

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE D. CREDIT UNIONS

CHAPTER 126. CREDIT UNION SUPERVISION AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 126.001. APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT. The commissioner may appoint any person, including the share and deposit guaranty corporation or credit union provided for by Section 15.410, as a conservator or a liquidating agent under this chapter.

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

Sec. 126.002. CONFIDENTIALITY OF INFORMATION. (a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the commission, and a member of the commission may not be given access to the files or records of the department, except that the commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

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

(d) Information obtained by the department from a federal or state supervisory agency that is confidential under federal law or the laws of that state may not be disclosed except as provided by the applicable federal or state law.

(e) Confidential information that is provided by the department to a credit union, organization, or service provider of a credit union, whether in the form of a report of examination or otherwise, is the confidential property of the department. The recipient or an officer, director, employee, or agent of the recipient may not make the information public and may not disclose the information to a person not officially connected to the recipient as an officer, director, employee, attorney, auditor, or independent auditor, except as authorized by rules adopted under this subtitle. A credit union may disclose a report of examination or relevant portions of the report to another credit union proposing to merge or consolidate with the credit union or to a fidelity bond carrier if the recipient executes a written agreement not to disclose information in the report.

(f) Discovery of confidential information from a person subject to this subtitle or Chapter 15 under subpoena or other legal process must comply with rules adopted under this subtitle, Chapter 15, and any other applicable law. The rules may:

(1) restrict release of confidential information to the portion directly relevant to the legal dispute at issue; and

(2) require that a protective order, in a form and under circumstances specified by the rules, be issued by a court before release of the confidential information.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 45, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 18, eff. September 1, 2013.

Sec. 126.003. ENFORCEABILITY OF AGREEMENT MADE BY CREDIT UNION BEFORE CONSERVATORSHIP OR LIQUIDATION. An agreement that tends to diminish or defeat the interest of the conservator or liquidating agent in an asset acquired under this chapter, either as security for a loan or by purchase, is not valid against the conservator or liquidating agent unless the agreement is:

(1) in writing;

(2) executed by the credit union and each person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(3) approved by the board with the approval recorded in the minutes of the board; and

(4) an official record of the credit union continuously from the time of its execution.

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

SUBCHAPTER B. EXAMINATIONS

Sec. 126.051. EXAMINATIONS. (a) The department, through examiners it appoints and in accordance with commission rules, shall periodically examine the books and records of each credit union.

(b) In lieu of an examination under this section, the commissioner may accept:

(1) the examination report of a regulator authorized to examine a credit union, foreign credit union, federal credit union, or other financial institution; or

(2) the audit report of an accountant, satisfactory to the commissioner, who has made and submitted a report of the condition of the affairs of a credit union, foreign credit union, federal credit union, or other financial institution.

(c) The commissioner may accept all or part of a report in lieu of all or part of an examination. An accepted part of the report has the same validity as an examination under this section.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 46, eff. Sept. 1, 2003.

Sec. 126.052. ACCESS TO INFORMATION. An officer, director, agent, or employee of a credit union shall give an examiner free access to any information relating to the credit union's business, including access to books, papers, securities, and other records.

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

Sec. 126.053. WITNESSES; PRODUCTION OF DOCUMENTS. (a) In an examination conducted under this subchapter, the commissioner or the commissioner's designee may:

(1) subpoena witnesses;

(2) administer an oath or affirmation to a person, including any officer, director, agent, or employee of a credit union, and examine the person under oath or affirmation on any subject the commissioner considers pertinent to the financial condition or the safety and soundness of the activities of a credit union; or

(3) require and compel by subpoena the production of documents that are not voluntarily produced, including books, papers, securities, and records.

(b) The commissioner may apply to a district court in Travis County for an order requiring a person to obey a subpoena, to appear, or to answer questions in connection with the examination or investigation.

(c) The court shall issue an order under Subsection (b) if the court finds good cause to issue the subpoena or to take testimony.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 47, eff. Sept. 1, 2003.

