

The Credit Union Commission proposes amendments to §§95.302, Powers; 95.305, Audited Financial Statements; Accounting Procedures; Reports; and 95.310, Fees and Charges.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed amendments, identified as a part of the Credit Union Department's quadrennial rule review process, make non-substantive corrections to the titles of other rule sections referenced in the rules.

COST TO REGULATED PERSONS. This rule proposal is not subject to Texas Government Code §2001.0045 concerning increasing costs to regulated persons because this agency is a self-directed semi-independent (SDSI) agency under Finance Code Chapter 16 and is therefore exempt under §2001.0045(c)(8).

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Department has prepared a government growth impact statement.

For each year of the first five years that the rules as amended will be in effect, the rules will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the Department;
- require an increase or decrease in fees paid to the Department;
- create new regulations;
- expand, limit, or repeal existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

ENVIRONMENTAL RULE ANALYSIS. The proposed rules are not "major environmental rules" as defined by Government Code, §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS. Robert Etheridge, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4) as a result of enforcing or administering these amendments as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Etheridge has determined, pursuant to Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit is accuracy of the rules. He has further determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably anticipated effect on a local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, or regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Etheridge has also determined that for each year of the first five years the proposed amendments are in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rules do not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Department is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. Please include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information. Written comments on the proposed amendments may be submitted in writing to Devon Bijansky, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To be considered, a written comment must be received within 30 days after publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's legal authority to adopt.

95.302 Powers

The guaranty credit union, pursuant to Texas Finance Code §15.410(b) and to the powers contained in Subtitle D, Title 3, Texas Finance Code, may:

(1) – (15) (No change.)

(16) Acquire a promissory note or other asset upon which a nonmember is liable, provided such acquisition is made, in the discretion of the guaranty credit union, to protect an inferior lien held by the guaranty credit union, a participating credit union, member of the guaranty credit union or a member of a participating credit union member of the guaranty credit union. Such acquisitions shall not be subject to the restrictions of §91.701 et. seq. of this title (relating to Lending Powers [~~Loans~~]);

(17) – (18) (No change.)

95.305 Audited Financial Statements; Accounting Procedures; Reports

(a) – (c) (No change.)

(d) All of the provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Call Reports and Other Information Requests [~~Reports and Charges for Late Filing~~]).

95.310 Fees and Charges

(a) A guaranty credit union shall pay the fees prescribed in §97.113 of this title (relating to [~~Operating~~] Fees and Charges) in the same manner as any other credit union chartered under the Act.

(b) (No change.)