written Board policy, in the following counties: Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion Counties, Tatum in Rusk County, Daingerfield in Morris County, and Hughes Springs and Avinger in Cass County*;

2. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas;

Continue on back of form.

3. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties;
4. Employees of Mobley Industries, Kilgore, Texas;
5. Employees of Armco Atlantic, Inc. or Building Technologies, Longview, Texas;
6. Employees of Wilson Distributing, Longview, Texas and Ahle, Incorporated, Longview, Texas;
7. Employees of Mid-South Bottling Company, Longview, Texas;
8. Any business or organization whose employees or members are within this field of membership;
9. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership;
10. Spouses of persons who died while within the field of membership of this credit union;
11. Employees of Martin Gas Sales, Inc., Kilgore, Texas;
12. Employees of Panola Harrison Electric Cooperative, Inc., Marshall, Texas;
13. Employees of Motor Supply Warehouse Inc., Uncertain, Texas;
14. Employees of Conductor Products, Inc., Scottsville, Texas;

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

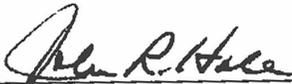


Chairman of the Board



Secretary

Approved this 20th day of November, 19 89.



Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
_____ East Texas Professional _____ Credit Union,
Longview _____ Texas, charter number _____ 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (~~special~~) meeting of the (board) membership of this credit union was held on _____ 16th _____ day of _____
January _____, 1988 _____.

3. That there were _____ 8 _____ members present and that _____ 8 _____ votes were cast in favor of the proposal and _____ 0 _____ votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____ III _____, Section _____ 3.01 _____, of the credit union's bylaws be amended to hereafter read as follows:

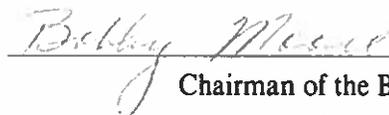
1. Persons employed or certified to work in education, health care, professional fields, government and social service; and students as outlined in written Board policy, in the following counties: Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion Counties, Tatum in Rusk County, Daingerfield in Morris County, and Hughes Springs and Avinger in Cass County*;
2. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas;
3. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties;
4. Employees of Mobley Industries, Kilgore, Texas;
5. Employees of Armco Atlantic, Inc. or Building Technologies, Longview, Texas;

Continue on back of form.

6. Employees of Wilson Distributing, Longview, Texas and Ahle, Incorporated, Longview, Texas;
7. Employees of Mid-South Bottling Company, Longview, Texas;
8. Any business or organization whose employees or members are within this field of membership;
9. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership;
10. Spouses of persons who died while within the field of membership of this credit union;
11. Employees of Martin Gas Sales, Inc., Kilgore, Texas;
12. Employees of Panola Harrison Electric Cooperative, Inc., Marshall, Texas;

*Membership for the education profession only is limited to the cities specified. All other persons outlined are eligible to join through employment within the counties specified.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.



Chairman of the Board



Secretary

Approved this 24th day of March, 19 88.



Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, chairman of the board and secretary of the _____
East Texas Professional _____ Credit Union,
Longview _____ Texas, charter number _____ 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (regular) (special) meeting of the (board) membership of this credit union was held on _____ 19th _____ day of _____
November _____, 19 87 _____.

3. That there were _____ 7 _____ members present and that _____ 7 _____ votes were cast in favor of the proposal and _____ 0 _____ votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____ III _____, Section _____ 3.01 _____, of the credit union's bylaws be amended to hereafter read as follows:

1. Persons employed or certified to work in education, health care, professional fields, government and social service; and students as outlined in written Board policy, in the following counties: Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion Counties, Tatum in Rusk County, Daingerfield in Morris County, and Hughes Springs and Avinger in Cass County*;
2. Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas;
3. Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties;
4. Employees of Mobley Industries, Kilgore, Texas;
5. Employees of Armco Atlantic, Inc. or Building Technologies, Longview, Texas;

Continue on back of form.

6. Employees of Wilson Distributing, Longview, Texas and Ahle, Incorporated, Longview, Texas;
7. Employees of Mid-South Bottling Company, Longview, Texas;
8. Any business or organization whose employees or members are within this field of membership;
9. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership;
10. Spouses of persons who died while within the field of membership of this credit union;
11. Employees of Martin Gas Sales, Inc., Kilgore, Texas;

*Membership for the education profession only is limited to the cities specified. All other persons outlined are eligible to join through employment within the counties specified.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Bobby Moore
Chairman of the Board

P. F. Kustrental
Secretary

Approved this 22nd day of December, 1987.

Paul R. Hale
Credit Union Commissioner

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STANDARD BYLAWS FOR STATE CHARTERED CREDIT UNIONS



Credit Union Department
State of Texas

Revised July 14, 1986

STANDARD BYLAWS FOR STATE CHARTERED CREDIT UNIONS

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**STANDARD BYLAWS FOR
STATE-CHARTERED CREDIT UNIONS**

CHAPTER I. NAME, DEFINITION AND PURPOSE

Section 1.01. NAME

The name of this credit union shall be East Texas Professional
Credit Union.¹

Section 1.02. DEFINITION AND PURPOSES

This credit union is a voluntary, cooperative, nonprofit financial institution, incorporated under the Texas Credit Union Act (Texas Revised Civil Statutes Annotated, Article 2461-1.01 et. seq.) for the purposes of encouraging thrift among its members, creating a source of credit at fair and reasonable rates of interest, providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions, and conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members subject to the Texas Credit Union Act and commission rules adopted thereunder.

¹The name used must include "Credit Union."

CHAPTER II. ORGANIZATION PROCEDURE

(NOTE: The Texas Credit Union Act, Chapter 2, specifies the procedure for incorporating and specifies the requirements of the articles of incorporation and the requirements before commencing business. This chapter of the bylaws deals with amendments, place of business, and reports.)

Section 2.01. AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS

(a) Amendments to the articles of incorporation or bylaws may be adopted by the affirmative vote of a majority of the board of directors present at any duly held meeting thereof, if the members of the board of directors have been given prior notice of said meeting and the notice has contained a complete copy of the proposed amendment or amendments.

(b) No amendment to the articles of incorporation or bylaws shall become effective, however, until approved in writing by the Credit Union Commissioner.

(c) Any amendment adopted by the board of directors and approved by the Credit Union Commissioner shall be reported to the membership of the credit union no later than the next succeeding membership meeting following approval of such amendment by the commissioner.

Section 2.02. PLACE OF BUSINESS

The principal place of business of this credit union shall be 409 E. Loop 281,
Longview, Texas.

Additional offices and service facilities may be established by board action if they are reasonably necessary to furnish services to the members and provided that prior written notice is given to the Credit Union Commissioner.

CHAPTER III. MEMBERSHIP, MEETINGS AND ELECTIONS

Section 3.01. FIELD OF MEMBERSHIP

The field of membership in this credit union is limited to those persons, including incorporated and unincorporated organizations, who have the following definable community of interest (Use attachment if needed):² _____

~~(1) Persons employed or certified to work in education, health care, professional fields, government and social service; and students as outlined in written Board policy, in the following counties: Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion Counties, Tatum in Rusk County, Daingerfield in Morris County, and Hughes Springs and Avinger in Cass County*;~~

~~(2) Previous members of McGraw-Edison Power Systems Employees Federal Credit Union and all employees of McGraw-Edison Cooper Industries located in Nacogdoches, Texas;~~

~~(3) Previous members of Citizens Credit Union and all persons who work or reside in Anderson, Henderson, Rusk, and the northern half of Cherokee Counties;~~

~~(4) Employees of Mobley Industries, Kilgore, Texas;~~

~~(5) Any business or organization whose employees or members are within this field of membership;~~

~~(6) Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership;~~

~~(7) Spouses of persons who died while within the field of membership of this credit union;~~

~~*Membership for the educational profession only is limited to the cities specified. All other persons outlined are eligible to join through employment within the counties specified.~~

and members of the family of such persons. "Members of the family" shall be as specified by the board of directors in written policy.

²The Credit Union Commission has promulgated standard optional provisions which may be used in addition or as an alternative to specific designations.

The field of membership also includes employees of the credit union and members of their families.

A change in the field of membership shall not affect the continued membership of existing members of the credit union.

(a) Each application for membership must be made in writing, with all applications approved becoming part of the permanent records of the credit union. (NOTE: See chapter 6 of the Texas Credit Union Act for multiple party account provisions.)

(b) An applicant eligible for membership may be admitted to membership by the affirmative vote of the board of directors, at any board meeting, or by the membership officer in accordance with Chapter V, Section 5.11(e) (4) of these bylaws and the applicant shall become a member and be entitled to the rights and privileges of a member upon (1) paying the membership fee, if any, as set by the board of directors, and (2) establishing the minimum share and/or deposit balance established by board policy which must be an amount of at least five dollars (\$5.00); provided, however, any amount in excess of one hundred dollars (\$100.00) must receive prior approval from the commissioner.

(c) A member who leaves the field of membership may be permitted to retain membership in the credit union under reasonable standards as set forth in written board policy.

(d) Minors may be admitted to membership on the same conditions that apply to adults with the following exceptions: (1) No minor may vote until attaining the age of eighteen (18); (2) No minor may become a director or committee member until attaining the age of twenty-one (21).

OPTIONAL FIELD OF MEMBERSHIP PROVISIONS

For use by a credit union that specifies its field of membership in its articles of incorporation:

The field of membership of this credit union shall be the definable community of interest set forth in the articles of incorporation.

For use by a credit union with an occupational or associational field of membership (Select those provisions desired):

1. Any business or organization whose employees or members are within this field of membership.
2. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.

3. Spouses of persons who died while within the field of membership of this credit union.
4. Groups of employees or members of companies or associations which are located within one mile of this credit union's main office or any additional office and which have furnished written evidence of sponsor support to the credit union; provided, however, that (1) any group having more than 300 employees or 500 members or (2) any group already being served as primary members of another credit union shall be admitted only by an amendment of this section which specifically names the group being admitted.

Section 3.02. EXPULSION FROM MEMBERSHIP AND FORFEITURE OF MEMBERSHIP

(a) Based upon a finding of good cause, the board of directors may vote to expel a member of the credit union. Good cause shall include, but not be limited to: (1) Failure to maintain the requirements necessary for membership; (2) Physical abuse or assault, harassment or multiple instances of verbal abuse of an employee, an officer, a director, or another member of the credit union; (3) Neglect or refusal to comply with provisions of the Texas Credit Union Act, commission rules, these bylaws, or the articles of incorporation; (4) Conviction of a felony; (5) Habitual neglect to pay obligations; and (6) Insolvency or bankruptcy. After an initial vote to expel, the board must give written notice to the member of the right to a hearing upon written request and must therein inform the member of the cause for expulsion and of the procedure for expulsion. Forty-five (45) days after the date of notice, the expulsion automatically becomes final unless the member has responded with a written request for a hearing and appears at the hearing when scheduled as provided for herein. Upon receiving such a request, the board shall schedule a date for the hearing which must be within forty-five (45) days after receipt of the request. No less than fifteen (15) days prior to the hearing, the board must send to the member written notice of the date, time and place for the hearing. After the hearing, the board shall again vote on whether to expel the member. The member is expelled if a majority of the board votes to expel.

(b) An expelled member shall remain liable for any sums owed to the credit union for loans or other purposes.

(c) Members whose notes are defaulted and charged off as a loss automatically forfeit membership when their shares are applied toward the loan balance. Reinstatement of membership in case of forfeiture may only be by majority vote of the board of directors.

Section 3.03. MEETINGS OF MEMBERS

(a) The annual meeting of the members shall be held during the month of April of each year,³ in a county within Texas in which an office of the credit union is located, at such time and place as the board of directors shall determine as convenient to the membership. The board of directors may change the month for such meeting to the month immediately preceding or following in any given year. Approval of the commissioner is required in order to obtain more than a one month deviation from the month set forth in the bylaws. The chairman of the board presides.

(b) Special meetings shall be held by order of the directors, or upon written request to the board of directors of at least five percent (5%) of the members or one thousand (1000) members, whichever is less. Notice of any special meeting shall state the purpose for which it is to be held and no other business other than that related to the stated purpose shall be transacted at the meeting. The board of directors must schedule the meeting within forty-five (45) days of the request unless the time is extended by the commissioner.

(c) Notice of all meetings shall be given by the secretary who shall, at least fifteen (15) days before the date of the meeting, post a notice thereof in a conspicuous place in the office of the credit union and shall mail, or hand in person, to each member a notice of the meeting; except that if the annual meeting is to be held during the same month as that of the previous annual meeting, and if this credit union maintains an office that is readily accessible to members and that maintains regular business hours, and if the board so determines, notices of the annual meeting may be given by posting the notice thereof in the office of the credit union in a conspicuous place where it may be read by the members, at least thirty (30) days prior to such meeting. Any meeting of the members, whether annual or special, may be held without prior notice, at any place or time, if all the members entitled to vote thereat who are not present at such meeting shall in writing waive notice thereof, before, during, or after the meeting. (Refer to Texas Credit Union Act, Section 3.02 for voting rights).

(d) The order of business at annual meetings of members shall be as follows:

- (1) Ascertaining that a quorum is present;
- (2) Reading and approval of the minutes of the last meeting;
- (3) Report of the directors by the chairman of the board, or in his absence by the vice-chairman, or other board officer;
- (4) Report of the president;
- (5) Report of the credit committee, if any;
- (6) Report on the annual audit;
- (7) Report of other committees, if any;

³The month selected must be within the first six months of the year, January through June.

- (8) Unfinished business;
- (9) New business other than elections;
- (10) Election of Directors;
- (11) Adjournment.

The agenda may be rearranged by the chairman, if so authorized by vote of the members present.

(e) At annual and at special meetings, a majority of the members shall constitute a quorum, provided, however, that at any time the membership of the credit union increases to such extent that a majority of such membership is in excess of twenty-five (25) members, then twenty-five (25) members shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not less than seven (7) nor more than fifteen (15) days thereafter; and the members present at any such adjourned meeting shall constitute a quorum, regardless of the number of members present. At least seven (7) days prior to any such adjourned meeting, the secretary shall post notice of the adjourned meeting in a conspicuous place in the office of the credit union.

(f) A decision made by a majority vote of the members present at any duly held meeting at which a quorum is present is an act of the membership.

Section 3.04. ELECTIONS

(a) Nominating Committee. At least thirty (30) days prior to each annual membership meeting, the chairman of the board with board approval shall appoint a nominating committee of not less than three credit union members in good standing. It shall be the duty of the nominating committee to nominate at least one member for each board vacancy, including any unexpired term, for which elections are to be held.

(b) Nominations from the floor. After the report of the nominating committee is made to the membership, the presiding officer shall call for nominations from the floor. When nominations are closed, the vote shall be taken. Elections may be by voice vote unless a member demands that the election be by ballot for a particular contested position. If such a demand is made, that position shall be determined by ballot.

(c) Election Rules. The board of directors shall prescribe election rules, including the procedure to be followed in the event of a tie vote, as part of their written board policy.

(d) Mail Ballots. This credit union may conduct voting by mail ballot, if such method is authorized by the board of directors. Mail balloting shall be conducted according to rules adopted by the Credit Union Commission.

CHAPTER IV. POWERS OF CREDIT UNION

Section 4.01. GENERAL POWERS

In addition to the powers granted by the Texas Credit Union Act and the Commission rules, this credit union will abide by the following general provisions:

(a) The officers, directors, advisory directors, committee members, and employees of this credit union shall hold in strict confidence all transactions of this credit union with its members, and all information respecting their personal affairs, except to the extent deemed necessary by the board of directors in accordance with written board policy and subject to the provisions of the Texas Credit Union Act, the commission rules and these bylaws.

(b) All books of accounts and other records shall be available, at all times, to the directors. Upon board approval, committee members may have access to certain credit union information and records that are germane to their particular area of service, according to written policies established by the board. The articles of incorporation and bylaws of this credit union shall be made available for inspection by any member. The board of directors will establish written policies regarding members' access to the articles of incorporation, bylaws, rules, guidelines, board policies, and copies thereof.

(c) Copies of the articles of incorporation, the bylaws, and any amendments thereto, shall be preserved in a place of safekeeping. Returns of nominations and elections and proceedings of all regular and special meetings of the members and directors shall be recorded in the minute books of this credit union. The minutes of the meetings of members, the board of directors and committees shall be signed by their respective chairmen or presiding officers and by the persons who serve as secretaries of such meetings.

Section 4.02. EVIDENCE OF TRANSACTIONS

Money paid in or out on account of shares, deposits, loans, interest, fees, or fines shall be evidenced as prescribed by the board of directors, provided that such evidence identifies the person withdrawing or authorizing withdrawal of cash, the person paying out cash, the amount and nature of each transaction, and is consistent with industry practices. The credit union shall provide periodic written notice to the member, no less frequently than once each year, of the status and balance of all accounts.

Section 4.03. ENTRANCE FEES

The board of directors may establish a uniform entrance fee for membership not to exceed \$10.00 per member.

Section 4.04. EXPENSES, FEES AND PENALTIES

(a) In accordance with the Texas Credit Union Act, the credit union may require members to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting or renewing a loan. Such fees and expenses are in addition to interest.

(b) The credit union may charge a member a penalty when a loan payment is 10 or more days in arrears provided that such penalty may not exceed five percent of the payment due and provided that only one penalty may be charged on each past due payment. Such penalties do not constitute interest.

(c) The board may levy and collect other fees and charges in accordance with the Texas Credit Union Act and commission rules.

CHAPTER V. DIRECTION OF AFFAIRS

Section 5.01. BOARD OF DIRECTORS

The board of directors of this credit union shall consist of nine⁴ individual members, all of whom shall be members of this credit union, whose regular terms of office shall be for three⁵ years and/or until the election and qualification of successors. Three of the directorships will expire at the first annual meeting after the adoption of this bylaw, three of the directorships will expire at the next annual meeting, and three of the directorships will expire at the next annual meeting.

(a) No reduction in the number of directors may be made unless corresponding vacancies exist as a result of deaths, resignations, expiration of terms of office or other actions provided by these bylaws.

(b) All regular terms shall be for the same number of years and until the election and qualification of successors. The regular terms shall be so fixed at the beginning, or upon any increase or decrease in the number of directors, that approximately an equal number of regular terms shall expire at each annual meeting.

(c) Vacancies on the board of directors will be filled by election at each annual meeting by and from the membership of the credit union.

(d) Directors may serve more than one term.

(e) The board may appoint not more than three honorary or advisory directors who serve at the pleasure of the board and who advise and consult with the board and aid the board in carrying out its duties and responsibilities. An honorary or advisory director is not considered a member of the board and is not entitled to vote on any matter before the board but may participate in deliberations of the board. An honorary or advisory director need not be eligible for membership in the credit union.

Section 5.02. VACANCIES ON THE BOARD OF DIRECTORS

Any vacancy occurring on the board of directors shall be filled by vote of a majority of the directors then holding office. Directors so appointed shall hold office only until the next annual meeting at which any unexpired terms shall be filled by vote of the members, and until the qualification of their successors.

⁴The number of directors cannot be less than five. Article 2461-5.01. It is recommended that the number of directors be an odd number.

⁵The term of office cannot be greater than three years, and a term of two or three years is recommended.

Section 5.03. CERTIFICATE OF ELECTION

The chairman of the board and the secretary shall execute a certificate of election that sets forth the names and addresses of the officers, directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within thirty (30) days after the election or appointment, and on forms supplied by the department for that purpose. Such forms may provide for other information as deemed appropriate by the commissioner.

Section 5.04. MEETINGS OF DIRECTORS

(a) Regular meetings of the board of directors shall be held at least monthly. The chairman of the board, or in his absence the vice-chairman or any other officer, may call a special meeting of the board of directors at any time, and shall do so upon written request of any three (3) directors. Because of the confidential nature of their duties, the board of directors shall prescribe written policy governing the attendance at board meetings by persons other than directors. Notice of meetings of the board of directors shall be given in such a manner as the board of directors may from time to time, prescribe by written policy.

(b) Subject to the same notice and quorum provisions as for any other meeting of the board of directors, any meeting of the board of directors may be held by telephone conference call in which all or certain of the directors are not physically present at the place of the meeting but nevertheless participate in the conduct thereof by telephone. Provided, however, there shall be no more than one regular meeting held by telephone conference call per calendar quarter and there shall be no consecutive regular meetings held by telephone conference call. Before any regular meeting may be held by conference call, the members of the board of directors must be provided with a written copy of the agenda and copies of any materials that will be discussed. Minutes will be kept in the same manner as for any other meeting of the board of directors. For the purpose of determining the presence of a quorum and for all voting purposes at such a meeting, all directors participating in the meeting shall be considered present and acting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) Any action required or permitted to be taken by the board of directors under any provision of the Texas Credit Union Act may be taken without a meeting if all members of the board shall individually or collectively consent in writing to the action. The written consent or consents shall be filed with the minutes of the proceedings of the board. Any action by written consent shall have the same force and effect as a unanimous vote of those consenting directors. Any certificate or other document filed under any provision of the Texas Credit Union Act that relates to action so taken shall state that the action was taken by unanimous written consent of the board of directors without a meeting and that these bylaws authorize the directors to so act, and that statement shall be prima facie evidence of such authority.

Section 5.05. QUORUM

A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting thereof; but fewer than a quorum may adjourn from time to time until a quorum is in attendance.

Section 5.06. MAJORITY ACTION

Every act or decision done or made by a majority of the directors present at any duly held meeting at which a quorum is present is an act of the board of directors. Each director who is present at a meeting will be deemed to have assented to any action taken at such meeting unless the director's dissent to the action is entered in the minutes of the meeting, or unless the director shall file a written dissent thereto with the secretary of the meeting or shall forward that dissent by registered mail to the secretary of the credit union immediately after the meeting.

Section 5.07. REMOVAL OF DIRECTORS

(a) Any director who fails to attend three (3) consecutive regular board meetings without due cause, or who fails to attend six (6) regular meetings within a twelve month period, is automatically removed from office. Vacancies occurring in this manner shall be filled within sixty (60) days, unless extended by approval of the commissioner, in accordance with Section 5.02 of these bylaws.

(b) Any director may be removed from office for good cause by a majority vote of the board of directors at a regular meeting or a special meeting of the board called expressly for such purpose. Notice of the meeting must specify the director who is subject to removal. Good cause for removal shall be the failure to perform the duties devolving upon such person as a director, including, but not limited to: (1) Physical abuse or assault, harassment or multiple instances of verbal abuse of a member, employee, officer or other director of the credit union; (2) Misapplication of credit union funds; (3) Breach of fiduciary duty; (4) Neglect or refusal to comply with provisions of the Texas Credit Union Act or commission rules, these bylaws or the articles of incorporation; (5) Conviction of a felony; (6) Conviction of a misdemeanor involving moral turpitude; (7) Failure to maintain confidentiality relating to credit union transactions and the financial affairs of its members; and (8) The failure to perform the duties of a director. Prior to a vote on removal, the director must be afforded an opportunity to be heard at such meeting. Any vacancy or vacancies occurring as a result of removal under this provision must be filled within sixty (60) days, unless extended by approval of the commissioner, in accordance with Section 5.02 of these bylaws.

(c) Any director or the entire board of directors may be removed by recall of the members as provided by commission rules.

(d) The credit union shall notify the commissioner in writing within ten days of the removal of any director pursuant to this section.

Section 5.08. EXECUTIVE COMMITTEE

The board of directors may appoint from its own number an executive committee of not less than three (3) persons to exercise, between meetings of the board of directors, such authority as may be specifically delegated to it by the board of directors. The executive committee shall report to the board of directors the activities it has taken between meetings of the board of directors, and a report of such activities shall be placed in the minutes of the board of directors.

Section 5.09. DUTIES AND POWERS OF DIRECTORS

The board of directors shall have the general direction and control of the affairs, funds and records of this credit union and shall exercise any and all powers granted by law to boards of directors of corporations, including those powers set forth in the statutes of the State of Texas regulating the organization and operation of credit unions. The board of directors may delegate to others, including the president, other officers or committees, the performance of these duties, including the authority to further delegate these duties; provided, however, the board in delegating such duties is not relieved from the responsibility for the performance of such duties. All such delegations must be recorded in the minutes of the board and include: (1) the person or persons authorized to exercise the delegated powers; and (2) appropriate guidelines and limitations for the exercise of such delegated powers.

In addition to the duties customarily performed by boards of directors, the board of directors shall perform the following special duties and all other duties enumerated in these bylaws, in the laws of the State of Texas pertaining to credit unions, and in the commission rules, including:

(a) To direct the affairs of the credit union in accordance with the Texas Credit Union Act, commission rules, articles of incorporation, these bylaws, and sound business practices.

(b) To assure formulation and adoption of written policy statements that will ensure conformity with the Texas Credit Union Act and commission rules for the following:

- (1) The field of membership,
- (2) Lending,
- (3) Deposit accounts,
- (4) Investments,
- (5) Internal control and audit procedures,

- (6) Employee policies,
- (7) Any other matter for which a written board policy is required by law, commission rule or these bylaws.

(c) To provide general direction and governance of credit union affairs, as distinct from operational management of the credit union, so that the board can assure itself through knowledgeable and responsible inquiry that the credit union's operating management has performed satisfactorily. The directors must direct and monitor the affairs of the credit union without being involved in everyday managerial activities.

(d) To monitor and evaluate the credit union's performance and financial condition, including the credit union's estimated solvency ratio, and to assure that a timely, adequate reporting and information system keeps directors knowledgeable at all times.

(e) Purchase from a surety company authorized to do business in this state a blanket surety or security bond in accordance with the Texas Credit Union Act and commission rules.

(f) Determine the rate(s) of interest on loans, and the rate(s) of interest refunds, if any, to be paid to borrowing members subject to the limitations of the Texas Credit Union Act.

(g) Declare dividends and interest refunds in the way and manner as provided by these bylaws, and commission rules.

(h) Determine the rate(s) of interest to be paid on deposits.

(i) Determine the limits on shares and deposits which may be owned by a member.

(j) Authorize the conveyance of property.

(k) Designate a depository or depositories for the funds of this credit union.

(l) Authorize and provide for a comprehensive audit, including a controlled verification of members' accounts at least once each year in accordance with the Texas Credit Union Act and rules of the Credit Union Commission.

(m) Supervise the collection of loans to members in accordance with written board policy, authorize the charge-off of uncollectible loans when necessary, and authorize the establishment and maintenance of reserve allocations as required by commission rules. The board may also authorize the establishment and maintenance of reserves in addition to those required.

(n) Authorize the borrowing or lending of money to carry on the functions of this credit union as prescribed by the Texas Credit Union Act.

(o) Set the date of the annual meeting of the members.

(p) The board may take all necessary or appropriate measures for the interest of the credit union members, including appointing any committees deemed necessary, not within the exclusive jurisdiction of the general membership meeting and not inconsistent with the laws of the State of Texas and these bylaws.

(q) Adopt an operating budget forecast on an annual or semiannual basis, not later than thirty (30) days after the start of such annual or semiannual periods. The budget forecast may be amended by the board from time to time.

Section 5.10. ELECTION AND APPOINTMENT OF OFFICERS

(a) At their first meeting, which shall be held within thirty (30) days following the annual meeting of the members, the board of directors shall elect from their own number a chairman, a vice-chairman, a treasurer, and a secretary. The thirty (30) day period may be extended, if approved in writing by the commissioner.

(b) The board may employ, elect, or appoint a chief executive officer who is in charge of operations and whose title shall be president. The president may or may not be a member of the board of directors, but the president may not be the chairman, vice-chairman, or secretary. The president serves at the pleasure of the board.

(c) Subject to guidelines set by the board and in conformity with Article 2461-5.04 of the Texas Credit Union Act, the president shall appoint, employ, or hire and may discharge other officers and employees that the president considers necessary for operation of the credit union.

Section 5.11. DUTIES OF OFFICERS

(a) **The chairman of the board** shall preside at meetings of the members, and of the board of directors, and shall perform such other duties as pertain to this office.

(b) **The vice-chairman** shall perform duties of the chairman of the board in the event of absence or disability of that officer.

(c) **The secretary** shall prepare and maintain full and correct records of all meetings of the members and of the board of directors. The secretary shall promptly inform the Credit Union Department in writing of any change in the address of the office of this credit union, or location of its records, and promptly file changes in the officers, directors and the chairman of the audit committee of the credit union with the Credit Union Commissioner. The secretary shall give or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members and of the board of directors. The secretary shall also perform such other duties as he or she may be directed to perform by resolution of the board of directors not inconsistent with the Texas Credit Union Act and these bylaws.

(d) **The treasurer** shall perform the duties incident to the office of treasurer and such other duties from time to time as may be assigned by the board of directors, provided that such assigned duties do not conflict with the duties of other officers.

(e) (1) **The president** shall serve as the active manager of the credit union under the order of the board of directors. The president shall sign all checks and drafts drawn by the credit union except those which may be signed under his or her general supervision by such employees as may be authorized by the board of directors or president to sign checks and drafts. The president shall have custody of the cash, securities, books of accounts and other valuable papers of the credit union and shall prepare a balance sheet showing the condition of the credit union within fifteen (15) days after the close of each month and post it in a conspicuous place in the office of the credit union where it shall remain until replaced by the statement of the succeeding month. The president shall within three (3) working days after receipt, deposit all receipts in his or her possession in the depository or depositories prescribed by the board of directors. The president may be paid a salary to be fixed by the board of directors for his or her services.

(2) The president shall also submit to the board of directors, the monthly financial report, delinquent loan report, and other special reports which may be requested from time to time by the board of directors.

(3) The president shall prepare and forward to the Credit Union Department such financial reports and other reports as are required from time to time by the Credit Union Commissioner, and shall also pay all expenses incident to examinations and supervision by the Credit Union Department.

(4) The president with the approval of the board, may appoint one or more membership officers from among the membership or the credit union staff. Such membership officers may not be an individual who approves loans or disburses funds. If the general requirements for membership are met, a membership officer shall not have the authority to disapprove an application for membership except in accordance with written board policy.

CHAPTER VI. CAPITAL ACCOUNTS

Section 6.01. CAPITAL

The capital of this credit union shall consist of the following:

(a) Shares purchased by members which may be with or without par value and which may be of different types or classes as determined by the board of directors. Shares may be paid for as prescribed by the board of directors, in written policy. Dividends and other credits to the share accounts of members shall constitute payments on shares.

Dividends may be paid on fully paid shares or on the total amount of fully paid and partial shares, as prescribed by the board of directors in written policy.

(b) All deposit accounts, which shall be operated in accordance with policies prescribed by the board of directors and in conformity with the rules of the Credit Union Commission.

(c) All reserve accounts, including allowances for loan losses, and undivided earnings.

Section 6.02. WITHDRAWAL AND TRANSFER OF SHARES

(a) Shares may be transferred from one member to another only in writing on the books of the credit union. A reasonable fee for each transfer may be required by the board.

(b) Monies paid in on shares may be withdrawn as provided in these bylaws on any day when payment for shares may be made, but the board of directors shall have the right at any time to:

- (1) Require members and other depositors to give sixty (60) days notice of intention to withdraw the whole or any part of the amounts so paid in by them;
- (2) Prescribe rules regarding withdrawals of shareholdings or deposits below the amount of a member's total indebtedness, either direct or indirect, to the credit union;
- (3) Prescribe rules regarding remote withdrawal of shares and/or deposits, in accordance with rules promulgated by the Credit Union Commission;
- (4) Prescribe a fee for each withdrawal above a reasonable number of withdrawals per month as prescribed by the board in written policy; and
- (5) Prescribe a reasonable minimum amount for each withdrawal.

CHAPTER VII. LOANS

Section 7.01. ELIGIBILITY

Loans may be made only to members of the credit union. Loans may be made for any purposes deemed appropriate by the board of directors, and shall be made in accordance with the Texas Credit Union Act, these bylaws, commission rules, and written board policies.

Section 7.02. LIMITATIONS

The aggregate amount of loans to any member and the terms and conditions of such loans shall conform to the limitations and requirements imposed by the Texas Credit Union Act, these bylaws, commission rules, and written board policies.

Section 7.03. WRITTEN POLICIES

The board of directors shall establish and maintain written loan policies in accordance with commission rules and the Texas Credit Union Act.

Section 7.04. LOAN FORMS

All loans to members shall be evidenced by a written form which contains all the information required by the Texas Credit Union Act, commission rules and these bylaws.

Section 7.05. INTEREST REFUNDS

Interest refunds may be declared in accordance with written board policy.

Section 7.06. LOAN APPROVAL PROCEDURES

It is a responsibility of the board of directors to approve or disapprove applications for loans from members. The board may delegate all or part of this power to a credit committee, other committees, or a loan officer, including the president, and such delegation may include the authority to further delegate these duties. Such delegations must be recorded in the minutes of the board and include:

- (a) The person or persons authorized to exercise the powers;
- (b) The loan policies established by the board of directors which will serve as the guidelines for those persons to whom this power has been delegated;

(c) The limitations on the powers delegated, which may include restrictions on the type and/or amounts of loans approved, restrictions on the power to disapprove loans, or restrictions on further delegations of these powers;

(d) If authority to disapprove a loan application is granted to any one person, including a loan officer, the board of directors must provide for at least one level of appeal from a denial of a loan application. This appeal may be to the board of directors or any individual or group of individuals the board of directors may designate; and

(e) Notwithstanding any delegation of the power to deny a loan application, the board of directors shall have the right to review any loan application which has been denied.

Section 7.07. LOANS TO OFFICIALS

Loans made to the credit union's directors, employees, loan officers, credit manager, credit committee members and members of the immediate families of such persons shall be made in accordance with Section 7.05 of the Texas Credit Union Act.

CHAPTER VIII. INVESTMENTS

Section 8.01. INVESTMENT AUTHORITY

(a) Any funds of this credit union not used in loans to members may be invested in one or more of the ways set forth in the Texas Credit Union Act, and commission rules pertaining thereto.

(b) In accordance with rules adopted by the commission, the credit union shall develop written investment policies and may offer investment programs to its members, and may act as agent for its members in the purchase, sale or other disposition of securities, interest in mutual funds, and interests or participations in any other type of investment.

CHAPTER IX. RESERVES, DIVIDENDS, SHARE REDUCTIONS

Section 9.01. TEXAS CREDIT UNION ACT AND COMMISSION RULES

Reserve requirements, dividend provisions and share reductions shall be handled in accordance with Chapter 9 of the Texas Credit Union Act and commission rules pertaining thereto.

CHAPTER X. CHANGE IN CORPORATE STATUS

Section 10.01. DISSOLUTION OR LIQUIDATION

This credit union may be dissolved or liquidated, merged, or converted in accordance with Chapter 10 of the Texas Credit Union Act and commission rules pertaining thereto.

CHAPTER XI. TITLE, EFFECTIVE DATE

Section 11.01. BYLAWS EFFECTIVE UPON APPROVAL

These bylaws shall be known as the Standard Bylaws for State Chartered Credit Unions, revision of 1986, and shall take effect upon the filing with and approval by the commissioner. The existing bylaws of this credit union are hereby amended by the adoption of this foregoing revision.

CERTIFICATE

This is to certify that these bylaws have been duly adopted by the board of directors of this credit union, at a (regular) ~~(special)~~ meeting held on the 16th day of October, 19 86.

Witness our signatures this 20th day of November, 19 86.

(Print or type) J. W. Hagler Signature: J. W. Hagler
(Chairman of the Board)

(Print or type) Bobby Moore Signature: Bobby Moore
(Secretary)

Approved this 25th day of November, 19 86.

John R. Hale
Credit Union Commissioner

The original and one copy are to be forwarded to the Credit Union Commissioner for his approval; the original will be returned to the credit union for permanent retention, the copy will be retained by the Credit Union Department. These bylaws become effective upon approval by the Credit Union Commissioner and shall supercede all previous bylaws and amendments thereto.

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, Chairman of the Board and Secretary of the _____
East Texas Professional _____ **Credit Union,**
Longview Texas, Charter Number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.
2. That pursuant thereto, a (Regular) (Special) meeting of the (Board) membership of this credit union was held on the 16th day of January, 19 86.
3. That there were seven (7) members present and that Seven (7) votes were cast in favor of the proposal and no (0) votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter I, Section 101 (NAME), of the credit union's bylaws be amended to hereafter read as follows:

The name of this Credit Union shall be East Texas Professional Credit Union.

BE IT FURTHER RESOLVED, that Chapter III, Section 3.01, of the Credit Union's bylaws be amended to hereafter read as follows:

Please see the attached Amendment to Credit Union Bylaws, with regard to field of membership.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

J. W. Hagler
Chairman of the Board

Bobby L. Moore
Secretary

Approved this 13th day of February, 1986
John R. White
Credit Union Commissioner

AMENDMENT TO CREDIT UNION BYLAWS

The field of membership in this Credit Union is limited to those having the following definable community of interest of occupation, association, or residence:

Persons employed or who work in education, health care, professional fields, government and social service organizations; students as outlined below; clubs and organizations of all such persons; employees of this Credit Union; members of the immediate family of all such persons as determined by the Board of Directors in written Board policy.

Education:

All employees of school systems; retired or substitute teachers living in the territory served by East Texas Professional Credit Union. "School system" is further defined to include all public and private schools; colleges and universities; pre-schools, kindergartens and nursery schools in which certified teachers give formal educational instruction to students. Eligibility of students requires the student to be seventeen (17) years of age or older whose principal residence is in a county cited herein or who is a student in an accredited college or university within the counties cited herein, and the parents of such students as may be necessary to facilitate guaranteed student loans.

Counties served in the educational field of membership include Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, and Marion Counties; the city of Hughes Springs and the city of Avinger in Cass County; the city of Daingerfield in Morris County; and the city of Tatum in Rusk County.

Health Care:

All personnel and employees of hospitals, medical facilities and social service organizations located in the territory served by ETPCU; that are licensed, accredited, or commissioned to serve the residents of this state. Included within this category are all physicians, surgeons, orthodontists, chiropractors, optometrists, druggists, psychologists, and nurses.

Counties served in the health care, professional, and government employees field of membership of ETPCU include Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, Marion, and Rusk Counties, and the city of Daingerfield in Morris County.

Professional:

All professional persons whose line of work requires that they be accredited, licensed or certified to practice; and employees of such persons in the following occupations: accountants, architects, attorneys, engineers, real estate realtors, surveyors, veterinarians, and funeral directors, who work in the counties cited herein.

Government employees:

All city, county, state and federal employees (excluding postal department employees) who are employed for and work in the counties cited herein.

John R. Hale
February 13, 1986

AUG 29 1985

Std. C.U. Bylaws Amendment

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, Chairman of the Board and Secretary of the _____
East Texas Teachers _____ Credit Union,
Longview _____ Texas, Charter Number _____ 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.

2. That pursuant thereto, a (Regular) (Special) meeting of the (Board) membership of this credit union was held on _____ 15th _____ day of
August _____, 19 85.

3. That there were _____ nine (9) _____ members present and that _____ nine (9) _____ votes were cast in favor of the proposal and _____ no (0) _____ votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter _____ III _____, Section _____ 3.01 _____,
of the credit union's bylaws be amended to hereafter read as follows:

The field of membership in this Credit Union is limited to those having the following definable community of interest of occupation, association, or residence:

Employees of school systems of Gregg, Upshur, ***
Harrison, Panola, Camp, Nacogdoches, and Marion
Counties; Daingerfield of Morris County; Tatum of Rusk
County; employees of this Credit Union; organizations
of all such persons; retired or substitute teachers
living in the territory served by East Texas Teachers
Credit Union (who meet other specified criteria);
members of the immediate family of all such persons,
as determined by the board of directors in written
policy; students of all accredited colleges and
universities within the counties cited herein and the
parents of such students as may be necessary to
facilitate guaranteed student loans; and any student
17 years of age or older whose principal residence is
in a county cited herein.

"School system" is further defined to include all
public and private schools; colleges and universities;
pre-schools, kindergartens, and nursery schools in
which certified teachers give formal educational
instruction to students.

***and Hughes Springs and Avinger of Cass County.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

J. W. Hasler
Chairman of the Board

Bobby Moore
Secretary

Approved this 26th day of August, 1985
John R. Hale
it Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, Chairman of the Board and Secretary of the _____
East Texas Teachers _____ Credit Union,
Longview Texas, Charter Number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.
2. That pursuant thereto, a (Regular) (Special) meeting of the (Board) membership of this credit union was held on _____^{17th} day of
May, 19⁸⁴.
3. That there were eight members present and that eight votes were cast in favor of the proposal and zero votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III, Section 3.01,
of the credit union's bylaws be amended to hereafter read as follows:

The field of membership in this Credit Union is limited to those having the following definable community of interest of occupation, association, or residence:

Employees of school systems of Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, and Marion Counties; Hughes Springs and Avinger of Cass County; Daingerfield of Morris County; Tatum of Rusk County; employees of this Credit Union; organizations of all such persons; retired or substitute teachers living in the territory served by East Texas Teachers Credit Union (who meet other specified criteria); and members of the immediate family of all such persons.

"Members of the immediate family" include parents of the member, spouse, spouse's parents, children, grandchildren, and great-grandchildren of the member, brothers and sisters of the primary member and spouse.

"School system" is further defined to include all public and private schools; colleges and universities; pre-schools, kindergartens, and nursery schools in which certified teachers give formal educational instruction to students.

RECEIVED
MAY 24 1984
CREDIT UNION DEPARTMENT
STATE OF TEXAS

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

J. W. Hagler
Chairman of the Board

Bobby Moore
Secretary

Approved this 24th day of May, 1984
John Carson
Credit Union Commissioner

**CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS**

We, the undersigned, Chairman of the Board and Secretary of the _____
East Texas Teachers _____ Credit Union,
Longview _____ Texas, Charter Number 289 _____, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.
2. That pursuant thereto, a (Regular) (Special) meeting of the (Board) membership of this credit union was held on _____ 18th _____ day of November _____, 19 82 _____.
3. That there were _____ nine _____ members present and that _____ nine _____ votes were cast in favor of the proposal and _____ zero _____ votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III _____, Section 3.01 _____, of the credit union's bylaws be amended to hereafter read as follows:

The field of membership in this Credit Union is limited to those having the following definable community of interest of occupation, association, or residence:

Employees of school systems of Gregg, Upshur, Harrison, Panola, Camp, Nacogdoches, and Marion Counties; Hughes Springs and Avinger of Cass County; Daingerfield of Morris County; Tatum of Rusk County; employees of this Credit Union; organizations of all such persons; retired or substitute teachers living in the territory served by East Texas Teachers Credit Union (who meet other specified criteria); and members of the immediate family of all such persons.

"Members of the immediate family" include parents of such persons, the spouse, surviving spouse, and children.

"School system" is further defined to include all public and private schools; colleges and universities; pre-schools, kindergartens, and nursery schools in which certified teachers give formal educational instruction to students.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Norman Jensen

Chairman of the Board

John E. Johnson

Secretary

Approved this 8th day of December, 1982

John P. Carson
Credit Union Commissioner

CERTIFICATION OF RESOLUTION OF AMENDMENT
TO CREDIT UNION BYLAWS

We, the undersigned, Chairman of the Board and Secretary of the
East Texas Teachers Credit Union,
Longview Texas, Charter Number 289, hereby certify:

1. That notice of the meeting referred to below, together with a copy of the proposed amendment or amendments, was given as provided by the bylaws.
2. That pursuant thereto, a (Regular) (Special) meeting of the (Board) membership of this credit union was held on 12th day of April, 19 79.
3. That there were seven (7) members present and that seven (7) votes were cast in favor of the proposal and no (0) votes were cast against such proposal. The following resolution was therefore adopted.

BE IT RESOLVED, that Chapter III, Section 3.01
of the credit union's bylaws be amended to hereafter read as follows:

The field of membership in this Credit Union is limited to those having the following definable community of interest of occupation, association, or residence: Employees of school systems of Gregg, Upshur, Harrison, Panola, Camp, Marion Counties, Hughes Springs and Avinger of Cass County, Daingerfield of Morris County, Nacogdoches County, and Tatum of Rusk County; employees of this Credit Union, members of their immediate families and organizations of such persons; any retired or substitute teachers living in the territory served by East Texas Teachers Credit Union, and members of the immediate family of such persons.

"Members of the immediate family" include parents of such persons, the spouse, surviving spouse, and children.

4. That the foregoing resolution has been entered in full in the minutes of the meeting of this credit union.

Hyman Jauber
Chairman of the Board

C. F. Kuykendall
Secretary

8-1-79
C.W.3
Approved this 27th day of April, 1979
John P. Vinson
Credit Union Commissioner

TEXAS
STANDARD BYLAWS
FOR
STATE CHARTERED CREDIT UNIONS



Credit Union Department
State of Texas
Act of 1975, As Amended

Revised September, 1975

STANDARD BYLAWS FOR STATE CHARTERED CREDIT UNIONS

CHAPTER I. NAME, DEFINITION AND PURPOSE

Section 1.01. NAME

The name of this credit union shall be East Texas Teachers
_____ Credit Union.

Section 1.02. DEFINITION AND PURPOSE

This credit union is a voluntary cooperative, nonprofit savings institution, incorporated under the Texas Credit Union Act (V.T.C.S. 2461, Revised 1975) for the purpose of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition.

CHAPTER II. ORGANIZATION PROCEDURE

(NOTE: The Texas Credit Union Act, Chapter 2, specifies the procedure for incorporating and specifies the requirements of the Articles of Incorporation and the requirements before commencing business. This chapter of the bylaws deals with amendments, place of business, and reports.)

