

By: Flynn

H.B. No. 3200

A BILL TO BE ENTITLED

AN ACT

relating to the administration, operation, and regulation of credit unions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.303, Finance Code, is amended to read as follows:

Sec. 15.303. DEPUTY COMMISSIONER. (a) The [~~Subject to the commissioner'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.

(b) ~~[(c)]~~ The deputy commissioner is an employee of the department [~~commission~~] and is subject to the commissioner's [~~commission's~~] orders and directions.

(c) ~~[(d)]~~ During the commissioner's absence or inability to act, the deputy commissioner shall perform the commissioner's duties.

(d) The commissioner may appoint assistant deputy commissioners, whose powers shall be limited to the powers, duties, or functions set forth in the appointment.

SECTION 2. Section 15.305, Finance Code, is amended to read as follows:

1 Sec. 15.305. GENERAL COUNSEL. A person who is required to
2 register as a lobbyist under Chapter 305, Government Code, because
3 of the person's activities for compensation on behalf of a
4 profession related to the operation of the commission, may not
5 serve as general counsel to the commission or the department.

6 SECTION 3. Section 15.308, Finance Code, is amended to read
7 as follows:

8 Sec. 15.308. COMPENSATION OF EMPLOYEES. (a) The
9 commission shall set the compensation of the commissioner [~~and~~
10 ~~deputy commissioner~~]. The compensation shall be paid according to
11 the General Appropriations Act.

12 (b) Except for the commissioner [~~and deputy commissioner~~],
13 Chapter 654, Government Code, applies to any department position.

14 SECTION 4. Section 15.402(c), Finance Code, is amended to
15 read as follows:

16 (c) The commission by rule shall establish reasonable and
17 necessary fees to recover the costs of maintaining and operating
18 the department and enforcing [~~for the administration of~~] this
19 chapter and Subtitle D, Title 3.

20 SECTION 5. Section 15.408, Finance Code, is amended to read
21 as follows:

22 Sec. 15.408. COLLECTION OF MONEY. The commissioner shall
23 collect all fees, charges, and revenues required to be paid by a
24 credit union under Section 15.402(c). All money paid to the
25 department under this chapter and Subtitle D, Title 3, is subject to
26 Subchapter F, Chapter 404, Government Code. A credit union is not
27 entitled to a refund of any unused portion of the fee, charge, or

1 revenue.

2 SECTION 6. Section 15.410(a), Finance Code, is amended to
3 read as follows:

4 (a) The commission shall adopt, and the commissioner shall
5 enforce, reasonable rules requiring a credit union, except a
6 corporate central credit union, to provide share and deposit
7 insurance protection for credit union members and depositors.

8 SECTION 7. Subchapter E, Chapter 15, Finance Code, is
9 amended by adding Section 15.4111 to read as follows:

10 Sec. 15.4111. REGULATORY COORDINATION. (a) To ensure
11 effective coordination among and between the department and other
12 state and federal agencies, the commissioner may enter into
13 cooperative, coordinating, or information-sharing agreements with
14 those agencies.

15 (b) To further the rapid restoration of credit union
16 services after an emergency, the commissioner may enter into
17 cooperative, coordinating, or information-sharing agreements with
18 credit unions or credit union trade associations or other
19 organizations affiliated with or representing one or more credit
20 unions.

21 (c) Disclosure of information by or to the department under
22 this section does not constitute a waiver of or otherwise affect or
23 diminish any legal privilege to which the information is otherwise
24 subject, even if the disclosure is not governed by a
25 confidentiality agreement. Notwithstanding other applicable law,
26 a party to an agreement described by this section shall execute,
27 honor, and comply with requirements to maintain confidentiality and

1 oppose disclosure of information obtained from the department, and
2 shall treat as confidential any information obtained from the
3 department that is entitled to confidential treatment under
4 applicable state or federal law.