Sec. 126.054. REPORT OF EXAMINATION. (a) An examiner shall report the results of an examination, including a general statement of the credit union's affairs, on a form prescribed by the commissioner and approved by the commission.

(b) The department shall send a copy of the report to the board not later than the 30th day after the examination date.

(c) The report of examination is confidential. The commissioner may provide a copy of the report to other parties as described in Section [126.002\(c\)](#).

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 14, eff. Sept. 1, 1999.

Sec. 126.055. FEE. The commission may establish and a credit union shall pay a fee based on the cost of performing an

examination of the credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 15, eff. Sept. 1, 1999.

SUBCHAPTER C. CONSERVATORSHIP ORDER

Sec. 126.101. CONSERVATORSHIP ORDER; APPOINTMENT OF CONSERVATOR. (a) The commissioner may immediately issue a conservatorship order and appoint a conservator to manage a credit union's affairs if:

(1) the commissioner, in performing the duties under this subtitle, finds that:

(A) the credit union is insolvent or in imminent danger of insolvency; or

(B) the credit union or an employee, officer, or director of a credit union, including an honorary or advisory director has:

(i) violated this subtitle, a rule adopted under this subtitle, or another law that applies to credit unions;

(ii) violated or neglected a final order of the commissioner or commission;

(iii) refused to submit to examination under oath;

(iv) refused to permit the commissioner or the commissioner's representative to examine the credit union's records and affairs, including books, papers, and accounts;

(v) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner; or

(vi) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody or control, including books, papers, and accounts, following the commissioner's request for the granting of that authority and direction; and

(2) the commissioner determines that the finding under Subdivision (1) is sufficiently severe to require immediate affirmative action to prevent further dissipation of the credit

union's assets.

(b) The order must clearly state the grounds for conservatorship.

(c) The board may:

(1) agree in writing to a conservatorship order; and

(2) waive its right to appeal the order under Section [126.105](#).

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

Amended by:

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

Sec. 126.102. SERVICE OF ORDER. (a) A conservatorship order must be served personally to an officer or director of the credit union by the commissioner, the deputy commissioner, or another person authorized by the commissioner.

(b) Service may be by mail if an officer or director is not available for service on the date personal service of the order is attempted.

(c) Service by mail must be by certified or registered mail, must be addressed to the credit union at the address shown for its principal office by department records and to the home address of the chairman of the board, and is complete on deposit of the order in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 20, eff. September 1, 2013.

Sec. 126.103. EFFECT OF ORDER. Following service of a conservatorship order:

(1) the commissioner shall take possession and control of the credit union's books, records, property, assets, and business; and

(2) the credit union shall cease all operations except

those authorized by the commissioner and conducted under the commissioner's supervision.

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

Sec. 126.105. APPEAL OF ORDER; HEARING. (a) Unless the board waives its right to appeal under Section [126.101\(c\)](#), the board may file a written appeal of the conservatorship order with the commissioner not later than the 10th business day after the date the order is served as provided by Section [126.102](#). The appeal must include a certified copy of the board resolution and must state whether the board requests a hearing.

(b) If the board requests a hearing, the commissioner shall promptly request from the State Office of Administrative Hearings a hearing date that is not earlier than the 11th day nor later than the 30th day after the date on which the commissioner receives the appeal.

(c) The commissioner shall give the credit union notice of the date, time, and place of the hearing.

(d) The filing of an appeal does not suspend the order, and the order remains in effect until the commission's final disposition of the appeal.

(e) Not later than the 45th day after a proposal for decision is received from the State Office of Administrative Hearings, the commission shall meet to consider the proposal.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 21, eff. September 1, 2013.

Sec. 126.106. FAILURE TO APPEAL OR APPEAR. If the board does not appeal the conservatorship order or fails to appear at the hearing provided for by Section [126.105](#), the credit union is presumed to have consented to the commissioner's disposition action, and the commissioner may dispose of the conservatorship matter as the commissioner considers appropriate.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 22, eff. September 1, 2013.

