

Credit Union Department

Agency at a Glance

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 carries out the following key activities.

- ◆ Approves new charters, charter conversions, mergers, and other structural or operational changes for state-chartered credit unions.
- ◆ Examines every state-chartered credit union on a regular basis.
- ◆ Oversees out-of-state credit unions operating in Texas.
- ◆ Assists the public by helping to resolve complaints against credit unions and providing informational materials.



*For additional information,
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Key Facts

- ◆ **Funding.** The Department spent about \$1.79 million in fiscal year 2008. It generated revenues totaling \$2.17 million. The Department is revenue-neutral to the State since it relies on fees collected from credit unions to support its operations. The Credit Union Commissioner adjusts fees semi-annually to ensure that revenues approximately equal the agency's appropriation.
- ◆ **Staffing.** In fiscal year 2008, the Department employed 23 staff and had three unfilled positions. Thirteen travel throughout the state examining credit unions, and the other 10 perform administrative and supervisory functions at the agency's office in Austin.
- ◆ **Credit Unions.** The Department supervised 213 state-chartered credit unions, with assets totaling \$20.35 billion, in fiscal year 2008. Texas also has 363 federally chartered credit unions, with \$36 billion in assets, but the Department does not regulate these institutions.
- ◆ **Applications.** A credit union must apply to the Department to make certain operational or structural changes, such as merging with another credit union or expanding its field of membership. In fiscal year 2008, the Department received 102 applications, and approved 81. Twenty-eight of those applications were for field of membership expansions.
- ◆ **Supervision.** The Department conducted 176 regular examinations and 40 remedial exams in fiscal year 2008. The Department performs remedial exams for credit unions that have significant financial or regulatory deficiencies identified during their regular examinations.

Commission Members (9)

Gary L. Janacek, Chair (Temple)

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Agency Head

Harold E. Feeney, Commissioner

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Recommendations

1. Continue the Credit Union Department for 12 years.
2. Require state-chartered credit unions to provide more information about their financial condition and management to their members.
3. Authorize the Credit Union Commissioner to issue cease-and-desist orders against unchartered credit unions and to assess late penalties for delinquent operating fees.
4. Require the Credit Union Commission to adopt rules governing its use of advisory committees and direct it to abolish the Legislative Advisory Committee.

Issue 1

Texas Has a Continuing Need for the Credit Union Department.

Key Findings

- ◆ Texas has a continuing interest in regulating state-chartered credit unions.
- ◆ While other organizational options exist, the Department effectively regulates the industry as a stand-alone agency.

Texas has a continuing need to regulate credit unions to ensure the safety and soundness of these financial institutions. While the Credit Union Department's functions could be transferred to the Finance Commission, which oversees the regulation of other financial institutions, the benefits of placing the Department under the Finance Commission umbrella are not sufficient to justify such a significant change.

Recommendation

Change in Statute

1.1 Continue the Credit Union Department as an independent agency for 12 years.

This recommendation would continue the Department as an independent agency, responsible for supervising state-chartered credit unions in Texas.

Issue 2

Members Often Have Limited Access to Basic Information Needed to Effectively Monitor Their Credit Union's Financial Condition and Management.

Key Findings

- ◆ Credit union members have a vested interest in their institution, but often do not have convenient access to basic information about the financial condition and management of their credit union.
- ◆ As credit unions expand services to stay competitive, boards and managers may increase their institution's risk exposure without members' knowledge.
- ◆ Credit union members may not know who regulates their credit union or how to file a complaint.

State-chartered credit unions are owned and governed by their members. Members own shares, elect board members, and vote on issues such as mergers and charter conversions. Board and management decisions affect fees members pay, interest rates they are charged for loans, services credit unions offer, and whether members receive dividend payments. Despite this vested interest, members often have limited access to basic information about their credit union's financial condition and management. The Credit Union Department requires that credit unions provide certain types of information to members, but these requirements are limited.

Recommendations

Change in Statute

2.1 Require the Credit Union Commission to adopt rules requiring state-chartered credit unions to submit a report, updated annually, providing basic financial and management information to their members through their website.

Under this recommendation, the Commission would adopt rules to define what information credit unions must include in the report. At a minimum, the report should include a summary of changes over the past year in a credit union's management, financial condition, size of the membership, services offered, bylaws, and articles of incorporation. More detailed financial information, such as a balance sheet and income and expense statement, should also be standard elements of this report. The name and term of office of each member of the credit union's board of directors should be included in the report, as well as any other information the Commission deems necessary to ensure members have adequate knowledge of their credit union's financial condition and management. Commission rules should require credit unions to update their reports annually, so as to make new information available to members at their annual membership meeting.