Section 2.01. AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS

(a) Amendments to the articles of incorporation, the charter, and these bylaws may be adopted by the affirmative vote of a majority of the Board of Directors present at any duly held meeting thereof, if the members of the Board of Directors have been given prior notice of said meeting and the notice has contained a complete copy of the proposed amendment or amendments.

(b) No amendment of these bylaws or of the charter shall become effective, however, until approved in writing by the Credit Union Commissioner.

(c) Any amendment by the Board of Directors and approved by the Credit Union Commissioner shall be reported to the membership no later than the next succeeding membership meeting, following adoption and/or approval of such amendment.

Section 2.02. PLACE OF BUSINESS

The principal place of business of this credit union shall be Longview,
with branches in Marshall and Nacogdoches, Texas.
Subsidiary offices may be established by board action, provided that prior written notice is given to the Credit Union Commissioner.

(a) Societies, and associations, incorporated or otherwise, composed for the most part of natural persons who would be qualified for membership as individuals, may be admitted to membership in the same manner and under the same conditions as individuals.

(b) Each application for membership must be made in writing, with all applications approved becoming part of the permanent records of the Credit Union. (NOTE: See chapter six of the Credit Union Act for multiple party account provisions.)

(c) An applicant eligible for membership may be admitted to membership by the affirmative vote of the Board of Directors, at any board meeting, or by the membership officer in accordance with Chapter V, Section 5.13(a) of these bylaws and the applicant shall become a member and entitled to any rights and privileges of a member when he or she has (1) paid the membership fee, if any, as set by the Board of Directors, and, (2) has paid for at least one (1) share of capital stock in this Credit Union.

(d) An individual who leaves the field of membership may be permitted to retain his or her membership in the Credit Union at the discretion of the Board of Directors, as set forth in written board policy.

(e) Minors may be elected to membership on the same conditions that apply to adults with the following exceptions: (1) No minor may vote until they reach the age of eighteen (18) ; (2) No minor may become a director or committee member until they have reached the age of twenty-five (25) .

Section 3.02. MEETINGS OF MEMBERS

(a) The annual meeting of the members shall be held during the month of January, February or March of each year, in the county in which the principal office of the Credit Union is located, at such time and place as the Board of Directors shall determine as convenient to the membership. The Chairman of the Board presides. Meeting notices shall be given at least fifteen (15) days in advance of the meeting, which notice shall be posted in a conspicuous place available to a majority of the members or by mailing to each member an official notice.

(b) Special meetings shall be held by order of the directors, or upon written request to the Board of Directors of at least twenty-five (25) members. Notice of any special meeting shall state the purpose for which it is to be held and no other business other than that related to this purpose shall be transacted at the meeting.

(c) Notice of all meetings shall be given by the Secretary who shall, at least fifteen (15) days before the date of the meeting, post a notice thereof in a conspicuous place in the office of the credit union and mail, or hand in person, to each member a notice of the meeting; except that if the annual meeting is to be held during the same month as that of the previous annual meeting, and if this credit union maintains an office that is readily accessible to members, and wherein regular business hours are maintained, and the board so determines, notices of the annual meeting may be given by posting the notice thereof, in a conspicuous place in the office of the credit union where it may be read by the members, at least thirty (30) days prior to such meeting. Any meeting of the members, whether annual or special, may be held without prior notice, at any place or time, if all the members entitled to vote thereat who are not present at such meeting shall in writing waive notice thereof, before, during, or after the meeting. (Refer to Credit Union Act Section 3.02 for voting rights).

(d) The order of business at annual meetings of members shall be as follows:

- (1) Ascertain that a quorum is present;
- (2) Reading and approval of the minutes of the last meeting;
- (3) Report of the Directors by the Chairman of the Board, or in his absence by the Vice-Chairman, or other officer;
- (4) Report of the Officer in Charge of Operations;
- (5) Report of the Credit Committee or Credit Manager;
- (6) Report on the annual audit;
- (7) Report of other committees if appointed by the board as provided in the statute;
- (8) Unfinished business;
- (9) New business other than elections;
- (10) Election of Directors; and
- (11) Adjournment.

(NOTE: Agenda may be rearranged by Chairman, if so authorized by vote of members present.)

At the annual or special shareholders' meetings, a majority of the members shall constitute a quorum, provided, however, that at any time the membership of the Credit Union increases to such extent that a majority of such membership is in excess of twenty-five (25) members, then twenty-five (25) members shall constitute a quorum. If no quorum is present an adjournment may be taken to a date not less than seven (7) nor more than fifteen (15) days thereafter; and the members present at any such adjourned meeting shall constitute a quorum, regardless of the number of members present. The same notice shall be given for the adjourned meeting as described above in this article.

Section 3.03. ELECTIONS

(a) Nominating Committee. At least thirty (30) days prior to each annual meeting, the Chairman of the Board with board approval shall appoint a nominating committee of not less than three credit union members in good standing. It shall be the duty of the nominating committee to nominate one member for each vacancy, including any unexpired term, for which elections are to be held.

(b) Nominations from the floor. After the report of the nominating committee is made to the membership, the presiding officer shall call for nominations from the floor. When nominations are closed, tellers shall be appointed by the presiding officer. Ballots shall be distributed, if any position is contested. Otherwise, elections may be by voice vote.

(c) Election Rules. The Board of Directors shall prescribe election rules, as part of their written board policy.

(d) Mail Ballots. This credit union may conduct voting by mail ballot, if the board of directors shall determine that such method is in the best interest of the credit union. Mail balloting shall be conducted according to regulations established by the Credit Union Commission.

CHAPTER IV. POWERS OF CREDIT UNION

Section 4.01. GENERAL POWERS

In addition to the powers granted by the Credit Union Act and regulations, this credit union will abide by the following general provisions:

(a) The Officers, Directors, members of committees, and employees of this credit union shall hold in strict confidence all transactions of this credit union with its members, and all information respecting their personal affairs, except to the extent deemed necessary by the Board of Directors in connection with the making of loans and the collection thereof.

(b) All books of accounts and other records shall be available, at all times, to the Directors. Upon board approval, committee members may have access to certain credit union information and records that are germane to their particular area of service, according to written policies established by the board. The Articles of Incorporation and bylaws of this credit union shall be made available for inspection by any member. (The Board of Directors will establish written policy pertaining to access and furnishing copies of laws, bylaws, regulations, guidelines and board policies to members.)

(c) The Board of Directors may by resolution provide for the establishment and replenishment of a Petty Cash Fund.

(d) By resolution, a cash fund for the purpose of making change may be established by the Board of Directors.

(e) Copies of the organization papers of this credit union, its Bylaws, and any amendments thereto, shall be preserved in a place of safekeeping. Returns of nominations and elections and proceedings of all regular and special meetings of the members and Directors shall be recorded in the minute books of this credit union. The minutes of the meetings of members, the Board of Directors and committees shall be signed by their respective chairmen or presiding officers and by the persons who serve as secretaries of such meetings.

Section 4.02. RECEIPTING, PASSBOOKS AND STATEMENTS

Money paid in or out on account of shares, deposits, loans, interest, fees, or fines shall be evidenced by entries in the member's passbook or such other form of statement of account or receipt as the Board of Directors may prescribe. Every entry shall identify the person receiving or paying out, on behalf of this credit union, the money represented thereby, in the passbook. If statements are used in lieu of passbooks, each member shall receive a statement of account at least once each year.

Section 4.03. ENTRANCE FEES

The Board of Directors may establish a uniform entrance fee for membership not to exceed \$1.00 per member.

CHAPTER V. DIRECTION OF AFFAIRS

Section 5.01. BOARD OF DIRECTORS

The Board of Directors of this credit union shall consist of nine members whose regular terms of office shall be for three years and/or until the election and qualification of successors. Three of the directorships will expire at the first annual meeting after the adoption of this bylaw, three of the directorships will expire at the next annual meeting, and three of the directorships will expire at the next annual meeting.

Section 5.02. VACANCIES ON THE BOARD OF DIRECTORS

Any vacancy occurring on the Board of Directors shall be filled by vote of a majority of the directors then holding office. Directors so appointed shall hold office only until the next annual meeting at which any unexpired terms shall be filled by vote of the members, and until the qualification of their successors.

Section 5.03. CERTIFICATE OF ELECTION

The Chairman of the Board and the Secretary shall execute a certificate of election that sets forth the names and addresses of the Officers, Directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within thirty (30) days after the election and appointment, and on forms supplied by the department for that purpose. Such forms may provide for other information as deemed appropriate by the Commissioner.

Section 5.04. MEETINGS OF DIRECTORS

Regular meetings of the Board of Directors shall be held at least monthly. The Chairman of the Board, or in his absence the Vice-Chairman or any other Officer, may call a special meeting of the Board of Directors at any time, and shall do so upon written request of any three (3) Directors. Notice of meetings of the Board of Directors shall be given in such a manner as the Board of Directors may from time to time, prescribe by written policy.

Section 5.05. QUORUM

A quorum shall consist of not less than a majority of the Directors.

Section 5.06. ATTENDANCE

Any Director who fails to attend three (3) consecutive regular board meetings without due cause, or who fails to attend six (6) regular meetings within a twelve month period, is automatically removed from office. Vacancies occurring in this manner shall be filled within sixty (60) days, in accordance with Section 5.02 of these bylaws.

Section 5.07. EXECUTIVE COMMITTEE

The Board of Directors may appoint from its own number an executive committee of not less than three (3) persons to exercise such authority as may be delegated to it by the Board of Directors between meetings of the Board of Directors.

Section 5.08. DUTIES AND POWERS OF DIRECTORS

The Board of Directors shall have the general direction and control of the affairs, funds and records of this credit union and shall exercise any and all powers granted by law to boards of directors of corporations, including those powers set forth in the statutes of the State of Texas regulating the organization and operation of credit unions.

In addition to the duties customarily performed by boards of directors, the Board of Directors shall perform the following special duties and all other duties enumerated in these bylaws, and in the laws of the State of Texas pertaining to credit unions:

(a) Act upon applications for membership or approve the appointment of one or more membership officers to be appointed by the chief executive officer. The Board shall prescribe written policy governing the conditions of membership in conformity with the Credit Union Act, regulations and these bylaws.

(b) A member of the credit union may be expelled by the Board of Directors, but only after an opportunity has been given him to be heard. A written notice of this hearing setting forth the time, place, and date for such meeting shall be forwarded to the member by the Board of Directors, together with the charges which serve as the basis for the expulsion. The member may be expelled for failure to meet the conditions of his membership, failure to carry out his obligations to the credit union,

conviction of a felony, neglect or refusal to comply with the provisions of the laws under which the credit union operates and the bylaws of the credit union, habitual neglect to pay obligations, insolvency, or bankruptcy. Upon completion of the hearing, and if the Board of Directors has voted to expel the member, the member shall remain liable for any sums owed to the credit union for loans or other purposes. Members whose notes are defaulted and charged off as a loss, automatically forfeit membership when their shares are applied toward the loan balance. Reinstatement of membership in case of forfeiture may only be by majority vote of the Board of Directors.

(c) Purchase a blanket fidelity bond in accordance with the rules and regulations of the Credit Union Department.

(d) Determine the rate(s) of interest on loans, and the rate(s) of interest refunds, if any, to be paid to borrowing members.

(e) Declare dividends and interest refunds in the way and manner as provided by these bylaws, and regulations.

(f) Determine the rate(s) of interest to be paid on deposits.

(g) Determine the number of shares which may be owned by a member.

(h) Fill vacancies occurring between annual meetings on the Board of Directors, if any, until the election or appointment and qualification of their successors.

(i) Authorize the employment and compensation of such person or persons as may be necessary to carry on the business of the credit union.

(j) Authorize the conveyance of property.

(k) Establish written policy pertaining to continued membership of members who leave the field of membership.

(l) Designate a depository or depositories for the funds of this credit union.

(m) Authorize and provide for a comprehensive audit, including a controlled verification of members' accounts at least once each year, as required by the Credit Union Act and regulations issued from time to time by the Credit Union Commission.

(n) Prescribe the necessary rules regarding deposits in accordance with regulations promulgated by the Commission.

(o) Determine the maximum amount, both secured and unsecured which may be loaned to any one member.

(p) Supervise the collection of loans to members, in accordance with written board policy, authorize the charge-off of uncollectible loans when necessary, and authorize the establishment and maintenance of the "Special Reserve" for delinquent loans, if required by the Credit Union Commissioner.

(q) Authorize the borrowing or lending of money to carry on the functions of this credit union as prescribed by the Credit Union Act.

(r) Set the date of the annual meeting of the members.

(s) Establish and maintain written board policies, as required by law, regulation and/or these bylaws.

(t) Take all necessary measures for the interest of the credit union members, including appointing any committees deemed necessary, not within the exclusive jurisdiction of the general membership meeting and not inconsistent with the laws of the State of Texas and these bylaws.

(u) Adopt an operating budget forecast on an annual or semiannual basis, not later than thirty (30) days after the start of such annual or semiannual periods. The budget forecast may be amended by the board from time to time.

(v) Because of the confidential nature of their duties, the Board of Directors shall prescribe written policy governing attendance at board meetings by persons other than directors.

Section 5.09. ELECTION AND APPOINTMENT OF OFFICERS

(a) At their first meeting, which shall be held within thirty (30) days following the annual meeting of the members, the Board of Directors shall elect from their own number a Chairman, a Treasurer, and a Secretary. The thirty (30) day period may be extended, if approved in writing by the Commissioner.

(b) Other Officers shall be appointed or may be elected as prescribed in written board policy, in conformity with Section 5.04 of the Credit Union Act.

(c) The Board may employ or shall designate a chief executive officer in charge of operations whose title shall be President.

Section 5.10. DUTIES OF OFFICERS

(a) The Chairman of the Board shall preside at meetings of the members,

and of the Board of Directors, and shall perform such other duties as appertain to this office.

(b) **The Vice Chairman**, if any, shall perform duties of the Chairman of the Board in the event of absence or disability of that officer.

(c) **The Secretary** shall prepare and maintain full and correct records of all meetings of the members and of the Board of Directors. The Secretary shall promptly inform the Credit Union Department in writing of any change in the address of the office of this credit union, or location of its records, and promptly file changes in the official family structure with the Credit Union Commissioner. The Secretary shall give or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members, and special meetings of the Board of Directors. The Secretary shall also perform such other duties as he or she may be directed to perform by resolution of the Board of Directors not inconsistent with the Credit Union Act and these bylaws.

(d)(1) **The President** shall serve as the active manager of the credit union under the order of the Board of Directors, to sign all checks and drafts drawn by the credit union except those which may be signed under his or her general supervision by such employees as may be authorized by the Board of Directors to sign checks and drafts, to have custody of the cash, securities, books of accounts and other valuable papers of the credit union and to prepare a balance sheet showing the condition of the credit union within fifteen (15) days after the close of each month and post it in a conspicuous place in the office of the credit union where it shall remain until replaced by the statement of the succeeding month. The President shall within three (3) working days after receipt, deposit all receipts in his or her possession in the bank or banks of deposit prescribed by the Board of Directors. The President may be paid a salary to be fixed by the Board of Directors for his or her services.

(2) The President shall also submit to the Board of Directors, the monthly financial report, delinquent loan report, and other special reports which may be requested from time to time by the Board of Directors.

(3) The President shall prepare and forward to the Credit Union Department such financial reports and other reports as are requested from time to time by the Credit Union Commissioner, and shall also pay all expenses incident to examinations and supervision by the Credit Union Department.

(4) The President with the approval of the board, may appoint one or more membership officers from among the membership or the credit union staff. Such membership officers may not be the Treasurer, Assistant Treasurer, or a Loan Officer.

(5) The President, with the approval of the board may appoint a credit manager in accordance with paragraph (g) Section 5.05 of the Credit Union Act.

(e) The **Membership Officer** shall perform duties assigned by the President as approved by the Board of Directors, and shall submit a report monthly to the Board of Directors of all approved members. The Membership Officer shall not have the authority to disapprove applications of membership.

(f) **Loan Officers** shall perform their duties in accordance with Section 5.05 (f) of the Credit Union Act and as the Board of Directors may prescribe, from time to time.

(g) The Officers and employees shall hold all transactions of the credit union and its members in strict confidence.

CHAPTER VI. CAPITAL ACCOUNTS

Section 6.01. CAPITAL

The capital of this credit union shall consist of the following:

(a) Shares purchased by members which shall have a par value of twenty-
five dollars (\$ 25.00) each, which may be paid for in full or by installments as prescribed by the Board of Directors, in written policy. Dividends and other credits to the share accounts of members shall constitute payments on shares.

Dividends may be paid on fully paid shares or on the total amount of fully paid and partial shares, as prescribed by the Board of Directors in written policy.

(b) All deposit accounts, which shall be operated in accordance with rules prescribed by the Board of Directors, in conformity with the regulations issued by the Credit Union Commission.

(c) All reserve accounts and undivided earnings.

Section 6.02. WITHDRAWAL AND TRANSFER OF SHARES

(a) Shares may be transferred from one member to another only in writing on the books of the corporation. A fee not to exceed one dollar (\$1.00) for each transfer may be required by the Board.

(b) Monies paid in on shares, or installments on shares or deposits may be withdrawn as provided in these bylaws on any day when payment for shares may be made, but the Board of Directors shall have the right at any time to:

(1) Require members to give sixty (60) days notice of intention to withdraw the whole or any part of the amounts so paid in by them;

(2) Prescribe rules regarding withdrawals of shareholdings or deposits below the amount of the members' total liability to the credit union as borrower, endorser, comaker or guarantor; and to

(3) Prescribe rules regarding remote withdrawal of shares and/or deposits, in accordance with regulations promulgated by the Credit Union Commission.

CHAPTER VII. LOANS

Section 7.01. ELIGIBILITY

Loans may be made only to eligible members of the credit union for any purposes deemed appropriate by the Board of Directors, and in accordance with the Credit Union Act, these bylaws, regulations, and written board policies.

Section 7.02. LIMITATIONS

The aggregate amount of loans to any member and the terms and conditions of such loans shall not exceed the limitations imposed by the Credit Union Act, these bylaws, regulations, and written board policies.

Section 7.03. WRITTEN POLICIES

The Board of Directors shall establish and maintain written loan policies in accordance with regulations and the Credit Union Act.

Section 7.04. LOAN FORMS

All loans to members shall be evidenced by a form which contains all the information required by the Credit Union Act, regulations and these bylaws.

Section 7.05. INTEREST REFUNDS

Interest refunds may be declared in accordance with written board policy.

CHAPTER VIII. INVESTMENTS

Section 8.01.

Any funds of this credit union not required for loans to members may be invested in one or more of the ways set forth in the Texas Credit Union Act, and regulations appertaining thereto.

CHAPTER IX. RESERVES; DIVIDENDS, SHARE REDUCTIONS

Section 9.01.

Reserve requirements, dividend provisions and share reductions shall be handled in accordance with Chapter 9 of the Credit Union Act and regulations appertaining thereto.

CHAPTER X. CHANGE IN CORPORATE STATUS

Section 10.01. DISSOLUTION OR LIQUIDATION

This credit union may be dissolved or liquidated, merged, or converted in accordance with Chapter 10 of the Credit Union Act and regulations appertaining thereto.

CERTIFICATE

This is to certify that these bylaws have been duly adopted by the Board of Directors of this credit union, at a (regular) (special) meeting held on 12th day of February, 19 76.

Witness our signatures this 12th day of February, A.D. 19 76.

(Print or type) J. D. Parrish Signature: [Signature]
(Chairman of the Board)

(Print or type) Virginia Baker Signature: [Signature]
(Secretary)

Approved this 1st day of March, A.D. 19 76.
[Signature]
Credit Union Commissioner of Texas

The original and one copy are to be forwarded to the Credit Union Commissioner for his approval; the original will be returned to the credit union for permanent retention, the copy will be retained by the Credit Union Department. These bylaws become effective upon approval by the Credit Union Commissioner and shall supercede all previous bylaws and amendments thereto.

4-26-76
C.W.F.

MAY 10 1993

TEXAS

STANDARD BYLAWS FOR STATE CHARTERED CREDIT UNIONS



Credit Union Department
State of Texas

Revised July 14, 1986

MAY 10 1993

STANDARD BYLAWS FOR STATE CHARTERED CREDIT UNIONS
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MAY 10 1993

Std. C.U. Bylaws

**STANDARD BYLAWS FOR
STATE CHARTERED CREDIT UNIONS**

CHAPTER I. NAME, DEFINITION AND PURPOSE

Section 1.01. NAME

The name of this credit union shall be _____

Section 1.02. DEFINITION AND PURPOSES

This credit union is a voluntary, cooperative, nonprofit financial institution, incorporated under the Texas Credit Union Act (Texas Revised Civil Statutes Annotated, Article 2461-1.01 et. seq.) for the purposes of encouraging thrift among its members, creating a source of credit at fair and reasonable rates of interest, providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions, and conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members subject to the Texas Credit Union Act and commission rules adopted thereunder.

*The name used must include "Credit Union."

CHAPTER II. ORGANIZATION PROCEDURE

(NOTE: The Texas Credit Union Act, Chapter 2, specifies the procedure for incorporating and specifies the requirements of the articles of incorporation and the requirements before commencing business. This chapter of the bylaws deals with amendments, place of business, and reports.)

Section 2.01. AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS

(a) Amendments to the articles of incorporation or bylaws may be adopted by the affirmative vote of a majority of the board of directors present at any duly held meeting thereof, if the members of the board of directors have been given prior notice of said meeting and the notice has contained a complete copy of the proposed amendment or amendments.

(b) No amendment to the articles of incorporation or bylaws shall become effective, however, until approved in writing by the Credit Union Commissioner.

(c) Any amendment adopted by the board of directors and approved by the Credit Union Commissioner shall be reported to the membership of the credit union no later than the next succeeding membership meeting following approval of such amendment by the commissioner.

Section 2.02. PLACE OF BUSINESS

The principal place of business of this credit union shall be _____, Texas.

Additional offices and service facilities may be established by board action if they are reasonably necessary to furnish services to the members and provided that prior written notice is given to the Credit Union Commissioner.

The field of membership also includes employees of the credit union and members of their families.

A change in the field of membership shall not affect the continued membership of existing members of the credit union.

(a) Each application for membership must be made in writing, with all applications approved becoming part of the permanent records of the credit union. (NOTE: See chapter 6 of the Texas Credit Union Act for multiple party account provisions.)

(b) An applicant eligible for membership may be admitted to membership by the affirmative vote of the board of directors, at any board meeting, or by the membership officer in accordance with Chapter V, Section 5.11(e) (4) of these bylaws and the applicant shall become a member and be entitled to the rights and privileges of a member upon (1) paying the membership fee, if any, as set by the board of directors, and (2) establishing the minimum share and/or deposit balance established by board policy which must be an amount of at least five dollars (\$5.00); provided, however, any amount in excess of one hundred dollars (\$100.00) must receive prior approval from the commissioner.

(c) A member who leaves the field of membership may be permitted to retain membership in the credit union under reasonable standards as set forth in written board policy.

(d) Minors may be admitted to membership on the same conditions that apply to adults with the following exceptions: (1) No minor may vote until attaining the age of _____; (2) No minor may become a director or committee member until attaining the age of _____.

OPTIONAL FIELD OF MEMBERSHIP PROVISIONS

For use by a credit union that specifies its field of membership in its articles of incorporation:

The field of membership of this credit union shall be the definable community of interest set forth in the articles of incorporation.

For use by a credit union with an occupational or associational field of membership (Select those provisions desired):

1. Any business or organization whose employees or members are within this field of membership.
2. Persons who are receiving retirement, pension, or other benefits as a result of prior employment by any business or organization included within this field of membership.

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3. Spouses of persons who died while within the field of membership of this credit union.
4. Groups of employees or members of companies or associations which are located within one mile of this credit union's main office or any additional office and which have furnished written evidence of sponsor support to the credit union; provided, however, that (1) any group having more than 300 employees or 500 members or (2) any group already being served as primary members of another credit union shall be admitted only by an amendment of this section which specifically names the group being admitted.

Section 3.02. EXPULSION FROM MEMBERSHIP AND FORFEITURE OF MEMBERSHIP

(a) Based upon a finding of good cause, the board of directors may vote to expel a member of the credit union. Good cause shall include, but not be limited to: (1) Failure to maintain the requirements necessary for membership; (2) Physical abuse or assault, harassment or multiple instances of verbal abuse of an employee, an officer, a director, or another member of the credit union; (3) Neglect or refusal to comply with provisions of the Texas Credit Union Act, commission rules, these bylaws, or the articles of incorporation; (4) Conviction of a felony; (5) Habitual neglect to pay obligations; and (6) Insolvency or bankruptcy. After an initial vote to expel, the board must give written notice to the member of the right to a hearing upon written request and must therein inform the member of the cause for expulsion and of the procedure for expulsion. Forty-five (45) days after the date of notice, the expulsion automatically becomes final unless the member has responded with a written request for a hearing and appears at the hearing when scheduled as provided for herein. Upon receiving such a request, the board shall schedule a date for the hearing which must be within forty-five (45) days after receipt of the request. No less than fifteen (15) days prior to the hearing, the board must send to the member written notice of the date, time and place for the hearing. After the hearing, the board shall again vote on whether to expel the member. The member is expelled if a majority of the board votes to expel.

(b) An expelled member shall remain liable for any sums owed to the credit union for loans or other purposes.

(c) Members whose notes are defaulted and charged off as a loss automatically forfeit membership when their shares are applied toward the loan balance. Reinstatement of membership in case of forfeiture may only be by majority vote of the board of directors.

Section 3.03. MEETINGS OF MEMBERS

(a) The annual meeting of the members shall be held during the month of _____ of each year,³ in a county within Texas in which an office of the credit union is located, at such time and place as the board of directors shall determine as convenient to the membership. The board of directors may change the month for such meeting to the month immediately preceding or following in any given year. Approval of the commissioner is required in order to obtain more than a one month deviation from the month set forth in the bylaws. The chairman of the board presides.

(b) Special meetings shall be held by order of the directors, or upon written request to the board of directors of at least five percent (5%) of the members or one thousand (1000) members, whichever is less. Notice of any special meeting shall state the purpose for which it is to be held and no other business other than that related to the stated purpose shall be transacted at the meeting. The board of directors must schedule the meeting within forty-five (45) days of the request unless the time is extended by the commissioner.

(c) Notice of all meetings shall be given by the secretary who shall, at least fifteen (15) days before the date of the meeting, post a notice thereof in a conspicuous place in the office of the credit union and shall mail, or hand in person, to each member a notice of the meeting; except that if the annual meeting is to be held during the same month as that of the previous annual meeting, and if this credit union maintains an office that is readily accessible to members and that maintains regular business hours, and if the board so determines, notices of the annual meeting may be given by posting the notice thereof in the office of the credit union in a conspicuous place where it may be read by the members, at least thirty (30) days prior to such meeting. Any meeting of the members, whether annual or special, may be held without prior notice, at any place or time, if all the members entitled to vote thereat who are not present at such meeting shall in writing waive notice thereof, before, during, or after the meeting. (Refer to Texas Credit Union Act, Section 3.02 for voting rights).

(d) The order of business at annual meetings of members shall be as follows:

- (1) Ascertaining that a quorum is present;
- (2) Reading and approval of the minutes of the last meeting;
- (3) Report of the directors by the chairman of the board, or in his absence by the vice-chairman, or other board officer;
- (4) Report of the president;
- (5) Report of the credit committee, if any;
- (6) Report on the annual audit;
- (7) Report of other committees, if any;

³The month selected must be within the first six months of the year, January through June.

- (8) Unfinished business;
- (9) New business other than elections;
- (10) Election of Directors;
- (11) Adjournment.

The agenda may be rearranged by the chairman, if so authorized by vote of the members present.

(e) At annual and at special meetings, a majority of the members shall constitute a quorum, provided, however, that at any time the membership of the credit union increases to such extent that a majority of such membership is in excess of twenty-five (25) members, then twenty-five (25) members shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not less than seven (7) nor more than fifteen (15) days thereafter; and the members present at any such adjourned meeting shall constitute a quorum, regardless of the number of members present. At least seven (7) days prior to any such adjourned meeting, the secretary shall post notice of the adjourned meeting in a conspicuous place in the office of the credit union.

(f) A decision made by a majority vote of the members present at any duly held meeting at which a quorum is present is an act of the membership.

Section 3.04. ELECTIONS

(a) Nominating Committee. At least thirty (30) days prior to each annual membership meeting, the chairman of the board with board approval shall appoint a nominating committee of not less than three credit union members in good standing. It shall be the duty of the nominating committee to nominate at least one member for each board vacancy, including any unexpired term, for which elections are to be held.

(b) Nominations from the floor. After the report of the nominating committee is made to the membership, the presiding officer shall call for nominations from the floor. When nominations are closed, the vote shall be taken. Elections may be by voice vote unless a member demands that the election be by ballot for a particular contested position. If such a demand is made, that position shall be determined by ballot.

(c) Election Rules. The board of directors shall prescribe election rules, including the procedure to be followed in the event of a tie vote, as part of their written board policy.

(d) Mail Ballots. This credit union may conduct voting by mail ballot, if such method is authorized by the board of directors. Mail balloting shall be conducted according to rules adopted by the Credit Union Commission.

CHAPTER IV. POWERS OF CREDIT UNION

Section 4.01. GENERAL POWERS

In addition to the powers granted by the Texas Credit Union Act and the Commission rules, this credit union will abide by the following general provisions:

(a) The officers, directors, advisory directors, committee members, and employees of this credit union shall hold in strict confidence all transactions of this credit union with its members, and all information respecting their personal affairs, except to the extent deemed necessary by the board of directors in accordance with written board policy and subject to the provisions of the Texas Credit Union Act, the commission rules and these bylaws.

(b) All books of accounts and other records shall be available, at all times, to the directors. Upon board approval, committee members may have access to certain credit union information and records that are germane to their particular area of service, according to written policies established by the board. The articles of incorporation and bylaws of this credit union shall be made available for inspection by any member. The board of directors will establish written policies regarding members' access to the articles of incorporation, bylaws, rules, guidelines, board policies, and copies thereof.

(c) Copies of the articles of incorporation, the bylaws, and any amendments thereto, shall be preserved in a place of safekeeping. Returns of nominations and elections and proceedings of all regular and special meetings of the members and directors shall be recorded in the minute books of this credit union. The minutes of the meetings of members, the board of directors and committees shall be signed by their respective chairmen or presiding officers and by the persons who serve as secretaries of such meetings.

Section 4.02. EVIDENCE OF TRANSACTIONS

Money paid in or out on account of shares, deposits, loans, interest, fees, or fines shall be evidenced as prescribed by the board of directors, provided that such evidence identifies the person withdrawing or authorizing withdrawal of cash, the person paying out cash, the amount and nature of each transaction, and is consistent with industry practices. The credit union shall provide periodic written notice to the member, no less frequently than once each year, of the status and balance of all accounts.

Section 4.03. ENTRANCE FEES

The board of directors may establish a uniform entrance fee for membership not to exceed \$10.00 per member.

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Section 4.04. EXPENSES, FEES AND PENALTIES

(a) In accordance with the Texas Credit Union Act, the credit union may require members to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting or renewing a loan. Such fees and expenses are in addition to interest.

(b) The credit union may charge a member a penalty when a loan payment is 10 or more days in arrears provided that such penalty may not exceed five percent of the payment due and provided that only one penalty may be charged on each past due payment. Such penalties do not constitute interest.

(c) The board may levy and collect other fees and charges in accordance with the Texas Credit Union Act and commission rules.

CHAPTER V. DIRECTION OF AFFAIRS

Section 5.01. BOARD OF DIRECTORS

The board of directors of this credit union shall consist of _____⁴ individual members, all of whom shall be members of this credit union, whose regular terms of office shall be for _____⁵ years and/or until the election and qualification of successors. _____ of the directorships will expire at the first annual meeting after the adoption of this bylaw, _____ of the directorships will expire at the next annual meeting, and _____ of the directorships will expire at the next annual meeting.

(a) No reduction in the number of directors may be made unless corresponding vacancies exist as a result of deaths, resignations, expiration of terms of office or other actions provided by these bylaws.

(b) All regular terms shall be for the same number of years and until the election and qualification of successors. The regular terms shall be so fixed at the beginning, or upon any increase or decrease in the number of directors, that approximately an equal number of regular terms shall expire at each annual meeting.

(c) Vacancies on the board of directors will be filled by election at each annual meeting by and from the membership of the credit union.

(d) Directors may serve more than one term.

(e) The board may appoint not more than three honorary or advisory directors who serve at the pleasure of the board and who advise and consult with the board and aid the board in carrying out its duties and responsibilities. An honorary or advisory director is not considered a member of the board and is not entitled to vote on any matter before the board but may participate in deliberations of the board. An honorary or advisory director need not be eligible for membership in the credit union.

Section 5.02. VACANCIES ON THE BOARD OF DIRECTORS

Any vacancy occurring on the board of directors shall be filled by vote of a majority of the directors then holding office. Directors so appointed shall hold office only until the next annual meeting at which any unexpired terms shall be filled by vote of the members, and until the qualification of their successors.

⁴The number of directors cannot be less than five. Article 2461-5.01. It is recommended that the number of directors be an odd number.

⁵The term of office cannot be greater than three years, and a term of two or three years is recommended.

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Section 5.03. CERTIFICATE OF ELECTION

The chairman of the board and the secretary shall execute a certificate of election that sets forth the names and addresses of the officers, directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within thirty (30) days after the election or appointment, and on forms supplied by the department for that purpose. Such forms may provide for other information as deemed appropriate by the commissioner.

Section 5.04. MEETINGS OF DIRECTORS

(a) Regular meetings of the board of directors shall be held at least monthly. The chairman of the board, or in his absence the vice-chairman or any other officer, may call a special meeting of the board of directors at any time, and shall do so upon written request of any three (3) directors. Because of the confidential nature of their duties, the board of directors shall prescribe written policy governing the attendance at board meetings by persons other than directors. Notice of meetings of the board of directors shall be given in such a manner as the board of directors may from time to time, prescribe by written policy.

(b) Subject to the same notice and quorum provisions as for any other meeting of the board of directors, any meeting of the board of directors may be held by telephone conference call in which all or certain of the directors are not physically present at the place of the meeting but nevertheless participate in the conduct thereof by telephone. Provided, however, there shall be no more than one regular meeting held by telephone conference call per calendar quarter and there shall be no consecutive regular meetings held by telephone conference call. Before any regular meeting may be held by conference call, the members of the board of directors must be provided with a written copy of the agenda and copies of any materials that will be discussed. Minutes will be kept in the same manner as for any other meeting of the board of directors. For the purpose of determining the presence of a quorum and for all voting purposes at such a meeting, all directors participating in the meeting shall be considered present and acting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) Any action required or permitted to be taken by the board of directors under any provision of the Texas Credit Union Act may be taken without a meeting if all members of the board shall individually or collectively consent in writing to the action. The written consent or consents shall be filed with the minutes of the proceedings of the board. Any action by written consent shall have the same force and effect as a unanimous vote of those consenting directors. Any certificate or other document filed under any provision of the Texas Credit Union Act that relates to action so taken shall state that the action was taken by unanimous written consent of the board of directors without a meeting and that these bylaws authorize the directors to so act, and that statement shall be prima facie evidence of such authority.

Section 5.05. QUORUM

A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting thereof; but fewer than a quorum may adjourn from time to time until a quorum is in attendance.

Section 5.06. MAJORITY ACTION

Every act or decision done or made by a majority of the directors present at any duly held meeting at which a quorum is present is an act of the board of directors. Each director who is present at a meeting will be deemed to have assented to any action taken at such meeting unless the director's dissent to the action is entered in the minutes of the meeting, or unless the director shall file a written dissent thereto with the secretary of the meeting or shall forward that dissent by registered mail to the secretary of the credit union immediately after the meeting.

Section 5.07. REMOVAL OF DIRECTORS

(a) Any director who fails to attend three (3) consecutive regular board meetings without due cause, or who fails to attend six (6) regular meetings within a twelve month period, is automatically removed from office. Vacancies occurring in this manner shall be filled within sixty (60) days, unless extended by approval of the commissioner, in accordance with Section 5.02 of these bylaws.

(b) Any director may be removed from office for good cause by a majority vote of the board of directors at a regular meeting or a special meeting of the board called expressly for such purpose. Notice of the meeting must specify the director who is subject to removal. Good cause for removal shall be the failure to perform the duties devolving upon such person as a director, including, but not limited to: (1) Physical abuse or assault, harassment or multiple instances of verbal abuse of a member, employee, officer or other director of the credit union; (2) Misapplication of credit union funds; (3) Breach of fiduciary duty; (4) Neglect or refusal to comply with provisions of the Texas Credit Union Act or commission rules, these bylaws or the articles of incorporation; (5) Conviction of a felony; (6) Conviction of a misdemeanor involving moral turpitude; (7) Failure to maintain confidentiality relating to credit union transactions and the financial affairs of its members; and (8) The failure to perform the duties of a director. Prior to a vote on removal, the director must be afforded an opportunity to be heard at such meeting. Any vacancy or vacancies occurring as a result of removal under this provision must be filled within sixty (60) days, unless extended by approval of the commissioner, in accordance with Section 5.02 of these bylaws.

(c) Any director or the entire board of directors may be removed by recall of the members as provided by commission rules.

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(d) The credit union shall notify the commissioner in writing within ten days of the removal of any director pursuant to this section.

Section 5.08. EXECUTIVE COMMITTEE

The board of directors may appoint from its own number an executive committee of not less than three (3) persons to exercise, between meetings of the board of directors, such authority as may be specifically delegated to it by the board of directors. The executive committee shall report to the board of directors the activities it has taken between meetings of the board of directors, and a report of such activities shall be placed in the minutes of the board of directors.

Section 5.09. DUTIES AND POWERS OF DIRECTORS

The board of directors shall have the general direction and control of the affairs, funds and records of this credit union and shall exercise any and all powers granted by law to boards of directors of corporations, including those powers set forth in the statutes of the State of Texas regulating the organization and operation of credit unions. The board of directors may delegate to others, including the president, other officers or committees, the performance of these duties, including the authority to further delegate these duties; provided, however, the board in delegating such duties is not relieved from the responsibility for the performance of such duties. All such delegations must be recorded in the minutes of the board and include: (1) the person or persons authorized to exercise the delegated powers; and (2) appropriate guidelines and limitations for the exercise of such delegated powers.

In addition to the duties customarily performed by boards of directors, the board of directors shall perform the following special duties and all other duties enumerated in these bylaws, in the laws of the State of Texas pertaining to credit unions, and in the commission rules, including:

(a) To direct the affairs of the credit union in accordance with the Texas Credit Union Act, commission rules, articles of incorporation, these bylaws, and sound business practices.

(b) To assure formulation and adoption of written policy statements that will ensure conformity with the Texas Credit Union Act and commission rules for the following:

- (1) The field of membership,
- (2) Lending,
- (3) Deposit accounts,
- (4) Investments,
- (5) Internal control and audit procedures,

- (6) Employee policies,
- (7) Any other matter for which a written board policy is required by law, commission rule or these bylaws.

(c) To provide general direction and governance of credit union affairs, as distinct from operational management of the credit union, so that the board can assure itself through knowledgeable and responsible inquiry that the credit union's operating management has performed satisfactorily. The directors must direct and monitor the affairs of the credit union without being involved in everyday managerial activities.

(d) To monitor and evaluate the credit union's performance and financial condition, including the credit union's estimated solvency ratio, and to assure that a timely, adequate reporting and information system keeps directors knowledgeable at all times.

(e) Purchase from a surety company authorized to do business in this state a blanket surety or security bond in accordance with the Texas Credit Union Act and commission rules.

(f) Determine the rate(s) of interest on loans, and the rate(s) of interest refunds, if any, to be paid to borrowing members subject to the limitations of the Texas Credit Union Act.

(g) Declare dividends and interest refunds in the way and manner as provided by these bylaws, and commission rules.

(h) Determine the rate(s) of interest to be paid on deposits.

(i) Determine the limits on shares and deposits which may be owned by a member.

(j) Authorize the conveyance of property.

(k) Designate a depository or depositories for the funds of this credit union.

(l) Authorize and provide for a comprehensive audit, including a controlled verification of members' accounts at least once each year in accordance with the Texas Credit Union Act and rules of the Credit Union Commission.

(m) Supervise the collection of loans to members in accordance with written board policy, authorize the charge-off of uncollectible loans when necessary, and authorize the establishment and maintenance of reserve allocations as required by commission rules. The board may also authorize the establishment and maintenance of reserves in addition to those required.

(n) Authorize the borrowing or lending of money to carry on the functions of this credit union as prescribed by the Texas Credit Union Act.

(o) Set the date of the annual meeting of the members.

(p) The board may take all ~~necessary~~ or appropriate measures for the interest of the credit union members, including appointing any committees ~~deemed necessary~~, not within the exclusive jurisdiction of the general membership meeting and not inconsistent with the laws of the State of Texas and these bylaws.

(q) Adopt an operating budget forecast on an annual or semiannual basis, not later than thirty (30) days after the start of such annual or semiannual periods. The budget forecast may be amended by the board from time to time.

Section 5.10. ELECTION AND APPOINTMENT OF OFFICERS

(a) At their first meeting, which shall be held within thirty (30) days following the annual meeting of the members, the board of directors shall elect from their own number a chairman, a vice-chairman, a treasurer, and a secretary. The thirty (30) day period may be extended, if approved in writing by the commissioner.

(b) The board may employ, elect, or appoint a chief executive officer who is in charge of operations and whose title shall be president. The president may or may not be a member of the board of directors, but the president may not be the chairman, vice-chairman, or secretary. The president serves at the pleasure of the board.

(c) Subject to guidelines set by the board and in conformity with Article 2461-5.04 of the Texas Credit Union Act, the president shall appoint, employ, or hire and may discharge other officers and employees that the president considers necessary for operation of the credit union.

Section 5.11. DUTIES OF OFFICERS

(a) ~~The chairman~~ of the board shall preside at meetings of the members, and of the board of directors, and shall perform such other duties as pertain to this office.

(b) ~~The vice-chairman~~ shall perform duties of the chairman of the board in the event of absence or disability of that officer.

(c) ~~The secretary~~ shall prepare and maintain full and correct records of all meetings of the members and of the board of directors. The secretary shall promptly inform the Credit Union Department in writing of any change in the address of the office of this credit union, or location of its records, and promptly file ~~changes~~ in the officers, directors and the ~~chairman~~ of the audit committee of the credit union with the Credit Union Commissioner. The secretary shall give or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members and of the board of directors. The secretary shall also perform such other duties as he or she may be directed to perform by resolution of the board of directors not inconsistent with the Texas Credit Union Act and these bylaws.

(d) The treasurer shall perform the duties incident to the office of treasurer and such other duties from time to time as may be assigned by the board of directors, provided that such assigned duties do not conflict with the duties of other officers.

(e) (1) The president shall serve as the active manager of the credit union under the order of the board of directors. The president shall sign all checks and drafts drawn by the credit union except those which may be signed under his or her general supervision by such employees as may be authorized by the board of directors or president to sign checks and drafts. The president shall have custody of the cash, securities, books of accounts and other valuable papers of the credit union and shall prepare a balance sheet showing the condition of the credit union within fifteen (15) days after the close of each month and post it in a conspicuous place in the office of the credit union where it shall remain until replaced by the statement of the succeeding month. The president shall within three (3) working days after receipt, deposit all receipts in his or her possession in the depository or depositories prescribed by the board of directors. The president may be paid a salary to be fixed by the board of directors for his or her services.

(2) The president shall also submit to the board of directors, the monthly financial report, delinquent loan report, and other special reports which may be requested from time to time by the board of directors.

(3) The president shall prepare and forward to the Credit Union Department such financial reports and other reports as are required from time to time by the Credit Union Commissioner, and shall also pay all expenses incident to examinations and supervision by the Credit Union Department.

(4) The president with the approval of the board, may appoint one or more membership officers from among the membership or the credit union staff. Such membership officers may not be an individual who approves loans or disburses funds. If the general requirements for membership are met, a membership officer shall not have the authority to disapprove an application for membership except in accordance with written board policy.

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CHAPTER VI. CAPITAL ACCOUNTS

Section 6.01. CAPITAL

The capital of this credit union shall consist of the following:

(a) Shares purchased by members which may be with or without par value and which may be of different types or classes as determined by the board of directors. Shares may be paid for as prescribed by the board of directors, in written policy. Dividends and other credits to the share accounts of members shall constitute payments on shares.

Dividends may be paid on fully paid shares or on the total amount of fully paid and partial shares, as prescribed by the board of directors in written policy.

(b) All deposit accounts, which shall be operated in accordance with policies prescribed by the board of directors and in conformity with the rules of the Credit Union Commission.

(c) All reserve accounts, including allowances for loan losses, and undivided earnings.

Section 6.02. WITHDRAWAL AND TRANSFER OF SHARES

(a) Shares may be transferred from one member to another only in writing on the books of the credit union. A reasonable fee for each transfer may be required by the board.

(b) Monies paid in on shares may be withdrawn as provided in these bylaws on any day when payment for shares may be made, but the board of directors shall have the right at any time to:

- (1) Require members and other depositors to give sixty (60) days notice of intention to withdraw the whole or any part of the amounts so paid in by them;
- (2) Prescribe rules regarding withdrawals of shareholdings or deposits below the amount of a member's total indebtedness, either direct or indirect, to the credit union;
- (3) Prescribe rules regarding remote withdrawal of shares and/or deposits, in accordance with rules promulgated by the Credit Union Commission;
- (4) Prescribe a fee for each withdrawal above a reasonable number of withdrawals per month as prescribed by the board in written policy; and
- (5) Prescribe a reasonable minimum amount for each withdrawal.

