

**SUBJECT:** Revising the regulation and operation of credit unions

**COMMITTEE:** Pensions, Investments and Financial Services — favorable, without amendment

**VOTE:** 6 ayes — Truitt, Flynn, Hernandez, Hopson, Veasey, Woolley  
0 nays  
3 absent — Anchia, Anderson, Parker

**SENATE VOTE:** On final passage, April 22 — 30-0

**WITNESSES:** For — (*Registered, but did not testify*: Jeff Huffman, Texas Credit Union League; Melodie Stegall, Barbara Waldon, Credit Union Legislative Coalition)  
  
Against — None  
  
On — (*Registered, but did not testify*: Harold Feeney, Credit Union Department; Gary Janacek, Texas Credit Union Commission)

**BACKGROUND:** Finance Code, ch. 15 outlines provisions for the Credit Union Commission and the Credit Union Department.  
  
Finance Code, Title 3, subtitle D details provisions for credit unions operating in the state, including general provisions and powers for credit unions, organizational and financial requirements, and provisions regarding their loans and investments.

**DIGEST:** SB 1647 would amend and add several provisions to Finance Code, ch. 15 and Title 3, subtitle D for the Credit Union Department (CUD) and Commission and for credit unions operating within the state. These provisions would provide for regulatory coordination between federal and other state regulatory agencies, allow a bordering state to open a temporary credit union office during an emergency, allow credit unions to form a corporate credit union, and outline several provisions relating to the governance and operation of credit unions.

***Regulatory coordination.*** The CUD could enter into cooperative, coordinating, or information-sharing agreements with other state and federal agencies to ensure effective coordination among and between the CUD and those agencies. To further restoration of credit union services after an emergency, the CUD could enter into an agreement with credit unions, credit union trade associations, or other organizations affiliated with or representing one or more credit unions. Information disclosed in this area would not change its confidential nature.

***Temporary out-of-state credit union office.*** If a bordering state experienced an emergency, on a request by that state's credit union regulatory agency the CUD could authorize one or more credit unions located in that state to open temporary offices in this state to more promptly restore credit union services to their members. The CUD would issue an order permitting the temporary office and specifying the timeframe in which the office would remain open. The CUD could extend the period that the temporary office remained open if conditions requiring it continued to exist. A credit union could convert a temporary office to a permanent location if it qualified to conduct business in this state as a foreign credit union under current law.

***Enlargement of powers for credit unions.*** A credit union could engage in any activity, exercise any power, or make any loan or investment permissible for a credit union organized under federal law or the law of another state. Prior to a credit union conducting one of these activities, it would submit written notice to the CUD describing the activity, power, loan, or investment and the specific federal or state authority on which the credit union was relying. The credit union could not proceed with an activity until the CUD approved the action. The CUD could prohibit the credit union from an activity only if it found that:

- the specific authority did not exist; or
- the engagement, exercise, or making would adversely affect the safety and soundness of the credit union.

***Corporate central credit union.*** SB 1647 would allow a credit union to operate as a corporate credit union. Under the bill, any number of credit unions could apply to organize a corporate central credit union to engage exclusively in corporate financial and operational activities that were part of or incidental to the credit union business. Membership in the corporate central credit union would be limited to credit unions incorporated under

state law, the Federal Credit Union Act, or any other law applicable to credit unions, and organizations owned by credit unions.

A corporate central credit union would have the powers and privileges of any other incorporated credit union and could:

- provide access for its members on a mutual basis to financial systems and the services and products of financial institutions;
- provide its members with research and consulting services concerning financial matters, institutions, and products;
- provide financial system support services and facilities;
- establish and execute financial programs to assist its members in meeting the members' needs;
- provide safekeeping or trustee services to or on behalf of its members; and
- issue uninsured share investments or classes of share investments in amounts in excess of \$250,000 with terms and conditions that may vary from other shares authorized by this subtitle as approved by the department.

***Expense fund.*** Prior to a credit union becoming organized and authorized to do business, it would have to create a fund from which operating expenses could be paid until earnings, together with net worth allocations and dividends that may be declared and credited, were sufficient to cover operating expenses. The amounts contributed to the expense fund would not be a liability of the credit union. The bill would provide additional provisions for the operation of a credit union's expense fund.

**Cost of supervision.** Under the bill, each credit union would promptly pay the fees, charges, and revenues established by the CUD to recover:

- the cost of examination;
- the credit union's equitable or proportionate share of the costs of maintenance and operation of the department; and
- enforcement costs.

The CUD would adjust the amounts so that the amount collected during the fiscal year equals the total amount appropriated, including amounts appropriated for both direct and indirect costs for that fiscal year.

***Other provisions.*** SB 1647 would allow the credit union commissioner to appoint assistant deputy commissioners, whose powers would be limited to the powers, duties, or functions set forth in the appointment.

The bill would amend the requirements for a person to become a credit union member as well as outline new provisions under which a person could have his or her membership revoked, including if they had:

- violated the membership agreement or any policy adopted by the board;
- been physically or verbally abusive to credit union members or staff;
- caused a financial loss to the credit union;
- been involved in suspicious or unusual account activity; or
- committed any other act or engaged in any activity proscribed by rules adopted by the commission.

Also, the bill would outline several provisions relating to the governance and operation of credit unions, including:

- revising the grounds on which the commissioner could suspend or revoke a credit union organized out of state to conduct business in Texas;
- the conduct and operation of a credit union's board of directors;
- outlining the fiduciary responsibility of a credit union's officers and its board;
- providing authority for a credit union to purchase all or a portion of the assets of another entity, but without taking the responsibility of the entity's liabilities or obligations;
- allowing a mutual savings institution to convert to a state credit union; and
- amending enforcement provisions, including cease and desist orders.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

SB 1647 would amend the Finance Code to provide additional regulatory oversight of credit union activities and enhance the provisions concerning corporate governance. These changes are the result of the Credit Union Department's mandate in the Finance Code to periodically conduct a

comprehensive review of the state's statutes as they pertain to credit union operations. The bill is the product of an extensive stakeholder process with both the credit union and banking industries.

OPPONENTS  
SAY:

No apparent opposition.