

(3) if the insurance is a condition of a loan, the credit union shall give the member written notice that clearly and conspicuously states;

(A) that insurance is required in connection with the loan; and

(B) that the member 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.

(4) 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 induce the credit union to sell or offer to sell insurance or other related products or services to the members of the credit union.

(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.

(6) The person selling or offering for sale any insurance product in any part of a credit union's office or on its behalf must be at all times appropriately qualified and licensed under applicable State insurance licensing standards with regard to the specific products being sold or recommended.

(b) Unsafe and Unsound Practice. It is an unsafe and unsound practice for any director, officer, or employee of a credit union, who is involved in the sale of insurance products to members, to take advantage of that business opportunity for personal profit. Recommendations to members to buy insurance should be based on the benefits of the policy, not the compensation received from the sale.

(c) Prohibited Practices. A director, officer, or employee of a credit union may not engage in any practice that would lead a member to believe that a loan or extension of credit is conditional upon either:

(1) The purchase of an insurance product from the credit union or any of its affiliates;  
or

(2) An agreement by the member not to obtain, or a prohibition on the member from obtaining, an insurance product from an unaffiliated entity.

*Source: The provisions of this §91.402 adopted to be effective March 14, 2004, 29 TexReg 2306; amended to be effective March 13, 2006, 31 TexReg 1647; reviewed and amended to be effective March 14, 2010, 35 TexReg 1978; reviewed and readopted to be effective October 21, 2013, 38 TexReg 7735; reviewed and readopted to be effective November 3, 2017, 42 TexReg 6523; reviewed and readopted to be effective August 30, 2021, 46 TexReg 5903.*

### **§91.403. Debt Cancellation Products; Federal Parity; Adoption by Reference.**

(a) Authority. Provided it complies with this section, the Truth in Lending Act (15 U.S.C. 1601), and the applicable provisions of Regulation Z (12 C.F.R. Part 226), a credit union may offer any debt cancellation product, including a debt cancellation contract (DCC) and a debt suspension agreement (DSA), a federal credit union is permitted to offer. For the purposes of this section, a debt cancellation product is a two-party agreement between the credit union and the member under which the credit union agrees to waive, suspend, defer, or cancel all or part of a member's obligation to pay an indebtedness under a lease, loan, or other extension of credit upon the occurrence of a specified event. Debt cancellation products are considered loan products governed by this section and applicable provisions of the Finance Code, not insurance products and, consequently, are not regulated by the Texas Department of Insurance. The credit union may offer debt cancellation products for a fee pursuant to the authority set forth in Finance Code §123.003,

relating to enlargement of powers and parity and the authority federal credit unions have to offer such products; the fee also is authorized by Finance Code §124.101, relating to borrower payment of loan expenses. If the debt cancellation product is offered for a fee, the member's participation in the debt cancellation program must be optional, and the member must be informed of the fee and that participation is optional.

(b) Anti-tying and Refund Rules. For any debt cancellation product offered by a credit union:

(1) The credit union may not extend credit nor alter the terms or conditions of an extension of credit conditioned upon the member entering into a debt cancellation product with the credit union; and

(2) If the debt cancellation product provides for a refund of unearned fees, the unearned fees must be calculated using a method that produces a result at least as favorable to the member as the actuarial method. Before the member purchases the debt cancellation product, the credit union must state in writing that the purchase of the debt cancellation product is optional, the conditions for and method of calculating any refund of the debt cancellation fee, including when fees are considered earned by the credit union, and that the member should carefully review all of the terms and conditions of the debt cancellation agreement prior to signing the agreement.

(c) Notice to Department. A credit union must notify the commissioner in writing of its intent to offer any type of debt cancellation product at least 30 days prior to the product being offered to members. The notice must contain a statement describing the type(s) of debt cancellation product(s) that the credit union will offer to its membership.

(d) Risk Management and Controls. Before offering any debt cancellation products, each credit union's board of directors, shall adopt written policies that establish and maintain effective risk management and control processes for these products. Such processes include appropriate recognition and financial reporting of income, expenses, assets and liabilities, and appropriate treatment of all expected and unexpected losses associated with the products. A credit union should also assess the adequacy of its internal control and risk mitigation activities in view of the nature and scope of its debt cancellation program. In addition, the policies shall establish reasonable fees, if any, that will be charged, the appropriate disclosures that will be given, and the claims processing procedures that will be utilized.

(e) For purposes of this section "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(f) Best Practices. The Commission seeks to preserve and promote parity with regard to federal credit unions, foreign credit unions, and other depository institutions, as referenced in Finance Code §§15.402(b-1) and 123.003. The National Credit Union Administration (NCUA) has provided as guidance for federal credit unions the standards set forth in the rules of the U.S. Office of the Comptroller of the Currency (OCC), related to DCCs and DSAs. The Commission, therefore, adopts by reference the guidance issued by NCUA in May 2003 (Letter No. 03-FCU-06). Credit unions should also look to OCC's rules, codified at 12 C.F.R. Part 37, for guidance as to best practices in the industry regarding the offer and sale of DCCs and DSAs. A copy of the NCUA letter and of the OCC rules may be obtained on the Department website at: [www.cud.texas.gov](http://www.cud.texas.gov).

*Source: The provisions of this §91.403 adopted to be effective May 13, 1999, 24 TexReg 3473; readopted to be effective August 2, 2002, 27 TexReg 6874; amended to be effective June 8, 2003, 28 TexReg 4411; amended to be effective March 6, 2005, 30 TexReg 1064; readopted to be effective October 27, 2005, 30 TexReg 7505; reviewed and amended to be effective March 14, 2010, 35 TexReg 1979; reviewed and readopted to be effective October 21, 2013; 38 TexReg 7735; reviewed and readopted to be effective November 3, 2017, 42 TexReg 6523; reviewed and amended to be effective November 5, 2018, 43 TexReg 7342; reviewed and readopted to be effective August 30, 2021, 46 TexReg 5903.*