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SENATE FILE **2353**
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3139)

Passed Senate, Date 3-15-06 Passed House, Date _____
Vote: Ayes 43 Nays 0 Vote: Ayes _____ Nays _____
Approved April 11, 2006

A BILL FOR

1 An Act relating to debt management, mortgage bankers and brokers,
2 delayed deposit services, regulated loans, and industrial
3 loans, and providing for fees and penalties.

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

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DIVISION I

DEBT MANAGEMENT

Section 1. Section 533A.1, Code 2005, is amended to read as follows:

533A.1 DEFINITIONS.

As used in this chapter:

1. "Allowable cost" means an actual, identifiable third-party expense incurred by the licensee on behalf of a specific debtor, such as postage and long distance telephone charges, that may be itemized and charged against the debtor for payment.

2. "Creditor" means a person for whose benefit moneys are being collected and distributed by licensees.

~~2.~~ 3. "Debt management" means the planning and management of the financial affairs of a debtor and the receiving therefrom of money or evidences thereof for the purpose of distributing the same to the debtor's creditors in payment or partial payment of the debtor's obligations for a fee.

~~3.~~ 4. "Debtor" means any natural person.

5. "Donation" means money given by the debtor to a licensee as a gift for debt management and outside of the debt management contract.

6. "Fee" means the moneys paid by the debtor to the licensee as payment for debt management and shall not include money paid to the licensee or held by the licensee for distribution to a creditor, allowable costs, a distribution to the debtor as a refund, or a donation.

7. "Gratuitous debt-management service" means debt management without charging a fee.

~~4.~~ 8. "Licensee" means any individual, partnership, unincorporated association, agency or corporation person licensed under this chapter.

9. "Natural person" means an individual who is not an association, joint venture, or joint stock company, partnership, limited partnership, business corporation,

1 nonprofit corporation, other business entity, or any group of
2 individuals or business entities, however organized.

3 5- 10. "Office" means each location by street number,
4 building number, city, and state where any person engages in
5 debt management.

6 11. "Person" means an individual, an association, joint
7 venture or joint stock company, partnership, limited
8 partnership, business corporation, nonprofit corporation, or
9 any other group of individuals however organized.

10 6- 12. "Superintendent" means the superintendent of
11 banking.

12 Sec. 2. Section 533A.2, Code 2005, is amended to read as
13 follows:

14 533A.2 LICENSES REQUIRED -- EXCEPTIONS.

15 1. ~~No-individual, partnership, unincorporated association,~~
16 ~~agency or corporation~~ A person shall not engage in the
17 business of debt management in this state without a license
18 therefor as provided for in this chapter, except that the
19 unless exempt under subsection 2. A person engages in the
20 business of debt management in this state if the person
21 solicits to provide, or enters into a contract with one or
22 more debtors to provide debt management to a debtor who
23 resides in this state.

24 2. The following persons, including employees of such
25 persons, shall not be required to be licensed when engaged in
26 the regular course of their respective businesses and
27 professions:

28 a. Attorneys at law.

29 b. Banks, savings and loan associations, credit unions,
30 mortgage bankers and mortgage brokers licensed or registered
31 under chapter 535B, insurance companies and similar
32 fiduciaries, regulated loan companies licensed under chapter
33 536, and industrial loan companies licensed under chapter
34 536A, authorized and admitted to transact business in this
35 state and performing credit and financial adjusting in the

1 regular course of their principal business, or while
2 performing an escrow function.

3 c. Abstract companies, while performing an escrow
4 function.

5 d. Employees of licensees under this chapter.

6 e. Judicial officers or others acting under court orders.

7 f. Nonprofit religious, fraternal or ~~co-operative~~
8 cooperative organizations, ~~including credit unions,~~ offering
9 to debtors gratuitous debt-management service.

10 g. Those persons, ~~associations, or corporations~~ whose
11 principal business is the origination of first mortgage loans
12 on real estate for their own portfolios or for sale to
13 institutional investors.

14 ~~2-~~ 3. The application for such a license shall be in
15 ~~writing, under oath, and in~~ the form prescribed by the
16 superintendent. The application shall contain all of the
17 following:

18 a. The name of the applicant, ~~date of incorporation, if~~
19 ~~incorporated, and the.~~

20 b. If the applicant is not a natural person, the type of
21 business entity of the applicant and the date the entity was
22 organized.

23 c. The address where the business is to be conducted, ~~and~~
24 ~~similar, including~~ information as to any branch office of the
25 applicant, ~~the.~~

26 d. The name and resident address of the applicant's owner
27 or partners, or, if a corporation, association, or agency, of
28 the members, shareholders, directors, trustees, principal
29 officers, managers, and agents, and such other pertinent
30 ~~information as the superintendent may require. If the~~
31 ~~applicant is a partnership, a copy of the certificate of~~
32 ~~assumed name or articles of partnership shall be filed with~~
33 ~~the application.~~ If the applicant is not a corporation
34 natural person, a copy of the articles of incorporation legal
35 documents creating the applicant shall be filed with the

1 application.

2 e. Other pertinent information as the superintendent may
3 require, including a credit report.

4 ~~3-~~ 4. Each application shall be accompanied by a bond to
5 be approved by the superintendent to in favor of the people of
6 the state of Iowa in the penal sum of ten twenty-five thousand
7 dollars for each office, ~~providing, however, the~~
8 ~~superintendent may require such bond to be raised to a maximum~~
9 ~~sum of twenty-five thousand dollars,~~ and conditioned that the
10 obligor will not violate any law pertaining to such business
11 and upon the faithful accounting of all moneys collected upon
12 accounts entrusted to such person engaged in debt management,
13 and their employees and agents for the purpose of indemnifying
14 debtors for loss resulting from conduct prohibited by this
15 chapter. The aggregate liability of the surety to all debtors
16 doing business with the office for which the bond is filed
17 shall, in no event, exceed the penal sum of such bond. The
18 surety on the bond shall have the right to cancel such bond
19 upon giving thirty days' notice to the superintendent and
20 thereafter shall be relieved of liability for any breach of
21 condition occurring after the effective date of said the
22 cancellation. ~~No individual, partnership, unincorporated~~
23 ~~association, agency or corporation~~ A person shall not engage
24 in the business of debt management until a good and sufficient
25 bond is filed in accordance with the provisions of this
26 chapter.

27 ~~4-~~ 5. Each applicant shall furnish with the application a
28 copy of the contract the applicant proposes to use between the
29 applicant and the debtor, which shall contain a schedule of
30 fees to be charged the debtor for the applicant's services.

31 ~~5-~~ 6. At the time of making such the application the
32 applicant shall pay to the superintendent the sum of two
33 hundred fifty dollars as a license fee for each of the
34 applicant's offices and an investigation fee in the sum of one
35 hundred dollars. A separate application shall be made for

1 each office maintained by the applicant.

2 Sec. 3. Section 533A.3, Code 2005, is amended to read as
3 follows:

4 533A.3 INVESTIGATION -- HEARING.

5 1. Upon the filing of each application and the payment of
6 ~~such the~~ fees, the superintendent shall ~~fix-a-date-and-a-time~~
7 ~~for-a-hearing-upon-such-application,-and-shall-make~~ conduct an
8 investigation of the facts concerning the application and the
9 requirements provided ~~for~~ in subsection 3 ~~of-this-section~~.

10 2. The superintendent shall grant or deny each application
11 for a license within sixty days from the ~~filing-thereof-with~~
12 date that the application and the required fee are filed and
13 paid, unless the period is extended by written agreement
14 between the applicant and the superintendent.

15 3. ~~a---if-the~~ The superintendent shall ~~find-the~~ enter an
16 order granting the application, and issue and deliver a
17 license to the applicant if the superintendent finds that both
18 of the following are satisfied:

19 a. The experience, financial responsibility, character,
20 and general fitness of the applicant is ~~such~~ sufficient as to
21 command the confidence of the public and to warrant belief
22 that the business will be operated lawfully, honestly, fairly,
23 and efficiently within the purposes of this chapter, ~~and-that~~
24 the.

25 b. The applicant, ~~or-if-the-applicant-is-an-unincorporated~~
26 ~~association,-agency-or-partnership,-then-the-individuals~~
27 ~~involved,-or-if-the-applicant-is-a-corporation-then-the~~
28 ~~officers-and-directors-thereof,-have~~ has not been convicted of
29 or pled guilty to a felony or a an indictable misdemeanor
30 ~~involving-moral-turpitude~~ for financial gain, or have has not
31 had a record of having defaulted in payment of money collected
32 for others, including the discharge of such debts through
33 bankruptcy proceedings, ~~the-superintendent-shall-thereupon~~
34 ~~enter-an-order-granting-such-application-and-forthwith-issue~~
35 ~~and-deliver-a-license-to-the-applicant.~~ The-superintendent

1 ~~may require as part of the application a credit report and~~
2 ~~other information.~~

3 If the applicant is not a natural person, this subsection
4 shall apply to the owners, partners, members, shareholders,
5 officers, directors, and managers of the applicant.

6 ~~b.~~ 4. If the applicant has, at the time of the
7 application, a license for an office located within ten
8 ~~statute~~ miles of the location of the office named in the
9 application, ~~no~~ a license shall not be issued unless the
10 superintendent finds that public convenience will be served by
11 the issuance of ~~such~~ the license.

12 ~~c.~~ 5. No A license shall not be transferable or
13 assignable.

14 ~~4.~~ 6. If the superintendent finds the applicant not
15 qualified by under subsection 3 ~~of this section~~, the
16 superintendent shall enter an order denying ~~such~~ the
17 application and ~~forthwith~~ notify the applicant of the denial,
18 returning the license fee. Within fifteen days after the
19 entry of such order, the superintendent shall prepare written
20 findings and shall ~~forthwith~~ deliver a copy ~~thereof~~ to the
21 applicant.

22 Sec. 4. Section 533A.5, Code 2005, is amended to read as
23 follows:

24 533A.5 RENEWAL.

25 1. Each To continue in the business of debt management,
26 each licensee shall apply on or before ~~July~~ June 1 ~~may make~~
27 application to the superintendent for renewal of its license.
28 The superintendent may assess a late fee of ten dollars per
29 day for applications submitted and accepted for processing
30 after June 1.

31 2. The renewal application shall be on the form prescribed
32 by the superintendent and shall be accompanied by a fee of one
33 two hundred fifty dollars, ~~together with a bond as in the case~~
34 ~~of an original application.~~ A separate renewal application
35 shall be made for each office maintained by the applicant.

