

February 12, 1963.  
Banks, Building and Loan.

**House File 230**  
By KNOWLES.

Passed House, Date.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Approved.....

## A BILL FOR

An Act to regulate the business of debt management; to require licenses and to fix fees therefor; to prescribe the powers and duties of the superintendent of banking; to prescribe conditions for debt management contracts; to provide for the disposition of revenues; and to provide penalties for violations of the provisions of this Act.

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

1 Section 1. As used in this Act:

2 1. "Debt management" means the planning and management of the  
3 financial affairs of a debtor for a fee and the receiving there-  
4 from money or evidences thereof for the purpose of distributing  
5 the same to his creditors in payment or partial payment of his  
6 obligations.

7 2. "Licensee" means any individual, copartnership, unincor-  
8 porated association or corporation licensed under this Act.

9 3. "Superintendent" means the superintendent of banking.

10 4. "Debtor" means a person, fifty percent or more of whose  
11 income is in the form of wages or salaries.

12 5. "Office" means each location by street number, building  
13 number, city and state where any person engages in debt manage-  
14 ment.

15 6. "Creditor" means a person for whose benefit moneys are  
16 being collected and disbursed by licensees.

1 Sec. 2. Any person engaged in debt management shall be deemed

2 to be rendering financial planning service, but this Act shall not

3 apply to the following when engaged in the regular course of their  
4 respective businesses and professions.

5 1. Attorneys at law.

6 2. Banks, fiduciaries, financing and lending institutions, as  
7 duly authorized and admitted to transact business in this state  
8 and performing credit and financial adjusting service in the  
9 regular course of their principal business.

10 3. Title insurers and abstract companies, while doing an  
11 escrow business.

12 4. Employees of licensees under this Act.

13 5. Judicial officers or others acting under court orders.

14 6. Nonprofit religious, fraternal or co-operative organiza-  
15 tions offering debt management service exclusively for their  
16 members.

1 Sec. 3. After January 1, 1964, it shall be unlawful for any  
2 person to engage in the business of debt management without  
3 first obtaining a license as required in this Act.

1 Sec. 4. Any person desiring to obtain a license to engage in  
2 the debt management business in this state shall file with the  
3 superintendent an application in writing, under oath, setting  
4 forth his business name, the exact location of his office, names  
5 and addresses of all officers and directors if an association or  
6 a corporation, and if a partnership, the partnership name and the  
7 names and addresses of all partners, and a copy of the certifi-  
8 cate of assumed name or certificate of copartnership or articles  
9 of incorporation. At the time of filing the application the  
10 applicant shall pay to the superintendent a license fee of fifty  
11 dollars for each office and an investigation fee of fifty dollars.

12 At the time of filing the application the applicant shall furnish  
13 a bond to the people of the state in the sum of five thousand  
14 dollars, conditioned upon the faithful accounting of all moneys  
15 collected upon accounts entrusted to such person engaged in debt  
16 management, and their employees and agents. The bond or bonds  
17 shall be approved by the superintendent and filed in the office  
18 of the superintendent of banking. No person, firm or corporation  
19 shall engage in the business of debt management until a good  
20 and sufficient bond is filed in accordance with the provisions  
21 of this Act.

22 Each licensee shall furnish with his application a blank  
23 copy of the contract he intends to use between himself and the  
24 debtor and shall notify the superintendent of all changes and  
25 amendments thereto.

26 The license issued under this Act shall expire on December 31  
27 next following its issuance unless sooner surrendered, revoked  
28 or suspended, but may be renewed as provided in this Act.

29 The application shall be accompanied by an appointment of the  
30 superintendent as agent of the applicant for service of process  
31 in this state. Service upon the superintendent shall be suf-  
32 ficient service upon any licensee under the Act.