CHAPTER VII. LOANS

Section 7.01. ELIGIBILITY

Loans may be made only to members of the credit union. Loans may be made for any purposes deemed appropriate by the board of directors, and shall be made in accordance with the Texas Credit Union Act, these bylaws, commission rules, and written board policies.

Section 7.02. LIMITATIONS

The aggregate amount of loans to any member and the terms and conditions of such loans shall conform to the limitations and requirements imposed by the Texas Credit Union Act, these bylaws, commission rules, and written board policies.

Section 7.03. WRITTEN POLICIES

The board of directors shall establish and maintain written loan policies in accordance with commission rules and the Texas Credit Union Act.

Section 7.04. LOAN FORMS

All loans to members shall be evidenced by a written form which contains all the information required by the Texas Credit Union Act, commission rules and these bylaws.

Section 7.05. INTEREST REFUNDS

Interest refunds may be declared in accordance with written board policy.

Section 7.06. LOAN APPROVAL PROCEDURES

It is a responsibility of the board of directors to approve or disapprove applications for loans from members. The board may delegate all or part of this power to a credit committee, other committees, or a loan officer, including the president, and such delegation may include the authority to further delegate these duties. Such delegations must be recorded in the minutes of the board and include:

- (a) The person or persons authorized to exercise the powers;
- (b) The loan policies established by the board of directors which will serve as the guidelines for those persons to whom this power has been delegated;

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(c) The limitations on the powers delegated, which may include restrictions on the type and/or amounts of loans approved, restrictions on the power to disapprove loans, or restrictions on further delegations of these powers;

(d) If authority to disapprove a loan application is granted to any one person, including a loan officer, the board of directors must provide for at least one level of appeal from a denial of a loan application. This appeal may be to the board of directors or any individual or group of individuals the board of directors may designate; and

(e) Notwithstanding any delegation of the power to deny a loan application, the board of directors shall have the right to review any loan application which has been denied.

Section 7.07. LOANS TO OFFICIALS

Loans made to the credit union's directors, employees, loan officers, credit manager, credit committee members and members of the immediate families of such persons shall be made in accordance with Section 7.05 of the Texas Credit Union Act.

CHAPTER VIII. INVESTMENTS

Section 8.01. INVESTMENT AUTHORITY

(a) Any funds of this credit union not used in loans to members may be invested in one or more of the ways set forth in the Texas Credit Union Act, and commission rules pertaining thereto.

(b) In accordance with rules adopted by the commission, the credit union shall develop written investment policies and may offer investment programs to its members, and may act as agent for its members in the purchase, sale or other disposition of securities, interest in mutual funds, and interests or participations in any other type of investment.

CHAPTER IX. RESERVES, DIVIDENDS, SHARE REDUCTIONS

Section 9.01. TEXAS CREDIT UNION ACT AND COMMISSION RULES

Reserve requirements, dividend provisions and share reductions shall be handled in accordance with Chapter 9 of the Texas Credit Union Act and commission rules pertaining thereto.

CHAPTER X. CHANGE IN CORPORATE STATUS

Section 10.01. DISSOLUTION OR LIQUIDATION

This credit union may be dissolved or liquidated, merged, or converted in accordance with Chapter 10 of the Texas Credit Union Act and commission rules pertaining thereto.

CHAPTER XI. TITLE, EFFECTIVE DATE

Section 11.01. BYLAWS EFFECTIVE UPON APPROVAL

These bylaws shall be known as the Standard Bylaws for State Chartered Credit Unions, revision of 1986, and shall take effect upon the filing with and approval by the commissioner. The existing bylaws of this credit union are hereby amended by the adoption of this foregoing revision.

NOV 10 1993

Std. C.U. Bylaws

CERTIFICATE

This is to certify that these bylaws have been duly adopted by the board of directors of this credit union, at a (regular) (special) meeting held

on _____ day of _____, 19_____.

Witness our signatures this _____ day of _____, 19_____.

(Print or type) _____ Signature: _____
(Chairman of the Board)

(Print or type) _____ Signature: _____
(Secretary)

Approved this _____ day of _____, 19_____.

Credit Union Commissioner

The original and one copy are to be forwarded to the Credit Union Commissioner for his approval; the original will be returned to the credit union for permanent retention, the copy will be retained by the Credit Union Department. These bylaws become effective upon approval by the Credit Union Commissioner and shall supercede all previous bylaws and amendments thereto.

JUL 16 2002



RULES FOR CREDIT UNIONS
adopted by the
CREDIT UNION COMMISSION

Garold R. Base – Chair
Plano, Texas

Richard A. Glasco, Jr. – Vice Chair
Georgetown, Texas

Floyde W. Burnside, Jr. – Member
San Antonio, Texas

Cynthia Cabaza – Member
Weslaco, Texas

Rufino Carbajal – Member
El Paso, Texas

Fran V. Hawkins – Member
Robstown, Texas

James K. Burnett – Member
Dallas, Texas

Carlos Puente – Member
Fort Worth, Texas

J. Howell (Hal) Thomas – Member
Baytown, Texas

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The official copy of the Texas Administrative Code is maintained by the Secretary of State for the State of Texas and is available on their website at <http://lamb.sos.state.tx.us/tac>.

JUL 16 2002



CREDIT UNION DEPARTMENT

DATE: December 31, 2001

TO: State Chartered Credit Unions

SUBJECT: Change 1 to Update the Texas Rules for Credit Unions.

The attached pages constitute changes to the Texas Rules for Credit Unions. Your book of rules should be updated as follows:

REMOVE OLD PAGES

INSERT NEW PAGES

Cover/disclaimer ✓
vii through viii ✓
91-3 thru 91-4 ✓
91-69 thru 91-70 ✓
91-75 thru 91-76 ✓
97-1 thru 97-8 ✓

Cover/disclaimer ✓
vii through viii ✓
91-3 thru 91-4 ✓
91-69 thru 91-70 ✓
91-75 thru 91-76 ✓
97-1 thru 97-10 ✓

FOR YOUR RECORDS - Please keep this letter of transmittal behind the **Update Tab** of the Rules Section of your binder as a record to show your rules are up to date.

Additional copies of these rules can be obtained from the Texas Credit Union League, P.O. Box 655147, Dallas, Texas 75265.

JUL 31 2002
Done/John

JUL 16 2002



CREDIT UNION DEPARTMENT

DATE: February 28, 2001
TO: State Chartered Credit Unions
SUBJECT: Change 17 to Update the Texas Rules for Credit Unions.

The attached pages constitute changes to the Texas Rules for Credit Unions. Your book of rules should be updated as follows:

REMOVE OLD PAGES

iii through iv ✓
91.200-8 thru 91.200-11 ✓
91.301-1 thru 91.300-9 ✓
91.800-7 thru 91.800-15 ✓

INSERT NEW PAGES

iii through iv ✓
91.200-8 thru 91.100-12 ✓
91.300-1 thru 91.300-13 ✓
91.800-7 thru 91.800-19 ✓

FOR YOUR RECORDS - Please keep this letter of transmittal in front of the Rules Section of your binder as a record to show your rules are up to date.

Additional copies of these rules can be obtained from the Texas Credit Union League, P. O. Box 655147, Dallas, Texas 75265.

JUL 31 2002
done/Smc

DEC 0 4 2000



CREDIT UNION DEPARTMENT

DATE: November 30, 2000
TO: State Chartered Credit Unions
SUBJECT: Change 16 to Update the Texas Rules for Credit Unions.

The attached pages constitute changes to the Texas Rules for Credit Unions. Your book of rules should be updated as follows:

REMOVE OLD PAGES

i through ii
vii through viii
91.100-1 thru 91.100-11
91.200-1
91.301-8 thru 91.302-1
91.400-1 thru 91.400-11
97.000-5 thru 97.000-6
97.000-9 thru 97.000-13

INSERT NEW PAGES

i through ii
vii through viii
91.100-1 thru 91.100-16
91.200-1
91.301-8 thru 91.300-9
91.400-1 thru 91.400-12
97.000-5 thru 97.000-6
97.000-9 thru 97.000-14

FOR YOUR RECORDS - Please keep this letter of transmittal in front of the Rules Section of your binder as a record to show your rules are up to date.

Additional copies of these rules can be obtained from the Texas Credit Union League, P. O. Box 655147, Dallas, Texas 75265.

DEC 0 4 2000

CHAPTER 91
CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

<u>Series</u>	<u>Rule No.</u>	<u>Topic</u>
91.100		A. GENERAL RULES
	91.101	Definitions and Interpretations
	91.103	Public Notice of Department Activities
	91.104	Notice of Applications
	91.105	Applications for Authorization from the Commissioner
	91.110	Protest Procedures for Applications
	91.115	Safety at Unmanned Teller Machines
	91.120	Posting of Notice Regarding Certain Loan Agreements
91.200		B. ORGANIZATION PROCEDURES
	91.201	Incorporation Procedures
	91.202	Form of Bylaws; Amendments to Articles of Incorporation and Bylaws
	91.205	Use of Credit Union Name
	91.209	Reports and Charges for Late Filing
	91.210	Certificate of Authority to Do Business In the State of Texas
91.300		C. MEMBERS
	91.301	Field of Membership
	91.302	Mail Ballots
91.400		D. POWERS OF CREDIT UNIONS
	91.401	Operational Powers
	91.403	Federal Parity—Guaranteed Auto Protection (GAP) Program/Debt Cancellation Contracts
	91.405	Records Retention

CHAPTER 91
CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

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	91.501	Eligibility to Hold Office
	91.502	Director Fees and Expenses
	91.510	Bond and Insurance Requirements
	91.515	Financial Reporting
	91.516	Audits and Verifications
91.600		F. ACCOUNTS AND SERVICES
	91.601	Share and Deposit Accounts
	91.602	Solicitation and Acceptance of Brokered Deposits
	91.608	Confidentiality of Member Records
	91.610	Safe Deposit Box Facilities
91.700		G. LENDING POWERS
	91.701	Lending Powers
	91.702	Records for Lending Transactions
	91.703	Interest
	91.704	Real Estate Lending
	91.705	Home Improvement Loans
	91.706	Home Equity Loans
	91.707	Reverse Mortgages
	91.708	Real Estate Appraisals
	91.709	Member Business Loans
	91.710	Overdraft Protection
	91.711	Loan Participations
	91.712	Plastic Cards
	91.713	Indirect Financing of Motor Vehicles or Other Chattels
	91.714	Leasing
	91.715	Exceptions to the General Lending Policies
	91.716	Prohibited Fees
	91.717	More Stringent Restrictions
	91.718	Charging Off or Setting Up Reserves
	91.719	Loans to Officials and Employees

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CHAPTER 91
CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

<u>Series</u>	<u>Rule No.</u>	<u>Topic</u>
91.800		H. INVESTMENTS
	91.801	Investments in CUSOs
	91.802	Other Investments
	91.803	Investment Limits in Other Financial Institutions
	91.804	Custody and Safekeeping
	91.805	Loan Participation Investments
	91.808	Reporting Investment Activities to the Board of Directors
91.900		I. RESERVES AND DIVIDENDS
	91.901	Reserve Requirements
	91.902	Dividends
91.1000		J. CHANGES IN CORPORATE STATUS
	91.1003	Mergers/Consolidations
	91.1004	Conversion of Charter
	91.1110	Share Deposit Guaranty Requirements
91.2000		K. (RESERVED)
91.3000		L. SUBMISSION OF COMMENTS BY INTERESTED PARTIES
	91.3001	Opportunity to Submit Comments on Certain Applications
	91.3002	Conduct of Meetings to Receive Comments
91.4000		M. ELECTRONIC OPERATIONS
	91.4001	Authority to Conduct Electronic Operations
	91.4002	Notice Requirement

CHAPTER 91
CHARTERING, OPERATIONS, MERGERS, LIQUIDATIONS

<u>Series</u>	<u>Rule No.</u>	<u>Topic</u>
91.5000		N. EMERGENCY CLOSING OF OFFICE OR OPERATION
	91.5001	Emergency Closing
	91.5002	Effect of Closing

**CHAPTER 93
ADMINISTRATIVE PROCEEDINGS**

<u>Series</u>	<u>Rule No.</u>	<u>Topic</u>
		E. APPEALS OF ORDERS OF CONSERVATION
	93.501	Request for Hearing to Appeal an Order of Conservation
		F. APPEAL OF COMMISSIONER'S FINAL DETERMINATION TO THE COMMISSION
	93.601	Motion for Appeal to the Commission
	93.602	Decision by the Commission
	93.603	Oral Arguments Before the Commission
	93.604	Motion for Rehearing
	93.605	Final Decisions and Appeals

CHAPTER 93
ADMINISTRATIVE PROCEEDINGS

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Series	Rule No.	Topic
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	93.101	Scope; Definitions; Severability
		B. GENERAL RULES
	93.201	Party Status
	93.202	Computation of Time
	93.203	Ex Parte Communications
	93.204	Presiding Officer or Body
	93.205	Notice of Hearing
	93.206	Default
	93.207	Service
	93.208	Delegation of Authority
	93.209	Subpoenas
	93.210	Protective Orders; Motions to Compel
	93.211	Administrative Record
	93.212	Proposal for Decision
		C. APPEALS OF PRELIMINARY DETERMINATION ON APPLICATION
	93.301	Finality and Request for SOAH Hearing
	93.302	Referral to ADR
	93.303	Hearings of Applications to Incorporate, Amend Bylaws, Or Merge or Consolidate
	93.304	Appeals of Applications for Certificates of Authority
	93.305	Appeals of All Other Applications for Which No Specific Procedure Is Provided by This Title
		D. APPEALS OF CEASE AND DESIST ORDERS AND ORDERS OF REMOVAL
	93.401	Appeals of Cease and Desist Orders and Orders of Removal
	93.402	Stays

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SHARE AND DEPOSITOR INSURANCE PROTECTION

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	95.100	Account Insurance	95-1
95.200		B. LIQUIDATING AGENTS	
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95.300		C. GUARANTY CREDIT UNION	
	95.300	Share and Deposit Guaranty Credit Union	95-5
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91.100-1

A. GENERAL RULES

§91.101. Definitions and Interpretations.

(a) Words and terms used in this chapter that are defined in finance code §121.002, have the same meanings as defined in the finance code. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act – the Texas Credit Union Act (Texas Finance Code, Subtitle D).

(2) Allowance for loan and lease losses (ALLL) – a general valuation allowance that has been established through charges against earnings to absorb losses on loans and lease financing receivables. An ALLL excludes the regular reserve and special reserves.

(3) Applicant – an individual or credit union that has submitted an application to the commissioner.

(4) Application – a written request filed by an applicant with the department seeking to incorporate, amend articles of incorporation or bylaws, deviate from standard bylaws, obtain a certificate of authority to do business in the state of Texas or to obtain other relief for which the commission is authorized by the act to issue a final decision or order subject to judicial review.

91.100-2

(5) Automated teller machine (ATM) – an automated, unstaffed credit union facility owned by or operated exclusively for the credit union at which deposits are received, cash dispensed, or money lent.

(6) Community of interest – a unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union. The types of factors included are:

(A) Employment by or a work-related relationship with an enterprise;

(B) Membership in an organization with a primary purpose of other than making credit union services available to its members;

(C) Residence, employment, or attending school within a certain geographic area; or

(D) Such other factor that creates an identifiable affinity among the persons to be included within a credit union's field of membership.

(7) Construction or development loan – a financing arrangement for the purpose of acquiring property or rights to property, including land or structures, with the intent of converting the property into income-producing property, including residential housing for rental or sale, commercial, industrial or similar use.

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91.100-3

(8) Core capital – has the same meaning as “tier one capital” as set forth in the capital regulations adopted by the appropriate federal banking regulatory agency.

(9) Corporate credit union – a credit union whose field of membership consists primarily of other credit unions.

(10) Day – whenever periods of time are specified in this title in days, calendar days are intended. When the day, or the last day fixed by statute or under this title for taking any action falls on Saturday, Sunday, or a state holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a state holiday.

(11) Department newsletter – the monthly publication that serves as an official notice of all applications, and by which procedures to protest applications are described.

(12) Field of membership (FOM) – refers to the totality of persons a credit union may accept as members. The FOM may consist of one group, several groups with a related community of interest, or several unrelated groups with each having its own community of interest.

(13) Imminent danger of insolvency – a circumstance or condition in which a credit union is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, even if the value of its assets exceeds its liabilities; or the credit union has a positive net worth ratio equal to two percent or less of its assets.

(14) Improved residential property – real property consisting of a residential dwelling having one to four dwelling units, at least one of which is occupied by the owner of the property. This term shall also include a one to four unit dwelling occupied in whole or in part by the owner on a seasonal basis.

(15) Indirect financing – a program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

(16) Loan-to-value ratio – the aggregate amount of all sums owed on an item of collateral securing a loan divided by the value of the collateral.

(17) Loan and extension of credit – a direct or indirect advance of funds to a member, or on that member's behalf, that is conditioned upon the repayment of the funds by the member or the application of collateral. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member, an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.

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91.100-5

(18) Manufactured home – a HUD-code manufactured home as defined by the Texas Manufactured Housing Standards Act.

(19) Metropolitan Statistical Area (MSA) – a geographic area as defined by the director of the U. S. Office of Management and Budget.

(20) Mobile office – a branch office that does not have a single, permanent site, including a vehicle that travels to various public locations to enable members to conduct their credit union business.

(21) Office – includes any branch office, service facility or place of business established by a credit union at which deposits are received, checks or share drafts paid, or money lent. A branch does not include an automated teller machine (ATM), a shared service center, or a remote service facility.

(22) Overlap – the situation which exists when a group of persons is eligible for membership in two or more state, foreign, or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

(23) Person – an individual, partnership, corporation, association, government, governmental subdivision or agency, business trust, estate, trust, or any other public or private entity.

(24) Principal office – the home office of a credit union.

(25) Protestant – a credit union that opposes or objects to the relief requested by an applicant.

(26) Remote service facility – an automated, unstaffed credit union facility owned or operated by, or operated for, the credit union, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.

(27) Reserves – allocations of retained earnings and includes regular and special reserves, except for any allowances for loan, lease or investment losses.

(28) Resident of this state – a person physically located in, living in or employed in the state of Texas.

(29) Respondent – a credit union or other person against whom a disciplinary proceeding is directed by the department.

(30) Shared service center – a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit union services that the credit union member could lawfully obtain at the principal office of the member's credit union.

(31) Secured credit – a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more

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machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.

(27) Reserves - allocations of retained earnings and includes regular and special reserves, except for any allowances for loan, lease or investment losses.

(28) Resident of this state - a person physically located in, living in or employed in the state of Texas.

(29) Respondent - a credit union or other person against whom a disciplinary proceeding is directed by the department.

(30) Shared service center - a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit union services that the credit union member could lawfully obtain at the principal office of the member's credit union.

(31) Secured credit - a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.

(32) Title - Title 7, Part VI of the Texas Administrative Code (TAC), Banking and Securities, which contains all of the department's rules.

(33) Underserved area - a geographic area, which could be described as one or more contiguous metropolitan statistical areas (MSA) or one or more contiguous political subdivisions, including counties, cities, and towns, that satisfy any one of the following criteria:

(A) A majority of the residents earn less than 80 percent of the average for all wage earners as established by the U. S. Bureau of Labor Statistics;

(B) The annual household income for a majority of the residents falls at or below 80 percent of the median household income for the nation; or

(C) The commission makes a determination that the lack of available or adequate financial services has adversely effected economic development within the specified area.

(34) Uninsured membership share - funds paid into a credit union by a member that constitute uninsured capital under conditions established by the credit union and agreed to by the member including possible reduction under section 122.105 of the Act, risk of loss through operations, or other forfeiture. Such funds shall be considered an interest in the capital of the credit union upon liquidation, merger, or conversion.

(35) Unsecured credit - a loan or extension of credit based solely upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

(b) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in the Act and in Government Code §2001.003, and the definitions in subsection (a) of this section govern the interpretation of this title. If any section of this title is found to conflict with an applicable and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict without affecting the validity of the rest of this title.

Source: The provisions of this §91. 101 adopted to be effective November 13, 2000, 25 TexReg 11277.

§91.103. Public Notice of Department Activities.

The commissioner shall cause notice of final actions taken by the department on certain activities to be published in the Texas Register and the department newsletter. Notice shall be published in both publications within 30 days of the action becoming final. The activities covered by this requirement are:

- (1) an application for incorporation under Texas Finance Code §122.001;
- (2) a request for an amendment to a credit union's articles of incorporation under Texas Finance Code §122.011;
- (3) a request for an amendment to a credit union's bylaws for the expansion of its field of membership under Texas Finance Code §122.011;
- (4) an application for merger or consolidation under Texas Finance Code §122.152;
- (5) a request by a foreign credit union to do business in Texas under Texas Finance Code §122.013; and
- (6) an application for conversion of a credit union's Charter under Texas Finance Code §§122.201, 122.202 or 122.203.

Source: The provisions of this §91.103 adopted to be effective May 10, 1998, 23 TexReg 4567; re-adopted to be effective November 19, 2001, 26 TexReg 9934.

§91.104. Notice of Applications.

(a) Upon receipt of a complete application for authorization to be granted by the department, the commissioner shall cause notice of such application to be published in the Texas Register and the department newsletter. Notice shall be published in both publications at least 30 days prior to taking action on the request. The activities covered by this requirement are:

- (1) an application for incorporation under Texas Finance Code § 122.001; a request for an amendment to a credit union's articles of incorporation under Texas Finance Code §122.011;
- (2) a request for an amendment to a credit union's bylaws for an expansion of its field of membership under Texas Finance Code §122.011;
- (3) an application for merger or consolidation under Texas Finance Code §122.152; and
- (4) a request by a foreign credit union to do business in Texas under Texas Finance Code §122.013.

(b) The commissioner may waive or delay notice of applications under subsection (a) of this section when a waiver or delay is in the public interest. The commissioner shall consider the welfare and stability of the affected credit union(s) in determining the public interest. If the commissioner determines that delaying public notice is in the public interest, the notice of application shall be published in each publication at the earliest feasible time.

Source: The provisions on this §91.104 adopted to be effective May 11, 2000, 25 TexReg 3943; re-adopted to be effective November 19, 2001, 26 TexReg 9934.

DEC 0 4 2000

91.000-11

§91.105. Applications for Authorization from the Commissioner.

The commissioner may accept applications and other forms prescribed by federal or state regulators in lieu of the commissioner's forms. The foregoing, however, shall not limit the commissioner's power to require additional information concerning any application.

§91.110. Protest Procedures for Applications.

A protestant to an application for authorization to be granted by the commissioner must file a written notice of protest, in such form as the commissioner may prescribe, within 30 days of the date that notice of the application is published in either the Texas Register or the department newsletter, whichever is later. The notice of protest must provide all information that the protestant wishes the commissioner to consider in evaluating the application.

§91.115. Safety at Unmanned Teller Machines.

(a) Definitions and Standards.

(1) Words and terms used in this chapter that are defined in the Finance Code, §59.301, have the same meanings as defined in the Finance Code.

(2) For the purposes of measuring compliance with the Finance Code, §59.307, candle foot power should be determined under normal, dry weather conditions, without complicating factors such as fog, rain, snow, sand or dust storm, or other similar condition.

(b) Safety evaluations.

(1) The credit union owner or operator of an unmanned teller machine shall evaluate the safety of each machine on a basis no less frequently than annually.

(2) The safety evaluation shall consider at the least the factors identified in the Finance Code, §59.308.

(3) The credit union owner or operator of the unmanned teller machine may provide the landlord or owner of the property with a copy of the safety evaluation if an access area or defined parking area for an unmanned teller machine is not controlled by the credit union owner or operator of the machine.

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91.100-13

(c) Notice.

(1) A credit union issuer of access devices shall furnish its members with a notice of basic safety precautions that each member should employ while using an unmanned teller machine. The notice shall be delivered personally or mailed to each member, whose mailing address is in this state, when an access device is issued, renewed or replaced.

(2) Content. The notice of basic safety precautions required by this section must be provided in written form which can be retained by the member and may include recommendations or advice regarding:

(A) security at walk-up or drive-up unmanned teller machines;

(B) protection of code or personal identification numbers;

(C) procedures for lost or stolen access devices;

(D) reaction to suspicious circumstances;

(E) safekeeping and disposition of unmanned teller machine receipts, such as the inadvisability of leaving an unmanned teller machine receipt near the unmanned teller machine;

(F) the inadvisability of surrendering information about the member's access device over the telephone;

91.100-14

(G) safeguarding and protecting the member's access device, such as a recommendation that the member treat the access device as if it was cash;

(H) protection against unmanned teller machine fraud, such as a recommendation that the member compare unmanned teller machine receipts against the member's monthly statement; and

(I) other recommendations that the credit union reasonably believes are appropriate to facilitate the security of its unmanned teller machine users.

(d) Lease premises.

(1) Noncompliance by landlord. Pursuant to the Finance Code, §59.306, the landlord or owner of property is required to comply with the safety procedures of the Finance Code, Chapter 59, Subchapter D, if an access area or defined parking area for an unmanned teller machine is not controlled by the owner or operator of the unmanned teller machine. If a credit union owner or operator of an unmanned teller machine on leased premises is unable to obtain compliance with safety procedures from the landlord or owner of the property, the credit union shall notify the landlord in writing of the requirements of the Finance Code, Chapter 59, Subchapter D, and of those provisions for which the landlord is in noncompliance.

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(2) **Enforcement.** Noncompliance with safety procedures required by the Finance Code, Chapter 59, Subchapter D, by a landlord or owner of property after receipt of written notification from the owner or operator constitutes a violation of the Finance Code, Chapter 59, Subchapter D, which may be enforced by the Texas Attorney General.

(e) **Video surveillance equipment.** Video surveillance equipment is not required to be installed at all unmanned teller machines. The credit union owner or operator must determine whether video surveillance or unconnected vide surveillance equipment should be installed at a particular unmanned teller machine site, based on the safety evaluation required under the Finance Code, §59.308. If a credit union owner or operator determines that video surveillance equipment should be installed, the credit union must provide for selecting, testing, operating, and maintaining appropriate equipment.

(f) **Unmanned teller machines located in a credit union vestibule.** The provisions of the Finance Code, Chapter 59, Subchapter D, and this section are applicable to an unmanned teller machine located in a credit union vestibule if there is 24 hours access to the vestibule from outside the building.

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§91.120. Posting of Notice Regarding Certain Loan Agreements.

(a) As required by the Business and Commerce Code §26.02, all credit unions are required to conspicuously post notices informing members of the requirements that certain loan agreements must be in writing. The notice must include the language and be in the format prescribed by the Finance Commission of Texas in §3.34 of this title (relating to Posting of Notice in All Finance Institutions).

(b) Each credit union shall post the notice required by subsection (a) in the lobby of each of its offices other than off-premises electronic deposit facilities.

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§91.201. Incorporation Procedures.

(a) An application to incorporate a credit union shall be in writing and supported by such information and data as the commissioner may require to make the findings necessary for the issuance of a certificate of incorporation.

(b) The commissioner shall determine whether or not an application is complete within thirty days of its receipt and provide written notice of the determination. If the application is deemed incomplete, the notice shall provide with reasonable specificity the deficiencies in the application.

(c) Upon the determination that an application is complete, the commissioner shall make or cause to be made an investigation and examination of the facts concerning the applicant. It is essential that the investigation and examination confirm to the satisfaction of the commissioner that the proposed institution will have a reasonable opportunity to succeed.

(d) Proposed credit unions must investigate the possibility of an overlap with existing state or federal credit unions doing business in this state prior to submitting an application. When an overlap situation does arise, officials of the involved entities must attempt to resolve the overlap issue. Typically, an overlap will not be considered adverse to the overlapped credit union if:

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(1) the group has 300 or less primary potential members or the overlap is otherwise incidental in nature;

(2) the overlapped credit union does not object to the overlap;

(3) there is limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time; or

(4) a single occupational or associational based credit union overlaps a community chartered credit union.

(e) When the applicant and a credit union agree and/or the commissioner has determined that overlap protection is appropriate, an exclusionary clause will be included in the proposed field of membership for a period of 24 months from the date the proposed credit union commences business. The commissioner, for good cause shown, may extend this period for an additional 24 months.

(f) The commissioner may approve the application conditioned upon specific requirements being met, but the certificate of incorporation shall not be issued unless such conditions have been met within the time specified in the approval order or any extension as set forth in Finance Code §122.006.

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§91.202. Form of Bylaws; Amendments to Articles of Incorporation and Bylaws.

(a) The Standard Bylaws for State Chartered Credit Unions, adopted by the commission in 1986 or as subsequently revised or amended, constitute the standard form of bylaws which shall be used by credit union incorporators.

(b) The commissioner is expressly authorized to approve deviations from and amendments to the standard bylaws. The commissioner may approve a deviation or amendment unless the deviation or amendment violates the Act or rules of the commission.

(c) A credit union may request a deviation from the standard bylaws by submitting a written application to the commissioner. A request for a deviation shall be considered in the same manner as an application to amend bylaws under this section.

(d) Credit unions desiring to amend articles of incorporation or bylaws must submit a written application, in such form as the commissioner may prescribe. The application shall include the

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text of the amendment, the date that the board of directors adopted the amendment, a brief statement explaining the purpose of the amendment, information regarding the financial impact on the credit union if the amendment is approved, and any other information the commissioner may require to make a decision on the amendment.

(e) The commissioner shall determine whether or not an application is complete within thirty day of its receipt and provide written notice of the determination. If the application is deemed incomplete, the notice shall provide with reasonable specificity the deficiencies in the application.

(f) The commissioner does not need to provide notice as prescribed in §1.103 (relating to Public Notice of Department Activities) and §1.104 (relating to Notice of Applications) for applications that apply for standard optional field of membership provisions (1), (2), (3), and (4) as contained in the Standard Bylaws for State Chartered Credit Unions.

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§91.205. Use of Credit Union Name.

(a) Unless changed by a bylaw amendment approved by the commissioner in accordance with the Act and these rules, a credit union shall do business under the name in which its charter was issued. In addition to the official charter name, a credit union may do business under an assumed name. However, the official name as it appears in the bylaws must be used in all official or legal communications or documents.

(b) A credit union shall not do business under any name other than its official name until it has registered the designation with the Secretary of State and the appropriate county clerk, and has received from the commissioner a certificate of authority to use an assumed business name.

(c) The commissioner shall not issue a certificate of authority to use an assumed business name if the designation might mislead the public or is not readily distinguishable from, or is deceptively similar to, a name of another credit union lawfully doing business and that has established an office in this state.

(d) It is the responsibility of the credit union officials to make every reasonable attempt to comply with state and federal law applicable to corporate names.

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(e) A credit union that intends to use an assumed name shall take reasonable steps to ensure that members will not become confused and believe that its different facilities will be mistaken for separate credit unions or that the shares and deposits in the different facilities are separately insured.

91.209. Reports and Charges for Late Filing.

(a) A credit union shall prepare and forward to the Department any report or other document which the Commissioner requires and will comply with all instruction relating to submitting the report or document. For the purposes of this Section, the Commissioner's request shall be directed to all credit unions or to a group of credit unions affected by the same or similar issue, shall be in writing and must specifically advise the credit union that the provisions of this Section apply to the request.

(b) If a credit union fails to file a report or provide a document within the timeframe specified in the instruction and after notice of non-receipt, the commissioner may assess a charge for the late filing of \$100 per day. The credit union shall pay the late charge to the department within thirty days of the assessment.

(c) If a credit union fails to file a report or provide the requested information within the specified time, the commissioner or any person designated by the commissioner may examine the books, accounts and records of the credit union, prepare the report or gather the information and charge the credit union a supplemental examination fee as prescribed in 97.113(c) of this title (relating to supplemental examinations). The credit union shall pay the fee to the department within thirty days of the assessment.

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§91.210. Certificate of Authority to Do Business in the State of Texas.

(a) **Definition.** Foreign credit union, as used in this chapter, means a credit union that is not chartered or otherwise organized under the laws of this state or the United States.

(b) **Application.** Prior to commencing business in this state, a foreign credit union is required to file a written application supported by such information and data as the commissioner may require to make the findings necessary for the issuance of a certificate of authority pursuant to Finance Code §122.013.

(c) **Approval.** The application shall not be approved unless the commissioner finds that the applicant:

(1) is acting in good faith and the application does not contain a material misrepresentation;

(2) is financially sound and has no supervisory problems;

(3) will conduct its operations in the State of Texas in accordance with the intent and purpose of the Act and Commission rules;

(4) has provided evidence of compliance with the Finance Code, §201.102 concerning registering with the secretary of state to do business in Texas;

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(5) has share and deposit insurance equivalent to that required for credit unions organized under the Act;

(6) has paid a permit fee of \$500 for each and every branch office proposed to be established in the State of Texas;

(7) has fidelity bond coverage satisfactory to the commissioner; and

(8) has provided all other information the commissioner may require.

(d) Compliance with Texas law. A credit union chartered by another state shall comply with all applicable Texas laws, including those laws regarding home equity lending, loan interest rates, and consumer protection, to the same extent that those laws apply to a Texas credit union.

(e) Federal treaties. If a treaty or agreement exists between the United States and a foreign country which requires the commissioner to permit a foreign credit union to operate a branch in this state and the commissioner determines that the applicant has substantially the same characteristics as a credit union organized under the Act, then the applicant must comply with all provisions of the Act and commission rules, unless otherwise permitted by this section.

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(f) Financial statements. Each foreign credit union that is operating a branch office within the State of Texas shall furnish to the commissioner a copy of its annual audited financial statements, if any, or other statements of financial conditions as the commissioner may require.

(g) Examinations. The commissioner is authorized to examine the books and records of any branch office operated in the State of Texas by a foreign credit union. The costs of examination, as prescribed in §97.113(d) of this title (relating to Supplemental Examinations), must be fully borne by the foreign credit union. The supplemental examination fee may be waived or reduced at the discretion of the commissioner.

(h) Agreements with other regulators. The commissioner shall enter into supervisory agreements with the foreign credit union regulators and, as necessary, the foreign credit unions, as authorized by Finance Code §15.411, to resolve any conflict of laws and to specify the manner in which the examination, supervision, and application processes will be coordinated with the regulators. The agreement may also prescribe the applicable laws governing the powers and authorities of the foreign branch and may address, but are not limited to, corporate governance and

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operational matters. The agreement, however, shall not limit the jurisdiction or authority of the commissioner to examine, supervise and regulate a foreign credit union that is operating or seeking to operate a branch in this state or to take any action or issue any order with respect to that branch.

(i) Field of membership. A certificate of authority to do business in this state is specifically issued to allow a foreign credit union to provide services to its existing field of membership. However, the commissioner may approve a foreign credit union's request to expand its field of membership to include distinct, definable single occupational and/or associational communities of interest within the state of Texas that can be conveniently served from its office(s) if it is organized in a state or country that allows a credit union organized under the act to expand its field of membership to at least the same extent. The commissioner shall use, in making a determination on the expansion request, the same criteria and the same procedures as used when a Texas credit union seeks to expand its field of membership. The commissioner shall make a reasonable effort to coordinate this determination with the foreign credit union's primary regulator to assure that each agency's material interests, authorities and responsibilities are fulfilled.

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(j) **Enforcement; penalty.** The commissioner has grounds to issue a cease and desist order to an officer, employee, director, and/or the foreign credit union itself, if the commissioner determines from examination or other credible evidence that the credit union has violated or is violating any applicable Texas law or rules of the commission. If the foreign credit union does not comply with an order, the commissioner may assess an administrative penalty as authorized by §122.260, Finance Code, as well as suspend or revoke the certificate of authority.

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C. MEMBERS

§91.301. Field of Membership. State credit unions will be allowed to have, as a minimum, at least as much flexibility as federal credit unions in the regulation of fields of membership. The following guidelines and standards shall be considered by the commissioner in evaluating field of membership requests.

(1) Occupational community of interest.

(A) This community of interest is based on an employment relationship with a specified employer. Persons sharing this community of interest may be geographically dispersed. Employees of a parent corporation and its subsidiaries and persons under contract to work regularly for an enterprise may be considered under a single occupational community of interest. Each category to be served (e.g., subsidiaries, contractors) should be separately listed in section 3.01 of the credit union's bylaws, if practical. Persons employed by different entities, even if closely related geographically, persons working at a single shopping center, industrial park, or office building, for example, are not treated as having an occupational community of interest.

(B) All occupational communities of interest should include a geographic definition: e.g., "employees, officials, and persons who work under contract regularly for ABC Corporation or any of its subsidiaries, who work in Houston, Texas." Other acceptable geographic definitions are "employees ... who are paid from" or "employees ... who are supervised from"

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(C) The employer may also be included in this community of interest -- e.g., "ABC Corporation and its subsidiaries."

(D) Some examples of occupational group definitions are:

(i) "employees of the Scott Manufacturing Company who work in El Paso, Texas ...;"

(ii) "employees and elected and appointed officials of municipal government in Tyler, Texas ...;"

(iii) "employees of Sharp Drillbit Company and its subsidiary, Drillbit Salvage Company, who work in Midland or Houston, Texas ...;"

(iv) "personnel of fleet units of the United States Navy home port at Ingleside, Texas ...;"

(v) "civilian and military personnel of the United States Government who work or are stationed at, or are attached or assigned to Fort Hood, Texas, or those who are retired from, or their dependents or dependent survivors who are eligible by law or regulations to receive and are receiving benefits or services from that military installation ...;"

(vi) "employees of these contractors who work regularly at United States Naval Shipyard in Ingleside, Texas ...;"

(vii) "employees, doctor, medical staff, technicians, medical and nursing students who work at Galveston Medical Center at the locations stated: ...;"

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(viii) "employees, and teachers who work for the Fort Worth Independent School District in Fort Worth, Texas...."

(E) Some examples of insufficiently defined occupational groups are:

(i) "employees of engineering firms in Houston, Texas;" (No common employer; names of firms must be stated; however, may be the basis for a multiple group.)

(ii) "persons employed or working in Dallas, Texas;" (No common employer; names of firms must be stated.)

(iii) "persons working in the entertainment industry in Texas." (No common employer; names of firms should be stated.)

(2) Associational community of interest.

(A) This community of interest is generally based on groups consisting primarily of natural persons who participate in activities developing common loyalties, mutual benefits, and mutual interest. Qualifying associational groups must hold meetings open to all natural person members at least once a year, must sponsor other activities providing for contact among natural persons members, and must have an authoritative definition of who is eligible for membership -- usually, this will be in the associations's constitution and bylaws. The clarity of the associational group's definition and compactness of its membership will be important criteria in

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reviewing the application. The department policy is to organize associational charters at the lowest organizational level which is economically feasible.

(B) Students constitute an associational community of interest and may qualify for a credit union charter.

(C) Associations formed primarily to obtain a credit union charter do not have a sufficient associational community of interest; nor do associations based on a client or customer relationship (e.g., an insurance company's customers or a buyer's club).

(D) The department normally charters associational credit unions consisting of natural person members. The department will allow nonnatural persons (e.g., corporate sponsor or organizations of members) to be eligible for membership.

(E) Moreover, the community of interest usually would extend to the association's members and their employees. However, situations may exist where the employees of a member of an association do not have a sufficiently close tie to the association to be included.

(F) Homeowner associations, tenant groups, electric co-ops, consumer groups, and other groups of persons having an interest in a particular cause and certain consumer cooperatives may be eligible to receive a charter, however, they must make a strong showing of common activities and economic viability. Newly-organized

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associations must make similar showing; experience has shown that a new group's efforts are best focused on solidifying member interest before attempting to offer credit union service.

(G) All associational communities of interest will include a definition of the group and a geographic or operational area limitation, unless the constitution or bylaws of the associational group limit the geographical area -- e.g., "Members of the Small Businessmen Association living or working in Dallas, Texas who qualify for membership in accordance with its constitution and bylaws in effect on January 21, 1989."

(H) The association itself may also be included in the field of membership; e.g., "ABC Association."

(I) Some examples of associational group definitions are:

(i) "regular members of Locals 10 and 13, IBEW Union, Houston, Texas, who qualify for membership in accordance with their constitution and bylaws in effect on May 20, 1989;"

(ii) "members of the Texas Farm Bureau who live or work in Williamson or adjacent counties, who qualify for membership in accordance with its constitution and bylaws in effect on March 7, 1990;"

(iii) "members of the Catholic Church who live or work in Del Rio, Texas;"

(iv) "members of the First Baptist Church in Georgetown, Texas;"

(v) "regular members of the Corporate Executives Association, located in Dallas, Texas, who live or work in Dallas, Texas, who qualify for membership in accordance with its constitution and bylaws in effect on December 1, 1985;"

(vi) "members of the Lower Colorado River Authority located in Austin, Texas."

(J) Some examples of insufficiently defined association group definitions are:

(i) "members of military service clubs in the State of Texas." (No single associational tie; specific clubs and locations must be named; may be considered as multiple group.)

(ii) "veterans of United States military service."

(K) Some examples of unacceptable associational communities of interest are:

(i) "ABC Buyers Club." (An interest in purchasing only does not meet associational standards.)

(ii) "customers of ABC Insurance Company." (Policyholders or customer/client relationships do not meet associational standards.)

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(3) Geographic community of interest.

(A) This community of interest is based upon employment, or residence within a clearly defined and specified geographic area(s). Business entities within the specified geographic area(s) may also qualify for membership. Given the diversity of community characteristics throughout the state and the department's goal of making credit union service available to all eligible groups who wish to have it, the department has established the following guidelines:

(i) The geographic area(s) must be clearly specified.

(ii) The application must establish that the area(s) is recognized as a distinct neighborhood, community, or geographic area(s). For the purposes of this section a recognizable community is a geographical area which possesses such characteristics that the residents of the area share a definable community of interest or sense of identification with each other which may be based upon mutual interests, goals, community pride or other similar elements.

(B) A typical definition of a geographic community of interest is: "Persons who live, work or are located in ABC, the area of XYZ City bounded by Fern Street on the north, Long Street on the east, Fourth Street on the south, and Elm Avenue on the west."

(C) Additional criteria may be considered for an application to convert to or expand an existing community and may include, but not be limited to, providing for a protective exclusion for honoring existing credit unions in the proposed area(s).

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(D) Some examples of geographic community of interest definitions are:

(i) "persons who live, work or are located in Brown County, Texas;

(ii) "persons who live or work in and business entities located in Spring Branch Independent School District, Houston, Texas;"

(iii) "persons who live or work are located within a ten-mile radius of El Campo, Texas".

(E) Some examples of insufficiently defined geographic community of interest definitions are:

(i) "persons who live or work in East Texas;"

(ii) "persons who live or work in the ship channel section of Houston, Texas."

(4) Multiple-group charters.

(A) The department may charter a credit union to serve a combination of definable occupational, associational and/or geographical groups.

(B) In addition to general chartering requirements, special requirements pertaining to multiple-group applications may be required before the department will grant such a charter.

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(i) Each group to be included in the proposed field of membership of the credit union must have its own community of interest.

(ii) Each group must individually request inclusion in the proposed credit union's charter.

(5) Overlap protection.

(A) The commissioner will consider the financial effect of an overlap proposed by an application to expand a credit union's field of membership or when a charter application proposes an overlap. Generally, the department will not charter or otherwise authorize two or more credit unions to serve the same single occupational or associational group. An overlap is permitted when the expansion's beneficial effect in meeting the convenience and needs of the members of the group proposed to be included in the field of membership outweighs any adverse effect on the overlapped credit union(s).

(B) The commissioner will weigh the information in support of the application and any information provided by a protesting or affected credit union. If the applicant has the financial capacity to serve the financial needs of the proposed members, demonstrates economic feasibility, complies with the requirements of this rule, and no protestant reasonably establishes a basis for denying the request, it shall be approved.

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(C) If a finding is made that overlap protection is warranted, the commissioner shall reject the application or require the applicant to limit or eliminate the overlap by adding exclusionary language to the text of the amendment, e.g., "excluding persons eligible for primary membership in any occupation or association based credit union that has an office within a specified proximity of the applicant credit union at the time membership is sought." Generally, overlap protection will not be considered warranted unless the financial effect on the overlapped credit union will present a safety and soundness concern. Exclusionary clauses are rarely appropriate for inclusion in a geographic community of interest credit union.

(D) Generally, if the overlapped credit union does not submit a notice of protest form, and the department determines that there is no safety and soundness problem, an overlap will be permitted. If, however, a notice of protest is filed, the commissioner will consider the following in performing an overlap analysis:

(i) whether the overlap is incidental in nature, ie., the group(s) in question is so small as to have no material effect on the overlapped credit union;

(ii) whether there is limited participation by members of the group(s) in the overlapped credit union after the expiration of a reasonable period of time;

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(iii) whether the overlapped credit union provides requested service;

(iv) the financial effect on the overlapped credit union;

(v) the desires of the group(s); and

(vi) the best interests of the affected group(s) and the credit union members involved.

(E) Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the community of interest described in the credit union's bylaws. Where acquisitions are made which add a new subsidiary or affiliate, the group cannot be served until the entity is included in the field of membership through the application process.

(F) Credit unions affected by the organizational restructuring or merger of a group within its field of membership must apply for a modification of their fields of membership to reflect the group to be served.

(6) Underserved communities.

(A) All credit unions may include in their fields of membership, without regard to location, communities satisfying the definition for underserved areas. More than one credit union can serve the same underserved area.

(B) Once an underserved area has been added to a credit union's field of membership, the credit union must establish and maintain an office or facility in the community. For the purposes of this subsection service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted and loan proceeds are disbursed. This definition includes a credit union owned branch, a shared branch, a mobile branch, and an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition does not include an atm.

