

By: Averitt

S.B. No. 1647

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. Subsection (c), Section 15.402, Finance Code, is  
15 amended to 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. Subsection (a), Section 15.410, Finance Code, is  
3 amended to 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.

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.

7 (a) Each credit union shall promptly pay the fees, charges, and  
8 revenues established by the commission under Section 15.402 to  
9 recover:

10 (1) the cost of examination;

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

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

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

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

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

1       (b) Except as provided by this section, the amounts  
2 contributed to the expense fund are not a liability of the credit  
3 union.

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

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

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

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

1 SECTION 11. Subsection (b), Section 122.007, Finance Code,  
2 is amended to read as follows:

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

6 SECTION 12. Subsections (a) and (c), Section 122.013,  
7 Finance Code, are amended to read as follows:

8 (a) A foreign credit union may do business in this state if  
9 it is organized in a state or country that allows any [~~a~~] credit  
10 union organized under this subtitle to do business in that state or  
11 country.

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

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

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

19 (3) refuses to comply with an order of the  
20 commissioner [~~is engaged in a pattern of unsafe or unsound~~  
21 ~~practices~~]; [~~or~~]

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

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

26 SECTION 13. Subchapter A, Chapter 122, Finance Code, is  
27 amended by adding Section 122.0131 to read as follows:

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

14       SECTION 14. Section 122.051, Finance Code, is amended by  
15 amending Subsections (a) and (d) and adding Subsection (d-1) to  
16 read as follows:

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

19               (1) shares a definable community of interest, in  
20 accordance with the credit union's articles of incorporation or  
21 bylaws, including a community of interest based on occupation,  
22 association, or residence;

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

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

26                       (B) met [~~(3) has complied with~~] the minimum  
27 share or deposit account [~~, including membership share,~~]



1 requirements or complied with other qualifying [~~account~~]  
2 requirements that [~~established by~~] the board may establish; and

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

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

7 A person's membership in a credit union may be terminated, [~~or~~]  
8 suspended, or restricted [~~for good cause or for not maintaining~~  
9 ~~membership requirements,~~] under the conditions and in accordance  
10 with the procedures provided in the bylaws for having done any of  
11 the following:

12 (1) violated the membership agreement or any policy  
13 adopted by the board;

14 (2) been physically or verbally abusive to credit  
15 union members or staff;

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

17 (4) been involved in suspicious or unusual account  
18 activity; or

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

21 (d-1) [~~A credit union may also discontinue providing any or~~  
22 ~~all services to a member for good cause without terminating or~~  
23 ~~suspending the person's membership.~~]

24 Termination or suspension of  
25 a person's membership in the credit union or discontinuing services  
26 does not relieve the person from any outstanding obligations owed  
27 to the credit union.

SECTION 15. Section 122.053, Finance Code, is amended by

1 amending Subsections (d), (e), and (f) and adding Subsections (g),  
2 (h), and (i) to read as follows:

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

8 (e) The board or its executive committee shall meet at least  
9 once each month. The board may permit the executive committee to  
10 act on its behalf in all except one meeting per calendar quarter.  
11 The board shall have no fewer than four regularly scheduled  
12 meetings each year.

13 (f) To [~~If and to~~] the extent provided in the bylaws, a  
14 director may participate in and act at any meeting of the board by  
15 means of electronic communications equipment through which all  
16 persons participating in the meeting may simultaneously hear each  
17 other and [~~can~~] communicate during the meeting [~~with each other~~].  
18 Participation in a meeting in the manner authorized by this  
19 subsection constitutes attendance at a meeting. However, each  
20 director must physically attend at least one meeting each calendar  
21 year.

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

26 (h) The directors, officers, and employees shall hold in  
27 confidence all matters presented to the board for deliberation and

1 determination, except if disclosure of a matter is permitted by  
2 applicable law.

3 (i) The board shall adopt a code of ethics for all  
4 directors, officers, and honorary or advisory directors. The code  
5 of ethics must include standards that are reasonably necessary to  
6 promote:

7 (1) honest and ethical conduct, including the ethical  
8 handling of actual and apparent conflicts of interest between  
9 personal and professional relationships; and

10 (2) compliance with applicable laws.

