

BILL ANALYSIS

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Committee Report (Substituted)

DIGEST AND PURPOSE

The Credit Union Department (department) oversees 249 state-chartered credit unions that have assets totaling more than \$16.7 million. The department is comprised of the Credit Union Commission (CUC), the commissioner, and the department's staff. Section 15.103, Finance Code, requires the department to perform a comprehensive study of the credit union statutes on a periodic basis. Following the completion of such a study, the department met with representatives of the credit union industry to develop a bill to modernize the credit union statutes. This effort was intended to enable the credit union statutes to allow credit unions to provide financial services in a responsive, efficient manner and for the department to ensure that credit unions operate in a safe and sound manner. C.S.H.B. 1307 revises the credit union statutes as recommended by the department and the credit union industry.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Credit Union Commission in SECTION 3 (Section 15.4032, Finance Code), SECTION 5 (Section 15.414, Finance Code), SECTION 13 (Section 122.014, Finance Code), and SECTION 36 (Section 123.211, Finance Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 15.402, Finance Code, by amending Subsections (a) and (c) and adding Subsections (b-1) and (d), as follows:

- (a) Authorizes the Credit Union Commission (CUC) to adopt reasonable rules necessary to administer, rather than for administering, this chapter and to accomplish the purposes of Subtitle D, Title 3.
- (b-1) Requires CUC to consider certain goals in adopting rules under this section.
- (c) Requires CUC, by rule, to establish, rather than set, reasonable and necessary fees to administer this chapter and Subtitle D, Title 3.
- (d) Provides that the presence or absence of a specific reference to rules regarding a particular subject, in this chapter or Subtitle D, Title 3, does not enlarge or diminish the rulemaking authority provided by this section.

SECTION 2. Amends Section 15.403, Finance Code, as follows:

Sec. 15.403. New heading: SUPERVISION AND REGULATION OF CREDIT UNIONS. Deletes Subsection (a).

SECTION 3. Amends Subchapter E, Chapter 15, Finance Code, by adding Sections 15.4031 and 15.4032, as follows:

Sec. 15.4031. CREDIT UNION COMMISSIONER HEARING. (a) Authorizes the commissioner of the CUC (commissioner) to 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. Requires the hearing to be conducted under

Chapter 2001 (Administrative Procedure), Government Code. Requires a matter made confidential by law to be considered by the commissioner in a closed hearing.

(b) Authorizes a hearing officer to conduct any hearing on behalf of the commissioner.

Sec. 15.4032. EXAMINATION OF RELATED ENTITIES. (a) Authorizes the commissioner, in accordance with rules adopted by the commission, to examine certain entities to the same extent as if the services or activities were performed by a credit union on its own premises.

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

SECTION 4. Amends Section 15.404, Finance Code, as follows:

Sec. 15.404. New heading: ADMINISTRATION AND ENFORCEMENT OF STATUTES AND RULES. Requires the commissioner to administer as well as enforce this chapter and Subtitle D, Title 3, and rules adopted under this chapter and Subtitle D, Title 3.

SECTION 5. Amends Subchapter E, Chapter 15, Finance Code, by adding Sections 15.4041, 15.4042, 15.4043, 15.413, and 15.414, as follows:

Sec. 15.4041. ISSUANCE OF INTERPRETIVE STATEMENTS. (a) Authorizes the commissioner to issue interpretive statements containing matters of general policy to guide the public and credit unions, and to amend or repeal a published interpretive statement by issuing an amended statement or notice of repeal of a statement.

(b) Authorizes an interpretive statement to 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. Requires notice of an amended or withdrawn statement to be disseminated in a substantially similar manner as the affected statement was originally disseminated.

Sec. 15.4042. ISSUANCE OF OPINION. (a) Authorizes the commissioner, in response to a specific request from a member of the public or the credit union industry, to issue an opinion directly or through the deputy commissioner or a Credit Union Department (department) attorney.