(C) A credit union desiring to add an underserved area must document that the community meets the definition. In addition, the credit union must develop a business plan specifying how it will serve the community. The business plan, at a minimum, must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan to determine if the community is being adequately served. The commissioner may require periodic service status reports from a credit union pertaining to the underserved area to ensure that the needs of the area are being met, as well as requiring such reports before allowing a credit union to add an additional unserved area.

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§91.302. Election By Electronic Device, Absentee, or Mail Ballots.

(a) The use of electronic device, absentee or mail ballots by any credit union shall ensure fair and equitable opportunity for any qualified member to seek office, including a provision for nomination by petition, and providing the appropriate notice and information to all members.

(b) Any elections held by electronic device, absentee, or mail ballot are subject to the following conditions:

(1) The election tellers shall be appointed by the board of directors;

(2) At least 30 days prior to the annual meeting, the board of directors will cause either a printed ballot or notice of a ballot, along with appropriate instructions, to be mailed to all members eligible to vote;

(3) Ballots must be received no later than midnight 5 calendar days prior to the annual meeting;

(4) The votes will be tallied by the tellers and the results of the vote will be made public at the annual meeting.

(c) In the event of a malfunction of the electronic balloting system, the board of directors may in its discretion order elections to be held by mail ballot only. The board may make reasonable adjustments to the voting time frames in subsection (b) of this section, or postpone the annual meeting if necessary, to complete the elections prior to the annual meeting.

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D. POWERS OF CREDIT UNIONS

§91.401. Operational Powers.

(a) Purchase, lease and sale of property.

(1) Fixed assets. For the purposes of this rule, the term means real property, premises, and furniture, fixtures and equipment as defined herein. Premises include real property with any improvements or leasehold interest where the credit union transacts or intends to transact business. Furniture, fixtures and equipment includes all office furnishings (e.g. tables, chairs, desks, file cabinets, curtains, drapes, rugs, etc.), office machines, word processing equipment, computer hardware and software, automated terminals, and heating and cooling equipment. The term does not extend to any real property which may be conveyed to the credit union in satisfaction of debts previously contracted in the course of business, nor to such real estate as the credit union shall purchase at sale on judgements, decrees, mortgage or deed of trust foreclosures under A security agreement held by the credit union, but a credit union shall not bid at such sale a larger amount than is necessary to satisfy the debts and costs owed the credit union.

(2) Limitations. A credit union may purchase fixed assets or enter into a contract for the purchase or lease of fixed assets primarily for its own use in conducting business if the

aggregate of all such investments does not exceed five percent of total assets.

(3) Restrictions. A credit union shall not purchase real estate (land or buildings) for the principal purpose of engaging in real estate rentals or speculation.

(4) Transactions with insiders. Without the prior approval of a disinterested majority of the board of directors recorded in the minutes or, if a disinterested majority cannot be obtained, the prior written approval of the commissioner, a credit union may not directly or indirectly:

(A) sell or lease an asset of the credit union to a director, committee member, or senior executive staff; or

(B) purchase or lease an asset in which a director, committee member, or senior executive staff has an interest.

(5) Use requirement. If real property or leasehold interest is acquired for future expansion, the credit union must partially satisfy the "primarily for its own use in conducting business" requirement within five years after the credit union makes the investment.

(6) Waiver. The commissioner may, upon written application, waive or modify any of the limitations or restrictions placed on the investment of fixed assets.

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(7) **Written application.** A credit union shall submit such statements and reports as the commissioner may, in his discretion, require in support of a waiver or modification of the limits imposed upon the investment of fixed assets. Such reports and statements shall include but not be limited to:

(A) a description of the proposal in terms of cost, usage, location and method of financing;

(B) a statement of the economic advantage and disadvantages relating to the proposed investment; and

(C) current and past financial data of the credit union.

(b) **Closing of an office.** A credit union may permanently close any of its established offices. The credit union shall provide notice to its members and the department no later than 60 days prior to the proposed closing. The credit union shall also post a notice to members in a conspicuous manner on the premises of the effected office at least 30 days prior to the proposed closing.

(c) **Credit union service contracts.** A credit union may enter into contractual agreements with one or more credit unions or other organizations for the purpose of engaging in authorized activities and/or services that relate to the daily operations of the credit union. Agreements must be in writing and shall advise all parties that the activities and services may be subject to commission rules and examination by the commissioner to the extent permitted by law.

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(d) **Electronic notification.** A credit union may, in accordance with written board policy, satisfy any “written” notification requirement of the Act, commission rules, or the credit union’s bylaws by electronic means provided:

(1) the member agrees in writing or electronically to use electronic instead of hard-copy notifications;

(2) the member has the ability to print or download the notification;

(3) evidence of the electronic notification is retained in accordance with §91.405 (relating to Records Retention); and

(4) both the credit union and the member have the capacity to receive electronic messages.

(e) **User fee for shared electronic terminal.** A credit union that owns an electronic terminal that is connected to a shared network may impose a fee on a non-member for the use of that terminal if imposition of the fee is disclosed in compliance with applicable federal law.

(f) **Insurance for members.** A credit union may make insurance programs available to its members, including insurance programs at the individual member’s own expense, if the following conditions are complied with:

(1) The purchase of any type of insurance coverage by a member is voluntary, except as provided in paragraph (2) of this subsection, and a copy of the written election to purchase the insurance is on file at the credit union.

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(2) Subject to reasonable requirements, if the insurance is a condition of a loan, the member who is borrowing may purchase or provide the insurance from a carrier of the member's choice, or the member who is borrowing may assign any existing insurance coverage.

(3) An officer, director, employee, or committee member of a credit union may not accept anything of value from an insurance agent, insurance company, or other insurance provider offered to corruptly induce the credit union to sell or offer to sell insurance or other related products or services to the members of the credit union.

(4) A credit union may furnish to an insurance carrier or an agent any membership lists of addresses, without compensation, other than reimbursement of actual costs, from the insurance carrier or agent. A credit union, for an appropriate fee, may mail marketing materials to its membership.

(5) If a credit union replaces an existing loan or renews a loan and sells the member new credit life or disability insurance, the credit union shall cancel the prior insurance and provide the member with a refund or credit of the unearned premium or identifiable charge before selling the new insurance to the member.

§91.403. Federal Parity -- Guaranteed Auto Protection (GAP) Program/Debt Cancellation Contracts.

A credit union may establish and operate a GAP program for its members as if it were operating as a federal credit union. For the purposes of this section, a GAP program is defined as a program in which the credit union purchases insurance to protect itself from losses resulting when a leased vehicle or vehicle securing a loan or other extension of credit held by the credit union is declared a total loss or is stolen and the primary insurance settlement is not sufficient to cover the outstanding balance. The credit union may then, with or without a fee, enter into a debt cancellation contract, GAP waiver, or similar agreement under which the member will not be held responsible for the deficiency. If the debt cancellation contract, GAP waiver, or similar agreement is offered on a fee basis, then participation must be optional for the member.

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§91.405. Records Retention.

(a) General. Every credit union shall make and keep current accounts, books, and other records of all of its transactions in sufficient detail to permit examination, audit and verification of financial statements, schedules, and reports it is required to file with the Department or which it issues to its members. Such accounts, books and other records shall be maintained in appropriate form and in sufficient detail to provide all of the information with respect to the business of the credit union for such minimum periods as prescribed by this section. The retention period for each record starts from the last entry or final action date and not from the inception of the record.

(b) Manner of maintenance. Except for those records described in subsection (c) of this section, records may be maintained in whatever manner, form or format a credit union deems appropriate; provided, however, the records required by this section must clearly and accurately reflect the information required, provide an adequate basis for the examination and audit of the information, and can be retrieved in a readable and useable format. Records may be

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maintained in hard copy, automated or electronic form provided the records are easily retrievable, ready available for inspection, and capable of being reproduced in a hard copy. A credit union may contract with third party service providers to maintain records required under this part.

(c) Permanent retention. The following records must be retained permanently in their original form:

(1) charter, bylaws, articles of incorporation, and amendments thereto;

(2) currently effective certificates or licenses to operate under programs of various government agencies, such as a certificate to act as issuing agent for the sale of United States savings bonds; and

(3) currently effective membership applications, joint membership agreements, payable on death agreements, share draft agreements, signature cards, and any other currently effective account agreements related to share or deposit accounts.

(4) A credit union board of directors may by policy elect to maintain these membership records in other than original form after obtaining a legal opinion that the proposed methodology continues all legal remedies as if the original has been retained.

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(d) Ten year retention. Records which are significant to the continuing operation of the credit union must be retained until the expiration of ten years following the making of the record or the last entry thereon or the expiration of the applicable statute of limitations, whichever is later. The records are:

- (1) minutes of meetings of the members, the board of directors, and board committees;
- (2) journal and cash record;
- (3) general ledger and subsidiary ledgers;
- (4) for active accounts, one copy of each individual share and loan ledger or its equivalent;
- (5) comprehensive annual audit reports including evidence of account verification; and
- (6) examination reports and official correspondence from the department or any other government agency acting in a regulatory capacity.

(e) Five year retention. The following records must be retained until the expiration of five years following the making of the record or the last entry thereon or the expiration of the applicable statute of limitations, whichever is later:

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(1) records related to closed accounts including membership applications, joint membership agreements, payable on death agreements, signature cards, share draft agreements, and any other account agreements; loan agreements; and

(2) for an active account, any account agreement which is no longer in effect.

(f) Other records. Subject to applicable law, any other type of document not specifically delineated in this rule may be destroyed after five years or upon expiration of an applicable statute of limitations, whichever is longer.

(g) Data processing records. Provisions of this section apply to records produced by a data processing system. Output reports that substitute for standard conventional records or that provide the only support for entries in the journal and cash record should be retained for the minimum period specified in this rule.

(h) Protection and storage of records. A credit union shall provide reasonable protection from damage by fire, flood and other hazards for records required by this section to be preserved and, in selection of storage space, safeguard such records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

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(i) Records destruction. The board of directors shall adopt a written policy authorizing the destruction of specified records on a continuing basis upon expiration of specified retention periods.

(j) Records preservation. All state chartered credit unions are required to maintain a records preservation program to identify and store vital records in order that they may be reconstructed in the event the credit union's records are destroyed. Storage of vital records is the responsibility of the board but may be delegated to the responsible person(s). A vital records storage center should be established at some location that is far enough from the credit union office to avoid the simultaneous loss of both sets of records in the event of a disaster. Records must be stored every calendar quarter within 30 days following quarter-end at which time records stored for the previous quarter may be destroyed. Stored records may be in any form which can be used to reconstruct the credit union's records. This includes machine copies, microfilm, or any other usable copy. The records to be stored shall be for the most recent month-end and are:

(1) a list of all shares and/or deposits and loan balances for each member's account. Each balance on the list is to be identified by an account name or number. Multiple balances of either shares or loans to one account shall be listed separately;

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(2) a financial statement/statement of financial condition which lists all the credit union's assets and liability accounts;

(3) a listing of the credit union's banks, insurance policies and investments. This information may be marked "permanent" and updated only when changes are made.

(k) Records preservation compliance. Credit unions that have some or all of their records maintained by an off-site data processor are considered to be in compliance so long as the processor meets the minimum requirements of this section. Credit unions that have in-house capabilities shall make the necessary provisions to safeguard the backup of data on a continuing basis.

(l) Reproduction of records. A credit union shall furnish promptly, at its own expense, legible, true and complete copies of any record required to be kept by this section as are requested by the department.

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E. DIRECTION OF AFFAIRS

§91.501. Eligibility to Hold Office.

(a) Elective office. No credit union shall adopt or amend its articles of incorporation or bylaws to designate or reserve one or more places on the board of directors for any member representative of any classification that restricts or infringes upon the equal rights of all members to vote for, or seek any position on, the board of directors of the credit union.

(b) Qualifications. No member may be elected to or serve on the board of directors if that member:

(1) has been convicted of any criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage by the blanket bond required under the provisions of the Act, or §91.510 of this title (relating to Bond and Insurance Requirements);

(3) has had a final judgement entered against him/her in a civil action upon the grounds of fraud, deceit, or misrepresentation;

(4) has caused the credit union to suffer a financial loss;

(5) has been removed from office by any regulatory or government agency as an officer, agent, employee, consultant or representative of any financial institution;

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(6) has been personally made subject to an operating directive for cause while serving as an officer, director, or senior executive management person of a financial institution; or has caused or participated in a prohibited activity or an unsafe or unsound condition at a financial institution which resulted in the suspension or revocation of the financial institution's certificate of incorporation, or authority or license to do business.

(c) Director application. Any member nominated for, or seeking election to, the board of directors shall submit a written application in such form as the commissioner may prescribe, together with any additional information the credit union may request. The application shall be submitted either to the nominating committee prior to the determination by the committee of its nominees; or to the board chair within 30 days following the election of a member who was not nominated by the nominating committee or who was appointed by the board to fill a vacancy. The applications of the elected/appointed directors shall be incorporated into and made part of the minutes of the first board meeting following the election/appointment of those directors. Applications of unsuccessful nominees shall be destroyed or returned to the nominee upon request.

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(d) Director education. A credit union may, by written board policy, establish continuing education requirements for directors. The purpose of such policy should be to ensure that every director pursues a plan of education throughout his/her tenure on the board in order to remain current on the law and other issues affecting the credit union in the rapidly changing financial services industry. The policy should be appropriate to the size and financial condition of the credit union and the nature and scope of its operations.

(e) Disqualification of director. The failure of an elected/appointed director to complete and return the application or the failure to take the prescribed oath of office shall disqualify the director designate from holding office.

(f) Recall of director. The members of a credit union may remove a director by a vote of two-thirds of those members voting at any special or regular meeting of the members; provided, however, that:

(1) the members voting shall constitute not less than 10% of the membership eligible to vote in the recall election;

(2) all members are given at least 30 days notice of the meeting which shall state the reasons why the meeting has been called; and

(3) the affected director is afforded an opportunity to be heard at such meeting prior to a vote on removal.

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§91.502. Director Fees and Expenses.

(a) Expense reimbursement. A credit union may, by written board policy, authorize the payment of reasonable expenses incurred by directors and committee members and their spouses for attending and participating in board approved conferences and/or educational programs.

(b) Payment of fees. A credit union may, by written board policy, authorize the payment of reasonable fees for directors and/or committee members attending duly called meetings for the conduct of appropriate credit union business. The policy shall include a schedule of meeting fee amounts and a provision that fees may be paid only for actual attendance at duly called meetings. The authority to pay any such fee is subject to the following limitations:

(1) the credit union is not operating under a Net Worth Restoration Plan;

(2) the credit union must not be under supervisory sanctions imposed by the commissioner pursuant to the Act or commission rule;

(3) the credit union must notify the commissioner by furnishing a copy of the policy, and any amendments thereto, at least 30 days prior to the implementation of the policy or any revisions thereof; and

(4) the credit union must keep accurate and detailed records of the fees paid under the policy.

(c) Use of credit union equipment. A credit union may provide personal computers, access to electronic mail, and other possible electronic conveniences to directors during their terms of office provided:

(1) The board of directors determines that the equipment and the electronic means are necessary and appropriate for the directors to fulfil their duties and responsibilities;

(2) The board of directors develops and maintains written policies and procedures regarding this matter; and

(3) The arrangement ceases immediately upon the person's leaving office, without providing any residual physical benefits.

(d) Review by board. At least annually, the board shall review the expenses which have been incurred, paid or reimbursed by the credit union as authorized by this section.

(e) Waiver by commissioner. The commissioner in the exercise of discretion may grant a waiver in writing of the limitations described in subsection (b) of this section.

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§91.510. Bond and Insurance Requirements.

(a) Fidelity bond. Each credit union shall purchase and maintain a blanket fidelity bond covering the officers, directors, employees, and committee members, against loss caused by dishonesty, burglary, robbery, larceny, theft, holdup, forgery or alteration of instruments, misplacement or mysterious disappearance. All carriers writing credit union blanket bonds must be authorized by the Insurance Commissioner for the state of Texas as an acceptable fidelity on bonds in this state.

(1) amount of coverage to be required for each credit union shall be determined by the credit union's board of directors, based on its assessment of the level that would be safe and sound in view of the credit union's potential exposure to risk. In making its determination the board shall be guided by the following minimum amounts of blanket bond coverage required according to asset categories:

MINIMUM BOND COVERAGES

<u>Assets</u>	<u>Minimum Bond</u>
\$0 to \$100,000	Coverage equal to the credit union's assets
\$100,000 to \$1,000,000	\$100,000 plus \$10,000 for each \$100,000 or fraction over \$100,000
\$1,000,001 to \$15,000,000	\$200,000 plus \$100,000 for each million or fraction over \$1,000,000

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\$15,000,001 to \$50,000,000	\$1,600,000 plus \$40,000 for each million or fraction over \$15,000,000
\$50,000,001 to \$150,000,000	\$3,000,000 plus \$20,000 for each million or fraction over \$50,000,000
Over \$150,000,000	\$5,000,000

(2) the following maximum amounts of blanket bond deductibles are authorized according to asset categories:

<u>Assets</u>	<u>Maximum Deductible</u>
\$1,000 to \$100,000	No deductibles allowed
\$100,001 to \$150,000,000	\$2,000 plus 1/1000 of total assets
Over \$150,000,000	As determined prudent by the board

(3) A deductible may be applied separately to one or more insuring clauses in a blanket bond. No deductible will exceed ten percent of a credit union's unencumbered reserves and undivided earnings unless the credit union creates a segregated Contingency Reserve for the amount of the excess. Valuation allowance accounts, e.g., allowance for loan losses, may not be considered part of the unencumbered reserves and undivided earnings when determining the maximum deductible.

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(4) The commissioner may require additional coverage of any credit union when, in his opinion, the fidelity bond in force is insufficient to provide adequate fidelity coverage. It shall be the duty of the board of directors to obtain the additional coverage within 30 days after the date of written notice of the findings by the commissioner.

(5) After the effective date of this section, any bond coverage purchased or renewed by any credit union shall conform to this section.

(b) Cancellation. A fidelity bond must include a provision requiring written notification by the fidelity to the commissioner prior to cancellation of any or all coverages set out in the bond which includes a brief statement of cause for termination.

(c) Other insurance. Each credit union shall, subject to approval by the board, purchase appropriate insurance coverages to insure the credit union and its assets against loss or damage by fire, liability, casualty or any other insurance risks.

(d) Board review. The board of directors of each credit union shall formally approve the credit union's bond and insurance coverages. In deciding whether to approve the coverages, the board shall review the adequacy of the standard coverage and the need for supplemental coverage. Documentation of the board's approval shall be included as part of the minutes of the meeting at

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which the board approves coverages. Additionally, the board of directors shall review the credit union's bond and insurance coverages at least annually to assess the continuing adequacy of coverage.

(e) Review by fidelity company. Credit unions which are analyzed by a fidelity company shall notify the commissioner of the analysis within 30 days of the review commencement. The report of the review is to be provided to the commissioner upon request. The confidentiality of the report shall be preserved in the same manner afforded a report of examination conducted by the department.

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(d) Remedies. The commissioner may compel a credit union to obtain an audit, performed by an independent person, for any year in which any of the following three conditions is present:

(1) the credit union has not obtained an annual audit or caused an audit to be performed;

(2) the credit union has obtained an audit or performed an audit which does not meet the specified requirements; or

(3) the credit union has experienced serious and persistent recordkeeping deficiencies.

(e) Opinion audit required. The commissioner may compel a credit union to obtain an opinion audit performed in accordance with Generally Accepted Auditing Standards by an independent person who is licensed by the state for any year in which the credit union has experienced serious and persistent recordkeeping deficiencies. The objective of such an audit is to obtain an unqualified opinion on the credit union's financial statements.

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F. CAPITAL ACCOUNTS

§91.601. Share and Deposit Accounts.

(a) Accounts. A credit union may offer any type of share or deposit accounts and prescribe the terms and conditions relating to the accounts as established by written policies approved by the board of directors.

(b) Policies and procedures. Each credit union, before accepting any funds for any share or deposit accounts, shall adopt, implement and maintain appropriate policies and procedures which address, at a minimum, asset liability management and adequate liquidity levels.

(c) Limitation on deposit accounts. Acceptance of funds from a depositor authorized by the Act that is not within the credit union's field of membership is subject to the limitations prescribed by §123.201(b) of the Act. This restriction does not apply to a credit union accepting for deposit the money of:

- (1) the United States or any agent or instrumentality of the United States;
- (2) this or another state; or
- (3) a political subdivision of this or another state.

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(d) Nonmember deposit. The written documentation evidencing a deposit under subsection (c) of this section shall clearly and conspicuously disclose that the funds are not insured. This section does not apply to insured deposits from other credit unions or deposits received by a credit union with a low-income designation.

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§91.602. Solicitation and Acceptance of Brokered Deposits.

(a) Definitions.

(1) Brokered deposit means any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.

(2) Deposit broker means a person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with financial institutions; or the business of placing funds with financial institutions for the purpose of selling interests in the deposit to third parties.

(b) A credit union that has a net worth ratio of less than six percent as defined in §91.901 of this title (relating to Reserve Requirements) or is not deemed adequately capitalized by its insuring organization may not accept, renew or roll over any brokered deposit unless it has been granted a waiver by the commissioner.

§91.608. Confidentiality of Member Records.

(a) Confidentiality of members' accounts. No credit union officer, director, committee member or employee may disclose to any person, other than the member, or to any company or governmental body the individual savings, shares, or loan records of any credit union member, contained in any document or system, by any means unless specifically authorized to do so in writing by such the members, except as follows:

(1) reporting credit experience to a bona fide credit reporting agency, another credit union, or any other bona fide credit-granting business and/or merchants information exchange, provided that applicable state and federal laws and regulations pertaining to credit collection and reporting are followed;

(2) furnishing information to a duly constituted government agency or taxing authority, or any subdivision thereof, including law enforcement agencies;

(3) furnishing information, orally or in written form, in response to the order of a court of competent jurisdiction or pursuant to other processes of discovery duly issuing from a court of competent jurisdiction;

(4) furnishing reports of loan balances to co-borrowers, co-makers, and guarantors of loans of a member and of share or deposit account balances, signature card information, and related transactions to joint account holders;

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(5) furnishing information to and receiving information from check and draft reporting, clearing, cashing and authorization services relative to past history of a member's draft and checking accounts at the credit union; or

(6) as otherwise authorized by law.

(b) Non-disclosure statement. Nothing in this rule shall prohibit the credit union from releasing the name and address of members to assist the credit union in its marketing efforts or sale of third party products, provided, however, that the credit union obtains a written non-disclosure statement providing assurances that the information will be used exclusively for the benefit of the credit union and no other.

(c) Privacy policy. Each credit union shall develop, implement and maintain a written policy on the protection of nonpublic personal information of individual members in its possession. This policy should contain clear and readily understandable disclosures about the handling of member information, and be supported by consistent internal procedures and methods to enhance compliance by credit union personnel.

§91.610. Safe Deposit Box Facilities.

(a) Purpose. Finance Code §59.110 requires credit unions to imprint keys issued to safe deposit boxes with the institution's routing number. In addition, it requires a report to the department of public safety if the routing number is altered or defaced so that the correct routing number is illegible. The purpose of this section is to clarify the requirements of the noted section of the Finance Code.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

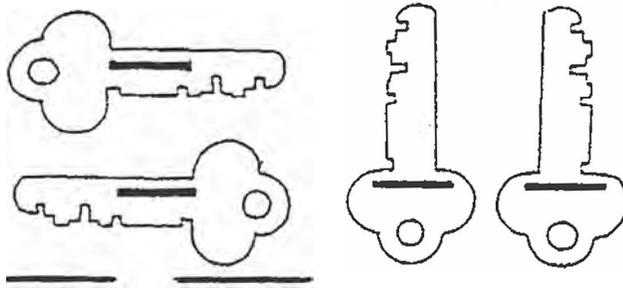
(1) Credit union — This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

(2) Routing number — The routing and transit number issued to the credit union under the auspices of the American Bankers Association and as listed in the American Bankers Association's "Key to Routing Numbers."

(c) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the

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key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available. It can be either on the head or on the shank of the key. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.



(d) Branch designation. A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union must maintain a master list of branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the following information: three-digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

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(e) Report of defaced or altered key. Within 10 days after an officer or employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached Exhibit A. The report should be submitted to the Department of Public Safety, attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Act shall require a credit union to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.

(f) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Credit unions may begin imprinting keys prior to that date. The imprinting requirement shall apply to all keys currently outstanding as well as to all keys issued after September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Act shall be construed to

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require a credit union to provide notice to its safe deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Finance Code §59.110.

(g) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.

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**REPORT OF DEFACED OR ALTERED ROUTING
NUMBER ON SAFE DEPOSIT BOX KEY**

INSTRUCTIONS: Complete the information below and submit the original report to Department of Public Safety, Attn: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001, no later than 10 days after the defaced or altered key is used to access the box. Retain one copy for your files for a period of three years.

CREDIT UNION INFORMATION

Name of credit union _____

Address of safe deposit box facility _____

Name and title of contact person at facility _____

Area code and phone number of facility _____

Routing number and branch designation (if any) _____

INCIDENT INFORMATION

Member name _____

Date member presented defaced or altered key _____

Description of problem with key _____

Date of reports: _____

Exhibit A

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G. LENDING POWERS

91.701. Lending Powers.

(a) A credit union may originate, invest in, sell, purchase, service, or participate in loans or otherwise extend credit in accordance with the Act, these Rules, and other applicable law.

(b) Each credit union, before engaging in any lending activity, shall establish written policies approved by its board of directors that establish prudent credit underwriting and documentation standards for each specific type of lending in which the credit union will engage. The lending policies shall contain a general outline of the manner in which loans are made, serviced, and collected. In addition the policies must:

- (1) Be consistent with safe and sound credit union practices;
- (2) Be appropriate to the size and financial condition of the credit union and the nature and scope of its operations;
- (3) Be compatible with the size and expertise of the credit union's lending staff;
- (4) Be compliant with all related laws and regulations;
- (5) Be reviewed and approved by the credit union's board of directors at least annually;
- (6) Address loan portfolio diversification standards to avoid undue concentrations of risk;

(7) Address underwriting standards that are clear and measurable;

(8) Address loan administration procedures for monitoring the condition of the loan portfolio; and

(9) State the lending authority delegated to any individuals or committees by the board of directors.

(c) A credit union shall address specific lending procedures for determining and documenting the following, as applicable:

(1) The capacity of the member to adequately service the debt from the source(s) specified by the member;

(2) The value of the collateral;

(3) The overall creditworthiness of the member;

(4) The level of equity invested in the collateral;

(5) Loan-to-collateral value limits;

(6) Any secondary sources of repayment;

(7) Any additional collateral or credit enhancement (such as guarantees or mortgage insurance);

(8) Maximum loan maturities for each type of lending;

(9) Repayment terms and conditions;

(10) Collateral protection insurance; and

(11) Lien filing/recordation.

(d) Except when a higher maturity date is provided for elsewhere in this chapter, the maturity of a loan to a member may not exceed 15 years unless the purpose of the loan is to finance the

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purchase of a manufactured home and the loan is secured by a first lien, in which case the maturity may not exceed 20 years. Open-end credit is not subject to a regulatory maturity limit. Amortization of line of credit balances and the type and amount of security on any line of credit shall be as determined by the contract between the credit union and the member but the amortization scheduling on a line of credit balance shall not exceed 15 years.

(e) The commissioner in the exercise of discretion may grant a waiver in writing of any of the lending requirements described in this chapter. A decision to deny a requested waiver, however, is not appealable.

91.702. Records for Lending Transactions.

A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgement in exercising the lending powers granted under the Act, these rules, or other applicable law. At a minimum, each credit union shall establish and maintain loan documentation practices that ensure that the credit union can make an informed lending decision and can assess risk on an ongoing basis; and ensure that any claims against a member, guarantor, security holders, and collateral are legally enforceable.

91.703. Interest.

(a) A credit union's board of directors may delegate all or part of its power to determine the interest rates on all lending transactions. The board may also authorize any refund of interest on loans under the conditions it may prescribe.

(b) A loan may provide for variable interest rates, so long as the factor or index governing the extent of the variation is not under the control of the credit union and can be readily ascertained from sources available to the public or any other index approved in writing by the commissioner which is not available to the public.

91.704. Real Estate Lending.

(a) A credit union, before engaging in any real estate lending activity, shall establish, in addition to the requirements of section 91.701(c) of this title (relating to Lending Powers), loan administration procedures that address the following, as applicable:

- (1) Title insurance;
- (2) Escrow administration;
- (3) Loan payoffs;
- (4) Collection and foreclosure; and
- (5) Servicing and participation agreements.

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(b) Loan to Value Limitations.

(1) The board of directors shall establish their own internal loan-to-value limits for real estate loans based on type of loan. These internal limits, however, shall not exceed the following regulatory limits:

(A) Unimproved land held for investment/speculation – Loan to value limit 60%

(B) Interim Construction – Loan to value limit 90%

(C) Owner-occupied (other than home equity) – Loan to value limit 95%

(D) Home equity – Loan to value limit 80%

(E) Other – Loan to value limit 80%

(2) In determining the loan to value limit, a credit union shall include all loans secured by the same property and the recourse obligation of any such loan sold with recourse.

(c) Notwithstanding the general 15-year maturity limit on lending transactions to members, the board of directors shall establish in policy internal maximum maturities for real estate lending transactions. These maturities should not exceed the following regulatory limits:

(1) Improved residential real estate loans (owner-occupied) – 40 years

(2) Improved residential real estate loans (not to be occupied by owner) – 30 years

(3) Interim construction loans – 18 months

(4) Manufactured home (first lien) – 20 years

(5) Home equity loans – 20 years

(6) Home improvement loans – 20 years

(7) All other loans – 15 years

(d) Exceptions to subsections (b) and (c) of this section are permitted for the following:

(1) Loans that subsequently become compliant with loan-to-value ratio limits due to reduction in principal amount, elimination of senior liens, or contribution of additional collateral or equity (e.g. improvements to the real property securing the loan).

(2) Loans guaranteed or insured by the U.S. government or its agencies, provided that the amount of the guaranty or insurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.

(3) Loans backed by the full faith and credit of the state, provided that the amount of the assurance is at least equal to the portion of the loan that exceeds the regulatory loan-to-value limit.

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(4) Loans guaranteed or insured by the state, a municipal or local government, or an agency thereof, provided that the amount of loan that exceeds the regulatory loan-to-value limit, and provided that the credit union has determined that the guarantor or insurer has the financial capacity and willingness to perform under the terms of the guaranty or insurance agreement.

(5) Loans that are to be sold promptly after origination, without recourse, to a financially responsible third party.

(6) Loans that are renewed, refinanced, or restructured without the advancement of new funds or an increase in the line of credit (except for reasonable closing costs) where consistent with safe and sound credit union practices and part of a clearly defined and well-documented program to achieve orderly liquidation of the debt, reduce risk of loss, or maximize recovery on the loan.

(e) Exception loans granted in compliance with subsection (d) of this section shall be identified in the credit union's records and reported to the board of directors.

91.705. Home Improvement Loans.

In addition to the requirements of this chapter, all loans in which the proceeds are used to construct new improvements or renovate existing improvements on a homestead property must also comply with the requirements of Section 50(a)(5), Article XVI, Texas Constitution.

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91.706. Home Equity Loans.

For any loan secured by an encumbrance against the equity in a homestead property, the terms and conditions set forth in this chapter and in Section 50, Article XVI, Texas Constitution will apply. If there is an irreconcilable conflict between a constitutional provision and the provision of this section, the constitutional requirement shall prevail.

91.707. Reverse Mortgages.

A credit union may offer reverse mortgages to its members under the terms and conditions set forth in Section 50, Article XVI, Texas Constitution and other applicable law. In the event of an irreconcilable conflict between any specific requirement contained in this section and a constitutional provision, the constitutional requirement shall prevail.

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91.708. Real Estate Appraisals.

For real estate loans in which the transaction value exceeds \$100,000 or in the case of a member business loan exceeding \$50,000, a professional appraisal report by a state certified or licensed appraiser, as required by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, is necessary. Reappraisals may be required by the commissioner on real estate or other property or interests therein securing loans, at the expense of the credit union, when the commissioner has reason to believe the value of the security is overstated for any reason. The appraisal report shall be in writing and conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, NW, Washington, D.C. 20005. In the case of renewal of a loan where additional funds are advanced by the credit union, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this section.

91.709. Member Business Loans.

(a) Definition. A member business loan includes any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate, business investment property or venture, or agricultural purpose, except that the following shall not be considered a member business loan for the purposes of this rule:

(1) A loan secured by a lien on a 1- to 4-family dwelling that is the member's primary residence;

(2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

(3) Loan(s) otherwise meeting the definition of a member business loan made to a member or associated member that, in the aggregate, is \$50,000 or less; or

(4) A loan where a federal or state agency or one of its political subdivisions fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full.

(b) A credit union that engages in this type of lending shall adopt specific member business loan policies and review them at least annually. The policies, at a minimum, shall address all of the following areas:

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- (1) Types of business loans to be made.
- (2) The maximum amount of credit union assets, relative to credit union net worth, that will be invested in member business loans.
- (3) The maximum amount of credit union assets, relative to credit union net worth, that will be invested in a given category or type of member business loan.
- (4) The maximum amount of credit union assets, relative to credit union net worth, that will be loaned to any one member or group of associated members, subject to subsection (c) of this section.
- (5) The qualifications and experience requirements for personnel involved in making and servicing business loans.
- (6) Analysis of the member's initial and ongoing financial capacity to repay the debt.
- (7) Documentation supporting each request for an extension of credit or an increase in an existing loan or line of credit, which shall address all of the following:
 - (A) A balance sheet;
 - (B) An income statement;
 - (C) A cash flow analysis;
 - (D) Tax returns;
 - (E) Leveraging; and
 - (F) Receipt and the periodic updating of financial statements, tax returns, and other documentation.

(8) Collateral requirements which include all of the following:

(A) Loan-to-value (LTV) ratios (which for all liens cannot exceed 80% unless the value in excess of 80% is covered through private mortgage or equivalent insurance but in no case can it exceed 95%);

(B) Appraisal, title search, and insurance requirements; and

(C) Steps to be taken to secure various types of collateral.

(9) Identification, by position, of the officials and senior management employees who are prohibited from receiving member business loans which, at a minimum, shall include the credit union's chief executive officer, any assistant chief executive officers, the chief financial officer, and any associated member or immediate family member of such persons.

(c) The aggregate amount of outstanding member business loans to any one member or group of associated members shall not be more than 15% of the credit union's net worth (less the Allowance for Loan Losses account) or \$100,000.00, whichever is higher. If any portion of a member business loan is secured by shares in the credit union or deposits in another financial institution, or is fully or partially insured or guaranteed by, or subject to an advance commitment to purchase by, any agency of

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the Federal government or of a state or any of its political subdivisions, such portion shall not be calculated in determining the 15% limit.

(d) Construction and development of commercial or residential property are subject to the following additional requirements:

(1) The aggregate of all construction and development loans must not exceed 15% of the credit union's net worth. To determine the aggregate, a credit union may exclude any portion of a loan:

- (A) Secured by shares in the credit union;
- (B) Secured by deposits in another financial institution;
- (C) Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or
- (D) Subject to an advance commitment to purchase by an agency of the federal government, state, or its political subdivisions;

(2) The member borrower must have a minimum of 35% equity interest in the project being financed; and

(3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

(e) The aggregate limit on a credit union's outstanding member business loans (including any unfunded commitments) is the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Loans that are exempt from the definition of member business loans are not counted for the purpose of the aggregate loan limit.

(f) For the purposes of this section, the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Associated member – means any member with a common ownership, investment, or other pecuniary interest in the business or agricultural endeavor for which the business loan is being made.

(2) Net Worth – means retained earnings as defined under Generally Accepted Accounting Principles.

91.710. Overdraft Protection.

A credit union which permits withdrawal of funds from an account payable to third parties may offer in connection with such accounts overdraft protection to members in the form, on the terms and in amounts consistent with the credit union's policies. For purposes of financial reporting, funds advanced to or for the benefit of a member in connection with an overdraft condition shall be considered as a loan to the member.

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91.711. Loan Participations.

A credit union may participate in loans jointly with other credit unions, credit union organizations, corporations or other financial organizations pursuant to written policies established by the board of directors. Before participating in a loan transaction, each credit union shall perform its own due diligence of the transaction.

91.712. Plastic Cards.

(a) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Card Activation – process of sending new plastic cards from the issuer to the legitimate cardholder in an “inactive” mode. Once the legitimate cardholder receives the card, they must call the issuer/processor and go through a member verification process before the card is “activated”.

(2) Card Security Code – a set of unique numbers encoded on the magnetic strip of plastic cards used to combat counterfeit fraud.

(3) Neural Network – a computer program that monitors usage patterns of an account and typical fraud patterns. The program analyzes activity to determine fraud risk scores to detect potentially fraudulent activity. Strategies are then used to determine actions to mitigate frauds. Human intervention occurs to validate if the activity is actually fraudulent.

(4) Plastic Cards – includes credit cards, debit cards, automated teller machine (ATM) or specific network cards; and predetermined stored value and smart cards with micro-processor chips.

(b) A credit union may issue credit cards in accordance with the credit union's written policies, which shall include at a minimum:

(1) Credit policies to set individual limits for credit card accounts:

(2) A process for reviewing each member's payment and/or credit history periodically for the purpose of determining risk; and

(3) The credit underwriting standards for each type of card program offered.

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(c) Program Review.

(1) A credit union shall review, on at least an annual basis, its plastic card program with particular emphasis on:

(A) Losses caused by theft and fraud;

(B) Loss prevention measures and their adequacy; and

(C) The availability and use of appropriate loss prevention measures including card activation, card security codes, neural networks, and other evolving technology.

(2) The review shall be documented in writing, with any changes to the plastic card program being entered into the minutes of the board meeting.

(d) At least annually, the credit union's board shall cause to be performed an assessment of earnings and the capital position to ensure that the credit union can absorb potential related plastic card program losses. This review shall include a cost benefit analysis of supplemental insurance coverage for theft and fraud related losses. Establishment of a segregated contingency reserve may be utilized to further mitigate the credit union's risk exposure for losses resulting from its plastic card program.

91.713. Indirect Financing of Motor Vehicles or Other Chattels.

(a) Credit unions may implement a program of indirect financing of motor vehicles and other chattels. For the purposes of this chapter, a retail installment contract purchased under this authority may be treated as a loan on the books and records of the credit union and is subject to the same limitations and restrictions imposed upon loan transactions. As with other lending, the credit union is responsible for making the final underwriting. Although the seller may initially determine whether the prospective buyer is a member or eligible for membership in the credit union, responsibility for membership eligibility decisions must be the credit union's first consideration.

(b) A retail installment contract may provide for a rate or amount of time price differential that does not exceed the rate or amount authorized by Chapter 124 of the Texas Finance Code.

(c) The board of directors shall establish, implement, and maintain prudent and reasonable written policies that specify guidelines and criteria to be used in purchasing contracts consistent with safe and sound credit union practices.

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91.714. Leasing.

(a) Definitions. For the purposes of this section:

(1) The term net lease means a lease under which the credit union will not, directly or indirectly, provide or be obligated to provide for:

(A) the servicing, repair or maintenance of leased property during the lease term;

(B) the purchasing of parts and accessories for the leased property, except that improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of subsection (c) (2) (A) of this section;

(C) the loan of replacement or substitute property while the leased property is being serviced;

(D) the purchasing of insurance for the lessee, except where the lessee has failed to discharge a contractual obligation to purchase or maintain insurance; or

(E) the renewal of any license, registration, or filing for the property unless such action by the credit union is necessary to protect its interest as an owner or financier of the property.

(2) The term full-payout lease means a lease transaction in which any unguaranteed portion of the estimated residual value relied on by the credit union to yield the return of its full investment in the lease property, plus the estimated cost of financing the property over the term of the lease, does not exceed 25% of the original cost of the property to the lessor. In general, a lease will qualify as a full payout lease if the scheduled payments provide at least 75% of the principal and interest payments that a lessor would receive if the finance lease were structured as a market-rate loan.

(3) The term realization of investment means that a credit union that enters into a lease financing transaction must reasonably expect to realize the return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease from:

(A) Rentals; and

(B) The estimated residual value of the property at the expiration of the term of the lease.

(b) **Permissible Activities.** Subject to the limitations of this section, a credit union may engage in leasing activities. These activities include becoming the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property, obtaining an assignment of a lessor's interest in a lease of such property, and incurring obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

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(c) Finance Leasing.

(1) A credit union may conduct leasing activities that are functional equivalent of loans made under those leases. Such financing leases are subject to the same restrictions that would be applicable to a loan.

(2) To qualify as the functional equivalent of a loan:

(A) The lease must be a net, full-payout lease representing a non-cancelable obligation of the lessee, notwithstanding the possible early termination of the lease;

(B) The portion of the estimated residual value of the property relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property depends primarily on the creditworthiness of the lessee, and not on the residual market value of the leased property; and

(C) At the termination of the financing lease, either by expiration or default, property acquired must be liquidated or released on a net basis as soon as practicable. Any property held in anticipation of releasing must be reevaluated and recorded at the lower of fair market value or the value carried on the credit union's books.

(d) **General Leasing.** A credit union may invest in tangible personal property, including vehicles, manufactured homes, equipment, or furniture, for the purpose of leasing that property. In contrast to financing leases, lease investments made under this authority need not be the functional equivalent of loans.

(e) **Leasing Salvage Powers.** If a credit union believes that there has been an unanticipated change in conditions that threatens its financial position by significantly increasing its exposure to loss, it may:

(1) As the owner and lessor, take reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease;

(2) As the assignee of a lessor's interest in a lease, become the owner and lessor of the leased property pursuant to its contractual right, or take any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease; or

(3) Include any provision in a lease, or make any additional agreements, to protect its financial position or investment in the circumstances set forth subsections (e)(1) and (e)(2) of this section.

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91.715. Exceptions to the General Lending Policies.

Credit unions may provide for the consideration of loan requests from creditworthy members whose credit needs do not fit within the credit union's general lending policies. A credit union may provide for prudently underwritten exceptions to its lending policies. However, the Board is responsible for establishing standards for the review and approval of exception loans. Each credit union should establish an appropriate internal process for the review and approval of loans that do not conform to its own internal policy standards. The approval of any such loan should be supported by a written justification that clearly sets forth all of the relevant credit factors that support the underwriting decision. The justification and approval documents for such loans should be maintained as a part of the permanent loan file. Each credit union should monitor compliance with its lending policies and individually report exception loans of a significant size to its board of directors.

91.716. Prohibited Fees.

A credit union shall not make any loan or extend any credit if, either directly or indirectly, any commission, fee, or other compensation from any person or entity other than the credit union is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or extension of credit.

91.717. More Stringent Restrictions.

The Commissioner may impose more stringent restrictions on a credit union's loans if the Commissioner determines that such restrictions are necessary to protect the safety and soundness of the credit union.

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91.718. Charging Off or Setting Up Reserves.

(a) The commissioner, after a determination of value, may order that assets in the aggregate, to the extent that such assets have depreciated in value, or to the extent the value of such assets, including loans, are overstated in value for any reason, be charged off, or that a special reserve or reserves equal to such depreciation or overstated value be established.

(b) A credit union's financial statements shall provide for full and fair disclosure of all assets, liabilities, and members' equity, including such valuation allowance accounts as may be necessary to present fairly the financial position; and all income and expenses necessary to present fairly the results of operations for the period concerned.

(c) As a minimum, adjustments to the valuation allowance for loan losses shall be made prior to the distribution or posting of any dividends to the accounts of members so that the valuation allowance established fairly presents the value of loans and probable losses for all categories.

91.719. Loans to Officials and Employees.

(a) The rates, terms, conditions, and availability of any loan or other extension of credit made to, or endorsed or guaranteed by, a director, employee, member of the credit committee or an immediate family member of any such individual shall not be more favorable than the rates, terms, conditions, and availability of comparable loans or credit to other credit union members.

(b) Before making a loan, extending credit, or becoming contractually liable to make a loan or extend credit to a director, employee, member of the credit committee, or an immediate family member of such individual, the board of directors must approve the transaction if the loan or the extension of credit or aggregate of outstanding loans and extensions of credit to any one person, the person's business interests, and the members of the person's immediate family is greater than 15% of the credit union's net capital. A loan fully secured by shares in the credit union or deposits in other financial institutions shall not be subject to, or included in the aggregate amounts included in this section.

(c) For purposes of this section, the term immediate family member includes spouse or other family member living in the same household.

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(d) The aggregate of all outstanding loans or extensions of credit made to, or endorsed or guaranteed by all directors, credit committee members, senior executive staff, and immediate family members of all such individuals shall not exceed 20% of the credit union's total assets. The requirements described in this subsection shall apply unless waived in writing by the commissioner for good cause shown.

(e) At least semiannually, the president shall make a report to the board of directors on the outstanding indebtedness of all directors, credit committee members, senior executive staff, and immediate family members of such individuals. Each report must ordinarily be retained at the credit union for a period of three years and shall not be filed with the Department unless specifically requested. The report required by this section shall include the following information:

- (1) The amount of each indebtedness; and
- (2) A description of the terms and conditions (including the interest rate, the original amount and date, maturity date, payment terms, security, if any, and any other unusual term or condition) of each extension of credit.

(f) At the discretion of the Board, the reporting requirement of subsection (e) of this section may be waived if the aggregate of outstanding loans and extensions of credit to any one person, the person's business interests, and the members of the person's immediate family is less than \$25,000.

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H. INVESTMENTS

§91.801. Investments in Credit Union Service Organizations.