Sec. 126.107. EXTENSION OF DATE AND TIME FOR HEARING. The parties may agree to extend the date and time of the hearing. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 126.108. CONFIDENTIALITY; DISCLOSURE. A conservatorship order and a copy of a notice, correspondence, transcript, pleading, or other document relating to the order are confidential and may be disclosed only in a related legal proceeding or as otherwise authorized by law. The commissioner may release to the public information regarding the existence of an order if the commissioner concludes that release of the information would enhance effective enforcement of the order. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 48, eff. Sept. 1, 2003.

SUBCHAPTER D. ADMINISTRATION OF CONSERVATORSHIP

Sec. 126.151. CONSERVATOR SUBJECT TO COMMISSION CONTROL. A conservator shall exercise the powers authorized under Sections 126.152-126.154 subject to commission rules and under the commissioner's supervision. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 126.152. GENERAL POWERS OF CONSERVATOR. The conservator may:

- (1) take possession and control of the books, records, property, assets, and business of the credit union;
- (2) conduct the business and affairs of the credit union;
- (3) sell or assign assets to the conservator; and
- (4) perform any other action as necessary in connection with the conservatorship.

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

Sec. 126.153. POWERS RELATING TO CLAIMS. The conservator may:

- (1) determine the existence and amount of claims;
- (2) allow proved claims of security, preference, or priority;
- (3) disallow unproved claims of security, preference, or priority; and
- (4) settle or release a claim in favor of or against the credit union.

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

Sec. 126.154. POWER TO REPUDIATE BURDENSOME TRANSACTION. The conservator may repudiate a contract or unexpired lease the conservator considers burdensome to the credit union.

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

Sec. 126.155. POWER TO PROTECT, PRESERVE, AND RECOVER PROPERTY. (a) The conservator may take measures necessary to preserve, protect, and recover the assets or property of the credit union, including filing a lawsuit against any person.

(b) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

(c) The conservator may deal with that property in the capacity of conservator.

(d) The conservator may file, prosecute, or defend a suit brought by or against the credit union if the conservator considers it necessary to protect the interested party or property affected by the suit.

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

Sec. 126.156. DUTIES OF CONSERVATOR. The conservator shall:

- (1) take actions as directed by the commissioner to remove the causes and conditions that made the conservatorship necessary; and
- (2) report to the commissioner from time to time

during the conservatorship as required by the commissioner.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 126.157. TERM OF CONSERVATOR. The conservator shall serve until the purposes of the conservatorship are accomplished.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 126.158. TRANSFER OF MANAGEMENT OF REHABILITATED CREDIT UNION. If the credit union is rehabilitated, the conservator shall return the management of the credit union to the board under terms that are reasonable and necessary to prevent a recurrence of the conditions that created the need for conservatorship.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 126.159. COST OF CONSERVATORSHIP. (a) The commissioner shall determine and approve any reasonable expenses attributable to the service of a conservator, including costs incurred by the department and the compensation and expenses of the conservator and any professional employees appointed to represent or assist the conservator. The commissioner or an employee of the department may not receive compensation in addition to salary for serving as conservator, but the department may receive reimbursement for the fully allocated personnel cost associated with the service of the commissioner or the employee as conservator.

(b) All approved expenses shall be paid by the credit union. The department has a lien against the assets and money of the credit union to secure payment of approved expenses. The lien has a higher priority than any other lien against the credit union.

(c) Notwithstanding this subchapter, the credit union may retain attorneys and hire other persons to assist the credit union in contesting or satisfying the requirements of an order of conservatorship. The commissioner shall authorize the payment of reasonable fees and expenses for the attorneys and other persons as expenses of the conservatorship.

(d) The commissioner may waive or defer collection of

assessment or examination fees by the department from the credit union during a period of conservatorship if the waiver or deferral would appear to benefit the prospects for rehabilitation. As a condition of release from conservatorship, the commissioner may require the rehabilitated credit union to pay or develop a reasonable plan for payment of any deferred fees.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 49, eff. Sept. 1, 2003.

