

TEXAS FINANCE CODE

Credit Unions



**Credit Union Department
State of Texas**

**As Amended by
The 89th Legislature**

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Texas Credit Unions

Table of Contents

Page

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES

CHAPTER 15. CREDIT UNION COMMISSION AND DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 15.001.	Definitions.....	1
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SUBCHAPTER B. DEPARTMENT

Sec. 15.101.	Composition of Department.....	1
Sec. 15.102.	Regulation of Credit Unions	1
Sec. 15.103.	Study of Statutes	1
Sec. 15.104.	Notification and Guidance on Adoption of Certain Federal Laws or Regulations ...	1

SUBCHAPTER C. COMPOSITION OF COMMISSION

Sec. 15.201.	Appointment; Terms	1
Sec. 15.202.	General Qualifications of Commission Members.....	1
Sec. 15.203.	Qualifications of Industry Commission Members	2
Sec. 15.204.	Qualifications of Public Commission Members	2
Sec. 15.2041.	Training Program	2
Sec. 15.205.	Vacancies	3
Sec. 15.206.	Removal	3
Sec. 15.207.	Expenses and Compensation of Commission Members	3
Sec. 15.208.	Matter in Which Commission Member Has Personal Interest.....	3
Sec. 15.209.	Meetings.....	3
Sec. 15.210.	Presiding Officer	4
Sec. 15.211.	Suit for Official Act or Omission.....	4
Sec. 15.212.	Sunset Provision.....	4

SUBCHAPTER D. COMMISSIONER AND OTHER EMPLOYEES OF COMMISSION

Sec. 15.301.	Commissioner	4
Sec. 15.302.	Qualifications of Commissioner	4
Sec. 15.303.	Deputy Commissioner.....	4
Sec. 15.304.	Examiners.....	5
Sec. 15.305.	General Counsel.....	5
Sec. 15.306.	Oath.....	5
Sec. 15.307.	Officers of Commission and Department	5
Sec. 15.309.	Intra-Agency Career Ladder	5
Sec. 15.310.	Performance Evaluation.....	5
Sec. 15.311.	Qualifications of Employees.....	5
Sec. 15.312.	Information Provided to Members and Employees.....	5
Sec. 15.313.	Equal Employment Opportunity Policy	6

SUBCHAPTER E. POWERS AND DUTIES OF COMMISSION AND COMMISSIONER

Sec. 15.401.	Supervision of Commissioner.....	6
Sec. 15.4011.	Credit Union Department Building.....	6
Sec. 15.402.	Adoption of Rules.....	6
Sec. 15.4021.	Receipt of Public Comments; Notice of Commission Activities.....	7
Sec. 15.4022.	Rules Relating to Competitive Bidding and Advertising.....	7
Sec. 15.4023.	Separation of Responsibilities.....	7
Sec. 15.4025.	Negotiated Rulemaking and Alternative Dispute Resolution Policy.....	7
Sec. 15.403.	Supervision and Regulation of Credit Unions.....	7
Sec. 15.4031.	Credit Union Commissioner Hearing.....	8
Sec. 15.4032.	Examination of Related Entities.....	8
Sec. 15.404.	Administration and Enforcement of Statutes and Rules.....	8
Sec. 15.4041.	Issuance of Interpretive Statements.....	8
Sec. 15.4042.	Issuance of Opinion.....	8
Sec. 15.4043.	Effect of Interpretive Statement or Opinion.....	9
Sec. 15.4044.	Fees.....	9
Sec. 15.405.	Legislative Recommendations.....	9
Sec. 15.406.	Attendance at Commission Meetings; Voting.....	9
Sec. 15.407.	Official Committees.....	9
Sec. 15.408.	Consumer Complaints.....	9
Sec. 15.4081.	Consumer Tracking; Annual Statistical Analysis.....	9
Sec. 15.409.	Consumer Information.....	10
Sec. 15.4091.	Access to Department Facilities, Programs, and Services.....	10
Sec. 15.410.	Share and Depositor Insurance Protection.....	10
Sec. 15.4105.	Annual Report to Members.....	10
Sec. 15.411.	Agreements with Other Regulators.....	11
Sec. 15.4111.	Regulatory Coordination.....	11
Sec. 15.412.	Filing Group Return with the Internal Revenue Service.....	11
Sec. 15.413.	Interpretation of Home Equity Lending Law.....	11
Sec. 15.414.	Authority to Contract for Professional or Personal Services.....	12
Sec. 15.415.	Gifts of Money or Property.....	12
Sec. 15.416.	Use of Technology.....	12

SUBCHAPTER F. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 15.501.	Rulemaking Authority.....	12
Sec. 15.502.	Periodic Evaluation.....	12
Sec. 15.503.	Compliance with Open Meetings Act.....	12

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND SEMI-INDEPENDENT

Sec. 16.001.	Definitions.....	13
Sec. 16.002.	Self-Directed and Semi-Independent Status of Financial Regulatory Agencies.....	13
Sec. 16.003.	Budget, Revenues, and Expenses.....	13
Sec. 16.004.	Audits.....	13
Sec. 16.005.	Records; Reporting Requirements.....	14
Sec. 16.006.	Ability to Contract.....	14
Sec. 16.007.	Property.....	14
Sec. 16.008.	Suits.....	15
Sec. 16.009.	Post-Participation Liability.....	15
Sec. 16.010.	Due Process; Open Government.....	15
Sec. 16.011.	Membership in Employees Retirement System.....	15
Sec. 16.012.	Gifts.....	15

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES
SUBTITLE D. CREDIT UNIONS

CHAPTER 121. GENERAL PROVISIONS

Sec. 121.001.	Short Title	16
Sec. 121.0011.	Policy	16
Sec. 121.002.	Definitions.....	16
Sec. 121.003.	Credit Unions Subject to Subtitle.....	17
Sec. 121.004.	Liberal Construction	17
Sec. 121.005.	Hearings	17
Sec. 121.006.	Procedure and Rules Applicable to Certain Proceedings.....	17

CHAPTER 122. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

SUBCHAPTER A. INCORPORATION REQUIREMENTS

Sec. 122.001.	Application to Incorporate	18
Sec. 122.002.	Standard Articles of Incorporation and Bylaws	18
Sec. 122.003.	Corporate Name; Criminal Penalty	18
Sec. 122.004.	Investigation by Commissioner.....	18
Sec. 122.005.	Procedure for Certain Approvals	19
Sec. 122.006.	Decision on Application to Incorporate; Issuance of Certificate	19
Sec. 122.007.	Appeal to Commission.....	20
Sec. 122.008.	Effect of Issuance of Certificate of Incorporation.....	20
Sec. 122.009.	Requirements for Commencing Business	20
Sec. 122.010.	Deadline for Commencing Business	20
Sec. 122.011.	Amendment of Articles of Incorporation or Bylaws.....	20
Sec. 122.012.	Place of Business	21
Sec. 122.013.	Foreign Credit Unions.....	21
Sec. 122.0131.	Temporary Foreign Credit Union Office	21
Sec. 122.014.	Underserved-Area Credit Union	22

SUBCHAPTER B. ADMINISTRATION

Sec. 122.051.	Membership	22
Sec. 122.052.	Meetings of Members; Voting	23
Sec. 122.053.	Board of Directors; Terms and Duties	23
Sec. 122.054.	Qualification of Directors	23
Sec. 122.055.	Vacancies; Removal.....	23
Sec. 122.056.	Honorary or Advisory Directors	24
Sec. 122.057.	Officers; Executive Committee.....	24
Sec. 122.058.	Chief Executive Officer	24
Sec. 122.059.	Delegation of Management and Loan Approval Authority	24
Sec. 122.060.	Certificate of Election	24
Sec. 122.061.	Conflicts of Interest.....	25
Sec. 122.062.	Compensation.....	25
Sec. 122.063.	Bond.....	25
Sec. 122.064.	Indemnification	25

SUBCHAPTER C. OPERATIONS AND FINANCES

Sec. 122.101.	Call Reports.....	25
Sec. 122.102.	Financial Reporting; Audits	26
Sec. 122.103.	Equity Capital	26
Sec. 122.104.	Net Worth Reserve Allocations	26

SUBCHAPTER C. OPERATIONS AND FINANCES (Continued)	
Sec. 122.105.	Membership Share Reduction 26
Sec. 122.106.	Exemption from Certain Taxes 26
Sec. 122.107.	Notice of Availability of Certain Documents 26
SUBCHAPTER D. MERGER OR CONSOLIDATION	
Sec. 122.151.	Authority to Merge or Consolidate 27
Sec. 122.152.	Application to Merge or Consolidate 27
Sec. 122.153.	Decision by Commissioner; Appeal 27
Sec. 122.153.1.	Considerations in Determination 28
Sec. 122.154.	Property, Obligations, and Liabilities of Merged or Consolidated Credit Union ... 28
Sec. 122.155.	Construction of Subchapter 28
Sec. 122.156.	Rules to Address Certain Procedures 28
SUBCHAPTER E. CONVERSION	
Sec. 122.201.	Conversion of State Credit Union to Federal Credit Union 28
Sec. 122.202.	Conversion of State Credit Union to Out-Of-State Credit Union 28
Sec. 122.203.	Conversion of Federal or Out-Of-State Credit Union to State Credit Union 29
SUBCHAPTER F. MISCONDUCT AND ENFORCEMENT	
Sec. 122.251.	Defamation 29
Sec. 122.252.	Consideration for Loan, Investment, or Purchase 29
Sec. 122.253.	Loan to Nonmember 29
Sec. 122.254.	False Statements or Documents; Destruction of Records 29
Sec. 122.255.	Determination of Misconduct 30
Sec. 122.256.	Determination Letter; Board Meeting 30
Sec. 122.257.	Cease and Desist Order for Credit Unions 30
Sec. 122.257.5.	Cease and Desist Order for Other Persons 31
Sec. 122.258.	Removal Order 31
Sec. 122.259.	Hearing on Appeal of Proposed Order 31
Sec. 122.260.	Administrative Penalty; Injunction 32
Sec. 122.261.	Confidentiality 32
CHAPTER 123. GENERAL POWERS	
SUBCHAPTER A. GENERAL POWERS	
Sec. 123.001.	General Powers 33
Sec. 123.002.	Incidental Powers 33
Sec. 123.003.	Enlargement of Powers 33
SUBCHAPTER B. OPERATIONAL POWERS	
Sec. 123.101.	Contracts 33
Sec. 123.102.	Power to Sue and Defend 33
Sec. 123.103.	Purchase and Sale of Property 33
Sec. 123.104.	Membership in Other Organization; Operation as Central Credit Union 33
Sec. 123.105.	Fees 33
Sec. 123.106.	Change of Location 34
Sec. 123.107.	Insurance for Members 34
Sec. 123.108.	Donations 34
Sec. 123.109.	Seal 34
Sec. 123.110.	Records 34
Sec. 123.111.	Right to Act to Mitigate or Avoid Loss 34
SUBCHAPTER C. FINANCIAL POWERS	

Sec. 123.201.	Power to Borrow or Lend.....	34
Sec. 123.202.	Receipt, Transfer, and Payment of Money.....	34
Sec. 123.203.	Acceptance of Money for Deposit from Another Entity.....	35
Sec. 123.204.	Action as Agent or Depository of United States or Other Governmental Entity....	35
Sec. 123.205.	Investments and Securities.....	35
Sec. 123.206.	Action as Fiscal or Transfer Agent; Transfer of Certain Instruments; Signatures..	35
Sec. 123.207.	Fiduciary Powers.....	35
Sec. 123.208.	Dividends and Interest	35
Sec. 123.209.	Transfer System	36
Sec. 123.210.	Sale of Certain Instruments or Securities; Fee.....	36
Sec. 123.211.	Certificates of Indebtedness	36
Sec. 123.212.	Check and Money Transfer Services	36

CHAPTER 124. LOANS AND INVESTMENTS

SUBCHAPTER A. GENERAL PROVISIONS CONCERNING LOANS TO MEMBERS

Sec. 124.001.	Authorization	37
Sec. 124.002.	Limitations on Interest Rates	37
Sec. 124.003.	Limitations on Loans	37
Sec. 124.004.	Written Instrument Required.....	37
Sec. 124.005.	Applicability of Other Law	37

SUBCHAPTER B. OPEN-END CREDIT PLAN OR LINE OF CREDIT

Sec. 124.051.	Open-End Credit Plan	37
Sec. 124.052.	Line of Credit.....	37
Sec. 124.053.	Additional Loan Application Not Required.....	37

SUBCHAPTER C. LOAN EXPENSES

Sec. 124.101.	Borrower Payment of Loan Expenses.....	37
Sec. 124.102.	Collection of Loan Expenses	38
Sec. 124.103.	Character of Expense or Fee	38

SUBCHAPTER D. LOAN PAYMENTS

Sec. 124.151.	Prepayment Privilege.....	38
Sec. 124.152.	Conditions for Prepayment of Loan Secured by Real Property.....	38
Sec. 124.153.	Penalty for Late Payment.....	38

SUBCHAPTER E. LOANS TO DIRECTORS, EMPLOYEES, AND CREDIT COMMITTEE MEMBERS

Sec. 124.201.	Authorization	38
Sec. 124.202.	Conditions of Loans.....	38
Sec. 124.203.	Authorization to Act as Comaker, Guarantor, or Endorser.....	39
Sec. 124.204.	Prior Approval Required.....	39

SUBCHAPTER F. ILLEGAL LOANS

Sec. 124.251.	Illegality of Loan Not a Defense.....	39
Sec. 124.252.	Illegality of Loan Not a Bar to Enforcement or Collection.....	39

SUBCHAPTER G. LOAN PROGRAMS

Sec. 124.301.	Participation Loans	39
Sec. 124.302.	Government Loan Programs	39

SUBCHAPTER H. INVESTMENT OF MONEY

Sec. 124.351.	Permitted Investments.....	39
---------------	----------------------------	----

Sec. 124.352.	Limitations on Investments.....	40
CHAPTER 125. CREDIT UNION ACCOUNTS AND SERVICES		
SUBCHAPTER A. GENERAL PROVISIONS		
Sec. 125.001.	Definition	41
Sec. 125.002.	Share Account.....	41
Sec. 125.003.	Deposit Account.....	41
Sec. 125.004.	Construction with Other Laws	41
SUBCHAPTER B. MULTIPLE-PARTY ACCOUNTS		
Sec. 125.101.	Form of Account	41
Sec. 125.102.	Powers of Account Holders	41
Sec. 125.103.	Powers of Members Relating to Account	41
Sec. 125.104.	Ownership Interest	41
Sec. 125.105.	Discharge of Liability on Payment	42
Sec. 125.106.	Division of Account on Death.....	42
Sec. 125.107.	Setoff of Account	42
SUBCHAPTER C. MINOR ACCOUNTS		
Sec. 125.201.	Powers of Credit Union Relating to Account.....	42
Sec. 125.202.	Voting; Office-Holding.....	42
Sec. 125.203.	Discharge of Liability on Payment; Effect on Minor of Required Action.....	42
SUBCHAPTER D. TRUST ACCOUNT		
Sec. 125.301.	Form of Account	43
Sec. 125.302.	Loans to Nonmember Trustee.....	43
Sec. 125.303.	Beneficiary Fees.....	43
Sec. 125.304.	Limitations Placed on Beneficiary	43
Sec. 125.305.	Account Transaction Inquiries	43
Sec. 125.306.	Discharge of Liability on Payment	43
Sec. 125.307.	Termination of Account	43
Sec. 125.308.	Effect of Death of Trustee on Account	43
Sec. 125.309.	Trust Account with Limited Documentation	44
SUBCHAPTER E. THIRD-PARTY CLAIMS AND OTHER RIGHTS RELATING TO ACCOUNTS		
Sec. 125.401.	Third-Party Claim	44
Sec. 125.402.	Disclosure of Records of Member; Confidentiality	45
Sec. 125.403.	Recovery of Document Production Expenses from Third Party.....	45
Sec. 125.404.	Liens and Setoffs.....	45
Sec. 125.405.	Account Withdrawals.....	46
SUBCHAPTER F. SAFE DEPOSIT BOXES		
Sec. 125.501.	Rental of Safe Deposit Box.....	46
Sec. 125.502.	Relationship Between Credit Union and Box Holder	46
Sec. 125.503.	Access by More Than One Person.....	46
Sec. 125.504.	Relocation of Safe Deposit Box; Inventory of Contents.....	46
Sec. 125.505.	Notice of Box Relocation.....	46
Sec. 125.506.	Cost of Notice as Box Rental.....	47
Sec. 125.507.	Emergency Relocation of Safe Deposit Box.....	47
Sec. 125.508.	Key Imprinting.....	47
SUBCHAPTER F. SAFE DEPOSIT BOXES (Continued)		
Sec. 125.509.	Liability for Access to or Removal of Contents.....	47

Sec. 125.510.	Delinquent Rents.....	47
Sec. 125.511.	Auction of Contents	48
 CHAPTER 126. CREDIT UNION SUPERVISION AND REGULATION		
SUBCHAPTER A. GENERAL PROVISIONS		
Sec. 126.001.	Appointment of Conservator or Liquidating Agent	49
Sec. 126.002.	Confidentiality of Information	49
Sec. 126.003.	Enforceability of Agreement Made by Credit Union Before Conservatorship or Liquidation	49
 SUBCHAPTER B. EXAMINATIONS		
Sec. 126.051.	Examinations.....	49
Sec. 126.052.	Access to Information	50
Sec. 126.053.	Witnesses; Production of Documents	50
Sec. 126.054.	Report of Examination	50
Sec. 126.055.	Fee.....	50
 SUBCHAPTER C. CONSERVATORSHIP ORDER		
Sec. 126.101.	Conservatorship Order; Appointment of Conservator	50
Sec. 126.102.	Service of Order	51
Sec. 126.103.	Effect of Order	51
Sec. 126.105.	Appeal of Order; Hearing.....	51
Sec. 126.106.	Failure to File Reply or Request Hearing	51
Sec. 126.107.	Extension of Date and Time for Hearing	51
Sec. 126.108.	Confidentiality; Disclosure	52
 SUBCHAPTER D. ADMINISTRATION OF CONSERVATORSHIP		
Sec. 126.151.	Conservator Subject to Commission Control.....	52
Sec. 126.152.	General Powers of Conservator	52
Sec. 126.153.	Powers Relating to Claims	52
Sec. 126.154.	Power to Repudiate Burdensome Transaction	52
Sec. 126.155.	Power to Protect, Preserve, and Recover Property.....	52
Sec. 126.156.	Duties of Conservator	52
Sec. 126.157.	Term of Conservator	52
Sec. 126.158.	Transfer of Management of Rehabilitated Credit Union	53
Sec. 126.159.	Cost of Conservatorship.....	53
Sec. 126.160.	Jurisdiction and Venue.....	53
Sec. 126.161.	Exhaustion of Administrative Remedies.....	53
 SUBCHAPTER E. LIQUIDATION ORDER; INJUNCTION		
Sec. 126.201.	Liquidation Order; Appointment of Liquidating Agent.....	53
Sec. 126.202.	Service of Order	53
Sec. 126.203.	Suit for Injunction	54
Sec. 126.204.	Action Pending Injunction Hearing	54
Sec. 126.205.	Hearing on Injunction; Appeal.....	54
Sec. 126.206.	National Credit Union Administration as Liquidating Agent	54

SUBCHAPTER F. ADMINISTRATION OF LIQUIDATION	
Sec. 126.251.	Permissible Activities in Liquidation..... 54
Sec. 126.252.	Compensation of Credit Union Employees and Officers..... 54
Sec. 126.253.	Liquidating Agent Subject to Commission Control..... 54
Sec. 126.254.	Possession, Consolidation, and Disposition of Assets..... 55
Sec. 126.255.	Compound Debts..... 55
Sec. 126.256.	Court Action by Liquidating Agent..... 55
Sec. 126.257.	Repudiation of Burdensome Transactions..... 55
Sec. 126.258.	Execution of Documents; Other Necessary Acts..... 55
Sec. 126.259.	Jurisdiction and Venue..... 55
Sec. 126.260.	Exhaustion of Administrative Remedies..... 55
SUBCHAPTER G. CLAIMS RELATING TO CREDIT UNION IN LIQUIDATION	
Sec. 126.301.	Claims Against Credit Union..... 55
Sec. 126.302.	Notice to Creditors and Members..... 56
Sec. 126.303.	Priority of Claims..... 56
Sec. 126.304.	Liquidation Dividends..... 56
Sec. 126.305.	Payment of Claims in "No Publication" Liquidation..... 56
Sec. 126.306.	Barred Claims..... 56
SUBCHAPTER H. LIQUIDATING AGENT	
Sec. 126.351.	Removal of Liquidating Agent..... 56
Sec. 126.352.	Replacement of Liquidating Agent..... 57
Sec. 126.353.	Conflict of Interest..... 57
Sec. 126.354.	Compensation..... 57
SUBCHAPTER I. COMPLETION OF LIQUIDATION	
Sec. 126.401.	Certificate of Liquidation and Distribution..... 57
Sec. 126.402.	Cancellation of Certificate of Incorporation..... 57
Sec. 126.403.	Winding Up of Credit Union Business..... 57
SUBCHAPTER J. VOLUNTARY LIQUIDATION	
Sec. 126.451.	Board Resolution..... 57
Sec. 126.452.	Notification to Commissioner of Proposed Liquidation..... 57
Sec. 126.453.	Notice of Meeting to Liquidate..... 57
Sec. 126.454.	Credit Union Operations Before and After Vote..... 58
Sec. 126.455.	Vote on Voluntary Liquidation..... 58
Sec. 126.456.	Notice to Commissioner of Affirmative Vote to Liquidate..... 58
Sec. 126.457.	Appointment of Liquidating Agent..... 58
Sec. 126.458.	Application of Law to Credit Union in Voluntary Liquidation..... 58
CHAPTER 149. MISCELLANEOUS PROVISIONS RELATING TO CREDIT UNIONS	
Sec. 149.001.	Applicability of Chapters 3 and 4, Business & Commerce Code..... 59
Sec. 149.002.	Exemption from Securities Laws..... 59

CHAPTER 15. CREDIT UNION COMMISSION AND DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

SEC. 15.001. DEFINITIONS.