(a) Definition. When used in this section, a credit union service organization (CUSO) is an organization whose primary purpose is to strengthen or advance the credit union movement, serve or otherwise assist credit unions or their operations, or provide services authorized by subsection (f) of this section to members of credit unions.

(b) A credit union by itself, or with other parties, may only organize, invest in or make loans to a CUSO which is structured and operated in a manner that demonstrates to the public that it maintains a legal existence separate from the credit union. A credit union and a CUSO must operate so that:

- (1) their respective business transactions, accounts, and records are not intermingled;
- (2) each observes the formalities of their separate corporate or other organizational procedures;
- (3) each is adequately financed as a separate unit in light of normal obligations reasonably foreseeable in a business of its size and character;
- (4) each is held out to the public as a separate enterprise; and

(5) unless the credit union has guaranteed a loan to the CUSO, all borrowings by the CUSO indicate that the credit union is not liable.

(c) Notice. A credit union shall provide written notice to the commissioner of its intent to make an initial investment in or make an initial loan to a CUSO at least 15 days prior to commencing efforts to effect such activity. The credit union shall provide any additional information reasonably requested by the commissioner.

(d) Limitations. The board of directors of a credit union that organizes, invests in, or lends to any CUSO shall establish, in writing, the maximum amount of the credit union's assets, relative to the credit union's net worth, that will be invested in or loaned to any one CUSO. Investments and loans described in this section shall not, in the aggregate, exceed 10% of the total assets of the credit union, unless the credit union receives the prior written approval of the commissioner. The amount of loans to CUSOs, cosigned, endorsed, or otherwise guaranteed by the credit union, shall be included in the aggregate for the purpose of determining compliance with the limitations set forth in this section.

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(e) Prohibitions. No credit union may invest in or make loans to a CUSO:

(1) if any officer, director, committee member, or employee of such credit union or any member of the immediate family of such persons owns or makes an investment in or has made or makes a loan to the CUSO;

(2) unless the organization is structured as a corporation, limited liability company, registered limited liability partnership, or limited partnership and the credit union has obtained a written legal opinion that the CUSO is established in a manner that will limit the credit union's potential exposure to not more than the loss of funds invested in or loaned to such CUSO;

(3) if the CUSO engages in any revenue producing activity other than the performance of services for credit unions or members of credit unions, and such activity equals or exceeds one half (1/2) of the CUSO's total revenue; or

(4) unless prior to investing in or making a loan to a CUSO the credit union obtains a written agreement which requires the CUSO to follow GAAP, render financial statements to the credit union at least quarterly, and provide the department, or its representatives, complete access to the CUSO's books and records at reasonable times without undue interference with the business affairs of the CUSO.

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(f) Permissive activities and services. A CUSO shall be engaged in providing products and services that include, but are not limited to:

(1) operational services including credit and debit card services, cash services, wire transfers, audits, ATM and other EFT services, share draft and check processing and related services, shared service center operations, electronic data processing, development, sale, lease, or servicing of computer hardware and software, alternative methods of financing and related services, other lending related services, and any other services or activity, including consulting, related to the operations of credit unions;

(2) financial services including financial planning and counseling, securities brokerage and dealer activities, estate planning, tax services, insurance services, administering retirement, deferred compensation and other employee or business benefit plans, or any other service deemed economically beneficial or attractive to the members of the participating credit union or credit unions;

(3) Internet based or related services including sale and delivery of products to credit unions or members of credit unions; or

(4) any other service or activity approved, in writing, by the commissioner.

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(g) Compensation. Unless the participating credit unions' boards of directors have determined that a conflict of interest exists, senior management staff and employees of a credit union may receive compensation from a CUSO affiliated with their credit union provided the individual provides fair and full disclosure initially and annually thereafter to the boards of participating credit unions and non-credit union parties.

(h) Examination fee. If a CUSO is requested by the commissioner to make its books and records available for inspection and examination, the CUSO shall pay a supplemental examination fee as prescribed in §97.113(d) of this title (relating to Supplemental Examinations). The commissioner may waive the supplemental examination fee or reduce the fee as he deems appropriate.

(i) Exclusion. A credit union which has a net worth ratio greater than six percent (6%) and is deemed adequately capitalized by its insuring organization may invest in or make loans to a CUSO that is not limited by the restriction set forth in subsection (e)(3); provided the activities of the CUSO are exclusively limited to activities which could be conducted directly by a credit union or are incidental to the conduct of the business of

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a credit union. Notwithstanding this exclusion, all other provisions of the act and this chapter applicable to a CUSO apply. In the event a credit union's net worth or capital declines below the required thresholds, the credit union may not renew, extend the maturity of, or restructure an existing loan, advance additional funds or increase the investment in the CUSO without the prior written approval of the commissioner.

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§91.802. Other Investments

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Bailment for hire contract -- A contract whereby a third party, bank, or other financial institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers; also known as a custodial agreement.

(2) Bankers' acceptance -- A time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

(3) Cash forward agreement -- An agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of 30 days from the trade date.

(4) Eurodollar deposit -- A deposit denominated in U. S. dollars in a foreign branch of a United States financial institution.

(5) Federal funds transaction -- A short-term or open-ended transfer of funds to a financial institution.

(6) Financial institution -- A bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, a federal or state-chartered credit union, or the National Credit Union Central Liquidity Facility.

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(7) Repurchase transaction -- A transaction in which a credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a later date and at a specified price.

(8) Reverse repurchase transaction -- A transaction whereby a credit union agrees to sell a security to a counterparty and to repurchase the same or any identical security from that counterparty at a future date and at a specified price.

(9) Investment -- Any security, obligation, account, deposit, or other item authorized for investment by the Act or this section other than an investment authorized by §124.351(a)(1) of the Act.

(10) Settlement date -- The date originally agreed to by a credit union and a vendor for settlement of the purchase or sale of a security.

(11) Trade date -- The date a credit union originally agrees, whether orally or in writing, to enter into the purchase or sale of a security.

(12) Yankee dollar deposit -- A deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank.

(13) Mortgage related security -- A security which meets the definition of mortgage related security in United States Code Annotated, Title 15, §78c(a)(41); i.e., a privately-issued security

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backed by mortgages secured by real estate upon which is located a dwelling, a mixed residential and commercial structure, a residential manufactured home, or a commercial structure.

(14) Nationally recognized statistical rating organization (NRSRO) -- A rating organization recognized by the Securities and Exchange Commission.

(15) Asset-backed security -- A bond, note, or other obligation issued by a financial institution, trust, insurance company, or other corporation secured by either a pool of loans, extensions of credit which are unsecured or secured by personal property, or a pool of personal property leases.

(b) Policy. A credit union may invest funds not used in loans to members, subject to the conditions and limitations of the written investment policy of the board of directors. The investment policy may be part of a broader, asset-liability management policy. The board of directors must review the investment policy at least annually to ensure that the policies adequately address the following issues:

(1) The types of investments that are authorized by the board of directors.

(2) A specific limit on the amount that may be invested in any single investment or investment type.

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(3) The delegation of investment authority to the credit union's officials or employees, including the person or persons authorized to purchase or sell investments, and a limit of the investment authority for each individual or committee.

(4) A list of authorized broker-dealers or other third-parties that may be used to purchase or sell investments, and an internal process for assessing the credentials and previous record of the individual or firm.

(5) The methods to be used to manage the credit union's credit risk, interest-rate risk, and liquidity risk that are associated with its investment-related activities.

(6) A list of authorized third-party safekeeping agents.

(7) If the credit union operates a trading account, the policy should specify the persons authorized to engage in trading account activities, trading account size limits, stop loss and sale provisions, time limits on inventoried trading account investments, and internal controls that specify the segregation of risk-taking and monitoring activities that related to trading account activities.

(8) The procedure for reporting to the board of directors investments and investment activities that become noncompliant with the credit union's investment policy subsequent to the initial purchase.

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(c) Authorized activities.

(1) General authority. A credit union may contract for the purchase or sale of a security provided that delivery of the security is by regular-way settlement. Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for that type of security. All purchases and sales of investments must be delivery versus payment (i.e., payment for an investment must occur simultaneously with its delivery).

(2) Cash forward agreements. A credit union may enter into a cash forward agreement to purchase or sell a security, provided that:

(A) the period from the trade date to the settlement date does not exceed 90 days;

(B) if the credit union is the purchaser, it has written cash flow projections evidencing its ability to purchase the security;

(C) if the credit union is the seller, it owns the security on the trade date; and

(D) the cash forward agreement is settled on a cash basis at the settlement date.

(3) Repurchase transactions. A credit union may enter a repurchase transaction provided:

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(A) the purchase price of the security obtained in the transaction is at or below the market price;

(B) the repurchase securities are authorized investments under Texas Finance Code §124.351 or this section;

(C) the credit union has entered into signed contracts with all approved counterparties;

(D) the counterparty is rated no lower than BBB by Standard & Poor's or an equivalent rating by another NRSRO; and

(E) the credit union receives a daily assessment of the market value of the repurchase securities, including accrued interest, and maintains adequate margin that reflects a risk assessment of the repurchase securities and the term of the transaction.

(4) Reverse repurchase transactions. A credit union may enter into a reverse repurchase transaction, which is a borrowing transaction subject to the Act, provided:

(A) any securities received are authorized investments under Texas Finance Code §124.351 and this section;

(B) the credit union has entered into signed contracts with all approved counterparties; and

(C) for transaction with a maturity greater than one month, the credit union receives a monthly assessment of the market

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value of the securities received, including accrued interest, and maintains adequate margin that reflects a risk assessment of the securities and the term of the transaction.

(5) Federal funds. A credit union may enter into a federal funds transaction with a financial institution, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(6) Yankee dollars. A credit union may invest in yankee dollar deposits.

(7) Eurodollars. A credit union may invest in eurodollar deposits.

(8) Bankers' acceptance. A credit union may invest in bankers' acceptances.

(9) Open-end Investment Companies (Mutual Funds). A credit union may invest funds in an open-end investment company established for investing directly or collectively in any authorized investment, including qualified money market mutual funds as defined by Securities and Exchange Commission regulations.

(10) Government-sponsored enterprises. A credit union may

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invest in government-sponsored enterprise obligations such as Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and the Student Loan Marketing Association.

(11) Commercial paper. A credit union may invest in commercial paper issued by corporations domiciled within the United States and having a rating of no less than A1 or P1 by Standard & Poor's or Moody's, respectively, or an equivalent rating by a NRSRO.

(12) Corporate bonds. A credit union may invest in corporate bonds which are rated in one of the three highest rating categories by a NRSRO (e.g. Standard & Poor's ratings AAA, AA, and A) and remaining maturities of five years or less.

(13) Municipal bonds. A credit union may invest in municipal bonds which are rated in one of the three highest rating categories by a NRSRO and remaining maturities of five years or less.

(14) Mortgage related securities. A credit union may invest in mortgage related securities, except not in the "accrual bond" (or Z-bonds) or the residual interest of the mortgage related security which are rated in one of the three highest rating categories by a NRSRO.

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(15) Asset-backed securities. A credit union may invest in asset-backed securities rated in one of the two highest rating categories by a NRSRO provided the underlying collateral is domestic- and consumer-based.

(d) Documentation: A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgement in exercising the investment powers under the Act and this rule. Except for investments that are issued, insured or fully guaranteed as to principal and interest by the U.S. Government or its agencies, enterprises, or corporations or fully insured (including accumulated interest) by the National Credit Union Administration or the Federal Deposit Insurance Corporation, a credit union must conduct and document a credit analysis of the issuing entity and/or investment before purchasing the investment. The credit union must update the credit analysis at least annually as long as the investment is held. Credit and other due diligence documentation for each investment shall be maintained as long as the credit union holds the investment and until it has been both audited and examined.

(e) Classification. A credit union must classify a security as hold-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles and consistent with the credit union's documented intent and ability regarding the security.

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§91.803. Investment Limits in Other Financial Institutions. A credit union may invest in certificates of deposit and passbook type accounts issued by an insured state or national bank or other similar institution, provided that the total investments in any one institution shall not exceed 10% of the capital and surplus of that institution, unless such investments are 100% secured by securities issued or guaranteed by the United States or any agency or instrumentality thereof.

§91.804 Custody And Safekeeping.

(a) A credit union's purchased investments and repurchased collateral must be in its possession, recorded as owned by the credit union through the federal reserve book-entry system, or be held by a board-approved safekeeper under a bailment for hire contract. Any safekeeper used by a credit union must be regulated and supervised by either the Securities and Exchange Commission or a federal or state financial institution regulatory agency. For the purposes of this section a bailment for hire contract has the same meaning as in §91.802 (relating to Other Investments).

(b) A credit union that invests funds in a certificate of deposit in a financial institution as defined in §91.802 (relating to Other Investments) shall hold such certificate of deposit in the name of the credit union. In no event shall such certificate of deposit held by the depository financial institution be in the name of a third party.

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§91.805. Loan Participation Investments.

A credit union may purchase a participation interest in a non-member loan from a corporation, credit organization, or financial organization, as permitted by §124.351(a)(8) of the Act, provided it:

(1) is specifically empowered to purchase such investments in the board's written investment policy;

(2) does not obtain an interest greater than 90% of the face amount of each individual loan, if the borrower is not a member of the credit union or a member of another participating credit union;

(3) uses the same underwriting standards for loan participation investments as it does for loans originated by the credit union; and

(4) limits its aggregate investment in participations to an amount less than 50% of the credit union's total reserves and undivided earnings.

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§1.808. Reporting Investment Activities To The Board Of Directors.

(a) A credit union shall provide its board of directors a monthly comprehensive report of investment activities, including:

- (1) investments purchased and sold during the month;
- (2) unrealized market gains or losses compared to book value at month's end;
- (3) fair or market value of each marketable investment;
- (4) total book value of investments outstanding at month's end;

(5) unrecorded and unreported obligations to buy or sell investments; and

(6) amount of investments, other than designated depositories, in other institutions that are not fully insured by the Federal Deposit Insurance Corporation, National Credit Union Administration, or federal or state governments or their agencies.

(b) The credit union shall also provide a quarterly report to the board of directors that summarizes the volatility of the investment portfolio, if the aggregate total of the investments with one or more of the features included below exceeds the credit union's reserves and undivided earnings:

- (1) embedded options;
- (2) remaining maturities greater than three years; or
- (3) coupon formulas that are related to more than one index or are inversely related to, or multiples of, an index.

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(c) The report described in subsection (b) must provide a reasonable and supportable estimate of the potential impact, in percentage and dollar terms, of an immediate and sustained parallel shift in market interest rates of plus and minus 300 basis points on the:

- (1) fair value of each marketable investment in the portfolio;
- (2) fair value of the portfolio as a whole; and
- (3) credit union's reserves and undivided earnings.

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(C) average daily balance. The average daily balance over the calendar quarter; or

(D) quarter-end balance. The quarter-end balance of the calendar quarter as reported on the credit union's call report, and for semi-annual filers as calculated for the quarters ending March 31 and September 30.

(b) In accordance with the requirements of §122.104 of the Act, state-chartered credit unions shall set aside a portion of their current gross income, prior to the declaration or payment of dividends as follows:

(1) A credit union shall transfer in accordance with GAAP the following amounts at the indicated intervals to its regular reserve account until its net worth ratio equals 7% of total assets:

(A) in the case of a monthly dividend period, net worth must increase monthly by an amount equivalent to at least 0.0334% of its total assets; and

(B) in the case of a quarterly, semi-annual or annual dividend period, net worth must increase quarterly by an amount equivalent to at least 0.1% per quarter of its total assets.

(2) For a credit union in operation less than ten years or having assets of less than \$10 million, a business plan must be developed that reflects, among other items, net worth projections consistent with the following:

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I. RESERVES AND DIVIDENDS

§91.901. Reserve Requirements.

(a) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Net worth means the retained earnings balance of the credit union as determined under generally accepted accounting principles. Retained earnings consists of undivided earnings, regular reserves, and any other appropriations designated by management, the insuring organization, or the commission. This means that only undivided earnings and appropriations of undivided earnings are included in net worth. Net worth does not include the allowance for loan and lease losses account.

(2) Net worth ratio means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

(3) Total assets means the average of the total assets as measured using one of the following methods:

(A) average quarterly balance. The average of quarter-end balances of the four most recent calendar quarters; or

(B) average monthly balance. The average of month-end balances over the three calendar months of the calendar quarter; or

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- (A) 2% net worth ratio by the end of the third year of operation;
- (B) 3.5% net worth ratio by the end of the fifth year of operation;
- (C) 6% net worth ratio by the end of the seventh year of operation; and
- (D) 7% net worth ratio by the time it reaches \$10 million in total assets or by the end of the tenth year of operation, which ever is shorter.

(3) Whenever the net worth ratio falls below 7%, the credit union shall transfer a portion of its current gross income to its regular reserve in such amounts as described in paragraph (1) of this subsection.

(4) Special reserves. In addition to the regular reserve, special reserves to protect the interest of members may be established by board resolution or by order of the commissioner, from current income or from undivided earnings. In lieu of establishing a special reserve, the commissioner may direct that all or a portion of the undivided earnings and any other reserve fund be restricted. In either case, such directives must be given in writing and state with reasonable specificity the reasons for such directives.

(5) Insuring organization's capital requirements. As applicable, a credit union shall also comply with any and all capital requirements imposed by an insuring organization as a condition to maintain insurance on share and deposit accounts.

(c) Net Worth Restoration Plan.

(1) When a credit union's net worth ratio falls below 6%, it must submit a plan to restore and maintain its net worth ratio at the 7% minimum requirement.

(2) The net worth restoration plan must be submitted to the department within 45 calendar days of the occurrence. At a minimum, the plan shall include the following:

(A) reasons why the net worth ratio fell below the minimum requirement;

(B) descriptions of steps to be taken to restore net worth to the minimum requirement within specific time frames;

(C) actions to be taken to maintain the net worth ratio at the minimum required level and increase it thereafter;

(D) balance sheet and income projections, including assumptions, for the current calendar year and one additional calendar year; and

(E) certification from the board of directors that it will follow the proposed plan if approved by the department.

(3) For the purposes of this subsection, a credit union must determine its net worth no less frequently than once each calendar quarter. The effective date or date of occurrence for a credit union's net worth ratio which falls below 6% shall be the most recent to occur of:

(A) the last day of the calendar month following the end of the calendar quarter; or

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(B) the date the credit union's net worth ratio is recalculated by or as a result of its most recent examination.

(4) If a credit union fails to submit a net worth restoration plan; or the plan submitted is not deemed adequate to either restore net worth or restore net worth within a reasonable time; or the credit union fails to implement its approved net worth restoration plan, the department may impose the following administrative sanctions in addition to, or in lieu of, any other authorized regulatory action:

(A) all unencumbered reserves, undivided earnings, and current earnings are encumbered as special reserves;

(B) dividends and interest refunds may not be declared, advertised, or paid without the prior written approval of the commissioner; and

(C) any changes to the credit union's board of directors or senior management staff must receive the prior written approval of the commissioner.

(d) Revised business plan for new credit unions. A credit union that has been in operation for less than ten years or has assets of less than \$10 million shall file a written revised business plan within 30 calendar days of the date the credit union's net worth ratio has failed to increase consistent with its then-present business

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plan. Failure to submit a revised business plan; or submission of a plan not deemed adequate to either increase net worth or increase net worth within a reasonable time; or failure of the credit union to implement its revised business plan, may trigger the regulatory actions described in subsection (c)(4) of this section.

(e) Unsafe practice. Any credit union which has less than a 6.0% net worth ratio may be deemed to be engaged in an unsafe practice pursuant to §122.255 of the Finance Code, except that such a credit union which has entered into and is in compliance with a written agreement or order with the department or is in compliance with a net worth restoration or revised business plan approved by the department to increase its net worth ratio will not be deemed to be engaged in an unsafe practice on account of its inadequate capital structure. The department is not precluded from taking enforcement action against a credit union with capital above the minimum requirement if the specific circumstances deem such action to be appropriate.

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§91.902. Dividends.

(a) Prior written approval of the commissioner must be obtained for the payment of dividends when the credit union is subject to a cease and desist order or is otherwise notified that it is deemed to be in a troubled condition.

(b) Dividend eligibility shall be prescribed by written board policy.

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J. CHANGES IN CORPORATE STATUS

§91.1003 Mergers/Consolidations.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Surviving credit union - The credit union that will continue in operation after the merger/consolidation.

(2) Merging credit union - The credit union that will cease to exist as an operating credit union at the time of the merger/consolidation.

(b) Two or more credit unions authorized to conduct business in this state may merge/consolidate, in whole or in part, with each other subject to commission rules.

(c) A credit union authorized to conduct business under the laws of this state may merge/consolidate with a credit union authorized to conduct business under the laws of another state or U. S. territory, to the extent permitted by the laws of the state or territory in question and subject to commission rules. A credit union authorized to conduct business under the laws of this state may also merge/consolidate with a credit union authorized to conduct business under the laws of the United States to the extent

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permitted by the laws of the United States and subject to commission rules. Each such application/plan shall comply with the applicable requirements of this section, and shall include a certified copy of an order from the appropriate supervisory authority approving the merger/consolidation, or other evidence satisfactory to the commissioner that all regulatory requirements of the out of state or federal supervisory authority have been satisfied.

(d) Approval to Merge/Consolidate. The following are required for the completion of a merger/consolidation of credit unions:

(1) approval of the merger/consolidation plan by resolution of the board of directors of each credit union;

(2) approval of the merger/consolidation plan by vote of the members of each credit union as set forth in Section 122.151 of the Act, unless waived by the commissioner; and

(3) approval by the commissioner of the merger/consolidation plan, the certificate of merger/consolidation, and the requisite amendment to the surviving credit union's articles of incorporation or bylaws.

(e) Notice of Intent to Merge/Consolidate. The credit unions shall notify the commissioner of their intent to merge/consolidate by filing a copy of the resolution adopted by each credit union's board of directors that evidences their intent to merge/consolidate.

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(f) **Plan for Merger/Consolidation.** Upon the commissioner's acknowledgement of receipt of the notice of intent to merge/consolidate, a plan for the proposed merger/consolidation shall be prepared. The plan shall include:

- (1) the current financial reports of each credit union;
- (2) the combined financial reports of the two credit unions;
- (3) an explanation of any proposed adjustments to the members shares, deposits, reserves, or undivided profits;
- (4) a summary of the products and services proposed to be available to the members of the surviving credit union, with an explanation of any changes from the current products and services provided to the members;
- (5) a summary of the advantages and disadvantages of the merger/ consolidation;
- (6) the projected location of the main office and any branch location(s) after the merger/consolidation; and
- (7) any other items deemed critical to the merger/consolidation agreement by the boards of directors.

(g) **Submission of an Application to Merge/Consolidate to Department.**

- (1) An application for approval of the merger/consolidation will be complete when the following information is submitted to the commissioner:

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- (A) the merger/consolidation plan, as described in this rule;
- (B) a copy of the resolution of each board of directors approving the merger/consolidation plan;
- (C) the proposed Notice of Special Meeting of the members and a copy of the ballot form to be used, unless approval by the members is waived by the commissioner;
- (D) the current delinquent loan summaries for each credit union;
- (E) evidence that relevant supervisory authorities and the share insurer are in agreement with the merger/consolidation proposal; and
- (F) a request for a waiver of the requirement that the plan be approved by the members of any of the affected credit unions, in the event the board(s) seek such a waiver, together with a statement of the reason(s) for the waiver(s).

(2) If the surviving credit union is organized under the laws of another state or of the United States, the commissioner may accept an application to merge or consolidate that is prescribed by the state or federal supervisory authority of the surviving credit union,

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provided that the commissioner may require additional information to determine whether to deny or approve the merger/consolidation. The application will be deemed complete upon receipt of all information requested by the commissioner.

(h) Upon receipt of a completed application, notice of the proposed merger/ consolidation will be published in the Texas Register and Department Newsletter

(i) Commissioner Action on the Application.

(1) The commissioner shall approve the application for merger/consolidation upon the finding from information submitted in the application that the proposed merger/consolidation will promote the welfare and stability of the merging and surviving credit unions.

(2) The commissioner shall deny an application for merger/consolidation if the commissioner finds any of the following:

(A) the financial condition of the surviving credit union before the merger/consolidation is such that it will likely jeopardize the financial stability of the merging credit union or prejudice the financial interests of the members, beneficiaries or creditors of either credit union;

(B) the plan includes a change in the products or services available to members of the merging credit union that substantially harms the financial interests of the members, beneficiaries or creditors of the merging credit union;

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- (C) the merger/consolidation would probably substantially lessen the ability of the surviving credit union to meet the reasonable needs and convenience of members to be served;
- (D) the credit unions do not furnish to the commissioner all information requested by the commissioner which is material to the application;
- (E) the credit unions fail to obtain any approval required from a federal or state supervisory authority; or
- (F) the merger/consolidation would be contrary to law.

(3) For applications to merge/consolidate in which the products and services of the surviving credit union after merger/consolidation are proposed to be substantially the same as those of the merging and surviving credit unions, the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

(j) Procedures for Approval of Merger/Consolidation Plan by the Members of Each Credit Union.

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(3) For applications to merge/consolidate in which the products and services of the surviving credit union after merger/consolidation are proposed to be substantially the same as those of the merging and surviving credit unions, the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

(j) Procedures for Approval of Merger/Consolidation Plan by the Members of Each Credit Union.

(1) The credit unions have the option of allowing their members to vote on the plan in person at a meeting of the members, by mail ballot, or by a combination of both.

(2) Members shall be given advance notice of the meeting in accordance with the credit union's bylaws. The notice of the meeting shall:

(A) specify the purpose of the meeting;

(B) state the reasons for the proposed merger/consolidation;

(C) state that the merger/consolidation plan will be presented to the members;

(D) provide the name and location of the surviving credit union;

(E) specify whether the vote will be taken in person at the meeting, by mail ballot to be received by the credit union no later than the date and time of the meeting, or by combination of both methods; and

(F) be accompanied by a mail ballot and a copy of the merger/consolidation plan if voting by mail is permitted.

(k) Completion of Merger/Consolidation.

(1) Upon approval of the merger/consolidation plan by the membership, if applicable, the Certificate of Merger/Consolidation shall be completed, signed and submitted to the commissioner for final authority to combine the records. Necessary amendments to the surviving credit union's articles of incorporation or bylaws shall also be submitted at this time.

(2) Upon receipt of the commissioner's written authorization, the records of the credit unions shall be combined as of the effective date of the merger/consolidation. The board of the directors of the surviving credit union shall certify the completion of the merger/consolidation to the commissioner within 30 days after the effective date of the merger/consolidation.

(3) Upon receipt by the commissioner of the certification of the merger/consolidation in which the surviving credit union will operate under a Texas charter, any article of incorporation or bylaw amendments will be approved at the same time the charter of the merging credit union is canceled.

Source: The provisions of this §91.1003 adopted to be effective May 11, 1998, 23 TexReg 4568; readopted to be effective November 19, 2001, 26 TexReg 9934.

§91.1004. Conversion of Charter.

(a) Change of charter. A credit union authorized to do business under the Act may convert to a federal credit union or another type of financial institution upon completion of the following requirements:

(1) the proposal for charter conversion is approved by a majority vote of the board of directors;

(2) the credit union provides the commissioner with notice of the approval by the board of directors within five days after the approval;

(3) evidence is furnished to the commissioner confirming that the National Credit Union Administration is agreeable to the proposal for conversion;

(4) the conversion proposal is approved by an affirmative vote of a majority of the members of the credit union voting at a meeting called for that purpose; and

(5) a federal charter is issued to the credit union and evidence is furnished to the commissioner confirming that the credit union has met all conversion requirements of the National Credit Union Administration.

(b) Approval. The commissioner shall approve the conversion if all of the conditions required by this section have been met, unless the commission determines the conversion is being made to circumvent a pending supervisory action that is about to be or has been initiated by the commissioner because of a concern over the safety and soundness of the credit union.

(c) Federal to State of Texas or Foreign State to State of Texas.

(1) A federal credit union or a credit union chartered by a foreign State may convert to a credit union chartered by the State of Texas pursuant to the Act upon completion of the following requirements:

(A) submission of a complete application to the department on a form prescribed by the commissioner;

(B) furnishing evidence to the commissioner that the National Credit Union Administration in the case of a federal credit union, or the principal regulatory agency of the state of incorporation in the case of a credit union chartered by a foreign state, has no objection to the conversion proposal;

(C) prior to the approval, the commissioner is granted by the applicant permission to perform an examination of the applicant and to collect a fee for the examination comparable to that required for examinations of credit unions chartered pursuant to the Act. The commissioner may waive the examination or fee if he finds good cause to do so;

(D) the chief elected official and secretary of the applicant credit union shall submit to the commissioner a certification confirming that the conversion procedure has been completed in a manner satisfactory to the National Credit Union Administration in the case of a federal credit union, or to the principal regulatory agency of the state of incorporation in the case of a credit union chartered by a foreign state;

(E) evidence is furnished to the commissioner that the applicant will establish or relocate its principal place of business to a specific location in the State of Texas within six months from the date of approval of its conversion. Failure to complete the establishment or relocation of its principal place of business as provided herein within the six-month period shall effect the automatic expiration of approval of the conversion unless the commissioner grants, in writing, an extension of the six-month period or waives the condition for good cause; and

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(D) the chief elected official and secretary of the applicant credit union shall submit to the commissioner a certification confirming that the conversion procedure has been completed in a manner satisfactory to the National Credit Union Administration in the case of a federal credit union, or to the principal regulatory agency of the state of incorporation in the case of a credit union chartered by a foreign state;

(E) evidence is furnished to the commissioner that the applicant will establish or relocate its principal place of business to a specific location in the State of Texas within six months from the date of approval of its conversion. Failure to complete the establishment or relocation of its principal place of business as provided herein within the six-month period shall effect the automatic expiration of approval of the conversion unless the commissioner grants, in writing, an extension of the six-month period or waives the condition for good cause; and

(F) the commissioner finds that the applicant is financially sound, has no supervisory problems, and will conduct its operations in the State of Texas in accordance with the intent and purpose of the Act.

(2) The conversion will become effective upon the date of issuance of a charter by the commissioner or on a stipulated date within 90 days thereafter.

§91.1110. Share and Deposit Insurance Requirements.

(a) All credit unions in the State of Texas shall obtain share insurance as provided in Chapter 95 of this title (pertaining to Insurance Requirements).

(b) With the approval of the commissioner and if recognized by its insuring organization, a credit union may, from time to time as determined by its board of directors, issue uninsured membership shares which are subordinate to all other claims, including creditors, shareholders and the insuring organization. The commissioner may approve the issuance of such accounts conditioned upon specific requirements being met.

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Subchapter L. Submission of Comments by Interested Parties

§91.3001. Opportunity To Submit Comments On Certain Applications.

- (a) An interested party may submit comments to the commissioner on the following matters:
- (1) an application for incorporation under the Texas Finance Code, Section 122.001;
 - (2) an amendment to a credit union's articles of incorporation under the Texas Finance Code, Section 122.011, which includes an amendment to expand the credit union's field of membership; or
 - (3) an application to merge or consolidate under the Texas Finance Code, Section 122.152.
- (b) An interested party is a person or entity that has an interest in particular to the application other than as a member of the general public.
- (c) Acceptance of comments under this section does not constitute a determination of standing to protest or otherwise participate in a contested case hearing on the application.
- (d) Comments may be made in writing or provided in a meeting with the commissioner or deputy commissioner, as follows:
- (1) written comments shall be submitted within 30 days after notice of the application is published in the Texas Register or the department's newsletter, whichever is later;
 - (2) a meeting to receive comments shall be held upon written request by an interested party or upon the commissioner's direction.

Source: The provisions of this §91.3001 adopted to be effective May 10, 1998, 23 TexReg 4568; re-adopted to be effective November 19, 2001, 26 TexReg 9934.

§91.3002. Conduct Of Meetings To Receive Comments.

- (a) Meetings to receive comments under 91.3001 of this title (relating to opportunities to submit comments on certain applications) will be conducted in the following manner:
- (1) a written request for a meeting to receive comments must be received by the department within 30 days after publication of the notice of the application and shall contain the following:
 - (A) the identity of the requestor, including the name of a natural person who represents a business entity or other association, mailing address, daytime telephone number, and a facsimile number if any;
 - (B) the name of the application and type of application;
 - (C) a description of the requestor's interest in the application; and
 - (D) a list of at least three dates and times within 30 days after the date of publication of notice of application, which are available for the meeting.
 - (2) the meeting will be scheduled and may be rescheduled, if necessary, by the commissioner to occur after at least three business days' notice by telephone, facsimile, or mail;
 - (3) one meeting may be scheduled to receive comments from more than one interested party, at the discretion of the commissioner;
 - (4) a limit on the length and other conditions for the conduct of the meeting may be imposed by the commissioner, and the conditions will be stated in the notice of the meeting;

(5) the meeting may be conducted by telephone with the consent of the interested party; and

(6) the department is not required to make a record of the meeting.

(b) An interested party who fails to attend a meeting scheduled for the party's benefit may submit written comments within three days after the date scheduled for the meeting, but the commissioner is not required to schedule another meeting.

(c) The purpose of the meeting is only to receive comments, and no decision, preliminary or otherwise, will be made at the meeting.

Source: The provisions of this §91.3002 adopted to be effective May 10, 1998, 23 TexReg 4568; re-adopted to be effective November 19, 2001, 26 TexReg 9934.

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M. ELECTRONIC OPERATIONS

§91.4001. Authority to Conduct Electronic Operations.

(a) A credit union may use, or participate with others to use, electronic means or facilities to perform any function or provide any product or service as part of an authorized activity. Electronic means or facilities include, but are not limited to, automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices.

(b) To optimize the use of its resources, a credit union may market and sell, or participate with others to market and sell, electronic capacities and by-products to others, provided the credit union acquired or developed these capacities and by-products in good faith as part of providing financial services to its members.

(c) If a credit union uses electronic means and facilities authorized by this rule, the credit union's board of directors must require staff to:

(1) Identify, assess, and mitigate potential risks and establish prudent internal controls; and

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(2) Implement security measures designed to ensure secure operations. Such measures should take into consideration:

(A) the prevention of unauthorized access to credit union records and credit union members' records;

(B) the prevention of financial fraud through the use of electronic means or facilities; and

(C) compliance with applicable security device requirements for teller machines contained elsewhere in Chapter 91.

(d) All credit unions engaging in such electronic activities must comply with all applicable requirements, including addressing safety and soundness concerns and ensuring compliance with applicable state and federal laws and regulations.

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N. EMERGENCY CLOSING OF OFFICE OR OPERATION

91.5001. Emergency Closing.

(a) If the officer in charge of a credit union determines that an emergency that affects or may affect one or more of the credit union's offices or operations exists or is impending, the officer may determine:

(1) not to conduct the involved operations or open the offices on any normal business day of the credit union until the emergency has passed; or

(2) if the credit union is open, to close the offices or the involved operations for the duration of the emergency.

(b) Subject to subsection (c) of this section, a closed office or operation may remain closed until the officers determine that the emergency has ended and for any additional time reasonably required to reopen.

(c) A credit union that closes an office or operation under this section shall notify the commissioner of its action by any means available and as promptly as conditions permit. An office or operation may not be closed for more than three consecutive days, excluding days on which the credit union is customarily closed, without the commissioner's written approval.

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91.5001-2

(d) In this chapter, the following words and terms shall have the following meanings:

(1) Emergency – means a condition or occurrence that physically interferes with the conduct of normal business at the offices of a credit union or of a particular credit union operation or that poses an imminent or existing threat to the safety or security of persons, property, or both. The term includes a condition or occurrence arising from:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, ice or snow storm;

(B) labor dispute or strike;

(C) disruption or failure of utilities, transportation, communication or information systems;

(D) shortage of fuel, housing, food, transportation, or labor;

(E) robbery, burglary, or attempted robbery or burglary;

(F) epidemic or other catastrophe; or

(G) riot, civil commotion, enemy attack, or other actual or threatened act of lawlessness or violence.

(2) Officer in charge – means the president of the credit union, or a person designated by the president, who shall have the authority to take all necessary and appropriate actions to deal appropriately with the emergency. The president of a credit union shall always have an individual designated as an officer in charge during his/her absence or unavailability.

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§91.4002. Notice Requirement.

(a) A credit union must file a written notice with the commissioner at least 30 days before it establishes a transactional web site. The notice must:

(1) Include an address for and a description of the transactional features of the web site;

(2) Indicate the date the transactional web site will become operational; and

(3) List a contact person familiar with the deployment, operation, and security of the transactional web site.

(b) For the purposes of this chapter a transactional web site is an Internet site that enables users to conduct financial transactions such as accessing an account, obtaining an account balance, transferring funds, processing bill payments, opening an account, applying for or obtaining a loan, or purchasing other authorized products or services.

(c) If a credit union has established a transactional web site before the effective date of this rule, it must file a notice describing its activity by June 1, 1999.

Change 10—May 13, 1999

91.5002-1

91.5002. Effect of Closing. A day on which a credit union or one or more of its operations is closed during its normal business hours as provided by this chapter shall be deemed a legal holiday for all purposes with respect to any credit union business affected by the closed credit union or credit union operation.

Change 11—August 9, 1999

SEP 28 2000

93.000-1

A. COMMON TERMS

93.101. Scope; Definitions; Severability.

(a) These rules of practice are applicable to contested cases arising under the Texas Credit Union Act.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ADR - alternative dispute resolution.

(2) ALJ - administrative law judge employed by the State Office of Administrative Hearings.

(3) Contested case - a proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Commissioner or the Commission after an opportunity for adjudicative hearing. A contested case at the Department commences upon the filing of a proper and timely request for hearing.

(4) Party - an applicant, a protestant, a respondent, or department staff, who is admitted as a party.

(5) PFD - a proposal for decision issued by an ALJ.

(6) SOAH - the State Office of Administrative Hearings.

Change 11—August 9, 1999

93.000-2

(c) If any section of this chapter is found to be invalid, the invalidity shall not affect the validity of any other provision of this chapter.

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B. GENERAL RULES

93.201. Party Status. Party status will be conferred on persons or entities with a legal right, duty, privilege, power or current economic interest that may be directly affected by the outcome of the case.

93.202. Computation of Time. Unless otherwise required by law, in computing any period of time set forth in this chapter, the date of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a state legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a state legal holiday.

93.203. Ex Parte Communications.

(a) Upon receipt of a request for hearing and continuing until the time a motion for rehearing is denied, the time for ruling on such a motion has expired, or the proceeding is otherwise final, the commissioner and members of the commission may not communicate directly or indirectly with any party or a representative of a party in a contested case in connection with any issue of fact or law in the contested case except upon notice and opportunity for each party to participate.

Change 11—August 9, 1999

(b) The commissioner and members of the commission may communicate ex parte with employees of the department who did not participate in any hearing in the case in order to utilize special skills or knowledge of the department's staff in evaluating the record in the case. Prohibited ex parte communications shall not include any written communication if the communicator contemporaneously serves copies of the communication on all parties to the contested case.

93.204. Presiding Officer or Body. All hearings in contested cases will be conducted by SOAH pursuant to the Administrative Procedures Act and these rules. The commissioner at any time during the proceedings may make an informal disposition of a contested case by stipulation of the parties, agreed settlement, consent order, or default.

93.205. Notice of Hearing.

(a) A notice of hearing shall include:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;

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(4) A short, plain statement of the matters asserted;

(5) A description of the relief requested; and

(6) At the discretion of the Commissioner, the following disclosure language set forth in capital letters: "IF YOU DO NOT FILE A WRITTEN ANSWER OR OTHER WRITTEN RESPONSIVE PLEADING TO THIS NOTICE OF HEARING ON OR BEFORE THE ___ TH DAY AFTER THE DATE ON WHICH THIS NOTICE WAS MAILED TO YOU, OR IF YOU FAIL TO ATTEND THE HEARING, THE COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT HEARING AND GRANT THE RELIEF SET FORTH IN THIS NOTICE. THE RESPONSE MUST BE FILED IN AUSTIN, TEXAS, WITH THE STAFF OF THE DEPARTMENT AND STATE OFFICE OF ADMINISTRATIVE HEARINGS".

(b) The commissioner may require any or all parties to file a written response to the matters asserted in the notice of hearing and the relief requested. If required, the response shall specifically admit or deny each of the assertions contained in the notice of hearing. Any assertion not denied will be deemed to be admitted.

(c) If required pursuant to subsection (a) of this section, a written response to a notice of hearing shall be filed in Austin, Texas, with the Department and SOAH. Failure of a party to timely file a written response as provided in this subsection shall entitle the Department to the remedies relating to default set forth in 93.206 of this title (relating to Default).

93.206. Default.

(a) The commissioner may make an informal disposition of a contested case by default by issuing an order in which the relief requested in the notice of hearing is granted and the matters set forth in the notice are deemed admitted as true upon proof to the commissioner of proper notice to the parties in a contested case and that parties failed to file a written response as provided in 93.205 of this title (relating to Notice of Hearing), or failed to appear in person or through a legal representative on the day and at the time set for the hearing of the case, whether or not a written response has been filed.

(b) In a case of default, the ALJ assigned to a contested case shall promptly grant a motion by department staff for remand for informal disposition by entry of a default order.

(c) Upon the motion of a respondent or protesting party, the commissioner may, for good cause shown, set aside a default order and reschedule a hearing with SOAH.

(d) A motion by a respondent or protesting party to set aside a default order shall be filed with the commissioner not later than the 20th day after the date of service of notice to the party(s) of the default order. A reply by the department staff to the motion to set aside a default order must be filed with the commissioner not later than the 30th day after the date of service of notice of the default

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order. If the commissioner does not, in writing, grant or deny the motion to set aside a default order not later than the 45th day after the date of service of notice of the default order, the motion shall be considered denied by operation of law.

<*>93.207. Service.

(a) Unless otherwise specified in this chapter, notice to an interested person or a party in a contested case shall be by personal service or certified mail to the party's last known address. Service by mail shall be complete upon deposit of the document, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(b) A certificate by the party, who files a pleading stating that it has been served on all other parties, is prima facie evidence of service.

93.208. Delegation of Authority. Unless otherwise provided by law, any duty imposed on the commission or the commissioner may be delegated to a duly authorized representative. The provisions of any rule referring to the commission or the commissioner shall be construed to also apply to the duly authorized representative of the commission or the commissioner.

93.209. Subpoenas.

(a) Any party desiring the issuance of a subpoena to compel the appearance of a witness or the production of documents at any hearing shall file a written application with the ALJ setting forth the name and address of the witness, time and place of appearance, and any documents or tangible things sought to be produced.

(b) The party requesting the subpoena shall arrange for service of the subpoena in the manner as provided in civil actions. Subpoenas issued at the request of the department staff may be served by an employee of the department.

(c) A party may request issuance of an amended subpoena, which shall be served as provided in subsection (b) of this section.

(d) The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the return date if the return date is less than ten days after service, serve upon the commissioner, the ALJ, and the attorney or party designated in the subpoena, written objection to the appearance or to the inspection or copying of any or all of the designated material. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the

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commissioner or ALJ. The party serving the subpoena shall have five days within which to file a written response to the objection. The commissioner's order on the objection shall be based upon the written objection and response. No oral argument shall be heard on the objection unless the commissioner or ALJ directs.

93.210. Protective Orders; Motions To Compel. All exemptions and privileges recognized under Texas laws are recognized in hearings to the same extent as they are recognized in civil cases in the courts of this state. If a party or witness is asked to produce privileged information, the party, in addition to filing a written objection under 93.209(d) of this title (relating to Subpoenas), may make a motion with the ALJ for such protective orders as are reasonable and necessary. The requested information may be withheld until a ruling on its production is obtained in response to a motion to compel. The ALJ shall hold such hearings and issue such orders on motions to compel or requests for protective orders as are required by the law applicable to the facts and circumstances of the case.

93.211. Administrative Record.

(a) Arguments taken at any hearing on a contested matter will be recorded stenographically and transcribed by a court reporter. The costs of transcribing the hearing and for the preparation of an original transcript of the record for the department shall be assessed against all parties to the proceeding, excluding department staff, in such proportions as the ALJ may determine.

(b) In the event a decision of the commission is appealed or otherwise taken to district court and the department is required to transmit to the court a copy of the record of the department proceeding, or any part thereof, the appealing party shall pay all of the costs of preparing the copy of the record that is to be transmitted to the reviewing court at rates approved by the General Services Commission. If more than one party appeals the decision, the cost of the preparation of the record shall be divided equally among the appealing parties or as agreed by the parties. The ALJ shall prepare and certify the record on behalf of the department and is responsible for transmitting the certified copy to the commissioner.

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93.212. Proposal for Decision.

(a) Following the hearing the ALJ shall review the evidence and testimony, and prepare a PFD containing a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary for the proposed decision. The ALJ shall also prepare a proposed final order for the commissioner to sign adopting the proposed decision. Upon completion, the ALJ shall serve copies of the PFD and proposed final order on all parties and give each adversely affected party an opportunity to file exceptions and present briefs. If a party files exceptions or presents briefs, the ALJ shall give an opportunity to other parties to file replies to the exceptions or briefs. Unless otherwise indicated, exceptions, replies to exceptions, and related briefs must be filed within deadlines established by the ALJ. The ALJ may amend the PFD and proposed final order in response to the exceptions, replies, or briefs submitted. If the ALJ makes substantive revisions, the ALJ shall circulate the amended PFD and proposed final order to the parties for additional exceptions and briefs before submitting the PFD and proposed final order to the Commissioner.

