

The Credit Union Commission (Commission) adopts amendments to §97.113, concerning fees and charges, with changes to the text published in the April 4, 2025, issue of the *Texas Register*.

The amendments are adopted as a result of the Department's general rule review.

The Commission received four written comments from Tim Miller with Cooperative Teachers Credit Union, Melodie Durst with Credit Union Coalition of Texas, Gevon Calix with First Service and Suzanne Yashewski with Cornerstone League both in support of or in opposition with respect to selected portions of proposed amendments as detailed below. In response to the comments the proposed amendment is withdrawn, in part.

Organizing the rule to keep subparts addressing a specific type of fee grouped together.

Two comments were received supporting reorganizing the rule. There were no comments received in opposition to these amendments.

Increases supplemental examination fees from \$50.00 hourly to \$100.00 hourly.

One comment opposed the increase in the fees specifically noting they felt the increase to be arbitrary. Three other comments submitted did not address the fee increase.

In support of the amount, the Department reviewed similar authority provided to the Texas Department of Banking, allowing for specialty examination fees as outlined in 7 Tex. Admin Code §3.36 (h)(2). Their rule allows for a rate not to exceed \$110.00 per examiner hour and any actual travel expense incurred. The current proposal is less than this amount and will include any travel expenses. This proposed fee continues to be less than comparative fees.

For additional support, the Department calculates the average hourly costs of field staff and travel to be approximately \$80, not accounting for the overhead of administration. More expensive and specialized staff would be utilized in specialized examinations, making the proposed rate reasonable. The last increase in the maximum hourly fee to be charged by the department in special examinations was in March of 2009, or over 16 years ago.

The proposed and current rule provides that the Commissioner “may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate.” This would be available should the fee be an undue financial burden on a credit union, addressing the commentator’s additional concern.

The Commission therefore adopts this portion of the amendment.

Increases the foreign branch fee from \$500.00 to \$1,000.00; the field of membership expansion fee for a foreign credit union from \$200 to \$1,000.00 for each application; and from \$50 to \$100 per hour expended by an examiner for an examination, if scheduled by the commissioner.

One comment opposed the increase in the fees specifically noting they felt the increase to be arbitrary. Three other comments submitted did not address the fee increase.

Our rules allow for credit unions chartered by other state regulators to operate in Texas. These credit unions do not pay operating fees. We maintain contact information on these institutions, assure there is appropriate insurance coverage and maintain branch listings. We receive, monitor and forward complaints to their state regulator. We also may be requested to process requests for expansions of fields of membership. As a comparison, the operating fee for a state chartered credit union with assets of \$1 million dollars (\$1,500) is the more than the proposed branch fee for a foreign credit union, regardless of asset size.

Eleven foreign credit unions operating in Texas have an average asset size of \$3.5 billion. The department believes this fee is rather nominal for a foreign credit union and is reasonable in light of the work to maintain the records and statutorily required annual information in our systems.

The change to the hourly rate for a review is consistent with the change recommended for Texas state chartered credit unions. The Commission, therefore, adopts this portion of amendment.

Allows the department to recover legal and SOAH costs from credit unions who cause the cost to be incurred.

One comment supported the proposed amendment; one comment was in opposition and one comment suggested more clarity.

This part of the rule change was proposed to allow for, not require, recovery of legal and hearings costs related to actions taken by regulated credit unions. Specifically, this was to address a recent instance where the Department was charged over \$36,000 by the state office of administrative hearings (SOAH) related to an appeal of a modified approval of a field of membership expansion application. Multiple informal resolution attempts were unsuccessful.

All of these expenses were solely paid by the Credit Union Department, and none paid by the appealing credit union. With an annual budget of \$5 to \$6 million, the impact of these costs can become material. The rule was proposed to ensure that threatened legal actions would not be used as a tool for a credit union to mitigate or avoid regulation. It also would put the burden on the Credit Union directly causing the cost, particularly that of an independent third party, such as SOAH, and would continue to allow the commissioner the ability not to assess the fee

In response to the concerns from the comments, this part of the amendment is withdrawn to undergo further review.

Allows for the commissioner to propose future administrative fees to recover costs with notice to credit unions and approval by the commission at least every two years.

Four comments were received in opposition to this part of the rule. In response to the opposition, this part of amendment is withdrawn.

Withdrawal of a part of the proposed amendments in response to objection will not materially impact the substance of the rule with the other proposed amendments.

The amendments are adopted under Texas Finance Code, §15.402, which directs the Commission to establish by rule reasonable and necessary fees for the administration of Title 2, Chapter 15 and Subtitle D, Title 3 of the Finance Code.

The specific section affected by the amended rule is Texas Finance Code, §15.402.

§97.113. Fees and Charges.

(a) Operating Fee.

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. Either installment may be adjusted as provided by paragraph (6) of this subsection.

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(3) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date.

For Credit Unions with Total Assets Of:

The Operating Fee is:

Less than \$200,000	\$200
\$200,000 but less than \$1M	\$200 plus .001625 of excess over \$200,000
\$1M but less than \$10M	\$1,500 plus .00034 of excess over \$1M
\$10M but less than \$25M	\$4,560 plus .00014 of excess over \$10M
\$25M but less than \$50M	\$6,660 plus .00017 of excess over \$25M
\$50M but less than \$100M	\$10,910 plus .00019 of excess over \$50M
\$100M but less than \$500M	\$20,410 plus .000080 of excess over \$100M
\$500M but less than \$1,000M	\$52,410 plus .000072 of excess over \$500M
\$1,000M but less than \$2,000M	\$88,410 plus .000069 of excess over \$1,000M
\$2,000M and over	\$157,410 plus .000062 of excess over \$2,000M

(4) The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

(5) Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(6) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of anticipated and actual revenues and projected revenues adjust the amount of either installment due from credit unions.

(7) Late Fee. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee (calculated on the balance due) unless waived by the commissioner for good cause.

(8) Credit union conversion. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in paragraph (3) of this subsection shall serve as the basis for calculating the operating fee. All provisions set forth in paragraph (3) of this subsection shall apply to converting credit unions with the following exceptions:

(A) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(B) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(C) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(9) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee prescribed in paragraph (3) of this subsection, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.

(b) Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of \$100 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(c) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

(d) Foreign credit unions.

(1) Branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$1,000 per branch office.

(2) Field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$1,000. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with any hearing conducted.

(3) Foreign credit union examination fees.

(A) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(B) The foreign credit union shall pay a fee of \$100 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(C) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(e) Contract Services. The commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual cost incurred by the department for legal fees, adjudication fees and an examination or a review of all or part of the operations or applications of a credit union, a foreign credit union or related entity, that is performed under a contract entered into between the department and third parties. This includes fees paid to the Texas Attorney General's Office and State Office of Administrative Hearings.