5 SECTION 8. Section 121.002, Finance Code, is amended by
6 amending Subdivision (2) and adding Subdivision (10-a) to read as
7 follows:

8 (2) "Credit union," unless the context relates to a
9 federal credit union, means a voluntary, cooperative, nonprofit
10 financial institution authorized to do business in this state under
11 this subtitle for purposes of:

12 (A) encouraging thrift among its members;

13 (B) creating a source of credit at fair and
14 reasonable interest rates;

15 (C) developing and providing to its members
16 alternative methods of financing their purchases at reasonable
17 costs;

18 (D) providing an opportunity for its members to
19 use, protect, or ~~and~~ control their money or property to improve or
20 maintain their economic or ~~and~~ social condition; and

21 (E) conducting any other business, engaging in
22 any other activity, or providing any other service that may benefit
23 its members or otherwise promote its members' economic well-being.

24 (10-a) "Share insuring organization" means a
25 cooperative share insurance fund, guaranty corporation, or credit
26 union that provides aid and financial assistance to credit unions
27 that are in the process of liquidation or are incurring financial

1 difficulty to protect or guarantee against loss the share and
2 deposit accounts in the credit union up to a specified level for
3 each account.

4 SECTION 9. Chapter 121, Finance Code, is amended by adding
5 Section 121.007 to read as follows:

6 Sec. 121.007. COST OF SUPERVISION AND REGULATION. (a) Each
7 credit union shall promptly pay the fees, charges, and revenues
8 established by the commission under Section 15.402 to recover:

9 (1) the cost of examination;

10 (2) the credit union's equitable or proportionate
11 share of the costs of maintenance and operation of the department;
12 and

13 (3) the costs of enforcement of this subtitle and
14 Chapter 15.

15 (b) The commission shall adjust those fees, charges, and
16 revenues so that the amount collected during the fiscal year equals
17 the total amount appropriated, including amounts appropriated for
18 both direct and indirect costs for that fiscal year.

19 SECTION 10. Subchapter A, Chapter 122, Finance Code, is
20 amended by adding Section 122.0011 to read as follows:

21 Sec. 122.0011. EXPENSE FUND. (a) Before a credit union
22 organized under this subtitle may be authorized to do business, the
23 credit union shall create a fund from which operating expenses may
24 be paid until earnings, together with net worth allocations and
25 dividends that may be declared and credited, are sufficient to
26 cover operating expenses.

27 (b) Except as provided by this section, the amounts

1 contributed to the expense fund are not a liability of the credit
2 union.

3 (c) The credit union may pay dividends to contributors to
4 the expense fund on amounts contributed to the same extent the
5 credit union pays dividends to a member. Any amount contributed to
6 the expense fund is considered a deposit of the credit union, which
7 the credit union's board may reduce pro rata as operating expenses
8 are paid from the fund.

9 (d) With the prior written consent of the commissioner,
10 contributions to the expense fund may be repaid to the
11 contributors, in accordance with this subsection, from the net
12 earnings of the credit union after the credit union has attained a
13 net worth ratio greater than six percent. At the close of each
14 dividend period the board may pay or credit the accounts of the
15 contributors an amount that is not more than one percent of the net
16 earnings of the credit union during that period until the
17 contributors have been repaid in full.

18 (e) If the credit union is liquidated before the
19 contributions to the expense fund have been fully repaid, any
20 portion of the contributions not needed for the payment of the
21 expenses of liquidation and for the payment of depositors in full
22 shall be paid to the contributors in proportion to their
23 contributions until they have been repaid in full.

24 (f) The commission may adopt reasonable rules necessary to
25 administer this section and to accomplish the purposes of this
26 subchapter.

27 SECTION 11. Section 122.007(b), Finance Code, is amended to

1 read as follows:

2 (b) The commissioner's order may be appealed to the
3 commission not later than the 30th [~~60th~~] day after the date of the
4 order.

5 SECTION 12. Subchapter A, Chapter 122, Finance Code, is
6 amended by adding Section 122.0121 to read as follows:

7 Sec. 122.0121. CONDUCTING BUSINESS BY MAIL OR ELECTRONIC
8 COMMUNICATION. With the prior approval of the commissioner, a
9 credit union may conduct all or a portion of its business solely by
10 mail or through electronic communication without having a physical
11 location for the members to transact business with the credit
12 union. A credit union conducting business under this section shall
13 maintain its principal place of business in this state.

