

**RULES COMMITTEE
MEETING MINUTES
JULY 7, 2016**

A. CALL TO ORDER – Chairman Vik Vad called the meeting to order at 1:01 p.m. in the conference room of the Credit Union Department Building, Austin, Texas pursuant to Chapter 551 of the Government Code. Other members present included Kay Stewart, Yusuf Farran, Steven “Steve” Gilman, and Gary Tuma. Commission Chairman Manny Cavazos, ex-officio member was absent. Assistant Attorney General Melissa Juarez 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 (**June 23, 2016, TRD#2016004287**).

- **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION**–Chairman Vad invited public input on matters regarding rulemaking for future consideration by the committee. There was none.

B. RECEIVE MINUTES OF PREVIOUS MEETING (March 3, 2016)

Mr. Tuma moved to approve the minutes of March 3, 2016 as presented. Mrs. Stewart seconded the motion, and the motion was unanimously adopted.

C. UNFINISHED BUSINESS

(a) **Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action to Adopt Amendments to 7 TAC Section 91.301 Concerning Field of Membership.** Commissioner Feeney

explained that four written comments were received during the comment period, which ended on April 18, 2016. He indicated that two Texas banking trade associations expressed opposition to the amendments and a credit union and the Texas Credit Union Association indicated general support for the proposal. He noted that the lone credit union commenter, however, did express concern about certain aspects of the proposal and provided suggestions on ways to improve specific provisions of the proposal.

Commissioner Feeney pointed out that the proposal would establish that political subdivisions within reasonable proximity of the location of a credit union's office(s) as a presumptive "local service area". He suggested that the amendments would also more fully implement the intent of HB 1626 by facilitating the establishment of branches in geographic areas where there is a demonstrated need for credit union services.

After carefully review and consideration of the comments, Mrs. Stewart moved to recommend that the Commission adopt the proposed amendments to **7 TAC Section 91.301** as previously published in the *Texas Register*. Mr. Gilman seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration, and Possible Vote to Take Action to Adopt Amendments to 7 TAC Section 97.200 Concerning the Employee Training Program. Commissioner Feeney indicated that the proposal revises the rule to conform to statutory changes made by Section 3 of H.B. 3337 (Acts 2015, 84th Leg., R.S., Ch. 366, §3), to establish certain requirements for agency tuition reimbursement programs. The proposed amendment reflects the new statutory requirement that the agency head authorize tuition reimbursement payment for an employee who has successfully completed a course at an institution of higher

education. He further noted that the Commission received no comments on the proposed amendments.

After a brief discussion, Mr. Gilman moved to recommend that the Commission adopt the proposed amendments to **7 TAC Section 97.200** as previously published in the *Texas Register*. Mr. Tuma seconded the motion and the motion was unanimously adopted.

D. NEW BUSINESS

(a) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC Section 91.7000 Concerning Certificates of Indebtedness. Commissioner Feeney briefly explained that in accordance with the Commission's Rule Review Plan, staff had reviewed 7 TAC Section 91.7000 and was recommending that no changes be made to the rule at this time. He noted that the Department received no written comments on the rule.

After a brief discussion, Mrs. Stewart made a motion to recommend that the Commission find that the reasons for adopting **7 TAC Section 91.7000** continue to exist and that the rule be readopted without change. Mr. Gilman seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC Section 91.8000 Concerning Discovery of Confidential Information. Commissioner Feeney briefly explained that in accordance with the Commission's

Rule Review Plan, staff had reviewed 7 TAC Chapter 91, Subchapter Q and was recommending that no changes be made to 7 TAC Section 91.8000 at this time. He further noted that the Department received no written comments on the rule.

After a short discussion, Mr. Gilman made a motion to recommend that the Commission find that the reasons for adopting **7 TAC Section 91.8000** continue to exist and that the rule be readopted without change. Mr. Tuma seconded the motion and the motion was unanimously adopted.

