

REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Parks and Wildlife Department

Title 31, Part 2

The Texas Parks and Wildlife Department files this notice of intention to review the following chapters of the Texas Administrative Code Title 31, Part 2:

- Chapter 51. Executive.
 - Subchapter A. Procedures for the Adoption of Rules.
 - Subchapter B. Authority to Contract.
 - Subchapter C. Employee Fundraising and Sponsorships.
 - Subchapter D. Education.
 - Subchapter E. Sick Leave Pool.
 - Subchapter F. Vehicles.
 - Subchapter G. Nonprofit Organizations.
 - Subchapter I. Historically Underutilized Businesses.
 - Subchapter J. Contract Dispute Resolution.
 - Subchapter K. Disclosure of Customer Information.
 - Subchapter L. Vendor Dispute Resolution.
 - Subchapter M. Investment of Lifetime License Endowment.
 - Subchapter N. Employee Training.
 - Subchapter O. Advisory Committees.
 - Subchapter P. Official Corporate Partners.
 - Subchapter Q. Promotional Drawings.
- Chapter 52. Stocking Policy.
- Chapter 55. Law Enforcement.
 - Subchapter A. Proof of Residency Requirements.
 - Subchapter B. Seizure, Care and Disposition of Contraband.
 - Subchapter C. Deputy and Special Game Warden Commission.
 - Subchapter D. Operation Game Thief Fund.
 - Subchapter E. Show, Test, and Demonstration of Vessels.
 - Subchapter F. Floating Cabins.
 - Subchapter G. Boat Speed Limit and Buoy Standards.
 - Subchapter H. Party Boats.

Subchapter I. Disposition of Dangerous Wild Animals.

Subchapter J. Controlled Exotic Snakes.

Subchapter K. Interstate Wildlife Violator Compact.

Subchapter L. Marine Safety Enforcement--Training and Certification Standards.

Subchapter M. Mandatory Boating Incident Report.

Chapter 60. Maintenance Reviews.

Subchapter A. Maintenance Equipment Review.

Subchapter B. Maintenance Provider Review.

Chapter 61. Design and Construction.

Subchapter A. Contracts for Public Works.

Subchapter B. Procedural Guide for Land and Water Conservation Fund Program.

Subchapter C. Boat Ramp Construction and Rehabilitation.

Subchapter D. Guidelines for Administration of Local Land and Water Conservation Fund Projects.

Subchapter E. Guidelines for Administration of Texas Local Parks, Recreation, and Open Space Fund Program.

This review is pursuant to Government Code §2001.039. The department will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reasons for adopting the sections under review continue to exist. Final consideration of this rules review is scheduled for the Parks and Wildlife Commission meeting on November 8, 2016.

Any questions or written comments pertaining to this notice of intention to review should be directed to Ann Bright, General Counsel, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Any proposed changes to rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-201603493

Ann Bright

General Counsel

Texas Parks and Wildlife Commission

Filed: July 13, 2016

Adopted Rule Reviews

Credit Union Department

Title 7, Part 6

The Credit Union Commission (Commission) has completed its review of Texas Administrative Code, Title 7, §91.7000 (Certificates of Indebtedness) as published in the April 22, 2016, issue of the *Texas Register* (41 TexReg 2973). The Commission proposes to readopt this rule.

The rule was reviewed as a result of the Credit Union Department's (Department) general rule review.

The Department hereby certifies that the proposal has been reviewed by legal counsel and found to be within the Department's legal authority to readopt.

The Commission received no comments with respect to this rule. The Department believes that the reasons for initially adopting this rule continue to exist. The Commission finds that the reasons for initially adopting §91.7000 continue to exist, and readopts this rule without changes pursuant to the requirements of Government Code, §2001.039.