14 SECTION 13. Sections 122.013(a) and (c), Finance Code, are
15 amended to read as follows:

16 (a) A foreign credit union may do business in this state if
17 it is organized in a state or country that allows any [~~a~~] credit
18 union organized under this subtitle to do business in that state or
19 country.

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

23 (1) has failed to conduct its business in this state in
24 a manner consistent with the laws of this state [~~violated a rule~~
25 ~~adopted under this subtitle~~];

26 (2) is in an unsafe or unsound condition;

27 (3) refuses to comply with an order of the

1 commissioner [~~is engaged in a pattern of unsafe or unsound~~
2 ~~practices~~]; [~~or~~]

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

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

7 SECTION 14. Subchapter A, Chapter 122, Finance Code, is
8 amended by adding Section 122.0131 to read as follows:

9 Sec. 122.0131. TEMPORARY FOREIGN CREDIT UNION OFFICE. If a
10 state contiguous to this state experiences an emergency, on a
11 request by that state's credit union regulatory agency, the
12 commissioner may authorize one or more credit unions located in
13 that state to open temporary offices in this state to more promptly
14 restore credit union services to their members. The commissioner
15 shall issue an order permitting the temporary office and specifying
16 the period of time the office may remain open. On a finding that the
17 conditions requiring the temporary office continue to exist, the
18 commissioner may extend the period the office may remain open. A
19 credit union may convert a temporary office to a permanent location
20 if it qualifies to do business in this state as a foreign credit
21 union under Section 122.013 and commission rules.

22 SECTION 15. Subchapter A, Chapter 122, Finance Code, is
23 amended by adding Section 122.0141 to read as follows:

24 Sec. 122.0141. DEPOSITORY FOR GOVERNMENTAL ENTITIES.
25 Notwithstanding the requirements of Chapter 105 or 116, Local
26 Government Code, and Chapter 45, Education Code, a credit union
27 that has been designated by the commissioner as an underserved-area

1 credit union may act as an agent or depository of and accept for
2 deposit the money of a political subdivision of this state,
3 including a municipality, county, school district, or other taxing
4 authority.

5 SECTION 16. Section 122.051, Finance Code, is amended by
6 amending Subsections (a) and (d) and adding Subsection (d-1) to
7 read as follows:

8 (a) A person may be a member of a credit union only if the
9 person is an incorporator or other person who:

10 (1) shares a definable community of interest, in
11 accordance with the credit union's articles of incorporation or
12 bylaws, including a community of interest based on occupation,
13 association, or residence;

14 (2) has done one or both of the following:

15 (A) paid an entrance fee or membership fee, or
16 both, as required by the bylaws; or

17 (B) met [~~(3) has complied with~~] the minimum
18 share or deposit account [~~, including membership share,~~]
19 requirements or complied with other qualifying [~~account~~]
20 requirements that [~~established by~~] the board may establish; and

21 (3) [~~(4)~~] has complied with any other requirement of
22 the articles of incorporation and bylaws.

23 (d) [~~In this subsection, "good cause" includes the act of~~
24 ~~physically or verbally abusing a credit union member or employee.~~]

25 A person's membership in a credit union may be terminated, [or]
26 suspended, or restricted [~~for good cause or for not maintaining~~
27 ~~membership requirements,~~] under the conditions and in accordance

1 with the procedures provided in the bylaws for having done any of
2 the following:

3 (1) violated the membership agreement or any policy
4 adopted by the board;

5 (2) been physically or verbally abusive to credit
6 union members or staff;

7 (3) caused a financial loss to the credit union;

8 (4) been involved in suspicious or unusual account
9 activity; or

10 (5) committed any other act or engaged in any activity
11 proscribed by rules adopted by the commission.