(c) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Take Action to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.709 Concerning Member Business Loans. Commissioner Feeney indicated that the National Credit Union Administration (NCUA) had recently adopted a final rule intended to modernize its member business loan rule (12 C.F.R. Part 723) to provide federally insured credit unions with greater flexibility and autonomy to provide commercial and business loans to their members. He noted that NCUA's final rule amends the regulatory requirements pertaining to credit union commercial lending activities by replacing the current "prescriptive requirements" with a broad "principles-based" regulatory approach. He noted that states, such as Texas, that currently have exemptions from the existing member business loan rule were "grandfathered" in the final rule. Mr. Feeney explained that without action by the Commission, 7 TAC Section 91.709 will continue to require Texas-chartered credit unions to comply with the extensive regulatory thresholds and limits and would place them at a competitive disadvantage to federally chartered credit unions when offering commercial and business loans to their members.

Commissioner Feeney explained that federally insured state chartered credit unions in a given state can be exempted from compliance with NCUA's new rule if the state supervisory authority administers a state member business loan rule that covers all of the provisions in 12 C.F.R. Part 723 and is no less restrictive, upon determination by NCUA.

Commissioner Feeney indicated that NCUA had graciously agreed to perform a courtesy review of the proposal currently before the Committee and that he had just recently learned that NCUA staff had concerns that certain provisions may be viewed as being less restrictive than those contained in the new 12 C.F.R. Part 723. Mr. Feeney indicated that he thought the proposal could be sufficiently modified to alleviate NCUA's concerns but staff was not prepared to propose new language at this time.

Chairman Vad inquired if there was any way for NCUA to give the Committee any assurances that prospective modifications to the proposal would be acceptable. Mr. Feeney indicated that it would be unlikely that NCUA would provide an official opinion until the Commission had taken formal action on a specific proposal.

After a lengthy deliberation, Mr. Gilman made a motion to table the matter and encourage the full Commission to take up and consider a revised proposal at its next meeting. Mr. Farran seconded the motion and the motion was unanimously adopted.

(d) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC, Part 8, Chapter 151 (relating to Home Equity Lending Procedures); Chapter 152 (related to Repair, Renovation, and New Construction on

Homestead Property); and Chapter 153 (relating to Home Equity Lending).

Commissioner Feeney reported that in accordance with Section 2001.39, Government Code, staff has completed the review of 7 TAC, Part 8, Chapters 151, 152, and 153. He noted that the Department did received one comment in response to the notice published in the *Texas Register*. Mr. Feeney indicate that as a result of internal review by the Department, staff believes that certain revisions are appropriate and necessary with respect to Chapter 153 are being separately presented.

After a brief discussion, Mr. Tuma made a motion to recommend that the Commission find that the reasons for adopting Chapter 151, 152, and 153 continue to exist and that the Commission re-propose and readopt the rules. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(e) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Proposal and Publication for Comment on Amendments to 7 TAC, Part 8, Chapter 153 Concerning Home Equity Lending from Rule Review. Commissioner Feeney explained that the proposed amendments are to implement changes resulting from the review of Chapter 153 under Texas Government Code, Section 2001.039. He noted that the proposed amendments relate to consumer disclosures, the types of lenders authorized to make home equity loans, and technical corrections.

After a short discussion, Mr. Tuma made a motion to recommend that the Commission take action to approve for publication and comment the proposed amendments to 7 TAC, Part 8, Chapter 153. Mr. Gilman seconded the motion and the motion was unanimously adopted.

(f) Discussion of and Possible Vote to Approve the Department's 2017-2020 Rule Review Plan as Required by Section 2001.039, Government Code. Commissioner Feeney noted that Section 2001.039, Government Code, requires a state agency to review every rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. In accordance with that requirement, staff has developed a new Rule Review Plan under which the Commission will review all of its existing rules.

After a short discussion, Mr. Gilman moved to recommend that the Commission adopt the proposed 2017-2020 Rule Review Plan. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(g) 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 1:50 p.m.

Vik Vad
Chairman

Isabel Velasquez
Recording Secretary

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