- (a) In this chapter, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) The definitions provided by Section 121.002 apply to this chapter.

SUBCHAPTER B. DEPARTMENT

SEC. 15.101. COMPOSITION OF DEPARTMENT.

The department is composed of:

- (1) the commission;
- (2) the commissioner; and
- (3) other department officers and employees.

SEC. 15.102. REGULATION OF CREDIT UNIONS.

The department shall supervise and regulate credit unions as provided by this chapter and Subtitle D, Title 3.

SEC. 15.103. STUDY OF STATUTES.

The department periodically shall comprehensively study the statutes of this state as they pertain to credit union operations.

SEC. 15.104. NOTIFICATION AND GUIDANCE ON ADOPTION OF CERTAIN FEDERAL LAWS OR REGULATIONS.

The department shall promptly notify and issue guidance to all credit unions chartered in this state on the adoption of a federal law or regulation that:

- (1) affects a power or authority conferred to credit unions under Section 123.003(a);
- (2) takes effect immediately; and
- (3) conflicts with state law.

SUBCHAPTER C. COMPOSITION OF COMMISSION

SEC. 15.201. APPOINTMENT; TERMS.

- (a) The commission is composed of nine members appointed by the governor with the advice and consent of the senate.
- (b) Commission members serve staggered terms of six years, with the terms of one-third of the members expiring February 15 of each odd-numbered year.
- (c) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SEC. 15.202. GENERAL QUALIFICATIONS OF COMMISSION MEMBERS.

- (a) No two commission members may be residents of the same state senatorial district.
- (b) A person may not be a member of the commission if:
 - (1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or
 - (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the financial institutions field.
- (c) A person may not be a member of the commission if the person is required to register as a lobbyist under

Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

SEC. 15.203. QUALIFICATIONS OF INDUSTRY COMMISSION MEMBERS.

- (a) Four commission members must be individuals who:
 - (1) have five years or more of active experience as a director, officer, or committee member of a credit union that:
 - (A) is organized and doing business in this state under Subtitle D, Title 3, or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.); and
 - (B) has its principal office in this state; and
 - (2) are engaged in exercising the powers and duties of a director, officer, or committee member of such a credit union.
- (b) Experience as a commissioner, deputy commissioner, or examiner is equivalent to the experience required by Subsection (a).
- (c) Not more than one individual from a federal credit union may serve on the commission at any time.
- (d) An individual who ceases to be engaged in exercising the powers and duties prescribed by this section for a period exceeding 90 days becomes ineligible to serve as a commission member, and the individual's position on the commission becomes vacant.

SEC. 15.204. QUALIFICATIONS OF PUBLIC COMMISSION MEMBERS.

- (a) Five commission members must be representatives of the public. A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:
 - (1) is employed by or participates in managing or directing:
 - (A) a financial institution; or
 - (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency;
 - (2) has, other than as a member or customer, a financial interest in:
 - (A) a financial institution; or
 - (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency; or
 - (3) uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.
- (b) The governor shall appoint public commission members on the basis of recognized business ability.
- (c) In this section, "financial institution" includes an institution such as a credit union, bank, or savings and loan association.

SEC. 15.2041. TRAINING PROGRAM.

- (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
 - (1) the law governing department operations;
 - (2) the programs, functions, rules, and budget of the department;
 - (3) the scope of and limitations on the rulemaking authority of the commission;
 - (4) the results of the most recent formal audit of the department;
 - (5) the requirements of:
 - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
 - (B) other laws applicable to members of a state policy-making body in performing their duties; and
 - (6) any applicable ethics policies adopted by the department or the Texas Ethics Commission.
- (c) A person appointed to the commission is entitled to reimbursement under Section 15.207, as if the person were a member of the commission, for travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.
- (d) The commissioner shall create a training manual that includes the information required by Subsection (b). The commissioner shall distribute a copy of the training manual annually to each commission member. Each

commission member shall sign and submit to the commissioner a statement acknowledging that the commission member received and has reviewed the training manual.

SEC. 15.205. VACANCIES.

The office of a commission member becomes vacant:

- (1) on the death, resignation, or removal of the member; or
- (2) if the member ceases to have the qualifications required for service as a member.

SEC. 15.206. REMOVAL.

- (a) A ground for removal of a commission member by the governor exists if a member:
 - (1) neglects the member's duty;
 - (2) is incompetent; or
 - (3) commits fraudulent or criminal conduct.
- (b) It is a ground for removal from the commission that a member:
 - (1) does not have at the time of taking office the qualifications required by Sections 15.202, 15.203, and 15.204;
 - (2) does not maintain during service on the commission the applicable qualifications required by Sections 15.202, 15.203, and 15.204;
 - (3) is ineligible for membership under Section 15.202, 15.203, or 15.204;
 - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
 - (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.
- (c) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.
- (d) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest-ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SEC. 15.207. EXPENSES AND COMPENSATION OF COMMISSION MEMBERS.

- (a) A commission member may not receive compensation or a benefit because of the member's service on the commission except as provided by Subsection (b).
- (b) For each day that a commission member engages in the business of the commission, the member is entitled to:
 - (1) per diem, including compensatory per diem;
 - (2) actual expenses for meals and lodging; and
 - (3) transportation expenses.

SEC. 15.208. MATTER IN WHICH COMMISSION MEMBER HAS PERSONAL INTEREST.

- (a) A commission member may not act on a matter under the commission's consideration that directly affects a credit union of which the member is an officer, director, or member.
- (b) The commission shall adopt rules relating to recusal of members, requiring that a member who has a personal or private interest in a measure, proposal, or decision pending before the commission shall publicly disclose the fact to the commission at a meeting held in compliance with Chapter 551, Government Code. The member may not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes of the meeting.

SEC. 15.209. MEETINGS.

- (a) The commission shall hold at least two regular meetings each year.
- (b) The chairman, the commissioner, or five commission members may call a special meeting of the commission.

- (c) The commission shall adopt reasonable rules governing a meeting, including rules relating to the:
 - (1) time and place of a meeting;
 - (2) conduct of a meeting; and
 - (3) form of the minutes.
- (d) The commission is subject to the:
 - (1) open meetings law, Chapter 551 Government Code; and
 - (2) administrative procedure law, Chapter 2001, Government Code.

SEC. 15.210. PRESIDING OFFICER.

The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

SEC. 15.211. SUIT FOR OFFICIAL ACT OR OMISSION.

- (a) The attorney general shall defend an action brought against a commission member or an officer or employee of the commission because of the person's official act or omission regardless of whether the individual is a member, officer, or employee of the commission at the time the action is initiated.
- (b) A suit against the commission or its officers or employees may be brought only in Travis County.

SEC. 15.212. SUNSET PROVISION.

The Credit Union Department and the Credit Union Commission are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department and commission are abolished September 1, 2031.

SUBCHAPTER D. COMMISSIONER AND OTHER EMPLOYEES OF COMMISSION

SEC. 15.301. COMMISSIONER.

- (a) The commission shall appoint a commissioner by affirmative vote of two-thirds of the membership of the commission.
- (b) The commissioner serves at the will of the commission.
- (c) The commissioner is an employee of the commission and is subject to the commission's orders and directions.

SEC. 15.302. QUALIFICATIONS OF COMMISSIONER.

- (a) The commissioner must have at least five years' practical experience in the operation of credit unions during the 10 years preceding the commissioner's appointment.
- (b) The experience required by this section may consist of experience:
 - (1) in exercising the powers and duties of a director, officer, or committee member of a credit union; or
 - (2) in the employment of a credit union regulatory agency.
- (c) A person may not be appointed commissioner if:
 - (1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or
 - (2) the person's spouse is an officer, manager, or paid consultant of the Texas trade association in the financial institutions field.

SEC. 15.303. DEPUTY COMMISSIONER.

- (a) Subject to the commission's approval, the commissioner may appoint a deputy commissioner, who must have the qualifications required of the commissioner.
- (b) The deputy commissioner serves at the will of the commissioner and, at the commissioner's direction, may exercise the powers and prerogatives of the commissioner.
- (c) The deputy commissioner is an employee of the commission and is subject to the commission's orders and directions.
- (d) During the commissioner's absence or inability to act, the deputy commissioner shall perform the

commissioner's duties.

SEC. 15.304. EXAMINERS.

(a) The commissioner shall appoint a sufficient number of credit union examiners to perform fully the duties imposed by the laws of this state.

(b) Appointment of an examiner is subject to recruitment specifications and qualifications approved by the commission.

(c) An examiner is an employee of the commission and is subject to the commission's orders and directions.

SEC. 15.305. GENERAL COUNSEL.

A person may not act as the general counsel to the commission or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

SEC. 15.306. OATH.

Before assuming the duties of office, the commissioner, the deputy commissioner, each examiner, and each other officer or employee of the commission must take an oath of office approved by the commission.

SEC. 15.307. OFFICERS OF COMMISSION AND DEPARTMENT.

Each officer of the commission and department, except a commission member, is an employee of the commission and is subject to the commission's orders and directions.

SEC. 15.309. INTRA-AGENCY CAREER LADDER.

(a) The commissioner or a person designated by the commissioner shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the department.

(b) The program must require intra-agency posting of all non-entry-level positions concurrently with public posting.

SEC. 15.310. PERFORMANCE EVALUATION.

(a) The commissioner or a person designated by the commissioner shall develop a system of annual performance evaluations that are based on documented employee performance.

(b) Merit pay for department employees must be based on the system established under this section.

SEC. 15.311. QUALIFICATIONS OF EMPLOYEES.

A person may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the financial institutions field.

SEC. 15.312. INFORMATION PROVIDED TO MEMBERS AND EMPLOYEES.

The commissioner or the commissioner's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SEC. 15.313. EQUAL EMPLOYMENT OPPORTUNITY POLICY.

(a) The commissioner or a person designated by the commissioner shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state law, including rules and regulations, and instructions adopted directly from that law;

(3) procedures by which a determination can be made about the extent of underuse in the department workforce of all persons for whom federal or state laws, including rules and regulations, and instructions adopted directly from that law, encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

(1) cover an annual period;

(2) be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and

(3) be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

SUBCHAPTER E. POWERS AND DUTIES OF COMMISSION AND COMMISSIONER

SEC. 15.401. SUPERVISION OF COMMISSIONER.

The commission shall supervise, consult with, and advise the commissioner.

SEC. 15.4011. CREDIT UNION DEPARTMENT BUILDING.

The commission shall have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department. The Credit Union Department Building refers to the property located in the city of Austin and titled in the name of the State of Texas for the use and benefit of the Credit Union Department, as described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

SEC. 15.402. ADOPTION OF RULES.

(a) The commission may adopt reasonable rules necessary to administer this chapter and to accomplish the purposes of Subtitle D, Title 3.

(b) In adopting rules under this section, the commission may regulate and classify credit unions according to criteria that the commission determines are appropriate and necessary to accomplish the purposes of this chapter and Subtitle D, Title 3, including the:

(1) character of field of membership;

(2) amount of assets;

(3) number of members; and

(4) financial condition.

(b-1) In adopting rules under this section, the commission shall consider the need to:

(1) promote a stable credit union environment;

(2) provide credit union members with convenient, safe, and competitive services;

(3) preserve and promote the competitive parity of credit unions with regard to other depository institutions consistent with the safety and soundness of credit unions; and

(4) promote or encourage economic development in this state.

(c) The commission by rule shall establish reasonable and necessary fees for the administration of this chapter and Subtitle D, Title 3.

(d) The presence or absence in this chapter or Subtitle D, Title 3, of a specific reference to rules regarding a particular subject does not enlarge or diminish the rulemaking authority provided by this section.

SEC. 15.4021. RECEIPT OF PUBLIC COMMENTS; NOTICE OF COMMISSION ACTIVITIES.

(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the department.

(b) The commission shall adopt rules providing for public notice of department activities.

SEC. 15.4022. RULES RELATING TO COMPETITIVE BIDDING AND ADVERTISING.

(a) The commission may not adopt rules restricting competitive bidding or advertising by a credit union except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) relates to the size or duration of an advertisement by the credit union; or
- (3) restricts the credit union's advertisement under a trade name.

SEC. 15.4023. SEPARATION OF RESPONSIBILITIES.

The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the commissioner and the staff of the department.

SEC. 15.4024. Repealed by Acts 2013, 83rd Legislature, Regular Session

SEC. 15.4025. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY.

(a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by HB2735, 81st Leg., effective Sept. 1, 2009.

SEC. 15.403. SUPERVISION AND REGULATION OF CREDIT UNIONS.

(a) The commissioner shall supervise and regulate a credit union doing business in this state, other than a federal credit union, in accordance with this chapter and Subtitle D, Title 3, including rules adopted under this chapter and Subtitle D, Title 3.

(b) To the extent necessary to the department's authority to supervise and regulate credit unions under this chapter and Subtitle D, Title 3, the commissioner may require each credit union to conduct business in compliance with federal laws that apply to credit unions.

SEC. 15.4031. CREDIT UNION COMMISSIONER HEARING.

(a) The commissioner may convene a hearing to receive evidence and argument regarding any matter under this chapter or Subtitle D, Title 3, before the commissioner for decision or review. The hearing must be conducted under Chapter 2001, Government Code. A matter made confidential by law must be considered by the commissioner in a closed hearing.

(b) A hearing officer may conduct any hearing on behalf of the commissioner.

SEC. 15.4032. EXAMINATION OF RELATED ENTITIES.

(a) In accordance with rules adopted by the commission, the commissioner may examine, to the same extent as if the services or activities were performed by a credit union on its own premises:

(1) a credit union service organization in which a credit union has a material interest;

(2) an organization engaged primarily in the business of managing one or more credit unions; and

(3) a third-party contractor providing electronic data processing, electronic fund transfers, or other member services on behalf of a credit union.

(b) The commissioner may collect a fee from an examined contractor or organization in connection with each examination to cover the cost of the examination or may collect that fee from the credit unions that use the examined contractor.

SEC. 15.404. ADMINISTRATION AND ENFORCEMENT OF STATUTES AND RULES.

The commissioner shall administer and enforce this chapter and Subtitle D, Title 3, and rules adopted under this chapter and Subtitle D, Title 3.

SEC. 15.4041. ISSUANCE OF INTERPRETIVE STATEMENTS.

(a) The commissioner may issue interpretive statements containing matters of general policy to guide the public and credit unions and may amend or repeal a published interpretive statement by issuing an amended statement or notice of repeal of a statement.

(b) An interpretive statement may be disseminated by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the interpretive statement. Notice of an amended or withdrawn statement must be disseminated in a substantially similar manner as the affected statement was originally disseminated.

SEC. 15.4042. ISSUANCE OF OPINION.

(a) In response to a specific request from a member of the public or the credit union industry, the commissioner may issue an opinion directly or through the deputy commissioner or a department attorney.

(b) If the commissioner determines that the opinion is useful for the general guidance of the public or credit unions, the commissioner may disseminate the opinion by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the opinion. A published opinion must be redacted to preserve the confidentiality of the requesting party unless the requesting party consents to be identified in the published opinion.

(c) The commissioner may amend or repeal a published opinion by issuing an amended opinion or notice of repeal of an opinion and disseminating the opinion or notice in a substantially similar manner as the affected opinion was originally disseminated. The requesting party may rely on the original opinion if:

(1) all material facts were originally disclosed to the commissioner;

(2) the safety and soundness of the affected credit union will not be endangered by further reliance on the original opinion; and

(3) the text and interpretation of relevant governing provisions of this chapter or Subtitle D, Title 3, have not been changed by legislative or judicial action.

SEC. 15.4043. EFFECT OF INTERPRETIVE STATEMENT OR OPINION.

An interpretive statement or opinion issued under this subchapter does not have the force of law and is not a rule for the purposes of Chapter 2001, Government Code, unless adopted by the commission as provided by Chapter 2001, Government Code. An interpretive statement or opinion is an administrative construction of this chapter or Subtitle D, Title 3, may be relied on by credit unions authorized to engage in business in this state, and is entitled to great weight if the construction is reasonable and does not conflict with this chapter or Subtitle D, Title 3.

SEC. 15.4044. FEES.

The department may charge a late fee against a credit union for late payment of its operating fees.

SEC. 15.405. LEGISLATIVE RECOMMENDATIONS.

The commissioner shall report the department's legislative recommendations to the legislature for consideration.

SEC. 15.406. ATTENDANCE AT COMMISSION MEETINGS; VOTING.

The commissioner shall attend meetings of the commission but may not vote at a meeting.

SEC. 15.407. OFFICIAL COMMITTEES.

The chairman may appoint individuals who are not commission members to serve on official committees that are charged with evaluating industry methods or problems and presenting formal recommendations to the commission for possible action.

SEC. 15.408. CONSUMER COMPLAINTS.

(a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Added by SB707, 87TH Leg., effective Sept. 1, 2021.

SEC. 15.4081. COMPLAINT TRACKING; ANNUAL STATISTICAL ANALYSIS.

(a) To help identify and address regulatory issues and constraints, the department shall track all phases of the complaint and enforcement processes, including the receipt, investigation, and disposition of complaints. The department shall maintain the following information for each complaint:

- (1) the basis for the complaint;
- (2) the origin of the complaint, including whether the complaint was issued from:
 - (A) another regulatory agency;
 - (B) a credit union member;
 - (C) a credit union employee;
 - (D) a member of the public; or
 - (E) a public or private entity;
- (3) the number of days taken to resolve the complaint from the date the complaint was received; and
- (4) the disposition of the complaint, including:
 - (A) if no disciplinary action was taken, the reasons no disciplinary action was taken;
 - (B) if disciplinary action was taken, the type of disciplinary action taken, including the amount of any administrative penalty or late fee;
 - (C) if dismissed or referred to another agency, the details regarding dismissal or referral; and
 - (D) if ongoing, the current status of the complaint.