12 (d-1) [A credit union may also discontinue providing any or
13 all services to a member for good cause without terminating or
14 suspending the person's membership.] Termination or suspension of
15 a person's membership in the credit union or discontinuing services
16 does not relieve the person from any outstanding obligations owed
17 to the credit union.

18 SECTION 17. Section 122.053, Finance Code, is amended by
19 amending Subsections (d), (e), and (f) and adding Subsections (g),
20 (h), and (i) to read as follows:

21 (d) The bylaws shall prescribe the directors' terms and the
22 board's duties. A term may not exceed three years. If the terms are
23 longer than one year, the terms shall be staggered so that an
24 approximately equal number expire each year. A director may serve
25 more than one term.

26 (e) The board or its executive committee shall meet at least
27 once each month. The board may permit the executive committee to

1 act on its behalf in all except one meeting per calendar quarter.
2 The board shall have no fewer than four regularly scheduled
3 meetings each year.

4 (f) To [~~If and to~~] the extent provided in the bylaws, a
5 director may participate in and act at any meeting of the board by
6 means of electronic communications equipment through which all
7 persons participating in the meeting may simultaneously hear each
8 other and [~~can~~] communicate during the meeting [~~with each other~~].
9 Participation in a meeting in the manner authorized by this
10 subsection constitutes attendance at a meeting. However, each
11 director must physically attend at least one meeting each calendar
12 year.

13 (g) A director of a credit union who is present at a meeting
14 of its board of directors at which action on any matter is taken is
15 presumed to have assented to the action taken unless the minutes of
16 the meeting specifically indicate otherwise.

17 (h) The directors, officers, and employees shall hold in
18 confidence all matters presented to the board for deliberation and
19 determination, except if disclosure of a matter is permitted by
20 applicable law.

21 (i) The board shall adopt a code of ethics for all
22 directors, officers, and honorary or advisory directors. The code
23 of ethics must include standards that are reasonably necessary to
24 promote:

25 (1) honest and ethical conduct, including the ethical
26 handling of actual and apparent conflicts of interest between
27 personal and professional relationships; and

1 (2) compliance with applicable laws.

2 SECTION 18. Subchapter B, Chapter 122, Finance Code, is
3 amended by adding Section 122.0531 to read as follows:

4 Sec. 122.0531. ACTION BY BOARD OF DIRECTORS WITHOUT
5 MEETING. (a) Unless the articles of incorporation or bylaws
6 provide otherwise, action required or permitted to be taken under
7 this subtitle at a board meeting may be taken without a meeting if
8 the action is consented to by all members of the board. The action
9 must be evidenced by one or more written consents describing the
10 action taken, signed by each director, and included in the minutes
11 or filed with the corporate records reflecting the action taken.

12 (b) Action taken under this section is effective when the
13 last director signs the consent, unless the consent specifies a
14 different effective date.

15 (c) A written consent signed under this section has the
16 effect of a meeting vote and may be described as such in any
17 document.

18 SECTION 19. Sections 122.056(a) and (c), Finance Code, are
19 amended to read as follows:

20 (a) The board may appoint [~~not more than three~~] individuals
21 to serve at the board's pleasure as honorary or advisory directors
22 to advise and consult with the board and otherwise aid the board in
23 carrying out the board's duties and responsibilities.

24 (c) An honorary or advisory director may participate in any
25 board deliberation. An honorary or advisory director must hold in
26 confidence all matters presented to the board.

27 SECTION 20. Section 122.061, Finance Code, is amended by

1 amending Subsection (a) and adding Subsection (c) to read as
2 follows:

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

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

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

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

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

21 (c) In this section, "member of a person's immediate family"
22 means a person's parents, spouse, children, or siblings.

23 SECTION 21. Subchapter B, Chapter 122, Finance Code, is
24 amended by adding Sections 122.065 and 122.066 to read as follows:

25 Sec. 122.065. FIDUCIARY RELATIONSHIP. Directors and
26 officers are considered to have a fiduciary relationship with the
27 credit union, as an entity, and must discharge the duties of their

1 respective positions:

2 (1) in good faith;

3 (2) with the care an ordinarily prudent person in a
4 like position would exercise under similar circumstances; and

5 (3) in a manner the director or officer believes to be
6 in the best interests of the credit union.