(b) No additional briefs may be submitted after the case is under submission to the commissioner for decision unless requested by the commissioner. The commissioner may:

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- (1) Adopt the PFD and proposed final order, in whole or in part;
 - (2) Modify and adopt the PFD and proposed final order, in whole or in part;
 - (3) Decline to adopt the PFD and proposed final order, in whole or in part;
 - (4) Remand the proceedings for further examination by the ALJ, including for the limited purpose of receiving additional briefing or evidence from the parties on specific issues; or
 - (5) Take another lawful and appropriate action with regard to the case.
- (c) The commissioner shall make a final determination within 30 days of the date of receipt of the PFD and proposed final order.

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C. APPEALS OF PRELIMINARY DETERMINATION ON
APPLICATION

93.301. Finality and Request for SOAH Hearing. Except as provided otherwise by this chapter, the preliminary decision of the commissioner becomes final 20 days from the date of service, unless prior thereto, an applicant or protestant files with the commissioner a written request for hearing. The commissioner may, at the commissioner's sole discretion, refer any matter to SOAH for hearing prior to entering a preliminary decision when a hearing is requested by a party, whether or not it has been referred to ADR.

93.302. Referral to ADR. The commissioner may order the parties to participate in non-binding ADR if the commissioner determines that any two of the following conditions are present:

- (1) the parties have not engaged in meaningful negotiation;
- (2) the controversy is reasonably susceptible to compromise or resolution; or
- (3) ADR may produce cost savings.

Change 11—August 9, 1999

93.303. Hearings of Applications to Incorporate, Amend Bylaws, Or Merge or Consolidate.

(a) If ADR is not utilized or fails to resolve the controversy, the commissioner shall furnish to the ALJ all information upon which the preliminary decision was based.

(b) The ALJ shall consider this information along with the evidence developed at the hearing in preparing a proposal for decision.

(c) Burden of Proof for Unprotested Applications. The applicant must establish by a preponderance of the evidence all statutory criteria.

(d) Burden of Proof for Protested Applications. The applicant must establish by a preponderance of the evidence the criteria set forth in the applicable statutes and rules. In cases in which field of membership is at issue, the protestant must establish by a preponderance of the evidence that overlapping fields of membership will unreasonably harm the protestant.

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93.304. Appeals of Applications for Certificates of Authority. If ADR is not utilized or fails to resolve the controversy, whether the application is unopposed or opposed, the applicant for a certificate of authority must establish by a preponderance of the evidence the criteria set forth in 91.211(c) of this title (relating to Application for a Certificate of Authority to Do Business in the State of Texas).

93.305. Appeals of All Other Applications for Which No Specific Procedure Is Provided by This Title. If ADR is not utilized or fails to resolve the controversy, whether the application is opposed or unopposed, the applicant has the burden of proof.

D. APPEALS OF CEASE AND DESIST ORDERS AND
ORDERS OF REMOVAL

93.401. Appeals Of Cease And Desist Orders And Orders Of Removal.

(a) The commissioner's cease and desist order or order of removal is final, unless within ten days of service of the order, the board of directors or the person removed files a written request for hearing to the commissioner's order.

(b) If a request for hearing is filed, the commissioner shall forward the matter to SOAH to set a hearing.

(c) The hearing on a cease and desist order or order of removal is closed to the public. The orders and correspondence and records relating thereto are confidential and cannot be revealed to the public.

(d) At the hearing, the commissioner has the burden to prove by a preponderance of the evidence the violations or unsafe or unsound practices that justify the cease and desist order or order of removal.

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93.402. Stays. Where an order by its terms, by statute or by these rules will become effective before a hearing can be held, any aggrieved party who has filed a timely request for hearing under this chapter may file a written request with the Commissioner to stay the effectiveness part or all such order until the matter has been heard and a final decision issued. The Commissioner may grant a stay where the respondent has adequately demonstrated that the respondent has a reasonable defense which might result in his prevailing on the merits at the hearing; the respondent will be irreparably injured in the absence of the stay; the stay would not substantially or irreparably harm other interested persons; and the stay would not jeopardize the public interest or contravene public policy.

E. APPEALS OF ORDERS OF CONSERVATION

93.501. Request for Hearing to Appeal an Order of Conservation.

(a) The commissioner's order of conservation is final, unless, within 20 days of service of the order, the credit union's former board of directors files a written request for hearing.

(b) If a request for hearing is timely filed, the commissioner shall forward the matter to SOAH to set a hearing not sooner than ten days nor more than 30 days from the date of receipt of the request for hearing.

(c) The credit union's former board of directors has the burden to prove by a preponderance of the evidence that the board should regain control of the credit union.

(d) The SOAH hearing on an order of conservation is closed to the public. The ALJ shall limit those in attendance at the hearing to persons deemed necessary to administer and record the proceedings, represent the parties' interests and present relevant evidence. All orders and correspondence relating thereto are confidential and may not be revealed to the public.

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(e) The deadline for filing exceptions to the PFD shall be within five days of the date of service of the PFD. Replies to exceptions shall be filed within 8 days of the date of service of the PFD.

F. APPEAL OF COMMISSIONER'S FINAL DETERMINATION
TO THE COMMISSION

93.601. Motion for Appeal to the Commission.

(a) A motion for appeal to the Commission must be filed with the Commissioner within ten days of service of the Commissioner's final determination.

(b) The motion must state the identities and interests of the parties, the particular matters complained of, any specific objections, and the action sought from the Commission.

93.602. Decision by the Commission. The commission may consider any aspect of the case whether or not included in the motion for appeal. Decisions by the commission must be based solely on the hearing record. The commission may adopt or decline to adopt, with or without changes, all or part of the commissioner's decision or the ALJ's proposed for decision and the underlying findings of fact and conclusions of law. The commission may remand the proceeding for further consideration by the commissioner with or without reopening the hearing.

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93.000-21

93.603. Oral Arguments before the Commission. The Commission will not entertain oral argument unless oral argument is granted on a written motion of a party. A written request for oral argument must be received by the Commissioner at least 15 days before the scheduled commission meeting and state the length of time the party seeks. The commission may deny the request for oral argument but request that the parties be present at the meeting at which the case is to be considered to address any questions that commission members may have.

93.604. Motion for Rehearing.

(a) A party may file a motion for rehearing in accordance with the procedures of Administrative Procedures Act 2001.146.

(b) A party may file a motion for rehearing with the commission not later than 20 days after the date on which the party or the party's attorney was notified of the final decision of the commission. A reply to a motion for hearing must be filed not later than the 30th day after the party or party's attorney was notified of the final decision of the commission. The commission shall act on a timely filed motion for rehearing not later than the 45th day after the date on which the party or the party's attorney was notified of the final decision. A timely filed motion for rehearing is overruled by operation of law if

the commission does not act on it within the 45 day period or another period that is ordered by the commission upon the agreement of the parties.

(c) The Commission by written order may shorten the times for filing motions for rehearing and replies and for commission action or overruling by operation of law, provided all parties agree in writing to the modifications.

93.605. Final Decisions and Appeals.

(a) The Commission's decision is final and appealable:

(1) if a motion for reconsideration is not filed on time, upon the expiration of the period for filing a motion for rehearing; or

(2) if a motion for rehearing is filed on time, upon the date the order overruling the motion for reconsideration is rendered; the decision on the motion for rehearing is not rendered before the expiration of the deadline; or the motion is overruled by operation of law.

(b) A person who is aggrieved by a final decision of the commission in a contested case may seek judicial review of the decision. Judicial review of a final decision is under the substantial evidence rule.

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95.100-1

A. INSURANCE REQUIREMENTS

§95.100. Account Insurance.

(a) Before commencing business, a credit union must provide evidence to the commissioner that an insurance commitment has been obtained for its share and deposit accounts by an insuring organization which has been approved by the commissioner or, alternatively, by the National Credit Union Administration under Title II of the Federal Credit Union Act (12 USC Section 1781 et. seq.).

(b) Any credit union that fails to maintain in full force and effect share and deposit insurance as provided in this section shall cease accepting deposits and making loans immediately and shall terminate its corporate existence in this state under such terms and conditions as the commissioner deems appropriate.

(c) As used in this section an insuring organization is an organization that provides aid and financial assistance to credit unions that are in the process of liquidation or are incurring financial difficulty in order that the share and deposit accounts in the member credit unions shall be protected or guaranteed against loss up to a specified level for each account.

Change 12 – November 11, 1999

B. LIQUIDATING AGENTS

§95.200. Appointment of Liquidating Agent.

If the commissioner finds that the closing of a credit union and the liquidation of the credit union's assets are in the public interest and the best interest of the credit union members, depositors, and creditors, the National Credit Union Administration or, alternatively, the insuring organization shall be appointed liquidating agent for the purpose of liquidation or the winding up of the affairs of the credit union.

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95.300-1

C. GUARANTY CREDIT UNION

§95.300. Share and Deposit Guaranty Credit Union.

(a) The commissioner may authorize, with the advice and consent of the commission, the establishment of a share and deposit guaranty credit union. The charter shall be granted only on proof satisfactory to the commissioner that member credit union convenience and advantage will be promoted by the establishment of the guaranty credit union. In determining whether the convenience and advantage will be promoted, the commissioner shall consider:

- (1) Whether the organizational and capital structure and amount of initial capitalization is adequate for the business;
- (2) Whether the anticipated volume and nature of business indicates a reasonable probability of success and profitability based on the credit unions sought to be served;
- (3) Whether the credit union's guarantee fund and reserves are actuarially reasonable and computed in accordance with accepted loss reserving standards and principles;
- (4) Whether the long-term financial condition of the entity would prejudice the interest of member credit unions;

Change 12—November 11, 1999

(5) Whether the proposed officers, directors, and managers have sufficient fiduciary experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the guaranty credit union will operate in compliance with law and that the long term success of entity is probable; and

(6) Whether the organizers are acting in good faith.

(b) The organizers bear the burden of proof to establish that the chartering of the guaranty credit union will promote credit union member convenience and advantage. The failure of an applicant to furnish required information, data, professional opinions, and other material is considered an abandonment of the application.

(c) The commissioner may require for submission to the department of public safety the name and fingerprints of any organizer, director or officer of any guaranty credit union.

(d) The commissioner may, in approving a guaranty credit union, impose such conditions as he deems reasonable, necessary, or advisable in the public interest.

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§95.301. Authority for a Guaranty Credit Union.

If a guaranty credit union is authorized, the commissioner shall issue a charter which shall provide that said guaranty credit union shall operate as a central credit union including share and deposit guaranty insurance protection for members subject to supervision, regulation, and examination by the department

§95.302. Powers.

(1) Purchase, hold, lease, receive, use, encumber, sell, exchange, transfer, lend, advance, convey, assign, give, grant, transmit, hypothecate, or dispose of property or funds of any description, nature, or kind or of any interest, rights, title, or privileges therein from or to any member credit union or any corporation, association, or person, provided that any gift, grant, or transfer of a similar nature shall be made only with the approval of the commissioner;

(2) Declare and pay dividends on the membership investment fund;

(3) Make any type of investment authorized by law for a credit union chartered in this state;

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(4) Act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, custodian, or as depository for any money paid into court for member credit unions;

(5) Accept funds or money for deposit by fiduciaries, trustees, or receivers if managing or holding funds on behalf of a member credit union;

(6) Accept funds or money for deposit by financial institutions, trust companies, or insurance companies, if membership or primary ownership of the institutions, associations, or companies is confined or restricted to or for the benefit of member credit unions or organizations of member credit unions, or if the institutions, associations, or companies are designed to serve or otherwise assist operations of member credit unions;

(7) Act as custodian of individual retirement accounts or of pension funds of member credit unions, or as trustee under pension and profit sharing plans of member credit unions;

(8) Make deposits, purchase shares, and invest in legally chartered credit unions, trust companies, or other financial institutions;

(9) Impress a lien or exercise its right of setoff on the deposits, dividends, and interest of any member credit union to the extent of any loans or other obligations due by the member credit union;

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(10) Make or issue, with the approval of the commissioner, a guarantee or other form of written assurance to the appropriate person, association, corporation, or other entity which is reasonably necessary to facilitate the sale, conveyance, assignment, transfer, or other disposition of all or any part of the property or assets of a member credit union, and otherwise assist in the merger, consolidation, conservation, suspension, or liquidation of a member credit union upon the request and under the instruction of the commissioner;

(11) Advance funds, with or without interest, in accordance with agreed terms and conditions, to aid member credit unions to continue to operate and to maintain solvency or to maintain account balances with any financial institution in connection with the assumption of receivables from a member credit union, or to meet liquidity requirements;

(12) Purchase from a member credit union any equitable or other interest in its assets at book value or at some other value mutually agreed upon by such member and the board of directors of the guaranty credit union, notwithstanding that either of such values may exceed the market value of the assets so purchased, and upon such terms and conditions as the board of directors of the guaranty credit union may determine, provided, however, that all such terms, conditions, agreements and values are approved in writing by the commissioner;

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(13) Exercise any setoff or lien rights that a member credit union may have when the guaranty credit union is acting as conservator or liquidating agent for such credit union;

(14) Exercise rights of subrogation to the extent of all rights the depositors or shareholders may have against a member credit union to the extent of any payments made by the guaranty credit union to the depositors or shareholders of such credit union, including the right to receive the same dividends, as would have been payable to the depositor or shareholder;

(15) Raise any defense to the payment of a claim or an insured account which a member credit union could have raised, and when made, the actual payment of an insured account to any person by the guaranty credit union shall discharge the guaranty credit union to the same extent that payment to such person by the member credit union would have discharged it from liability for the insured account;

(16) Acquire a promissory note or other asset upon which a nonmember is liable, provided such acquisition is made, in the discretion of the guaranty credit union, to protect an inferior lien held by the guaranty credit union, a member of the guaranty credit union, or a member of a member of the guaranty credit union. Such acquisitions shall not be subject to the restrictions of §91.701 et. seq. of this title (relating to Loans);

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(17) Enter into contracts of insurance or reinsurance, insuring in whole or in part its contractual guarantees to member credit unions and any other insurance or bonding company contracts necessary or advisable in the conduct of its business, provided a guaranty credit union shall not assume any risks from another insurer; and

(18) Exercise the powers granted corporations organized under the laws of this state and such other additional incidental powers not inconsistent with these sections and Subtitle D, Title 3, Texas Finance Code, as may be necessary to enable the guaranty credit union to promote and carry out effectively its purposes.

§95.303. Subordination of Right, Title, or Interest.

No agreement which tends to diminish or defeat the right, title or interest of the guaranty credit union in any asset acquired by it, either as security for a loan or by purchase, shall be valid against the guaranty credit union unless such agreement shall be in writing; shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union; shall have been approved by the board of directors of the credit union with such approval reflected in the minutes of said board; and shall have been, continuously, from the time of its execution, an official record of the credit union.

Change 12—November 11, 1999

§95.304. Accounting for Membership Investment Shares.

Membership investment shares of member credit unions shall be established as pledged assets with appropriate explanatory footnotes on the books and records and in the financial statements of the member credit unions. The guaranty credit union may utilize all of the assets of the guaranty credit union and accordingly reduce the membership investment shares of all member credit unions, as required, in the discretion of its board of directors, and utilize such assets in accordance with the powers of the guaranty credit union as set out in these rules.

§95.305. Audited Financial Statements; Accounting Procedures; Reports.

(a) A guaranty credit union shall file with the commissioner annually audited financial statements, prepared in accordance with generally accepted accounting principles covering the fiscal year, within one hundred days after the close of such fiscal year. The audited financial statements shall be accompanied by an opinion of an independent certified public accountant.

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(b) If the opinion of the certified public accountant is other than unqualified pursuant to generally accepted auditing standards, the commissioner shall require the guaranty credit union to take such action as is considered appropriate to permit the removal of such qualification from the opinion.

(b) The annual audit of the guaranty credit union shall include an actuarial study of the capital adequacy of the credit union.

(c) All of the provisions of this section are in addition to those prescribed in Section 91.209 of this title (relating to Reports and Charges for Late Filing).

§95.306. Requirements of Member Credit Unions.

(a) Every member credit union shall conspicuously display at each place of business a sign or signs indicating that its share and deposit accounts are cooperatively insured by the guaranty credit union. The commissioner shall prepare a standard sign for use by member credit unions.

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(b) At the time an account is established, a member credit union shall provide written notice to its members that the share or deposit account will be cooperatively insured by the guaranty credit union. The notice shall also indicate that such accounts are not backed, insured, or guaranteed by this State or the federal government.

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CHAPTER 97

Subchapter A. General Provisions

§97.101. Meetings.

The time and place of regular and special meetings of the Commission and its committees shall be determined by the applicable chair and posted in accordance with the Open Meetings Act (Government Code, Chapter 55 1). The minutes of each meeting shall be in writing and available to any person to examine during the Department's regular office hours.

Source: The provisions of this §97. 101 adopted to be effective March 8, 1984, 9 TexReg 1211; amended to be effective July 8, 1994, 19 TexReg 4946; amended to be effective December 9, 2001, 26 TexReg 9777

§97.102. Delegation of Duties.

The Commissioner is authorized to complete all filings necessary to facilitate the rule making powers of the Commission. The Commissioner may draft and sign final adoption orders and other such instruments where delegation is not restricted by statute or rule. Notwithstanding other provisions of this rule, this authority is conveyed to promote administrative efficiency and to expedite properly approved decisions of the Commission only.

Source: The provisions of this §97.102 adopted to be effective May 4, 1995, 20 TexReg 3015; readopted to be effective June 19, 2001, 26 TexReg 4886.

§97.103. Recusal or Disqualification of Commission Members.

(a) A commission member may not vote on or otherwise participate in the deliberation or decision of a matter pending before the commission:

- (1) in which the commission member has a personal or private interest; or
- (2) which directly affects the credit union of which the commission member is an officer, director, or member.

(b) The term "personal or private interest" shall be given the meaning as prescribed in Texas Government Code, Section 572.058, and includes a direct personal or financial interest in a credit union or other matter which is the subject of commission action.

(c) A commission member who is disqualified under subsection (a) of this section shall publicly disclose the fact to the commission in a meeting called and held in compliance with the Open Meetings Act, Texas Government Code, Chapter 55 1. The disclosure shall be entered in the minutes of the meeting.

(d) A commission member who is recused or disqualified will be counted in determining a quorum.

Source: The provisions of this §97.103 adopted to be effective February 17, 1998, 23 TexReg 1303; readopted to be effective June 19, 2001; 26 TexReg 4886.

§97.105. Frequency of Examination.

The department shall perform an examination of each credit union authorized to do business under the Act at least once each year. Intervals between examinations shall not exceed 18 months, unless a longer interval is authorized in writing by the commission. In lieu of conducting an examination required by this rule, the commissioner in the exercise of discretion may accept examinations or reports from other credit union supervisory agencies or insuring organizations.

Source: The provisions of this §97.105 adopted to be effective March 8, 1984, 9 TexReg 1211; amended to be effective December 9, 2001, 26 TexReg 9777.

§97.106. Complaint Notice.

(a) Every credit union shall post, in its principal place of business and all other offices and service facilities, a public notice which provides the name, address, and telephone number of the department. The notice shall further inform members that complaints to the department may be directed to that address or telephone number.

(b) The notice shall be printed in at least 14-point type or larger, and shall be clearly visible in a public entrance or lobby area. The commissioner shall prescribe the design and content of the notice to be used for this purpose.

Source: The provisions of this §97.106 adopted to be effective February 17, 1998, 23 TexReg 1304; readopted to be effective June 19, 2001, 26 TexReg 4886.

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Subchapter B. Fees

§97.113. Operating Fees.

(a) Remittance of fees. Each credit union authorized to do business under the Act shall remit to the Credit Union Department an annual operating fee. The fee shall be paid in semi-annual installments as billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Such installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commissioner is authorized to increase or decrease the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

<u>For Credit Unions with Total Assets Of:</u>	<u>The Operating Fee is:</u>
Less than \$200,000	\$200
\$200,000 but less than \$500,000	\$450 + \$2.21 per \$ 1,000 of the amount over \$200,000
\$500,000 but less than \$1M	\$1,113 + \$.85 per \$1,000 of the amount over \$500,000
\$1M but less than \$2.5M	\$1,538 + \$.37 per \$1,000 of the amount over \$1M
\$2.5M but less than \$5M	\$2,093 + .35 per \$1,000 of the amount over \$2.5M
\$5M but less than \$ 10M	\$2,968 + \$.32 per \$1,000 of the amount over \$5M
\$10M but less than \$25M	\$4,568 + \$.14 per \$1,000 of the amount over \$10M
\$25M but less than \$50M	\$6,668 + \$.17 per \$1,000 of the amount over \$25M
\$50M but less than \$100M	\$10,918 + \$.19 per \$1,000 of the amount over \$50M

\$100M but less than \$250M	\$20,418 + \$.082 per \$1,000 of the amount over \$100M
\$250M but less than \$500M	\$32,718 + \$.076 per \$1,000 of the amount over \$250M
\$500M but less than \$750M	\$51,718 + \$.074 per \$1,000 of the amount over \$500M
\$750M but less than \$1,000M	\$69,468 + \$.071 per \$1,000 of the amount over \$750M
\$1,000M and over	\$87,218 + \$.069 per \$1,000 of the amount over \$1,000M

(c) Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(d) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of actual revenues to date and projected revenues for the remainder of the fiscal year, lower the amount of the final installment due from credit unions.

(e) Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of \$40 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by Section 91.210 of this title (relating to Certificate of Authority to Do Business in the State of Texas) shall pay an annual operating fee of \$500 per branch office.

(g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) shall apply to converting credit unions with the following exceptions:

(1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

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(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seventy twelfths of the amount of the operating fee calculated using December 31 base date.

(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(h) In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before September 1, the surviving credit union shall remit to the department the amount that the merging/consolidating credit union would have paid if it had still been in existence on September 1.

(i) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

(j) Foreign credit union fee for field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$200. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with a hearing conducted at the request of the applicant.

(k) Foreign credit union examination fees.

(1) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplement charges to cover the cost of time and expenses incurred in the examination.

(2) The foreign credit union shall pay a fee of \$40 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(3) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(l) Contract Services. In addition, the commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related parties the actual cost incurred by the Department for an examination or a review of all or part of the operations or activities of a credit union, a foreign credit union or related parties that is performed under a personal services contract entered into between the Department and third parties.

Source: The provisions of this §97113 adopted to be effective November 13, 2000, 25 TexReg 11279; amended to be effective December 9, 2001, 26 TexReg 9777.

§97.114. Charges for Public Records.

(a) **Reproduction Charges.** Copies of documents not excepted from disclosure by the Texas Public Information Act (Government Code, Chapter 552) may be obtained upon written request to the department at rates established by the General Services Commission in I TAC Sections 111. 61 111.70 (relating to Copies of Public Information) or other applicable law.

(b) **Charge for Fax Transmittal.** On request, the agency may transmit a form or other document by facsimile (FAX) machine to the person making the request. The charge for this service is \$.10 per page for local telephone delivery, \$.50 per page for telephone delivery within the same area code, and \$1.00 per page for telephone delivery to a different area code, excluding any cover or transmittal page.

(c) **Service Charges.**

(1) For copies of more than 50 pages of readily available information, a charge of \$15 per hour of personnel time spent locating, copying, and preparing the information for delivery or inspection shall be added to charges specified by subsections (a) and (b) of this section.

(2) For copies of information that is not readily available, a charge of \$15 per hour of personnel time spent locating, copying, redacting confidential information, and preparing the information for delivery or inspection including computer time, if applicable, plus \$3.00 per hour for overhead, plus \$.50 per minute of computer time (if applicable) shall be added to the charges specified by subsections (a) and (b) of this section.

(3) If certification of copies is requested, an additional charge of \$5.00 per document will be added to the computed fee.

(4) If the anticipated charges under this section exceed \$100, the department may require a bond for payment of costs or cash prepayment equal to the total anticipated charges prior to release of the requested information.

(d) **Delivery charges.**

(1) U.S. Mail. When copies are required to be mailed, the cost of postage will be added to the computed fee.

(2) Expedited delivery. When copies are required to be sent by overnight courier or other expedited delivery, the cost of the service will be added to the computed fee unless the requestor furnishes a recipient billing number for use by the department in delivering the copies to the carrier.

(e) **Request for Information.** The following guidelines apply to requests for records under the Open Records Act (Government Code, Chapter 552).

(1) Request must be in writing and reasonably identify the records requested.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the department.

(4) Generally, unless confidential information is involved, review may be by physical access or by duplication, at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will only be provided the option of receiving copies by duplication.

(5) When the safety of any public record is at issue, physical access may be denied, and the records will be provided by duplication as previously described.

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(6) Confidential files will not be made available for inspection or for duplication unless required by a court order or Attorney General directive.

(f) Waiver of Fees or Charges. The commissioner may waive or reduce an established charge when, in his or her discretion, a waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public. The fee may also be waived if the cost of processing the collection of a charge will exceed the amount of the charge.

Source: The provisions of this §97.114 adopted to be effective September 1, 1994, 19 TexReg 6557; amended to be effective December 9, 2001, 26 TexReg 9778.

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Subchapter C. Department Operations

§97.200. Employee Training Program.

(a) Components of program. The employee training program for the department consists of one or more of the following components:

- (1) Agency-sponsored training to include in-house training sessions and on-the-job training;
- (2) Formal training program conducted through the National Credit Union Administration as administrator of the National Credit Union Share Insurance Fund.
- (3) Seminars and conferences; and
- (4) Formal course of study at an institution of higher education or a private or independent institution of higher education.

(b) In order for the cost of training and the time related to that training to be reimbursed by the department, the employee must demonstrate that the course has direct applicability to the employee's job with the department. Attendance at an approved training session described in subsection (a)(1)-(3) will be considered part of the employee's normal work duties and will not require the employee to use accrued leave to attend.

(c) Requests to attend an external training program, seminar or conference pursuant to this section must be approved by the commissioner. Approval of a request is contingent upon availability of funds. If limited funds are available, and more than one employee wishes to participate, a decision regarding who will attend will be based upon the extent of their previous use of funds, the training's merit and its value to the departments operations.

(d) Continuing education courses. Continuing education courses required by licensing or certifying bodies for employees to maintain a professional license or designation will only be reimbursed if such courses relate directly to the employee's job duties with the department and there are funds available.

(e) Tuition reimbursement.

(1) The department may reimburse full-time employees for part or all of tuition and required fees for formal courses of study described in subsection (a)(4) provided the eligibility criteria set forth below are met.

(A) An employee must have completed 24 consecutive months of full-time employment with the department prior to requesting approval to receive tuition reimbursement. However, the 24-month requirement may be waived if the commissioner finds that the employee needs a particular course to fulfill his or her work duties.

(B) An employee must be performing consistently above that normally expected or required and must have achieved an overall performance rating of at least 3.50 on the employee's most recent performance evaluation.

(C) An employee must not have been subject to formal disciplinary action for at least twelve months prior to requesting approval. As used in this section, "disciplinary action" includes a formal written reprimand, suspension without pay, or salary reduction for disciplinary reasons.

(D) The course work must be related to a current or prospective duty assignment within the department.

(E) An employee, before the course begins, must agree in writing to the repayment requirement stated in paragraph 3 of this subsection.

(F) At the time of the request for approval to receive tuition reimbursement, comparable training must not be scheduled to be offered in-house or through the National Credit Union Administration during the period of time covered by the tuition reimbursement.

(G) The employee's participation must not adversely affect workload or performance.

(H) The employee must complete the course within the semester for which tuition reimbursement was requested.

(I) The employee must receive a passing grade in the course. A passing grade is a grade which will entitle the employee to receive credit for the course from the educational institution offering the course.

(2) Reimbursable costs. Criteria addressing the extent to which cost of tuition may be reimbursed are as follows:

(A) The maximum amount an employee may be reimbursed for an approved tuition reimbursement request is \$250 per semester, not to exceed \$500 per fiscal year. The maximum amount of reimbursement may be increased up to \$400 per semester for good cause shown upon approval by the commissioner.

(B) Reimbursable costs include tuition, related fees, and required textbooks and workbooks. Employees will not be reimbursed for auditing a course.

(C) Costs described in subparagraph (2)(B) will be paid to the employee at the completion of the course upon the employee submitting proof that the course was completed and a passing grade was received.

(3) Repayment. Should an employee separate from department service within 12 months of completion of the course, the employee must reimburse the department for all reimbursable costs expended by the department for that course in accordance with section 656.103 of the Texas Government Code (relating to Restrictions on Certain Training Costs). The commission may adopt an order waiving this requirement upon finding that such action is in the best interest of the department or is warranted because of an extreme personal hardship suffered by the employee.

(4) Prohibition on use of state resources. Employees may not use department equipment, such as computers, calculators or typewriters to complete course work.

Source: The provisions of this §97.200 adopted to be effective February 16, 2000, 25 TexReg 91099; readopted to be effective June 19, 2001, 26 TexReg 4886.

§97.205. Use of Historically Underutilized Businesses.

Pursuant to Chapter 2161 of the Government Code, the Department hereby incorporates by reference the rules of the General Services Commission, I TAC §§111.11-111.28, or any successor rules, regarding historically underutilized businesses. The Department shall comply, to the extent applicable, with the requirements of these rules when purchasing goods and services that are paid for with State appropriated money.

Source: The provisions of this §97.205 adopted to be effective November 13, 2000, 25 TexReg 11279.

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TEXAS FINANCE CODE

Credit Unions



Credit Union Department
State of Texas
Act of 1999, As Adopted by
The 76th Legislature

Effective September 1, 1999

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JUL 16 2002



CREDIT UNION DEPARTMENT

DATE: December 31, 2001

TO: State Chartered Credit Unions

SUBJECT: Change 1 to Update the Texas Finance Code.

The attached pages constitute changes to the Finance Code. Your book of rules should be updated as follows:

REMOVE OLD PAGES

9 and 10 (under Title 2 Chapter 15) Tab

INSERT NEW PAGES

9 (under Title 2 Chapter 15) Tab ✓
10 (under Title 3 Subtitle D) Tab ✓

FOR YOUR RECORDS - Please keep this letter of transmittal in front of the Rules Tab of your binder as a record to show your rules are up to date.

Additional copies of the Finance Code can be obtained from the Texas Credit Union League, P.O. Box 655147, Dallas, Texas 75265.

JUL 31 2002
Done/Stone

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CHAPTER 15. CREDIT UNION COMMISSION AND DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 15.001. DEFINITIONS.

(a) In this chapter, "trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) The definitions provided by Section 121.002 apply to this chapter.

SUBCHAPTER B. DEPARTMENT

Sec. 15.101. COMPOSITION OF DEPARTMENT.

The department is composed of:

- (1) the commission;
- (2) the commissioner; and
- (3) other department officers and employees.

Sec. 15.102. REGULATION OF CREDIT UNIONS.

The department shall supervise and regulate credit unions as provided by this chapter and Subtitle D, Title 3.

Sec. 15.103. STUDY OF STATUTES.

The department periodically shall comprehensively study the statutes of this state as they pertain to credit union operations.

Sec. 15.104. FISCAL REPORT.

(a) The department shall annually prepare a complete and detailed written report accounting for all money received and disbursed by the department during the preceding year.

(b) The report must meet the reporting requirements applicable to financial reporting provided by the General Appropriations Act.

SUBCHAPTER C. COMPOSITION OF COMMISSION

Sec. 15.201. APPOINTMENT; TERMS.

(a) The commission is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) Commission members serve staggered terms of six years, with the terms of one-third of the members expiring February 15 of each odd-numbered year.

(c) An appointment to the commission must be made without regard to the race, color, creed, disability, sex, religion, age, or national origin of the appointee.

Sec. 15.202. GENERAL QUALIFICATIONS OF COMMISSION MEMBERS.

(a) No two commission members may be residents of the same state senatorial district.

(b) A commission member may not be:

- (1) an officer, employee, or paid consultant of a trade association representing or affiliated with a financial institution group or an entity affiliated with financial institutions;
- (2) a spouse of an officer, manager, or paid consultant of a trade association representing or affiliated with a financial institution group or an entity affiliated with financial institutions; or
- (3) a person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Sec. 15.203. QUALIFICATIONS OF INDUSTRY COMMISSION MEMBERS.

(a) Four commission members must be individuals who:

- (1) have five years or more of active experience as a director, officer, or committee member of a credit union that:
 - (A) is organized and doing business in this state under Subtitle D, Title 3, or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.); and
 - (B) has its principal office in this state; and
- (2) are engaged in exercising the powers and duties of a director, officer, or committee member of such a credit union.

(b) Experience as a commissioner, deputy commissioner, or examiner is equivalent to the experience required by Subsection (a).

(c) Not more than one individual from a federal credit union may serve on the commission at any time.

(d) An individual who ceases to be engaged in exercising the powers and duties prescribed by this section for a period exceeding 90 days becomes ineligible to serve as a commission member, and the individual's position on the commission becomes vacant.

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Sec. 15.204. QUALIFICATIONS OF PUBLIC COMMISSION MEMBERS.

(a) Five commission members must be representatives of the public. A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

- (1) is employed by or participates in managing or directing:
 - (A) a financial institution; or
 - (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency;
- (2) has, other than as a member or customer, a financial interest in:
 - (A) a financial institution; or
 - (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency; or
- (3) uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) The governor shall appoint public commission members on the basis of recognized business ability.

(c) In this section, "financial institution" includes an institution such as a credit union, bank, or savings and loan association.

Sec. 15.2041. TRAINING PROGRAM.

(a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section. A commission member must complete a training program that complies with Subsection (b) not later than the 180th day after the date on which the person takes office.

(b) A training program established under this section must provide information to the member regarding:

- (1) the enabling legislation that created the department and its policy-making body to which the member is appointed to serve;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code;
 - (B) open records law, Chapter 552, Government Code; and
 - (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials;

- (9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and
 - (10) the basic principles and responsibilities of credit union management.
- (c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.

Sec. 15.205. VACANCIES.

The office of a commission member becomes vacant:

- (1) on the death, resignation, or removal of the member; or
- (2) if the member ceases to have the qualifications required for service as a member.

Sec. 15.206. REMOVAL.

(a) A ground for removal of a commission member by the governor exists if a member:

- (1) neglects the member's duty;
- (2) is incompetent; or
- (3) commits fraudulent or criminal conduct.

(b) It is grounds for removal from the commission if a member:

- (1) does not have at the time of appointment the applicable qualifications required by Sections 15.202, 15.203, and 15.204;
- (2) does not maintain during service on the commission the applicable qualifications required by Sections 15.202, 15.203, and 15.204;
- (3) violates a prohibition established by Section 15.202, 15.203, or 15.204;
- (4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

(c) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a commission member existed.

(d) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 15.207. EXPENSES AND COMPENSATION OF COMMISSION MEMBERS.

(a) A commission member may not receive compensation or a benefit because of the member's service on the commission except as provided by Subsection (b).

(b) For each day that a commission member engages in the business of the commission, the member is entitled to:

- (1) per diem, including compensatory per diem;
- (2) actual expenses for meals and lodging; and
- (3) transportation expenses.

(c) Compensation and expenses under Subsection (b) shall be in the amount set by legislative appropriation.

Sec. 15.208. MATTER IN WHICH COMMISSION MEMBER HAS PERSONAL INTEREST.

(a) A commission member may not act on a matter under the commission's consideration that directly affects a credit union of which the member is an officer, director, or member.

(b) The commission shall adopt rules relating to recusal of members, requiring that a member who has a personal or private interest in a measure, proposal, or decision pending before the commission shall publicly disclose the fact to the commission at a meeting held in compliance with Chapter 551, Government Code. The member may not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes of the meeting.

Sec. 15.209. MEETINGS.

(a) The commission shall hold at least two regular meetings each year.

(b) The chairman, the commissioner, or five commission members may call a special meeting of the commission.

(c) The commission shall adopt reasonable rules governing a meeting, including rules relating to the:

- (1) time and place of a meeting;
- (2) conduct of a meeting; and
- (3) form of the minutes.

(d) The commission is subject to the:

- (1) open meetings law, Chapter 551 Government Code; and
- (2) administrative procedure law, Chapter 2001, Government Code.

Sec. 15.210. PRESIDING OFFICER.

The governor shall designate a member of the commission as presiding officer of the commission to serve in that capacity at the will of the governor.

Sec. 15.211. SUIT FOR OFFICIAL ACT OR OMISSION.

(a) The attorney general shall defend an action brought against a commission member or an officer or employee of the commission because of the person's official act or omission regardless of whether the individual is a member, officer, or employee of the commission at the time the action is initiated.

(b) A suit against the commission or its officers or employees may be brought only in Travis County.

Sec. 15.212. SUNSET PROVISION.

The Credit Union Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2009.

**SUBCHAPTER D. COMMISSIONER AND OTHER
EMPLOYEES OF COMMISSION**

Sec. 15.301. COMMISSIONER.

(a) The commission shall appoint a commissioner by affirmative vote of two-thirds of the membership of the commission.

(b) The commissioner serves at the will of the commission.

(c) The commissioner is an employee of the commission and is subject to the commission's orders and directions.

Sec. 15.302. QUALIFICATIONS OF COMMISSIONER.

(a) The commissioner must have at least five years' practical experience in the operation of credit unions during the 10 years preceding the commissioner's appointment.

(b) The experience required by this section may consist of experience:

(1) in exercising the powers and duties of a director, officer, or committee member of a credit union; or

(2) in the employment of a credit union regulatory agency.

(c) The commissioner may not:

(1) be a salaried officer, employee, or consultant of a trade association in the credit union industry; or

(2) be related within the second degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to a person who is a salaried officer, employee, or consultant of a trade association in the credit union industry.

Sec. 15.303. DEPUTY COMMISSIONER.

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(a) Subject to the commission's approval, the commissioner may appoint a deputy commissioner, who must have the qualifications required of the commissioner.

(b) The deputy commissioner serves at the will of the commissioner and, at the commissioner's direction, may exercise the powers and prerogatives of the commissioner.

(c) The deputy commissioner is an employee of the commission and is subject to the commission's orders and directions.

(d) During the commissioner's absence or inability to act, the deputy commissioner shall perform the commissioner's duties.

Sec. 15.304. EXAMINERS.

(a) The commissioner shall appoint a sufficient number of credit union examiners to perform fully the duties imposed by the laws of this state.

(b) Appointment of an examiner is subject to recruitment specifications and qualifications approved by the commission.

(c) An examiner is an employee of the commission and is subject to the commission's orders and directions.

Sec. 15.305. GENERAL COUNSEL.

A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission, may not serve as general counsel to the commission.

Sec. 15.306. OATH; BOND.

(a) Before assuming the duties of office, the commissioner, the deputy commissioner, each examiner, and each other officer or employee of the commission must:

- (1) take an oath of office approved by the commission; and
- (2) post a fidelity bond in the amount of \$10,000.

(b) The bond must:

- (1) be payable to the governor;
- (2) be in individual, schedule, or blanket form approved by the commission; and
- (3) be executed by a surety appearing on the list of approved sureties acceptable to the federal government.

(c) Premiums for the bond are paid from the money of the department.

Sec. 15.307. OFFICERS OF COMMISSION AND DEPARTMENT.

Each officer of the commission and department, except a commission member, is an employee of the commission and is subject to the commission's orders and directions.

Sec. 15.308. COMPENSATION OF EMPLOYEES.

(a) The commission shall set the compensation of the commissioner and deputy commissioner. The compensation shall be paid according to the General Appropriations Act.

(b) Except for the commissioner and deputy commissioner, Chapter 654, Government Code, applies to any department position.

Sec. 15.309. INTRA-AGENCY CAREER LADDER.

(a) The commissioner or a person designated by the commissioner shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the department.

(b) The program must require intra-agency posting of all non-entry-level positions concurrently with public posting.

Sec. 15.310. PERFORMANCE EVALUATION.

(a) The commissioner or a person designated by the commissioner shall develop a system of annual performance evaluations that are based on documented employee performance.

(b) Merit pay for department employees must be based on the system established under this section.

Sec. 15.311. QUALIFICATIONS OF EMPLOYEES.

A person may not be an employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, if the persons is:

- (1) an officer, employee, or paid consultant of a trade association representing or affiliated with a financial institution group or an entity affiliated with financial institutions; or
- (2) a spouse of an officer, manager, or paid consultant of a trade association representing or affiliated with a financial institution group or an entity affiliated with financial institutions.

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Sec. 15.312. INFORMATION PROVIDED TO MEMBERS AND EMPLOYEES.

The commissioner or the commissioner's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 15.313. EQUAL EMPLOYMENT OPPORTUNITY POLICY.

(a) The commissioner or a person designated by the commissioner shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with requirements of Chapter 21, Labor Code;
- (2) a comprehensive analysis of the department workforce that meets federal and state law, including rules and regulations, and instructions adopted directly from that law;
- (3) procedures by which a determination can be made about the extent of underuse in the department workforce of all persons for whom federal or state laws, including rules and regulations, and instructions adopted directly from that law, encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

- (1) cover an annual period;
- (2) be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and
- (3) be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

SUBCHAPTER E. POWERS AND DUTIES OF COMMISSION AND COMMISSIONER

Sec. 15.401. SUPERVISION OF COMMISSIONER.

The commission shall supervise, consult with, and advise the commissioner.

Sec. 15.402. ADOPTION OF RULES.

(a) The commission may adopt reasonable rules necessary for administering this chapter and Subtitle D, Title 3.

(b) In adopting rules under this section, the commission may regulate and classify credit unions according to criteria that the commission determines are appropriate and necessary to accomplish the purposes of this chapter and Subtitle D, Title 3, including the:

- (1) character of field of membership;
- (2) amount of assets;
- (3) number of members; and
- (4) financial condition.

(c) The commission by rule shall set reasonable fees, charges, and revenues required to be paid by a credit union.

Sec. 15.4021. RECEIPT OF PUBLIC COMMENTS; NOTICE OF COMMISSION ACTIVITIES.

(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the department.

(b) The commission shall adopt rules providing for public notice of department activities.

Sec. 15.4022. RULES RELATING TO COMPETITIVE BIDDING AND ADVERTISING.

(a) The commission may not adopt rules restricting competitive bidding or advertising by a credit union except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) relates to the size or duration of an advertisement by the credit union;
or
- (3) restricts the credit union's advertisement under a trade name.

Sec. 15.4023. SEPARATION OF RESPONSIBILITIES.

The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the commissioner and the staff of the department.

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Sec. 15.403. REGULATION OF CREDIT UNIONS.

(a) The commission and commissioner have the jurisdiction, powers, and duties formerly conferred by law on the banking commissioner of Texas in relation to managing, regulating, and supervising credit unions.

(b) The commissioner shall supervise and regulate a credit union doing business in this state, other than a federal credit union, in accordance with this chapter and Subtitle D, Title 3, including rules adopted under this chapter and Subtitle D, Title 3.

Sec. 15.404. ENFORCEMENT OF STATUTES AND RULES.

The commissioner shall enforce this chapter and Subtitle D, Title 3, and rules adopted under this chapter and Subtitle D, Title 3.

Sec. 15.405. LEGISLATIVE RECOMMENDATIONS.

The commissioner shall report the department's legislative recommendations to the legislature for consideration.

Sec. 15.406. ATTENDANCE AT COMMISSION MEETINGS; VOTING.

The commissioner shall attend meetings of the commission but may not vote at a meeting.

Sec. 15.407. OFFICIAL COMMITTEES.

The chairman may appoint individuals who are not commission members to serve on official committees that are charged with evaluating industry methods or problems and presenting formal recommendations to the commission for possible action.

Sec. 15.408. COLLECTION OF MONEY.

The commissioner shall collect all supervision fees, charges, and revenues required to be paid by a credit union under Section 15.402(c). All money paid to the department under this chapter and Subtitle D, Title 3, is subject to Subchapter F, Chapter 404, Government Code.

Sec. 15.409. CONSUMER INFORMATION AND COMPLAINTS.

- (a) The commissioner shall:
 - (1) supervise the preparation of public interest information describing:
 - (A) functions of the department;
 - (B) procedures for filing and resolving complaints; and
 - (C) other matters of general interest relating to credit unions; and

(2) make the information prepared under Subdivision (1) available to the public and appropriate state agencies.

(b) The commissioner shall supervise the establishment and maintenance of files regarding each written complaint filed with the department that the department has authority to resolve.

(c) A file established and maintained under this section must include all relevant information regarding the nature, status, and disposition of a complaint.

(d) The department shall provide to a person filing a complaint and the persons complained about the department's policies and procedures concerning complaint investigation and resolution.

(e) At least quarterly until final disposition of any written complaint that is filed with the department, the department shall notify the parties to the complaint of its status unless the notice would jeopardize an undercover investigation.

(f) The department shall keep information about each complaint filed with the department. The information must include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for a complaint that the department closed without taking action, an explanation of the reason the complaint was closed without action.

(g) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The commission may provide for that notification:

- (1) on each registration form, application, or written contract for services of a credit union regulated under this chapter and Subtitle D, Title 3;
- (2) on a sign prominently displayed in the place of business of each credit union regulated under this chapter and Subtitle D, Title 3; or
- (3) in a bill for service provided by a credit union regulated under this chapter and Subtitle D, Title 3.

Sec. 15.4091. ACCESS TO DEPARTMENT FACILITIES, PROGRAMS, AND SERVICES.

(a) The department shall comply with federal and state laws related to program and facility accessibility.

(b) The commissioner shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

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- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for a complaint that the department closed without taking action, an explanation of the reason the complaint was closed without action.

(g) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The commission may provide for that notification:

- (1) on each registration form, application, or written contract for services of a credit union regulated under this chapter and Subtitle D, Title 3;
- (2) on a sign prominently displayed in the place of business of each credit union regulated under this chapter and Subtitle D, Title 3; or
- (3) in a bill for service provided by a credit union regulated under this chapter and Subtitle D, Title 3.