Sec. 126.160. JURISDICTION AND VENUE. (a) A suit filed against a credit union while the credit union is under conservatorship, or against a person in connection with an action taken or decision made by that person as a conservator of a credit union, must be brought in Travis County regardless of whether the credit union remains under conservatorship.

(b) A suit filed by the conservator under Section 126.155 may be brought in Travis County.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 50, eff. Sept. 1, 2003.

Sec. 126.161. EXHAUSTION OF ADMINISTRATIVE REMEDIES. Administrative remedies must be exhausted before a court may:

(1) assert jurisdiction over a claim against the conservator or the credit union; or

(2) restrain or otherwise affect the exercise of the powers or functions of the conservator.

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

SUBCHAPTER E. LIQUIDATION ORDER; INJUNCTION

Sec. 126.201. LIQUIDATION ORDER; APPOINTMENT OF LIQUIDATING AGENT. (a) After the commissioner has issued a conservatorship order and provided an opportunity for hearing, the commissioner by liquidation order may appoint a liquidating agent and direct that the credit union be liquidated if:

(1) the board requests issuance of a liquidation order and liquidation of the credit union;

(2) the credit union otherwise consents to the liquidation; or

(3) the commissioner:

(A) finds that the closing of the credit union and the liquidation of the credit union's assets are in the public interest and the best interest of the credit union's members, depositors, and creditors; and

(B) determines that the credit union is not in a condition to continue business and cannot be rehabilitated as provided by this chapter.

(b) If the board consents to the liquidation order and waives the necessity of a conservatorship order, the commissioner may issue a liquidation order without first issuing a conservatorship order.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 23, eff. September 1, 2013.

Sec. 126.202. SERVICE OF ORDER. The commissioner shall serve a liquidation order in the same manner provided for service of a conservatorship order.

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

Sec. 126.203. SUIT FOR INJUNCTION. (a) Not later than the fifth day after the date on which the liquidation order is served, a credit union that has not requested or consented to a liquidation order may, if authorized by certified board resolution, sue to enjoin the commissioner from liquidating the credit union.

(b) The suit must be brought in the district court of the county in which the credit union's principal office is located.

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

Sec. 126.204. ACTION PENDING INJUNCTION HEARING. (a) The court, without notice or hearing, may restrain the commissioner from liquidating the credit union's assets until after a hearing on the suit is held.

(b) If the court restrains the commissioner, the court shall instruct the commissioner to hold the credit union's assets in the commissioner's possession and control until disposition of the suit.

(c) With court approval, the commissioner may take any necessary or proper action to prevent loss or depreciation in the value of the assets.

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

Sec. 126.205. HEARING ON INJUNCTION; APPEAL. (a) The court, as soon as possible, shall hear the suit and shall enter a judgment enjoining or refusing to enjoin the commissioner from liquidating the credit union's assets.

(b) The commissioner, regardless of the judgment entered by the trial court or any supersedeas bond filed, shall retain possession and control of the credit union's assets until final disposition of any appeal of the judgment.

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

Sec. 126.206. NATIONAL CREDIT UNION ADMINISTRATION AS LIQUIDATING AGENT. (a) The commissioner may tender a credit union that has been closed for liquidation to the National Credit Union Administration or its successor as liquidating agent if the shares and deposits of the credit union were insured by the National Credit Union Share Insurance Fund or its successor on the date of closing.

(b) After acceptance of tender of the credit union, the National Credit Union Administration or its successor, as liquidating agent of the credit union, shall perform the acts and duties that it considers necessary or desirable and that are permitted or required by federal law or this chapter. The National Credit Union Administration, as liquidating agent, is not subject to commission control.