7 Sec. 122.066. RELIANCE BY DIRECTORS OR OFFICERS. (a)

8 Unless the director or officer has knowledge that makes reliance
9 unwarranted, a director or officer, in discharging the director's
10 or officer's duties to the credit union, may rely on information,
11 opinions, reports, or statements, including financial statements
12 and other financial data, prepared or presented by:

13 (1) an officer or employee of the credit union whom the
14 director or officer believes in good faith to be reliable and
15 competent in the matters presented;

16 (2) legal counsel, a certified public accountant, or
17 another person regarding a matter the director or officer believes
18 in good faith is within the person's professional or expert
19 competence; or

20 (3) in the case of reliance by a director, a committee
21 of the board of directors of which the director is not a member if
22 the director believes in good faith that the committee merits
23 confidence.

24 (b) Information, opinions, reports, or statements on which
25 a director or officer may rely under this section may be written or
26 oral or formal or informal.

27 SECTION 22. Subchapter D, Chapter 122, Finance Code, is

1 amended by adding Section 122.1511 to read as follows:

2 Sec. 122.1511. AUTHORITY TO PURCHASE ASSETS. (a) A credit
3 union, with the prior written approval of the commissioner, may
4 purchase all or substantially all of the assets of another entity.

5 (b) Except as otherwise expressly provided by another
6 statute, the purchase of all or part of the assets of the selling
7 entity does not make the purchasing credit union responsible for
8 any liability or obligation of the selling entity not expressly
9 assumed by the purchasing credit union.

10 SECTION 23. Subchapter E, Chapter 122, Finance Code, is
11 amended by adding Sections 122.204 and 122.205 to read as follows:

12 Sec. 122.204. CONVERSION OF STATE CREDIT UNION TO A MUTUAL
13 SAVINGS INSTITUTION. A credit union organized under the laws of
14 this state may convert to a mutual savings institution under the
15 laws of this state or federal law by complying with:

16 (1) the requirements of the jurisdiction under which
17 the converting credit union is organized; and

18 (2) any applicable commission rule.

19 Sec. 122.205. CONVERSION OF MUTUAL SAVINGS INSTITUTION TO
20 STATE CREDIT UNION. (a) A mutual savings institution may convert
21 to a state credit union by complying with the laws of the original
22 chartered authority and on the approval of the commissioner.

23 (b) Application for approval of the conversion to a state
24 credit union must be submitted to the department in the form
25 prescribed by the commissioner.

26 (c) The commissioner may cause an examination to be made of
27 any converting mutual savings institution. The converting mutual

1 savings institution shall pay all fees and charges prescribed by
2 the commission.

3 SECTION 24. Section 122.257(a), Finance Code, is amended to
4 read as follows:

5 (a) If the commissioner finds that a credit union or any
6 director, officer, employee, agent, or other person participating
7 in the conduct of the affairs of the credit union has engaged, is
8 engaging, or is about to engage in an act, practice, or transaction
9 meeting any of the criteria [~~makes a finding~~] listed in Section
10 122.255, the commissioner may issue [~~and determines that~~] an order
11 directing the credit union or any director, officer, employee,
12 agent, or other person participating in the conduct of the affairs
13 of the credit union to cease and desist from engaging [~~is necessary~~
14 ~~and~~] in the act, practice, or transaction or from doing any act in
15 furtherance [~~best interest~~] of the act, practice, or transaction
16 [~~credit union involved and its depositors, creditors, and members,~~
17 ~~the commissioner may serve on the credit union, its board, and each~~
18 ~~offending person an order to cease and desist from a violation or~~
19 ~~practice specified in the order] and to take appropriate
20 affirmative action within a reasonable period, as prescribed by
21 [~~that~~] the commissioner, [~~considers necessary~~] to correct the
22 conditions [~~a condition~~] resulting from the act, [~~a violation or~~
23 ~~unsafe or unsound~~] practice, or transaction [~~found~~].~~

