

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE D. CREDIT UNIONS

CHAPTER 123. GENERAL POWERS

SUBCHAPTER A. GENERAL POWERS

Sec. 123.001. GENERAL POWERS. A credit union may exercise any power necessary or appropriate to accomplish the purposes for which it is organized and any power granted a corporation authorized to do business in this state, including any power specified in this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.002. INCIDENTAL POWERS. A credit union may exercise any right, privilege, or incidental power necessary or appropriate to exercise its specific powers and to accomplish the purposes for which it is organized.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.003. ENLARGEMENT OF POWERS. (a) A credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

(b) Notwithstanding any other law, and in addition to the powers and authorities conferred under Subsection (a), a credit union has the powers or authorities of a foreign credit union operating a branch in this state if the commissioner finds that exercise of those powers or authorities is convenient for and affords an advantage to the credit union's members and maintains the fairness of competition and parity between the credit union and any foreign credit union. A credit union does not have the field of membership powers or authorities of a foreign credit union operating a branch in this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 87, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 33, eff. Sept. 1, 2003.

SUBCHAPTER B. OPERATIONAL POWERS

Sec. 123.101. CONTRACTS. A credit union may make contracts.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.102. POWER TO SUE AND DEFEND. A credit union may sue or be sued in the name of the credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.103. PURCHASE AND SALE OF PROPERTY. Subject to commission rules, a credit union may purchase, hold, lease, or dispose of property necessary or incidental to the operation or purpose of the credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

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

(1) be a member of:

(A) another credit union organized under this subtitle or other law; and

(B) another organization approved by the board;

or

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

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.105. FEES. (a) A credit union may collect a fee, determined by the board, for services and administrative costs, including a fee for a check or draft that is returned because it is drawn against a closed account or an account containing insufficient or uncollected money, because of a stop payment order, or for another similar reason.

(b) A fee under this section is an administrative expense. The fee is in addition to interest authorized by law and is not a part of interest collected or agreed to be paid on a loan.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.106. CHANGE OF LOCATION. (a) A credit union changing the location of its principal place of business or any additional office or service facility shall notify the commissioner in writing of the new location and the scheduled or effective date of the change.

(b) The credit union must submit notice to the commissioner not later than the 30th day before the scheduled or effective date of the change. The commissioner may waive or reduce the timing of the notice requirement under this subsection.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 34, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 15, eff. September 1, 2013.

Sec. 123.107. INSURANCE FOR MEMBERS. A credit union may purchase or otherwise provide insurance for the benefit or convenience of its members in accordance with applicable law or rules adopted by the commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 11, eff. Sept. 1, 1999.

Sec. 123.108. DONATIONS. A credit union may donate to a nonprofit, civic, charitable, or community organization as authorized by the board.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.109. SEAL. A credit union may adopt and use a common seal and may alter its seal at any time.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.110. RECORDS. (a) A credit union may:

- (1) copy any record kept by the credit union; and
- (2) dispose of the original record in accordance with commission rules.

(b) A copy of a record is considered an original record for any purpose, including admissibility in evidence as an original record before any court or administrative agency for the purpose of the copy's admissibility in evidence.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.111. RIGHT TO ACT TO MITIGATE OR AVOID LOSS. This subtitle does not prohibit a credit union from investing its money, operating a business, managing or dealing in property, or taking any other action at any time that is reasonably necessary to avoid or mitigate a loss on a loan or on an investment made or obligation created in good faith and in the usual course of the credit union's business, as authorized by this subtitle or a rule adopted by the commission.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 35, eff. Sept. 1, 2003.

SUBCHAPTER C. FINANCIAL POWERS

Sec. 123.201. POWER TO BORROW OR LEND. (a) A credit union may:

(1) lend its funds, or engage in any other type of financing transaction authorized by applicable law or rules adopted by the commission; and

(2) borrow money from any source, subject to Subsection (b).

(b) A credit union may not incur a debt without the commissioner's prior approval if the debt will cause the debt of the credit union, including a deposit of a nonmember financial institution, to exceed an amount equal to 500 percent of the credit union's unencumbered reserves and undivided earnings.

(c) The commissioner shall grant or deny a request for approval under Subsection (b) not later than the 10th day after the date on which the request is made.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 12, eff. Sept. 1, 1999.