1 Sec. 5. NEW SECTION. 533A.5A CHANGE IN CONTROL -- NAME
2 OR ADDRESS.

3 1. The prior written approval of the superintendent is
4 required whenever a change in the control of a licensee is
5 proposed. For purposes of this section, "control" in the case
6 of a corporation means direct or indirect ownership, or the
7 right to control, ten percent or more of the voting shares of
8 the corporation, or the ability of a person to elect a
9 majority of the directors or otherwise effect a change in
10 policy. "Control" in the case of any other entity means the
11 principals of the organization whether active or passive. The
12 superintendent may require information deemed necessary to
13 determine whether a new application is required. When
14 requesting approval, the person shall submit a fee of one
15 hundred dollars to the superintendent.

16 2. A licensee shall notify the superintendent and submit a
17 fee of twenty-five dollars per license to the superintendent
18 thirty days in advance of the effective date of any of the
19 following:

20 a. A change in the name of the licensee.

21 b. A change in the address where the business is
22 conducted.

23 Sec. 6. Section 533A.7, subsection 1, paragraph a, Code
24 2005, is amended to read as follows:

25 a. Conviction of a felony or of a an indictable
26 misdemeanor ~~involving-moral-turpitude~~ for financial gain.

27 Sec. 7. Section 533A.9, Code 2005, is amended to read as
28 follows:

29 533A.9 FEE AGREED IN ADVANCE.

30 The fee of the licensee charged to the debtor shall be
31 agreed upon in advance and stated in the contract and
32 provision for settlement in case of cancellation or prepayment
33 shall also be clearly stated herein in the contract. The fee
34 of the licensee charged to the debtor shall not exceed fifteen
35 percent of any payment made by the debtor and distributed to

1 the creditors pursuant to the contract. In case of total
2 payment of the contract before the contract period has
3 expired, the licensee shall be entitled only to a fee of no
4 more than three percent of ~~such~~ the final payment.

5 Sec. 8. NEW SECTION. 533A.9A DONATIONS.

6 A donation shall not be charged to a debtor or creditor,
7 deducted from a payment to a creditor, deducted from the
8 debtor's account, or from payments made to the licensee
9 pursuant to the debt management contract. If a licensee
10 requests a donation from a debtor, the licensee must clearly
11 indicate that any donation is voluntary and not a condition or
12 requirement for providing debt management.

13 Sec. 9. Section 533A.10, Code 2005, is amended to read as
14 follows:

15 533A.10 EXAMINATION OF LICENSEE.

16 1. The superintendent may examine the condition and
17 affairs of ~~said~~ a licensee. In connection with any
18 examination, the superintendent may examine on oath any
19 licensee, and any director, officer, employee, customer,
20 creditor, or stockholder of a licensee concerning the affairs
21 and business of the licensee. The superintendent shall
22 ascertain whether the licensee transacts its business in the
23 manner prescribed by the law and the applicable rules and
24 ~~regulations-issued-thereunder~~. The licensee shall pay the
25 cost of the examination as determined by the superintendent,
26 ~~which-fee-shall-not-exceed-the-sum-of-one-hundred-dollars-per~~
27 day-of-examination based on the actual cost of the operation
28 of the finance bureau of the banking division of the
29 department of commerce, including the proportionate share of
30 the administrative expenses in the operation of the banking
31 division attributable to the finance bureau, as determined by
32 the superintendent, incurred in the discharge of duties
33 imposed upon the superintendent by this chapter. Failure to
34 pay the examination fee within thirty days of receipt of
35 demand from the superintendent shall ~~automatically-suspend-the~~

1 ~~license-until-the-fee-is-paid~~ subject the licensee to a late
2 ~~fee of up to five percent per day of the amount of the~~
3 ~~examination fee for each day the payment is delinquent.~~

4 2. In the investigation of alleged violations of this
5 chapter, the superintendent may compel the attendance of any
6 person or the production of any books, accounts, records and
7 files ~~used-therein~~, and may examine under oath all persons in
8 attendance ~~pursuant-thereto~~.

9 ~~The-superintendent-is-authorized-to-make-and-promulgate-as~~
10 ~~prescribed-by-law-regulations-necessary-to-carry-out-the~~
11 ~~purposes-of-this-chapter.~~

12 Sec. 10. NEW SECTION. 533A.12 RULES.

13 The superintendent may adopt administrative rules pursuant
14 to chapter 17A to administer and enforce the provisions of
15 this chapter.

16 Sec. 11. Section 533A.13, Code 2005, is amended to read as
17 follows:

18 533A.13 LICENSE MANDATORY TO BUSINESS.

19 It shall be unlawful for ~~an-individual, partnership,~~
20 ~~unincorporated-association, agency-or-corporation~~ a person to
21 engage in the business of debt management without first
22 obtaining a license as required by this chapter. Any
23 ~~individual, partnership, unincorporated-association, agency,~~
24 ~~corporation-or-any-other-group-of-individuals, however~~
25 ~~organized,~~ person or any owner, partner, member, officer,
26 director, employee, agent, or representative thereof who shall
27 willfully or knowingly engage in the business of debt
28 management without the license required by this chapter, shall
29 be guilty of a serious misdemeanor.

30 DIVISION II

31 MORTGAGE BANKERS AND BROKERS

32 Sec. 12. Section 535B.1, subsection 2, Code Supplement
33 2005, is amended to read as follows:

34 2. 5A. "First-mortgage "Mortgage loan" means a loan of
35 money secured by a first lien on residential real property and

1 includes a refinancing of a contract of sale, an assumption of
2 a prior mortgage loan, and a refinancing of a prior mortgage
3 loan.

4 Sec. 13. Section 535B.1, subsection 4, Code 2005, as
5 amended by 2005 Iowa Acts, chapter 83, section 2, is amended
6 to read as follows:

7 4. "Mortgage banker" means a person who does one or more
8 of the following:

9 a. Makes at least four **first** mortgage loans on residential
10 real property located in this state in a calendar year.

11 b. Originates at least four **first** mortgage loans on
12 residential real property located in this state in a calendar
13 year and sells four or more such loans in the secondary
14 market.

15 c. Services at least four **first** mortgage loans on
16 residential real property located in this state. However, a
17 natural person, who services less than fifteen **first** mortgage
18 loans on residential real estate within the state and who does
19 not sell or transfer **first** mortgage loans, is exempt from this
20 paragraph if that person is otherwise exempt from the
21 provisions of this chapter.

22 "Mortgage banker" does not include a person whose job
23 responsibilities on behalf of a licensee or individual
24 registrant are to process mortgage loans, are solely clerical
25 in nature, or otherwise do not involve direct contact with
26 loan applicants.

27 Sec. 14. Section 535B.1, subsection 5, Code 2005, as
28 amended by 2005 Iowa Acts, chapter 83, section 3, is amended
29 to read as follows:

30 5. "Mortgage broker" means a person who arranges or
31 negotiates, or attempts to arrange or negotiate, at least four
32 **first** mortgage loans or commitments for four or more such
33 loans on residential real property located in this state in a
34 calendar year. "Mortgage broker" does not include a person
35 whose job responsibilities on behalf of a licensee or

1 individual registrant are to process mortgage loans, are
2 solely clerical in nature, or otherwise do not involve direct
3 contact with loan applicants.

4 Sec. 15. Section 535B.4, subsection 7, Code 2005, is
5 amended to read as follows:

6 7. Applications for renewals of licenses and individual
7 registrations under this chapter must be filed with the
8 administrator before June 1 of the year of expiration and on
9 forms prescribed by the administrator. A renewal application
10 must be accompanied by a fee of two hundred dollars for a
11 license to transact business solely as a mortgage broker, and
12 four hundred dollars for a license to transact business as a
13 mortgage banker. The fee to renew an individual registration
14 shall be the fee determined pursuant to 2005 Iowa Acts,
15 chapter 83, section 6. The administrator may assess a late
16 fee of ten dollars per day for applications or registrations
17 accepted for processing after June 1.

18 Sec. 16. Section 535B.4, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 8. A licensee shall not conduct business
21 under any other name than that given in the license. A
22 fictitious name may be used, but a licensee shall conduct
23 business only under one name at a time. However, the
24 administrator may issue more than one license to the same
25 person to conduct business under different names at the same
26 time upon compliance for each such additional license with all
27 of the provisions of this chapter governing an original
28 issuance of a license.

29 Sec. 17. Section 535B.4A, subsection 2, as enacted by 2005
30 Iowa Acts, chapter 83, section 6, is amended to read as
31 follows:

32 2. An individual registrant who registers pursuant to this
33 section for the first time shall submit to a national criminal
34 background history check through the federal bureau of
35 investigation prior to being registered. The administrator

1 may submit the registrant's fingerprints to the federal bureau
2 of investigation by the department of public safety through
3 the state criminal history repository for the purpose of a
4 national criminal history check. The results of a criminal
5 history check conducted pursuant to this subsection shall not
6 be considered a public record under chapter 22. The
7 administrator shall collect fees necessary to cover the costs
8 associated with criminal background history checks conducted
9 pursuant to this section.

10 Sec. 18. NEW SECTION. 535B.6A NOTICE AND APPROVAL
11 REQUIRED.

12 1. A licensee shall submit a notice of name change and a
13 twenty-five dollar fee for each license to the administrator
14 thirty days prior to changing the name of the licensee.

15 2. The prior written approval is required whenever a
16 change in control of a licensee or registrant is proposed.
17 For purposes of this section, "control" means as defined in
18 section 524.103. The administrator may require the licensee
19 to provide any information deemed necessary by the
20 administrator to determine whether a new application is
21 required. At the time of requesting the approval, the
22 licensee or registrant requesting the change of control shall
23 pay to the administrator a fee of one hundred dollars.

24 Sec. 19. Section 535B.7, Code 2005, is amended to read as
25 follows:

26 535B.7 SUSPENSION OR REVOCATION OF LICENSE.

27 1. The administrator may, pursuant to chapter 17A, suspend
28 or revoke any license or individual registration issued
29 pursuant to this chapter if the administrator finds any of the
30 following:

31 a. The licensee or individual registrant has violated a
32 provision of this chapter or a rule adopted under this chapter
33 or any other state or federal law applicable to the conduct of
34 its business including but not limited to chapters 535 and
35 535A.

1 b. A fact or condition exists which, if it had existed at
2 the time of the original application for the license or
3 individual registration, would have warranted the
4 administrator to refuse originally to issue the license or
5 individual registration.

6 c. The licensee is found upon investigation to be
7 insolvent, in which case the license shall be revoked
8 immediately.