24 SECTION 25. Section 123.003, Finance Code, is amended to
25 read as follows:

26 Sec. 123.003. ENLARGEMENT OF POWERS. (a) Notwithstanding
27 any other law, and subject to Subsection (b), a [A] credit union

1 may engage in any activity [~~in which it could engage~~], exercise any
2 power [~~it could exercise~~], or make any loan or investment
3 permissible for [~~it could make, if it were operating as~~] a [~~federal~~]
4 credit union organized under federal law or the law of another
5 state.

6 (a-1) A credit union that intends to engage in an activity,
7 exercise a power, or make a loan or investment authorized under
8 Subsection (a) shall submit written notice to the commissioner
9 describing the activity, power, loan, or investment and the
10 specific federal or state authority on which the credit union is
11 relying. The credit union may proceed as described in the notice on
12 or after the 30th day following submission of the notice, unless the
13 commissioner extends the period in accordance with this subsection,
14 or prohibits the activity, power, loan, or investment.

15 (a-2) The commissioner may prohibit the credit union from
16 engaging in an activity, exercising a power, or making a loan or
17 investment as described in the notice under Subsection (a-1) only
18 if the commissioner finds that:

19 (1) specific authority does not exist; or
20 (2) the engagement, exercise, or making would
21 adversely affect the safety and soundness of the credit union.

22 (a-3) The commissioner may extend the 30-day period if the
23 commissioner determines that the credit union's notice under
24 Subsection (a-1) raises issues requiring additional information or
25 additional time for analysis. If the 30-day period is extended, the
26 credit union may not proceed without the commissioner's prior
27 written approval. The commissioner must issue either an approval

1 or prohibition letter not later than the 60th day after the date the
2 notice is submitted.

3 (b) The commission may adopt rules relating to the exercise
4 of [~~Notwithstanding any other law, and in addition to the powers and~~
5 ~~authorities conferred under Subsection (a), a credit union has the]~~
6 powers or authorities granted under this section [~~of a foreign~~
7 ~~credit union operating a branch in this state if the commissioner~~
8 ~~finds that exercise of those powers or authorities is convenient~~
9 ~~for and affords an advantage to the credit union's members and~~
10 ~~maintains the fairness of competition and parity between the credit~~
11 ~~union and any foreign credit union. A credit union does not have~~
12 ~~the field of membership powers or authorities of a foreign credit~~
13 ~~union operating a branch in this state)].~~

14 SECTION 26. Section 123.104, Finance Code, is amended to
15 read as follows:

16 Sec. 123.104. MEMBERSHIP IN OTHER ORGANIZATION; OPERATION
17 AS CORPORATE CENTRAL CREDIT UNION. A credit union may:

18 (1) be a member of:
19 (A) another credit union organized under this
20 subtitle or other law; and

21 (B) another organization approved by the board;
22 or

23 (2) operate, with the commissioner's approval, as a
24 corporate central credit union.

25 SECTION 27. Subchapter B, Chapter 123, Finance Code, is
26 amended by adding Section 123.1041 to read as follows:

27 Sec. 123.1041. CORPORATE CENTRAL CREDIT UNION. (a) Any

1 number of credit unions may apply to organize a corporate central
2 credit union to engage exclusively in corporate financial and
3 operational activities that are part of or incidental to the credit
4 union business.

5 (b) Membership in the corporate central credit union
6 consists of and is limited to:

7 (1) credit unions incorporated under this subtitle,
8 the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.), or
9 any other law applicable to credit unions; and

10 (2) organizations owned by credit unions.