11 SECTION 16. Subchapter B, Chapter 122, Finance Code, is  
12 amended by adding Section 122.0531 to read as follows:

13 Sec. 122.0531. ACTION BY BOARD OF DIRECTORS WITHOUT  
14 MEETING. (a) Unless the articles of incorporation or bylaws  
15 provide otherwise, action required or permitted to be taken under  
16 this subtitle at a board meeting may be taken without a meeting if  
17 the action is consented to by all members of the board. The action  
18 must be evidenced by one or more written consents describing the  
19 action taken, signed by each director, and included in the minutes  
20 or filed with the corporate records reflecting the action taken.

21 (b) Action taken under this section is effective when the  
22 last director signs the consent, unless the consent specifies a  
23 different effective date.

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

27 SECTION 17. Subsections (a) and (c), Section 122.056,

1 Finance Code, are amended to read as follows:

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

6 (c) An honorary or advisory director may participate in any  
7 board deliberation. An honorary or advisory director must hold in  
8 confidence all matters presented to the board.

9 SECTION 18. Section 122.061, Finance Code, is amended by  
10 amending Subsection (a) and adding Subsection (c) to read as  
11 follows:

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

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

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

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

27 (B) impair the person's independence or judgment

1 in the performance of the person's duties or responsibilities to  
2 the credit union.

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

5 SECTION 19. Subchapter B, Chapter 122, Finance Code, is  
6 amended by adding Sections 122.065 and 122.066 to read as follows:

7 Sec. 122.065. FIDUCIARY RELATIONSHIP. Directors and  
8 officers are considered to have a fiduciary relationship with the  
9 credit union, as an entity, and must discharge the duties of their  
10 respective positions:

11 (1) in good faith;

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

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

16 Sec. 122.066. RELIANCE BY DIRECTORS OR OFFICERS.

17 (a) Unless the director or officer has knowledge that makes  
18 reliance unwarranted, a director or officer, in discharging the  
19 director's or officer's duties to the credit union, may rely on  
20 information, opinions, reports, or statements, including financial  
21 statements and other financial data, prepared or presented by:

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

25 (2) legal counsel, a certified public accountant, or  
26 another person regarding a matter the director or officer believes  
27 in good faith is within the person's professional or expert

1 competence; or

2 (3) in the case of reliance by a director, a committee  
3 of the board of directors of which the director is not a member if  
4 the director believes in good faith that the committee merits  
5 confidence.

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

9 SECTION 20. Subchapter D, Chapter 122, Finance Code, is  
10 amended by adding Section 122.1511 to read as follows:

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

14 (b) Except as otherwise expressly provided by another  
15 statute, the purchase of all or part of the assets of the selling  
16 entity does not make the purchasing credit union responsible for  
17 any liability or obligation of the selling entity not expressly  
18 assumed by the purchasing credit union.

19 SECTION 21. Subchapter E, Chapter 122, Finance Code, is  
20 amended by adding Section 122.204 to read as follows:

21 Sec. 122.204. CONVERSION OF MUTUAL SAVINGS INSTITUTION TO  
22 STATE CREDIT UNION. (a) A mutual savings institution may convert  
23 to a state credit union by complying with the laws of the original  
24 chartered authority and on the approval of the commissioner.

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

1        (c) The commissioner may cause an examination to be made of  
2 any converting mutual savings institution. The converting mutual  
3 savings institution shall pay all fees and charges prescribed by  
4 the commission.

5        SECTION 22. Subsection (a), Section 122.257, Finance Code,  
6 is amended to read as follows:

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

22 affirmative action within a reasonable period, as prescribed by  
23 [~~that~~] the commissioner, [~~considers necessary~~] to correct the  
24 conditions [~~a condition~~] resulting from the act, [~~a violation or~~  
25 ~~unsafe or unsound~~] practice, or transaction [~~found~~].

26        SECTION 23. Section 123.003, Finance Code, is amended to  
27 read as follows:

1           Sec. 123.003. ENLARGEMENT OF POWERS. (a) Notwithstanding  
2 any other law, and subject to Subsection (b), a [A] credit union  
3 may engage in any activity [~~in which it could engage~~], exercise any  
4 power [~~it could exercise~~], or make any loan or investment  
5 permissible for [~~it could make, if it were operating as~~] a [~~federal~~]  
6 credit union organized under federal law or the law of another  
7 state.