1 Sec. 5. Upon the filing of the application and the payment  
2 of the fees and the approval of the bond, the superintendent  
3 shall investigate the facts, and if it finds that the financial  
4 responsibility, experience, character and general fitness of the  
5 applicant and of the members thereof, if the applicant is a  
6 partnership or an association, and of the officers and directors  
7 thereof, if the applicant is a corporation, are such as to com-

8 mand the confidence of the community to warrant belief that  
9 the business will be operated fairly and honestly within the  
10 purposes of this Act and that the applicant or the applicant  
11 and the members thereof or the applicant and the officers and  
12 directors thereof have not been convicted of any crime involving  
13 moral turpitude, or that such person has not had a record of  
14 having defaulted in the payment of money collected for others,  
15 including the discharge of such debts through bankruptcy proceed-  
16 ings, the superintendent shall issue the applicant a license to  
17 engage in the debt management business in accordance with the  
18 provisions of this Act. The superintendent may require as part  
19 of the application a credit report and other information.

1 Sec. 6. Each licensee on or before December 1 may make appli-  
2 cation to the superintendent for renewal of its license. The  
3 application shall be on the form prescribed by the superintendent  
4 and shall be accompanied by a fee of fifty dollars, together with  
5 a bond as in the case of an original application. A separate  
6 application shall be made for each office.

1 Sec. 7. 1. The superintendent may deny, revoke or suspend  
2 any license issued or applied for under this Act for the following  
3 causes :

4 a. Conviction of a felony or of a misdemeanor involving  
5 moral turpitude.

6 b. For violating any of the provisions of this Act.

7 c. For fraud or deceit in procuring the issuance of a license  
8 under this Act.

9 d. For indulging in a continuous course of unfair conduct.

10 e. For insolvency, filing in bankruptcy, receivership, or  
11 assigning for the benefit of creditors by any licensee or appli-

12 cant for a license under the Act.

13 2. The denial, revocation or suspension shall only be made  
14 upon specific charges in writing, under oath, filed with the  
15 superintendent or by the superintendent, whereupon a hearing  
16 shall be had as to the reasons for any denial, revocation or  
17 suspension and a certified copy of the charges shall be served  
18 on the licensee or applicant for license not less than ten days  
19 prior to the hearing.

20 3. No license shall be transferable or assignable.

1 Sec. 8. Rules and regulations issued by the superintendent  
2 under this Act shall be promulgated in accordance with chapter  
3 seventeen A (17A) of the Code.

1 Sec. 9. Each licensee shall make a written contract between  
2 himself and a debtor and immediately furnish the debtor with  
3 a true copy of the contract. The contract shall set forth the  
4 complete list of the debtor's obligations to be adjusted, a com-  
5 plete list of the creditors holding such obligations, the total  
6 charges agreed upon for the services of the licensee and the  
7 beginning and expiration date of the contract. No contract shall  
8 extend for a period longer than twenty-four months.

1 Sec. 10. Each licensee shall maintain a separate bank ac-  
2 count for the benefit of debtors in which all payments received  
3 from the debtor for the benefit of creditors shall be deposited  
4 and in which all payments shall remain until a remittance is made  
5 to either the debtor or the creditor. Every licensee shall keep,  
6 and use in his business, books, accounts and records which will  
7 enable the superintendent to determine whether such licensee is  
8 complying with the provisions of this Act and with the rules and  
9 regulations of the superintendent. Every licensee shall preserve

10 such books, accounts and records for at least seven years after  
11 making the final entry on any transaction recorded therein.

1     Sec. 11. The Superintendent may examine without notice the  
2 condition and affairs of each licensee. In connection with any  
3 examination, the superintendent may examine an oath any licensee,  
4 and any director, officer, employee, customer, creditor or stock-  
5 holder of a licensee concerning the affairs and business of the  
6 licensee. The superintendent shall ascertain whether the licensee  
7 transacts its business in the manner prescribed by law and the  
8 rules and regulations issued thereunder. The licensee shall pay  
9 the actual cost of the examination as determined by the superin-  
10 tendent, which fee shall be deposited in the state treasury to  
11 the credit of the general fund. Failure to pay the examination  
12 fee within thirty days of receipt of demand from the superintend-  
13 ent shall automatically suspend the license until the fee is paid.

14     In the investigation of alleged violations of this Act, the  
15 superintendent may compel the attendance of any person or the  
16 production of any books, accounts, records and files used therein;  
17 and may examine under oath all persons in attendance pursuant  
18 thereto.