(b) The department shall annually compile a statistical analysis of the department's complaint and enforcement processes for the preceding fiscal year. The analysis must include:

- (1) the total number of complaints filed with the department against credit unions;

- (2) the number of open investigations at the end of the fiscal year;
- (3) the number of complaints that were resolved, disaggregated by:
 - (A) the source of the complaint;
 - (B) the type of alleged violation;
 - (C) jurisdictional and non-jurisdictional complaints;
 - (D) regulatory and nonregulatory complaints; and
 - (E) the disposition and type of action taken, including any administrative penalty or late fee assessed;

and

- (4) the average number of days taken to resolve a complaint, including complaints that were resolved through an examination of a credit union.

Added by SB707, 87TH Leg., effective Sept. 1, 2021.

SEC. 15.409. CONSUMER INFORMATION.

- (a) The commissioner shall:
 - (1) supervise the preparation of public interest information describing:
 - (A) functions of the department;
 - (B) procedures for filing and resolving complaints; and
 - (C) other matters of general interest relating to credit unions; and
 - (2) make the information prepared under Subdivision (1) available to the public and appropriate state agencies.
- (b) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (c) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (d) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (e) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, telephone number, and Internet website of the department for the purpose of directing complaints to the department. The commission shall provide for that notification:
 - (1) on of the Internet website of a credit union regulated under this chapter and Subtitle D, Title 3, if the credit union maintains a website;
 - (2) on a sign prominently displayed in the place of business of each credit union regulated under this chapter and Subtitle D, Title 3; and
 - (3) in any newsletter distributed by a credit union regulated under this chapter and Subtitle D, Title 3, if the credit union distributes a newsletter.
- (f) The commission by rule may establish other methods by which credit unions that do not have an Internet website or do not distribute a newsletter may make the information described by Subsection (e) more readily available to credit unions' customers and service recipients.

SEC. 15.4091. ACCESS TO DEPARTMENT FACILITIES, PROGRAMS, AND SERVICES.

- (a) The department shall comply with federal and state laws related to program and facility accessibility.
- (b) The commissioner shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

SEC. 15.410. SHARE AND DEPOSITOR INSURANCE PROTECTION.

- (a) The commission shall adopt, and the commissioner shall enforce, reasonable rules requiring a credit union to provide share and deposit insurance protection for credit union members and depositors.
- (b) Rules adopted under this section must include authorization for and establishment of a share and deposit guaranty corporation or credit union under the department's exclusive regulation to enable the department to carry out the purposes of this chapter and Subtitle D, Title 3.
- (c) A credit union may provide share and deposit insurance protection through another source approved by the department, including a program of the National Credit Union Administration.

SEC. 15.4105. ANNUAL REPORT TO MEMBERS.

- (a) The commission shall adopt, and the commissioner shall enforce, reasonable rules requiring a credit union regulated under this chapter and Subtitle D, Title 3, to provide an annual report to the credit union's members

regarding the credit union's financial condition and management. The report must:

- (1) include a current balance sheet;
 - (2) include an income and expense statement;
 - (3) contain the name and date of expiration of the term of office of each member serving on the board of directors;
 - (4) contain a brief description of any changes, since the preceding report was provided under this section, to the credit union's:
 - (A) management;
 - (B) bylaws;
 - (C) articles of incorporation;
 - (D) financial condition;
 - (E) membership size; and
 - (F) services offered; and
 - (5) contain any other information the commission considers necessary to ensure that credit union members are provided with basic knowledge of the credit union's financial condition and management.
- (b) In adopting rules under this section, the commission must ensure that a credit union:
- (1) updates the report before the credit union's annual organizational meeting;
 - (2) makes the report available to members throughout the year on the credit union's Internet website, if the credit union maintains a website; and
 - (3) provides the report to credit union members by an alternative method, including delivery at the credit union's annual organizational meeting, if the credit union does not have an Internet website.

SEC. 15.411. AGREEMENTS WITH OTHER REGULATORS.

(a) The commissioner may enter into an agreement with any credit union supervisory agency regarding the examination or supervision of branch offices of credit unions chartered in this state doing business in other states and foreign credit unions doing business in this state. In lieu of conducting an examination or investigation required by this subtitle, the commissioner may accept examinations or reports from other credit union supervisory agencies. The acceptance of the examination or report does not waive any fee, charge, or revenue required to be paid by a credit union, including a foreign credit union doing business in this state.

(b) The commissioner may enter into any cooperative arrangement with other credit union supervisory agencies to promote the effective regulation of state credit unions doing business across state lines, including contracting to use another agency's examiners, allowing for the use of examiners of this state by another agency, or collecting fees on behalf of or receiving payments through another agency.

Sec. 15.4111. REGULATORY COORDINATION.

To ensure effective coordination among and between the department and other state and federal agencies, the commissioner and those agencies may enter into cooperative, coordinating, or information-sharing agreements that are necessary or proper to enforce the state or federal laws applicable to credit unions.

Added by SB 244, 83rd Leg., effective Sept. 1, 2013.

SEC. 15.412. FILING GROUP RETURN WITH THE INTERNAL REVENUE SERVICE.

(a) The commissioner may file a consolidated group return form with the Internal Revenue Service on behalf of all credit unions under the department's jurisdiction. To be included, each credit union must annually authorize the department in writing to include the credit union in the group return and must declare that the authorization and the financial information submitted for the purpose of compiling the group return are true and complete.

(b) The state is not liable for information contained in any form submitted. Each credit union is individually responsible for the accuracy, completeness, and timeliness of the information and for any potential tax liability or penalties that may accrue.

SEC. 15.413. INTERPRETATION OF HOME EQUITY LENDING LAW.

The commission may, on request of an interested person or on its own motion, issue interpretations of Sections 50(a)(5)-(7), (e)-(p), (t), and (u), Article XVI, Texas Constitution. An interpretation under this section is subject to Chapter 2001, Government Code, and is applicable to lenders regulated by the commission. The Finance

Commission of Texas and the commission shall attempt to adopt interpretations that are as consistent as feasible or shall state justification for any inconsistency.

SEC. 15.414. AUTHORITY TO CONTRACT FOR PROFESSIONAL OR PERSONAL SERVICES.

For the purpose of carrying out the powers, duties, and responsibilities of the department, the commissioner may negotiate, contract, or enter into an agreement for professional or personal services. The commission by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts under this section.

SEC. 15.415. GIFTS OF MONEY OR PROPERTY.

The department may accept money or property by gift, bequest, devise, or otherwise for any department purpose authorized by this chapter and Subtitle D, Title 3. A gift, bequest, or devise shall be used for the purposes specified by the grantor. The commission must approve acceptance and use of any gift, bequest, or devise under this section.

SEC. 15.416. USE OF TECHNOLOGY.

The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

SUBCHAPTER F. RULES REGARDING USE OF ADVISORY COMMITTEES

SEC. 15.501. RULEMAKING AUTHORITY.

(a) The commission shall adopt rules, in compliance with Section 15.407 and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commission, including rules governing an advisory committee's:

- (1) purpose, role, responsibility, and goals;
- (2) size and quorum requirements;
- (3) qualifications for membership, including experience requirements and geographic representation;
- (4) appointment procedures;
- (5) terms of service;
- (6) training requirements; and
- (7) duration.

(b) An advisory committee must be structured and used to advise the commission. An advisory committee may not be responsible for rulemaking or policymaking.

SEC. 15.502. PERIODIC EVALUATION.

The commission shall by rule establish a process by which the commission shall periodically evaluate an advisory committee to ensure its continued necessity. The commission may retain or develop committees as appropriate to meet changing needs.

SEC. 15.503. COMPLIANCE WITH OPEN MEETINGS ACT.

A commission advisory committee must comply with Chapter 551, Government Code.

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND SEMI-INDEPENDENT

SEC. 16.001. DEFINITIONS.

In this chapter:

- (1) "Financial regulatory agency" means:
 - (A) the Texas Department of Banking;
 - (B) the Department of Savings and Mortgage Lending;
 - (C) the Office of Consumer Credit Commissioner; and
 - (D) the Credit Union Department.
- (2) "Policy-making body" means:
 - (A) the Finance Commission of Texas for:
 - (i) the Texas Department of Banking;
 - (ii) the Department of Savings and Mortgage Lending; and
 - (iii) the Office of Consumer Credit Commissioner; and
 - (B) the Credit Union Commission for the Credit Union Department.

SEC. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF FINANCIAL REGULATORY AGENCIES.

Notwithstanding any other provision of law, a financial regulatory agency is self-directed and semi-independent as specified by this chapter. Any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

SEC. 16.003. BUDGET, REVENUES, AND EXPENSES.

(a) A financial regulatory agency shall submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the policy-making body of the financial regulatory agency.

(b) A financial regulatory agency shall be responsible for all direct and indirect costs of the agency's existence and operation. The financial regulatory agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in a financial regulatory agency's enabling legislation, a financial regulatory agency may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget adopted and approved under Subsection (a).

(d) All fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) Periodically, each financial regulatory agency shall submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

(f) The fiscal year for a financial regulatory agency begins on September 1 and ends on August 31.

SEC. 16.004. AUDITS.

This chapter does not affect the duty of the state auditor to audit a financial regulatory agency. The state auditor shall enter into a contract and schedule with each financial regulatory agency to conduct audits, including financial reports and performance audits. The financial regulatory agency shall reimburse the state auditor for all costs incurred in performing the audits and shall provide to the governor a copy of any audit performed.

SEC. 16.005. RECORDS; REPORTING REQUIREMENTS.

(a) A financial regulatory agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, each financial regulatory agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit as required by Section 16.004;
- (2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;
- (3) a description of all changes in fees imposed on regulated industries;
- (4) a report on changes in the regulatory jurisdiction of the agency, including the number of chartered financial institutions, license holders, and registrants subject to the agency's jurisdiction and any changes in those figures; and
- (5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, each financial regulatory agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for all financial regulatory agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;
- (2) the total amount of per diem expenses and travel expenses paid for each member of the agency's policy-making body, provided that only one report must be submitted regarding the Finance Commission of Texas;
- (3) the agency's operating plan and annual budget; and
- (4) a detailed report of all revenue received, and all expenses incurred by the financial regulatory agency in the previous 12 months.

SEC. 16.006. ABILITY TO CONTRACT

(a) To carry out and promote the objectives of this chapter, a financial regulatory agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section may not:

- (1) create a debt or other liability of this state or another entity other than the financial regulatory agency;
- or
- (2) create any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

SEC. 16.007. PROPERTY.

A financial regulatory agency may:

- (1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;
- (2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;
- (3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and
- (4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

SEC. 16.008. SUITS.

The office of the attorney general shall represent a financial regulatory agency in any litigation. The attorney general may assess and collect from the financial regulatory agency reasonable attorney's fees associated with any litigation under this section.

SEC. 16.009. POST-PARTICIPATION LIABILITY.

(a) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

SEC. 16.010. DUE PROCESS; OPEN GOVERNMENT.

A financial regulatory agency is:

- (1) a governmental body for purposes of Chapters 551 and 552, Government Code; and
- (2) a state agency for purposes of Chapters 2001 and 2005, Government Code.

SEC. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.

Employees of the financial regulatory agencies are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the agencies' transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

SEC. 16.012. GIFTS.

- (a) Notwithstanding any other law, a financial regulatory agency may not accept a gift, grant, or donation:
 - (1) from a party to an enforcement action; or
 - (2) to pursue a specific investigation or enforcement action.
- (b) A financial regulatory agency must:
 - (1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 16.005(b); and
 - (2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

CHAPTER 121. GENERAL PROVISIONS

SEC. 121.001. SHORT TITLE.

This subtitle may be cited as the Texas Credit Union Act.

SEC. 121.0011. POLICY.

The purposes of this subtitle are to safeguard the public interest, to promote public confidence in credit unions doing business in this state, to provide for the protection of the interests, shares, and deposits of credit unions, to delegate to the department rulemaking and discretionary authority that may be necessary to assure that credit unions operating under this subtitle may be sufficiently flexible and readily responsive to changes in economic conditions and practices, to maintain sound credit union growth and financial integrity, fiscal responsibility, and independent judgment in the management of the business affairs of credit unions, to permit credit unions to effectively provide a full array of financial and financially related services, to provide effective supervision and regulation of credit unions and their fields of membership, and to clarify and modernize the law governing the credit unions doing business in this state. This subtitle is the public policy of this state and necessary to the public welfare.

SEC. 121.002. DEFINITIONS.

In this subtitle:

- (1) "Board" means the board of directors of a credit union.
- (2) "Credit union," unless the context relates to a federal credit union, means a voluntary, cooperative, nonprofit financial institution authorized to do business in this state under this subtitle for purposes of:
 - (A) encouraging thrift among its members;
 - (B) creating a source of credit at fair and reasonable interest rates;
 - (C) developing and providing to its members alternative methods of financing their purchases at reasonable costs;
 - (D) providing an opportunity for its members to use and control their money to improve their economic and social condition; and
 - (E) conducting any other business, engaging in any other activity, or providing any other service that may benefit its members.
- (3) "Commission" means the Credit Union Commission.
- (4) "Commissioner" means the credit union commissioner.
- (5) "Department" means the credit union department.
- (6) "Deputy commissioner" means the deputy credit union commissioner.
- (7) "Foreign credit union" means a credit union that is not organized under the laws of this state or the United States.
- (8) "Law enforcement agency" means the Department of Public Safety of the State of Texas, the Federal Bureau of Investigation, or any local police or sheriff department.
- (9) "Membership share" means a designated share account of a credit union consisting of the balance held by the credit union and established by a credit union member in accordance with the standards specified by the credit union.
- (10) "Organization" means a corporation, partnership, association, limited liability company, or other legal entity.
- (11) "Unsafe or unsound condition," with respect to a credit union, includes:
 - (A) being insolvent;
 - (B) having incurred or being likely to incur a loss that will deplete all or substantially all of the credit union's net worth; or
 - (C) being in imminent danger of losing the credit union's share and deposit insurance or guarantee.
- (12) "Unsafe or unsound practice" means an action or inaction in the operation of a credit union that is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal and material risk of loss or danger to a credit union, the credit union's members, or an organization insuring or guaranteeing the credit union's shares and deposits.

SEC. 121.003. CREDIT UNIONS SUBJECT TO SUBTITLE.

A credit union organized and existing under the laws of this state is governed by and authorized to do business under this subtitle.

SEC. 121.004. LIBERAL CONSTRUCTION.

This subtitle shall be liberally construed to effect its purposes.

SEC. 121.005. HEARINGS.

- (a) A hearing held under this subtitle is governed by Chapter 2001, Government Code.
- (b) The commission may adopt rules of procedure for a hearing held under this subtitle.
- (c) This section does not apply to a meeting under Section 122.005.

SEC. 121.006. PROCEDURE AND RULES APPLICABLE TO CERTAIN PROCEEDINGS.

- (a) If the commissioner proposes to revoke a credit union's certificate of incorporation, the credit union is entitled to a hearing conducted by the State Office of Administrative Hearings.
- (b) A proceeding for a disciplinary action is governed by Chapter 2001, Government Code. Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to a proceeding for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

CHAPTER 122. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

SUBCHAPTER A. INCORPORATION REQUIREMENTS

SEC. 122.001. APPLICATION TO INCORPORATE.

- (a) Seven or more individuals may apply to incorporate a credit union under this chapter if:
 - (1) each is at least 18 years old;
 - (2) a majority are residents of this state;
 - (3) each has subscribed for at least 10 shares; and
 - (4) all share the definable community of interest stated in the articles of incorporation.
- (b) The incorporators shall file with the commissioner:
 - (1) an application in a form prescribed by the commission; and
 - (2) filing fees required and set by the commission.
- (c) The application must contain:
 - (1) two copies of the articles of incorporation, which must state:
 - (A) the name of the credit union;
 - (B) the municipality and county where the credit union's principal place of business is to be located;
 - (C) that the credit union's term of existence is perpetual;
 - (D) that the credit union's fiscal year is the calendar year;
 - (E) the initial share accounts;
 - (F) the name and address of, and the number of shares subscribed by, each incorporator;
 - (G) the number of directors constituting the initial board and the name and address of each person who will serve as director until the first annual meeting or until a successor is elected and qualified; and
 - (H) the definable community of interest shared by the members of the credit union at the time of incorporation;
 - (2) two copies of the standard bylaws for the general operation of the credit union; and
 - (3) a business plan covering three years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union.

SEC. 122.002. STANDARD ARTICLES OF INCORPORATION AND BYLAWS.

- (a) To simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws.
- (b) The standard forms shall be made available without charge to a person desiring to organize a credit union.

SEC. 122.003. CORPORATE NAME; CRIMINAL PENALTY.

- (a) The name of a credit union must include the words "credit union" or the abbreviation "CU" and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner.
- (b) Unless a credit union is formed by merger or consolidation, the commissioner may not issue a certificate of incorporation to the credit union or approve the change of the name of the credit union if it would have the same name as another credit union or a name so nearly resembling the name of another credit union as to be calculated to deceive.
- (c) A person who is not a credit union authorized to do business in this state under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.), or an organization, corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may not do business under or use a name or title containing the words "credit union" or any derivation of that term that:
 - (1) indicates or reasonably implies that the person carries on or transacts the kind of business carried on or transacted by a credit union; or
 - (2) is calculated to lead a person to believe that the business being conducted is the type of business carried on or transacted by a credit union.
- (d) A person who violates Subsection (c) commits a Class A misdemeanor.
- (e) The commissioner may petition a court to enjoin a violation of this section.

SEC. 122.004. INVESTIGATION BY COMMISSIONER.

The commissioner may conduct an investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary.

SEC. 122.005. PROCEDURE FOR CERTAIN APPROVALS.

- (a) This section applies to a request for approval by the commissioner of:
 - (1) an application for incorporation under this subchapter;
 - (2) a request for approval of an amendment to a credit union's articles of incorporation under Section 122.011, including an amendment to expand the credit union's field of membership; and
 - (3) a merger or consolidation under Subchapter D.
- (b) Before approving a request to which this section applies, the commissioner shall submit notice of the request to the secretary of state for publication in the Texas Register. The commission by rule shall provide for other appropriate public notice of the request. The commissioner may waive the requirements of this subsection or permit delayed public notice on a determination that waiver or delay is in the public interest. If the requirements of this subsection are waived, the information that would be contained in a public notice becomes public information under Chapter 552, Government Code, on the 35th day after the date the request is made.
- (c) Before making a determination on a request to which this section applies, the commissioner must accept comment from any interested party that wishes to comment. This comment may be in the form of written testimony or may be provided at a meeting with the commissioner held for the purpose of receiving the comment. This meeting shall be held if requested by any interested party. The commissioner may hold the meeting regardless of whether an interested party requests the meeting. The commission may establish reasonable rules governing the circumstances and conduct of the meeting. Chapter 2001, Government Code, does not apply to the meeting. Not later than the 60th day after the date the notice is published in the Texas Register, or if the notice is not published, after the date the request is received, the commissioner shall approve or disapprove the application.

SEC. 122.006. DECISION ON APPLICATION TO INCORPORATE; ISSUANCE OF CERTIFICATE.