9 2. The administrator may order an emergency suspension of
10 a licensee's license or an individual's registration pursuant
11 to section 17A.18A. A written order containing the facts or
12 conduct which warrants the emergency action shall be timely
13 sent to the licensee or individual registrant by restricted
14 certified mail. Upon issuance of the suspension order, the
15 licensee or individual registrant must also be notified of the
16 right to an evidentiary hearing. A suspension proceeding
17 shall be promptly instituted and determined.

18 Except as provided in this section, a license or individual
19 registration shall not be revoked or suspended except after
20 notice and a hearing thereon in accordance with chapter 17A.

21 3. A licensee may surrender a license and an individual
22 registrant may surrender an individual registration by
23 delivering to the administrator written notice of surrender,
24 but a surrender does not affect the licensee's or individual
25 registrant's civil or criminal liability for acts committed
26 before the surrender.

27 4. A revocation, suspension, or surrender of a license or
28 individual registration does not impair or affect the
29 obligation of a preexisting lawful contract between the
30 licensee or individual registrant and any person, including a
31 mortgagor.

32 Sec. 20. Section 535B.10, Code Supplement 2005, is amended
33 to read as follows:

34 535B.10 INVESTIGATIONS AND EXAMINATIONS.

35 1. Within one hundred twenty days after the end of a

1 licensee's fiscal year, the licensee shall file financial
2 statements which are certified by an independent accounting
3 firm.

4 2. For the purposes of discovering violations of this
5 chapter or any related rules ~~adopted under this chapter~~ or for
6 securing information lawfully required under this chapter, the
7 administrator may at any time and as often as the
8 administrator deems necessary, investigate the business and
9 examine the books, accounts, records, and files used by a
10 licensee or individual registrant. ~~However, if the financial~~
11 ~~statement required by subsection 1 shows that the licensee~~
12 ~~satisfies the minimum net worth requirement necessary to be an~~
13 ~~approved mortgagee by the United States department of housing~~
14 ~~and urban development pursuant to its guidelines, as amended,~~
15 ~~the licensee is not subject to an investigation or examination~~
16 ~~as described in this subsection.~~

17 3. ~~Notwithstanding subsection 2, all licensees are subject~~
18 ~~to limited examination by the administrator to investigate~~
19 ~~complaints or alleged violations about the licensee made to~~
20 ~~the administrator. Such investigation or examination by the~~
21 ~~administrator shall be restricted to acquiring information~~
22 ~~from the licensee relevant to the alleged violations.~~

23 4. 3. In conducting any examination under this section,
24 the administrator may rely on current reports made by the
25 licensee which have been prepared for the following federal
26 agencies or federally related entities:

27 a. United States department of housing and urban
28 development.

29 b. Federal housing administration.

30 c. Federal national mortgage association.

31 d. Government national mortgage association.

32 e. Federal home loan mortgage corporation.

33 f. Veterans administration.

34 5. 4. With respect to mortgage lenders or mortgage
35 bankers who are specifically exempted from this chapter but

1 are subject to sections 535B.11, 535B.12, and 535B.13, the
2 powers of examination and investigation concerning compliance
3 with sections 535B.11, 535B.12, and 535B.13 shall be exercised
4 by the official or agency to whose supervision the exempted
5 person is subject. If the administrator receives a complaint
6 or other information concerning noncompliance with this
7 chapter by an exempted person, the administrator shall inform
8 the official or agency having supervisory authority over that
9 person.

10 ~~6~~ 5. a. The licensee shall pay the cost of the
11 examination or investigation as determined by the
12 administrator based on the actual cost of the operation of the
13 finance bureau of the banking division of the department of
14 commerce, including the proportionate share of administrative
15 expenses in the operation of the banking division attributable
16 to the finance bureau as determined by the administrator,
17 incurred in the discharge of duties imposed upon the
18 administrator by this chapter.

19 b. The total charge for an examination or investigation
20 shall be paid by the licensee to the administrator within
21 thirty days after the administrator has requested payment.
22 ~~The administrator may by rule provide for a charge for late~~
23 ~~payment of the fee. The amount of the fee shall be based on~~
24 ~~the actual costs of the examination as determined by the~~
25 ~~administrator. Examination reports and correspondence~~
26 ~~regarding these reports~~ Failure to pay the charge within
27 thirty days shall subject the licensee to a late fee of up to
28 five percent of the amount of the examination or investigation
29 charge for each day the payment is delinquent.

30 6. a. All papers, documents, examination reports, and
31 other writings relating to the supervision of licensees and
32 registrants shall be kept confidential except as provided in
33 this subsection, notwithstanding chapter 22.

34 b. The administrator may furnish information relating to
35 the supervision of licensees and registrants to the federal

1 agencies or federally related entities listed in subsection 3,
2 the federal deposit insurance corporation, the federal reserve
3 system, the office of the comptroller of the currency, the
4 office of thrift supervision, the national credit union
5 administration, the federal home loan bank, and financial
6 institution regulatory authorities of other states, or to any
7 official or supervising examiner of such regulatory
8 authorities.

9 c. The administrator may release summary complaint
10 information regarding a particular licensee so long as the
11 information does not specifically identify the complainant.

12 d. The administrator may prepare and circulate reports
13 reflecting financial information and examination results for
14 all licensees on an aggregate basis, including other
15 information considered pertinent to the purpose of each report
16 for general statistical information.

17 e. The administrator may prepare and circulate reports
18 provided by law.

19 f. The administrator may release the reports and
20 correspondence in the course of an enforcement proceeding or a
21 hearing held by the administrator.

22 g. The administrator may also provide this information to
23 the attorney general for purposes of enforcing this chapter or
24 the consumer fraud Act, section 714.16.

25 Sec. 21. Section 535B.11, subsection 6, Code 2005, is
26 amended to read as follows:

27 6. If a person in connection with a first mortgage loan
28 has possession of an abstract of title and fails to deliver
29 the abstract to the borrower within twenty calendar days of
30 the borrower's request made by certified mail return receipt
31 requested in connection with a proposed sale of the property,
32 then the borrower may authorize the preparation of a new
33 abstract of title to the property and the person failing to
34 deliver the original abstract shall pay to the borrower the
35 reasonable costs of preparation. If the borrower brings an

1 action against the person failing to deliver to recover such
2 the payment and in the action recovers the payment, then the
3 borrower shall also be entitled to recover attorney fees and
4 court costs incurred in the action.

5 Sec. 22. Section 535B.11, subsection 7, unnumbered
6 paragraph 1, Code 2005, is amended to read as follows:

7 When the servicing of a first mortgage loan is transferred,
8 sold, purchased, or accepted by a licensee or registrant, the
9 licensee or registrant who is transferring or selling the
10 servicing shall issue to the mortgagor, within five business
11 days of the transfer, a notice which shall include at a
12 minimum:

13 Sec. 23. Section 535B.13, Code 2005, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 4. If the administrator finds, after
16 notice and hearing as provided in this chapter, that a person
17 has violated this chapter or a corresponding rule or an order
18 of the administrator, the administrator may order the person
19 to pay an administrative penalty of not more than five
20 thousand dollars for each violation, in addition to the costs
21 of investigation. If a person fails to pay the penalty and
22 costs, a lien in the amount of the penalty and costs may be
23 imposed upon all assets and property of the person in this
24 state and may be recovered in a civil action by the
25 administrator. Failure of the person to pay the penalty and
26 costs constitutes a separate violation of this chapter.

27 Sec. 24. NEW SECTION. 535B.17 POWERS AND DUTIES OF THE
28 ADMINISTRATOR -- WAIVER AUTHORITY.

29 In addition to any other duties imposed upon the
30 administrator by law, the administrator may participate in a
31 multistate automated licensing system for mortgage bankers,
32 mortgage brokers, and individual registrants. For this
33 purpose, the administrator may establish by rule or order new
34 requirements as necessary, including but not limited to
35 requirements that license applicants and individual

1 registrants submit to fingerprinting, criminal history checks,
2 and pay fees therefor.

3 DIVISION III

4 DELAYED DEPOSIT SERVICES

5 Sec. 25. Section 533D.3, subsection 2, Code 2005, is
6 amended to read as follows:

7 2. An applicant for a license shall submit an application,
8 ~~under oath,~~ to the superintendent on forms prescribed by the
9 superintendent. The forms shall contain such information as
10 the superintendent may prescribe.

11 Sec. 26. Section 533D.3, subsection 3, paragraph a, Code
12 2005, is amended to read as follows:

13 a. An application fee ~~in an amount prescribed by rule~~
14 ~~adopted by the superintendent~~ of one hundred dollars.

15 Sec. 27. Section 533D.3, subsection 6, Code 2005, is
16 amended to read as follows:

17 6. a. A license issued pursuant to this chapter shall be
18 conspicuously posted at the licensee's place of business. A
19 license shall remain in effect until the next succeeding May
20 1, unless earlier suspended or revoked by the superintendent.

21 b. A license shall be renewed annually by filing with the
22 superintendent on or before April 1 an application for renewal
23 containing such information as the superintendent may require
24 to indicate any material change in the information contained
25 in the original application or succeeding renewal applications
26 and a renewal fee of ~~one~~ two hundred fifty dollars.

27 c. The superintendent may assess a late fee of ten dollars
28 per day for applications submitted and accepted for processing
29 after April 1.

30 Sec. 28. Section 533D.6, subsection 1, Code 2005, is
31 amended to read as follows:

32 1. The prior written approval of the superintendent is
33 required for the continued operation of a delayed deposit
34 services business whenever a change in control of a licensee
35 is proposed. The person requesting such approval shall pay to

1 the superintendent a fee of one hundred dollars. Control in
2 the case of a corporation means direct or indirect ownership,
3 or the right to control, ten percent or more of the voting
4 shares of the corporation, or the ability of a person to elect
5 a majority of the directors or otherwise effect a change in
6 policy. Control in the case of any other entity means any
7 change in the principals of the organization, whether active
8 or passive. The superintendent may require information deemed
9 necessary to determine whether a new application is required.
10 Costs incurred by the superintendent in investigating a change
11 of control request shall be paid by the person requesting such
12 approval.

13 Sec. 29. Section 533D.7, subsection 3, Code 2005, is
14 amended to read as follows:

15 3. A fee of ~~one-hundred-fifty~~ twenty-five dollars shall be
16 paid to the superintendent for each request made pursuant to
17 subsection 1 or 2 for a change of location. For each new
18 branch office established, a fee of two hundred fifty dollars
19 shall be paid to the superintendent.