1     Sec. 12. 1. The fee of the licensee shall be agreed upon in  
2 advance and stated in the contract and provision for settlement  
3 in case of cancellation or prepayment shall be clearly stated  
4 in the contract. Fees shall be amortized equally each month over  
5 the length of the contract and no more than the monthly amortized  
6 amount may be applied to charges while the contract is in full  
7 force and effect, except in event of prepayment or cancellation.  
8 In the event of total payment of the contract before the term  
9 of the contract has expired, or in the event of cancellation, the

10 company will be entitled to an amount equal to not more than  
11 twenty-five percent of the remaining unamortized amount specified  
12 in the terms of the contract. No licensee shall be entitled to  
13 any fee or charge against the debtor, upon any contract until  
14 the debt management program is arranged and approved by the  
13 debtor. A contract shall not be effective until a debtor has  
16 made a payment to the licensee for distribution to his creditors.

17 2. A licensee shall not receive any fee unless he has the  
18 consent of at least fifty-one percent of the total amount of  
19 indebtedness and of the total number of the creditors listed in  
20 the licensee's contract with the debtor or such a like number  
21 of creditors have accepted a distribution of payment.

1 Sec. 13. Each licensee shall:

2 1. Keep complete and adequate records during the term of the  
3 contract and for a period of seven years from the date of cancel-  
4 lation or completion of the contract with each debtor, which  
5 records shall contain complete information regarding the contract,  
6 extensions thereof, payments, disbursements and charges, which  
7 records shall be open to inspection by the superintendent and  
8 its duly appointed agents during normal business hours.

9 2. Make remittances to creditors within fifteen days after  
10 receipt of any funds, less fees and costs, unless the reasonable  
11 payment of one or more of the debtor's obligations requires that  
12 such funds be held for a longer period so as to accumulate a sum  
13 certain.

14 3. Upon request furnish the debtor a written statement of  
15 his account each ninety days, or a verbal accounting at any time  
16 the debtor may request it during normal business hours.

17 4. No licensee shall accept an account unless a written and  
18 thorough budget analysis indicates that the debtor can reasonably  
19 meet the requirements required by the budget analysis.

20 5. In the event a compromise of a debt is arranged by the  
21 licensee with any one or more creditors, the debtor shall have  
22 the full benefit of that compromise.

1 Sec. 14. No licensee shall:

2 1. Purchase from a creditor any obligation of a debtor.

3 2. Operate as a collection agent and as a licensee as to  
4 the same debtor's account.

5 3. Execute any contract or agreement to be signed by the  
6 debtor unless the contract or agreement is fully and completely  
7 filled in and finished.

8 4. Receive or charge any fee in the form of a promissory  
9 note or other promise to pay, or receive or accept any mortgage  
10 or other security for any fee, both as to real or personal  
11 property.

12 5. Pay any bonus or other consideration to any person for  
13 the refusal of a debtor to his business, nor shall he accept  
14 or receive any bonus, commission or other consideration for refer-  
15 ring any debtor to any person for any reason.

16 6. Advertise his services, display, distribute, broadcast  
17 or televise or permit to be displayed, advertised, distributed,  
18 broadcasted or televised his services in any manner whatsoever  
19 wherein any false, misleading or deceptive statement or repre-  
20 sentation with regard to the services to be performed by the  
21 licensee or the charges to be made therefor.

1 Sec. 15. 1. Any person, partnership, association, corpora-  
2 tion or any other group of individuals, however organized, or

3 any owner, partner, member, officer, director, employee, agent  
4 or representative thereof who willfully or knowingly engages in  
5 the business of debt management without the license required by  
6 this Act, is guilty of a misdemeanor and shall be fined not more  
7 than one thousand dollars for each violation or imprisoned for  
8 not more than one year, or both.

9 2. Any licensee under this Act who violates any provision  
10 of this Act is guilty of a misdemeanor and shall be fined not  
11 more than one thousand dollars for the first offense, and for  
12 each subsequent offense a like fine and imprisonment not to ex-  
13 ceed one year.

1 Sec. 16. All fees collected under the provisions of this  
2 Act shall be paid promptly into the state treasury to the credit  
3 of the general fund.

**EXPLANATION OF HOUSE FILE 230**

This bill would regulate the business of debt management and place the supervision of such businesses under the superintendent of banking. State regulation and supervision of such businesses is much needed in Iowa. The bill has been patterned after the Michigan law.