- (a) The commissioner shall approve an application to incorporate a credit union if the commissioner determines:
 - (1) that the incorporators have complied with this chapter and rules adopted under this chapter; and
 - (2) from information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and information in the department's official records, that:
 - (A) the character and general fitness of the incorporators and the members of the initial board warrant belief that the credit union's business and affairs will be properly administered in accordance with this subtitle and rules adopted under this subtitle;
 - (B) the character and size of the field of membership to be served by the credit union conform with this subtitle and rules adopted under this subtitle and favor the credit union's economic viability; and
 - (C) the incorporators and the members of the initial board are acting in good faith and are making the application in accordance with the purposes of this subtitle.
- (b) In addition to the determinations made under Subsection (a) and in accordance with commission rules, the commissioner shall consider the effect of overlapping fields of membership on the applicant credit union and existing state or federal credit unions doing business in this state. The commissioner may consider the availability and adequacy of financial services in the local community and the effect that the incorporation of the credit union would have on the local community. As a condition of approval of the application, the commissioner may require the applicant credit union to limit or eliminate overlaps, in accordance with the rules, to achieve the purposes of this subtitle and promote the welfare and stability of those credit unions.
- (c) The commissioner by written order shall state the determinations required by Subsection (a) and approve or deny the application. The commissioner may make approval of an application conditional and shall include any conditions in the order approving the application.
- (d) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail.
- (e) After the commissioner in the absence of an appeal or the commission after the conclusion of an appeal approves the application, the commissioner shall:
 - (1) issue a certificate of incorporation;
 - (2) deliver copies of the approved articles of incorporation and bylaws to the incorporators; and
 - (3) retain copies of those documents in the department's permanent files.

SEC. 122.007. APPEAL TO COMMISSION.

- (a) The commission by rule shall provide for appeal of the commissioner's order by an incorporator or other aggrieved person.

(b) The commissioner's order may be appealed to the commission not later than the 60th day after the date of the order.

(c) After reviewing information or evidence the commission considers necessary or relevant, the commission by written order shall affirm or reverse the commissioner's decision.

SEC. 122.008. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION.

(a) A credit union's existence begins when the commissioner issues the certificate of incorporation.

(b) The certificate of incorporation is conclusive evidence that the incorporators have complied with this subtitle and that the credit union is incorporated under this chapter.

(c) Acceptance of a certificate of incorporation by the credit union is conclusive evidence that the credit union is authorized to do business under this subtitle.

SEC. 122.009. REQUIREMENTS FOR COMMENCING BUSINESS.

(a) A credit union may not transact business or incur debt that is not incidental to its organization or to obtaining a subscription to or payment for its shares or deposits before it:

(1) has received paid-in shares or deposits of at least \$1,000;

(2) has at least 100 members;

(3) has fulfilled all agreements and conditions related to approval of an application for incorporation and issuance of a certificate of incorporation; and

(4) has notified the department of its compliance with Subdivisions (1)-(3).

(b) The commission may adopt reasonable rules to:

(1) require greater minimum membership and paid-in shares or deposits; or

(2) prescribe additional requirements a credit union must meet before transacting business or incurring indebtedness.

(c) The commissioner may waive a requirement of this section or of a rule adopted under this section if the commissioner finds that the credit union:

(1) does not have supervisory problems that adversely affect its ability to operate properly; and

(2) is adequately capitalized.

SEC. 122.010. DEADLINE FOR COMMENCING BUSINESS.

(a) A credit union shall begin business before six months after the date of the order approving the credit union's application.

(b) On request and for good cause shown, the commissioner may grant a credit union that has not begun business within the time prescribed by Subsection (a) a reasonable extension to provide an opportunity to overcome the cause of the delay.

(c) The incorporators may appeal to the commission, in accordance with commission rules, a commissioner's decision refusing a request for an extension.

(d) The commissioner may cancel the certificate of incorporation in accordance with commission rules if a credit union does not begin business within the prescribed time.

SEC. 122.011. AMENDMENT OF ARTICLES OF INCORPORATION OR BYLAWS.

(a) The board may amend the articles of incorporation or bylaws by a two-thirds vote of the directors present at a meeting at which a quorum is present. The board shall submit amendments to the commissioner.

(b) Unless the amendment is a standard bylaw adopted by the commission, the commissioner in writing shall approve or disapprove an amendment.

(c) In approving an amendment, the commissioner shall make the findings and may take the actions provided by Sections 122.006(a) and (b). The commissioner may not approve an amendment if the commissioner finds that it violates this subtitle or rules adopted under this subtitle. The commissioner shall state with reasonable specificity the reasons for disapproval. An amendment takes effect on the commissioner's approval.

(d) The board shall report an amendment to the credit union's membership not later than the next membership meeting after the commissioner approves the amendment.

(e) The commission shall adopt rules for an appeal of the commissioner's decision on an amendment. The commissioner's order approving or disapproving an amendment may be appealed to the commission not later than the 60th day after the date of the order.

SEC. 122.012. PLACE OF BUSINESS.

(a) A credit union shall maintain on file with the department a statement specifying the street and post office address of the credit union's principal place of business.

(b) A credit union shall provide the commissioner with written notice not later than the 30th day before the date that the credit union establishes additional offices or service facilities. A new office or service facility must be reasonably necessary to provide services to the credit union's members. The credit union shall additionally notify the commissioner in writing not later than the 10th business day after the date that the new office or service facility begins operating. For purposes of this subsection, an unmanned teller machine is not considered a service facility.

(c) The commission by rule may prescribe what constitutes an office or service facility.

(d) In accordance with rules adopted by the commission and after notifying the commissioner in writing, a credit union may close any office or service facility, provided that the credit union designates and maintains an office as its principal place of business in this state.

SEC. 122.013. FOREIGN CREDIT UNIONS.

(a) A foreign credit union may do business in this state if it is organized in a state or country that allows any credit union organized under this subtitle to do business in that state or country.

(b) A foreign credit union doing business in this state is subject to rules adopted under this subtitle and any additional commission requirement.

(c) The commissioner may suspend or revoke a foreign credit union's authority to do business in this state if the commissioner finds that the foreign credit union:

(1) has failed to conduct its business in this state in a manner consistent with the laws of this state;

(2) is in an unsafe or unsound condition;

(3) refuses to comply with an order of the commissioner;

(4) refuses to comply with a request by the commissioner to review the books and records of the credit union; or

(5) has not met or does not meet a requirement imposed by commission rules.

(d) The commission may require a foreign credit union operating in this state to submit periodic reports. The required reports shall be provided by the foreign credit union or by the credit union supervisory agency having primary responsibility for that credit union. Any reporting requirements prescribed by the commission under this subsection must be consistent with the reporting requirements applicable to credit unions and appropriate for the purpose of enabling the commissioner to regulate credit unions.

(e) A foreign credit union from a jurisdiction that allows a credit union to exercise additional powers and authorities not granted in this state may not exercise any of those powers or authorities in this state until the foreign credit union requests and obtains permission from the commissioner to exercise those powers or authorities. If the commissioner determines that there are no safety and soundness concerns, the commissioner shall approve the request and shall publish the powers or authorities granted in the manner authorized by Section 15.4041 or 15.4042 for the issuance of an interpretive statement or an opinion. When approved, those powers or authorities shall be available to all credit unions authorized to engage in business under this subtitle.

(f) A foreign credit union may not use this section to alter or negate the application to the credit union of any law of this state regarding:

(1) permissible interest rates;

(2) loan fees; or

(3) licensing or regulatory requirements that relate to insurance, securities, marketing or sales activities, or real estate development and that are administered by an agency of this state.

Sec. 122.0131. TEMPORARY FOREIGN CREDIT UNION OFFICE.

If a state contiguous to this state experiences an emergency, on a request by that state's credit union regulatory agency, the commissioner may authorize one or more credit unions located in that state to open temporary offices in this state to more promptly restore credit union services to their members. The commissioner shall issue an order permitting the temporary office and specifying the period the office may remain open. On a finding that the conditions requiring the temporary office continue to exist, the commissioner may extend the period the office may remain open. A credit union may convert a temporary office authorized under this section to a permanent location and operate as a foreign credit union if it qualifies to do business in this state as a foreign credit union under Section 122.013 and commission rules.

SEC. 122.014. UNDERSERVED-AREA CREDIT UNION.

- (a) In this section, "secondary capital account" means a nontransactional account in an amount greater than \$100,000 as established by the commission that is:
- (1) owned by a person other than an individual; and
 - (2) subordinated to other creditors.
- (b) A credit union may apply to the commissioner for the designation of the credit union as an underserved-area credit union.
- (c) The commissioner may designate a credit union as an underserved-area credit union only if:
- (1) at least 50 percent of a substantial and well-defined segment of the credit union's members or potential members who are at least 15 years of age earn not more than 80 percent of the state or national household median income, whichever is higher;
 - (2) the credit union submits an acceptable written strategic plan for marketing to and serving the segment described by Subdivision (1); and
 - (3) the credit union submits other information and satisfies other criteria as may reasonably be required by the commissioner.
- (d) In addition to the powers and authorities granted to credit unions under this subtitle or otherwise, an underserved-area credit union may:
- (1) issue secondary capital accounts to members or nonmembers of the credit union on the filing of an application with and the advance approval of the commissioner; and
 - (2) accept shares and deposits from nonmembers.
- (e) The commission may adopt rules for the organization and operation of underserved-area credit unions, including rules requiring disclosures to purchasers of secondary capital accounts and other rules concerning those accounts.

SUBCHAPTER B. ADMINISTRATION

SEC. 122.051. MEMBERSHIP.

- (a) A person may be a member of a credit union only if the person is an incorporator or other person who:
- (1) shares a definable community of interest, in accordance with the credit union's articles of incorporation or bylaws, including a community of interest based on occupation, association, or residence;
 - (2) has paid an entrance fee or membership fee, or both, as required by the bylaws;
 - (3) has complied with the minimum share, including membership share, requirements or other qualifying account requirements established by the board; and
 - (4) has complied with any other requirement of the articles of incorporation and bylaws.
- (b) The state acting through the comptroller as administrator of the state's deferred compensation program or a political subdivision acting through an appropriate officer as administrator of the political subdivision's deferred compensation program may be a member of a credit union for purposes of funding a deferred compensation program. The state or a political subdivision funding a deferred compensation program is not required to pay an entrance fee.
- (c) A member who leaves the field of membership may retain membership in the credit union under reasonable board standards.
- (d) In this subsection, "good cause" includes the act of physically or verbally abusing a credit union member or employee. A person's membership in a credit union may be terminated or suspended for good cause or for not maintaining membership requirements, under the conditions and in accordance with the procedures provided in the bylaws. A credit union may also discontinue providing any or all services to a member for good cause without terminating or suspending the person's membership. Termination or suspension of a person's membership in the credit union or discontinuing services does not relieve the person from any outstanding obligations owed to the credit union.
- (e) Two or more persons within the credit union's field of membership who have jointly subscribed for one or more share or deposit accounts under a joint account and who have complied with all membership requirements may each be admitted to membership.
- (f) A credit union authorized to engage in business under this subtitle may accept as a member any other credit union organized or chartered under the laws of this or another state or of the United States. Those credit union members are not entitled to any voting privileges.

SEC. 122.052. MEETINGS OF MEMBERS; VOTING.

(a) Members of a credit union shall hold an annual or special meeting at the time and place and in the manner provided by the bylaws.

(b) In determining a question requiring action by the members, each member may cast only one vote, regardless of the number of shares the member holds.

(c) The board may authorize voting by mail or by electronic means. Mail and electronic balloting shall be conducted in accordance with commission rules.

(d) A member that is not an organization may not vote by proxy. A member that is an organization may be represented by and vote through a designated representative who is authorized, in writing, by the organization's governing body to represent the organization.

(e) The credit union's bylaws may establish a minimum age requirement to vote.

SEC. 122.053. BOARD OF DIRECTORS; TERMS AND DUTIES.

(a) A board of at least five members shall direct the business and affairs of a credit union.

(b) The membership of the credit union shall elect the board at an annual membership meeting, from the membership, and in the manner provided by the bylaws. A board member shall hold office until a successor is qualified and elected or appointed.

(c) A director shall take and subscribe to an oath or affirmation that the director:

(1) will diligently and honestly perform the director's duties in administering the credit union's affairs;

(2) although the director may delegate the performance of those duties, remains responsible for the performance of the duties;

(3) will not knowingly violate or willingly permit the violation of an applicable law; and

(4) will exercise the care and diligence reasonable and necessary to administer the affairs of the credit union in a safe and sound manner.

(d) The bylaws shall prescribe the directors' terms and the board's duties. A term may not exceed three years. A director may serve more than one term.

(e) The board shall meet at least once each month.

(f) A director may not vote by proxy. A director may participate in and act at any meeting of the board by means of electronic communications equipment through which all persons participating in the meeting can communicate with each other. Participation in a meeting in the manner authorized by this subsection constitutes attendance at a meeting.

SEC. 122.054. QUALIFICATION OF DIRECTORS.

(a) The commission by rule shall establish qualifications for a director. The rules must provide that a person may not serve as director if the person:

(1) has been convicted of a criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage under the blanket bond required by Section 122.063 and rules adopted under this subtitle; or

(3) has defaulted on payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss.

(b) The president or an employee of a credit union may not serve as director of the credit union unless permitted by the credit union's bylaws. If the bylaws permit the president or an employee to serve on the board, the bylaws must require that persons serve on the board so that the president and employees of the credit union never constitute a majority of the board.

SEC. 122.055. VACANCIES; REMOVAL.

(a) The office of a director becomes vacant if the director dies, resigns, is removed, has been absent from more meetings than the total number of absences permitted by commission rule, or does not possess or maintain the qualifications required to serve on the board.

(b) Unless the bylaws provide otherwise, the remaining directors by majority vote shall fill a vacancy, regardless of whether the remaining directors constitute a quorum. A director elected by the board to fill a vacancy holds office until the next annual membership meeting, at which the position shall be filled for the remainder of the unexpired term by vote of the members.

(c) A director may be removed from office according to the removal procedure provided by the bylaws.

SEC. 122.056. HONORARY OR ADVISORY DIRECTORS.

(a) The board may appoint not more than six individuals to serve at the board's pleasure as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out the board's duties and responsibilities.

(b) An honorary or advisory director:

- (1) need not be eligible for membership in the credit union;
- (2) is not a member of the board; and
- (3) is not entitled to vote on a matter before the board.

(c) An honorary or advisory director may participate in any board deliberation. Except as otherwise provided by Section 125.402(d), an honorary or advisory director shall hold in confidence all information the director receives about a credit union during the director's service.

SEC. 122.057. OFFICERS; EXECUTIVE COMMITTEE.

(a) At the annual organizational meeting, the board shall elect from its membership a chairman, vice chairman, treasurer, and secretary. The offices of treasurer and secretary may be held by the same individual.

(b) An officer elected under Subsection (a):

- (1) serves a one-year term or until the officer's successor is elected and qualified; and
- (2) has the duties the bylaws prescribe.

(c) The board may appoint from its membership an executive committee of at least three persons to exercise, between board meetings, authority specifically delegated by the board under conditions specified by the board. At each board meeting, the executive committee shall report to the board regarding any meeting held or action taken by the committee between board meetings.

(d) The bylaws may establish a minimum age requirement to hold office in the credit union.

SEC. 122.058. CHIEF EXECUTIVE OFFICER.

(a) The board may employ, elect, or appoint a president, who is the chief executive officer in charge of operations.

(b) The president may be a board member but may not be chairman, vice chairman, or secretary of the credit union. The president serves at the board's pleasure.

(c) Subject to board guidelines, the president shall appoint or employ, and may discharge, any other officer or employee the president considers necessary to operate the credit union. The president shall prescribe the title of an officer or employee appointed or employed under this subsection.

SEC. 122.059. DELEGATION OF MANAGEMENT AND LOAN APPROVAL AUTHORITY.

(a) Without written approval of the commissioner, a credit union may not:

- (1) contract with an individual who is not an officer, director, or employee of the credit union or with an organization for the provision of the management of the credit union; or
- (2) delegate to an individual who is not an officer, director, or employee of the credit union or to an organization the authority to manage the credit union.

(b) The board may delegate all or part of its power to approve or disapprove a loan to a credit committee, one or more other committees, or one or more individuals.

SEC. 122.060. CERTIFICATE OF ELECTION.

(a) A credit union shall submit to the commissioner, in a form approved by the department, a certificate of election that provides the name and address of each officer, director, and committee member elected or appointed. The certificate must be filed within the time prescribed by the commissioner.

(b) The commission by rule may authorize the commissioner to obtain other confidential reports relating to a newly elected or appointed officer, director, or committee member.

(c) The commissioner may accept a form prescribed by an insuring organization that contains substantially similar information as the certificate of election in lieu of the certificate. The acceptance of such a form does not limit the commissioner's power to require additional information concerning a newly elected or appointed officer, director, or committee member.

SEC. 122.061. CONFLICTS OF INTEREST.

(a) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

(1) participate, directly or indirectly, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a member of the person's immediate family or of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired because of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

(b) An interest only as a member of the credit union that is shared in common with all other members is not a pecuniary interest within the meaning of Subsection (a)(1).

(c) In this section, "member of a person's immediate family" means a person's spouse or another person living in the person's household.

SEC. 122.062. COMPENSATION.

A person may not receive compensation for serving as a director, honorary director, advisory director, or committee member of a credit union, except that the person may be:

- (1) provided with reasonable health, life, accident, liability, or similar insurance protection;
- (2) reimbursed for necessary expenses incurred in the performance of the person's duties; and
- (3) paid the fees and reimbursed for other expenditures authorized by commission rules.

SEC. 122.063. BOND.

The board shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering each director, honorary director, advisory director, officer, employee, member of an official committee, attorney, or other agent of the credit union as required by commission rule.

SEC. 122.064. INDEMNIFICATION.

A credit union may elect to indemnify a director, officer, employee, or agent of the credit union and to purchase insurance as if the credit union were an "enterprise" as defined by Section 8.001, Business Organizations Code, under and subject to the credit union's bylaws and written policy. A credit union may not provide any indemnification or insurance that would not be permissible under Chapter 8, Business Organizations Code, but may elect to impose the credit union's own limitations on indemnification.

SUBCHAPTER C. OPERATIONS AND FINANCES

SEC. 122.101. CALL REPORTS.

(a) A credit union shall prepare a quarterly call report, in a manner approved by the department, that states the credit union's financial condition. The commissioner may require a credit union to file additional financial reports.

(b) The credit union must submit the call report on or before the due date prescribed by the department. If a credit union does not submit a report by the due date, the commissioner shall charge a late fee in an amount set by the commission for each day the report remains unfiled. The commissioner for good cause shown may waive all or part of the late fee.

(c) A credit union that does not file a report on or before the date it is due is subject to sanctions provided by this chapter and Chapter 126.

SEC. 122.102. FINANCIAL REPORTING; AUDITS.

(a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission.

(b) The board shall:

- (1) make a comprehensive annual audit of the credit union's books and affairs, in accordance with established principles and commission rules;
- (2) submit a summary of the audit report to the credit union's members at the next annual meeting; and
- (3) make a supplementary audit or examination as the board considers necessary or the commissioner requires.

(c) The commission by rule may require a verification of members' accounts with the credit union's records.

(d) If the commissioner, by examination or other credible evidence, finds that the board is not complying with this section or a rule adopted under this section, the commissioner may appoint an independent person from outside the credit union and its members to perform an audit. The credit union shall pay the cost of the audit.

SEC. 122.103. EQUITY CAPITAL.

A credit union's equity capital consists of:

- (1) retained earnings;
- (2) appropriated retained earnings, including net worth and other reserves;
- (3) undivided earnings; and
- (4) other forms of capital in accordance with generally accepted accounting principles and approved by the commissioner.

SEC. 122.104. NET WORTH RESERVE ALLOCATIONS.

(a) The commission by rule shall require a credit union to contribute to and maintain net worth reserves necessary to protect the interests of its members. The rule may:

- (1) prescribe the purposes for which the net worth reserves may be used; and
- (2) authorize the commissioner to approve other uses.

(b) The credit union's board may establish reserves in addition to the required net worth reserves.

SEC. 122.105. MEMBERSHIP SHARE REDUCTION.

A credit union may order a reduction in the membership shares of each of its shareholders if:

(1) the credit union's losses resulting from a depreciation in value of its loans or investments or otherwise exceed its undivided earnings and its reserves, and the estimated value of its assets is less than the total amount due the shareholders;

(2) a majority vote of the credit union's members present at a meeting of members called for that purpose approve the reduction; and

(3) the reduction divides the loss proportionately among the shareholders.