20 Sec. 30. NEW SECTION. 533D.7A NOTICE OF NAME CHANGE.

21 A licensee shall notify the superintendent thirty days in
22 advance of the effective date of a change in the name of the
23 licensee. With the notice of change, the licensee shall
24 submit a fee of twenty-five dollars per license to the
25 superintendent.

26 Sec. 31. Section 533D.9, subsections 2 and 3, Code 2005,
27 are amended to read as follows:

28 2. The licensee must indicate on the face of the check
29 that the check is an instrument in a delayed deposit
30 transaction.

31 ~~2.~~ 3. A licensee shall give to the maker of the check, at
32 the time any delayed deposit service transaction is made, or
33 if there are two or more makers, to one of them, notice
34 written in clear, understandable language disclosing all of
35 the following:

1 a. The fee to be charged for the transaction.
2 b. The annual percentage rate ~~on-the-first-hundred-dollars~~
3 ~~on-the-face-amount-of-the-check-which-the-fee-represents,~~ and
4 ~~the-annual-percentage-rate-on-subsequent-one-hundred-dollar~~
5 ~~increments-which-the-fee-represents,~~ if different as computed
6 pursuant to the federal Truth in Lending Act.

7 c. The date on which the check will be deposited or
8 presented for negotiation.

9 d. Any penalty, not to exceed fifteen dollars, which the
10 licensee will charge if the check is not negotiable on the
11 date agreed upon. A penalty to be charged pursuant to this
12 section shall only be collected by the licensee once on a
13 check no matter how long the check remains unpaid. A penalty
14 to be charged pursuant to this section is a licensee's
15 exclusive remedy and if a licensee charges a penalty pursuant
16 to this section no other penalties under this chapter or any
17 other provision apply.

18 ~~3-~~ 4. In addition to the notice required by subsection 2
19 3, every licensee shall conspicuously display a schedule of
20 all fees, charges, and penalties for all services provided by
21 the licensee authorized by this section. The notice shall be
22 posted at the office and every branch office of the licensee.

23 Sec. 32. Section 533D.10, subsection 1, paragraph f, Code
24 2005, is amended to read as follows:

25 f. Receive any other charges or fees in addition to the
26 fees listed in section 533D.9, subsections 1 and 2 3.

27 Sec. 33. Section 533D.11, Code 2005, is amended to read as
28 follows:

29 533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

30 1. The superintendent shall examine the books, accounts,
31 and records of each licensee ~~annually.--The-costs-of-the~~
32 ~~superintendent-incurred-in-an-examination-shall-be-paid-by-the~~
33 licensee at least once a year and as needed to secure
34 information required pursuant to this chapter and to determine
35 whether any violations of this chapter have occurred. The

1 licensee shall pay the cost of the examination.

2 2. The superintendent may examine or investigate
3 complaints or reports concerning alleged violations of this
4 chapter or any rule adopted or order issued by the
5 superintendent. The superintendent may order the actual cost
6 of the examination or investigation to be paid by the person
7 who is the subject of the examination or investigation,
8 whether or not the alleged violator is licensed.

9 3. The superintendent shall determine the cost of the
10 examination or investigation based upon the actual cost of the
11 operation of the finance bureau of the banking division of the
12 department of commerce, including the proportionate share of
13 administrative expenses in the operation of the banking
14 division attributable to the finance bureau as determined by
15 the superintendent, incurred in the discharge of duties
16 imposed upon the superintendent by this chapter.

17 4. Failure to pay the examination or investigation fee
18 within thirty days of receipt of demand from the
19 superintendent shall subject the licensee to a late fee of up
20 to five percent of the amount of the examination or
21 investigation fee for each day the payment is delinquent.

22 5. Except as otherwise provided by this chapter, all
23 papers, documents, examination reports, and other writing
24 relating to the supervision of licensees are not public
25 records and are not subject to disclosure under chapter 22.
26 The superintendent may disclose information to representatives
27 of other state or federal regulatory authorities. The
28 superintendent may release summary complaint information so
29 long as the information does not specifically identify the
30 complainant. The superintendent may prepare and circulate
31 reports reflecting financial information and examination
32 results for all licensees on an aggregate basis, including
33 other information considered pertinent to the purpose of each
34 report for general statistical information. The
35 superintendent may prepare and circulate reports provided by

1 law. The superintendent may release the reports and
2 correspondence in the course of an enforcement proceeding or a
3 hearing held by the superintendent. The superintendent may
4 also provide this information to the attorney general for
5 purposes of enforcing this chapter or the consumer fraud Act,
6 section 714.16.

7 DIVISION IV

8 REGULATED LOANS

9 Sec. 34. Section 536.2, Code 2005, is amended to read as
10 follows:

11 536.2 APPLICATION -- FEES.

12 1. Application An application for such a license shall be
13 in-writing, under-oath, and in the form prescribed by the
14 superintendent, and shall contain the all of the following:

15 a. The name and the address, (both of the residence and
16 place of business), of the applicant, and-if. If the
17 applicant is not a copartnership-or-association natural
18 person, the application shall include the name and address of
19 every member thereof, and-if-a-corporation, of each officer
20 and-director thereof, also-the, director, officer, manager,
21 and trustee of the applicant.

22 b. The county and municipality with street and number, if
23 any, of the place where the business of making loans under the
24 provisions of this chapter is to be conducted, and-such
25 further

26 c. Other relevant information as the superintendent may
27 require.

28 2. Such The applicant at the time of making such the
29 application shall pay to the superintendent the sum of fifty
30 one hundred dollars if-the-liquid-assets-of-the-applicant-are
31 not-in-excess-of-twenty-thousand-dollars, and-the-sum-of-one
32 hundred-dollars-if-the-liquid-assets-of-the-applicant-are-in
33 excess-of-twenty-thousand-dollars, as a fee for investigating
34 the application and the additional sum of one-hundred-twenty-
35 five-dollars-if-the-liquid-assets-of-the-applicant-are-not-in

1 ~~excess-of-twenty-thousand-dollars,-and~~ two hundred fifty
2 ~~dollars if-the-liquid-assets-of-the-applicant-are-in-excess-of~~
3 ~~twenty-thousand-dollars,~~ as an annual license fee.

4 3. Every applicant shall also prove, in form satisfactory
5 to the superintendent, that the applicant has available for
6 the operation of such business at the place of business
7 specified in the application, liquid assets of at least five
8 thousand dollars, or that the applicant has at least the said
9 amount actually in use in the conduct of such business at such
10 place of business.

11 Sec. 35. Section 536.7, Code 2005, is amended to read as
12 follows:

13 536.7 SEPARATE LICENSE -- CHANGE OF NAME OR PLACE OF
14 BUSINESS.

15 1. ~~Not-more-than~~ Only one place of business where such
16 loans are made shall be maintained under ~~the-same a~~ license,
17 ~~but.~~ However, the superintendent may issue more than one
18 license to the same licensee upon compliance, for each such
19 additional license, with all the provisions of this chapter
20 governing an original issuance of a license.

21 ~~Whenever-a-licensee-shall-change-such-place-of-business-to~~
22 ~~another-location-the-licensee-shall-at-once-give-written~~
23 ~~notice-thereof-to-the-superintendent-who-shall-attach-to-the~~
24 ~~license-in-writing-the-superintendent's-record-of-the-change~~
25 ~~and-the-date-thereof,-which-shall-be-authority-for-the~~
26 ~~operation-of-such-business-under-such-license-at-such-new~~
27 ~~place-of-business.~~

28 2. A licensee shall notify the superintendent and submit a
29 fee of twenty-five dollars per license to the superintendent
30 thirty days in advance of the effective date of any of the
31 following:

32 a. A change in the name of the licensee.

33 b. A change in the address of the location where the
34 business is conducted.

35 Sec. 36. NEW SECTION. 536.7A CHANGE IN CONTROL --

1 APPROVAL.

2 The prior written approval of the superintendent is
3 required whenever a change in control of the licensee is
4 proposed. For purposes of this section, "control" means
5 control as defined in section 524.103. The superintendent may
6 require information deemed necessary to determine whether a
7 new application is required. When requesting approval, the
8 person shall submit a fee of one hundred dollars to the
9 superintendent.

10 Sec. 37. Section 536.8, Code 2005, is amended to read as
11 follows:

12 536.8 ANNUAL FEE -- PAYMENT---NEW-BOND.

13 Every licensee shall annually, on or before ~~the-fifteenth~~
14 ~~day-of-each~~ December 1, submit a renewal application on forms
15 prescribed by the superintendent and pay to the superintendent
16 the sum as provided in section 536.2 as an annual license fee
17 for the next succeeding calendar year ~~and-shall-at-the-same~~
18 ~~time-file-with-the-superintendent-a-new-bond-or-renewal-of-the~~
19 ~~old-bond-in-the-same-amount-and-of-the-same-character-as~~
20 ~~required-by-section-536-3.~~ The superintendent may assess a
21 late fee of ten dollars per day, per license for renewal
22 applications received after December 1.

23 Sec. 38. Section 536.10, Code 2005, is amended to read as
24 follows:

25 536.10 EXAMINATION OF BUSINESS -- FEE.

26 1. For the purpose of discovering violations of this
27 chapter or securing information lawfully required by the
28 superintendent ~~hereunder~~, the superintendent may at any time,
29 either personally or by ~~an-individual-or-individuals-duty~~
30 ~~designated-by-the-superintendent~~ designee, investigate the
31 loans and business and examine the books, accounts, records,
32 and files ~~used-therein~~, of every licensee and of every person
33 engaged in the business described in section 536.1, whether
34 such person shall act or claim to act as principal or agent,
35 or under or without the authority of this chapter. ~~For-that~~

1 purpose-the

2 a. The superintendent and the superintendent's duly
3 ~~designated-representatives~~ designee shall have and be given
4 free access to the place of business, books, accounts, papers,
5 records, files, safes, and vaults of all such persons
6 examined.

7 b. The superintendent and ~~all-individuals-duly-designated~~
8 ~~by-the-superintendent~~ the designee shall have authority to
9 require the attendance of and to examine under oath all
10 individuals ~~whomsoever~~ whose testimony the superintendent may
11 require relative to such the loans or such the business.

12 2. The superintendent shall make an examination of the
13 affairs, place of business, and records of each licensed place
14 of business at least once each year.

