



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 19, 1991

Mr. John R. Hale
Commissioner
Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

OR91-421

Dear Commissioner Hale:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12576.

The Credit Union Department received an open records request from a representative of the Texas Share Guaranty Credit Union for information that you contend is made confidential by the Texas Credit Union Act, specifically article 2461-11.12, V.T.C.S., in conjunction with section 3(a)(1) of the Open Records Act. You also contend the requested information is protected from required public disclosure by section 3(a)(12) of the Open Records Act. Although we were initially uncertain about the nature of the requested information, the requestor has informed this office that he seeks only records that reflect the costs that have been assessed by the Credit Union Commissioner for the services of conservators to four named credit unions. Of the sample documents that you have forwarded to us for review, only the conservators' invoices and the sample employment contract with the Credit Union Commission contain references to such costs. Thus, this opinion only addresses the availability of those documents under the Open Records Act.

The Credit Union Commission and the Credit Union Commissioner are part of the department. V.T.C.S. art. 2461-11.01(b). Article 2461-10.01 authorizes the commissioner to issue orders of conservation and appoint conservators to manage credit unions. Section (g) of that article provides that the commissioner determines the cost of a conservatorship and that the conservatorship cost is a charge against the assets of the credit union placed in conservatorship. Thus, conservatorship costs are not paid from state funds.

We turn first to article 2461-11.12, V.T.C.S. You argue that section 3(a)(1) in conjunction with article 2461-11.12(b) authorizes you to withhold the invoices and contract at issue here. Section 3(a)(1) of the Open Records Act excepts from required public disclosure information made confidential by statutory law. Thus, if article 2461-11.12 makes the information at issue here confidential, the information would be excepted from disclosure pursuant to section 3(a)(1). Article 2461-11.12 provides in pertinent part:

(a) The department, by and through its duly appointed examiners and in accordance with the rules adopted by the commission, shall perform periodic examinations of the books and records of each credit union authorized to do business under this Act. . . .

(b) *All information, except statements intended for publication, obtained by the department relative to the financial conditions of credit unions, whether obtained through examination or otherwise, and all files and records of the department relative to that information are confidential and not for public record or inspection. . . .* (Emphasis added.)

We understand that the documents in issue here are not intended for publication. Article 2461-11.12(b) is broadly written to make confidential both information obtained by the department relative to the financial condition of a credit union *and* any file and record of the department if it relates to such information. The conservators' invoices and the sample employment contract are departmental records. Since the conservatorship costs mentioned in the invoices and contract are charges against the assets of credit unions placed in conservatorship, they inevitably affect the financial condition of such credit unions just as does any expense charged against the assets of those credit unions. Thus, the conservatorship costs are information "relative to the financial conditions of credit unions." The remaining information in the invoices and contract may also be withheld as "records of the department relative to that information." *See generally* Open Records Decision No. 446 (1986) (financial statements and examination reports and *related memos* confidential under article 2461-11.12(b)). Accordingly, the information in issue here is confidential under article 2461-11.11(b) and may be withheld pursuant to section 3(a)(1). Because we resolve this matter under section 3(a)(1), we need not address the applicability of section 3(a)(12).

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Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-421.

Yours very truly,



Celeste Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/lb

Ref. Nos.: ID# 12576, 12723, 12804, 12813

Enclosure: Open Records Decision No. 446

cc: Billy F. Spivey
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