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

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

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

24           (a-3) The commissioner may extend the 30-day period if the  
25 commissioner determines that the credit union's notice under  
26 Subsection (a-1) raises issues requiring additional information or  
27 additional time for analysis. If the 30-day period is extended, the



1 credit union may not proceed without the commissioner's prior  
2 written approval. The commissioner must issue either an approval  
3 or prohibition letter not later than the 60th day after the date the  
4 notice is submitted.

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

16 SECTION 24. Section 123.104, Finance Code, is amended to  
17 read as follows:

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

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

27 SECTION 25. Subchapter B, Chapter 123, Finance Code, is

1 amended by adding Section 123.1041 to read as follows:

2 Sec. 123.1041. CORPORATE CENTRAL CREDIT UNION. (a) Any  
3 number of credit unions may apply to organize a corporate central  
4 credit union to engage exclusively in corporate financial and  
5 operational activities that are part of or incidental to the credit  
6 union business.

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

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

12 (2) organizations owned by credit unions.

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

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

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

22 (3) provide financial system support services and  
23 facilities;

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

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

1           (6) issue uninsured share investments or classes of  
2 share investments in amounts in excess of \$250,000 with terms and  
3 conditions that may vary from other shares authorized by this  
4 subtitle as approved by the department.

5           SECTION 26. Subsection (c), Section 123.208, Finance Code,  
6 is amended to read as follows:

7           (c) The commissioner may restrict or prohibit the payment of  
8 a dividend:

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

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

14           SECTION 27. Subchapter A, Chapter 124, Finance Code, is  
15 amended by adding Section 124.006 to read as follows:

16           Sec. 124.006. ADVANCES PAID BY CREDIT UNION. (a) A credit  
17 union may pay taxes, assessments, insurance premiums, and similar  
18 charges for the protection of the credit union's interest in  
19 property that secures a loan of the credit union.

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

22           (1) carry the payment on the credit union's books as an  
23 asset of the credit union for which the credit union may charge  
24 interest; or

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

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

8       SECTION 28. Section 124.051, Finance Code, is amended to  
9 read as follows:

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

12               (1) the member is allowed to borrow money from time to  
13 time; and

14               (2) interest may from time to time be computed on the  
15 unpaid balance.

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

19       SECTION 29. Section 124.151, Finance Code, is amended to  
20 read as follows:

21       Sec. 124.151. PREPAYMENT PRIVILEGE. (a) A loan may be  
22 prepaid in whole or in part, without penalty, during regular  
23 working hours on any day on which the credit union is open for  
24 business, except as provided by Subsection (b) or Section 124.152.

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

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

1           SECTION 30. Subsection (a), Section 124.351, Finance Code,  
2 is amended to read as follows:

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

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

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

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

12                (4) certificates of deposit or other accounts issued  
13 by a state or national bank, savings and loan association, savings  
14 association, or mutual savings bank;

15                (5) securities, obligations, participations, or other  
16 instruments of or issued by the United States, or in a trust  
17 established for investing directly or collectively in those  
18 investments;

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

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

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

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

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

8 SECTION 31. Subchapter H, Chapter 124, Finance Code, is  
9 amended by adding Section 124.353 to read as follows:

10 Sec. 124.353. PASSIVE INVESTMENT IN MINERAL INTERESTS.

11 (a) A credit union may hold a nonworking mineral or royalty  
12 interest if:

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

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

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

24 (4) the credit union does not make any new investments  
25 relating to the rights or interests without the approval of the  
26 commissioner; and

27 (5) the commissioner determines that the possession of

1 the rights or interests is not inconsistent with the safety and  
2 soundness of the credit union.

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

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

10 SECTION 32. Section 125.402, Finance Code, is amended to  
11 read as follows:

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

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

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

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

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

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

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

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

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

14                   (1) permissible disclosure of nonpublic personal  
15 information about [~~confidentiality of~~] the accounts of credit union  
16 members; and

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

19           SECTION 33. Subsection (c), Section 126.002, Finance Code,  
20 is amended to read as follows:

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

27           SECTION 34. Subsection (a), Section 126.051, Finance Code,



1 is amended to read as follows:

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

11 SECTION 35. This Act takes effect September 1, 2009.