(c) If the National Credit Union Share Insurance Fund pays the insured share and deposit liabilities of a credit union that is being liquidated under this subchapter, the National Credit Union Administration is subrogated, to the extent of the payment, to all rights that the owners of the share or deposit accounts have against

the credit union.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 51, eff. Sept. 1, 2003.

SUBCHAPTER F. ADMINISTRATION OF LIQUIDATION

Sec. 126.251. PERMISSIBLE ACTIVITIES IN LIQUIDATION. (a) A credit union in liquidation continues in existence to discharge debts, collect and distribute assets, and wind up the credit union's business.

(b) The credit union may sue and be sued to enforce debts and obligations until its affairs are fully adjusted.

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

Sec. 126.252. COMPENSATION OF CREDIT UNION EMPLOYEES AND OFFICERS. (a) This chapter does not prevent compensation of a salaried employee or officer of a credit union during the credit union's liquidation.

(b) The compensation is considered an incidental expense of the liquidation.

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

Sec. 126.253. LIQUIDATING AGENT SUBJECT TO COMMISSION CONTROL. The liquidating agent shall perform the duties required by the following sections subject to commission rules and under the commissioner's supervision:

(1) Sections 126.254-126.258; and

(2) Sections [126.301](#), [126.302](#), [126.304](#), [126.305](#), and [126.306](#).

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

Sec. 126.254. POSSESSION, CONSOLIDATION, AND DISPOSITION OF ASSETS. The liquidating agent shall:

(1) receive and take possession of the books, records, assets, and property of the credit union;

(2) sell, enforce collection of, and liquidate assets and property; and

(3) sell or assign assets to the liquidating agent

subject to Section [126.353](#).

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.36, eff. Sept. 1, 1999.

Sec. 126.255. COMPOUND DEBTS. The liquidating agent shall compound all bad or doubtful debts.

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

Sec. 126.256. COURT ACTION BY LIQUIDATING AGENT. The liquidating agent shall:

(1) sue in the name of the liquidating agent or may sue in the name of the credit union; and

(2) defend an action brought against the liquidating agent or the credit union.

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

Sec. 126.257. REPUDIATION OF BURDENSOME TRANSACTIONS. The liquidating agent shall repudiate a contract or unexpired lease the liquidating agent considers burdensome to the credit union.

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

Sec. 126.258. EXECUTION OF DOCUMENTS; OTHER NECESSARY ACTS. The liquidating agent may execute any document and perform any other action that:

(1) the liquidating agent considers necessary or desirable to discharge the liquidating agent's duties; and

(2) may be necessary under this subchapter and Subchapter G.

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

Sec. 126.259. JURISDICTION AND VENUE. (a) A suit against a credit union or its liquidating agent while a liquidation order is in effect must be brought in Travis County.

(b) The liquidating agent may file suit in Travis County to preserve, protect, or recover the credit union's assets or property.

(c) An asset or property of the credit union includes a

claim or cause of action that belongs to or that may be asserted by the credit union.

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

Sec. 126.260. EXHAUSTION OF ADMINISTRATIVE REMEDIES. Except as provided by Subchapter E, administrative remedies must be exhausted before a court may:

(1) assert jurisdiction over a claim against the liquidating agent or the credit union; or

(2) restrain or otherwise affect the exercise of the powers or functions of the liquidating agent.

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

SUBCHAPTER G. CLAIMS RELATING TO CREDIT UNION IN LIQUIDATION

Sec. 126.301. CLAIMS AGAINST CREDIT UNION. The liquidating agent shall:

(1) determine the existence and amount of claims;

(2) allow proved claims of security, preference, or priority;

(3) settle or release a claim in favor of or against the credit union;

(4) disallow unproved claims of security, preference, or priority; and

(5) make distributions to and pay creditors and members of the credit union as their interests appear.

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

Sec. 126.302. NOTICE TO CREDITORS AND MEMBERS. (a) The liquidating agent shall give notice to creditors and members to present and prove their claims.

(b) The notice must be published once a week for three successive weeks in a newspaper of general circulation in each county in which the credit union maintained an office or branch to transact business on the date the credit union ceased unrestricted operations.