SEC. 122.106. EXEMPTION FROM CERTAIN TAXES.

(a) Except as provided by Subsection (b), a credit union is exempt from a franchise or other license tax.

(b) A credit union is not exempt from the franchise tax imposed by Chapter 171, Tax Code, unless the credit union is exempted by that chapter.

(c) The intangible property of a credit union organized under this chapter is not taxable.

SEC. 122.107. NOTICE OF AVAILABILITY OF CERTAIN DOCUMENTS.

(a) A credit union regulated under this subtitle and Chapter 15 shall give notice to the credit union's members of the availability on request of a member of documents related to the credit union's finances and management, including:

(1) a summary of the most recent annual audit;

(2) the most recent statement of financial condition, such as nonconfidential pages of the quarterly call report provided under Section 122.101;

(3) a copy of IRS Form 990 or its successor; and

(4) any other documents that members are entitled to possess, as determined by the commission.

(b) The notice required by Subsection (a) must be given:

(1) on the credit union's Internet website if the credit union maintains a website; and

(2) in a newsletter twice a year if the credit union distributes a newsletter.

(c) The commission shall adopt reasonable rules to implement this section, including rules prescribing an alternative method for credit unions that do not maintain an Internet website or distribute a newsletter to provide their members with notice of the documents required by Subsection (a).

SUBCHAPTER D. MERGER OR CONSOLIDATION

SEC. 122.151. AUTHORITY TO MERGE OR CONSOLIDATE.

(a) A credit union may merge or consolidate with another credit union, under the other credit union's existing articles of incorporation or otherwise, if:

(1) the merger or consolidation is in accordance with commission rules and approved by the commissioner; and

(2) the merger or consolidation takes place under a plan that has been:

(A) agreed to by a majority of the board of each credit union joining in the merger or consolidation; and

(B) approved by a majority of the members of each credit union voting at a meeting of its members called for that purpose.

(b) The commissioner may waive the requirement that the members of each credit union approve the plan.

SEC. 122.152. APPLICATION TO MERGE OR CONSOLIDATE.

(a) After agreement by the directors and approval by the members, if applicable, of each credit union or federal credit union, the chairman and secretary of each credit union or federal credit union shall execute a certificate of merger or consolidation that:

(1) includes a copy of the resolution or other action by which the board agreed to the merger or consolidation plan; and

(2) states:

(A) the time and place of the board meeting at which the board agreed to the merger or consolidation plan;

(B) the board's vote for and against adoption of the plan;

(C) the time and place of the meeting at which the members approved the plan, if applicable;

(D) the membership's vote for and against approval of the plan, if applicable; and

(E) the name of the surviving credit union.

(b) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the merger or consolidation plan to the commissioner.

SEC. 122.153. DECISION BY COMMISSIONER; APPEAL.

(a) Subject to Subsection (b), on approving the merger or consolidation, the commissioner shall return the certificates and plan to the merging or consolidating credit unions.

(b) The commissioner may conditionally approve a merger or consolidation. If approval is conditional, the commissioner:

(1) shall state the condition in the order approving the merger or consolidation; and

(2) may not deliver the approved certificate until the condition has been met.

(c) Notwithstanding any other law, the commissioner may authorize a credit union that is insolvent or is in danger of insolvency to merge or consolidate with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:

(1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;

(2) another option is not reasonably available; and

(3) the public interest would best be served by approval of the merger, consolidation, purchase, or assumption.

(d) If the commissioner disapproves the merger or consolidation or imposes a condition, the merging or consolidating credit unions may appeal the commissioner's decision to the commission in the manner provided by Section 122.007 for an appeal on an application to incorporate a credit union.

SEC. 122.1531. CONSIDERATIONS IN DETERMINATION.

In determining whether to approve or disapprove the merger or consolidation, the commissioner shall consider the availability and adequacy of financial services in the local community and the effect that the merger or consolidation would have on the local community. The commission by rule shall establish other appropriate criteria that the commissioner must consider in making the determination.

SEC. 122.154. PROPERTY, OBLIGATIONS, AND LIABILITIES OF MERGED OR CONSOLIDATED CREDIT UNION.

After a merger or consolidation is effected:

- (1) the property of the merged or consolidated credit union vests in the surviving credit union without an instrument of transfer or endorsement; and
- (2) the obligations and liabilities of the merged or consolidated credit union are assumed by the surviving credit union.

SEC. 122.155. CONSTRUCTION OF SUBCHAPTER.

This subchapter shall be construed, when possible, to permit a credit union authorized to do business in this state under other law to merge or consolidate with a credit union authorized to do business under this subtitle.

SEC. 122.156. RULES TO ADDRESS CERTAIN PROCEDURES.

The rules adopted under this subchapter must specify in detail the procedures that:

- (1) a credit union must follow to obtain commissioner approval of a merger or consolidation; and
- (2) the commissioner must follow in approving or disapproving the merger or consolidation.

SUBCHAPTER E. CONVERSION

SEC. 122.201. CONVERSION OF STATE CREDIT UNION TO FEDERAL CREDIT UNION.

(a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States:

- (1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and
- (2) by complying with any rule adopted by the commission to facilitate the conversion.

(b) On the issuance of a charter by the National Credit Union Administration, the credit union:

- (1) ceases to be a credit union incorporated under this subtitle; and
- (2) is no longer subject to the supervision and regulation of the commissioner and department.

(c) The converted credit union shall file with the commissioner a copy of the charter issued to the credit union by the National Credit Union Administration. Failure to file the required copy of the charter does not affect the validity of the conversion.

SEC. 122.202. CONVERSION OF STATE CREDIT UNION TO OUT-OF-STATE CREDIT UNION.

A credit union organized under the laws of this state may convert to a credit union under the laws of another state:

- (1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and
- (2) by complying with any applicable commission rule.

SEC. 122.203. CONVERSION OF FEDERAL OR OUT-OF-STATE CREDIT UNION TO STATE CREDIT UNION.

A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with:

- (1) the requirements of the jurisdiction under which the converting credit union is organized; and
- (2) commission rules.

SUBCHAPTER F. MISCONDUCT AND ENFORCEMENT

SEC. 122.251. DEFAMATION.

(a) A person commits an offense if the person knowingly:

(1) makes, circulates, or transmits to another person a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union; or

(2) counsels, aids, procures, or induces another person to make, circulate, or transmit a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union.

(b) An offense under this section is a third-degree felony.

SEC. 122.252. CONSIDERATION FOR LOAN, INVESTMENT, OR PURCHASE.

(a) A person commits an offense if the person:

(1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and

(2) knowingly demands or receives, directly or indirectly, consideration for the credit union's making a specific loan or investment or purchasing an asset.

(b) An offense under this section is a Class A misdemeanor.

SEC. 122.253. LOAN TO NONMEMBER.

(a) A person commits an offense if the person:

(1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and

(2) knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember.

(b) An offense under this section is a Class B misdemeanor.

(c) A person who commits an offense described by Subsection (a) is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is not a defense in an action by the credit union to recover on the loan.

(d) Extending credit to a nonmember as a comaker with a member or extending credit to a nonmember for the sale of property owned by the credit union or for the sale of assets acquired in liquidation or repossession is authorized and is not a loan to a nonmember. Acquiring a promissory note or other asset by a share and deposit guaranty corporation or credit union authorized under Section 15.410, on which a nonmember is liable, is not a loan to a nonmember.

SEC. 122.254. FALSE STATEMENTS OR DOCUMENTS; DESTRUCTION OF RECORDS.

(a) A person commits an offense if the person, knowingly and with the intent to deceive:

(1) makes a false entry on a record, report, or statement of a credit union; or

(2) in connection with an examination or investigation of a credit union by the commissioner, a deputy commissioner, or the department's authorized examiner, exhibits a false paper, instrument, or security or gives under oath a false answer to a question directly related to the examination or investigation asked the person by the commissioner, the deputy commissioner, or the department's authorized examiner.

(b) A person commits an offense if the person knowingly removes, destroys, or conceals a record of the credit union for the purpose of concealing a fact or information from the commissioner, a deputy commissioner, or the department's authorized examiner.

(c) An offense under this section is a third-degree felony.

SEC. 122.255. DETERMINATION OF MISCONDUCT.

The commissioner may determine that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this subtitle, a rule adopted under this subtitle, or another law applicable to a credit union;

(2) violated or refused to comply with a final order of the commissioner or commission;

(3) willfully neglected to perform an official or legal duty or willfully committed a breach of trust or fiduciary duty;

(4) committed a fraudulent or questionable practice in the conduct of the credit union's business that endangers the credit union's reputation or threatens its solvency;

(5) refused to submit to examination under oath or to permit examination of the credit union's records and affairs by the commissioner or the commissioner's representative;

(6) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody after the commissioner has requested the authorization of and direction to the other person;

(7) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;

(8) concealed, destroyed, removed, or falsified a record related to the credit union's business and affairs;

(9) transacted business while the credit union was in an unsafe or unsound condition;

(10) violated a condition of the credit union's articles of incorporation or of a written agreement with the commissioner or the commission; or

(11) committed a criminal act that is a substantial detriment to the reputation and conduct of the credit union's business.

SEC. 122.256. DETERMINATION LETTER; BOARD MEETING.

(a) If the commissioner determines from examination or other credible evidence that a credit union is in a condition that may warrant the issuance of an order under this chapter or Chapter 126, the commissioner may notify the credit union in writing of the commissioner's determination, the requirements the credit union must satisfy to abate the determination, and the time by which the requirements must be satisfied to avert further administrative action. The determination letter must be delivered in person or sent by registered or certified mail, return receipt requested.

(b) If considered necessary, the commissioner may call a meeting of the credit union's board. The directors shall attend the meeting. The commissioner shall present to the board the findings stated in the determination letter and shall demand the discontinuance of any violation or unsafe or unsound practice found.

SEC. 122.257. CEASE AND DESIST ORDER FOR CREDIT UNIONS.

(a) If the commissioner makes a finding listed in Section 122.255 and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, the commissioner may serve on the credit union, its board, and each offending person an order to cease and desist from a violation or practice specified in the order and to take affirmative action that the commissioner considers necessary to correct a condition resulting from a violation or unsafe or unsound practice found.

(b) The order must:

(1) be in writing;

(2) be served:

(A) at the meeting called under Section 122.256 or not later than the 30th day after the date of that meeting; and

(B) by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by department records, or by delivery to an officer or director of the credit union; and

(3) unless the order is effective immediately on service as provided by Subsection (d), state the effective date of the order, which may not be before the 10th day after the date the order is served.

(c) Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(d) A cease and desist order is effective immediately on service if the commissioner finds that:

(1) the solvency of the credit union is endangered;

(2) there is a continuing violation of this subtitle or a rule adopted under this subtitle; or

(3) there is a threat of immediate and irreparable harm to the public or the credit union or its depositors, creditors, or members.

(e) The order is final unless, not later than the 10th day after the date the order is served, the credit union files with the commissioner written notice of appeal that includes a certified copy of the board resolution.

(f) A copy of the order shall be entered in the minutes of the board meeting. The directors shall certify to the commissioner in writing that each director has read the order.

SEC. 122.2575. CEASE AND DESIST ORDER FOR OTHER PERSONS.

(a) If it appears to the commissioner that a person who is not authorized to engage in business under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.) is violating this subtitle, a rule adopted under this subtitle, or another state statute or rule relating to the regulation of credit unions, the commissioner may issue without notice and hearing an order to cease and desist from continuing a particular action to enforce compliance with the applicable state statute or rule relating to the regulation of credit unions. The order must contain a reasonably detailed statement of the fact on which the order is made.

(b) If a person against whom an order under this section is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code.

(c) An order under this section becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued. If a hearing has not been requested not later than the 30th day after the date the order is made, the order is considered final and nonappealable.

SEC. 122.258. REMOVAL ORDER.

(a) The commissioner by order may remove or prohibit a person who is a current or former officer, director, manager, or employee of a credit union from office, employment, or further participation in the affairs of a credit union if the commissioner by examination or other credible evidence:

- (1) finds that:
 - (A) the person has continued a violation or practice previously charged and found by the commissioner after issuance of a determination letter under Section 122.256 or a cease and desist order under Section 122.257; and
 - (B) removal or prohibition is necessary and in the best interest of the credit union and its depositors, creditors, and members; or
- (2) makes a finding listed in Section 122.255 and determines that removal or prohibition of the person is immediately necessary because the person has committed or is about to commit:
 - (A) a fraudulent or criminal act involving the conduct of the business of the credit union;
 - (B) an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency; or
 - (C) an act that otherwise threatens immediate and irreparable harm to the public or the credit union or its members, depositors, or creditors.
- (b) The removal order must:
 - (1) state with reasonable certainty the grounds for removal; and
 - (2) be promptly served on the person removed and on the credit union in the manner provided by Section 122.257 for service of a cease and desist order.
- (c) On issuance of the order, the person has no right, duty, or authority of office or employment in the credit union. After the order becomes final, the person removed or prohibited may not hold office in, be employed by, or participate in the affairs of any credit union without the prior written approval of the commissioner. The order is final as of the date of issuance unless the person removed or prohibited or the credit union, as evidenced by a certified copy of the board resolution, files written notice of appeal with the commissioner not later than the 10th day after the day the removal order is served.
- (d) A copy of the removal order shall be entered in the board minutes. An officer shall acknowledge receipt of the order and certify to the commissioner that each person named in the removal order has been removed from office or employment.

SEC. 122.259. HEARING ON APPEAL OF PROPOSED ORDER.

- (a) If the credit union or a person removed from office or employment files a notice of appeal of a cease and desist order or a removal order, the commissioner shall set a time and place for the commission to hear the appeal in accordance with commission rules.
- (b) The filing of an appeal does not suspend a removal order or cease and desist order.
- (c) At the conclusion of the hearing, the commission may vacate, affirm, or modify the commissioner's order and may order that appropriate action be taken.
- (d) A cease and desist order or a removal order is final on completion of an appeal or otherwise as provided by this subchapter.

SEC. 122.260. ADMINISTRATIVE PENALTY; INJUNCTION.

- (a) If a credit union or other person designated in a final order under this subchapter does not comply with the order, the commissioner, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the order.
- (b) The credit union may not reimburse or indemnify a person for any part of the administrative penalty.
- (c) The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County. In the suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of:
 - (1) the imposition of the penalty or the delinquency of the stated penalty amount; and
 - (2) compliance by the department with the law relating to the computation and imposition of the penalty.
- (d) The attorney general is entitled to recover reasonable attorney's fees from the credit union or the designated person, or both, if the attorney general prevails in a judicial action necessary for collection of the administrative penalty.

SEC. 122.261. CONFIDENTIALITY.

- (a) A determination letter, a cease and desist order, a removal order, each copy of a notice or correspondence, and all other documents or records relating to an order or determination letter issued under this subchapter are confidential and are not subject to public disclosure except in an action authorized by this subtitle or other authority.

(b) The commissioner may disclose the information described by Subsection (a) to a share and deposit guaranty corporation or credit union or to a department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines the disclosure is necessary or proper for the enforcement of the laws of this state or the United States.

(c) The commissioner may release information regarding the existence of a final order to the public if the commissioner concludes that the release would enhance effective enforcement of the order.

CHAPTER 123. GENERAL POWERS

SUBCHAPTER A. GENERAL POWERS

SEC. 123.001. GENERAL POWERS.

A credit union may exercise any power necessary or appropriate to accomplish the purposes for which it is organized, and any power granted a corporation authorized to do business in this state, including any power specified in this chapter.

SEC. 123.002. INCIDENTAL POWERS.

A credit union may exercise any right, privilege, or incidental power necessary or appropriate to exercise its specific powers and to accomplish the purposes for which it is organized.

SEC. 123.003. ENLARGEMENT OF POWERS.

(a) A credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

(b) Notwithstanding any other law, and in addition to the powers and authorities conferred under Subsection (a), a credit union has the powers or authorities of a foreign credit union operating a branch in this state if the commissioner finds that exercise of those powers or authorities is convenient for and affords an advantage to the credit union's members and maintains the fairness of competition and parity between the credit union and any foreign credit union. A credit union does not have the field of membership powers or authorities of a foreign credit union operating a branch in this state.

SUBCHAPTER B. OPERATIONAL POWERS

SEC. 123.101. CONTRACTS.

A credit union may make contracts.

SEC. 123.102. POWER TO SUE AND DEFEND.

A credit union may sue or be sued in the name of the credit union.

SEC. 123.103. PURCHASE AND SALE OF PROPERTY.

Subject to commission rules, a credit union may purchase, hold, lease, or dispose of property necessary or incidental to the operation or purpose of the credit union.

SEC. 123.104. MEMBERSHIP IN OTHER ORGANIZATION; OPERATION AS CENTRAL CREDIT UNION.

A credit union may:

- (1) be a member of:
 - (A) another credit union organized under this subtitle or other law; and
 - (B) another organization approved by the board; or
- (2) operate, with the commissioner's approval, as a central credit union.

SEC. 123.105. FEES.

(a) A credit union may collect a fee, determined by the board, for services and administrative costs, including a fee for a check or draft that is returned because it is drawn against a closed account or an account containing insufficient or uncollected money, because of a stop payment order, or for another similar reason.

(b) A fee under this section is an administrative expense. The fee is in addition to interest authorized by law and is not a part of interest collected or agreed to be paid on a loan.

SEC. 123.106. CHANGE OF LOCATION.

(a) A credit union changing the location of its principal place of business or any additional office or service facility shall notify the commissioner in writing of the new location and the scheduled or effective date of the change.

(b) The credit union must submit notice to the commissioner not later than the 30th day before the scheduled or effective date of the change. The commissioner may waive or reduce the timing of the notice requirement under this subsection.

SEC. 123.107. INSURANCE FOR MEMBERS.

A credit union may purchase or otherwise provide insurance for the benefit or convenience of its members in accordance with applicable law or rules adopted by the commission.

SEC. 123.108. DONATIONS.

A credit union may donate to a nonprofit, civic, charitable, or community organization as authorized by the board.

SEC. 123.109. SEAL.

A credit union may adopt and use a common seal and may alter its seal at any time.

SEC. 123.110. RECORDS.

(a) A credit union may:

- (1) copy any record kept by the credit union; and
- (2) dispose of the original record in accordance with commission rules.

(b) A copy of a record is considered an original record for any purpose, including admissibility in evidence as an original record before any court or administrative agency for the purpose of the copy's admissibility in evidence.

SEC. 123.111. RIGHT TO ACT TO MITIGATE OR AVOID LOSS.

This subtitle does not prohibit a credit union from investing its money, operating a business, managing or dealing in property, or taking any other action at any time that is reasonably necessary to avoid or mitigate a loss on a loan or on an investment made or obligation created in good faith and in the usual course of the credit union's business, as authorized by this subtitle or a rule adopted by the commission.

SUBCHAPTER C. FINANCIAL POWERS

SEC. 123.201. POWER TO BORROW OR LEND.

(a) A credit union may:

- (1) lend its funds, or engage in any other type of financing transaction authorized by applicable law or rules adopted by the commission; and
- (2) borrow money from any source, subject to Subsection (b).

(b) A credit union may not incur a debt without the commissioner's prior approval if the debt will cause the debt of the credit union, including a deposit of a nonmember financial institution, to exceed an amount equal to 500 percent of the credit union's unencumbered reserves and undivided earnings.

(c) The commissioner shall grant or deny a request for approval under Subsection (b) not later than the 10th day after the date on which the request is made.

SEC. 123.202. RECEIPT, TRANSFER, AND PAYMENT OF MONEY.

A credit union may:

- (1) receive and disburse money;
- (2) receive a payment on a share or deposit; and
- (3) provide for the transfer or withdrawal of money from an account by the means and through the payment systems that the board determines best serve the convenience and needs of members and depositors.

SEC. 123.203. ACCEPTANCE OF MONEY FOR DEPOSIT FROM ANOTHER ENTITY.