(b) Authorizes the commissioner, if the commissioner determines that the opinion is useful for the general guidance of the public or credit unions, to 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. Requires a published opinion to be redacted to preserve the confidentiality of the requesting party unless the requesting party consents to be identified in the published opinion.

(c) Authorizes the commissioner to 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. Authorizes the requesting party to rely on the original opinion under certain circumstances.

Sec. 15.4043. EFFECT OF INTERPRETIVE STATEMENT OR OPINION. Provides that 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 (Administrative Procedure), Government Code, unless adopted by the commission as provided by Chapter 2001 (Administrative Procedure), Government Code. Authorizes an interpretive statement or opinion, which is an administrative construction of this chapter or Subtitle D, Title 3, to 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. 15.413. GIFTS OF MONEY OR PROPERTY. Authorizes the department to accept money or property by gift, bequest, devise, or otherwise for any department purpose authorized by this chapter and Subtitle D, Title 3. Requires a gift, bequest, or devise to be used for the purposes specified by the grantor. Requires CUC to approve acceptance and use of any gift, bequest, or devise under this section.

Sec. 15.414. AUTHORITY TO CONTRACT FOR PROFESSIONAL OR PERSONAL SERVICES. Authorizes the commissioner, for the purpose of carrying out the powers, duties, and responsibilities of the department, to negotiate, contract, or enter into an agreement for professional or personal services. Requires CUC, by rule, to adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts under this section.

SECTION 6. Amends Section 121.002, Finance Code, by adding Subdivisions (9)-(12) to define "membership share," "organization," "unsafe or unsound condition," and "unsafe or unsound practice."

SECTION 7. Amends Section 121.006(a), Finance Code, to provide that if the commissioner, rather than CUC, proposes to revoke, rather than suspend or revoke, a credit union's certificate of incorporation, the credit union is entitled to a hearing conducted by the State Office of Administrative Hearings.

SECTION 8. Amends Section 122.001(c), Finance Code, to include in the list of required elements in an application, a business plan covering three years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union.

SECTION 9. Amends Section 122.003(a), Finance Code, to include the abbreviation "CU" as and alternative to "credit union" as a required portion of a credit union's name.

SECTION 10. Amends Section 122.006(a) - (c), Finance Code, as follows:

(a) Requires the commissioner to approve an application to incorporate a credit union if the commissioner makes certain determinations.

(b) Makes a conforming change.

(c) Authorizes the commissioner to make approval of an application conditional and requires the commissioner to include any conditions in the order approving the application. Makes a conforming change.

SECTION 11. Amends Sections 122.011(a) and (b), Finance Code, as follows:

(a) Specifies that the board of directors of a credit union (board) is authorized to amend the articles of incorporation or bylaws by a two-thirds vote of the directors present at a meeting to which a quorum is present. Makes a nonsubstantive change.

(b) Requires the commissioner, in writing, to approve or disapprove an amendment unless the amendment is a standard bylaw adopted by CUC.

SECTION 12. Amends Section 122.013, Finance Code, by amending Subsection (c) and adding Subsections (e) and (f), as follows:

(c) Includes in the list of reasons for which the commissioner is authorized to suspend or revoke a foreign credit union's authority to do business in this state that the commissioner finds the foreign credit union is in an unsafe or unsound condition and the credit union is engaged in a pattern of unsafe or unsound practices.

(e) Prohibits a foreign credit union from a jurisdiction that allows a credit union to exercise additional powers and authorities not granted in this state from exercising any of those powers or authorities in this state until the foreign credit union requests and obtains permission from the commissioner to do so. Requires the commissioner, if the commissioner determines that there are no safety and soundness concerns, to approve the request and to 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. Requires those powers or authorities, when approved, to be available to all credit unions authorized to engage in business under this subtitle.

(f) Prohibits a foreign credit union from using this section to alter or negate the application to the credit union of any law of this state regarding certain issues.

SECTION 13. Amends Subchapter A, Chapter 122, Finance Code, by adding Section 122.014, as follows:

Section 122.014. UNDERSERVED-AREA CREDIT UNION. (a) Defines "secondary capital account."

