

BILL ANALYSIS

H.B. 2735
By: Flynn
Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Credit Union Department oversees the safety and soundness of state-chartered credit unions in Texas. The Department's mission is to safeguard the public interest, protect the interests of credit union members, and promote public confidence in credit unions. To achieve its mission, the Department approves new charters, charter conversions, mergers, and other structural or operational changes for state-chartered credit unions; examines state-chartered credit unions on a regular basis; and assists the public by helping to resolve complaints against credit unions.

The Department is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Sunset review found that Texas has a continuing need to regulate credit unions and that the Department effectively carries out this regulation as a stand-alone agency. The Sunset review also found opportunities to improve the Department's operations and regulations through greater transparency, expanded enforcement authority, and increased stakeholder input.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Credit Union Commission in SECTION 13, SECTION 14, SECTION 16, and SECTION 17 of this bill.

ANALYSIS

SECTION 1. Amends Section 15.001(a), Finance Code, to update the definition of "Texas trade association".

SECTION 2. Amends Section 15.201(c), Finance Code, to update standard Sunset language requiring impartial appointments to the Commission.

SECTION 3. Amends Section 15.202, Finance Code, by amending (b) and adding (c) to update standard Sunset language prohibiting a person from serving as a Commission member if the person, or their spouse, is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field. Adds standard Sunset language prohibiting a person from serving as a Commission member if the person is required to register as a lobbyist.

SECTION 4. Amends Section 15.2041, Finance Code, to update standard Sunset language requiring members of the Commission to complete training before assuming their duties.

SECTION 5. Amends Sections 15.206(b), (c), and (d), Finance Code, to update standard Sunset language specifying the grounds for removing a Commission member.

SECTION 6. Amends Section 15.210, Finance Code, to update standard Sunset language regarding the Governor's authority to designate the Commission's presiding officer.

SECTION 7. Amends Section 15.212, Finance Code, to update the Credit Union Commission's Sunset review date to 2021 to provide for the standard 12-year review. Adds the Credit Union Department to the Sunset provision.

SECTION 8. Amends Section 15.302(c), Finance Code, to update standard Sunset language prohibiting a person from being appointed as Commissioner if the person, or their spouse, is an

officer, employee, or paid consultant of a Texas trade association in the financial institutions field.

SECTION 9. Amends Section 15.305, Finance Code, to update standard Sunset language prohibiting a person from serving as general counsel if the person is required to register as a lobbyist.

SECTION 10. Amends Section 15.311, Finance Code, to update standard Sunset language prohibiting a person from serving as a high-level agency employee if the person, or their spouse, is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field.

SECTION 11. Amends Subchapter E, Chapter 15, Finance Code, to add Section 15.4024 to add standard Sunset language requiring the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

SECTION 12. Amends Subchapter E, Chapter 15, Finance Code, to add Section 15.4044 to authorize the Department to assess a late fee against a credit union that fails to pay its operating fees on time.

SECTION 13. Amends Sections 15.409(b), (c), (d), (e), (f), and (g), Finance Code, to update standard Sunset language requiring the Department to maintain information on all complaints and notify the parties about policies for and status of complaints. Requires the Commission, by rule, to require state-chartered credit unions to provide information through their websites and newsletters about how consumers may file a complaint with the Department, in addition to posting this information in their offices. Requires the Commission to establish, by rule, other methods for credit unions to make this information available if they do not have a website or newsletter.

SECTION 14. Amends Subchapter E, Chapter 15, Finance Code, to add Section 15.4105 to require state-chartered credit unions to provide an annual report to their members providing basic financial and management information. Requires credit unions to update the report before their annual meeting and make the report available to members through their website, or other method if they do not maintain a website. Requires the Commission to adopt rules governing the content and distribution of the annual report.

SECTION 15. Amends Subchapter E, Chapter 15, Finance Code, to add Section 15.416 to add standard Sunset language requiring the Commission to make effective use of technology in delivery of services and provision of information to the public.

SECTION 16. Amends Chapter 15, Finance Code, to add Subchapter F to require the Commission to adopt rules regarding the purpose, structure, and use of advisory committees, ensuring the committees meet standard structure and operating criteria. Requires the Commission to adopt rules to ensure a periodic evaluation of its advisory committees. Requires advisory committees to comply with the Open Meetings Act.

SECTION 17. Amends Subchapter C, Chapter 122, Finance Code to add Section 122.107 to require state-chartered credit unions to inform their members on a regular basis that they have access to certain documents related to their credit union's finances and management. Requires credit unions to give notice to their members through their website and newsletter. Requires the Commission to adopt rules to implement this section, including rules prescribing an alternative method for credit unions to inform their members if they do not have a website or newsletter.

SECTION 18. Amends the heading to Section 122.257, Finance Code, to clarify that the section on cease and desist orders applies to credit unions.

SECTION 19. Amends Subchapter F, Chapter 122, Finance Code, to add Section 122.2575 to authorize the Commissioner to issue cease and desist orders to immediately stop unchartered entities from holding themselves out as credit unions. Gives entities against whom the Commissioner has issued a cease and desist order the opportunity to request a hearing. Allows

cease and desist orders to become final if the entity has not requested a hearing within 30 days of the order's issuance.

SECTION 20. Provides that changes made by this Act in the qualifications of Commission members do not affect the entitlement of a member serving on the Commission immediately before September 1, 2009, to continue to serve the remainder of the member's term. Specifies that those changes apply only to a member appointed on or after September 1, 2009. Specifies that this Act does not prohibit a person who is a member of the Credit Union Commission immediately before September 1, 2009 from being reappointed if the person is still qualified.

SECTION 21. Establishes the effective date of the act as September 1, 2009.

EFFECTIVE DATE

September 1, 2009