15 3. A licensee subject to examination, supervision, and
16 regulation by the superintendent, shall pay to the
17 superintendent an examination fee, based on the actual cost of
18 the operation of the regulated loan bureau of the banking
19 division of the department of commerce, and the proportionate
20 share of administrative expenses in the operation of the
21 banking division attributable to the regulated loan bureau as
22 determined by the superintendent ~~of-banking~~. The fee shall
23 apply equally to all licenses and shall not be changed more
24 frequently than annually ~~and-when-changed~~. A fee change
25 shall be effective on January 1 of the year following the year
26 in which the change is approved.

27 4. Upon completion of each examination required or allowed
28 by this chapter, the examiner ~~shall-render-a-bill-for-such~~
29 ~~fee, in-triplicate, and~~ shall deliver one copy of the bill for
30 the examination to the licensee and two copies to the
31 superintendent. Failure to pay the fee to the superintendent
32 within ~~ten~~ thirty days after the date of the close of each
33 such the examination shall subject the licensee to an
34 additional fee of five percent of the amount of such the fee
35 for each day the payment is delinquent.

1 5. Except as otherwise provided by this chapter, all
2 papers, documents, examination reports, and other writing
3 relating to the supervision of licensees are not public
4 records and are not subject to disclosure under chapter 22.
5 The superintendent may disclose information to representatives
6 of other state or federal regulatory authorities. The
7 superintendent may release summary complaint information so
8 long as the information does not specifically identify the
9 complainant. The superintendent may prepare and circulate
10 reports reflecting financial information and examination
11 results for all licensees on an aggregate basis, including
12 other information considered pertinent to the purpose of each
13 report for general statistical information. The
14 superintendent may prepare and circulate reports provided by
15 law. The superintendent may release the reports and
16 correspondence in the course of an enforcement proceeding or a
17 hearing held by the superintendent. The superintendent may
18 also provide this information to the attorney general for
19 purposes of enforcing this chapter or the consumer fraud Act,
20 section 714.16.

21 Sec. 39. Section 536.13, Code Supplement 2005, is amended
22 to read as follows:

23 536.13 ~~BANKING-COUNCIL~~ SUPERINTENDENT -- REPORT --
24 CLASSIFICATION -- RULES -- PENALTY -- CONSUMER CREDIT CODE.

25 1. The ~~state-banking-council~~ superintendent may
26 investigate the conditions and find the facts with reference
27 to the business of making regulated loans, as described in
28 section 536.1 and after making the investigation, report in
29 writing its findings to the next regular session of the
30 general assembly, and upon the basis of the facts:

31 a. Classify regulated loans by a rule according to a
32 system of differentiation which will reasonably distinguish
33 the classes of loans for the purposes of this chapter.

34 b. Determine and fix by a rule the maximum rate of
35 interest or charges upon each class of regulated loans which

1 will induce efficiently managed commercial capital to enter
2 the business in sufficient amounts to make available adequate
3 credit facilities to individuals. The maximum rate of
4 interest or charge shall be stated by the ~~council~~
5 superintendent as an annual percentage rate calculated
6 according to the actuarial method and applied to the unpaid
7 balances of the amount financed.

8 2. Except as provided in subsection 7, the ~~council~~
9 superintendent may redetermine and refix by rule, in
10 accordance with subsection 1, any maximum rate of interest or
11 charges previously fixed by it, but the changed maximum rates
12 shall not affect pre-existing loan contracts lawfully entered
13 into between a licensee and a borrower. All rules which the
14 ~~council~~ superintendent may make respecting rates of interest
15 or charges shall state the effective date of the rules, which
16 shall not be earlier than thirty days after notice to each
17 licensee by mailing the notice to each licensed place of
18 business.

19 3. Before fixing any classification of regulated loans or
20 any maximum rate of interest or charges, or changing a
21 classification or rate under authority of this section, the
22 ~~council~~ superintendent shall give reasonable notice of ~~its~~ the
23 superintendent's intention to consider doing so to all
24 licensees and a reasonable opportunity to be heard and to
25 introduce evidence with respect to the change or
26 classification.

27 4. Beginning July 4, 1965, and until such time as a
28 different rate is fixed by the ~~council~~ superintendent, the
29 maximum rate of interest or charges upon the class or classes
30 of regulated loans is three as follows:

31 a. Three percent per month on any part of the unpaid
32 principal balance of the loan not exceeding one hundred fifty
33 dollars and-two.

34 b. Two percent per month on any part of the loan in excess
35 of one hundred fifty dollars, but not exceeding three hundred

1 dollars ~~7-and-one.~~

2 c. One and one-half percent per month on any part of the
3 unpaid principal balance of the loan in excess of three
4 hundred dollars, but not exceeding seven hundred dollars ~~7-and~~
5 one.

6 d. One percent per month on any part of the unpaid
7 principal balance of the loan in excess of seven hundred
8 dollars.

9 5. A licensee under this chapter may lend any sum of money
10 not exceeding twenty-five thousand dollars in amount and may
11 charge, contract for, and receive on the loan interest or
12 charges at a rate not exceeding the maximum rate of interest
13 or charges determined and fixed by the ~~council~~ superintendent
14 under authority of this section or pursuant to subsection 7
15 for those amounts in excess of ten thousand dollars.

16 6. If any interest or charge on a loan regulated by this
17 chapter in excess of those permitted by this chapter is
18 charged, contracted for, or received, the contract of loan is
19 void as to interest and charges and the licensee has no right
20 to collect or receive any interest or charges. In addition,
21 the licensee shall forfeit the right to collect the lesser of
22 two thousand dollars of principal of the loan or the total
23 amount of the principal of the loan.

24 7. a. The ~~council~~ superintendent may establish the
25 maximum rate of interest or charges as permitted under this
26 chapter for those loans whose with an unpaid principal balance
27 is of ten thousand dollars or less. For those loans whose
28 with an unpaid principal balance is of over ten thousand
29 dollars, the maximum rate of interest or charges which a
30 licensee may charge shall be the greater of the rate permitted
31 by chapter 535 or the rate authorized for supervised financial
32 organizations by chapter 537.

33 b. The Iowa consumer credit code, chapter 537, applies to
34 a consumer loan in which the licensee participates or engages,
35 and a violation of the Iowa consumer credit code, chapter 537,

1 is a violation of this chapter.

2 c. Article 2, parts 3, 5, and 6 of chapter 537, and
3 article 3 of chapter 537, sections 537.3203, 537.3206,
4 537.3209, 537.3304, 537.3305, and 537.3306 apply to any credit
5 transaction, as defined in section 537.1301 in which a
6 licensee participates or engages, and any violation of those
7 parts or sections is a violation of this chapter. For the
8 purpose of applying the Iowa consumer credit code, chapter
9 537, to those credit transactions, "consumer loan" includes a
10 loan for a business purpose.

11 d. A provision of the Iowa consumer credit code, chapter
12 537, applicable to loans regulated by this chapter supersedes
13 a conflicting provision of this chapter.

14 Sec. 40. Section 536.16, subsection 1, Code 2005, is
15 amended to read as follows:

16 1. Section 536.2 to the extent it ~~requires-payment-of-an~~
17 ~~annual-license-fee-in-excess-of-two-hundred-fifty-dollars-and~~
18 requires a person to prove the person has any dollar amount of
19 liquid assets or the use of any dollar amount in the conduct
20 of the person's business at the licensed place of business.

21 Sec. 41. Section 536.23, Code 2005, is amended to read as
22 follows:

23 536.23 JUDICIAL REVIEW.

24 Judicial review of the actions of the superintendent ~~or-the~~
25 ~~state-banking-council~~ may be sought in accordance with the
26 terms of the Iowa administrative procedure Act, chapter 17A.

27 Sec. 42. Section 536.28, subsection 3, Code Supplement
28 2005, is amended by striking the subsection.

29 Sec. 43. Section 536.25, Code 2005, is repealed.

30

DIVISION V

31

INDUSTRIAL LOANS

32 Sec. 44. Section 536A.7, Code 2005, is amended to read as
33 follows:

34 536A.7 APPLICATION FOR LICENSE.

35 1. Applications The application for licenses a license to

1 engage in the business of operating an industrial loan
2 companies company shall be ~~in-writing-on-such-forms~~ in the
3 form as may be prescribed by the superintendent. The
4 application shall give all of the following information:

- 5 a. The name of the corporation~~7--the.~~
6 b. The location where the business is to be conducted,
7 including the street address of the place of business~~7--the.~~
8 c. The names and addresses of the officers and directors
9 of the corporation ~~and-such-other.~~
10 d. Other relevant information as the superintendent shall
11 require.

12 2. At the time of making such the application the
13 applicant shall pay to the superintendent the sum of fifty one
14 hundred dollars to cover the cost of the investigation of the
15 applicant. The applicant shall also pay to the superintendent
16 the sum of two hundred fifty dollars as an annual license fee
17 for the period ending December 31 ~~next~~ following the
18 application~~7--provided-that-if-the-license-is-granted-after~~
19 ~~June-30-in-any-year7--the-license-fee-for-the-remainder-of-that~~
20 ~~year-shall-be-one-hundred-twenty-five-dollars-and-any-license~~
21 ~~fee-paid-by-the-applicant-in-excess-of-that-amount-shall-be~~
22 ~~refunded-by-the-superintendent.~~

23 Sec. 45. Section 536A.12, Code 2005, is amended to read as
24 follows:

25 536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF
26 LOCATION -- CHANGE OF CONTROL.

27 1. Each such license remains in full force and effect
28 until surrendered, revoked, or suspended, or until there is a
29 change of control ~~on-or-after-January-17-1996.~~

30 2. A licensee, on or before ~~the-second-day-of-January~~
31 December 1, shall pay to the superintendent the sum of two
32 hundred fifty dollars as an annual license fee for the
33 succeeding calendar year. The licensee shall submit the
34 annual license fee with a renewal application in the form
35 prescribed by the superintendent. The superintendent may

1 assess a late fee of ten dollars per day per license for
2 applications received after December 1.

3 3. When a licensee changes its name or place of business
4 from one location to another in the same city, it shall at
5 once give written notice to the superintendent who shall
6 attach to the license in writing the superintendent's record
7 of the change and the date of the change, which is authority
8 for the operation of the business under that license at the
9 new place of business the licensee shall notify the
10 superintendent thirty days in advance of the effective date of
11 the change. A licensee shall pay a fee of twenty-five dollars
12 per license to the superintendent with the notification of
13 change.

14 2. 4. a. A person who proposes to purchase or otherwise
15 acquire, directly or indirectly, any of the outstanding shares
16 of an industrial loan company which would result in a change
17 of control of the industrial loan company, shall first apply
18 in writing to the superintendent for a certificate of approval
19 for the proposed change of control.