(b) Authorizes a credit union to apply to the commissioner for the designation of the credit union as an underserved-area credit union.

(c) Authorizes the commissioner to designate a credit union as an underserved-area credit union only under certain circumstances.

(d) Authorizes certain additional powers and authorities to an underserved-area credit union.

(e) Authorizes CUC to adopt rules for the organization and operation of underserved-area credit unions.

SECTION 14. Amends Section 122.051, Finance Code, by amending Subsection (d) and adding Subsections (e) and (f), as follows:

(d) Defines "good cause." Authorizes the termination or suspension of a member's credit union membership for certain reasons in the bylaws. Authorizes the credit union to also discontinue providing any or all services to a member for good cause without terminating or suspending the person's membership. Provides that 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) Authorizes 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 to each be admitted to membership.

(f) Authorizes a credit union authorized to engage in business under this subtitle to accept as a member any other credit union organized or chartered under the laws of this or another state or of the United States. Provides that those credit union members are not entitled to any voting privileges.

SECTION 15. Amends Section 122.052, Finance Code, by amending Subsections (c) and (d) and adding Subsection (e), as follows:

(c) Includes the use of electronic means and balloting in voting.

(d) Authorizes a member that is an organization to be represented by and vote through a designated representative, rather than one of its members or shareholders, who meets certain qualifications.

(e) Authorizes the credit unions bylaws to establish a minimum age requirement to vote.

SECTION 16. Amends Section 122.053, Finance Code, by amending Subsections (b) and (c) and adding Subsections (e) and (f), as follows:

(b) Requires a board member to hold office until a successor is qualified and elected or appointed.

(c) Includes in the oath or affirmation a director is required to take and subscribe to that the director will exercise the care and diligence reasonable and necessary to administer the affairs of the credit union in a safe and sound manner.

(e) Requires the board to meet at least once a month.

(f) Authorizes a director, if and to the extent provided in the bylaws, to 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. Provides that participation in a meeting in the manner authorized by this subsection constitutes attendance at a meeting.

SECTION 17. Amends Section 122.054, Finance Code, as follows:

Sec. 122.054. QUALIFICATION OF DIRECTORS. (a) Creates this subsection from existing text.

(b) Prohibits the president or an employee of a credit union from serving as director of the credit union unless permitted by its bylaws. Requires the bylaws, if they permit the president or an employee to serve on the board, to require that the persons serve on the board so that the president and employees of the credit union never constitute a majority of the board.

SECTION 18. Amends Section 122.055(a) Finance Code, to include as a reason for the office of a director to become vacant if the director has been absent from more meetings than the total number of absences permitted by CUC rule.

SECTION 19. Amends Section 122.057, Finance Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Requires the board to elect certain officers from its membership at the annual organizational meeting. Authorizes the offices of treasurer and secretary to be held by the same individual.

(c) Requires the executive committee, at each board meeting, to report to the board regarding any meeting held or action taken by the committee between board meetings.

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

SECTION 20. Amends Section 122.059, Finance Code, as follows:

Sec. 122.059. New heading: DELEGATION OF MANAGEMENT AND LOAN APPROVAL AUTHORITY. (a) Prohibits a credit union from certain actions without written approval of the commissioner.

(b) Creates this subsection from existing text.

SECTION 21. Amends Section 122.060, Finance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the board chairman and secretary, not later than the 30th day after the date of the annual organizational meeting of election or appointment of any interim officer, director, or committee member, to file a copy of the election certificate with the credit union department.

(c) Authorizes the commissioner to accept a form prescribed by an insuring organization that contains substantially similar information as the election certificate in lieu of the certificate. Provides that 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.

SECTION 22. Amends Section 122.101(a) Finance Code, to require a credit union to submit a call report to the credit union department quarterly, rather than semiannually, on a certain form. Authorizes the commissioner to require a credit union to file additional financial reports.

SECTION 23. Amends Section 122.103, Finance Code, as follows:

Sec. 122.103. New heading: EQUITY CAPITAL. Sets forth what constitutes a credit union's equity capital.