TRD-201603443

Harold E. Feeney

Commissioner

Credit Union Department

Filed: July 11, 2016



The Credit Union Commission (Commission) has completed its review of Texas Administrative Code, Title 7, §91.8000 (Discovery of Confidential Information) as published in the April 22, 2016, issue of the *Texas Register* (41 TexReg 2973). The Commission proposes to readopt this rule.

The rule was reviewed as a result of the Credit Union Department's (Department) general rule review.

The Department hereby certifies that the proposal has been reviewed by legal counsel and found to be within the Department's legal authority to readopt.

The commission received no comments with respect to this rule. The Department believes that the reasons for initially adopting this rule continue to exist. The Commission finds that the reasons for initially adopting §91.8000 continue to exist, and readopts this rule without changes pursuant to the requirements of Government Code, §2001.039.

TRD-201603444

Harold E. Feeney

Commissioner

Credit Union Department

Filed: July 11, 2016



Joint Financial Regulatory Agencies

Title 7, Part 8

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") have completed the review of the following chapters of Texas Administrative Code, Title 7, Part 8:

Chapter 151 (relating to Home Equity Lending Procedures), consisting of §§151.1-151.8;

Chapter 152 (relating to Repair, Renovation, and New Construction on Homestead Property), consisting of §§152.1, 152.3, 152.5, 152.7, 152.9, 152.11, 152.13, and 152.15; and

Chapter 153 (relating to Home Equity Lending), consisting of §§153.1-153.5, 153.7-153.18, 153.20, 153.22, 153.24, 153.25, 153.41, 153.51, 153.82, 153.84-153.88, and 153.91-153.96.

Notice of the review of 7 TAC, Part 8, Chapters 151, 152, and 153 was published in the *Texas Register* as required on February 26, 2016 (41 TexReg 1503). The Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, and the Texas Credit Union Department ("agencies") received one comment on the notice of intention to review. The comment was submitted by Black, Mann & Graham, L.L.P. The commenter makes several recommendations for amendments to the interpretations in Chapter 153.

In §153.8, the commenter makes two recommendations. First, the commenter recommends adding a new paragraph describing a situation where the borrower "is considered the owner" for purposes of the constitutional home equity provisions. The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, because the current provision provides sufficient guidance to lenders, and the commenter's recommended text incorrectly assumes that the borrower is the only owner of the homestead. Second, in §153.8(5), the commenter recommends correcting the current reference to "50(a)(H)" to correctly refer to Section 50(a)(6)(H). In response to this recommendation, the commissions are proposing an amendment to §153.8(5), published elsewhere in this issue of the *Texas Register*, that corrects this citation.

In §153.10, the commenter recommends "that §153.10(2) be revised to clarify that if the property ceases to be the homestead of the owner, and the owner's spouse, who makes the equity loan, the equity loan may be treated by the lender or any other lender as a valid non-home equity loan secured by the property." The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, because the current provision provides sufficient guidance to lenders, and the commenter's recommended amendment uses unclear terminology.

In §153.12, the commenter suggested deleting a sentence about providing a required disclosure to married owners, and suggested adding the following sentence: "For married owners, only the spouse who will sign the equity loan debt instrument (e.g., a promissory note) is 'the owner' for purposes of Section 50(a)(6)(M)(i)." The commissions disagree with this recommendation, because the commenter's recommended amendment incorrectly assumes that the borrower is the only owner of the homestead.

In §153.13, the commenter makes three recommendations. First, the commenter recommends adding a statement that the preclosing disclosure requirement is limited to costs charged at closing. The commissions disagree with this recommendation. This revision is unnecessary, because the provisions identify the disclosures that lenders can provide in order to comply with the preclosing disclosure requirement. Second, in §153.13(3), the commenter recommends replacing the reference to the Department of Housing and Urban Development HUD-1 form with a reference to the recently adopted Consumer Financial Protection Bureau closing disclosure. The closing disclosure integrates and replaces the previous HUD-1 form. Lenders have been required to provide the closing disclosure since October 3, 2015, under Regulation Z, 12 C.F.R. §1026.19(f) and §1026.38. In response to this recommendation, the commissions are proposing amendments to §153.13(3), published elsewhere in this issue of the *Texas Register*, that would replace the reference to the HUD-1 form with references to disclosures currently required under Regulation Z. Third, in §153.13(6), the commenter suggests adding a statement that the loan may be closed "at any time" on a day after the owner receives the preclosing disclosure, and adding the following sentence: "Normal business hours are those of the