20 b. At the time of making the application, the applicant
21 shall pay to the superintendent one hundred dollars to cover
22 the cost of the investigation of the applicant.

23 c. The superintendent shall grant the certificate if the
24 superintendent is satisfied that of both of the following:

25 (1) The person who proposes to obtain control of the
26 industrial loan company is qualified by character, experience,
27 and financial responsibility to control and operate the
28 industrial loan company in a sound and legal manner, and that
29 the.

30 (2) The interests of the thrift certificate holders,
31 creditors, and shareholders of the industrial loan company,
32 and of the public generally, shall will not be jeopardized by
33 the proposed change of control.

34 d. If a board member of the industrial loan company has
35 reason to believe any of the requirements of this subsection

1 have not been ~~complied-with~~ met, the board member shall
2 promptly report the facts in writing ~~such-facts~~ to the
3 superintendent.

4 e. If there is any doubt as to whether a change in the
5 ownership of the outstanding shares is sufficient to result in
6 control of the industrial loan company, or to effect a change
7 in the control of the industrial loan company, ~~such~~ the doubt
8 shall be resolved in favor of reporting the facts to the
9 superintendent.

10 3. 5. a. For purposes of this section, "control" means
11 control as defined in section 524.103. However, a change of
12 control does not occur when a majority shareholder of an
13 industrial loan company transfers the shareholder's shares of
14 the industrial loan company to a revocable trust, so long as
15 the transferor retains the power to revoke the trust and take
16 possession of ~~such~~ the shares.

17 b. Notwithstanding the provisions of paragraph "a", a
18 change of control is deemed to occur two years after the death
19 of the majority shareholder, whether the shareholder's shares
20 of the industrial loan company are held in a revocable trust
21 or otherwise.

22 Sec. 46. Section 536A.15, Code 2005, is amended to read as
23 follows:

24 536A.15 EXAMINATION OF LICENSEES.

25 1. The superintendent or the superintendent's ~~duty~~
26 ~~authorized-representative~~ designee shall, at least once each
27 year without previous notice, examine the books, accounts, and
28 records of each licensee engaged in the industrial loan
29 business as defined by this chapter. A licensee issuing
30 senior debt to the general public shall be audited at the
31 expense of the licensee by a certified public accountant
32 licensed to practice in the state of Iowa. A licensee not
33 issuing senior debt to the general public may provide an
34 audited statement of the licensee's parent corporation which
35 includes the Iowa licensee. After receiving such an audit or

1 audited statement, the superintendent may make further
2 examination of the licensee as the superintendent deems
3 necessary. A record of each examination shall be kept in the
4 superintendent's office. ~~The examinations and reports, and~~
5 ~~other information connected with them, shall be kept~~
6 ~~confidential in the office of the superintendent and shall not~~
7 ~~be subject to publication or disclosure to others except as in~~
8 ~~this chapter provided.~~

9 2. Except as otherwise provided by this chapter, all
10 papers, documents, examination reports, and other writing
11 relating to the supervision of licensees are not public
12 records and are not subject to disclosure under chapter 22.
13 The superintendent may disclose information to representatives
14 of other state or federal regulatory authorities. The
15 superintendent may release summary complaint information so
16 long as the information does not specifically identify the
17 complainant. The superintendent may prepare and circulate
18 reports reflecting financial information and examination
19 results for all licensees on an aggregate basis, including
20 other information considered pertinent to the purpose of each
21 report for general statistical information. The
22 superintendent may prepare and circulate reports provided by
23 law. The superintendent may release the reports and
24 correspondence in the course of an enforcement proceeding or a
25 hearing held by the superintendent. The superintendent may
26 also provide this information to the attorney general for
27 purposes of enforcing this chapter or the consumer fraud Act,
28 section 714.16.

29 3. Any evidence of criminal acts committed by officers,
30 directors, or employees of an industrial loan company shall be
31 reported by the superintendent to the proper authorities.

32 4. The licensee shall be charged and shall pay the actual
33 costs of the examination as determined by the superintendent
34 based on the actual cost of the operation of the finance
35 bureau of the banking division of the department of commerce

1 including the proportionate share of administrative expenses
2 in the operation of the banking division attributable to the
3 finance bureau as determined by the superintendent incurred in
4 the discharge of the duties imposed upon the superintendent by
5 this chapter. Failure to pay the examination fee within
6 thirty days of receipt of demand from the superintendent shall
7 subject the licensee to a late fee of five percent of the
8 amount of the examination fee for each day the payment is
9 delinquent.

10 Sec. 47. Section 536A.25, subsections 1 and 3, Code 2005,
11 are amended to read as follows:

12 1. a. An industrial loan company licensed under this
13 chapter that sells debt instruments to the general public in
14 the form of thrift certificates, installment thrift
15 certificates, certificates of indebtedness, promissory notes,
16 or similar evidences of indebtedness shall not make a loan of
17 money or property to or guarantee the obligations of its
18 directors or officers; or loan to any borrower, other than a
19 subsidiary or affiliated corporation, more than twenty percent
20 of its total capital, surplus, and undivided profits.

21 b. A licensee shall not make a loan under any other name
22 or at any other place of business than that named in the
23 license.

24 3. Investments by an industrial loan company licensed
25 under this chapter that sells debt instruments to the general
26 public in the form of thrift certificates, installment thrift
27 certificates, certificates of indebtedness, promissory notes,
28 or similar evidences of indebtedness are subject to the
29 provisions of section 524.901 as applied to state banks.

30 Sec. 48. Section 536A.30, Code 2005, is amended to read as
31 follows:

32 536A.30 NONRESIDENT LICENSEES -- FACE-TO-FACE
33 SOLICITATION.

34 Notwithstanding other provisions of this chapter to the
35 contrary, a person ~~which~~ that neither has an office physically

1 located in this state nor engages in face-to-face solicitation
2 in this state, if authorized by another state to make loans in
3 that state at a rate of finance charge in excess of the rate
4 provided in chapter 535, shall not be subject to the following
5 provisions of this chapter:

6 1. ~~Section 536A.7, to the extent it requires payment of an~~
7 ~~annual license fee in excess of two hundred fifty dollars.~~

8 2. Section 536A.8.

9 3. 2. Section 536A.10, subsections 2, 3, and 4.

10 4. ~~Section 536A.12, to the extent it requires a licensee~~
11 ~~to pay an annual license fee which, when combined with that~~
12 ~~required in section 536A.7, is in excess of two hundred fifty~~
13 ~~dollars.~~

14 5. 3. Section 536A.15, to the extent it requires the
15 superintendent to make an examination and audit of the books,
16 accounts and records of the licensee on a periodic basis.

17 EXPLANATION

18 This bill amends and updates five different Code chapters,
19 the provisions of which are administered by the superintendent
20 of banking, as follows:

21 Chapter 533A Debt management.

22 Chapter 535B Mortgage bankers and brokers.

23 Chapter 533D Delayed deposit services.

24 Chapter 536 Regulated loans.

25 Chapter 536A Industrial loans.

26 The bill makes similar amendments to the various chapter
27 provisions, including the following:

28 1. Licensure requirements. The bill deletes the writing
29 requirement for applications, addresses what persons are
30 required to apply for a license and pay an annual fee, and the
31 basis upon which the superintendent grants a license and
32 conducts investigations.

33 2. Renewal of license. The bill provides for an annual
34 renewal application, and adjusts the due dates for
35 applications. The bill also provides for annual fees and late

1 fees.

2 3. Change in control, name or address provisions; fee
3 required. Prior to a change in control, as defined, the
4 superintendent must approve the change and may require
5 information to determine whether a new application must be
6 filed. A \$100 fee is required for approval. Likewise, the
7 licensee must notify the superintendent of a proposed change
8 in the name or address. A \$25 fee is required for each
9 license affected by the change in name or address.

10 4. Cost of examination. The superintendent is required to
11 determine the cost of examination based upon the actual cost
12 of operation of the finance bureau of the banking division,
13 including the proportionate share of administrative expenses.
14 The licensee must pay a fee for late payment of the
15 examination fee.

16 5. Release of information. All documents relating to the
17 superintendent's supervision of licensees are confidential;
18 however, the superintendent is authorized to disclose
19 information to state or federal regulatory authorities and
20 also under circumstances that do not disclose the identity of
21 the licensee, i.e., aggregate reporting. The superintendent
22 may provide information to the attorney general as well for
23 purposes of enforcing the law.

24 In Code chapter 533A, the bill defines "allowable cost",
25 "donation", and "gratuitous debt-management service" and other
26 terms. A donation is an amount of money paid by the debtor to
27 the licensee as a gift outside the debt management service.
28 If a licensee requests a donation, the licensee must make it
29 clear to the debtor that the donation is not a condition or
30 requirement for debt management services. A donation is not a
31 fee. For the licensing, the bill increases the bond amount
32 from \$10,000 to \$25,000. And, the renewal license fee is
33 raised from \$100 to \$250.

34 Code chapter 535B currently applies to first mortgage
35 loans. The bill strikes the word "first" so that the chapter

1 provisions now apply to any loan secured by residential real
2 property. The bill requires the licensee to conduct business
3 under the name named in the license; however, the
4 administrator may issue more than one license upon compliance
5 with the chapter. The bill also adds an enforcement
6 provision. If a person violates the chapter, or a rule or
7 order as applicable, the administrator may order that the
8 person pay a penalty of not more than \$5,000 for each
9 violation, in addition to the costs of the investigation.
10 Finally, the bill provides that the administrator may
11 participate in a multistate automated licensing system for
12 mortgage bankers, mortgage brokers, and individual
13 registrants. For purposes of such a multistate automated
14 licensing system, the administrator may create by rule or
15 order new requirements for applicants, such as fingerprinting
16 and criminal history checks and related fees.

17 In Code chapter 533D, the bill requires that the licensee
18 indicate on the face of the check that the check is an
19 instrument in a delayed deposit transaction. The licensee
20 must disclose to the maker of the check the annual percentage
21 rate as computed pursuant to the federal Truth In Lending Act.

22 In Code chapter 536, the bill strikes and replaces "state
23 banking council" with "superintendent" to reflect that certain
24 duties have been transferred to the superintendent. The bill
25 repeals Code section 536.25 that requires the licensee when
26 making a loan to obtain a written statement of the borrower's
27 installment indebtedness.

28 In Code chapter 536A the bill applies restrictions to an
29 industrial loan company that sells debt instruments to the
30 general public.

