

MAR 1 2005

COMMERCE, REGULATION & LABOR

HOUSE FILE 501
BY SHOULTZ

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting payday lending and providing for penalties.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 501

1 Section 1. Section 524.211, subsection 2 and 4, Code 2005,
2 are amended to read as follows:

3 2. The superintendent, general counsel, examiners, and
4 other employees assigned to the finance bureau of the banking
5 division are prohibited from obtaining a loan of money or
6 property from a person or entity licensed pursuant to chapter
7 533A, 533B, 536, or 536A, or a person or entity affiliated
8 with such licensee.

9 4. Examiners and other employees assigned to the bank
10 bureau of the banking division who have credit relations with
11 a person or entity licensed pursuant to chapter 533A, 533B,
12 536, or 536A, or with a person or entity affiliated with such
13 licensee, are prohibited from participating in decisions,
14 oversight, and official review of matters concerning the
15 regulation of the licensee.

16 Sec. 2. Section 533C.103, subsection 11, Code 2005, is
17 amended by striking the subsection.

18 Sec. 3. NEW SECTION. 536B.1 TITLE.

19 This chapter shall be known and may be cited as the "Payday
20 Lending Prohibition Act".

21 Sec. 4. NEW SECTION. 536B.2 FINDINGS AND PURPOSE.

22 1. The general assembly finds all of the following:

23 a. Payday lenders typically charge effective interest
24 rates of over four hundred percent per year.

25 b. Payday lenders typically make most of their profits by
26 allowing borrowers to become caught in a cycle of revolving
27 debt.

28 c. Some payday lenders have created schemes to disguise
29 payday loan transactions or cause payday loan transactions to
30 appear to be made by a financial institution chartered in
31 another state.

32 d. The problem of predatory payday lending has increased
33 rapidly over the last several years.

34 2. The purpose of this chapter is to protect consumers
35 from predatory terms and tactics employed in the lending and

1 collection of payday loans.

2 Sec. 5. NEW SECTION. 536B.3 DEFINITIONS.

3 For purposes of this chapter, unless the context otherwise
4 requires:

5 1. "Check" means a check, draft, share draft, or other
6 instrument for the payment of money.

7 2. "Payday lending services" means the performance of
8 either of the following services for a fee:

9 a. Acceptance of a check dated subsequent to the date it
10 was written.

11 b. Acceptance of a check dated on the date it was written
12 and holding the check for a period of time prior to deposit or
13 presentment pursuant to an agreement with, or any
14 representation made to, the maker of the check, whether
15 express or implied.

16 3. "Person" means the same as defined in section 4.1.

17 4. "Superintendent" means the superintendent of banking.

18 Sec. 6. NEW SECTION. 536B.4 PAYDAY LENDING PROHIBITION.

19 It is unlawful for a person to engage in a business that
20 consists in whole or in part of making, offering, arranging,
21 or acting as an agent in, the provision of payday lending
22 services. This prohibition shall not apply to persons who do
23 not hold themselves out to the public as being in the business
24 of making loans or providing payday lending services.

25 Sec. 7. NEW SECTION. 536B.5 ENFORCEMENT.

26 The superintendent, with the assistance of the attorney
27 general, shall enforce the provisions of this chapter.

28 Sec. 8. NEW SECTION. 536B.6 VIOLATIONS -- PENALTIES.

29 1. A person who violates any provision of this chapter or
30 the rules adopted pursuant to this chapter is guilty of a
31 serious misdemeanor. Each payday lending service transaction
32 shall be deemed a separate violation under this chapter. A
33 person who commits a second or subsequent violation of this
34 chapter is guilty of a class "D" felony.

35 2. A person who receives payday lending services which

1 were performed in violation of this chapter may seek any
2 damages suffered as a result of the violation including
3 attorney fees and court costs.

4 Sec. 9. NEW SECTION. 536B.7 RULES.

5 The superintendent shall adopt rules necessary to implement
6 and enforce this chapter.

7 Sec. 10. Section 537.7102, subsection 3, Code 2005, is
8 amended to read as follows:

9 3. "Debt" means an actual or alleged obligation arising
10 out of a consumer credit transaction, consumer rental purchase
11 agreement, or a transaction which would have been a consumer
12 credit transaction either if a finance charge was made, if the
13 obligation was not payable in installments, if a lease was for
14 a term of four months or less, or if a lease was of an
15 interest in land. A debt includes a check as defined in
16 section 554.3104 given in a transaction in connection with a
17 consumer rental purchase agreement, in a transaction which was
18 a consumer credit sale, or in a transaction which would have
19 been a consumer credit sale if credit was granted and if a
20 finance charge was made, ~~or in a transaction regulated under~~
21 ~~chapter-533D.~~

22 Sec. 11. Chapter 533D, Code 2005, is repealed.

23 Sec. 12. TRANSITION PROVISIONS. A person licensed
24 pursuant to chapter 533D, Code 2005, shall not initiate or
25 renew a transaction for delayed deposit services on or after
26 July 1, 2005. Loans outstanding on or after July 1, 2005,
27 shall be enforceable upon the agreed terms of the loan.
28 Licensees shall surrender licenses issued pursuant to chapter
29 533D to the superintendent by August 1, 2005. The
30 superintendent shall provide written notification of the
31 requirements of this section to all persons licensed under
32 chapter 533D within thirty days after enactment of this Act.

33

EXPLANATION

34 This bill relates to payday lending services which are also
35 referred to as delayed deposit services. The bill, in new

1 Code chapter 536B, provides a list of findings by the general
2 assembly related to the effects of payday loans on consumers
3 in this state and provides a purpose of protecting consumers
4 from predatory terms and tactics used in the lending and
5 collection of payday loans.

6 The bill prohibits a person from engaging in a business
7 that makes, offers, or arranges, or acts as an agent in, the
8 provision of payday lending services. The bill defines
9 "payday lending services" as the acceptance of a check dated
10 subsequent to the date the check was written or acceptance of
11 a check dated on the date the check was written but holding
12 the check for a period of time prior to deposit pursuant to an
13 agreement. Persons who do not hold themselves out as being in
14 the business of making loans are not subject to new Code
15 chapter 536B.

16 The bill provides for the enforcement of new Code chapter
17 536B by the superintendent of banking with assistance from the
18 attorney general. A person who violates any provision of Code
19 chapter 536B is guilty of a serious misdemeanor. A serious
20 misdemeanor is punishable by confinement for no more than one
21 year and a fine of at least \$250 but not more than \$1,500. A
22 person who commits a second or subsequent violation is guilty
23 of a class "D" felony. A class "D" felony is punishable by
24 confinement for no more than five years and a fine of at least
25 \$750 but not more than \$7,500. The superintendent of banking
26 shall adopt rules as necessary.

27 The bill repeals Code chapter 533D relating to the
28 licensing and regulation of delayed deposit services
29 businesses. Persons licensed under current law to provide
30 delayed deposit services may not initiate or renew a loan
31 transaction on or after July 1, 2005, and must surrender
32 licenses issued under Code chapter 533D by August 1, 2005.
33 However, loan transactions initiated prior to July 1, 2005,
34 are enforceable under the terms of the loan. The
35 superintendent is required to provide written notification of

1 the transition provisions to all persons licensed under Code
2 chapter 533D within 30 days after enactment.

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