(c) When the aggregate book value of the assets and property

of the credit union being liquidated is less than \$10,000, the commissioner shall declare the credit union to be a "no publication" liquidation, and publication of notice to creditors and members under this section is not required.

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

Sec. 126.303. PRIORITY OF CLAIMS. The liquidating agent shall use the credit union's assets to pay, in the following order:

(1) secured creditors to the extent of the value of their collateral;

(2) liquidation expenses, including a surety bond if required;

(3) depositors;

(4) general creditors, including secured creditors to the extent that their claims exceed the value of their collateral; and

(5) distributions to members in proportion to the shares held by each member.

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

Sec. 126.304. LIQUIDATION DIVIDENDS. (a) The liquidating agent from time to time shall make a ratable liquidation dividend on claims that have been:

(1) proved to the satisfaction of the board or the liquidating agent; or

(2) adjusted by a court.

(b) After the credit union's assets have been liquidated, the liquidating agent shall make further liquidation dividends on claims previously proved or adjusted.

(c) For purposes of making a further liquidation dividend under Subsection (b), the liquidating agent may accept the statement of an amount due a claimant as shown on the credit union's books and records instead of a formal proof of claim filed on the claimant's behalf.

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

Sec. 126.305. PAYMENT OF CLAIMS IN "NO PUBLICATION"

LIQUIDATION. (a) In a "no publication" liquidation, the liquidating agent shall determine from all sources available, and within the limits of the credit union's available money, the amounts due to creditors and members.

(b) Not earlier than the 61st day after the date on which the liquidating agent is appointed, the liquidating agent shall distribute the credit union's money to creditors and members ratably and as their interests appear.

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

Sec. 126.306. BARRED CLAIMS. (a) A claim not filed before the liquidating agent pays the final liquidation dividend is barred.

(b) A claim rejected by the liquidating agent is barred unless suit to appeal the liquidating agent's rejection is filed within three months after the date of notice of rejection.

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

SUBCHAPTER H. LIQUIDATING AGENT

Sec. 126.351. REMOVAL OF LIQUIDATING AGENT. (a) On finding that the liquidating agent has failed to properly perform the liquidating agent's duties in a timely and efficient manner or has violated this subtitle or a rule adopted under this subtitle, the commissioner by removal order may take possession and control of the books, records, property, assets, and business of the credit union.

(b) The removal order must:

(1) remove the liquidating agent and appoint a successor liquidating agent to complete the liquidation and the winding up of the credit union's affairs subject to the commissioner's supervision and control; and

(2) be served on the liquidating agent being removed.

(c) The removal order takes effect immediately on service.

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

Sec. 126.352. REPLACEMENT OF LIQUIDATING AGENT. The

commissioner shall appoint another liquidating agent on a liquidating agent's resignation, death, illness, removal, desertion, or incapacity to function.

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

Sec. 126.353. CONFLICT OF INTEREST. (a) The liquidating agent may not acquire an asset of the credit union in liquidation or purchase a loan of the credit union without the commissioner's prior written approval.

(b) A liquidating agent may not obtain from the liquidation compensation or profit for:

(1) direct or indirect personal benefit;

(2) the benefit of a family member of or a person associated with the liquidating agent; or

(3) the benefit of a business enterprise with which the liquidating agent is associated, other than the credit union.

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

Sec. 126.354. COMPENSATION. (a) A liquidating agent is entitled to receive reasonable compensation during the liquidation.

(b) The compensation is considered an incidental expense of the liquidation.

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

SUBCHAPTER I. COMPLETION OF LIQUIDATION

Sec. 126.401. CERTIFICATE OF LIQUIDATION AND DISTRIBUTION. The commissioner shall prescribe the form of a certificate to be completed by the liquidating agent attesting that distribution has been made and liquidation is complete.