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S-5028

1 Amend Senate File 2353 as follows:

2 1. Page 12, line 26, by striking the words
3 "SUSPENSION OR REVOCATION OF LICENSE", and inserting
4 the following: "SUSPENSION OR REVOCATION OF LICENSE
5 DISCIPLINARY ACTION".
6 2. Page 12, line 27, by striking the word
7 "suspend", and inserting the following: "suspend".
8 3. Page 12, by striking lines 28 and 29, and
9 inserting the following: "or revoke any license
10 issued pursuant to this chapter take disciplinary
11 action against a licensee or individual registrant if
12 the administrator finds any of the".

13 4. Page 13, by inserting after line 8, the
14 following:

15 "d. The licensee or individual registrant has
16 violated an order of the administrator.

17 2. The administrator may impose one or more of the
18 following disciplinary actions against a licensee or
19 individual registrant:

20 a. Revoke a license or individual registration.

21 b. Suspend a license or individual registration
22 until further order of the administrator or for a
23 specified period of time.

24 c. Impose a period of probation under specified
25 conditions.

26 d. Impose civil penalties in an amount not to
27 exceed five thousand dollars for each violation.

28 e. Issue a citation and warning respecting
29 licensee or individual registrant behavior."

30 5. Page 13, line 9, by striking the figure "2."
31 and inserting the following: "2. 3.".

32 6. Page 13, line 21, by striking the figure "3."
33 and inserting the following: "3. 4.".

34 7. Page 13, line 27, by striking the figure "4."
35 and inserting the following: "4. 5.".

36 8. Page 13, by inserting after line 31, the
37 following:

38 "Sec. ____ . Section 535B.9, subsection 1, Code
39 2005, as amended by 2005 Iowa Acts, chapter 83,
40 section 7, is amended to read as follows:

41 1. An applicant for a license shall file with the
42 administrator a bond furnished by a surety company
43 authorized to do business in this state. The bond
44 shall be in the amount of ~~twenty-five~~ fifty thousand
45 dollars ~~for an applicant seeking to transact business~~
46 ~~solely as a mortgage broker, or fifty thousand dollars~~
47 ~~for an applicant seeking to transact business as a~~
48 ~~mortgage banker~~. The bond shall be continuous in
49 nature until canceled by the surety with not less than
50 thirty days' notice in writing to the mortgage broker

S-5028

S-5028

Page 2

1 or mortgage banker and to the administrator indicating
2 the surety's intention to cancel the bond on a
3 specific date. The bond shall be for the use of the
4 state and any persons who may have causes of action
5 against the applicant. The bond shall be conditioned
6 upon the applicant's faithfully conforming to and
7 abiding by this chapter and any rules adopted under
8 this chapter and shall require that the surety pay to
9 the state and to any persons all moneys that become
10 due or owing to the state and to the persons from the
11 applicant by virtue of this chapter."

12 9. Page 14, line 1, by inserting before the word
13 "licensee's" the following: "mortgage banker".

14 10. Page 14, line 1, by inserting after the word
15 "the" the following: "mortgage banker".

16 11. Page 14, line 2, by striking the word
17 "certified", and inserting the following: "~~certified~~
18 audited".

19 12. Page 14, line 2, by inserting after the word
20 "independent" the following: "certified public".

21 13. Page 17, line 10, by striking the words "five
22 business", and inserting the following: "~~five~~
23 business fifteen calendar".

24 14. Page 17, line 11, by inserting after the word
25 "days" the following: "prior to the effective date".

26 15. Page 17, by striking lines 13 through 26.

27 16. Page 19, line 26, by striking the words and
28 figures "subsections 2 and 3", and inserting the
29 following: "subsection 2".

30 17. Page 19, line 27, by striking the word "are"
31 and inserting the following: "is".

32 18. Page 19, by striking lines 28 through 30.

33 19. Page 19, line 31, by striking the figures "2-
34 3." and inserting the following: "2."

35 20. Page 20, by striking lines 18 through 22.

36 21.

37 21. Page 20, by striking lines 23 through 26.

38 22. By renumbering as necessary.

By ROGER STEWART

S-5028 FILED MARCH 7, 2006

SENATE FILE 2353

S-5063

1 Amend the amendment, S-5028, to Senate File 2353 as
2 follows:

3 1. Page 1, line 43, by inserting after the word
4 "state" the following: " , together with evidence of
5 whether the applicant is seeking to transact business
6 as a mortgage broker or as a mortgage banker".

By ROGER STEWART

S-5063 FILED MARCH 13, 2006

SENATE FILE 2353

S-5068

1 Amend the amendment, S-5028, to Senate File 2353 as
2 follows:

3 1. Page 2, by striking lines 27 through 31.

4 2. Page 2, by striking lines 35 through 36 and
5 inserting the following:

6 " _____. Page 20, line 18, by striking the figures
7 "~~3.~~ 4." and inserting the following: "3."

8 _____. Page 20, line 22, by inserting after the
9 word "licensee." the following: "The licensee shall
10 provide a written schedule of the fees, charges,
11 interest rates, and penalties upon request."

12 _____. Page 20, by inserting after line 22 the
13 following:

14 "Sec. _____. Section 533D.9, Code 2005, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 4. The licensee shall make all
17 notices and disclosures required under this section
18 available in the language spoken by consumers who
19 frequent that location.

20 Sec. _____. Section 533D.10, subsection 1,
21 paragraphs a and b, Code 2005, are amended to read as
22 follows:

23 a. Hold from any one maker more than two checks at
24 ~~any one time~~ within a twenty-four-hour time period.

25 b. Hold from any one maker a check or checks in an
26 aggregate face amount of more than five hundred
27 dollars ~~at any one time~~ within a twenty-four-hour time
28 period."

29 3. Page 2, by inserting after line 37 the
30 following:

31 " _____. Page 22, by inserting after line 6 the
32 following:

33 "Sec. _____. NEW SECTION. 533D.17 REPORTING.

34 1. Licensees shall file information with the
35 superintendent annually by January 31 of each year,
36 showing information for the previous calendar year,
37 regarding at least the following:

38 a. The total number of delayed deposit
39 transactions made at each location.

40 b. Total number of loans outstanding at the end of
41 the year.

42 c. Total number of unique customers at each
43 location, as compared to total number of loans, and
44 total number of transactions that each repeat customer
45 at each location made in a year.

46 d. The minimum, maximum, and average dollar amount
47 of checks in delayed deposit transactions at each
48 location.

49 e. The number of unique customers who reached the
50 five hundred dollar loan maximum under section

S-5068

S-5068

Page 2

- 1 533D.10, subsection 1.
- 2 f. The total amount of money subject to delayed
- 3 deposit transactions at each location.
- 4 g. The average term of a delayed deposit
- 5 transaction at each location, and the average adjusted
- 6 percentage rate of interest.
- 7 h. The total fees earned at each location.
- 8 i. The total amount of nonsufficient funds fees
- 9 charged, and collected.
- 10 j. The total amount of bad debt incurred at each
- 11 location, including the total of returned checks, the
- 12 total of checks recovered, and the total of checks
- 13 charged off.
- 14 k. Affiliate relationships, if any, of each
- 15 licensee with any financial institutions.
- 16 1. Verification that the licensee has not used the
- 17 criminal process or caused it to be used in the
- 18 collection of any loan during the year.
- 19 2. The superintendent may also collect any other
- 20 information as the superintendent determines as is
- 21 necessary for adequate analysis of the delayed deposit
- 22 services industry.
- 23 3. The superintendent may adopt rules pursuant to
- 24 chapter 17A related to these reporting requirements."
- 25 4. By renumbering as necessary.

By JOE BOLKCOM

S-5068 FILED MARCH 14, 2006

SENATE FILE 2353

S-5072

- 1 Amend Senate File 2353 as follows:
- 2 1. Page 21, by striking lines 22 through 25 and
- 3 inserting the following: "
- 4 5."

By JOE BOLKCOM

S-5072 FILED MARCH 15, 2006
ADOPTED

SENATE FILE 2353
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3139)

(AS AMENDED AND PASSED BY THE SENATE MARCH 15, 2006)

_____ - New Language by the Senate
* - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, Date 3-28-06
Vote: Ayes _____ Nays _____ Vote: Ayes 98 Nays 0
Approved _____

A BILL FOR

1 An Act relating to debt management, mortgage bankers and brokers,
2 delayed deposit services, regulated loans, and industrial
3 loans, and providing for fees and penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 2353

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1 DIVISION I

2 DEBT MANAGEMENT

3 Section 1. Section 533A.1, Code 2005, is amended to read
4 as follows:

5 533A.1 DEFINITIONS.

6 As used in this chapter:

7 1. "Allowable cost" means an actual, identifiable third-
8 party expense incurred by the licensee on behalf of a specific
9 debtor, such as postage and long distance telephone charges,
10 that may be itemized and charged against the debtor for
11 payment.

12 2. "Creditor" means a person for whose benefit moneys are
13 being collected and distributed by licensees.

14 2- 3. "Debt management" means the planning and management
15 of the financial affairs of a debtor and the receiving
16 therefrom of money or evidences thereof for the purpose of
17 distributing the same to the debtor's creditors in payment or
18 partial payment of the debtor's obligations for a fee.

19 3- 4. "Debtor" means any natural person.

20 5. "Donation" means money given by the debtor to a
21 licensee as a gift for debt management and outside of the debt
22 management contract.

23 6. "Fee" means the moneys paid by the debtor to the
24 licensee as payment for debt management and shall not include
25 money paid to the licensee or held by the licensee for
26 distribution to a creditor, allowable costs, a distribution to
27 the debtor as a refund, or a donation.

28 7. "Gratuitous debt-management service" means debt
29 management without charging a fee.

30 4- 8. "Licensee" means any ~~individual, partnership,~~
31 ~~unincorporated association, agency or corporation~~ person
32 licensed under this chapter.

33 9. "Natural person" means an individual who is not an
34 association, joint venture, or joint stock company,
35 partnership, limited partnership, business corporation,

1 nonprofit corporation, other business entity, or any group of
2 individuals or business entities, however organized.

3 5- 10. "Office" means each location by street number,
4 building number, city, and state where any person engages in
5 debt management.

6 11. "Person" means an individual, an association, joint
7 venture or joint stock company, partnership, limited
8 partnership, business corporation, nonprofit corporation, or
9 any other group of individuals however organized.

10 6- 12. "Superintendent" means the superintendent of
11 banking.

12 Sec. 2. Section 533A.2, Code 2005, is amended to read as
13 follows:

14 533A.2 LICENSES REQUIRED -- EXCEPTIONS.