Credit unions should make their report available to members year-round by posting it on their website. The Commission would need to adopt rules to accommodate smaller credit unions that do not have a website.

This change would improve credit unions' transparency by making operational information more easily accessible to members on an ongoing basis. A report to the membership that includes standard elements would ensure all state-chartered credit unions provide the same basic level of information to every member.

2.2 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.

Under this recommendation, credit unions should provide a permanent notice on their website and a biannual notice in their newsletter. To accommodate credit unions without websites or newsletters, the Credit Union Commission should adopt rules to define alternative means of providing this information to members. Credit unions should inform their members that the following items, at a minimum, are available upon request:

- ◆ summary of the most recent annual audit;
- ◆ most recent statement of financial condition, such as the pages of the quarterly call reports that are not confidential;
- ◆ IRS Form 990 for the last year; and
- ◆ other items at the discretion of the Commission.

This recommendation would ensure that all state-chartered credit union members are aware they may inspect certain documents, which are already available to them, to learn about their institution.

2.3 Require 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.

In addition to posting information about how to file a complaint in their offices, credit unions would also be required to add this information to their websites and newsletters. The Credit Union Commission should adopt rules to direct credit unions without websites or newsletters on how to make this information more widely available to consumers. The posting should include the Department's name, address, phone number, and website address. This change will help ensure that consumers who use online services or may not visit their credit union on a regular basis are aware of how to file a complaint if they encounter a problem and cannot resolve it through their credit union.

Issue 3

The Department Lacks Certain Enforcement Tools Needed to Protect Consumers and Hold Credit Unions Accountable.

Key Findings

- ◆ The Commissioner cannot take immediate action to stop unauthorized credit union activity.
- ◆ The Commissioner does not have statutory authority to assess penalties for delinquent credit union operating fees.

The Credit Union Commissioner lacks certain enforcement powers that are standard to other regulatory agencies in Texas and to credit union regulators in other states. In the event that unscrupulous or unknowing businesses hold themselves out as credit unions, the Commissioner does not have the ability to immediately stop such activity. The Commissioner also does not have statutory authority to assess penalties to deter late fee payments.

Recommendations

Change in Statute

3.1 Extend the Commissioner's cease-and-desist authority to include unchartered entities holding themselves out as credit unions.

This recommendation would enable the Commissioner to take immediate action if unchartered credit union activity were to occur in Texas. The ability to immediately stop an unchartered entity from doing business would protect the public from potential fraud and financial loss.

3.2 Give the Commissioner statutory authority to assess penalties for delinquent operating fees.

The Commission has already passed rules to define time frames and amounts, and this recommendation would provide legal justification for charging these penalties, thus further deterring credit unions from paying their operating fees late.

Issue 4

The Legislative Advisory Committee Does Not Conform With Statutory Standards for Agency Committees and Is No Longer Needed.

Key Finding

- ◆ The Legislative Advisory Committee does not meet statutory requirements for agency committees and does not add significant value to the Commission's policymaking process.

The Credit Union Commission created the Legislative Advisory Committee (LAC) to provide input on and make recommendations to change agency rules, statutes, and policies. However, this Committee does not meet statutory requirements for the structure and operations of agency committees. The composition of the LAC does not allow credit union members or small credit unions to have equal involvement in the Commission's policymaking process. Further, the LAC provides little added value to the Commission and its work could be done by the Commission, thus saving money on travel costs and staff time.

Recommendations

Change in Statute

- 4.1 Require the Commission to adopt rules for its use of advisory committees, ensuring the committees meet standard structure and operating criteria.**

The Commission should adopt rules to ensure any advisory committees it chooses to create are in compliance with Chapter 2110 of the Texas Government Code. As a result, the Commission would have to comply with provisions governing balanced industry and consumer representation, setting a committee's purpose and tasks in rule, conducting annual evaluations of the committee's usefulness, and others.

Management Action

- 4.2 The Commission should abolish the Legislative Advisory Committee and seek more effective ways of gaining stakeholder input.**

The Commission should abolish the LAC because it is not necessary as an ongoing presence. The Commission can perform the duties of the LAC at its regular public meetings. If the Commission decides that it needs input on specific topics, it can create advisory committees that comply with the requirements outlined in Recommendation 4.1. In lieu of the LAC, the Commission should seek input through other, low-cost means, such as through e-mail, the agency's website, or its newsletter. This process could prove more effective in providing input to the Commission than the Legislative Advisory Committee.

Fiscal Implication Summary

These recommendations would have no fiscal impact to the State.