SECTION 24. Amends Section 122.104, Finance Code, as follows:

Sec. 122.104. New heading: NET WORTH RESERVE ALLOCATIONS. (a) Requires CUC, by rule, to require a credit union to contribute to and maintain net worth reserves necessary to protect the interests of its members. Makes a conforming change.

(b) Makes a conforming change.

SECTION 25. Amends Section 122.105, Finance Code, to read as follows:

Sec. 122.105. MEMBERSHIP SHARE REDUCTION.

SECTION 26. Amends Section 122.152(a), Finance Code, to require the chairman, rather than the president, and secretary of each credit union or federal credit union, after agreement by the directors and approval by the members, if applicable, to execute a certificate of merger or consolidation that includes certain statement and a copy of the resolution or other action by which the board agree to the merger or consolidation plan.

SECTION 27. Amends the heading to Section 122.255, Finance Code, to read as follows:

Sec. 122.255. DETERMINATION OF MISCONDUCT.

SECTION 28. Amends Section 122.256, Finance Code, as follows:

Sec. 122.256. New heading: DETERMINATION LETTER; BOARD MEETING. (a) Authorizes the commissioner, if the commissioner determines from examination of 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, rather than making a certain finding, to notify the credit union in writing of the determination, the required remedies and the required time frame to avert further administrative action. Requires the determination letter to be

delivered in person or sent by registered or certified mail, return receipt requested.
Deletes text referring to each offending person and stating violations.

(b) Authorizes, rather than requires, the commissioner to call a meeting of the credit union's board, if considered necessary. Requires the commissioner to demand the discontinuance of any violation or unsafe or unsound practice. Makes a conforming change.

SECTION 29. Amends Section 122.257(a), Finance Code, to make a conforming change.

SECTION. 30 Amends Sections 122.258(a) and (c), Finance Code, as follows:

(a) Authorizes the commissioner, by order, to remove or prohibit certain persons from office, employment, or further participation in the credit union's affairs if the commissioner by examination or other credible evidence makes certain findings.

(c) Prohibits, after the order becomes final, the removed or prohibited person from holding office in, being employed by, or participating in any credit union's affairs without the commissioner's prior written approval. Makes conforming changes.

SECTION 31. Amends Section 122.260, Finance Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that in a suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of certain activities.

(d) Entitles the attorney general 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.

SECTION 32. Amends section 122.261, Finance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that certain documents and records relating to an order or determination letter issued under this subchapter are confidential and not subject to public disclosure, except in an action authorized by this subtitle or other authority.

(c) Authorizes the commissioner to 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.

SECTION 33. Amends Section 123.003, Finance Code, as follows:

Sec. 123.003. ENLARGEMENT OF POWERS. (a) Creates this subsection from existing text.

(b) Provides that, 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. Provides that a credit union does not have the field of membership powers or authorities of a foreign credit union operating a branch in this state.

SECTION 34. Amends Section 123.106, Finance Code, to authorize a credit union to change its principal place of business or a subsidiary place of business to another location by notifying the commissioner in writing of the new address and the effective date of the change. Deletes text referring to written notice to the commissioner and the specification of this state.

SECTION 35. Amends Subchapter B, Chapter 123, Finance Code, by adding Section 123.111, as follows:

Sec. 123.111. **RIGHT TO ACT TO MITIGATE OR AVOID LOSS.** Provides that 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.

SECTION 36. Amends Subchapter C, Chapter 123, Finance Code, by adding Section 123.211, as follows:

Sec. 123.211. **CERTIFICATES OF INDEBTEDNESS.** Authorizes CUC, by rule, to authorize a credit union to issue certificates of indebtedness that are subordinated to all other claims of credit union creditors.

SECTION 37. Amends Subchapter C, Chapter 123, Finance Code, by adding Section 123.212, as follows:

Sec. 123.212. **CHECK AND MONEY TRANSFER SERVICES.** Authorizes a credit union to sell to a person within its field of membership negotiable checks, money orders, and other similar money transfer instruments or services and to cash checks and money orders for a person within its field of membership for a fee.