Sec. 123.202. RECEIPT, TRANSFER, AND PAYMENT OF MONEY. A

credit union may:

- (1) receive and disburse money;
- (2) receive a payment on a share or deposit; and
- (3) provide for the transfer or withdrawal of money

from an account by the means and through the payment systems that the board determines best serve the convenience and needs of members and depositors.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.203. ACCEPTANCE OF MONEY FOR DEPOSIT FROM ANOTHER ENTITY. A credit union may accept money for deposit by a savings and loan association, a savings association, the savings department of a bank, a commercial bank, a savings bank, a trust company, an insurance company, or any intermediary or other person managing or holding money on behalf of the credit union or any of the credit union's members or depositors.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.204. ACTION AS AGENT OR DEPOSITORY OF UNITED STATES OR OTHER GOVERNMENTAL ENTITY. A credit union may act as agent or depository of and accept for deposit the money of:

(1) the United States or an agent or instrumentality of the United States;

(2) this or another state; or

(3) a political subdivision of this or another state, including:

(A) a municipality;

(B) a county;

(C) a school district; or

(D) another taxing authority.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.205. INVESTMENTS AND SECURITIES. (a) In accordance with commission rules, a credit union may:

(1) develop and offer investment programs to its members and depositors; or

(2) act as agent for its members and depositors in the

purchase, sale, or other disposition of a security, an interest in a mutual fund, or an interest or participation in any other type of investment.

(b) A credit union may issue and sell securities in connection with an investment program developed and offered under Subsection (a)(1).

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.206. ACTION AS FISCAL OR TRANSFER AGENT; TRANSFER OF CERTAIN INSTRUMENTS; SIGNATURES. A credit union may:

- (1) act as fiscal agent or transfer agent;
- (2) transfer a registered and countersigned certificate of stock, bond, or other evidence of indebtedness; or
- (3) guarantee a signature.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.207. FIDUCIARY POWERS. A credit union may:

- (1) act, under court order or appointment, as guardian, receiver, trustee, executor, or administrator without giving bond;
- (2) receive an investment from a person acting as a guardian, receiver, trustee, executor, or administrator under the Estates Code or Subtitle B, Title 9, Property Code;
- (3) act as depository for money paid to a court or constituting the estate of a deceased person, a minor, or an incompetent;
- (4) accept, execute, and administer a trust as trustee;
- (5) accept funds or money for deposit by a fiduciary, trustee, receiver, guardian, executor, or administrator; or
- (6) act as custodian or trustee of a pension or profit-sharing plan, including an individual retirement account or a pension fund of a self-employed individual or of the sponsor of a credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec.

20.012, eff. September 1, 2015.

Sec. 123.208. DIVIDENDS AND INTEREST. (a) A credit union may:

- (1) declare and pay a dividend on a share;
- (2) contract for and pay interest on a deposit; or
- (3) refund interest to a borrower.

(b) A dividend or interest may be paid at a rate and on the conditions that the board authorizes.

(c) The commissioner may restrict the payment of a dividend:

(1) if the commissioner issues a cease and desist order under Section [122.257](#); or

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

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.209. TRANSFER SYSTEM. A credit union may establish, operate, or participate in a system that allows the transfer of credit union money or the shares or deposits of its members by electronic or other means, including a clearinghouse association, a data processing or other electronic network, the Federal Reserve System, or any other government payment or liquidity program.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.210. SALE OF CERTAIN INSTRUMENTS OR SECURITIES; FEE. A credit union may:

(1) collect, receive, and disburse money:

(A) in connection with the sale of a traveler's check, money order, cashier's check or draft, treasurer's draft, similar instrument, or security of any type; or

(B) for another purpose that may provide a benefit or convenience for its members; and

(2) collect a fee for those services.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 123.211. CERTIFICATES OF INDEBTEDNESS. The commission by rule may authorize a credit union to issue certificates of indebtedness that are subordinated to all other claims of credit union creditors.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 36, eff. Sept. 1, 2003.

Sec. 123.212. CHECK AND MONEY TRANSFER SERVICES. A credit union may sell to a person within its field of membership negotiable checks, money orders, and other similar money transfer instruments or services and may also cash checks and money orders for a person within its field of membership for a fee.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 37, eff. Sept. 1, 2003.