



# Newsletter

No. 12-17



December 20, 2017



**Credit Union Department**  
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The Credit Union Department (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:

Allyson "Missy" Morrow, Chair  
Sherri Brannon Merket, Vice Chair  
Beckie Stockstill Cobb  
Yusuf E. Farran  
Steven "Steve" Gilman  
Jim Minge  
Kay Stewart  
Rick Ybarra

## Next Commission Meeting

Friday, March 9, 2018 beginning at 9:00 a.m. in the offices of CUD.

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## Home Equity Compliance Requirements

On November 7, 2017, Texas voters approved SJR 60, which amends the home equity lending provisions in Article XVI, Section 50 of the Texas Constitution. In anticipation of those amendments becoming effective, some credit unions have asked whether they may make home equity loans during the first 12 days of January 2018. SJR 60 takes effect on January 1, 2018, and it states that the amended requirements apply to all home equity loans made on or after January 1, 2018. In opinion DM-452 (1997), the Texas attorney general concluded that if a lender provided the required 12-day notice for home equity loans 12 days before January 1, 1998, and closed the loan on January 1, then the loan would not be enforceable under the constitution, because the disclosure was not "prescribed by" the constitutional amendment that went into effect on January 1, 1998. If this same reasoning applies to SJR 60, this would require credit unions to wait until January 1, 2018, to begin providing the updated disclosures under SJR 60, and to wait until January 13 at the earliest to begin originating loans. This would be the safest course if credit unions wish to avoid civil litigation where members argue that loans originated during the first 12 days of January 2018 are unenforceable.



## Upcoming Holiday Schedule for CUD

The Department's office will be closed on **December 25-26, 2017** in observance of the Christmas Holidays, and **January 1, 2018** in observance of New Year's Day.



## *Proposed Rule Review*

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The Texas Credit Union Commission (Commission) provides this notice of its intent to review and consider the following chapters of Texas Administrative Code, Title 7, Part 6, in their entirety, for readoption, revision, or repeal **Chapter 93, Subchapter A**, concerning Common Terms, consisting of §93.101, concerning Scope; Definitions; Severability. **Chapter 93, Subchapter B**, concerning General Rules, consisting of §93.201 concerning Party Status, §93.202 concerning Computation of Time; §93.203 concerning Ex Parte Communications; §93.204 concerning Contested Case Hearing; Informal Disposition; §93.205 concerning Notice of Hearing; §93.206 concerning Default; §93.207 concerning Service of Documentation on Parties; §93.208 concerning Delegation of Authority; §93.209 concerning Subpoenas; §93.210 concerning Discovery; Protective Orders; Motions to Compel; §93.211 concerning Administrative Record; §93.212 concerning Proposal for Decision; §93.213 concerning Appearances and Representation; and §93.214 concerning Recovery of Department Costs. **Chapter 93, Subchapter C**, concerning Appeals of Preliminary Determinations on Applications, consisting of §93.301 concerning Finality of Decision; Request for SOAH Hearing; Waiver of Appeal, §93.302 concerning Referral to ADR, §93.303 concerning Hearings on Applications; and §93.305 concerning Appeals of All Other Applications for Which no Specific Procedure is Provided by this Title. **Chapter 93, Subchapter D**, concerning Appeals of Cease & Desist Orders and Orders of Removal, consisting of §93.401 concerning Appeals of Cease and Desist Orders and Orders of Removal; and §93.402 concerning Stays. **Chapter 93, Subchapter E**, concerning Appeals of Orders of Conservation, consisting of §93.501 concerning Appeals of Orders of Conservation; and §93.502 concerning Retention of Attorney. **Chapter 93, Subchapter F**, concerning Appeal of Commissioner's Final Determination to the Commission, consisting of §93.601 concerning Appeal to the Commission; §93.602 concerning Decision by the Commission; §93.603 concerning Oral Arguments Before the Commission; §93.604 concerning Motion for Rehearing; and §93.605 concerning Final Decisions and Appeals.

An assessment will be made by the Commission as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Credit Union Department.

Comments or questions regarding these rules may be submitted in writing to, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699, or electronically to [cudmail@tud.texas.gov](mailto:cudmail@tud.texas.gov). The deadline for comments is **January 22, 2018**.

The Commission also invites your comments on how to make these rules easier to understand. For example:

- Do the rules organize the material to suit your needs? If not, how could the material be better organized?
- Do the rules clearly state the requirements? If not, how could the rule be more clearly stated?
- Do the rules contain technical language or jargon that isn't clear? If so, what language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- Would more (but shorter) sections be better in any of the rules? If so, what sections should be changed?

## ***Proposed Rule Review (Continued)***

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Any proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption by the Commission.



