

**RULES COMMITTEE
MEETING MINUTES
MARCH 3, 2016**

A. CALL TO ORDER – Committee Chairman Vik Vad called the meeting to order at 1:01 p.m. at the Texas State Capitol Extension, Room E2.030, Austin, Texas pursuant to Chapter 551 of the Government Code. Other members present included Kay Stewart, Yusuf Farran, Steven “Steve” Gilman, Gary Tuma and Commission Chairman Manny Cavazos, ex-officio member. Assistant Attorney General Zindia Thomas was in attendance to serve as legal counsel. Staff members in attendance were Harold E. Feeney, Commissioner and Shari Shivers, Assistant Commissioner and General Counsel. Chairman Vad appointed Isabel Velasquez as recording secretary. The Chair also inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**February 22, 2016, TRD#2016001355**).

- **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION**–Committee Chairman Vad invited public input on matters regarding rulemaking for future consideration by the committee.

- **Isaac Johnson, General Counsel, Texas Dow Employees Credit Union.** Mr. Johnson thanked the Committee and Commission, on behalf of the credit union and its president, Stephanie Sherrodd, for their efforts to update the field of membership rules. Mr. Johnson reiterated that modernization of the rules was both necessary and appropriate and encouraged future consideration of possible amendments that would broaden the definitions surrounding facilities and offices.

B. RECEIVE MINUTES OF PREVIOUS MEETING (October 15, 2015)

Mr. Gilman moved to approve the minutes of October 15, 2015 as presented. Mr. Farran seconded the motion, and the motion was unanimously adopted.

C. UNFINISHED BUSINESS

Commissioner Feeney suggested that the Committee may want to consider taking up the first two agenda items together in order to facilitate discussions since both items deal basically with the same topic. There were no objections.

(a) Discussion of and Possible Vote to Recommend that the Credit Union Commission Withdraw the Proposed Amendments to 7 TAC Sections 91.101 and 91.301 which Appeared in the October 30, 2015 Issue of the Texas Register.

(b) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.301 Concerning Field of Membership.

Commissioner Feeney explained that in October the Commission approved for publication and comment the proposed amendments to Rules 91.101 (Definitions and Interpretations) and 91.301 (Field of Membership). He indicated that the stated purpose of the proposal was to stimulate discussion and engage interested persons in helping to develop appropriate provisions that fulfil public policy considerations and modernize the field of membership rules. He further explained that twenty (20) comments were received with about half in favor and half opposed to the proposal. Given the divergence of opinion, Mr. Feeney recommended that the October 2015 proposal be withdrawn and a new proposal be issued.

Commissioner Feeney explained that the new proposal concentrates solely on Rule 91.301 by prescribing political subdivisions within reasonable proximity of the location of a credit union's office(s) as a presumptive "local service area". The

amendments will also fully implement the intent of HB 1626 and facilitate the establishment of branches in geographic areas where there is a demonstrated need for credit union services.

Committee Chairman Vad opened the floor to the public for discussion.

- **Jeff Huffman, President of the Texas Credit Union Association.** Mr. Huffman commended efforts to revise the field of membership rule.
- **David Bleazard, President, First Service Credit Union.** Mr. Bleazard questioned whether there should be a definition of “reasonable proximity”. Mr. Feeney indicated that “reasonable proximity” is existing language within the Rule and staff was not proposing any changes at this time.
- **Tim Adams, President, SPCO Credit Union.** Mr. Adams questioned whether any of the determining factors for approving a field of membership expansion would change in the future as a result of the proposed amendments. Mr. Feeney responded that the determinations should not change but he felt the convenience and certainty resulting from the use of recognized political jurisdictions should reduce regulatory burden on credit unions. Mr. Adams also inquired whether “gather” was a new basis for qualifying a group for membership. Mr. Feeney explained that Rule 91.101 prescribes the four types of affinity on which a community of interest could be based.
- **Isaac Johnson, General Counsel, Texas Dow Employees Credit Union.** Mr. Johnson indicated that NCUA includes ATMs in its definition of service facility and suggested that the Committee consider a similar definition.