closing office conducting the closing in accordance with §153.15(1)." The commissions disagree with this recommendation. The commissions believe that these revisions are unnecessary, because the current provision provides sufficient guidance to lenders.

In §153.15, the commenter recommends adding the following definitions of "attorney at law" and "title company": "An attorney at law is any attorney at law licensed to practice law in any state, territory or other jurisdiction of the United States. A title company is any title insurer or an agent of a title insurer licensed and regulated by the state, territory or jurisdiction of the United States in which it conducts business as a title insurer or agent of a title insurer." The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, and the commenter's proposed amendment would create the need for additional provisions specifying, for example, how to treat an attorney licensed in another state but engaged in unauthorized practice of law in Texas.

In §153.17, the commenter makes three recommendations. First, the commenter recommends an amendment specifying that the lenders authorized to make a home equity loan include "a bank, savings and loan association, savings bank, or credit union chartered or organized under another state's laws that is also authorized to conduct business in this state by the appropriate banking agency of this state." The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, and the commenter's proposed amendment would create the need for additional provisions to ensure that the interpretation is limited to depository institutions doing business under the laws of Texas, as provided by Section 50(a)(6)(P)(i). Second, the commenter recommends an amendment specifying that a lender licensed under Texas Finance Code, Chapter 156 or 157 is a mortgage broker for purposes of the constitution. In response to this recommendation, the commissions are proposing a new provision, published elsewhere in this issue of the *Texas Register*, that would specify that a person licensed under Chapter 156 is a mortgage broker for purposes of the constitution. Third, the commenter recommends correcting a reference to "another section of (a)(6)(P)" to refer to Section 50(a)(6)(P). In response to this recommendation, the commissions are proposing an amendment to §153.17(2), published elsewhere in this issue of the *Texas Register*, that would replace this phrase with "another provision of Section 50(a)(6)(P)."

In §153.18, the commenter recommends an amendment to re-insert language that the commissions deleted in 2006, regarding the limitation on application of proceeds. The commissions disagree with this recommendation. For the reasons discussed in the commissions' preamble to the 2006 amendments (31 TexReg 5083-84), the commissions believe that it is appropriate to maintain the current text of §153.18.

In §153.20, the commenter recommends an amendment "to clarify what are 'substantive terms of agreement' in regard to blanks in an instrument." The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, because the current provision provides sufficient guidance regarding blanks in home equity instruments.

In §153.51, the commenter recommends adding the following sentence: "For married owners, only the spouse who will sign the debt instrument (e.g., a promissory note) of the equity loan agreement is 'the owner' for purposes of Section 50(g)." The commissions disagree with this recommendation. The commissions believe that this revision is unnecessary, because the current provision provides sufficient guidance to lenders, and the commenter's recommended text incorrectly assumes that the borrower is the only owner of the homestead.

As a result of the comment and internal review by the agencies, the commissions have determined that certain revisions are appropriate and necessary. The commissions are concurrently proposing amendments to Chapter 153, as published elsewhere in this issue of the *Texas Register*. Subject to the concurrently proposed amendments to Chapter 153, the commissions find that the reasons for initially adopting these rules continue to exist, and readopt Chapters 151, 152, and 153 in accordance with the requirements of Texas Government Code, §2001.039. This concludes the review of 7 TAC, Part 8, Chapters 151, 152, and 153.

TRD-201603430

Leslie L. Pettijohn

Consumer Credit Commissioner

Joint Financial Regulatory Agencies

Filed: July 8, 2016