11 (c) A corporate central credit union has the powers and
12 privileges of any other credit union incorporated under this
13 subtitle and, subject to rules adopted by the commission, may have
14 the power to:

15 (1) provide access for its members on a mutual basis to
16 financial systems and the services and products of financial
17 institutions;

18 (2) provide its members with research and consulting
19 services concerning financial matters, institutions, and products;

20 (3) provide financial system support services and
21 facilities;

22 (4) establish and execute financial programs to assist
23 its members in meeting the members' needs;

24 (5) provide safekeeping or trustee services to or on
25 behalf of its members; and

26 (6) issue uninsured share investments or classes of
27 share investments in amounts in excess of \$100,000 with terms and

1 conditions that may vary from other shares authorized by this
2 subtitle as approved by the department.

3 SECTION 28. Section 123.208(c), Finance Code, is amended to
4 read as follows:

5 (c) The commissioner may restrict or prohibit the payment of
6 a dividend:

7 (1) if the commissioner issues a cease and desist
8 order under Section 122.257; or

9 (2) as necessary to protect the member's interests and
10 preserve the solvency of the credit union as authorized by
11 commission rule.

12 SECTION 29. Subchapter A, Chapter 124, Finance Code, is
13 amended by adding Sections 124.006 and 124.007 to read as follows:

14 Sec. 124.006. LIMITATION ON EQUITY AGREEMENTS AND
15 PROFIT-SHARING ARRANGEMENTS. A credit union may not grant a loan if
16 any additional income received by the credit union is tied to the
17 profit or sale of the business or endeavor for which the loan is
18 made. This prohibition does not apply to a loan made to an agency,
19 association, or company that is described by Section 124.352(a).

20 Sec. 124.007. ADVANCES PAID BY CREDIT UNION. (a) A credit
21 union may pay taxes, assessments, insurance premiums, and similar
22 charges for the protection of the credit union's interest in
23 property that secures a loan of the credit union.

24 (b) A payment under Subsection (a) is an advance, and the
25 credit union may:

26 (1) carry the payment on the credit union's books as an
27 asset of the credit union for which the credit union may charge

1 interest; or

2 (2) add the payment to the unpaid balance of the loan
3 to which it applies as of the first day of the month in which the
4 payment is made.

5 (c) With the exception of a loan secured by an encumbrance
6 against the equity in a homestead property, a payment under
7 Subsection (a) is a lien against the property that secures the loan
8 for which it is made. For an extension of credit as defined and
9 authorized by Section 50(a)(6), Article XVI, Texas Constitution,
10 additional terms and conditions apply as provided by that section
11 for the payment to become a lien against the property.

12 SECTION 30. Section 124.051, Finance Code, is amended to
13 read as follows:

14 Sec. 124.051. OPEN-END CREDIT PLAN. (a) A credit union
15 may enter into a written agreement with a member under which:

16 (1) the member is allowed to borrow money from time to
17 time; and

18 (2) interest may from time to time be computed on the
19 unpaid balance.

20 (b) If, at any time, application of the contract interest
21 rate to the outstanding unpaid balance results in a charge of less
22 than \$1, the lawful interest charge shall be \$1.

23 SECTION 31. Section 124.151, Finance Code, is amended to
24 read as follows:

25 Sec. 124.151. PREPAYMENT PRIVILEGE. (a) A loan may be
26 prepaid in whole or in part, without penalty, during regular
27 working hours on any day on which the credit union is open for

1 business, except as provided by Subsection (b) or Section 124.152.

2 (b) A prepayment penalty may be charged on a business loan.

3 (c) In this section, "business loan" means a loan other than
4 a loan made primarily for personal, family, or household purposes.

5 SECTION 32. Section 124.351(a), Finance Code, is amended to
6 read as follows:

7 (a) A credit union may invest money not used in loans to
8 members in:

9 (1) capital shares, obligations, participation
10 certificates, or common or preferred stock of an agency,
11 association, or company, subject to Section 124.352(a);

12 (2) loans to a national or state credit union
13 association or corporation of which the credit union is a member;

14 (3) obligations, bonds, notes, or other evidences of
15 indebtedness of a state or political subdivision of a state;

16 (4) certificates of deposit or other accounts issued
17 by a state or national bank, savings and loan association, savings
18 association, or mutual savings bank;