Mr. Gilman inquired about credit union development districts that may be approved by the Commission and expressed the hope that these amendments

would streamline the process for including a district in a credit union's field of membership. He also commented that several of the comment letters refer to the NCUA's current proposal to amend its field of membership rule and questioned the timeframe for its possible adoption. Mr. Feeney suggested that his preference would never be to wait for the federal government to take action. He further explained that NCUA's field of membership proposal has generating considerable interest (more than 11,000 written comments) and it will probably take NCUA a number of months to sort through and appropriately respond to the issues raised by the commenters.

Mr. Tuma moved to recommend that the Commission withdraw the proposed amendments to **7 TAC Sections 91.101 and 91.301** that were previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion passed unanimously.

Mr. Gilman moved to recommend that the Commission approve for publication and comment the new proposed amendments to **7 TAC Section 91.301** concerning field of membership. Mr. Tuma seconded the motion and the motion passed unanimously.

D. NEW BUSINESS

(a) **Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Completed Rule Review of 7 TAC Section 91.302 (relating to Election or Other Membership Vote by Electronic Balloting, Early Voting, Absentee Voting, or Mail Balloting); 7 TAC 91.310 (relating to Annual Report to Membership); and 7 TAC Section 91.315 (relating to Members Access to Credit Union Documents).** Commissioner Feeney briefly explained that in accordance with the Commission's Rule Review Plan, staff has reviewed 7 TAC Part 6, Chapter 91, Subchapter C and is recommending that no changes be made to **7 TAC Sections 91.302, 91.310 and**

91.315. He further indicated that the Department received no written comments on these rules.

After a short discussion, Mr. Gilman moved to recommend that the Commission find that the reasons for adopting **7 TAC Sections 91.302, 91.310, and 91.315** continue to exist and that the rules be readopted without change. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(b) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendment to 7 TAC Section 97.200 Concerning the Employee Training Program. Commissioner Feeney explained that during the 84th Legislative Session, HB 3337 established certain requirements for agency tuition reimbursement programs. He indicated that the amendments are being proposed to reflect the new statutory requirements.

After a brief discussion Mrs. Stewart moved to recommend that the Commission approve for publication and comment the proposed amendment to **7 TAC Section 97.200** to be published in the *Texas Register*. Mr. Tuma seconded the motion and the motion was unanimously adopted.

(c) Discussion of the Joint Financial Regulatory Agencies Mandatory Rule Review of 7 TAC, Part 8, Chapters 151 (relating to Home Equity Lending Procedures), Comprised of §§151.1-151.8, Chapter 152 (related to Repair, Renovation, and New Construction on Homestead Property), Comprised of §§152.1, 152.3, 152.5, 9152.7, 152.9, 152.11, 152.13, and 152.15, and Chapter 153 (relating to Home Equity Lending) Comprised of §§153.1-153.5, 153.7-153.18, 153.20, 153.22, 153.24, 153.25, 153.41, 153.51, 153.82, 153.84-153.88, and 153.91-153.96. Commissioner Feeney noted that as provided in Section

15.413, Finance Code, home equity interpretations issued by the Commission are subject to Chapter 2001 of the Government Code. The current home equity interpretations were last reviewed in 2013 and, as a result, notice of intent to review **Chapters 151, 152, and 153** has been published in the *Texas Register* and comments will be accepted until March 28. No formal action was taken by the Commission.

(d) Discussion of the Recent Amendments to 12 CFR Part 723 and the Subsequent Implications for 7 TAC Section 91.709. Commissioner Feeney reported that NCUA had recently approved its final MBL/Commercial Lending rule (Part 723), to be effective on January 1, 2017. He explained that the final rule modernizes the regulatory requirements that govern credit union business lending activities by replacing the current rule's prescriptive requirements with a principles-based regulatory approach. The final rule also grandfathered state specific rules, including **7 TAC Section 91.709**. He noted that the Department may continue to administer the Commission's Rule in its current format, and federally-insured state chartered credit unions in Texas will continue to be exempt from Part 723. Any amendments or modifications to Rule 91.709, however, must be consistent with the final NCUA rule and approved by the NCUA Board. No formal action was taken by the Commission.

(e) Discussion of and Vote to Establish for Next Committee Meeting. The next meeting is tentatively scheduled the day before the next Commission meeting.

ADJOURNMENT -- There being no other items to come before the Committee, and without objection, the meeting was adjourned at 1:38 p.m.

Vik Vad
Chairman

Isabel Velasquez
Recording Secretary

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