A credit union may accept money for deposit by a savings and loan association, a savings association, the savings department of a bank, a commercial bank, a savings bank, a trust company, an insurance company, or any intermediary or other person managing or holding money on behalf of the credit union or any of the credit union's members or depositors.

SEC. 123.204. ACTION AS AGENT OR DEPOSITORY OF UNITED STATES OR OTHER GOVERNMENTAL ENTITY.

A credit union may act as agent or depository of and accept for deposit the money of:

- (1) the United States or an agent or instrumentality of the United States;
- (2) this or another state; or
- (3) a political subdivision of this or another state, including:
 - (A) a municipality;
 - (B) a county;
 - (C) a school district; or
 - (D) another taxing authority.

SEC. 123.205. INVESTMENTS AND SECURITIES.

- (a) In accordance with commission rules, a credit union may:
 - (1) develop and offer investment programs to its members and depositors; or
 - (2) act as agent for its members and depositors in the purchase, sale, or other disposition of a security, an interest in a mutual fund, or an interest or participation in any other type of investment.
- (b) A credit union may issue and sell securities in connection with an investment program developed and offered under Subsection (a)(1).

SEC. 123.206. ACTION AS FISCAL OR TRANSFER AGENT; TRANSFER OF CERTAIN INSTRUMENTS; SIGNATURES.

A credit union may:

- (1) act as fiscal agent or transfer agent;
- (2) transfer a registered and countersigned certificate of stock, bond, or other evidence of indebtedness; or
- (3) guarantee a signature.

SEC. 123.207. FIDUCIARY POWERS.

A credit union may:

- (1) act, under court order or appointment, as guardian, receiver, trustee, executor, or administrator without giving bond;
- (2) receive an investment from a person acting as a guardian, receiver, trustee, executor, or administrator under the Estates Code or Subtitle B, Title 9, Property Code;
- (3) act as depository for money paid to a court or constituting the estate of a deceased person, a minor, or an incompetent;
- (4) accept, execute, and administer a trust as trustee;
- (5) accept funds or money for deposit by a fiduciary, trustee, receiver, guardian, executor, or administrator; or
- (6) act as custodian or trustee of a pension or profit-sharing plan, including an individual retirement account or a pension fund of a self-employed individual or of the sponsor of a credit union.

SEC. 123.208. DIVIDENDS AND INTEREST.

- (a) A credit union may:
 - (1) declare and pay a dividend on a share;
 - (2) contract for and pay interest on a deposit; or
 - (3) refund interest to a borrower.
- (b) A dividend or interest may be paid at a rate and on the conditions that the board authorizes.
- (c) The commissioner may restrict the payment of a dividend:
 - (1) if the commissioner issues a cease and desist order under Section 122.257; or
 - (2) as necessary to protect the member's interests and preserve the solvency of the credit union as authorized by commission rule.

SEC. 123.209. TRANSFER SYSTEM.

A credit union may establish, operate, or participate in a system that allows the transfer of credit union money or the shares or deposits of its members by electronic or other means, including a clearinghouse association, a data processing or other electronic network, the Federal Reserve System, or any other government payment or liquidity program.

SEC. 123.210. SALE OF CERTAIN INSTRUMENTS OR SECURITIES; FEE.

A credit union may:

- (1) collect, receive, and disburse money:
 - (A) in connection with the sale of a traveler's check, money order, cashier's check or draft, treasurer's draft, similar instrument, or security of any type; or
 - (B) for another purpose that may provide a benefit or convenience for its members; and
- (2) collect a fee for those services.

SEC. 123.211. CERTIFICATES OF INDEBTEDNESS.

The commission by rule may authorize a credit union to issue certificates of indebtedness that are subordinated to all other claims of credit union creditors.

SEC. 123.212. CHECK AND MONEY TRANSFER SERVICES.

A credit union may sell to a person within its field of membership negotiable checks, money orders, and other similar money transfer instruments or services and may also cash checks and money orders for a person within its field of membership for a fee.

CHAPTER 124. LOANS AND INVESTMENTS

SUBCHAPTER A. GENERAL PROVISIONS CONCERNING LOANS TO MEMBERS

SEC. 124.001. AUTHORIZATION.

A credit union may make a loan to a member:

- (1) in accordance with rules adopted by the commission;
- (2) for a purpose the credit union approves; and
- (3) on security and terms, the credit union requires.

SEC. 124.002. LIMITATIONS ON INTEREST RATES.

The interest rate on a loan to a member may not exceed:

- (1) 1-1/2 percent per month on the unpaid balance;
- (2) 28 percent a year to the extent that federal credit unions are permitted to charge that rate; or
- (3) a higher rate authorized by law, including a rate authorized by Chapter 303.

SEC. 124.003. LIMITATIONS ON LOANS.

A credit union may not make a loan to a member or a business interest of the member if the loan would cause the aggregate amount of loans to the member and the member's business interests to exceed:

- (1) an amount equal to 10 percent of the credit union's total assets; or
- (2) a lesser amount established by commission rule.

SEC. 124.004. WRITTEN INSTRUMENT REQUIRED.

A credit union loan must be evidenced by a written instrument.

SEC. 124.005. APPLICABILITY OF OTHER LAW.

Subtitle B, Title 4, does not apply to a credit union loan or extension of credit unless the agreement that evidences the transaction specifically provides otherwise.

SUBCHAPTER B. OPEN-END CREDIT PLAN OR LINE OF CREDIT

SEC. 124.051. OPEN-END CREDIT PLAN.

A credit union may enter into a written agreement with a member under which:

- (1) the member is allowed to borrow money from time to time; and
- (2) interest may from time to time be computed on the unpaid balance.

SEC. 124.052. LINE OF CREDIT.

A credit union may approve in advance a line of credit and grant advances to a member within the limit of the extension of credit.

SEC. 124.053. ADDITIONAL LOAN APPLICATION NOT REQUIRED.

An additional loan application is not required under an open-end credit plan under Section 124.051 or line of credit under Section 124.052 if the aggregate obligation does not exceed a limit of the extension of credit the credit union establishes.

SUBCHAPTER C. LOAN EXPENSES

SEC. 124.101. BORROWER PAYMENT OF LOAN EXPENSES.

A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties.

SEC. 124.102. COLLECTION OF LOAN EXPENSES.

A payment authorized by Section 124.101 may be:

- (1) collected by the credit union and:
 - (A) retained by the credit union; or
 - (B) paid to a person rendering a service in connection with the payment; or
- (2) paid directly by the member to the third party to whom it is payable.

SEC. 124.103. CHARACTER OF EXPENSE OR FEE.

An expense or fee authorized by Section 124.101 is not interest.

SUBCHAPTER D. LOAN PAYMENTS

SEC. 124.151. PREPAYMENT PRIVILEGE.

A loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business, except as provided by Section 124.152.

SEC. 124.152. CONDITIONS FOR PREPAYMENT OF LOAN SECURED BY REAL PROPERTY.

A credit union may require a partial prepayment that is made on a loan secured by a lien or mortgage on or other type of security interest in real property to be made:

- (1) on the date monthly installments are due; and
- (2) in the amount of that part of one or more monthly installments that would be applicable to principal.

SEC. 124.153. PENALTY FOR LATE PAYMENT.

- (a) A credit union, in accordance with its bylaws, may charge a member a penalty when a loan payment is past due.
- (b) A credit union may charge only one penalty on each past due payment.
- (c) A penalty under this section is not interest.

SUBCHAPTER E. LOANS TO DIRECTORS, EMPLOYEES,
AND CREDIT COMMITTEE MEMBERS

SEC. 124.201. AUTHORIZATION.

Only if done in accordance with limitations imposed by Section 124.202, a credit union may make a loan or extend a line of credit to:

- (1) a director, senior management employee, or member of the credit committee; or
- (2) the immediate family of the director, senior management employee, or member of the credit committee.

SEC. 124.202. CONDITIONS OF LOANS.

A loan or extension of a line of credit under Section 124.201:

- (1) must comply with this subtitle and rules adopted under this subtitle with respect to loans to other borrowers;
- (2) may not be on terms more favorable than those extended to other borrowers; and
- (3) must be approved by the board before the credit union makes or agrees to make the loan if the aggregate amount of the loan and other outstanding loans to the person, the person's business interests, and the person's immediate family is greater than the sum of:
 - (A) \$10,000 or a higher amount established by commission rule; and
 - (B) the amount of the shares and deposits pledged for the loan.

SEC. 124.203. AUTHORIZATION TO ACT AS COMAKER, GUARANTOR, OR ENDORSER.

A credit union may permit a director, senior management employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member only in accordance with limitations imposed by Section 124.204.

SEC. 124.204. PRIOR APPROVAL REQUIRED.

The board must give its approval before the credit union permits a director, senior management employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member if the amount of the loan or aggregate of outstanding loans to the comaker, guarantor, or endorser is greater than the sum of:

- (1) \$10,000 or a higher amount established by commission rule; and
- (2) the amount of the shares and deposits pledged for the loan.

SUBCHAPTER F. ILLEGAL LOANS

SEC. 124.251. ILLEGALITY OF LOAN NOT A DEFENSE.

The illegality of a loan is not a defense in a credit union's action to recover on the loan.

SEC. 124.252. ILLEGALITY OF LOAN NOT A BAR TO ENFORCEMENT OR COLLECTION.

The illegality of a loan does not prevent enforcement of the loan agreement against or collection of the loan from a person who is otherwise liable on the loan, including:

- (1) the borrower; or
- (2) a guarantor or surety.

SUBCHAPTER G. LOAN PROGRAMS

SEC. 124.301. PARTICIPATION LOANS.

A credit union may market and sell participations in loans to members originated by the credit union to another credit union, corporation, or financial organization.

SEC. 124.302. GOVERNMENT LOAN PROGRAMS.

A credit union may participate in:

- (1) a guaranteed loan program of the United States government or a state government; and
- (2) another government loan program approved by the commission.

SUBCHAPTER H. INVESTMENT OF MONEY

SEC. 124.351. PERMITTED INVESTMENTS.

- (a) A credit union may invest money not used in loans to members in:
 - (1) capital shares, obligations, participation certificates, or common or preferred stock of an agency, association, or company, subject to Section 124.352(a);
 - (2) loans to a national or state credit union association or corporation of which the credit union is a member;
 - (3) obligations, bonds, notes, or other evidences of indebtedness of a state or political subdivision of a state;
 - (4) certificates of deposit or other accounts issued by a state or national bank, savings and loan association, savings association, or mutual savings bank;
 - (5) securities, obligations, participations, or other instruments of or issued by the United States, or in a trust established for investing directly or collectively in those investments;
 - (6) loans to, shares of, or deposits in another credit union, a central credit union, a corporate credit union, a central liquidity facility established under state or federal law, a trust, or an organization established for lending directly or collectively to credit unions;
 - (7) securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the United States, or in a trust established for investing directly or collectively in those investments;

(8) participation loans with another credit union, corporation, credit organization, or financial organization;

(9) notes receivable, loans to members, or other assets of a credit union operating under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.); and

(10) other investments authorized by rules adopted by the commission that satisfy Subsection (b).

(b) A rule adopted under Subsection (a)(10) must be responsive to:

(1) changes in economic conditions or competitive practices; and

(2) the need for safety and soundness of credit union investments.

SEC. 124.352. LIMITATIONS ON INVESTMENTS.

(a) An investment under Section 124.351(a)(1) may be made only if:

(1) the membership or ownership of the agency, association, or company is restricted to credit unions and their members or organizations of credit unions; and

(2) the agency, association, or company is designed primarily to serve or otherwise assist credit union operations.

(b) An investment under Section 124.351(a)(1) or (2) in any one agency, association, or company may not exceed the lesser of the amount equal to:

(1) five percent of the credit union's total assets; or

(2) its reserves and undivided earnings.

(c) Notwithstanding Subsection (a), the commission by rule may authorize an investment under Section 124.351(a)(1) in an agency, association, or company:

(1) whose membership or ownership is not restricted to credit unions and their members or organizations of credit unions; or

(2) that is not designed primarily to serve or otherwise assist credit union operations.

CHAPTER 125. CREDIT UNION ACCOUNTS AND SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

SEC. 125.001. DEFINITION.

In this chapter, "multiple-party account" has the meaning assigned by Section 113.004, Estates Code, except that the term includes an account in which one or more of the parties is an organization, association, corporation, or partnership.

SEC. 125.002. SHARE ACCOUNT.

(a) Shares and membership shares shall be subscribed to and paid for in the manner prescribed by the bylaws. A credit union may limit the number of shares that may be owned by a member, but any such limitation must be applied equally to all members.

(b) A credit union may require credit union members to subscribe to and make payments on membership shares. Membership shares may not be pledged as security on any loan.

(c) The board of directors may establish different classes of share accounts classified in relation to different rights, restrictions, par value, and dividend rates.

(d) A joint account may hold more than one membership share, supporting membership for more than one member of the credit union.

SEC. 125.003. DEPOSIT ACCOUNT.

A deposit account consists of payments made under an agreement between the credit union and a depositor, including a draft account, checking account, savings account, certificate of deposit, individual development account, or other similar account or arrangement.

SEC. 125.004. CONSTRUCTION WITH OTHER LAWS.

This chapter may not be construed to conflict with the laws of the United States or the laws of this state governing the taxation of multiple-party accounts.

SUBCHAPTER B. MULTIPLE-PARTY ACCOUNTS

SEC. 125.101. FORM OF ACCOUNT.

(a) A member of a credit union or of a federal credit union doing business in this state may designate one or more persons to own a share or deposit account with the member in a multiple-party account.

(b) The account may provide for a right of survivorship.

SEC. 125.102. POWERS OF ACCOUNT HOLDERS.

(a) A party to a multiple-party account may make a payment on a share or deposit account and a withdrawal subject to the account agreement.

(b) A party to the account may not vote in matters pertaining to, obtain a loan through, or hold office in the credit union unless the party is a member of the credit union.

SEC. 125.103. POWERS OF MEMBERS RELATING TO ACCOUNT.

Subject to a policy adopted by the board, a member of a credit union by written notice to the credit union may:

- (1) change or cancel a multiple-party account designation;
- (2) change the form of the account; or
- (3) stop or vary payment under the terms of the account.

SEC. 125.104. OWNERSHIP INTEREST.

(a) The parties to a multiple-party account are presumed to own the account in equal undivided interests unless:

- (1) the account agreement provides otherwise; or

- (2) satisfactory proof of the net contributions to the account exists.
- (b) The net contribution of a party to a multiple-party account is computed by adding:
 - (1) the total amount of all of the payments on a share or deposit made by or for the party, less the amount of all of the withdrawals made by or for the party that have not been paid to or applied for the use of another party;
 - (2) the pro rata share of interest or dividends included in the current balance of the account; and
 - (3) any life insurance proceeds added to the account because of the death of the party.

SEC. 125.105. DISCHARGE OF LIABILITY ON PAYMENT.

Payment of all or part of a multiple-party account to a party to the account discharges the credit union's liability to each party to the extent of the payment.

SEC. 125.106. DIVISION OF ACCOUNT ON DEATH.

- (a) Unless otherwise provided by the account agreement or a trust agreement, the only effect the death of a party to a multiple-party account has on the beneficial ownership of the account is to transfer the decedent's right in the account to the decedent's estate.
- (b) An account that does not expressly provide for right of survivorship is presumed to be a nonsurvivorship account.
- (c) If the credit union complies with an account agreement, the credit union may pay money representing shares or deposits on the order of a party either before or after the death of another party.
- (d) A credit union acting under Subsection (c) does not have further liability for the amount paid.

SEC. 125.107. SETOFF OF ACCOUNT.

Without qualifying another statutory right to a setoff or lien and subject to a contractual provision accepted by the credit union, a credit union has the right of setoff against the entire amount of a multiple-party account in which a party to the account is indebted to the credit union.

SUBCHAPTER C. MINOR ACCOUNTS

SEC. 125.201. POWERS OF CREDIT UNION RELATING TO ACCOUNT.

A credit union may:

- (1) open a share or deposit account in the name of a minor;
- (2) receive a payment on the account by or for the minor;
- (3) pay withdrawals;
- (4) accept pledges to the credit union by or for the minor; and
- (5) act in any other matter with respect to an account on the order of a minor.

SEC. 125.202. VOTING; OFFICE-HOLDING.

- (a) If permitted by the credit union's bylaws, a minor:
 - (1) may vote in a meeting of the credit union's members; and
 - (2) is eligible to hold an office or committee membership in the credit union.
- (b) A minor may not vote through a parent or guardian at a meeting of the credit union's members.

SEC. 125.203. DISCHARGE OF LIABILITY ON PAYMENT; EFFECT ON MINOR OF REQUIRED ACTION.

- (a) A payment or delivery of rights made by a credit union or a federal credit union to any of the following persons in connection with an account in the name of a minor discharges the credit union or federal credit union to the extent of the payment or delivery:
 - (1) the minor;
 - (2) a party to the account; or
 - (3) the parent or guardian of a deceased minor.
- (b) The payment and a receipt, pledge, or other action required by the credit union is binding on the minor as if the minor had the capacity of an adult.

SUBCHAPTER D. TRUST ACCOUNT

SEC. 125.301. FORM OF ACCOUNT.

- (a) A credit union may issue shares or receive a deposit:
 - (1) in a revocable trust, if:
 - (A) a settlor is a member of the credit union; or
 - (B) a trustee or a beneficiary is a member of the credit union and the settlor is a member of the trustee's or beneficiary's family as that term is defined by the board in a written policy; or
 - (2) in an irrevocable trust, if a settlor, trustee, or beneficiary is a member of the credit union.
- (b) A credit union may rely on any information provided by the trustee to determine whether a trust is revocable or irrevocable.

SEC. 125.302. LOANS TO NONMEMBER TRUSTEE.

Subject to limitations imposed by this subtitle or a rule adopted under this subtitle, a credit union may make a fully secured loan to a nonmember trustee to enable the trustee to perform or assist the trustee in performing the trustee's fiduciary responsibilities.

SEC. 125.303. BENEFICIARY FEES.

A beneficiary who is not a member of a credit union is not required to pay a membership entrance fee.

SEC. 125.304. LIMITATIONS PLACED ON BENEFICIARY.

A beneficiary who is not a member of a credit union may not vote in matters pertaining to, obtain a loan through, or hold office in the credit union.

SEC. 125.305. ACCOUNT TRANSACTION INQUIRIES.

The credit union is not required to inquire of a trustee the reason for a transaction or the intended use for money withdrawn or borrowed.

SEC. 125.306. DISCHARGE OF LIABILITY ON PAYMENT.

Payment of all or part of the shares and deposits to a trustee or other person authorized to request present payment on a trust account discharges the liability of the credit union to each settlor, trustee, and beneficiary to the extent of the payment.

SEC. 125.307. TERMINATION OF ACCOUNT.

When a trust is terminated, the credit union shall pay money remaining in a trust account as:

- (1) directed by the trustee;
- (2) prescribed by the trust agreement; or
- (3) provided by applicable law, in the absence of direction from the trustee or by the trust agreement.

SEC. 125.308. EFFECT OF DEATH OF TRUSTEE ON ACCOUNT.

- (a) The death of a trustee does not affect the ownership or disposition of a trust account unless:
 - (1) the trust agreement provides otherwise; or
 - (2) there is not a surviving trustee, and:
 - (A) the account is a trust account subject to Subchapter B, Chapter 111, and Chapters 112 and 113, Estates Code; or
 - (B) written evidence of the terms of the trust does not exist.
- (b) On the death of a trustee for a trust account for which the death of a trustee affects the ownership disposition of the account, the credit union shall pay out money in the trust account:
 - (1) in accordance with the trust agreement; or
 - (2) in the absence of written evidence of the terms of the trust, to a beneficiary or any other person authorized by law to request or receive payment.

SEC. 125.309. TRUST ACCOUNT WITH LIMITED DOCUMENTATION.