Sec. 15.4091. ACCESS TO DEPARTMENT FACILITIES, PROGRAMS, AND SERVICES.

(a) The department shall comply with federal and state laws related to program and facility accessibility.

(b) The commissioner shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Sec. 15.410. SHARE AND DEPOSITOR INSURANCE PROTECTION.

(a) The commission shall adopt, and the commissioner shall enforce, reasonable rules requiring a credit union to provide share and deposit insurance protection for credit union members and depositors.

(b) Rules adopted under this section must include authorization for and establishment of a share and deposit guaranty corporation or credit union under the department's exclusive regulation to enable the department to carry out the purposes of this chapter and Subtitle D, Title 3.

(c) A credit union may provide share and deposit insurance protection through another source approved by the department, including a program of the National Credit Union Administration.

Sec. 15.411. AGREEMENTS WITH OTHER REGULATORS.

(a) The commissioner may enter into an agreement with any credit union supervisory agency regarding the examination or supervision of branch offices of credit unions chartered in this state doing business in other states and foreign credit unions doing business in this state. In lieu of conducting an examination or investigation required by this subtitle, the commissioner may accept examinations or reports from other credit union supervisory agencies. The acceptance of the examination or report does not waive any fee, charge, or revenue required to be paid by a credit union, including a foreign credit union doing business in this state.

(b) The commissioner may enter into any cooperative arrangement with other credit union supervisory agencies to promote the effective regulation of state credit unions doing business across state lines, including contracting to use another agency's examiners, allowing for the use of examiners of this state by another agency, or collecting fees on behalf of or receiving payments through another agency.

Sec. 15.412. FILING GROUP RETURN WITH THE INTERNAL REVENUE SERVICE.

(a) The commissioner may file a consolidated group return form with the Internal Revenue Service on behalf of all credit unions under the department's jurisdiction. To be included, each credit union must annually authorize the department in writing to include the credit union in the group return and must declare that the authorization and the financial information submitted for the purpose of compiling the group return are true and complete.

(b) The state is not liable for information contained in any form submitted. Each credit union is individually responsible for the accuracy, completeness, and timeliness of the information and for any potential tax liability or penalties that may accrue.

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CHAPTER 121. GENERAL PROVISIONS

Sec. 121.001. SHORT TITLE.

This subtitle may be cited as the Texas Credit Union Act.

Sec. 121.0011. POLICY.

The purposes of this subtitle are to safeguard the public interest, to promote public confidence in credit unions doing business in this state, to provide for the protection of the interests, shares, and deposits of credit unions, to delegate to the department rulemaking and discretionary authority that may be necessary to assure that credit unions operating under this subtitle may be sufficiently flexible and readily responsive to changes in economic conditions and practices, to maintain sound credit union growth and financial integrity, fiscal responsibility, and independent judgment in the management of the business affairs of credit unions, to permit credit unions to effectively provide a full array of financial and financially related services, to provide effective supervision and regulation of credit unions and their fields of membership, and to clarify and modernize the law governing the credit unions doing business in this state. This subtitle is the public policy of this state and necessary to the public welfare.

Sec. 121.002. DEFINITIONS.

In this subtitle:

- (1) "Board" means the board of directors of a credit union.
- (2) "Credit union," unless the context relates to a federal credit union, means a voluntary, cooperative, nonprofit financial institution authorized to do business in this state under this subtitle for purposes of:
 - (A) encouraging thrift among its members;
 - (B) creating a source of credit at fair and reasonable interest rates;
 - (C) developing and providing to its members alternative methods of financing their purchases at reasonable costs;
 - (D) providing an opportunity for its members to use and control their money to improve their economic and social condition; and
 - (E) conducting any other business, engaging in any other activity, or providing any other service that may benefit its members
- (3) "Commission" means the Credit Union Commission.
- (4) "Commissioner" means the credit union commissioner.
- (5) "Department" means the credit union department.
- (6) "Deputy commissioner" means the deputy credit union commissioner.
- (7) "Foreign credit union" means a credit union that is not organized under the laws of this state or the United States.
- (8) "Law enforcement agency" means the Department of Public Safety of the State of Texas, the Federal Bureau of Investigation, or any local police or sheriff department.

Sec. 121.003. CREDIT UNIONS SUBJECT TO SUBTITLE.

A credit union organized and existing under the laws of this state is governed by and authorized to do business under this subtitle.

Sec. 121.004. LIBERAL CONSTRUCTION.

This subtitle shall be liberally construed to effect its purposes.

Sec. 121.005. HEARINGS.

(a) A hearing held under this subtitle is governed by Chapter 2001, Government Code.

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- (7) "Foreign credit union" means a credit union that is not organized under the laws of this state or the United States.
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Sec. 121.005. HEARINGS.

(a) A hearing held under this subtitle is governed by Chapter 2001, Government Code.

(b) ~~The commission may adopt rules of procedure for a hearing held under this subtitle.~~

(c) This section does not apply to a meeting under Section 122.005.

Sec. 121.006. PROCEDURE AND RULES APPLICABLE TO CERTAIN PROCEEDINGS.

(a) If the commission proposes to suspend or revoke a credit union's certificate of incorporation, the credit union is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) A proceeding for a disciplinary action is governed by Chapter 2001, Government Code. Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to a proceeding for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

CHAPTER 122. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

SUBCHAPTER A. INCORPORATION REQUIREMENTS

Sec. 122.001. APPLICATION TO INCORPORATE.

(a) Seven or more individuals may apply to incorporate a credit union under this chapter if:

- (1) each is at least 18 years old;
- (2) a majority are residents of this state;

- (3) each has subscribed for at least 10 shares; and
- (4) all share the definable community of interest stated in the articles of incorporation.
- (b) The incorporators shall file with the commissioner:
 - (1) an application in a form prescribed by the commission; and
 - (2) filing fees required and set by the commission.
- (c) The application must contain:
 - (1) two copies of the articles of incorporation, which must state:
 - (A) the name of the credit union;
 - (B) the municipality and county where the credit union's principal place of business is to be located;
 - (C) that the credit union's term of existence is perpetual;
 - (D) that the credit union's fiscal year is the calendar year;
 - (E) the initial share accounts;
 - (F) the name and address of, and the number of shares subscribed by, each incorporator;
 - (G) the number of directors constituting the initial board and the name and address of each person who will serve as director until the first annual meeting or until a successor is elected and qualified; and
 - (H) the definable community of interest shared by the members of the credit union at the time of incorporation; and
 - (2) two copies of the standard bylaws for the general operation of the credit union.
- (d) The articles of incorporation must be signed and sworn to.

Sec. 122.002. STANDARD ARTICLES OF INCORPORATION AND BYLAWS.

- (a) To simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws.
- (b) The standard forms shall be made available without charge to a person desiring to organize a credit union.

Sec. 122.003. CORPORATE NAME; CRIMINAL PENALTY.

- (a) The name of a credit union must include the words "credit union" and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner.
- (b) Unless a credit union is formed by merger or consolidation, the commissioner may not issue a certificate of incorporation to the credit union or approve the change of the name of the credit union if it would have the same name as another credit union or a name so nearly resembling the name of another credit union as to be calculated to deceive.

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(c) A person who is not a credit union authorized to do business in this state under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.), or an organization, corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may not do business under or use a name or title containing the words "credit union" or any derivation of that term that:

- (1) indicates or reasonably implies that the person carries on or transacts the kind of business carried on or transacted by a credit union; or
- (2) is calculated to lead a person to believe that the business being conducted is the type of business carried on or transacted by a credit union.

(d) A person who violates Subsection (c) commits a Class A misdemeanor.

(e) The commissioner may petition a court to enjoin a violation of this section.

Sec. 122.004. INVESTIGATION BY COMMISSIONER.

The commissioner may conduct an investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary.

Sec. 122.005. PROCEDURE FOR CERTAIN APPROVALS.

(a) This section applies to a request for approval by the commissioner of:

- (1) an application for incorporation under this subchapter;
- (2) a request for approval of an amendment to a credit union's articles of incorporation under Section 122.011, including an amendment to expand the credit union's field of membership; and
- (3) a merger or consolidation under Subchapter D.

(b) Before approving a request to which this section applies, the commissioner shall submit notice of the request to the secretary of state for publication in the Texas Register. The commission by rule shall provide for other appropriate public notice of the request. The commissioner may waive the requirements of this subsection or permit delayed public notice on a determination that waiver or delay is in the public interest. If the requirements of this subsection are waived, the information that would be contained in a public notice becomes public information under Chapter 552, Government Code, on the 35th day after the date the request is made.

(c) Before making a determination on a request to which this section applies, the commissioner must accept comment from any interested party that wishes to comment. This comment may be in the form of written testimony or may be provided at a meeting with the commissioner held for the purpose of receiving the comment. This meeting shall be held if requested by any interested party. The commissioner may hold the meeting regardless of whether an interested party requests the meeting. The commission may establish reasonable rules governing the circumstances and conduct of the meeting. Chapter 2001, Government Code,

does not apply to the meeting. Not later than the 60th day after the date the notice is published in the Texas Register, or if the notice is not published, after the date the request is received, the commissioner shall approve or disapprove the application.

**Sec. 122.006. DECISION ON APPLICATION TO INCORPORATE;
ISSUANCE OF CERTIFICATE.**

(a) The commissioner shall approve an application to incorporate a credit union if:

- (1) the incorporators have complied with this chapter and rules adopted under this chapter; and
- (2) the commissioner finds, from information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and information in the department's official records, that:
 - (A) the character and general fitness of the incorporators and the members of the initial board warrant belief that the credit union's business and affairs will be properly administered in accordance with this subtitle and rules adopted under this subtitle;
 - (B) the character and size of the field of membership to be served by the credit union conform with this subtitle and rules adopted under this subtitle and favor the credit union's economic viability; and
 - (C) the incorporators and the members of the initial board are acting in good faith and are making the application in accordance with the purposes of this subtitle.

(b) In addition to the findings under Subsection (a) and in accordance with commission rules, the commissioner shall consider the effect of overlapping fields of membership on the applicant credit union and existing state or federal credit unions doing business in this state. The commissioner may consider the availability and adequacy of financial services in the local community and the effect that the incorporation of the credit union would have on the local community. As a condition of approval of the application, the commissioner may require the applicant credit union to limit or eliminate overlaps, in accordance with the rules, to achieve the purposes of this subtitle and promote the welfare and stability of those credit unions.

(c) The commissioner by written order shall state the findings required by Subsection (a) and approve or deny the application.

(d) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail.

(e) After the commissioner in the absence of an appeal or the commission after the conclusion of an appeal approves the application, the commissioner shall:

- (1) issue a certificate of incorporation;
- (2) deliver copies of the approved articles of incorporation and bylaws to the incorporators; and

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- (3) retain copies of those documents in the department's permanent files.

Sec. 122.007. APPEAL TO COMMISSION.

(a) The commission by rule shall provide for appeal of the commissioner's order by an incorporator or other aggrieved person.

(b) The commissioner's order may be appealed to the commission not later than the 60th day after the date of the order.

(c) After reviewing information or evidence the commission considers necessary or relevant, the commission by written order shall affirm or reverse the commissioner's decision.

Sec. 122.008. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION.

(a) A credit union's existence begins when the commissioner issues the certificate of incorporation.

(b) The certificate of incorporation is conclusive evidence that the incorporators have complied with this subtitle and that the credit union is incorporated under this chapter.

(c) Acceptance of a certificate of incorporation is conclusive evidence that the credit union is authorized to do business under this subtitle.

Sec. 122.009. REQUIREMENTS FOR COMMENCING BUSINESS.

(a) A credit union may not transact business or incur debt that is not incidental to its organization or to obtaining a subscription to or payment for its shares or deposits before it:

- (1) has received paid-in shares or deposits of at least \$1,000;
- (2) has at least 100 members;
- (3) has fulfilled all agreements and conditions related to approval of an application for incorporation and issuance of a certificate of incorporation; and
- (4) has notified the department of its compliance with Subdivisions (1)-(3).

(b) The commission may adopt reasonable rules to:

- (1) require greater minimum membership and paid-in shares or deposits; or
- (2) prescribe additional requirements a credit union must meet before transacting business or incurring indebtedness.

(c) The commissioner may waive a requirement of this section or of a rule adopted under this section if the commissioner finds that the credit union:

- (1) does not have supervisory problems that adversely affect its ability to operate properly; and
- (2) is adequately capitalized.

Sec. 122.010. DEADLINE FOR COMMENCING BUSINESS.

(a) A credit union shall begin business before six months after the date of the order approving the credit union's application.

(b) On request and for good cause shown, the commissioner may grant a credit union that has not begun business within the time prescribed by Subsection (a) a reasonable extension to provide an opportunity to overcome the cause of the delay.

(c) The incorporators may appeal to the commission, in accordance with commission rules, a commissioner's decision refusing a request for an extension.

(d) The commissioner may cancel the certificate of incorporation in accordance with commission rules if a credit union does not begin business within the prescribed time.

Sec. 122.011. AMENDMENT OF ARTICLES OF INCORPORATION OR BYLAWS.

(a) The board may amend the articles of incorporation or bylaws and shall submit amendments to the commissioner.

(b) The commissioner in writing shall approve or disapprove an amendment.

(c) In approving an amendment, the commissioner shall make the findings and may take the actions provided by Sections 122.006(a) and (b). The commissioner may not approve an amendment if the commissioner finds that it violates this subtitle or rules adopted under this subtitle. The commissioner shall state with reasonable specificity the reasons for disapproval. An amendment takes effect on the commissioner's approval.

(d) The board shall report an amendment to the credit union's membership not later than the next membership meeting after the commissioner approves the amendment.

(e) The commission shall adopt rules for an appeal of the commissioner's decision on an amendment. The commissioner's order approving or disapproving an amendment may be appealed to the commission not later than the 60th day after the date of the order.

Sec. 122.012. PLACE OF BUSINESS.

(a) A credit union shall maintain on file with the department a statement specifying the street and post office address of the credit union's principal place of business.

(b) After notifying the commissioner in writing, a credit union may establish and maintain, at locations other than its principal place of business, additional offices or service facilities that are reasonably necessary to provide services to the credit union's members. The credit union shall notify the commissioner in writing of the date that the new office or service facility begins operating.

(c) The commission by rule may prescribe what constitutes an office or service facility.

Sec. 122.013. FOREIGN CREDIT UNIONS.

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(a) A foreign credit union may do business in this state if it is organized in a state or country that allows a credit union organized under this subtitle to do business in that state or country.

(b) A foreign credit union doing business in this state is subject to rules adopted under this subtitle and any additional commission requirement.

(c) The commissioner may suspend or revoke a foreign credit union's authority to do business in this state if the commissioner finds that the foreign credit union has violated a rule adopted under this subtitle or does not meet a commission requirement.

(d) The commission may require a foreign credit union operating in this state to submit periodic reports. The required reports shall be provided by the foreign credit union or by the credit union supervisory agency having primary responsibility for that credit union. Any reporting requirements prescribed by the commission under this subsection must be consistent with the reporting requirements applicable to credit unions and appropriate for the purpose of enabling the commissioner to regulate credit unions.

SUBCHAPTER B. ADMINISTRATION

Sec. 122.051. MEMBERSHIP.

(a) A person may be a member of a credit union only if the person is an incorporator or other person who:

- (1) shares a definable community of interest, in accordance with the credit union's articles of incorporation or bylaws, including a community of interest based on occupation, association, or residence;
- (2) has paid an entrance fee or membership fee, or both, as required by the bylaws;
- (3) has complied with the minimum share, including membership share, requirements or other qualifying account requirements established by the board; and
- (4) has complied with any other requirement of the articles of incorporation and bylaws.

(b) The state acting through the comptroller as administrator of the state's deferred compensation program or a political subdivision acting through an appropriate officer as administrator of the political subdivision's deferred compensation program may be a member of a credit union for purposes of funding a deferred compensation program. The state or a political subdivision funding a deferred compensation program is not required to pay an entrance fee.

(c) A member who leaves the field of membership may retain membership in the credit union under reasonable board standards.

(d) A member may be expelled for good cause or for not maintaining membership requirements, under the conditions and in accordance with the procedures provided by the bylaws.

Sec. 122.052. MEETINGS OF MEMBERS; VOTING.

(a) Members of a credit union shall hold an annual or special meeting at the time and place and in the manner provided by the bylaws.

(b) In determining a question requiring action by the members, each member may cast only one vote, regardless of the number of shares the member holds.

(c) The board may authorize voting by mail. Mail balloting shall be conducted in accordance with commission rules.

(d) A member that is not an organization may not vote by proxy. A member that is an organization may be represented by and vote through one of its members or shareholders who is authorized, in writing, by the organization's governing body to represent the organization.

Sec. 122.053. BOARD OF DIRECTORS; TERMS AND DUTIES.

(a) A board of at least five members shall direct the business and affairs of a credit union.

(b) The membership of the credit union shall elect the board at an annual membership meeting, from the membership, and in the manner provided by the bylaws.

(c) A director shall take and subscribe to an oath or affirmation that the director:

- (1) will diligently and honestly perform the director's duties in administering the credit union's affairs;
- (2) although the director may delegate the performance of those duties, remains responsible for the performance of the duties; and
- (3) will not knowingly violate or willingly permit the violation of an applicable law.

(d) The bylaws shall prescribe the directors' terms and the board's duties. A term may not exceed three years. A director may serve more than one term.

Sec. 122.054. QUALIFICATION OF DIRECTORS.

The commission by rule shall establish qualifications for a director. The rules must provide that a person may not serve as director if the person:

- (1) has been convicted of a criminal offense involving dishonesty or breach of trust;
- (2) is not eligible for coverage under the blanket bond required by Section 122.063 and rules adopted under this subtitle; or
- (3) has defaulted on payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss.

Sec. 122.055. VACANCIES; REMOVAL.

(a) The office of a director becomes vacant if the director dies, resigns, is removed, or does not possess or maintain the qualifications required to serve on the board.

(b) Unless the bylaws provide otherwise, the remaining directors by majority vote shall fill a vacancy, regardless of whether the remaining directors constitute a quorum. A director elected by the board to fill a vacancy holds office until the next annual membership meeting, at which the position shall be filled for the remainder of the unexpired term by vote of the members.

(c) A director may be removed from office according to the removal procedure provided by the bylaws.

Sec. 122.056. HONORARY OR ADVISORY DIRECTORS.

(a) The board may appoint not more than three individuals to serve at the board's pleasure as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out the board's duties and responsibilities.

(b) An honorary or advisory director:

- (1) need not be eligible for membership in the credit union;
- (2) is not a member of the board; and
- (3) is not entitled to vote on a matter before the board.

(c) An honorary or advisory director may participate in any board deliberation.

Sec. 122.057. OFFICERS; EXECUTIVE COMMITTEE.

(a) The board shall elect from its membership a chairman, vice chairman, treasurer, and secretary.

(b) An officer elected under Subsection (a):

- (1) serves a one-year term or until the officer's successor is elected and qualified; and
- (2) has the duties the bylaws prescribe.

(c) The board may appoint from its membership an executive committee of at least three persons to exercise, between board meetings, authority specifically delegated by the board under conditions specified by the board.

Sec. 122.058. CHIEF EXECUTIVE OFFICER.

(a) The board may employ, elect, or appoint a president, who is the chief executive officer in charge of operations.

(b) The president may be a board member but may not be chairman, vice chairman, or secretary of the credit union. The president serves at the board's pleasure.

(c) Subject to board guidelines, the president shall appoint or employ, and may discharge, any other officer or employee the president considers necessary to operate the credit union. The president shall prescribe the title of an officer or employee appointed or employed under this subsection.

Sec. 122.059. DELEGATION OF LOAN APPROVAL AUTHORITY.

The board may delegate all or part of its power to approve or disapprove a loan to a credit committee, one or more other committees, or one or more individuals.

Sec. 122.060. CERTIFICATE OF ELECTION.

(a) The board chairman and the secretary:

- (1) shall execute a certificate of election that states the name and address of each officer, director, and committee member elected or appointed; and
- (2) not later than the 30th day after the date of the election or appointment, shall file a copy of the certificate of election with the department.

(b) The commission by rule may authorize the commissioner to obtain other confidential reports relating to a newly elected or appointed officer, director, or committee member.

Sec. 122.061. CONFLICTS OF INTEREST.

(a) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

- (1) participate, directly or indirectly, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested; or
- (2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:
 - (A) require or induce the person to disclose confidential information acquired because of the person's office or employment in the credit union; or
 - (B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

(b) An interest only as a member of the credit union that is shared in common with all other members is not a pecuniary interest within the meaning of Subsection (a)(1).

Sec. 122.062. COMPENSATION.

A person may not receive compensation for serving as a director, honorary director, advisory director, or committee member of a credit union, except that the person may be:

- (1) provided with reasonable health, life, accident, liability, or similar insurance protection;
- (2) reimbursed for necessary expenses incurred in the performance of the person's duties; and
- (3) paid the fees and reimbursed for other expenditures authorized by commission rules.

Sec. 122.063. BOND.

The board shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering each director, honorary director, advisory director, officer, employee, member of an official committee, attorney, or other agent of the credit union as required by commission rule.

Sec. 122.064. INDEMNIFICATION.

A credit union may elect to indemnify a director, officer, employee, or agent of the credit union or another person and to purchase insurance:

- (1) by adopting the indemnification and insurance procedures of Section 2.22A, Texas Non-Profit Corporation Act (Article 1396-2.22A, Vernon's Texas Civil Statutes); or
- (2) in another manner determined by the board.

SUBCHAPTER C. OPERATIONS AND FINANCES

Sec. 122.101. CALL REPORTS.

(a) A credit union shall submit to the department on a semiannual basis a call report, on a form supplied by the department, that states the credit union's financial condition. The commissioner may require a credit union to file additional call reports.

(b) The credit union must submit the call report on or before the date stated on the form supplied by the department. If a credit union does not submit a report by the due date, the commissioner shall charge a late fee in an amount set by the commission for each day the report remains unfiled. The commissioner for good cause shown may waive all or part of the late fee.

(c) A credit union that does not file a report on or before the date it is due is subject to sanctions provided by this chapter and Chapter 126.

Sec. 122.102. FINANCIAL REPORTING; AUDITS.

(a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission.

(b) The board shall:

- (1) make a comprehensive annual audit of the credit union's books and affairs, in accordance with established principles and commission rules;
- (2) submit a summary of the audit report to the credit union's members at the next annual meeting; and
- (3) make a supplementary audit or examination as the board considers necessary or the commissioner requires.

(c) The commission by rule may require a verification of members' accounts with the credit union's records.

(d) If the commissioner, by examination or other credible evidence, finds that the board is not complying with this section or a rule adopted under this section, the commissioner may appoint an independent person from outside the credit union and its members to perform an audit. The credit union shall pay the cost of the audit.

Sec. 122.103. CAPITAL.

A credit union's capital consists of:

- (1) the aggregate amount of the share accounts of its members;
- (2) all its reserves; and
- (3) all its undivided earnings.

Sec. 122.104. RESERVE ALLOCATIONS.

(a) The commission by rule shall require a credit union to maintain reserves necessary to protect the interests of its members. The rule may:

- (1) prescribe the purposes for which the reserves may be used; and
- (2) authorize the commissioner to approve other uses.

(b) The credit union's board may establish reserves in addition to the required reserves.

Sec. 122.105. SHARE REDUCTION.

A credit union may order a reduction in the membership shares of each of its shareholders if:

- (1) the credit union's losses resulting from a depreciation in value of its loans or investments or otherwise exceed its undivided earnings and its reserves, and the estimated value of its assets is less than the total amount due the shareholders;
- (2) a majority vote of the credit union's members present at a meeting of members called for that purpose approve the reduction; and

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- (3) the reduction divides the loss proportionately among the shareholders:

Sec. 122.106. EXEMPTION FROM CERTAIN TAXES.

(a) Except as provided by Subsection (b), a credit union is exempt from a franchise or other license tax.

(b) A credit union is not exempt from the franchise tax imposed by Chapter 171, Tax Code, unless the credit union is exempted by that chapter.

(c) The intangible property of a credit union organized under this chapter is not taxable.

SUBCHAPTER D. MERGER OR CONSOLIDATION

Sec. 122.151. AUTHORITY TO MERGE OR CONSOLIDATE.

(a) A credit union may merge or consolidate with another credit union, under the other credit union's existing articles of incorporation or otherwise, if:

(1) the merger or consolidation is in accordance with commission rules and approved by the commissioner; and

(2) the merger or consolidation takes place under a plan that has been:

(A) agreed to by a majority of the board of each credit union joining in the merger or consolidation; and

(B) approved by a majority of the members of each credit union voting at a meeting of its members called for that purpose.

(b) The commissioner may waive the requirement that the members of each credit union approve the plan.

Sec. 122.152. APPLICATION TO MERGE OR CONSOLIDATE.

(a) After agreement by the directors and approval by the members, if applicable, of each credit union, the president and secretary of each credit union shall execute a certificate of merger or consolidation that:

(1) includes a copy of the resolution or other action by which the board agreed to the merger or consolidation plan; and

(2) states:

(A) the time and place of the board meeting at which the board agreed to the merger or consolidation plan;

(B) the board's vote for and against adoption of the plan;

(C) the time and place of the meeting at which the members approved the plan, if applicable;

(D) the membership's vote for and against approval of the plan, if applicable; and

(E) the name of the surviving credit union.

(b) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the merger or consolidation plan to the commissioner.

Sec. 122.153. DECISION BY COMMISSIONER; APPEAL.

(a) Subject to Subsection (b), on approving the merger or consolidation, the commissioner shall return the certificates and plan to the merging or consolidating credit unions.

(b) The commissioner may conditionally approve a merger or consolidation. If approval is conditional, the commissioner:

- (1) shall state the condition in the order approving the merger or consolidation; and
- (2) may not deliver the approved certificate until the condition has been met.

(c) Notwithstanding any other law, the commissioner may authorize a credit union that is insolvent or is in danger of insolvency to merge or consolidate with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:

- (1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;
- (2) another option is not reasonably available; and
- (3) the public interest would best be served by approval of the merger, consolidation, purchase, or assumption.

(d) If the commissioner disapproves the merger or consolidation or imposes a condition, the merging or consolidating credit unions may appeal the commissioner's decision to the commission in the manner provided by Section 122.007 for an appeal on an application to incorporate a credit union.

Sec. 122.1531. CONSIDERATIONS IN DETERMINATION.

In determining whether to approve or disapprove the merger or consolidation, the commissioner shall consider the availability and adequacy of financial services in the local community and the effect that the merger or consolidation would have on the local community. The commission by rule shall establish other appropriate criteria that the commissioner must consider in making the determination.

Sec. 122.154. PROPERTY, OBLIGATIONS, AND LIABILITIES OF MERGED OR CONSOLIDATED CREDIT UNION.

After a merger or consolidation is effected:

- (1) the property of the merged or consolidated credit union vests in the surviving credit union without an instrument of transfer or endorsement; and
- (2) the obligations and liabilities of the merged or consolidated credit union are assumed by the surviving credit union.

Sec. 122.155. CONSTRUCTION OF SUBCHAPTER.

This subchapter shall be construed, when possible, to permit a credit union authorized to do business in this state under other law to merge or consolidate with a credit union authorized to do business under this subtitle.

Sec. 122.156. RULES TO ADDRESS CERTAIN PROCEDURES.

The rules adopted under this subchapter must specify in detail the procedures that:

- (1) a credit union must follow to obtain commissioner approval of a merger or consolidation; and
- (2) the commissioner must follow in approving or disapproving the merger or consolidation.

SUBCHAPTER E. CONVERSION**Sec. 122.201. CONVERSION OF STATE CREDIT UNION TO FEDERAL CREDIT UNION.**

A credit union organized under the laws of this state may convert to a credit union under the laws of the United States:

- (1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and
- (2) by complying with any rule adopted by the commission to facilitate the conversion.

Sec. 122.202. CONVERSION OF STATE CREDIT UNION TO OUT-OF-STATE CREDIT UNION.

A credit union organized under the laws of this state may convert to a credit union under the laws of another state:

- (1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and
- (2) by complying with any applicable commission rule.

Sec. 122.203. CONVERSION OF FEDERAL OR OUT-OF-STATE CREDIT UNION TO STATE CREDIT UNION.

A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with:

- (1) the requirements of the jurisdiction under which the converting credit union is organized; and
- (2) commission rules.

SUBCHAPTER F. MISCONDUCT AND ENFORCEMENT

Sec. 122.251. DEFAMATION.

- (a) A person commits an offense if the person knowingly:
 - (1) makes, circulates, or transmits to another person a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union; or
 - (2) counsels, aids, procures, or induces another person to make, circulate, or transmit a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union.
- (b) An offense under this section is a third degree felony.

Sec. 122.252. CONSIDERATION FOR LOAN, INVESTMENT, OR PURCHASE.

- (a) A person commits an offense if the person:
 - (1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and
 - (2) knowingly demands or receives, directly or indirectly, consideration for the credit union's making a specific loan or investment or purchasing an asset.
- (b) An offense under this section is a Class A misdemeanor.

Sec. 122.253. LOAN TO NONMEMBER.

- (a) A person commits an offense if the person:
 - (1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and
 - (2) knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember.
- (b) An offense under this section is a Class B misdemeanor.
- (c) A person who commits an offense described by Subsection (a) is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is not a defense in an action by the credit union to recover on the loan.
- (d) Extending credit to a nonmember as a comaker with a member or extending credit to a nonmember for the sale of property owned by the credit union or for the sale of assets acquired in liquidation or repossession is authorized and is not a loan to a nonmember. Acquiring a promissory note or other asset by a share and deposit guaranty corporation or credit union authorized under Section 15.410, on which a nonmember is liable, is not a loan to a nonmember.

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Sec. 122.254. FALSE STATEMENTS OR DOCUMENTS; DESTRUCTION OF RECORDS.

(a) A person commits an offense if the person, knowingly and with the intent to deceive:

- (1) makes a false entry on a record, report, or statement of a credit union; or
- (2) in connection with an examination or investigation of a credit union by the commissioner, a deputy commissioner, or the department's authorized examiner, exhibits a false paper, instrument, or security or gives under oath a false answer to a question directly related to the examination or investigation asked the person by the commissioner, the deputy commissioner, or the department's authorized examiner.

(b) A person commits an offense if the person knowingly removes, destroys, or conceals a record of the credit union for the purpose of concealing a fact or information from the commissioner, a deputy commissioner, or the department's authorized examiner.

(c) An offense under this section is a third degree felony.

Sec. 122.255. DETERMINATION OF MISCONDUCT BY COMMISSIONER.

The commissioner may determine that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

- (1) violated this subtitle, a rule adopted under this subtitle, or another law applicable to a credit union;
- (2) violated or refused to comply with a final order of the commissioner or commission;
- (3) willfully neglected to perform an official or legal duty or willfully committed a breach of trust or fiduciary duty;
- (4) committed a fraudulent or questionable practice in the conduct of the credit union's business that endangers the credit union's reputation or threatens its solvency;
- (5) refused to submit to examination under oath or to permit examination of the credit union's records and affairs by the commissioner or the commissioner's representative;
- (6) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody after the commissioner has requested the authorization of and direction to the other person;
- (7) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;
- (8) concealed, destroyed, removed, or falsified a record related to the credit union's business and affairs;

- (9) transacted business while the credit union was in an unsafe or unsound condition; , , .
- (10) violated a condition of the credit union's articles of incorporation or of a written agreement with the commissioner or the commission; or
- (11) committed a criminal act that is a substantial detriment to the reputation and conduct of the credit union's business.

Sec. 122.256. DEMAND LETTER; BOARD MEETING.

(a) If the commissioner makes a finding listed in Section 122.255, the commissioner shall issue a demand letter giving written notice to the credit union and each offending person and stating each violation or practice found.

(b) The commissioner promptly shall call a meeting of the credit union's board. The directors shall attend the meeting. The commissioner shall present to the board the findings stated in the demand letter and shall demand the discontinuance of any violation or practice found.

Sec. 122.257. CEASE AND DESIST ORDER.

(a) If the commissioner makes a finding listed in Section 122.255 and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, the commissioner may serve on the credit union, its board, and each offending person an order to cease and desist from a violation or practice specified in the order and to take affirmative action that the commissioner considers necessary to correct a condition resulting from a violation or practice found.

(b) The order must:

- (1) be in writing;
- (2) be served:

(A) at the meeting called under Section 122.256 or not later than the 30th day after the date of that meeting; and

(B) by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by department records, or by delivery to an officer or director of the credit union; and

(3) unless the order is effective immediately on service as provided by Subsection (d), state the effective date of the order, which may not be before the 10th day after the date the order is served.

(c) Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(d) A cease and desist order is effective immediately on service if the commissioner finds that:

- (1) the solvency of the credit union is endangered;
- (2) there is a continuing violation of this subtitle or a rule adopted under this subtitle; or

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(3) there is a threat of immediate and irreparable harm to the public or the credit union or its depositors, creditors, or members.

(e) The order is final unless, not later than the 10th day after the date the order is served, the credit union files with the commissioner written notice of appeal that includes a certified copy of the board resolution.

(f) A copy of the order shall be entered in the minutes of the board meeting. The directors shall certify to the commissioner in writing that each director has read the order.

Sec. 122.258. REMOVAL ORDER.

(a) The commissioner by order may remove a person from office or employment if the commissioner by examination or other credible evidence:

(1) finds that:

(A) the person has continued a violation or practice previously charged and found by the commissioner after notice and demand under Section 122.256; and

(B) removal is necessary and in the best interest of the credit union and its depositors, creditors, and members; or

(2) makes a finding listed in Section 122.255 and determines that removal of the person is immediately necessary because the person has committed or is about to commit:

(A) a fraudulent or criminal act involving the conduct of the business of the credit union;

(B) an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency; or

(C) an act that otherwise threatens immediate and irreparable harm to the public or the credit union or its members, depositors, or creditors.

(b) The removal order must:

(1) state with reasonable certainty the grounds for removal; and

(2) be promptly served on the person removed and on the credit union in the manner provided by Section 122.257 for service of a cease and desist order.

(c) On issuance of the order, the person has no right, duty, or authority of office or employment in the credit union. After the order becomes final, the person removed may not hold office in, be employed by, or participate in the affairs of the credit union. The order is final as of the date of issuance unless the person removed or the credit union, as evidenced by a certified copy of the board resolution, files written notice of appeal with the commissioner not later than the 10th day after the day the removal order is served.

(d) A copy of the removal order shall be entered in the board minutes. An officer shall acknowledge receipt of the order and certify to the commissioner that each person named in the removal order has been removed from office or employment.

Sec. 122.259. HEARING ON APPEAL OF PROPOSED ORDER.

(a) If the credit union or a person removed from office or employment files a notice of appeal of a cease and desist order or a removal order, the commissioner shall set a time and place for the commission to hear the appeal in accordance with commission rules.

(b) The filing of an appeal does not suspend a removal order or cease and desist order.

(c) At the conclusion of the hearing, the commission may vacate, affirm, or modify the commissioner's order and may order that appropriate action be taken.

(d) A cease and desist order or a removal order is final on completion of an appeal or otherwise as provided by this subchapter.

Sec. 122.260. ADMINISTRATIVE PENALTY; INJUNCTION.

(a) If a credit union or other person designated in a final order under this subchapter does not comply with the order, the commissioner, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the order.

(b) The credit union may not reimburse or indemnify a person for any part of the administrative penalty.

(c) The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County.

Sec. 122.261. CONFIDENTIALITY.

(a) A cease and desist order, a removal order, and each copy of a notice, correspondence, or other record relating to an order concerning a violation or unsound practice are confidential and are not subject to public disclosure except in an action authorized by this subtitle or other authority.

(b) The commissioner may disclose the information described by Subsection (a) to a share and deposit guaranty corporation or credit union or to a department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines the disclosure is necessary or proper for the enforcement of the laws of this state or the United States.

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CHAPTER 123. GENERAL POWERS

SUBCHAPTER A. GENERAL POWERS

Sec. 123.001. GENERAL POWERS.

A credit union may exercise any power necessary or appropriate to accomplish the purposes for which it is organized and any power granted a corporation authorized to do business in this state, including any power specified in this chapter.

Sec. 123.002. INCIDENTAL POWERS.

A credit union may exercise any right, privilege, or incidental power necessary or appropriate to exercise its specific powers and to accomplish the purposes for which it is organized.

Sec. 123.003. ENLARGEMENT OF POWERS.

A credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

SUBCHAPTER B. OPERATIONAL POWERS

Sec. 123.101. CONTRACTS.

A credit union may make contracts.

Sec. 123.102. POWER TO SUE AND DEFEND.

A credit union may sue or be sued in the name of the credit union.

Sec. 123.103. PURCHASE AND SALE OF PROPERTY.

Subject to commission rules, a credit union may purchase, hold, lease, or dispose of property necessary or incidental to the operation or purpose of the credit union.

Sec. 123.104. MEMBERSHIP IN OTHER ORGANIZATION; OPERATION AS CENTRAL CREDIT UNION.

A credit union may:

- (1) be a member of:
 - (A) another credit union organized under this subtitle or other law,
 - and
 - (B) another organization approved by the board; or

(2) operate, with the commissioner's approval, as a central credit union.

Sec. 123.105. FEES.

(a) A credit union may collect a fee, determined by the board, for services and administrative costs, including a fee for a check or draft that is returned because it is drawn against a closed account or an account containing insufficient or uncollected money, because of a stop payment order, or for another similar reason.

(b) A fee under this section is an administrative expense. The fee is in addition to interest authorized by law and is not a part of interest collected or agreed to be paid on a loan.

Sec. 123.106. CHANGE OF LOCATION.

On written notice to the commissioner, a credit union may change its principal place of business or a subsidiary place of business to another location in this state.

Sec. 123.107. INSURANCE FOR MEMBERS.

A credit union may purchase or otherwise provide insurance for the benefit or convenience of its members in accordance with applicable law or rules adopted by the commission.

Sec. 123.108. DONATIONS.

A credit union may donate to a nonprofit, civic, charitable, or community organization as authorized by the board.

Sec. 123.109. SEAL.

A credit union may adopt and use a common seal and may alter its seal at any time.

Sec. 123.110. RECORDS.

(a) A credit union may:

- (1) copy any record kept by the credit union; and
- (2) dispose of the original record in accordance with commission rules.

(b) A copy of a record is considered an original record for any purpose, including admissibility in evidence as an original record before any court or administrative agency for the purpose of the copy's admissibility in evidence.

SUBCHAPTER C. FINANCIAL POWERS

Sec. 123.201. POWER TO BORROW OR LEND.

(a) A credit union may:

- (1) lend its funds, or engage in any other type of financing transaction authorized by applicable law or rules adopted by the commission; and
- (2) borrow money from any source, subject to Subsection (b).

(b) A credit union may not incur a debt without the commissioner's prior approval if the debt will cause the debt of the credit union, including a deposit of a nonmember financial institution, to exceed an amount equal to 500 percent of the credit union's unencumbered reserves and undivided earnings.

(c) The commissioner shall grant or deny a request for approval under Subsection (b) not later than the 10th day after the date on which the request is made.

Sec. 123.202. RECEIPT, TRANSFER, AND PAYMENT OF MONEY.

A credit union may:

- (1) receive and disburse money;
- (2) receive a payment on a share or deposit; and
- (3) provide for the transfer or withdrawal of money from an account by the means and through the payment systems that the board determines best serve the convenience and needs of members and depositors.

Sec. 123.203. ACCEPTANCE OF MONEY FOR DEPOSIT FROM ANOTHER ENTITY.

A credit union may accept money for deposit by a savings and loan association, a savings association, the savings department of a bank, a commercial bank, a savings bank, a trust company, an insurance company, or any intermediary or other person managing or holding money on behalf of the credit union or any of the credit union's members or depositors.

Sec. 123.204. ACTION AS AGENT OR DEPOSITORY OF UNITED STATES OR OTHER GOVERNMENTAL ENTITY.

A credit union may act as agent or depository of and accept for deposit the money of:

- (1) the United States or an agent or instrumentality of the United States;
- (2) this or another state; or
- (3) a political subdivision of this or another state, including:
 - (A) a municipality;
 - (B) a county;
 - (C) a school district; or

(D) another taxing authority.

Sec. 123.205. INVESTMENTS AND SECURITIES.

- (a) In accordance with commission rules, a credit union may:
- (1) develop and offer investment programs to its members and depositors; or
 - (2) act as agent for its members and depositors in the purchase, sale, or other disposition of a security, an interest in a mutual fund, or an interest or participation in any other type of investment.
- (b) A credit union may issue and sell securities in connection with an investment program developed and offered under Subsection (a)(1).

Sec. 123.206. ACTION AS FISCAL OR TRANSFER AGENT; TRANSFER OF CERTAIN INSTRUMENTS; SIGNATURES.

A credit union may:

- (1) act as fiscal agent or transfer agent;
- (2) transfer a registered and countersigned certificate of stock, bond, or other evidence of indebtedness; or
- (3) guarantee a signature.

Sec. 123.207. FIDUCIARY POWERS.

A credit union may:

- (1) act, under court order or appointment, as guardian, receiver, trustee, executor, or administrator without giving bond;
- (2) receive an investment from a person acting as a guardian, receiver, trustee, executor, or administrator under the Texas Probate Code or Subtitle B, Title 9, Property Code;
- (3) act as depository for money paid to a court or constituting the estate of a deceased person, a minor, or an incompetent;
- (4) accept, execute, and administer a trust as trustee;
- (5) accept funds or money for deposit by a fiduciary, trustee, receiver, guardian, executor, or administrator; or
- (6) act as custodian or trustee of a pension or profit-sharing plan, including an individual retirement account or a pension fund of a self-employed individual or of the sponsor of a credit union.

Sec. 123.208. DIVIDENDS AND INTEREST.

- (a) A credit union may:
- (1) declare and pay a dividend on a share;
 - (2) contract for and pay interest on a deposit; or
 - (3) refund interest to a borrower.

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(b) A dividend or interest may be paid at a rate and on the conditions that the board authorizes.

(c) The commissioner may restrict the payment of a dividend:

- (1) if the commissioner issues a cease and desist order under Section 122.257; or
- (2) as necessary to protect the member's interests and preserve the solvency of the credit union as authorized by commission rule.

Sec. 123.209. TRANSFER SYSTEM.

A credit union may establish, operate, or participate in a system that allows the transfer of credit union money or the shares or deposits of its members by electronic or other means, including a clearinghouse association, a data processing or other electronic network, the Federal Reserve System, or any other government payment or liquidity program.

Sec. 123.210. SALE OF CERTAIN INSTRUMENTS OR SECURITIES; FEE.

A credit union may:

- (1) collect, receive, and disburse money:
 - (A) in connection with the sale of a traveler's check, money order, cashier's check or draft, treasurer's draft, similar instrument, or security of any type; or
 - (B) for another purpose that may provide a benefit or convenience for its members; and
- (2) collect a fee for those services.

CHAPTER 124. LOANS AND INVESTMENTS

SUBCHAPTER A. GENERAL PROVISIONS CONCERNING LOANS TO MEMBERS

Sec. 124.001. AUTHORIZATION.

A credit union may make a loan to a member:

- (1) in accordance with rules adopted by the commission;
- (2) for a purpose the credit union approves; and
- (3) on security and terms the credit union requires.

Sec. 124.002. LIMITATIONS ON INTEREST RATES.

The interest rate on a loan to a member may not exceed:

- (1) 1-1/2 percent per month on the unpaid balance; or

- (2) a higher rate authorized by law, including a rate authorized by Chapter 303.

Sec. 124.003. LIMITATIONS ON LOANS.

A credit union may not make a loan to a member or a business interest of the member if the loan would cause the aggregate amount of loans to the member and the member's business interests to exceed:

- (1) an amount equal to 10 percent of the credit union's total assets; or
- (2) a lesser amount established by commission rule.

Sec. 124.004. WRITTEN INSTRUMENT REQUIRED.

A credit union loan must be evidenced by a written instrument.

Sec. 124.005. APPLICABILITY OF OTHER LAW.

Subtitle B, Title 4, does not apply to a credit union loan or extension of credit unless the agreement that evidences the transaction specifically provides otherwise.

SUBCHAPTER B. OPEN-END CREDIT PLAN OR LINE OF CREDIT

Sec. 124.051. OPEN-END CREDIT PLAN.

A credit union may enter into a written agreement with a member under which:

- (1) the member is allowed to borrow money from time to time; and
- (2) interest may from time to time be computed on the unpaid balance.

Sec. 124.052. LINE OF CREDIT.

A credit union may approve in advance a line of credit and grant advances to a member within the limit of the extension of credit.

Sec. 124.053. ADDITIONAL LOAN APPLICATION NOT REQUIRED.

An additional loan application is not required under an open-end credit plan under Section 124.051 or line of credit under Section 124.052 if the aggregate obligation does not exceed a limit of the extension of credit the credit union establishes.

SUBCHAPTER C. LOAN EXPENSES

Sec. 124.101. BORROWER PAYMENT OF LOAN EXPENSES.

A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties.

Sec. 124.102. COLLECTION OF LOAN EXPENSES.

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A payment authorized by Section 124.101 may be:

- (1) collected by the credit union and:
 - (A) retained by the credit union; or
 - (B) paid to a person rendering a service in connection with the payment; or
- (2) paid directly by the member to the third party to whom it is payable.

Sec. 124.103. CHARACTER OF EXPENSE OR FEE.

An expense or fee authorized by Section 124.101 is not interest.

