



# Newsletter

No. 06-14



June 18, 2014



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*CUD is the state agency that regulates and supervises credit unions chartered by the State of Texas. The Department is professionally accredited by the National Association of State Credit Union Supervisors (NASCUS) certifying that CUD maintains the highest standards and practices in state credit union supervision.*

*Our **Mission** is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions.*

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## **Credit Union Commission**

*The Commission is the policy making body for CUD. The Commission is a board of private citizens appointed by and responsible to the Governor of Texas.*

### **Members:**

Manuel Cavazos IV, Chair

Rob Kyker, Vice Chair

Gary D. Tuma

Gary L. Janacek

Sherri B. Merket

Allyson "Missy" Morrow

Kay Stewart

Vik Vad

A. John Yoggerst

## **Next Commission Meeting**

*Friday, June 20, 2014 beginning at 8:00 a.m. in the offices of CUD.*

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## **Cyber Resources**

The Department encourages credit unions to actively utilize available resources to identify and help mitigate potential cyber-related risks. It is important for credit unions of all sizes to be aware of the constantly emerging cyber threats and resources available to help identify these threats. Some government and government-sponsored resources that credit unions may want to consider include the following organizations.

- **United States Computer Emergency Readiness Team (US-CERT)** – The Department of Homeland Security's US-CERT facilitates the coordination of cyber information sharing and provides cyber vulnerability and threat information through its national Cyber Awareness System (NCAS). Credit unions may learn more about US-CERT and subscribe to receive security alerts, tips and other updates through its website at [www.us-cert.gov](http://www.us-cert.gov).
- **U.S. Secret Service Electronic Crimes Task Force (ECTF)** – The Electronic Crimes Task Force teams local, state and federal law enforcement personnel with prosecutors, private industry, and academia to maximize what each has to offer in an effort to combat cyber criminal activity. For more information on the Electronic Crimes Task Forces please visit [www.secretservice.gov/ectf.shtml](http://www.secretservice.gov/ectf.shtml).
- **FBI InfraGard** – InfraGard is an information sharing forum between the FBI and the private sector. InfraGard operates more than 60 chapters that conduct local meetings pertinent to their area. Information about InfraGard may be obtained at [www.infragard.org](http://www.infragard.org).

Credit unions that utilize third party service providers should check with their providers about the existence of user groups that also could be valuable sources of information.



## ***A Quick Guide to Reasonable Repossession Fees***

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Credit unions are permitted to recover reasonable costs from the debtor when repossessing and disposing of collateral subject to loan in default. The Department's evaluation of whether fees charged in connection with a particular repossession are reasonable may be determined on a case-by-case basis, depending on the specific facts at issue. However, there are some general questions regarding repossession fees that may help each credit union determine if its fees are "reasonable" and in compliance with applicable law.

1. Are the repossession and disposition costs documented? Documentation may include invoices from third-party vendors such as towing companies, storage lots, or body shops, as well as detailed notations of any in-house costs incurred. The first thing the Department will look for in determining whether repossession fees are reasonable is whether they are consistent with the credit union's documented costs of repossession and disposition of the collateral; charges that cannot be supported by documentation are unlikely to be considered reasonable.
2. Are the repossession and disposition costs consistent with the fair market value of the goods or services rendered in connection with the collateral? If the fees for towing and recovery (for example) of repossessed vehicles is three times higher at Credit Union A than at Credit Union B and Credit Union C in the same town, it may call into question whether Credit Union A's fees are reasonable. Credit Union A could show that the higher fees were justified if it could show that the quality of the towing and recovery was worth the increased cost *and* that it was commercially reasonable to incur the higher cost to repossess its collateral.
3. Are repossession and disposition procedures and charges consistent with applicable law and/or any written policies adopted by the credit union? It would clearly not be reasonable to recover costs for repossession procedures that constitute illegal conduct against the debtor. Credit unions must dispose of collateral in a commercially reasonable manner; excessive costs for commercially unreasonable practices could not be passed on to the debtor. Repossession and disposition procedures and charges that conflict with the written policies of the credit union are unlikely to be considered reasonable, as well.

These questions are offered as suggestions for credit unions to consider, and are not meant to be a comprehensive guide for compliance. Credit unions should consult with legal counsel when preparing or reviewing collections policies, including repossession.



## ***Changing Times***

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Credit unions have noted a change in the way the Department is handling 5300's, waivers, complaints, and examination follow-up. In the past the Department's examiners who have handled the examination and supervisory follow-up for credit unions were assigned to two groups, one located in Dallas, and one located in Houston. Assignments were made based on the complexity of the credit union and the experience level of the examiner. All subsequent contact with the credit union was handled through the office in Austin.

## ***Changing Times***

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This process was not the most efficient and it resulted in a disconnect between the examiner and credit union management. To address this issue, examiners are now assigned specific districts and credit unions. Through this process, the examiner will not only perform the examination and supervision assignments, but will also review and assess 5300 reports, all waivers, and non-routine complaints and correspondence.

As a result, you will be seeing and hearing more often from your district examiner throughout the year between examinations. The same time frames used by the office preceding the change remain in place, so credit unions should not experience any delays in receiving responses from the office.

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## ***Publication Deadlines***

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In order to meet the submission deadlines for the applicable issues of the Texas Register, it is necessary for the Department to establish the schedule included below. Completed applications received after the deadline for the month cannot be published until the following month.

| <u>Publication Date</u> | <u>Application Deadline</u> |
|-------------------------|-----------------------------|
| July, 2014              | Friday, July 11             |
| August, 2014            | Friday, August 15           |

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## ***Applications Approved***

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Applications approved since May 21, 2014 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
<i>Field of Membership Changes – Approved:</i> <b>Texell Credit Union</b> (Temple) (Amended) Members of American Consumer Council who reside in Bell, Burnet, Coryell, Falls, Lampasas, McLennan, Milam and Williamson County, Texas.	See Newsletter No. 03-14

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## ***Applications Received***

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The following applications were received and will be published in the June 27, 2014 issue of the *Texas Register*.

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### *Field of Membership Expansion:*

**Energy Capital Credit Union** (Houston) (#1) -- To permit members of Friends of Consumer Freedom located in Montgomery County, Texas, to be eligible for membership in the credit union.

**Energy Capital Credit Union** (Houston) (#2) -- To permit persons who live, work, worship or attend school, and businesses and other legal entities located within a 10 mile radius of the Energy Capital Credit Union office location: 24400 Interstate 45, Spring, Texas, to be eligible for membership in the credit union.

**Centex Citizens Credit Union** (Mexia) -- To permit persons who work or reside in Navarro County, Texas, excluding persons that are eligible for primary membership in existing occupational or association-based credit union in Navarro County, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

### *Merger or Consolidation:*

An application was received from **Mobility Credit Union** (Irving) seeking approval to merge with **TCC Credit Union** (Dallas). Mobility Credit Union will be the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

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## ***Upcoming Holiday Schedule for CUD***

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The Department's office will be closed on **Friday, July 4, 2014**, in observance of Independence Day.

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*This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.*

*Suggestions and comments concerning the newsletter or its content are welcomed.*



To learn more about CUD click <http://www.cud.texas.gov> or contact us at 914 E. Anderson Lane, Austin, TX 78752