(a) For a trust account that is purported to be opened under a written trust agreement, the trustee may provide the credit union with a certificate of trust to evidence the trust relationship. The certificate must be an affidavit of the trustee and must include:

- (1) the effective date of the trust;
- (2) the name of the trustee;
- (3) the name of or method for choosing a successor trustee;
- (4) the name and address of each beneficiary;
- (5) the authority granted to the trustee;
- (6) the information needed for disposition of the trust account on the death of the trustee or the last survivor of two or more trustees;
- (7) an indemnification of the credit union; and
- (8) any other information required by the credit union.

(b) The credit union may accept and administer the trust account, in accordance with the certificate of trust, without requiring a copy of the trust agreement. The credit union is not liable for administering the account as provided by the certificate of trust, unless the credit union has actual knowledge that the certificate of trust is contrary to the terms of the trust agreement.

(c) On the death of the trustee or the last survivor of two or more trustees and notwithstanding Section 125.308, the credit union may pay all or part of the proceeds of the trust account as provided by the certificate of trust. If the trustee did not provide a certificate of trust, the credit union's right to treat the account as owned by a trustee ceases on the death of the trustee. On the death of the trustee or the last survivor of two or more trustees, the credit union, unless the certificate of trust provides otherwise, shall pay the proceeds of the account in equal shares to each person who survives the trustee, is named as a beneficiary in the certificate of trust, and can be located by the credit union from the credit union's records. If there is no certificate of trust, payment of the proceeds of an account shall be made as provided by Section 125.308. Payment made under this section for all or part of the proceeds of an account discharges any liability of the credit union to the extent of the payment. The credit union may pay all or part of the proceeds of an account in the manner provided by this section, regardless of whether it has knowledge of a competing claim, unless the credit union receives actual knowledge that payment has been restrained by court order.

(d) This section does not require a credit union to accept an account from a trustee or to search for the location of a named beneficiary that is not named in its records.

(e) This section does not affect a contractual provision to the contrary that otherwise complies with the laws of this state.

(f) For purposes of this section, "actual knowledge" is presumed if a credit union possesses a copy of a trust agreement that is certified as to authenticity by a settlor, trustee, beneficiary, or an attorney for the settlor, trustee, or beneficiary.

**SUBCHAPTER E. THIRD-PARTY CLAIMS AND OTHER
RIGHTS RELATING TO ACCOUNTS**

SEC. 125.401. THIRD-PARTY CLAIM.

(a) In this section:

- (1) "Credit union" includes:
 - (A) a credit union organized under the laws of this state;
 - (B) a foreign credit union; and
 - (C) a federal credit union.
- (2) "Out-of-state credit union" means a credit union that:
 - (A) is not organized under the laws of this state; and
 - (B) has its main or principal office in another state or country.
- (3) "Texas credit union" means a credit union that:
 - (A) is organized under the laws of this state or federal law; and
 - (B) has its main or principal office in this state.

(b) A credit union doing business in this state must be served with citation or other appropriate process issued from a court in connection with a suit instituted by a third party to recover or establish an interest in a deposit or share account before the credit union is required to:

- (1) recognize the third party's claim;
- (2) withhold payment of the account to any party to the account; or
- (3) withhold payment to the order of any party to the account.

(c) A claim against a depositor, joint account owner, or member of a credit union shall be delivered or otherwise served as required or permitted by law at the address of the registered agent of the credit union as designated in a registration filed under Section 201.102 or 201.103, as applicable.

(d) A claim against a depositor, joint account owner, or member of an out-of-state credit union that files a registration statement under Section 201.102 or a Texas credit union that files a registration statement under Section 201.103 is not effective with respect to the credit union if the claim is served or delivered to an address other than the address of the credit union's registered agent as provided in the registration.

(e) To prevent or limit a credit union's compliance with or response to a claim subject to this section, the depositor, joint account owner, or member must seek an appropriate remedy, including a restraining order, injunction, or protective order, to prevent or suspend the credit union's response to a claim against the depositor, joint account owner, or member.

(f) A credit union that does not register with the secretary of state under Section 201.102 or 201.103 is subject to service or delivery of all claims against depositors, joint account owners, or members of the credit union or against the credit union itself by serving the president or vice president of the credit union or as otherwise provided by law.

SEC. 125.402. DISCLOSURE OF RECORDS OF MEMBER; CONFIDENTIALITY.

(a) A credit union is not required to disclose or produce to a third party or permit a third party to examine a record pertaining to the affairs of a credit union member unless:

(1) the request is made in connection with an examination or audit by a government agency authorized by law to examine credit unions;

(2) the member consents to the disclosure or production of the record; or

(3) the request is made by the department or is made in response to:

(A) a subpoena or other court order; or

(B) an administrative subpoena or summons issued by a state or federal agency as authorized by law.

(b) The commission may authorize the disclosure of information relating to a credit union member under circumstances and conditions that the commission determines are appropriate or required in the daily operation of the credit union's business.

(c) The commission may adopt reasonable rules relating to the:

(1) permissible disclosure of nonpublic personal information about the accounts of credit union members; and

(2) duties of the credit union to maintain confidentiality of member accounts.

(d) The directors, officers, committee members, and employees and any honorary or advisory directors of a credit union shall hold in confidence all information regarding transactions of the credit union, including information concerning transactions with the credit union's members and the members' personal affairs, except to the extent necessary in connection with making, extending, or collecting a loan or extension of credit, or as otherwise authorized by this section, commission rules adopted under Subsection (c), or other applicable law.

SEC. 125.403. RECOVERY OF DOCUMENT PRODUCTION EXPENSES FROM THIRD PARTY.

(a) A credit union or federal credit union doing business in this state is entitled to recover from a third party the reasonable cost actually incurred in disclosing or producing a record under this subtitle or other applicable law unless the cost was incurred in connection with an examination or audit by a government agency authorized by law to examine credit unions.

(b) The cost incurred in disclosing or producing a record includes the cost of reproduction, postage, or delivery.

SEC. 125.404. LIENS AND SETOFFS.

(a) To the extent of a member's direct or indirect indebtedness to a credit union, the credit union has:

(1) a lien, enforceable with or without judicial process, on the member's shares and deposits, accumulated dividends, and interest; and

(2) a right to set off against the member's shares, deposits, accumulated dividends, and interest.

(b) A credit union may allow a withdrawal to be made without affecting the credit union's right to a setoff or lien.

SEC. 125.405. ACCOUNT WITHDRAWALS.

(a) A credit union may require not longer than 60 days' notice for a withdrawal from a share or deposit account.

(b) The commissioner may impose an advance withdrawal notice requirement following issuance of a cease and desist order under Chapter 122. The commissioner by rule may require that a requirement imposed under this subsection apply to all members of the credit union.

(c) A membership share may not be withdrawn unless membership in the credit union is terminated.

SUBCHAPTER F. SAFE DEPOSIT BOXES

SEC. 125.501. RENTAL OF SAFE DEPOSIT BOX.

A credit union or federal credit union may maintain and rent safe deposit boxes.

SEC. 125.502. RELATIONSHIP BETWEEN CREDIT UNION AND BOX HOLDER.

(a) In the absence of a contract to the contrary, the relationship between a credit union and the renter of a safe deposit box maintained at the credit union is that of lessor and lessee and landlord and tenant. The rights and liabilities of the credit union are governed by the law governing those relationships.

(b) The lessee is for all purposes in possession of the box and its contents.

SEC. 125.503. ACCESS BY MORE THAN ONE PERSON.

(a) In the absence of a contract to the contrary, a credit union shall allow each holder of a safe deposit box jointly held in the name of two or more persons or a person other than the lessee designated in the lease agreement:

- (1) access to the box; and
- (2) removal of its contents.

(b) A credit union is not responsible for damage arising because a holder or other designated person had access to the box or removed its contents.

(c) The death of a holder of a jointly held safe deposit box does not affect the right of another holder or other designated person to have access to and remove contents from the box.

SEC. 125.504. RELOCATION OF SAFE DEPOSIT BOX; INVENTORY OF CONTENTS.

(a) Except as otherwise provided by this section, Sections 125.505 through 125.507, Chapter 151, Estates Code, or other law, a credit union may not relocate a safe deposit box rented for a term of six months or longer if the box rental is not delinquent or may not open the box to relocate its contents to another location, unless:

- (1) the lessee is present when the box is opened or relocated; or
- (2) the lessee has given the credit union written authorization to relocate the box or to open the box for purposes of relocation.

(b) Storage conditions at the new box location must be at least as secure as the conditions at the original location.

(c) If the box is opened during relocation, two employees shall prepare a detailed inventory of the contents of the box. At least one of the employees must be an officer or manager of the credit union and a notary public.

(d) One lessee of a jointly held safe deposit box is sufficient to personally supervise or give written authorization for the box's relocation.

SEC. 125.505. NOTICE OF BOX RELOCATION.

(a) A credit union shall give a lessee of a safe deposit box at least 30 days' notice of the box's relocation. The notice must state:

- (1) the scheduled date and time of the relocation; and
- (2) whether the box will be opened during the relocation.

(b) If the lessee does not personally supervise the relocation or give written authorization for the relocation, the credit union shall notify the lessee of the new box number or location not later than the 30th day after the date of the relocation. The credit union must include a copy of the signed and notarized inventory report required by Section 125.504(c) with the notice.

(c) A notice required by this section must be sent by certified mail, return receipt requested, to each lessee named in the records of the credit union at the address shown in those records.

SEC. 125.506. COST OF NOTICE AS BOX RENTAL.

The credit union may treat the cost of certified mailings incurred in connection with each safe deposit box relocation other than the cost of the first notice as box rental due and payable at the expiration of the rental term.

SEC. 125.507. EMERGENCY RELOCATION OF SAFE DEPOSIT BOX.

(a) A credit union may relocate a safe deposit box or open the box to relocate its contents to another location if the security of the box is threatened or destroyed by an unforeseeable circumstance beyond the credit union's control, including a natural disaster such as a tornado, flood, or fire.

(b) Not later than the 90th day after the date on which the box is relocated, the credit union shall notify each lessee in whose name the box is held of the new box number or location. The notice must be sent by certified mail, return receipt requested, to each lessee named in the records of the credit union at the address shown in those records.

SEC. 125.508. KEY IMPRINTING.

(a) A credit union that rents or permits access to a safe deposit box shall:

- (1) imprint all keys issued to the box after September 1, 1992, with its routing number; or
- (2) issue keys imprinted with the routing number.

(b) If available space on a key is insufficient for imprinting the routing number, the credit union shall attach to the key a tag imprinted with the routing number.

(c) If a credit union believes that the routing number imprinted on a key, or a tag attached to a key, used to access a safe deposit box has been altered or defaced in a manner that the correct routing number is illegible, the credit union shall notify the Department of Public Safety, on a form designated by the commissioner, not later than the 10th day after the date the key is used to access the box.

(d) This section does not require a credit union to inspect the routing number imprinted on a key or an attached tag to determine whether the number has been altered or defaced.

SEC. 125.509. LIABILITY FOR ACCESS TO OR REMOVAL OF CONTENTS.

A credit union that has identified the keys to a safe deposit box in accordance with Section 125.508 and that follows applicable law and the credit union's established security procedures in permitting access to the box is not liable for damages arising because of access to or removal of the box's contents.

SEC. 125.510. DELINQUENT RENTS.

(a) If the rental of a safe deposit box is delinquent for six months or longer, the credit union may open the box only if:

- (1) the credit union sends notice of the delinquency to the lessee; and
- (2) the rent is not paid before the date specified in the notice.

(b) The notice must:

(1) be sent by certified mail, return receipt requested, to the lessee named in the books of the credit union at the address shown in those books; and

(2) specify a date by which payment must be made that may not be before the 61st day after the date on which the notice is mailed.

(c) The box must be opened in the presence of two employees, and the credit union shall prepare a detailed inventory of the contents of the box as provided by reporting instructions of the comptroller. At least one of the employees must be an officer or manager of the credit union and a notary public.

(d) The credit union shall place the contents of the box in a sealed envelope or container that states the lessee's name. The credit union shall hold the contents of the box subject to a lien for:

- (1) the box's rental;
- (2) the cost of opening the box; and
- (3) any damage in connection with the box.

SEC. 125.511. AUCTION OF CONTENTS.

(a) If the rental, cost, and damages determined under Section 125.510(d) are not paid before the second anniversary of the date on which the box is opened, the credit union may:

- (1) sell all or part of the contents at a public auction in the manner and on the notice prescribed for the sale of real property under deed of trust under Section 51.002, Property Code; and
- (2) apply the sale proceeds to the rental, cost, and damages.
- (b) The credit union shall send to the comptroller as provided by Chapter 74, Property Code:
 - (1) the unauctioned contents of a box; and
 - (2) any excess proceeds from the auction.

CHAPTER 126. CREDIT UNION SUPERVISION AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

SEC. 126.001. APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT.

The commissioner may appoint any person, including the share and deposit guaranty corporation or credit union provided for by Section 15.410, as a conservator or a liquidating agent under this chapter.

SEC. 126.002. CONFIDENTIALITY OF INFORMATION.

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the commission, and a member of the commission may not be given access to the files or records of the department, except that the commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency, a share insuring organization, or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

(d) Information obtained by the department from a federal or state supervisory agency that is confidential under federal law or the laws of that state may not be disclosed except as provided by the applicable federal or state law.

(e) Confidential information that is provided by the department to a credit union, organization, or service provider of a credit union, whether in the form of a report of examination or otherwise, is the confidential property of the department. The recipient or an officer, director, employee, or agent of the recipient may not make the information public and may not disclose the information to a person not officially connected to the recipient as an officer, director, employee, attorney, auditor, or independent auditor, except as authorized by rules adopted under this subtitle. A credit union may disclose a report of examination or relevant portions of the report to another credit union proposing to merge or consolidate with the credit union or to a fidelity bond carrier if the recipient executes a written agreement not to disclose information in the report.

(f) Discovery of confidential information from a person subject to this subtitle or Chapter 15 under subpoena or other legal process must comply with rules adopted under this subtitle, Chapter 15, and any other applicable law. The rules may:

(1) restrict release of confidential information to the portion directly relevant to the legal dispute at issue; and

(2) require that a protective order, in a form and under circumstances specified by the rules, be issued by a court before release of the confidential information.

SEC. 126.003. ENFORCEABILITY OF AGREEMENT MADE BY CREDIT UNION BEFORE CONSERVATORSHIP OR LIQUIDATION.

An agreement that tends to diminish or defeat the interest of the conservator or liquidating agent in an asset acquired under this chapter, either as security for a loan or by purchase, is not valid against the conservator or liquidating agent unless the agreement is:

- (1) in writing;
- (2) executed by the credit union and each person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the credit union;
- (3) approved by the board with the approval recorded in the minutes of the board; and
- (4) an official record of the credit union continuously from the time of its execution.

SUBCHAPTER B. EXAMINATIONS

SEC. 126.051. EXAMINATIONS.

(a) The department, through examiners it appoints and in accordance with commission rules, shall periodically examine the books and records of each credit union.

(b) In lieu of an examination under this section, the commissioner may accept:

(1) the examination report of a regulator authorized to examine a credit union, foreign credit union, federal credit union, or other financial institution; or

(2) the audit report of an accountant, satisfactory to the commissioner, who has made and submitted a report of the condition of the affairs of a credit union, foreign credit union, federal credit union, or other financial institution.

(c) The commissioner may accept all or part of a report in lieu of all or part of an examination. An accepted part of the report has the same validity as an examination under this section.

SEC. 126.052. ACCESS TO INFORMATION.

An officer, director, agent, or employee of a credit union shall give an examiner free access to any information relating to the credit union's business, including access to books, papers, securities, and other records.

SEC. 126.053. WITNESSES; PRODUCTION OF DOCUMENTS.

(a) In an examination conducted under this subchapter, the commissioner or the commissioner's designee may:

(1) subpoena witnesses;

(2) administer an oath or affirmation to a person, including any officer, director, agent, or employee of a credit union, and examine the person under oath or affirmation on any subject the commissioner considers pertinent to the financial condition or the safety and soundness of the activities of a credit union; or

(3) require and compel by subpoena the production of documents that are not voluntarily produced, including books, papers, securities, and records.

(b) The commissioner may apply to a district court in Travis County for an order requiring a person to obey a subpoena, to appear, or to answer questions in connection with the examination or investigation.

(c) The court shall issue an order under Subsection (b) if the court finds good cause to issue the subpoena or to take testimony.

SEC. 126.054. REPORT OF EXAMINATION.

(a) An examiner shall report the results of an examination, including a general statement of the credit union's affairs, on a form prescribed by the commissioner and approved by the commission.

(b) The department shall send a copy of the report to the board not later than the 30th day after the examination date.

(c) The report of examination is confidential. The commissioner may provide a copy of the report to other parties as described in Section 126.002(c).

SEC. 126.055. FEE.

The commission may establish, and a credit union shall pay a fee based on the cost of performing an examination of the credit union.

SUBCHAPTER C. CONSERVATORSHIP ORDER

SEC. 126.101. CONSERVATORSHIP ORDER; APPOINTMENT OF CONSERVATOR.

(a) The commissioner may immediately issue a conservatorship order and appoint a conservator to manage a credit union's affairs if:

(1) the commissioner, in performing the duties under this subtitle, finds that:

(A) the credit union is insolvent or in imminent danger of insolvency; or

(B) the credit union or an employee, officer, or director of a credit union, including an honorary or advisory director has:

(i) violated this subtitle, a rule adopted under this subtitle, or another law that applies to credit unions;

(ii) violated or neglected a final order of the commissioner or commission;

(iii) refused to submit to examination under oath;

(iv) refused to permit the commissioner or the commissioner's representative to examine the credit union's records and affairs, including books, papers, and accounts;

(v) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner; or

(vi) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody or control, including books, papers, and accounts, following the commissioner's request for the granting of that authority and direction; and

(2) the commissioner determines that the finding under Subdivision (1) is sufficiently severe to require immediate affirmative action to prevent further dissipation of the credit union's assets.

(b) The order must clearly state the grounds for conservatorship.

(c) The board may:

(1) agree in writing to a conservatorship order; and

(2) waive its right to appeal the order under Section 126.105.

SEC. 126.102. SERVICE OF ORDER.

(a) A conservatorship order must be served personally to an officer or director of the credit union by the commissioner, the deputy commissioner, or another person authorized by the commissioner.

(b) Service may be by mail if an officer or director is not available for service on the date personal service of the order is attempted.

(c) Service by mail must be by certified or registered mail, must be addressed to the credit union at the address shown for its principal office by department records and to the home address of the chairman of the board and is complete on deposit of the order in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

SEC. 126.103. EFFECT OF ORDER.

Following service of a conservatorship order:

(1) the commissioner shall take possession and control of the credit union's books, records, property, assets, and business; and

(2) the credit union shall cease all operations except those authorized by the commissioner and conducted under the commissioner's supervision.

SEC. 126.104. Repealed by Acts 2013, 83rd Legislature, Regular Session

SEC. 126.105. APPEAL OF ORDER; HEARING.

(a) Unless the board waives its right to appeal under Section 126.101(c), the board may file a written appeal of the conservatorship order with the commissioner not later than the 10th business day after the date the order is served as provided by Section 126.102. The appeal must include a certified copy of the board resolution and must state whether the board requests a hearing.

(b) If the board requests a hearing, the commissioner shall promptly request from the State Office of Administrative Hearings a hearing date that is not earlier than the 11th day nor later than the 30th day after the date on which the commissioner receives the appeal.

(c) The commissioner shall give the credit union notice of the date, time, and place of the hearing.

(d) The filing of an appeal does not suspend the order, and the order remains in effect until the commissioner's final disposition of the appeal.

(e) Not later than the 45th day after a proposal for decision is received from the State Office of Administrative Hearings, the commission shall meet to consider the proposal.

SEC. 126.106. FAILURE TO APPEAL OR APPEAR.

If the board does not appeal the conservatorship order or fails to appear at the hearing provided for by Section 126.105, the credit union is presumed to have consented to the commissioner's disposition action, and the commissioner may dispose of the conservatorship matter as the commissioner considers appropriate.