19 (5) securities, obligations, participations, or other
20 instruments of or issued by the United States, or in a trust
21 established for investing directly or collectively in those
22 investments;

23 (6) loans to, shares of, or deposits in another credit
24 union, a corporate central credit union, a corporate credit union,
25 a central liquidity facility established under state or federal
26 law, a trust, or an organization established for lending directly
27 or collectively to credit unions;

1 (7) securities, obligations, participations, or other
2 instruments fully or partially guaranteed as to principal,
3 interest, or both by the United States, or in a trust established
4 for investing directly or collectively in those investments;

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

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

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

12 SECTION 33. Subchapter H, Chapter 124, Finance Code, is
13 amended by adding Section 124.353 to read as follows:

14 Sec. 124.353. PASSIVE INVESTMENT IN MINERAL INTERESTS. (a)
15 A credit union may hold a nonworking mineral or royalty interest if:

16 (1) the credit union acquires the interest incidental
17 to a lawful investment or to avoid or minimize a loss on a loan or
18 investment previously made in good faith;

19 (2) the interest is not subject to expenses of
20 exploration, development, production, operation, maintenance, or
21 abandonment, or any other expense associated with extracting and
22 marketing the minerals subject to the rights or interest;

23 (3) the interest is reasonably valued on the books of
24 the credit union for not more than a nominal amount, and the
25 aggregate amount of earnings from those interests is separately
26 disclosed in the financial statements of the credit union;

27 (4) the credit union does not make any new investments

1 relating to the rights or interests without the approval of the
2 commissioner; and

3 (5) the commissioner determines that the possession of
4 the rights or interests is not inconsistent with the safety and
5 soundness of the credit union.

6 (b) The commissioner may order a credit union that holds a
7 nonworking mineral or royalty interest to divest the interest at
8 any time if the commissioner determines that continued ownership of
9 the interest is detrimental to the credit union.

10 (c) Subject to compliance with this section, nonworking
11 mineral or royalty interests are not considered to be real property
12 for purposes of this subtitle.

13 SECTION 34. Section 125.402, Finance Code, is amended to
14 read as follows:

15 Sec. 125.402. DISCLOSURE OF RECORDS OF MEMBER;
16 CONFIDENTIALITY. (a) The directors, officers, committee members,
17 and employees and any honorary or advisory directors of a credit
18 union shall hold in confidence all information regarding
19 transactions of the credit union, including information concerning
20 transactions with the credit union's members and the members'
21 personal affairs, except to the extent necessary in connection with
22 making, extending, or collecting a loan or extension of credit, or
23 as otherwise authorized by commission rules adopted under
24 Subsection (d) or other applicable law.

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

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

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

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

8 (A) a subpoena or other court order; or

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

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

15 (d) [~~(c)~~] The commission may adopt reasonable rules
16 relating to the:

17 (1) permissible disclosure of nonpublic personal
18 information about [~~confidentiality of~~] the accounts of credit union
19 members; and

20 (2) duties of the credit union to maintain [~~that~~]
21 confidentiality.

22 SECTION 35. Section 126.002(c), Finance Code, is amended to
23 read as follows:

24 (c) The commissioner may disclose the information described
25 by Subsection (a) to a law enforcement agency, a share insuring
26 organization, or another department, agency, or instrumentality of
27 this state, another state, or the United States if the commissioner

1 determines that disclosure is necessary or proper to enforce the
2 laws of this state applicable to credit unions.

3 SECTION 36. Section 126.051(a), Finance Code, is amended to
4 read as follows:

5 (a) The department, through examiners it appoints and in
6 accordance with commission rules, shall [~~periodically~~]
7 condition and affairs [books and records] of each credit union, and
8 may examine the condition and affairs of any subsidiary wholly
9 owned or controlled by a credit union, at least once during each
10 24-month period. The department may examine a credit union or its
11 subsidiaries more frequently if the commissioner considers it
12 necessary or advisable to safeguard the interest of depositors,
13 creditors, and members or to efficiently enforce applicable law.

14 SECTION 37. This Act takes effect September 1, 2009.