### ***Low Income Designation for Credit Unions***

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Low Income Credit Union (LICU) is a designation defined in Section 701.34 of the NCUA Rules and Regulations. State-chartered credit unions that meet the eligibility requirement may obtain LICU designation from the NCUA, subject to the approval of the Department. LICU designation confers access to specified benefits and expanded authority as long as the credit union continues to meet the eligibility requirements. The Department supports LICU designation for credit unions that are well managed and in a satisfactory financial condition.

In order to maintain LICU designation, the credit union must continue to meet the eligibility requirements. Changes in the credit union's membership demographics, field of membership, or completion of a merger are among the circumstances which may result in the credit union no longer meeting the eligibility requirement. Accordingly, the credit union should have contingency plans to achieve strategic initiatives for the possibility of losing LICU designation. If a LICU is found to no longer meet the eligibility requirement, the credit union may be granted up to five (5) years to either meet eligibility requirements or lose the LICU designation and related benefits.

For more information, please review the NCUA's *Low Income Designation Fact Sheet* at:  
<https://www.ncua.gov/Legal/Documents/LowIncomeDesignationFactSheet.pdf>



### ***Board Meeting Attendance***

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Critical to the long-term success of a credit union is an active, involved board that provides proper oversight of operations and a sound strategic direction for the future of the credit union. One of the keys to ensuring that a board is successful is regular, participatory attendance.

The issue of board attendance is a tricky one. Board members are volunteers with their own jobs, families, and busy lives to balance in addition to the voluntary obligations of serving on a credit union board. However, missed meetings seriously diminish the effectiveness of the entire board, and a director's irregular or inconsistent meeting attendance could result in removal from the board.

Texas Finance Code Section 122.055 provides that the office of a director becomes vacant if the director has been absent from more meetings than the total number of absences permitted by commission rule. Under 7 TAC Section 91.501 (g), any director who fails to attend three consecutive regularly scheduled meetings without an excuse approved by a majority vote of the board is automatically removed from office. As a result, it is important for board meeting minutes to reflect if a director's absence is excused or unexcused. The lack of a record of an affirmative vote by the board is construed as an unexcused absence. Furthermore, 7 TAC Section 91.501 (g) also states that any director who fails to attend six

## ***Board Meeting Attendance (Continued)***

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regularly scheduled meetings during any twelve-month period (whether the absences are excused or not) is automatically removed from office.

Once a director misses either of the prescribed number of meetings, the position is vacant and there is nothing the board can do except to fill the vacancy with a new person within sixty days of the date of the meeting that led to the automatic removal.



## ***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 shown 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>
January 2018	Friday, January 12
February 2018	Friday, February 16



## ***Applications Approved***

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Applications approved since **November 15, 2017** include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
<i>Field of Membership – Approved:</i>	
<b>Credit Union of Texas</b> (Dallas)	<a href="#">See Newsletter No. 09-17</a>
<b>Employees Credit Union</b> (Dallas)	<a href="#">See Newsletter No. 09-17</a>
<b>First Service Credit Union</b> (Houston)	<a href="#">See Newsletter No. 09-17</a>
<b>Prestige Community Credit Union</b> (Dallas) (Conditioned)	<a href="#">See Newsletter No. 11-15</a>
<b>First Class American Credit Union</b> (Fort Worth)	<a href="#">See Newsletter No. 09-17</a>
<b>Fort Worth City Credit Union</b> (Fort Worth)	<a href="#">See Newsletter No. 09-17</a>
<b>Texas Dow Employees Credit Union #1</b> (Lake Jackson)	<a href="#">See Newsletter No. 10-17</a>
<b>Texas Dow Employees Credit Union #2</b> (Lake Jackson)	<a href="#">See Newsletter No. 10-17</a>
<b>Texas Dow Employees Credit Union #3</b> (Lake Jackson)	<a href="#">See Newsletter No. 10-17</a>
<b>Texas Dow Employees Credit Union #4</b> (Lake Jackson)	<a href="#">See Newsletter No. 10-17</a>
<i>Merger or Consolidation – Approved:</i>	
<b>Qualtrust CU</b> (Irving) and <b>Texas Trust CU</b> (Mansfield)	<a href="#">See Newsletter No. 02-17</a>



## *Applications Received*

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The following applications were received and will be published in the **December 29, 2017** issue of the *Texas Register*.

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### *Field of Membership Expansion:*

**City Credit Union** (Dallas) – To permit persons who work, worship, reside or attend school in Kaufman County, Texas.

### *Merger or Consolidation:*

An application was received from **Neighborhood Credit Union** (Dallas) seeking approval to merge with **Good Street Baptist Church Federal Credit Union** (Dallas), with Neighborhood Credit Union being the surviving credit union. In accordance with the Finance Code §122.005(b) and 7 TAC §91.104(b), the Commissioner has the authority to waive or delay public notice of an action.

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.

*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



The Credit Union Commission and the Staff of the Department would like to extend our best wishes for a New Year of Health, Happiness, and Prosperity!