SEC. 126.107. EXTENSION OF DATE AND TIME FOR HEARING.

The parties may agree to extend the date and time of the hearing.

SEC. 126.108. CONFIDENTIALITY; DISCLOSURE.

A conservatorship order and a copy of a notice, correspondence, transcript, pleading, or other document relating to the order are confidential and may be disclosed only in a related legal proceeding or as otherwise authorized by law. The commissioner may release to the public information regarding the existence of an order if the commissioner concludes that release of the information would enhance effective enforcement of the order.

SUBCHAPTER D. ADMINISTRATION OF CONSERVATORSHIP

SEC. 126.151. CONSERVATOR SUBJECT TO COMMISSION CONTROL.

A conservator shall exercise the powers authorized under Sections 126.152-126.154 subject to commission rules and under the commissioner's supervision.

SEC. 126.152. GENERAL POWERS OF CONSERVATOR.

The conservator may:

- (1) take possession and control of the books, records, property, assets, and business of the credit union;
- (2) conduct the business and affairs of the credit union;
- (3) sell or assign assets to the conservator; and
- (4) perform any other action as necessary in connection with the conservatorship.

SEC. 126.153. POWERS RELATING TO CLAIMS.

The conservator may:

- (1) determine the existence and amount of claims;
- (2) allow proved claims of security, preference, or priority;
- (3) disallow unproved claims of security, preference, or priority; and
- (4) settle or release a claim in favor of or against the credit union.

SEC. 126.154. POWER TO REPUDIATE BURDENSOME TRANSACTION.

The conservator may repudiate a contract or unexpired lease the conservator considers burdensome to the credit union.

SEC. 126.155. POWER TO PROTECT, PRESERVE, AND RECOVER PROPERTY.

(a) The conservator may take measures necessary to preserve, protect, and recover the assets or property of the credit union, including filing a lawsuit against any person.

(b) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

(c) The conservator may deal with that property in the capacity of conservator.

(d) The conservator may file, prosecute, or defend a suit brought by or against the credit union if the conservator considers it necessary to protect the interested party or property affected by the suit.

SEC. 126.156. DUTIES OF CONSERVATOR.

The conservator shall:

- (1) take actions as directed by the commissioner to remove the causes and conditions that made the conservatorship necessary; and
- (2) report to the commissioner from time to time during the conservatorship as required by the commissioner.

SEC. 126.157. TERM OF CONSERVATOR.

The conservator shall serve until the purposes of the conservatorship are accomplished.

SEC. 126.158. TRANSFER OF MANAGEMENT OF REHABILITATED CREDIT UNION.

If the credit union is rehabilitated, the conservator shall return the management of the credit union to the board under terms that are reasonable and necessary to prevent a recurrence of the conditions that created the need for conservatorship.

SEC. 126.159. COST OF CONSERVATORSHIP.

(a) The commissioner shall determine and approve any reasonable expenses attributable to the service of a conservator, including costs incurred by the department and the compensation and expenses of the conservator and any professional employees appointed to represent or assist the conservator. The commissioner or an employee of the department may not receive compensation in addition to salary for serving as conservator, but the department may receive reimbursement for the fully allocated personnel cost associated with the service of the commissioner or the employee as conservator.

(b) All approved expenses shall be paid by the credit union. The department has a lien against the assets and money of the credit union to secure payment of approved expenses. The lien has a higher priority than any other lien against the credit union.

(c) Notwithstanding this subchapter, the credit union may retain attorneys and hire other persons to assist the credit union in contesting or satisfying the requirements of an order of conservatorship. The commissioner shall authorize the payment of reasonable fees and expenses for the attorneys and other persons as expenses of the conservatorship.

(d) The commissioner may waive or defer collection of assessment or examination fees by the department from the credit union during a period of conservatorship if the waiver or deferral would appear to benefit the prospects for rehabilitation. As a condition of release from conservatorship, the commissioner may require the rehabilitated credit union to pay or develop a reasonable plan for payment of any deferred fees.

SEC. 126.160. JURISDICTION AND VENUE.

(a) A suit filed against a credit union while the credit union is under conservatorship, or against a person in connection with an action taken or decision made by that person as a conservator of a credit union, must be brought in Travis County regardless of whether the credit union remains under conservatorship.

(b) A suit filed by the conservator under Section 126.155 may be brought in Travis County.

SEC. 126.161. EXHAUSTION OF ADMINISTRATIVE REMEDIES.

Administrative remedies must be exhausted before a court may:

- (1) assert jurisdiction over a claim against the conservator or the credit union; or
- (2) restrain or otherwise affect the exercise of the powers or functions of the conservator.

SUBCHAPTER E. LIQUIDATION ORDER; INJUNCTION

SEC. 126.201. LIQUIDATION ORDER; APPOINTMENT OF LIQUIDATING AGENT.

(a) After the commissioner has issued a conservatorship order and provided an opportunity for hearing, the commissioner by liquidation order may appoint a liquidating agent and direct that the credit union be liquidated if:

- (1) the board requests issuance of a liquidation order and liquidation of the credit union;
- (2) the credit union otherwise consents to the liquidation; or
- (3) the commissioner:

(A) finds that the closing of the credit union and the liquidation of the credit union's assets are in the public interest and the best interest of the credit union's members, depositors, and creditors; and

(B) determines that the credit union is not in a condition to continue business and cannot be rehabilitated as provided by this chapter.

(b) If the board consents to the liquidation order and waives the necessity of a conservatorship order, the commissioner may issue a liquidation order without first issuing a conservatorship order.

SEC. 126.202. SERVICE OF ORDER.

The commissioner shall serve a liquidation order in the same manner provided for service of a conservatorship order.

SEC. 126.203. SUIT FOR INJUNCTION.

(a) Not later than the fifth day after the date on which the liquidation order is served, a credit union that has not requested or consented to a liquidation order may, if authorized by certified board resolution, sue to enjoin the commissioner from liquidating the credit union.

(b) The suit must be brought in the district court of the county in which the credit union's principal office is located.

SEC. 126.204. ACTION PENDING INJUNCTION HEARING.

(a) The court, without notice or hearing, may restrain the commissioner from liquidating the credit union's assets until after a hearing on the suit is held.

(b) If the court restrains the commissioner, the court shall instruct the commissioner to hold the credit union's assets in the commissioner's possession and control until disposition of the suit.

(c) With court approval, the commissioner may take any necessary or proper action to prevent loss or depreciation in the value of the assets.

SEC. 126.205. HEARING ON INJUNCTION; APPEAL.

(a) The court, as soon as possible, shall hear the suit and shall enter a judgment enjoining or refusing to enjoin the commissioner from liquidating the credit union's assets.

(b) The commissioner, regardless of the judgment entered by the trial court or any supersedeas bond filed, shall retain possession and control of the credit union's assets until final disposition of any appeal of the judgment.

SEC. 126.206. NATIONAL CREDIT UNION ADMINISTRATION AS LIQUIDATING AGENT.

(a) The commissioner may tender a credit union that has been closed for liquidation to the National Credit Union Administration or its successor as liquidating agent if the shares and deposits of the credit union were insured by the National Credit Union Share Insurance Fund or its successor on the date of closing.

(b) After acceptance of tender of the credit union, the National Credit Union Administration or its successor, as liquidating agent of the credit union, shall perform the acts and duties that it considers necessary or desirable and that are permitted or required by federal law or this chapter. The National Credit Union Administration, as liquidating agent, is not subject to commission control.

(c) If the National Credit Union Share Insurance Fund pays the insured share and deposit liabilities of a credit union that is being liquidated under this subchapter, the National Credit Union Administration is subrogated, to extent of the payment, to all rights that the owners of the share or deposit accounts have against the credit union.

SUBCHAPTER F. ADMINISTRATION OF LIQUIDATION

SEC. 126.251. PERMISSIBLE ACTIVITIES IN LIQUIDATION.

(a) A credit union in liquidation continues in existence to discharge debts, collect and distribute assets, and wind up the credit union's business.

(b) The credit union may sue and be sued to enforce debts and obligations until its affairs are fully adjusted.

SEC. 126.252. COMPENSATION OF CREDIT UNION EMPLOYEES AND OFFICERS.

(a) This chapter does not prevent compensation of a salaried employee or officer of a credit union during the credit union's liquidation.

(b) The compensation is considered an incidental expense of the liquidation.

SEC. 126.253. LIQUIDATING AGENT SUBJECT TO COMMISSION CONTROL.

The liquidating agent shall perform the duties required by the following sections subject to commission rules and under the commissioner's supervision:

- (1) Sections 126.254-126.258; and
- (2) Sections 126.301, 126.302, 126.304, 126.305, and 126.306.

SEC. 126.254. POSSESSION, CONSOLIDATION, AND DISPOSITION OF ASSETS.

The liquidating agent shall:

- (1) receive and take possession of the books, records, assets, and property of the credit union;
- (2) sell, enforce collection of, and liquidate assets and property; and
- (3) sell or assign assets to the liquidating agent subject to Section 126.353.

SEC. 126.255. COMPOUND DEBTS.

The liquidating agent shall compound all bad or doubtful debts.

SEC. 126.256. COURT ACTION BY LIQUIDATING AGENT.

The liquidating agent shall:

- (1) sue in the name of the liquidating agent or may sue in the name of the credit union; and
- (2) defend an action brought against the liquidating agent or the credit union.

SEC. 126.257. REPUDIATION OF BURDENSOME TRANSACTIONS.

The liquidating agent shall repudiate a contract or unexpired lease the liquidating agent considers burdensome to the credit union.

SEC. 126.258. EXECUTION OF DOCUMENTS; OTHER NECESSARY ACTS.

The liquidating agent may execute any document and perform any other action that:

- (1) the liquidating agent considers necessary or desirable to discharge the liquidating agent's duties; and
- (2) may be necessary under this subchapter and Subchapter G.

SEC. 126.259. JURISDICTION AND VENUE.

(a) A suit against a credit union or its liquidating agent while a liquidation order is in effect must be brought in Travis County.

(b) The liquidating agent may file suit in Travis County to preserve, protect, or recover the credit union's assets or property.

(c) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

SEC. 126.260. EXHAUSTION OF ADMINISTRATIVE REMEDIES.

Except as provided by Subchapter E, administrative remedies must be exhausted before a court may:

- (1) assert jurisdiction over a claim against the liquidating agent or the credit union; or
- (2) restrain or otherwise affect the exercise of the powers or functions of the liquidating agent.

SUBCHAPTER G. CLAIMS RELATING TO CREDIT UNION IN LIQUIDATION

SEC. 126.301. CLAIMS AGAINST CREDIT UNION.

The liquidating agent shall:

- (1) determine the existence and amount of claims;
- (2) allow proved claims of security, preference, or priority;
- (3) settle or release a claim in favor of or against the credit union;
- (4) disallow unproved claims of security, preference, or priority; and
- (5) make distributions to and pay creditors and members of the credit union as their interests appear.

SEC. 126.302. NOTICE TO CREDITORS AND MEMBERS.

(a) The liquidating agent shall give notice to creditors and members to present and prove their claims.

(b) The notice must be published once a week for three successive weeks in a newspaper of general circulation in each county in which the credit union maintained an office or branch to transact business on the date the credit union ceased unrestricted operations.

(c) When the aggregate book value of the assets and property of the credit union being liquidated is less than \$10,000, the commissioner shall declare the credit union to be a "no publication" liquidation, and publication of notice to creditors and members under this section is not required.

SEC. 126.303. PRIORITY OF CLAIMS.

The liquidating agent shall use the credit union's assets to pay, in the following order:

- (1) secured creditors to the extent of the value of their collateral;
- (2) liquidation expenses, including a surety bond if required;
- (3) depositors;
- (4) general creditors, including secured creditors to the extent that their claims exceed the value of their collateral; and
- (5) distributions to members in proportion to the shares held by each member.

SEC. 126.304. LIQUIDATION DIVIDENDS.

- (a) The liquidating agent from time to time shall make a ratable liquidation dividend on claims that have been:
 - (1) proved to the satisfaction of the board or the liquidating agent; or
 - (2) adjusted by a court.
- (b) After the credit union's assets have been liquidated, the liquidating agent shall make further liquidation dividends on claims previously proved or adjusted.
- (c) For purposes of making a further liquidation dividend under Subsection (b), the liquidating agent may accept the statement of an amount due a claimant as shown on the credit union's books and records instead of a formal proof of claim filed on the claimant's behalf.

SEC. 126.305. PAYMENT OF CLAIMS IN "NO PUBLICATION" LIQUIDATION.

- (a) In a "no publication" liquidation, the liquidating agent shall determine from all sources available, and within the limits of the credit union's available money, the amounts due to creditors and members.
- (b) Not earlier than the 61st day after the date on which the liquidating agent is appointed, the liquidating agent shall distribute the credit union's money to creditors and members ratably and as their interests appear.

SEC. 126.306. BARRED CLAIMS.

- (a) A claim not filed before the liquidating agent pays the final liquidation dividend is barred.
- (b) A claim rejected by the liquidating agent is barred unless suit to appeal the liquidating agent's rejection is filed within three months after the date of notice of rejection.

SUBCHAPTER H. LIQUIDATING AGENT

SEC. 126.351. REMOVAL OF LIQUIDATING AGENT.

- (a) On finding that the liquidating agent has failed to properly perform the liquidating agent's duties in a timely and efficient manner or has violated this subtitle or a rule adopted under this subtitle, the commissioner by removal order may take possession and control of the books, records, property, assets, and business of the credit union.
- (b) The removal order must:
 - (1) remove the liquidating agent and appoint a successor liquidating agent to complete the liquidation and the winding up of the credit union's affairs subject to the commissioner's supervision and control; and
 - (2) be served on the liquidating agent being removed.
- (c) The removal order takes effect immediately on service.

SEC. 126.352. REPLACEMENT OF LIQUIDATING AGENT.

The commissioner shall appoint another liquidating agent on a liquidating agent's resignation, death, illness, removal, desertion, or incapacity to function.

SEC. 126.353. CONFLICT OF INTEREST.

- (a) The liquidating agent may not acquire an asset of the credit union in liquidation or purchase a loan of the credit union without the commissioner's prior written approval.
- (b) A liquidating agent may not obtain from the liquidation compensation or profit for:
 - (1) direct or indirect personal benefit;
 - (2) the benefit of a family member of or a person associated with the liquidating agent; or
 - (3) the benefit of a business enterprise with which the liquidating agent is associated, other than the credit union.

SEC. 126.354. COMPENSATION.

- (a) A liquidating agent is entitled to receive reasonable compensation during the liquidation.
- (b) The compensation is considered an incidental expense of the liquidation.

SUBCHAPTER I. COMPLETION OF LIQUIDATION

SEC. 126.401. CERTIFICATE OF LIQUIDATION AND DISTRIBUTION.

The commissioner shall prescribe the form of a certificate to be completed by the liquidating agent attesting that distribution has been made and liquidation is complete.

SEC. 126.402. CANCELLATION OF CERTIFICATE OF INCORPORATION.

The commissioner, on receipt and approval of the certificate executed under Section 126.401, shall cancel the credit union's certificate of incorporation.

SEC. 126.403. WINDING UP OF CREDIT UNION BUSINESS.

During the three-year period following cancellation of the credit union's certificate of incorporation, the credit union continues to exist and the liquidating agent, or a successor or other person designated by the commissioner, may act on the credit union's behalf to:

- (1) pay, satisfy, or discharge an existing liability or obligation;
- (2) collect and distribute assets; and
- (3) act as required to adjust and wind up the credit union's business and affairs, including suing or being sued in the credit union's corporate name.

SUBCHAPTER J. VOLUNTARY LIQUIDATION

SEC. 126.451. BOARD RESOLUTION.

Unless the commissioner has issued a liquidation order, the board may adopt a resolution recommending voluntary dissolution of the credit union and directing submission of the question of liquidation to the members of the credit union.

SEC. 126.452. NOTIFICATION TO COMMISSIONER OF PROPOSED LIQUIDATION.

Not later than the fifth day after the date on which the board's resolution recommending voluntary dissolution is adopted, the board's presiding officer shall notify the commissioner in writing of the reasons for the proposed liquidation.

SEC. 126.453. NOTICE OF MEETING TO LIQUIDATE.

Notice of the special meeting to consider voluntary liquidation shall be mailed by first-class mail to each member of the credit union and the commissioner not later than the 10th day before the date of the meeting.

SEC. 126.454. CREDIT UNION OPERATIONS BEFORE AND AFTER VOTE.

Immediately after notice under Section 126.453 is mailed, the commissioner may restrict control or give direction with respect to the continued business of the credit union pending consideration of voluntary liquidation by the members. During that period, no member shall withdraw an aggregate amount in excess of the share insurance covered by the credit union. No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending voluntary liquidation and the membership meeting called to consider voluntary liquidation, except for the issuance of loans fully secured by a pledge of shares and the funding of outstanding loan commitments approved before adoption of the resolution. If the vote to dissolve and liquidate the credit union is affirmative, the credit union may conduct only business incidental to liquidation.

SEC. 126.455. VOTE ON VOLUNTARY LIQUIDATION.

At a special meeting called to consider the proposed liquidation, a majority of the credit union members voting, but not less than a quorum, may vote to dissolve and liquidate the credit union. Those members casting votes by mail or at the meeting constitute a quorum for the transaction of business at the special meeting, notwithstanding a bylaw provision to the contrary.

SEC. 126.456. NOTICE TO COMMISSIONER OF AFFIRMATIVE VOTE TO LIQUIDATE.

(a) The board's presiding officer or president and the secretary shall notify the commissioner of the intention to liquidate not later than the fifth day after the affirmative vote to dissolve and liquidate.

(b) The person notifying the commissioner must include a list of the names and addresses of the credit union's officers and directors with the notice.

SEC. 126.457. APPOINTMENT OF LIQUIDATING AGENT.

(a) If the members approve the liquidation, the board shall appoint a liquidating agent to:

- (1) conserve and collect the credit union's assets;
- (2) wind up the credit union's affairs;
- (3) discharge the credit union's debts;
- (4) distribute the credit union's assets; and
- (5) take any other action necessary and incidental to liquidating the credit union.

(b) The National Credit Union Administration or other insuring organization has the right of first refusal to be appointed as liquidating agent of any credit union that it insures.

SEC. 126.458. APPLICATION OF LAW TO CREDIT UNION IN VOLUNTARY LIQUIDATION.

A credit union in the process of voluntary dissolution and liquidation remains subject to this subtitle and Chapter 15, including provisions for examination by the commissioner, and the credit union shall furnish reports as required by the commissioner.

CHAPTER 149. MISCELLANEOUS PROVISIONS RELATING TO CREDIT UNIONS

SEC. 149.001. APPLICABILITY OF CHAPTERS 3 AND 4, BUSINESS & COMMERCE CODE.

(a) Chapters 3 and 4, Business & Commerce Code, determine the rights, responsibilities, and liabilities of a person regarding an item drawn on, transferred to, or presented, remitted, collected, settled, negotiated, or otherwise handled by a credit union as if the credit union were a bank, unless otherwise provided by written agreement of the parties.

(b) In this section:

(1) "Credit union" means a credit union authorized to do business in this state under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

(2) "Item":

(A) means an instrument, whether or not negotiable, for the payment of money; and

(B) does not include money.

SEC. 149.002. EXEMPTION FROM SECURITIES LAWS.

(a) Except as required by this subtitle, a credit union authorized to do business under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.) and an officer, employee, or agent of the credit union engaged in selling, issuing, or offering a security issued by a state or federal credit union are exempt from a law of this state to the extent the law provides for supervision, registration, or regulation in connection with selling, issuing, or offering a security.

(b) The sale, issuance, or offering of a security issued by a state or federal credit union is legal without any action or approval by any official, other than the credit union commissioner, who is authorized to license, regulate, or supervise the sale, issuance, or offering of securities.

(c) In this section, "security" has the meaning assigned by Section 4001.068, Government Code.