SECTION 38. Amends Section 124.201, Finance Code, to authorize a credit union, only if done in accordance with limitations imposed by, rather than subject to, Section 124.202, to make a loan or extend a line of credit to a director, senior management employee, or member of the credit committee or the immediate family of the director, senior management employee, or member of the credit committee.

SECTION 39. Amends Section 124.203, Finance Code, to authorize a credit union to 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. Deletes a reference to Section 124.204.

SECTION 40. Amends Section 124.204, Finance Code, to make a conforming change.

SECTION 41. Amends Section 125.002, Finance Code, as follows:

Sec. 125.002. **SHARE ACCOUNT.** (a) Requires shares and membership shares to be subscribed to and paid for in the manner prescribed by the bylaws. Authorizes a credit union to limit the number of shares that a member is authorized to own, but requires any such limitation to be applied equally to all members.

(b) Authorizes a credit union to require credit union members to subscribe to and make payments on membership shares. Prohibits membership shares from being pledged as security on any loan.

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

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

SECTION 42. Section 125.003, Finance Code, to include an individual development account as a deposit account.

SECTION 43. Amends Subchapter D, Chapter 125, Finance Code, by adding Section 125.309, as follows:

Sec. 125.309. TRUST ACCOUNT WITH LIMITED DOCUMENTATION. (a) Authorizes the trustee, for a trust account that is purported to be opened under a written trust agreement, to provide the credit union with a certificate of trust to evidence the trust relationship. Requires the certificate to be an affidavit of the trustee and sets forth the required content thereof.

(b) Authorizes the credit union to accept and administer the trust account, in accordance with the certificate of trust, without requiring a copy of the trust agreement. Provides that 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) Authorizes the credit union, on the death of the trustee or the last survivor of two or more trustees, and notwithstanding Section 125.308, to pay all or part of the proceeds of the trust account as provided by the certificate of trust. Provides that 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. Requires the credit union, on the death of the trustee or the last survivor of two or more trustees, unless the certificate of trust provides otherwise, to 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. Requires the payment of the proceeds of an account, if there is no certificate of trust, to be made as provided by Section 125.308. Provides that 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. Authorizes the credit union to 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) Provides that 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) Provides that this section does not affect a contractual provision to the contrary that otherwise complies with the laws of this state.

(f) Provides that "actual knowledge" is presumed if a credit union possesses a copy of a trust agreement that is certified as to authenticity by certain persons.

SECTION 44. Amends Section 125.401, Finance Code, as follows:

Sec. 125.401. THIRD-PARTY CLAIM. (a) Defines "credit union," "out-of-state credit union," and "Texas credit union."

(b) Makes a conforming change.

(c) Requires a claim against a depositor, joint account owner, or member of a credit union to 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) Provides that 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) Requires certain persons, to prevent or limit a credit union's compliance with or response to a claim subject to this section, to 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) Provides that 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.

SECTION 45. Amends Section 126.002, Finance Code, by amending Subsections (a) and (b) and adding Subsections (e) and (f), as follows:

(a) Provides that 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) Prohibits confidential information from being disclosed to a member of CUC, and prohibits a member of CUC from being given access to the files or records of the department, except that the commissioner is authorized to disclose to CUC information, files, and records pertinent to a hearing or matter pending before CUC or the commissioner.

(e) Provides that 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. Prohibits the recipient or an officer, director, employee, or agent of the recipient from making the information public and from disclosing 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.

(f) Requires discovery of confidential information from a person subject to this subtitle or Chapter 15 (Credit Union Commission and Department) under subpoena or other legal process to comply with rules adopted under this subtitle, Chapter 15 (Credit Union Commission and Department), and any other applicable law. Authorizes the rules to restrict release of confidential information to the portion directly relevant to the legal dispute at issue and 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.

SECTION 46. Amends Section 126.051, Finance Code, as follows:

Sec. 126.051. EXAMINATIONS. (a) Creates this subsection from existing text.