SUBCHAPTER D. LOAN PAYMENTS

Sec. 124.151. PREPAYMENT PRIVILEGE.

A loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business, except as provided by Section 124.152.

Sec. 124.152. CONDITIONS FOR PREPAYMENT OF LOAN SECURED BY REAL PROPERTY.

A credit union may require a partial prepayment that is made on a loan secured by a lien or mortgage on or other type of security interest in real property to be made:

- (1) on the date monthly installments are due; and
- (2) in the amount of that part of one or more monthly installments that would be applicable to principal.

Sec. 124.153. PENALTY FOR LATE PAYMENT.

- (a) A credit union, in accordance with its bylaws, may charge a member a penalty when a loan payment is past due.
- (b) A credit union may charge only one penalty on each past due payment.
- (c) A penalty under this section is not interest.

**SUBCHAPTER E. LOANS TO DIRECTORS, EMPLOYEES,
AND CREDIT COMMITTEE MEMBERS**

Sec. 124.201. AUTHORIZATION.

Subject to Section 124.202, a credit union may make a loan or extend a line of credit to:

- (i) a director, employee, or member of the credit committee, or

- (2) the immediate family of the director, employee, or member of the credit committee; •

Sec. 124.202. CONDITIONS OF LOANS.

A loan or extension of a line of credit under Section 124.201:

- (1) must comply with this subtitle and rules adopted under this subtitle with respect to loans to other borrowers;
- (2) may not be on terms more favorable than those extended to other borrowers; and
- (3) must be approved by the board before the credit union makes or agrees to make the loan if the aggregate amount of the loan and other outstanding loans to the person, the person's business interests, and the person's immediate family is greater than the sum of:
 - (A) \$10,000 or a higher amount established by commission rule; and
 - (B) the amount of the shares and deposits pledged for the loan.

Sec. 124.203. AUTHORIZATION TO ACT AS COMAKER, GUARANTOR, OR ENDORSER.

Subject to Section 124.204, a credit union may permit a director, employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member.

Sec. 124.204. PRIOR APPROVAL REQUIRED.

The board must give its approval before the credit union permits a director, employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member if the amount of the loan or aggregate of outstanding loans to the comaker, guarantor, or endorser is greater than the sum of:

- (1) \$10,000 or a higher amount established by commission rule; and
- (2) the amount of the shares and deposits pledged for the loan.

SUBCHAPTER F. ILLEGAL LOANS

Sec. 124.251. ILLEGALITY OF LOAN NOT A DEFENSE.

The illegality of a loan is not a defense in a credit union's action to recover on the loan.

Sec. 124.252. ILLEGALITY OF LOAN NOT A BAR TO ENFORCEMENT OR COLLECTION.

The illegality of a loan does not prevent enforcement of the loan agreement against or collection of the loan from a person who is otherwise liable on the loan, including:

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- (1) the borrower; or
- (2) a guarantor or surety.

SUBCHAPTER G. LOAN PROGRAMS

Sec. 124.301. PARTICIPATION LOANS.

A credit union may market and sell participations in loans to members originated by the credit union to another credit union, corporation, or financial organization.

Sec. 124.302. GOVERNMENT LOAN PROGRAMS.

A credit union may participate in:

- (1) a guaranteed loan program of the United States government or a state government; and
- (2) another government loan program approved by the commission.

SUBCHAPTER H. INVESTMENT OF MONEY

Sec. 124.351. PERMITTED INVESTMENTS.

- (a) A credit union may invest money not used in loans to members in:
 - (1) capital shares, obligations, participation certificates, or common or preferred stock of an agency, association, or company, subject to Section 124.352(a);
 - (2) loans to a national or state credit union association or corporation of which the credit union is a member;
 - (3) obligations, bonds, notes, or other evidences of indebtedness of a state or political subdivision of a state;
 - (4) certificates of deposit or other accounts issued by a state or national bank, savings and loan association, savings association, or mutual savings bank;
 - (5) securities, obligations, participations, or other instruments of or issued by the United States, or in a trust established for investing directly or collectively in those investments;
 - (6) loans to, shares of, or deposits in another credit union, a central credit union, a corporate credit union, a central liquidity facility established under state or federal law, a trust, or an organization established for lending directly or collectively to credit unions;
 - (7) securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the United States, or in a trust established for investing directly or collectively in those investments;
 - (8) participation loans with another credit union, corporation, credit organization, or financial organization;

- (9) notes receivable, loans to members, or other assets of a credit union operating under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.); and
 - (10) other investments authorized by rules adopted by the commission that satisfy Subsection (b).
- (b) A rule adopted under Subsection (a)(10) must be responsive to:
- (1) changes in economic conditions or competitive practices; and
 - (2) the need for safety and soundness of credit union investments.

Sec. 124.352. LIMITATIONS ON INVESTMENTS.

- (a) An investment under Section 124.351(a)(1) may be made only if:
 - (1) the membership or ownership of the agency, association, or company is restricted to credit unions and their members or organizations of credit unions; and
 - (2) the agency, association, or company is designed primarily to serve or otherwise assist credit union operations.
- (b) An investment under Section 124.351(a)(1) or (2) in any one agency, association, or company may not exceed the lesser of the amount equal to:
 - (1) five percent of the credit union's total assets; or
 - (2) its reserves and undivided earnings.
- (c) Notwithstanding Subsection (a), the commission by rule may authorize an investment under Section 124.351(a)(1) in an agency, association, or company:
 - (1) whose membership or ownership is not restricted to credit unions and their members or organizations of credit unions; or
 - (2) that is not designed primarily to serve or otherwise assist credit union operations.

CHAPTER 125. CREDIT UNION ACCOUNTS AND SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 125.001. DEFINITION.

In this chapter, "multiple-party account" has the meaning assigned by Section 436, Texas Probate Code, except that the term includes an account in which one or more of the parties is an organization, association, corporation, or partnership.

Sec. 125.002. SHARE ACCOUNT.

A share account consists of payments on a member's shares, including membership shares. The shares may be:

- (1) of different types or classes; and
- (2) with or without par value as determined by the board.

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Sec. 125.003. DEPOSIT ACCOUNT.

A deposit account consists of payments made under an agreement between the credit union and a depositor, including a draft account, checking account, savings account, certificate of deposit, or other similar account or arrangement.

Sec. 125.004. CONSTRUCTION WITH OTHER LAWS.

This chapter may not be construed to conflict with the laws of the United States or the laws of this state governing the taxation of multiple-party accounts.

SUBCHAPTER B. MULTIPLE-PARTY ACCOUNTS

Sec. 125.101. FORM OF ACCOUNT.

(a) A member of a credit union or of a federal credit union doing business in this state may designate one or more persons to own a share or deposit account with the member in a multiple-party account.

(b) The account may provide for a right of survivorship.

Sec. 125.102. POWERS OF ACCOUNT HOLDERS.

(a) A party to a multiple-party account may make a payment on a share or deposit account and a withdrawal subject to the account agreement.

(b) A party to the account may not vote in matters pertaining to, obtain a loan through, or hold office in the credit union unless the party is a member of the credit union.

Sec. 125.103. POWERS OF MEMBERS RELATING TO ACCOUNT.

Subject to a policy adopted by the board, a member of a credit union by written notice to the credit union may:

- (1) change or cancel a multiple-party account designation;
- (2) change the form of the account; or
- (3) stop or vary payment under the terms of the account.

Sec. 125.104. OWNERSHIP INTEREST.

(a) The parties to a multiple-party account are presumed to own the account in equal undivided interests unless:

- (1) the account agreement provides otherwise; or
- (2) satisfactory proof of the net contributions to the account exists.

(b) The net contribution of a party to a multiple-party account is computed by adding:

- (1) the total amount of all of the payments on a share or deposit made by or for the party, less the amount of all of the withdrawals made by or

- for the party that have not been paid to or applied for the use of another party;
- (2) the pro rata share of interest or dividends included in the current balance of the account; and
 - (3) any life insurance proceeds added to the account because of the death of the party.

Sec. 125.105. DISCHARGE OF LIABILITY ON PAYMENT.

Payment of all or part of a multiple-party account to a party to the account discharges the credit union's liability to each party to the extent of the payment.

Sec. 125.106. DIVISION OF ACCOUNT ON DEATH.

(a) Unless otherwise provided by the account agreement or a trust agreement, the only effect the death of a party to a multiple-party account has on the beneficial ownership of the account is to transfer the decedent's right in the account to the decedent's estate.

(b) An account that does not expressly provide for right of survivorship is presumed to be a nonsurvivorship account.

(c) If the credit union complies with an account agreement, the credit union may pay money representing shares or deposits on the order of a party either before or after the death of another party.

(d) A credit union acting under Subsection (c) does not have further liability for the amount paid.

Sec. 125.107. SETOFF OF ACCOUNT.

Without qualifying another statutory right to a setoff or lien and subject to a contractual provision accepted by the credit union, a credit union has the right of setoff against the entire amount of a multiple-party account in which a party to the account is indebted to the credit union.

SUBCHAPTER C. MINOR ACCOUNTS

Sec. 125.201. POWERS OF CREDIT UNION RELATING TO ACCOUNT.

A credit union may:

- (1) open a share or deposit account in the name of a minor;
- (2) receive a payment on the account by or for the minor;
- (3) pay withdrawals;
- (4) accept pledges to the credit union by or for the minor; and
- (5) act in any other matter with respect to an account on the order of a minor.

Sec. 125.202. VOTING; OFFICE-HOLDING.

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- (a) If permitted by the credit union's bylaws, a minor:
 - (1) may vote in a meeting of the credit union's members; and
 - (2) is eligible to hold an office or committee membership in the credit union.
- (b) A minor may not vote through a parent or guardian at a meeting of the credit union's members.

Sec. 125.203. DISCHARGE OF LIABILITY ON PAYMENT; EFFECT ON MINOR OF REQUIRED ACTION.

- (a) A payment or delivery of rights made by a credit union or a federal credit union to any of the following persons in connection with an account in the name of a minor discharges the credit union or federal credit union to the extent of the payment or delivery:
 - (1) the minor;
 - (2) a party to the account; or
 - (3) the parent or guardian of a deceased minor.
- (b) The payment and a receipt, pledge, or other action required by the credit union is binding on the minor as if the minor had the capacity of an adult.

SUBCHAPTER D. TRUST ACCOUNT

Sec. 125.301. FORM OF ACCOUNT.

- (a) A credit union may issue shares or receive a deposit:
 - (1) in a revocable trust, if:
 - (A) a settlor is a member of the credit union; or
 - (B) a trustee or a beneficiary is a member of the credit union and the settlor is a member of the trustee's or beneficiary's family as that term is defined by the board in a written policy; or
 - (2) in an irrevocable trust, if a settlor, trustee, or beneficiary is a member of the credit union.
- (b) A credit union may rely on any information provided by the trustee to determine whether a trust is revocable or irrevocable.

Sec. 125.302. LOANS TO NONMEMBER TRUSTEE.

Subject to limitations imposed by this subtitle or a rule adopted under this subtitle, a credit union may make a fully secured loan to a nonmember trustee to enable the trustee to perform or assist the trustee in performing the trustee's fiduciary responsibilities.

Sec. 125.303. BENEFICIARY FEES.

A beneficiary who is not a member of a credit union is not required to pay a membership entrance fee.

Sec. 125.304. LIMITATIONS PLACED ON BENEFICIARY.

A beneficiary who is not a member of a credit union may not vote in matters pertaining to, obtain a loan through, or hold office in the credit union.

Sec. 125.305. ACCOUNT TRANSACTION INQUIRIES.

The credit union is not required to inquire of a trustee the reason for a transaction or the intended use for money withdrawn or borrowed.

Sec. 125.306. DISCHARGE OF LIABILITY ON PAYMENT.

Payment of all or part of the shares and deposits to a trustee or other person authorized to request present payment on a trust account discharges the liability of the credit union to each settlor, trustee, and beneficiary to the extent of the payment.

Sec. 125.307. TERMINATION OF ACCOUNT.

When a trust is terminated, the credit union shall pay money remaining in a trust account as:

- (1) directed by the trustee;
- (2) prescribed by the trust agreement; or
- (3) provided by applicable law, in the absence of direction from the trustee or by the trust agreement.

Sec. 125.308. EFFECT OF DEATH OF TRUSTEE ON ACCOUNT.

(a) The death of a trustee does not affect the ownership or disposition of a trust account unless:

- (1) the trust agreement provides otherwise; or
- (2) there is not a surviving trustee, and:
 - (A) the account is a trust account subject to Chapter XI, Texas Probate Code; or
 - (B) written evidence of the terms of the trust does not exist.

(b) On the death of a trustee for a trust account for which the death of a trustee affects the ownership disposition of the account, the credit union shall pay out money in the trust account:

- (1) in accordance with the trust agreement; or
- (2) in the absence of written evidence of the terms of the trust, to a beneficiary or any other person authorized by law to request or receive payment.

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(b) On the death of a trustee for a trust account for which the death of a trustee affects the ownership disposition of the account, the credit union shall pay out money in the trust account:

- (1) in accordance with the trust agreement; or
- (2) in the absence of written evidence of the terms of the trust, to a beneficiary or any other person authorized by law to request or receive payment.

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**SUBCHAPTER E. THIRD-PARTY CLAIMS AND OTHER
RIGHTS RELATING TO ACCOUNTS**

Sec. 125.401. THIRD-PARTY CLAIM.

A credit union or federal credit union doing business in this state must be served with citation or other appropriate process issued from a court in connection with a suit instituted by a third party to recover or establish an interest in a deposit or share account before the credit union or federal credit union is required to:

- (1) recognize the third party's claim;
- (2) withhold payment of the account to any party to the account; or
- (3) withhold payment to the order of any party to the account.

**Sec. 125.402. DISCLOSURE OF RECORDS OF MEMBER;
CONFIDENTIALITY.**

(a) A credit union is not required to disclose or produce to a third party or permit a third party to examine a record pertaining to the affairs of a credit union member unless:

- (1) the request is made in connection with an examination or audit by a government agency authorized by law to examine credit unions;
- (2) the member consents to the disclosure or production of the record; or
- (3) the request is made by the department or is made in response to:
 - (A) a subpoena or other court order; or
 - (B) an administrative subpoena or summons issued by a state or federal agency as authorized by law.

(b) The commission may authorize the disclosure of information relating to a credit union member under circumstances and conditions that the commission determines are appropriate or required in the daily operation of the credit union's business.

- (c) The commission may adopt reasonable rules relating to the:
- (1) confidentiality of the accounts of credit union members; and
 - (2) duties of the credit union to maintain that confidentiality.

**Sec. 125.403. RECOVERY OF DOCUMENT PRODUCTION EXPENSES
FROM THIRD PARTY.**

(a) A credit union or federal credit union doing business in this state is entitled to recover from a third party the reasonable cost actually incurred in disclosing or producing a record under this subtitle or other applicable law unless the cost was incurred in connection with an examination or audit by a government agency authorized by law to examine credit unions.

(b) The cost incurred in disclosing or producing a record includes the cost of reproduction, postage, or delivery.

Sec. 125.404. LIENS AND SETOFFS.

(a) To the extent of a member's direct or indirect indebtedness to a credit union, the credit union has:

- (1) a lien, enforceable with or without judicial process, on the member's shares and deposits, accumulated dividends, and interest; and
- (2) a right to set off against the member's shares, deposits, accumulated dividends, and interest.

(b) A credit union may allow a withdrawal to be made without affecting the credit union's right to a setoff or lien.

Sec. 125.405. ACCOUNT WITHDRAWALS.

(a) A credit union may require not longer than 60 days' notice for a withdrawal from a share or deposit account.

(b) The commissioner may impose an advance withdrawal notice requirement following issuance of a cease and desist order under Chapter 122. The commissioner by rule may require that a requirement imposed under this subsection apply to all members of the credit union.

(c) A membership share may not be withdrawn unless membership in the credit union is terminated.

SUBCHAPTER F. SAFE DEPOSIT BOXES

Sec. 125.501. RENTAL OF SAFE DEPOSIT BOX.

A credit union or federal credit union may maintain and rent safe deposit boxes.

Sec. 125.502. RELATIONSHIP BETWEEN CREDIT UNION AND BOX HOLDER.

(a) In the absence of a contract to the contrary, the relationship between a credit union and the renter of a safe deposit box maintained at the credit union is that of lessor and lessee and landlord and tenant. The rights and liabilities of the credit union are governed by the law governing those relationships.

(b) The lessee is for all purposes in possession of the box and its contents.

Sec. 125.503. ACCESS BY MORE THAN ONE PERSON.

(a) In the absence of a contract to the contrary, a credit union shall allow each holder of a safe deposit box jointly held in the name of two or more persons or a person other than the lessee designated in the lease agreement:

- (1) access to the box; and
- (2) removal of its contents.

(b) A credit union is not responsible for damage arising because a holder or other designated person had access to the box or removed its contents.

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**SUBCHAPTER E. THIRD-PARTY CLAIMS AND OTHER
RIGHTS RELATING TO ACCOUNTS**

Sec. 125.401. THIRD-PARTY CLAIM.

A credit union or federal credit union doing business in this state must be served with citation or other appropriate process issued from a court in connection with a suit instituted by a third party to recover or establish an interest in a deposit or share account before the credit union or federal credit union is required to:

- (1) recognize the third party's claim;
- (2) withhold payment of the account to any party to the account; or
- (3) withhold payment to the order of any party to the account.

**Sec. 125.402. DISCLOSURE OF RECORDS OF MEMBER;
CONFIDENTIALITY.**

(a) A credit union is not required to disclose or produce to a third party or permit a third party to examine a record pertaining to the affairs of a credit union member unless:

- (1) the request is made in connection with an examination or audit by a government agency authorized by law to examine credit unions;
- (2) the member consents to the disclosure or production of the record; or
- (3) the request is made by the department or is made in response to:
 - (A) a subpoena or other court order; or
 - (B) an administrative subpoena or summons issued by a state or federal agency as authorized by law.

(b) The commission may authorize the disclosure of information relating to a credit union member under circumstances and conditions that the commission determines are appropriate or required in the daily operation of the credit union's business.

- (c) The commission may adopt reasonable rules relating to the:
- (1) confidentiality of the accounts of credit union members; and
 - (2) duties of the credit union to maintain that confidentiality.

**Sec. 125.403. RECOVERY OF DOCUMENT PRODUCTION EXPENSES
FROM THIRD PARTY.**

(a) A credit union or federal credit union doing business in this state is entitled to recover from a third party the reasonable cost actually incurred in disclosing or producing a record under this subtitle or other applicable law unless the cost was incurred in connection with an examination or audit by a government agency authorized by law to examine credit unions.

(b) The cost incurred in disclosing or producing a record includes the cost of reproduction, postage, or delivery.

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(c) The death of a holder of a jointly held safe deposit box does not affect the right of another holder or other designated person to have access to and remove contents from the box.

Sec. 125.504. RELOCATION OF SAFE DEPOSIT BOX; INVENTORY OF CONTENTS.

(a) Except as otherwise provided by this section, Sections 125.505 through 125.507, Sections 36B through 36F, Texas Probate Code, or other law, a credit union may not relocate a safe deposit box rented for a term of six months or longer if the box rental is not delinquent or may not open the box to relocate its contents to another location, unless:

- (1) the lessee is present when the box is opened or relocated; or
- (2) the lessee has given the credit union written authorization to relocate the box or to open the box for purposes of relocation.

(b) Storage conditions at the new box location must be at least as secure as the conditions at the original location.

(c) If the box is opened during relocation, two employees shall prepare a detailed inventory of the contents of the box. At least one of the employees must be an officer or manager of the credit union and a notary public.

(d) One lessee of a jointly held safe deposit box is sufficient to personally supervise or give written authorization for the box's relocation.

Sec. 125.505. NOTICE OF BOX RELOCATION.

(a) A credit union shall give a lessee of a safe deposit box at least 30 days' notice of the box's relocation. The notice must state:

- (1) the scheduled date and time of the relocation; and
- (2) whether the box will be opened during the relocation.

(b) If the lessee does not personally supervise the relocation or give written authorization for the relocation, the credit union shall notify the lessee of the new box number or location not later than the 30th day after the date of the relocation. The credit union must include a copy of the signed and notarized inventory report required by Section 125.504(c) with the notice.

(c) A notice required by this section must be sent by certified mail, return receipt requested, to each lessee named in the records of the credit union at the address shown in those records.

Sec. 125.506. COST OF NOTICE AS BOX RENTAL.

The credit union may treat the cost of certified mailings incurred in connection with each safe deposit box relocation other than the cost of the first notice as box rental due and payable at the expiration of the rental term.

Sec. 125.507. EMERGENCY RELOCATION OF SAFE DEPOSIT BOX.

(a) A credit union may relocate a safe deposit box or open the box to relocate its contents to another location if the security of the box is threatened or destroyed by an unforeseeable circumstance beyond the credit union's control, including a natural disaster such as a tornado, flood, or fire.

(b) Not later than the 90th day after the date on which the box is relocated, the credit union shall notify each lessee in whose name the box is held of the new box number or location. The notice must be sent by certified mail, return receipt requested, to each lessee named in the records of the credit union at the address shown in those records.

Sec. 125.508. KEY IMPRINTING.

(a) A credit union that rents or permits access to a safe deposit box shall:

- (1) imprint all keys issued to the box after September 1, 1992, with its routing number; or
- (2) issue keys imprinted with the routing number.

(b) If available space on a key is insufficient for imprinting the routing number, the credit union shall attach to the key a tag imprinted with the routing number.

(c) If a credit union believes that the routing number imprinted on a key, or a tag attached to a key, used to access a safe deposit box has been altered or defaced in a manner that the correct routing number is illegible, the credit union shall notify the Department of Public Safety, on a form designated by the commissioner, not later than the 10th day after the date the key is used to access the box.

(d) This section does not require a credit union to inspect the routing number imprinted on a key or an attached tag to determine whether the number has been altered or defaced.

Sec. 125.509. LIABILITY FOR ACCESS TO OR REMOVAL OF CONTENTS.

A credit union that has identified the keys to a safe deposit box in accordance with Section 125.508 and that follows applicable law and the credit union's established security procedures in permitting access to the box is not liable for damages arising because of access to or removal of the box's contents.

Sec. 125.510. DELINQUENT RENTS.

(a) If the rental of a safe deposit box is delinquent for six months or longer, the credit union may open the box only if:

- (1) the credit union sends notice of the delinquency to the lessee; and
- (2) the rent is not paid before the date specified in the notice.

(b) The notice must:

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- (1) be sent by certified mail, return receipt requested, to the lessee named in the books of the credit union at the address shown in those books; and
- (2) specify a date by which payment must be made that may not be before the 61st day after the date on which the notice is mailed.

(c) The box must be opened in the presence of two employees, and the credit union shall prepare a detailed inventory of the contents of the box as provided by reporting instructions of the comptroller. At least one of the employees must be an officer or manager of the credit union and a notary public.

(d) The credit union shall place the contents of the box in a sealed envelope or container that states the lessee's name. The credit union shall hold the contents of the box subject to a lien for:

- (1) the box's rental;
- (2) the cost of opening the box; and
- (3) any damage in connection with the box.

Sec. 125.511. AUCTION OF CONTENTS.

(a) If the rental, cost, and damages determined under Section 125.510(d) are not paid before the second anniversary of the date on which the box is opened, the credit union may:

- (1) sell all or part of the contents at a public auction in the manner and on the notice prescribed for the sale of real property under deed of trust under Section 51.002, Property Code; and
- (2) apply the sale proceeds to the rental, cost, and damages.

(b) The credit union shall send to the comptroller as provided by Chapter 74, Property Code:

- (1) the unauctioned contents of a box; and
- (2) any excess proceeds from the auction.

CHAPTER 126. CREDIT UNION SUPERVISION AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 126.001. APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT.

The commissioner may appoint any person, including the share and deposit guaranty corporation or credit union provided for by Section 15.410, as a conservator or a liquidating agent under this chapter.

Sec. 126.002. CONFIDENTIALITY OF INFORMATION.

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department that relates to the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) The commissioner may disclose to the commission information pertinent to a hearing or matter pending before the commission or the commissioner.

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

(d) Information obtained by the department from a federal or state supervisory agency that is confidential under federal law or the laws of that state may not be disclosed except as provided by the applicable federal or state law.

Sec. 126.003. ENFORCEABILITY OF AGREEMENT MADE BY CREDIT UNION BEFORE CONSERVATORSHIP OR LIQUIDATION.

An agreement that tends to diminish or defeat the interest of the conservator or liquidating agent in an asset acquired under this chapter, either as security for a loan or by purchase, is not valid against the conservator or liquidating agent unless the agreement is:

- (1) in writing;
- (2) executed by the credit union and each person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the credit union;
- (3) approved by the board with the approval recorded in the minutes of the board; and
- (4) an official record of the credit union continuously from the time of its execution.

SUBCHAPTER B. EXAMINATIONS

Sec. 126.051. EXAMINATIONS.

The department, through examiners it appoints and in accordance with commission rules, shall periodically examine the books and records of each credit union.

Sec. 126.052. ACCESS TO INFORMATION.

An officer, director, agent, or employee of a credit union shall give an examiner free access to any information relating to the credit union's business, including access to books, papers, securities, and other records.

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Sec. 126.053. WITNESSES; PRODUCTION OF DOCUMENTS.

In an examination conducted under this subchapter, the commissioner or an examiner may:

- (1) summon witnesses;
- (2) administer an oath or affirmation to a person, including an officer, director, agent, or employee of a credit union; or
- (3) compel by court order the production of documents that are not voluntarily produced, including books, papers, securities, and records.

Sec. 126.054. REPORT OF EXAMINATION.

(a) An examiner shall report the results of an examination, including a general statement of the credit union's affairs, on a form prescribed by the commissioner and approved by the commission.

(b) The department shall send a copy of the report to the board not later than the 30th day after the examination date.

(c) The report of examination is confidential. The commissioner may provide a copy of the report to other parties as described in Section 126.002(c).

Sec. 126.055. FEE.

The commission may establish and a credit union shall pay a fee based on the cost of performing an examination of the credit union.

SUBCHAPTER C. CONSERVATORSHIP ORDER

Sec. 126.101. CONSERVATORSHIP ORDER; APPOINTMENT OF CONSERVATOR.

(a) The commissioner may immediately issue a conservatorship order and appoint a conservator to manage a credit union's affairs if:

- (1) the commissioner, in performing the duties under this subtitle, finds that:
 - (A) the credit union is insolvent or in imminent danger of insolvency; or
 - (B) the credit union or an employee, officer, or director of a credit union, including an honorary or advisory director has:
 - (i) violated this subtitle, a rule adopted under this subtitle, or another law that applies to credit unions;
 - (ii) violated or neglected a final order of the commissioner or commission;
 - (iii) refused to submit to examination under oath;

- (iv) refused to permit the commissioner or the commissioner's representative to examine the credit union's records and affairs, including books, papers, and accounts;
 - (v) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner; or
 - (vi) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody or control, including books, papers, and accounts, following the commissioner's request for the granting of that authority and direction; and
- (2) the commissioner determines that the finding under Subdivision (1) is sufficiently severe to require immediate affirmative action to prevent further dissipation of the credit union's assets.
- (b) The order must clearly state the grounds for conservatorship.

Sec. 126.102. SERVICE OF ORDER.

(a) A conservatorship order must be served personally to an officer or director of the credit union by the commissioner, the deputy commissioner, or another person authorized by the commissioner.

(b) Service may be by mail if an officer or director is not available for service on the date of issuance.

(c) Service by certified or registered mail:

- (1) must be addressed to the credit union at the address shown for its principal office by department records; and
- (2) is complete on deposit of the order in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

Sec. 126.103. EFFECT OF ORDER.

Following service of a conservatorship order:

- (1) the commissioner shall take possession and control of the credit union's books, records, property, assets, and business; and
- (2) the credit union shall cease all operations except those authorized by the commissioner and conducted under the commissioner's supervision.

Sec. 126.104. REPLY TO ORDER.

Not later than the 30th day after the date on which a conservatorship order is served, the board shall file a written reply to the order.

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Sec. 126.105. APPEAL OF ORDER; HEARING.

(a) The board may file a written appeal of the conservatorship order with the commissioner. The appeal must include a certified copy of the board resolution.

(b) If the board files an appeal to request a hearing before the commission, the commissioner shall promptly request from the State Office of Administrative Hearings a hearing date that is not earlier than the 11th day nor later than the 30th day after the date on which the appeal is received.

(c) The commissioner shall give the credit union notice of the date, time, and place of the hearing.

(d) The filing of an appeal does not suspend the order, and the order remains in effect until the commission's final disposition of the appeal.

(e) Not later than the 45th day after a proposal for decision is received from the State Office of Administrative Hearings, the commission shall meet to consider the proposal.

Sec. 126.106. FAILURE TO FILE REPLY OR REQUEST HEARING.

(a) If the board does not file a reply to the conservatorship order as required by Section 126.104 or fails to request and appear at the hearing provided for by Section 126.105, the commissioner may dispose of the conservatorship matter as the commissioner considers appropriate.

(b) The credit union is presumed to have consented to the commissioner's disposition action and may not contest it.

Sec. 126.107. EXTENSION OF DATE AND TIME FOR HEARING.

The parties may agree to extend the date and time of the hearing.

Sec. 126.108. CONFIDENTIALITY; DISCLOSURE.

A conservatorship order and a copy of a notice or correspondence relating to the order is confidential and may be disclosed only in a related legal proceeding or as otherwise authorized by law.

SUBCHAPTER D. ADMINISTRATION OF CONSERVATORSHIP

Sec. 126.151. CONSERVATOR SUBJECT TO COMMISSION CONTROL.

A conservator shall exercise the powers authorized under Sections 126.152-126.154 subject to commission rules and under the commissioner's supervision.

Sec. 126.152. GENERAL POWERS OF CONSERVATOR.

The conservator may:

- (1) take possession and control of the books, records, property, assets, and business of the credit union;
- (2) conduct the business and affairs of the credit union;
- (3) sell or assign assets to the conservator; and
- (4) perform any other action as necessary in connection with the conservatorship.

Sec. 126.153. POWERS RELATING TO CLAIMS.

The conservator may:

- (1) determine the existence and amount of claims;
- (2) allow proved claims of security, preference, or priority;
- (3) disallow unproved claims of security, preference, or priority; and
- (4) settle or release a claim in favor of or against the credit union.

Sec. 126.154. POWER TO REPUDIATE BURDENSOME TRANSACTION.

The conservator may repudiate a contract or unexpired lease the conservator considers burdensome to the credit union.

Sec. 126.155. POWER TO PROTECT, PRESERVE, AND RECOVER PROPERTY.

(a) The conservator may take measures necessary to preserve, protect, and recover the assets or property of the credit union, including filing a lawsuit against any person.

(b) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

(c) The conservator may deal with that property in the capacity of conservator.

(d) The conservator may file, prosecute, or defend a suit brought by or against the credit union if the conservator considers it necessary to protect the interested party or property affected by the suit.

Sec. 126.156. DUTIES OF CONSERVATOR.

The conservator shall:

- (1) take actions as directed by the commissioner to remove the causes and conditions that made the conservatorship necessary; and
- (2) report to the commissioner from time to time during the conservatorship as required by the commissioner.

Sec. 126.157. TERM OF CONSERVATOR.

The conservator shall serve until the purposes of the conservatorship are accomplished.

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Sec. 126.158. TRANSFER OF MANAGEMENT OF REHABILITATED CREDIT UNION.

If the credit union is rehabilitated, the conservator shall return the management of the credit union to the board under terms that are reasonable and necessary to prevent a recurrence of the conditions that created the need for conservatorship.

Sec. 126.159. COST OF CONSERVATORSHIP.

- (a) The commissioner shall determine the cost of the conservatorship.
- (b) The cost of conservatorship shall be paid from the credit union's assets as the commissioner directs.

Sec. 126.160. JURISDICTION AND VENUE.

- (a) A suit against a credit union or its conservator while a conservatorship order is in effect must be brought in Travis County.
- (b) A suit filed by the conservator under Section 126.155 may be brought in Travis County.

Sec. 126.161. EXHAUSTION OF ADMINISTRATIVE REMEDIES.

Administrative remedies must be exhausted before a court may:

- (1) assert jurisdiction over a claim against the conservator or the credit union; or
- (2) restrain or otherwise affect the exercise of the powers or functions of the conservator.

SUBCHAPTER E. LIQUIDATION ORDER; INJUNCTION

Sec. 126.201. LIQUIDATION ORDER; APPOINTMENT OF LIQUIDATING AGENT.

After the commissioner has issued a conservatorship order and provided an opportunity for hearing, the commissioner by liquidation order may appoint a liquidating agent and direct that the credit union be liquidated if:

- (1) the board requests issuance of a liquidation order and liquidation of the credit union;
- (2) the credit union otherwise consents to the liquidation; or
- (3) the commissioner:
 - (A) finds that the closing of the credit union and the liquidation of the credit union's assets are in the public interest and the best interest of the credit union's members, depositors, and creditors; and
 - (B) determines that the credit union is not in a condition to continue business and cannot be rehabilitated as provided by this chapter.

Sec. 126.202. SERVICE OF ORDER.

The commissioner shall serve a liquidation order in the same manner provided for service of a conservatorship order.

Sec. 126.203. SUIT FOR INJUNCTION.

(a) Not later than the fifth day after the date on which the liquidation order is served, a credit union that has not requested or consented to a liquidation order may, if authorized by certified board resolution, sue to enjoin the commissioner from liquidating the credit union.

(b) The suit must be brought in the district court of the county in which the credit union's principal office is located.

Sec. 126.204. ACTION PENDING INJUNCTION HEARING.

(a) The court, without notice or hearing, may restrain the commissioner from liquidating the credit union's assets until after a hearing on the suit is held.

(b) If the court restrains the commissioner, the court shall instruct the commissioner to hold the credit union's assets in the commissioner's possession and control until disposition of the suit.

(c) With court approval, the commissioner may take any necessary or proper action to prevent loss or depreciation in the value of the assets.

Sec. 126.205. HEARING ON INJUNCTION; APPEAL.

(a) The court, as soon as possible, shall hear the suit and shall enter a judgment enjoining or refusing to enjoin the commissioner from liquidating the credit union's assets.

(b) The commissioner, regardless of the judgment entered by the trial court or any supersedeas bond filed, shall retain possession and control of the credit union's assets until final disposition of any appeal of the judgment.

SUBCHAPTER F. ADMINISTRATION OF LIQUIDATION

Sec. 126.251. PERMISSIBLE ACTIVITIES IN LIQUIDATION.

(a) A credit union in liquidation continues in existence to discharge debts, collect and distribute assets, and wind up the credit union's business.

(b) The credit union may sue and be sued to enforce debts and obligations until its affairs are fully adjusted.

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Sec. 126.252. COMPENSATION OF CREDIT UNION EMPLOYEES AND OFFICERS.

(a) This chapter does not prevent compensation of a salaried employee or officer of a credit union during the credit union's liquidation.

(b) The compensation is considered an incidental expense of the liquidation.

Sec. 126.253. LIQUIDATING AGENT SUBJECT TO COMMISSION CONTROL.

The liquidating agent shall perform the duties required by the following sections subject to commission rules and under the commissioner's supervision:

- (1) Sections 126.254-126.258; and
- (2) Sections 126.301, 126.302, 126.304, 126.305, and 126.306.

Sec. 126.254. POSSESSION, CONSOLIDATION, AND DISPOSITION OF ASSETS.

The liquidating agent shall:

- (1) receive and take possession of the books, records, assets, and property of the credit union;
- (2) . . . sell, enforce collection of, and liquidate assets and property; and
- (3) sell or assign assets to the liquidating agent subject to Section 126.353.

Sec. 126.255. COMPOUND DEBTS.

The liquidating agent shall compound all bad or doubtful debts.

Sec. 126.256. COURT ACTION BY LIQUIDATING AGENT.

The liquidating agent shall:

- (1) sue in the name of the liquidating agent or may sue in the name of the credit union; and
- (2) defend an action brought against the liquidating agent or the credit union.

Sec. 126.257. REPUDIATION OF BURDENSOME TRANSACTIONS.

The liquidating agent shall repudiate a contract or unexpired lease the liquidating agent considers burdensome to the credit union.

Sec. 126.258. EXECUTION OF DOCUMENTS; OTHER NECESSARY ACTS.

The liquidating agent may execute any document and perform any other action that:

- (1) the liquidating agent considers necessary or desirable to discharge the liquidating agent's duties; and
- (2) may be necessary under this subchapter and Subchapter G.

Sec. 126.259. JURISDICTION AND VENUE.

(a) A suit against a credit union or its liquidating agent while a liquidation order is in effect must be brought in Travis County.

(b) The liquidating agent may file suit in Travis County to preserve, protect, or recover the credit union's assets or property.

(c) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

Sec. 126.260. EXHAUSTION OF ADMINISTRATIVE REMEDIES.

Except as provided by Subchapter E, administrative remedies must be exhausted before a court may:

- (1) assert jurisdiction over a claim against the liquidating agent or the credit union; or
- (2) restrain or otherwise affect the exercise of the powers or functions of the liquidating agent.

**SUBCHAPTER G. CLAIMS RELATING TO CREDIT UNION
IN LIQUIDATION**

Sec. 126.301. CLAIMS AGAINST CREDIT UNION.

The liquidating agent shall:

- (1) determine the existence and amount of claims;
- (2) allow proved claims of security, preference, or priority;
- (3) settle or release a claim in favor of or against the credit union;
- (4) disallow unproved claims of security, preference, or priority; and
- (5) make distributions to and pay creditors and members of the credit union as their interests appear.

Sec. 126.302. NOTICE TO CREDITORS AND MEMBERS.

(a) The liquidating agent shall give notice to creditors and members to present and prove their claims.

(b) The notice must be published once a week for three successive weeks in a newspaper of general circulation in each county in which the credit union maintained an office or branch to transact business on the date the credit union ceased unrestricted operations.

(c) When the aggregate book value of the assets and property of the credit union being liquidated is less than \$10,000, the commissioner shall declare the

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credit union to be a "no publication" liquidation, and publication of notice to creditors and members under this section is not required.

Sec. 126.303. PRIORITY OF CLAIMS.

The liquidating agent shall use the credit union's assets to pay, in the following order:

- (1) secured creditors to the extent of the value of their collateral;
- (2) liquidation expenses, including a surety bond if required;
- (3) depositors;
- (4) general creditors, including secured creditors to the extent that their claims exceed the value of their collateral; and
- (5) distributions to members in proportion to the shares held by each member.

Sec. 126.304. LIQUIDATION DIVIDENDS.

(a) The liquidating agent from time to time shall make a ratable liquidation dividend on claims that have been:

- (1) proved to the satisfaction of the board or the liquidating agent; or
- (2) adjusted by a court.

(b) After the credit union's assets have been liquidated, the liquidating agent shall make further liquidation dividends on claims previously proved or adjusted.

(c) For purposes of making a further liquidation dividend under Subsection (b), the liquidating agent may accept the statement of an amount due a claimant as shown on the credit union's books and records instead of a formal proof of claim filed on the claimant's behalf.

Sec. 126.305. PAYMENT OF CLAIMS IN "NO PUBLICATION" LIQUIDATION.

(a) In a "no publication" liquidation, the liquidating agent shall determine from all sources available, and within the limits of the credit union's available money, the amounts due to creditors and members.

(b) Not earlier than the 61st day after the date on which the liquidating agent is appointed, the liquidating agent shall distribute the credit union's money to creditors and members ratably and as their interests appear.

Sec. 126.306. BARRED CLAIMS.

(a) A claim not filed before the liquidating agent pays the final liquidation dividend is barred.

(b) A claim rejected by the liquidating agent is barred unless suit to appeal the liquidating agent's rejection is filed within three months after the date of notice of rejection.

SUBCHAPTER H. LIQUIDATING AGENT

Sec. 126.351. REMOVAL OF LIQUIDATING AGENT.

(a) On finding that the liquidating agent has failed to properly perform the liquidating agent's duties in a timely and efficient manner or has violated this subtitle or a rule adopted under this subtitle, the commissioner by removal order may take possession and control of the books, records, property, assets, and business of the credit union.

(b) The removal order must:

- (1) remove the liquidating agent and appoint a successor liquidating agent to complete the liquidation and the winding up of the credit union's affairs subject to the commissioner's supervision and control; and
- (2) be served on the liquidating agent being removed.

(c) The removal order takes effect immediately on service.

Sec. 126.352. REPLACEMENT OF LIQUIDATING AGENT.

The commissioner shall appoint another liquidating agent on a liquidating agent's resignation, death, illness, removal, desertion, or incapacity to function.

Sec. 126.353. CONFLICT OF INTEREST.

(a) The liquidating agent may not acquire an asset of the credit union in liquidation or purchase a loan of the credit union without the commissioner's prior written approval.

(b) A liquidating agent may not obtain from the liquidation compensation or profit for:

- (1) direct or indirect personal benefit;
- (2) the benefit of a family member of or a person associated with the liquidating agent; or
- (3) the benefit of a business enterprise with which the liquidating agent is associated, other than the credit union.

Sec. 126.354. COMPENSATION.

(a) A liquidating agent is entitled to receive reasonable compensation during the liquidation.

(b) The compensation is considered an incidental expense of the liquidation.

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SUBCHAPTER I. COMPLETION OF LIQUIDATION

Sec. 126.401. CERTIFICATE OF LIQUIDATION AND DISTRIBUTION.

The commissioner shall prescribe the form of a certificate to be completed by the liquidating agent attesting that distribution has been made and liquidation is complete.

Sec. 126.402. CANCELLATION OF CERTIFICATE OF INCORPORATION.

The commissioner, on receipt and approval of the certificate executed under Section 126.401, shall cancel the credit union's certificate of incorporation.

Sec. 126.403. WINDING UP OF CREDIT UNION BUSINESS.

During the three-year period following cancellation of the credit union's certificate of incorporation, the credit union continues to exist and the liquidating agent, or a successor or other person designated by the commissioner, may act on the credit union's behalf to:

- (1) pay, satisfy, or discharge an existing liability or obligation;
- (2) collect and distribute assets; and
- (3) act as required to adjust and wind up the credit union's business and affairs, including suing or being sued in the credit union's corporate name.

SUBCHAPTER J. VOLUNTARY LIQUIDATION

Sec. 126.451. BOARD RESOLUTION.

Unless the commissioner has issued a liquidation order, the board may adopt a resolution recommending voluntary dissolution of the credit union and directing submission of the question of liquidation to the members of the credit union.

Sec. 126.452. NOTIFICATION TO COMMISSIONER OF PROPOSED LIQUIDATION.

Not later than the fifth day after the date on which the board's resolution recommending voluntary dissolution is adopted, the board's presiding officer shall notify the commissioner in writing of the reasons for the proposed liquidation.

Sec. 126.453. NOTICE OF MEETING TO LIQUIDATE.

Notice of the special meeting to consider voluntary liquidation shall be mailed by first-class mail to each member of the credit union and the commissioner not later than the 10th day before the date of the meeting.

Sec. 126.454. CREDIT UNION OPERATIONS BEFORE AND AFTER VOTE.

Immediately after notice under Section 126.453 is mailed, the credit union shall cease to operate except to accept loan payments or other obligations due the credit union. If the vote to dissolve and liquidate the credit union is affirmative, the credit union may conduct only business incidental to liquidation.

Sec. 126.455. VOTE ON VOLUNTARY LIQUIDATION.

At a special meeting called to consider the proposed liquidation, a majority of the credit union members, but not less than a quorum, may vote to dissolve and liquidate the credit union.

Sec. 126.456. NOTICE TO COMMISSIONER OF AFFIRMATIVE VOTE TO LIQUIDATE.

(a) The board's presiding officer or president and the secretary shall notify the commissioner of the intention to liquidate not later than the fifth day after the affirmative vote to dissolve and liquidate.

(b) The person notifying the commissioner must include a list of the names and addresses of the credit union's officers and directors with the notice.

Sec. 126.457. APPOINTMENT OF LIQUIDATING AGENT.

If the members approve the liquidation, the board shall appoint a liquidating agent to:

- (1) conserve and collect the credit union's assets;
- (2) wind up the credit union's affairs;
- (3) discharge the credit union's debts;
- (4) distribute the credit union's assets; and
- (5) take any other action necessary and incidental to liquidating the credit union.

CHAPTER 149. MISCELLANEOUS PROVISIONS RELATING TO CREDIT UNIONS

Sec. 149.001. APPLICABILITY OF CHAPTERS 3 AND 4, BUSINESS & COMMERCE CODE.

(a) Chapters 3 and 4, Business & Commerce Code, determine the rights, responsibilities, and liabilities of a person regarding an item drawn on, transferred to, or presented, remitted, collected, settled, negotiated, or otherwise handled by a

credit union as if the credit union were a bank, unless otherwise provided by written agreement of the parties.

(b) In this section:

(1) "Credit union" means a credit union authorized to do business in this state under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

(2) "Item":

(A) means an instrument, whether or not negotiable, for the payment of money; and

(B) does not include money.

Sec. 149.002. EXEMPTION FROM SECURITIES LAWS.

(a) Except as required by this subtitle, a credit union authorized to do business under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.) and an officer, employee, or agent of the credit union engaged in selling, issuing, or offering a security issued by a state or federal credit union are exempt from a law of this state to the extent the law provides for supervision, registration, or regulation in connection with selling, issuing, or offering a security.

(b) The sale, issuance, or offering of a security issued by a state or federal credit union is legal without any action or approval by any official, other than the credit union commissioner, who is authorized to license, regulate, or supervise the sale, issuance, or offering of securities.

(c) In this section, "security" has the meaning assigned by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes).