

Reported Recommending
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Passed House
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Passed Senate
Failed to Pass Senate

House File 232

February 10, 1947.
Banks and Banking.

By McFARLANE and REDMAN.

A BILL FOR

An Act to authorize and regulate the making of installment loans of two thousand dollars (\$2000) or less and to fix maximum charges on such loans; and to repeal sections four hundred twenty-nine point eleven (429.11) to four hundred twenty-nine point thirteen (429.13), inclusive, Code 1946.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Installment loans—Maximum charges. (a) Any
2 person, firm, or corporation licensed under this Act (hereinafter
3 referred to as “licensee”) may deduct the discount and service
4 fee authorized by subsections (b) and (c) of this section
5 from an installment loan contract which provides for repayment
6 over a period not exceeding thirty-one months in substantially
7 equal installments at regular periodic intervals not exceeding
8 one month, if the proceeds of such contract after deducting the
9 discount and service fee do not exceed two thousand dollars
10 (\$2000.00). The privilege of making loans and deducting or
11 receiving charges under this Act is conditioned on compliance
12 with this Act. This Act shall not apply to state or national
13 banks.
14 (b) Discount. The discount may be any sum not exceeding

15 seven per cent (7%) a year computed on the original face amount
16 of the contract for the full period of the contract; provided
17 that if the contract is prepaid by cash, renewal or refinancing,
18 the portion of the discount shall be refunded which is applicable
19 to the full installment periods originally scheduled to follow
20 the date of prepayment. The amount of such refund shall be as
21 great a proportion of the original discount as the sum of the
22 periodical time balances following the date of prepayment bears
23 to the sum of all the periodical time balances, both sums to be
24 determined according to the payment schedule in the contract.

25 (c) Service Fee. The service fee may be any sum not
26 exceeding two per cent (2%) of the original face amount of the
27 contract or fifteen dollars (\$15.00), whichever is smaller. The
28 full amount of the service fee shall be fully earned at the time
29 the contract is made, but if the same licensee makes a subsequent
30 contract with the same borrower within three months of a prior
31 contract for which the licensee has charged a service fee, the
32 licensee shall not charge a service fee on any portion of the
33 subsequent contract.

34 (d) Default Charge. In case of default lasting more than
35 ten (10) days, the licensee may charge one per cent (1%) of the
36 amount in default, and if the default lasts more than twenty (20)
37 days the licensee may charge an additional one per cent (1%) for
38 each succeeding period of twenty (20) days or additional fraction
39 thereof. No default charge may be made after acceleration of
40 maturity, unless the licensee gives the same refund of discount

41 which would be required if the contract had been prepaid in full
42 on the date of such acceleration of maturity.

43 (e) Unauthorized Charges Prohibited. In addition to the
44 discount, service fee, and default charge provided for in
45 subsections (a), (b), (c), and (d) of this section, no further or
46 other amount whatsoever shall be directly or indirectly charged,
47 contracted for, deducted, or received with respect to loans made
48 under this Act, except fees actually paid to a public officer
49 for filing, recording or releasing any instrument of security
50 including any fee for a certificate of title to a motor vehicle.

1 Sec. 2. Maximum Indebtedness. A lender licensed under
2 this Act shall not permit any person to owe such lender, directly
3 or indirectly or contingently, more than two thousand dollars
4 (\$2,000.00) at any time for loans made under this Act, exclusive
5 of charges permitted by section one (1). Such lender shall not
6 permit any borrower to be indebted to such lender for a loan
7 made under this Act at any time while such borrower is also
8 indebted to the same lender or to an affiliate or agent of the
9 same lender for a loan made under chapter five hundred thirty-six
10 (536), Code 1946.

1 Sec. 3. Loan Statement. A licensee shall deliver a
2 statement to the borrower of any loan made under this Act, which
3 shall clearly disclose the original face amount of the contract,
4 the amounts of discount and service fee stated separately, the net
5 proceeds of the loan after deducting the discount and service
6 fee, the actual date of the loan, the payment schedule, the date

7 of final payment, the charge for default, and the amounts paid or
8 to be paid for filing, recording or releasing fees. The
9 statement shall also disclose that the loan is subject to The
10 Installment Loan Act, that the borrower may prepay the loan at
11 any time, and that on prepayment in full the borrower will
12 receive a refund of a portion of the discount as provided by
13 The Installment Loan Act.

1 Sec. 4. Receipt. A licensee shall give a receipt for each
2 payment in cash or currency on a loan made under this Act.

1 Sec. 5. Advertising. No statement in advertising for loans
2 under this Act shall be false, misleading or deceptive. In any
3 such advertising, the amount of the loan shall be the proceeds
4 of the loan contract after deducting the discount and service
5 fee from the face amount of the loan contract, and the face
6 amount of the contract shall not be stated or referred to in
7 advertising unless the amount of the loan is stated. Any such
8 advertising which states a charge for the loan or the amount of
9 an installment shall also state the amount of the loan, the
10 amount and number of installments required to pay the loan, and
11 the interval between installments.

1 Sec. 6. License Required. No person, firm or corporation
2 shall make any loan under this Act or receive the charges
3 authorized by section one (1) of this Act without first obtaining
4 a license from the superintendent of banking (hereinafter called
5 the "superintendent").

1 Sec. 7. Issuance or Denial of License. Application for a

2 license shall be in the form prescribed by the superintendent,
3 shall give the location where the business is to be conducted,
4 and shall contain such further relevant information as the
5 superintendent may require. Upon the filing of such application
6 and the payment of one hundred dollars (\$100.00) as an annual
7 license fee, the superintendent shall investigate the relevant
8 facts, and if he shall find that the financial responsibility
9 and reputation of the applicant warrant the belief that the
10 business will be operated in compliance with this Act, he shall
11 thereupon issue a license to the applicant. If the superintendent
12 shall not so find, he shall enter an order denying such
13 application and forthwith notify the applicant of the denial and
14 return the license fee; within twenty (20) days after the entry
15 of such an order he shall prepare a record which shall contain
16 his order and findings and a summary of the evidence supporting
17 them and shall forthwith deliver or mail a copy of such record
18 to the applicant. No license shall be denied without first giving
19 the applicant reasonable notice and an opportunity to be heard.
20 Such license may be continued from year to year by payment of an
21 annual license fee of one hundred dollars (\$100.00) on or before
22 December fifteenth of each year.

1 Sec. 8. Revocation of License. The superintendent shall,
2 upon ten (10) days' written notice to the licensee stating the
3 contemplated action and in general the grounds therefor, and
4 upon reasonable opportunity to be heard, revoke any license
5 issued hereunder if he finds that the licensee has continued to

6 violate this Act after receiving notice of such violation from
7 the superintendent. Such revocation shall not impair the
8 obligation of any pre-existing lawful contract made under this
9 Act. Whenever the superintendent shall revoke a licenses, he
10 shall enter an order to that effect and forthwith notify the
11 licensee of the revocation. Within five (5) days after the
12 entry of such an order he shall make a record which shall contain
13 his order and findings and a summary of the evidence supporting
14 them and he shall forthwith deliver or mail a copy thereof to
15 the licensee.

1 Sec. 9: Separate License for Each Place of Business. Not
2 more than one place of business shall be maintained under the
3 same license, but the superintendent may issue additional
4 licenses to the same licensee upon compliance with all the
5 provisions of this Act governing the issuance of a single
6 license.

1 Sec. 10. (a) Records and Examination. Every licensee
2 shall keep records pertaining to loans made under this Act.
3 Such records shall be segregated from records pertaining to
4 transactions which are not subject to this Act. At least once
5 each year the superintendent shall make or cause to be made an
6 examination of records pertaining to loans made under this Act
7 for the purpose of determining whether the licensee is complying
8 with this Act and of verifying the annual report required by
9 subsection (b) of this section.

10 (b) Annual Report. Each licensee shall file with the

11 superintendent on or before March fifteenth of each year a report
12 for the preceding calendar year in the form prescribed by the
13 superintendent which shall show the annual volume and outstanding
14 amounts of such loans, and the gross income from, and expenses
15 properly chargeable to such loans. The superintendent shall
16 publish annually a summary of all such reports.

1 Sec. 11. Violations. Any licensee who shall violate any
2 provision of this Act in the making or collection of any loan
3 contract under this Act shall be guilty of a misdemeanor, and on
4 conviction thereof such licensee shall be punishable by a fine
5 of not more than one thousand dollars (\$1,000.00) and not less
6 than one hundred dollars (\$100.00); and the loan contract in
7 connection with which such violation has occurred shall be
8 subject to chapter five hundred thirty-five (535), Code 1946.

1 Sec. 12. Judicial Review. The district court in and for
2 Polk County shall have jurisdiction in an equitable action by an
3 aggrieved party to review any final order, demand, finding, or
4 decision of the superintendent of banking and to grant such
5 relief as may be warranted by the facts under this Act. An
6 appeal to the supreme court may be taken as in other equitable
7 actions.

1 Sec. 13. Repeal. Sections four hundred twenty-nine point
2 eleven (429.11) to four hundred twenty-nine point thirteen
3 (429.13) inclusive, Code 1946, and all acts and parts of acts
4 whether general, special, or local which relate to the same
5 subject matter as this Act, so far as they are inconsistent with

6 this Act, are hereby repealed.

1 Sec. 14. This Act shall be known and may be cited as The

2 Installment Loan Act.

EXPLANATION OF H. F. 232

With the present law there is no provision made for the regulation of rates of interest of finance companies or other agencies making installment loans other than that provided and small loan companies loaning not to exceed \$300 per year. The provisions of sections 429.11 to 429.13 inclusive provide that these agencies may obtain a permit, from the auditor of state, certifying that they are operating on a proper basis but these sections do not require an examination by the auditor and the fee of \$25 a year provided by these sections is not adequate to cover the cost of an examination. The bill as drafted will place under the supervision of the state banking department all agencies in Iowa making installment loans which are not covered by existing law. At the present time banks, building and loan companies and smaller loan companies are under rigid state supervision both as to method of operation and rates charged. This bill provides that a legal rate of interest of 7 per cent discounted in advance may be collected on loans of \$2,000 or less. This bill does not in any way affect the concerns now operating under the small loan act or banks or building and loan associations.