(b) Authorizes the commissioner, in lieu of an examination under this section, to accept certain reports.

(c) Authorizes the commissioner to accept all or part of a report in lieu of all or part of an examination. Provides that an accepted part of the report has the same validity as an examination under this section.

SECTION 47. Amends Section 126.053, Finance Code, as follows:

Sec. 126.053. WITNESSES; PRODUCTION OF DOCUMENTS. (a) Creates subsection from existing text. Authorizes the commissioner or the commissioner's designee, in an examination conducted under this subchapter to perform certain duties.

(b) Authorizes the commissioner to 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) Requires the court to issue an order under Subsection (b) if the court finds good cause to issue the subpoena or to take testimony.

SECTION 48. Amends Section 126.108, Finance Code, as follows:

Sec. 126.108. CONFIDENTIALITY; DISCLOSURE. Provides that a conservatorship order and certain documents relating to the order are confidential and are authorized to be disclosed only in a related legal proceeding or as otherwise authorized by law. Authorizes the commissioner to 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.

SECTION 49. Amends Section 126.159, Finance Code, as follows:

Sec. 126.159. COST OF CONSERVATORSHIP. (a) Requires the commissioner to 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. Prohibits the commissioner or an employee of the department from receiving compensation in addition to salary for serving as conservator, but authorizes the department to receive reimbursement for the fully allocated personnel cost associated with the service of the commissioner or the employee as conservator.

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

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

(d) Authorizes the commissioner to 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. Authorizes the commissioner, as a condition of release from conservatorship, to require the rehabilitated credit union to pay or develop a reasonable plan for payment of any deferred fees.

SECTION 50. Amends Section 126.160(a), Finance Code, to require 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, to be brought in Travis County regardless of whether the credit union remains under conservatorship.

SECTION 51. Amends Subchapter E, Chapter 126, Finance Code, by adding Section 126.206, as follows:

Sec. 126.206. NATIONAL CREDIT UNION ADMINISTRATION AS LIQUIDATING AGENT. (a) Authorizes the commissioner to 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) Requires, after acceptance of tender of the credit union, the National Credit Union Administration or its successor, as liquidating agent of the credit union, to perform the acts and duties that it considers necessary or desirable and that are permitted or required by federal law or this chapter. Provides that the National Credit Union Administration, as liquidating agent, is not subject to commission control.

(c) Provides that 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 the extent of the payment, to all rights that the owners of the share or deposit accounts have against the credit union.

SECTION 52. Amends Section 126.454, Finance Code, as follows:

Sec. 126.454. CREDIT UNION OPERATIONS BEFORE AND AFTER VOTE. Authorizes the commissioner, immediately after notice under Section 126.453 is mailed, to restrict control or give direction with respect to the continued business of the credit union pending consideration of voluntary liquidation by the members. Prohibits, during that period, any member from withdrawing an aggregate amount in excess of the share insurance covered by the credit union. Prohibits any new extensions of credit from being 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. Authorizes the credit union, if the vote to dissolve and liquidate the credit union is affirmative, to conduct only business incidental to liquidation.

SECTION 53. Amends Section 126.455, Finance Code, to provide that 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.

SECTION 54. Amends Section 126.457, Finance Code, as follows:

Sec. 126.457. APPOINTMENT OF LIQUIDATING AGENT. (a) Creates this subsection from existing text.

(b) Provides that 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.

SECTION 55. Amends Subchapter J, Chapter 126, Finance Code, by adding Section 126.458, as follows:

Sec. 126.458. APPLICATION OF LAW TO CREDIT UNION IN VOLUNTARY LIQUIDATION. Provides that a credit union in the process of voluntary dissolution and liquidation remains subject to this subtitle and Chapter 15 (Credit Union Commission and Department), including provisions for examination by the commissioner, and requires the credit union to furnish reports as required by the commissioner.

SECTION 56. (a) Effective date: September 1, 2003.

(b) Makes application of Section 125.401, Finance Code, as amended by this Act, prospective.