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

Sec. 126.402. CANCELLATION OF CERTIFICATE OF INCORPORATION. The commissioner, on receipt and approval of the certificate executed under Section [126.401](#), shall cancel the credit union's certificate of incorporation.

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

Sec. 126.403. WINDING UP OF CREDIT UNION BUSINESS. During the three-year period following cancellation of the credit union's certificate of incorporation, the credit union continues to exist and the liquidating agent, or a successor or other person designated by the commissioner, may act on the credit union's behalf to:

- (1) pay, satisfy, or discharge an existing liability or obligation;
- (2) collect and distribute assets; and
- (3) act as required to adjust and wind up the credit union's business and affairs, including suing or being sued in the credit union's corporate name.

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

SUBCHAPTER J. VOLUNTARY LIQUIDATION

Sec. 126.451. BOARD RESOLUTION. Unless the commissioner has issued a liquidation order, the board may adopt a resolution recommending voluntary dissolution of the credit union and directing submission of the question of liquidation to the members of the credit union.

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

Sec. 126.452. NOTIFICATION TO COMMISSIONER OF PROPOSED LIQUIDATION. Not later than the fifth day after the date on which the board's resolution recommending voluntary dissolution is adopted, the board's presiding officer shall notify the commissioner in writing of the reasons for the proposed liquidation.

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

Sec. 126.453. NOTICE OF MEETING TO LIQUIDATE. Notice of the special meeting to consider voluntary liquidation shall be mailed by first-class mail to each member of the credit union and the commissioner not later than the 10th day before the date of the

meeting.

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

Sec. 126.454. CREDIT UNION OPERATIONS BEFORE AND AFTER VOTE. Immediately after notice under Section 126.453 is mailed, the commissioner may restrict control or give direction with respect to the continued business of the credit union pending consideration of voluntary liquidation by the members. During that period, no member shall withdraw an aggregate amount in excess of the share insurance covered by the credit union. No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending voluntary liquidation and the membership meeting called to consider voluntary liquidation, except for the issuance of loans fully secured by a pledge of shares and the funding of outstanding loan commitments approved before adoption of the resolution. If the vote to dissolve and liquidate the credit union is affirmative, the credit union may conduct only business incidental to liquidation.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 52, eff. Sept. 1, 2003.

Sec. 126.455. VOTE ON VOLUNTARY LIQUIDATION. At a special meeting called to consider the proposed liquidation, a majority of the credit union members voting, but not less than a quorum, may vote to dissolve and liquidate the credit union. Those members casting votes by mail or at the meeting constitute a quorum for the transaction of business at the special meeting, notwithstanding a bylaw provision to the contrary.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 53, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 24, eff. September 1, 2013.

Sec. 126.456. NOTICE TO COMMISSIONER OF AFFIRMATIVE VOTE TO LIQUIDATE. (a) The board's presiding officer or president and the secretary shall notify the commissioner of the intention to

liquidate not later than the fifth day after the affirmative vote to dissolve and liquidate.

(b) The person notifying the commissioner must include a list of the names and addresses of the credit union's officers and directors with the notice.

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

Sec. 126.457. APPOINTMENT OF LIQUIDATING AGENT. (a) If the members approve the liquidation, the board shall appoint a liquidating agent to:

- (1) conserve and collect the credit union's assets;
- (2) wind up the credit union's affairs;
- (3) discharge the credit union's debts;
- (4) distribute the credit union's assets; and
- (5) take any other action necessary and incidental to liquidating the credit union.

(b) The National Credit Union Administration or other insuring organization has the right of first refusal to be appointed as liquidating agent of any credit union that it insures. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 54, eff. Sept. 1, 2003.

Sec. 126.458. APPLICATION OF LAW TO CREDIT UNION IN VOLUNTARY LIQUIDATION. A credit union in the process of voluntary dissolution and liquidation remains subject to this subtitle and Chapter 15, including provisions for examination by the commissioner, and the credit union shall furnish reports as required by the commissioner.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 55, eff. Sept. 1, 2003.