15 1. ~~No-individual, partnership, unincorporated association,~~
16 ~~agency or corporation~~ A person shall not engage in the
17 business of debt management in this state without a license
18 therefor as provided for in this chapter, except that the
19 unless exempt under subsection 2. A person engages in the
20 business of debt management in this state if the person
21 solicits to provide, or enters into a contract with one or
22 more debtors to provide debt management to a debtor who
23 resides in this state.

24 2. The following persons, including employees of such
25 persons, shall not be required to be licensed when engaged in
26 the regular course of their respective businesses and
27 professions:

28 a. Attorneys at law.

29 b. Banks, savings and loan associations, credit unions,
30 mortgage bankers and mortgage brokers licensed or registered
31 under chapter 535B, insurance companies and similar
32 fiduciaries, regulated loan companies licensed under chapter
33 536, and industrial loan companies licensed under chapter
34 536A, authorized and admitted to transact business in this
35 state and performing credit and financial adjusting in the

1 regular course of their principal business, or while
2 performing an escrow function.

3 c. Abstract companies, while performing an escrow
4 function.

5 d. Employees of licensees under this chapter.

6 e. Judicial officers or others acting under court orders.

7 f. Nonprofit religious, fraternal or ~~co-operative~~
8 cooperative organizations, ~~including credit unions,~~ offering
9 to debtors gratuitous debt-management service.

10 g. Those persons, ~~associations, or corporations~~ whose
11 principal business is the origination of first mortgage loans
12 on real estate for their own portfolios or for sale to
13 institutional investors.

14 ~~2-~~ 3. The application for such a license shall be in
15 ~~writing, under oath, and in~~ the form prescribed by the
16 superintendent. The application shall contain all of the
17 following:

18 a. The name of the applicant, date of incorporation, if
19 incorporated, and the

20 b. If the applicant is not a natural person, the type of
21 business entity of the applicant and the date the entity was
22 organized.

23 c. The address where the business is to be conducted, and
24 similar, including information as to any branch office of the
25 applicant, ~~the~~.

26 d. The name and resident address of the applicant's owner
27 or partners, or, if a corporation, association, or agency, of
28 the members, shareholders, directors, trustees, principal
29 officers, managers, and agents, and such other pertinent
30 information as the superintendent may require. If the
31 applicant is a partnership, a copy of the certificate of
32 assumed name or articles of partnership shall be filed with
33 the application. If the applicant is not a corporation
34 natural person, a copy of the articles of incorporation legal
35 documents creating the applicant shall be filed with the

1 application.

2 e. Other pertinent information as the superintendent may
3 require, including a credit report.

4 ~~3-~~ 4. Each application shall be accompanied by a bond to
5 be approved by the superintendent to in favor of the people of
6 the state of Iowa in the penal sum of ten twenty-five thousand
7 dollars for each office, ~~providing, however, the~~
8 ~~superintendent may require such bond to be raised to a maximum~~
9 ~~sum of twenty-five thousand dollars,~~ and conditioned that the
10 obligor will not violate any law pertaining to such business
11 and upon the faithful accounting of all moneys collected upon
12 accounts entrusted to such person engaged in debt management,
13 and their employees and agents for the purpose of indemnifying
14 debtors for loss resulting from conduct prohibited by this
15 chapter. The aggregate liability of the surety to all debtors
16 doing business with the office for which the bond is filed
17 shall, in no event, exceed the penal sum of such bond. The
18 surety on the bond shall have the right to cancel such bond
19 upon giving thirty days' notice to the superintendent and
20 thereafter shall be relieved of liability for any breach of
21 condition occurring after the effective date of ~~said the~~
22 ~~cancellation. No individual, partnership, unincorporated~~
23 ~~association, agency or corporation~~ A person shall not engage
24 in the business of debt management until a good and sufficient
25 bond is filed in accordance with the provisions of this
26 chapter.

27 ~~4-~~ 5. Each applicant shall furnish with the application a
28 copy of the contract the applicant proposes to use between the
29 applicant and the debtor, which shall contain a schedule of
30 fees to be charged the debtor for the applicant's services.

31 ~~5-~~ 6. At the time of making such the application the
32 applicant shall pay to the superintendent the sum of two
33 hundred fifty dollars as a license fee for each of the
34 applicant's offices and an investigation fee in the sum of one
35 hundred dollars. A separate application shall be made for

1 each office maintained by the applicant.

2 Sec. 3. Section 533A.3, Code 2005, is amended to read as
3 follows:

4 533A.3 INVESTIGATION -- HEARING.

5 1. Upon the filing of each application and the payment of
6 ~~such~~ the fees, the superintendent shall ~~fix-a-date-and-a-time~~
7 ~~for-a-hearing-upon-such-application, and shall make~~ conduct an
8 investigation of the facts concerning the application and the
9 requirements provided ~~for~~ in subsection 3 ~~of this section~~.

10 2. The superintendent shall grant or deny each application
11 for a license within sixty days from the ~~filing thereof with~~
12 date that the application and the required fee are filed and
13 paid, unless the period is extended by written agreement
14 between the applicant and the superintendent.

15 3. ~~a.---if-the~~ The superintendent shall ~~find-the~~ enter an
16 order granting the application, and issue and deliver a
17 license to the applicant if the superintendent finds that both
18 of the following are satisfied:

19 a. The experience, financial responsibility, character,
20 and general fitness of the applicant is ~~such~~ sufficient as to
21 command the confidence of the public and to warrant belief
22 that the business will be operated lawfully, honestly, fairly,
23 and efficiently within the purposes of this chapter, ~~and that~~
24 the.

25 b. The applicant, ~~or if the applicant is an unincorporated~~
26 ~~association, agency or partnership, then the individuals~~
27 ~~involved, or if the applicant is a corporation then the~~
28 ~~officers and directors thereof, have~~ has not been convicted of
29 or pled guilty to a felony or a indictable misdemeanor
30 involving moral turpitude for financial gain, or have has not
31 had a record of having defaulted in payment of money collected
32 for others, including the discharge of such debts through
33 bankruptcy proceedings, ~~the superintendent shall thereupon~~
34 ~~enter an order granting such application and forthwith issue~~
35 ~~and deliver a license to the applicant. The superintendent~~

1 ~~may require as part of the application a credit report and~~
2 ~~other information.~~

3 If the applicant is not a natural person, this subsection
4 shall apply to the owners, partners, members, shareholders,
5 officers, directors, and managers of the applicant.

6 ~~b.~~ 4. If the applicant has, at the time of the
7 application, a license for an office located within ten
8 statute miles of the location of the office named in the
9 application, no a license shall not be issued unless the
10 superintendent finds that public convenience will be served by
11 the issuance of such the license.

12 ~~c.~~ 5. No A license shall not be transferable or
13 assignable.

14 ~~4.~~ 6. If the superintendent finds the applicant not
15 qualified by under subsection 3 ~~of this section~~, the
16 superintendent shall enter an order denying such the
17 application and ~~forthwith~~ notify the applicant of the denial,
18 returning the license fee. Within fifteen days after the
19 entry of such order, the superintendent shall prepare written
20 findings and shall ~~forthwith~~ deliver a copy ~~thereof~~ to the
21 applicant.

22 Sec. 4. Section 533A.5, Code 2005, is amended to read as
23 follows:

24 533A.5 RENEWAL.

25 1. Each To continue in the business of debt management,
26 each licensee shall apply on or before July June 1 may-make
27 application to the superintendent for renewal of its license.
28 The superintendent may assess a late fee of ten dollars per
29 day for applications submitted and accepted for processing
30 after June 1.

31 2. The renewal application shall be on the form prescribed
32 by the superintendent and shall be accompanied by a fee of one
33 two hundred fifty dollars, together with a bond as in the case
34 of an original application. A separate renewal application
35 shall be made for each office maintained by the applicant.

1 Sec. 5. NEW SECTION. 533A.5A CHANGE IN CONTROL -- NAME
2 OR ADDRESS.

3 1. The prior written approval of the superintendent is
4 required whenever a change in the control of a licensee is
5 proposed. For purposes of this section, "control" in the case
6 of a corporation means direct or indirect ownership, or the
7 right to control, ten percent or more of the voting shares of
8 the corporation, or the ability of a person to elect a
9 majority of the directors or otherwise effect a change in
10 policy. "Control" in the case of any other entity means the
11 principals of the organization whether active or passive. The
12 superintendent may require information deemed necessary to
13 determine whether a new application is required. When
14 requesting approval, the person shall submit a fee of one
15 hundred dollars to the superintendent.

16 2. A licensee shall notify the superintendent and submit a
17 fee of twenty-five dollars per license to the superintendent
18 thirty days in advance of the effective date of any of the
19 following:

20 a. A change in the name of the licensee.

21 b. A change in the address where the business is
22 conducted.

23 Sec. 6. Section 533A.7, subsection 1, paragraph a, Code
24 2005, is amended to read as follows:

25 a. Conviction of a felony or of a an indictable
26 misdemeanor involving-moral-turpitude for financial gain.

27 Sec. 7. Section 533A.9, Code 2005, is amended to read as
28 follows:

29 533A.9 FEE AGREED IN ADVANCE.

30 The fee of the licensee charged to the debtor shall be
31 agreed upon in advance and stated in the contract and
32 provision for settlement in case of cancellation or prepayment
33 shall also be clearly stated herein in the contract. The fee
34 of the licensee charged to the debtor shall not exceed fifteen
35 percent of any payment made by the debtor and distributed to

1 the creditors pursuant to the contract. In case of total
2 payment of the contract before the contract period has
3 expired, the licensee shall be entitled only to a fee of no
4 more than three percent of ~~such~~ the final payment.

5 Sec. 8. NEW SECTION. 533A.9A DONATIONS.

6 A donation shall not be charged to a debtor or creditor,
7 deducted from a payment to a creditor, deducted from the
8 debtor's account, or from payments made to the licensee
9 pursuant to the debt management contract. If a licensee
10 requests a donation from a debtor, the licensee must clearly
11 indicate that any donation is voluntary and not a condition or
12 requirement for providing debt management.

13 Sec. 9. Section 533A.10, Code 2005, is amended to read as
14 follows:

15 533A.10 EXAMINATION OF LICENSEE.

16 1. The superintendent may examine the condition and
17 affairs of ~~said~~ a licensee. In connection with any
18 examination, the superintendent may examine on oath any
19 licensee, and any director, officer, employee, customer,
20 creditor, or stockholder of a licensee concerning the affairs
21 and business of the licensee. The superintendent shall
22 ascertain whether the licensee transacts its business in the
23 manner prescribed by the law and the applicable rules and
24 regulations-issued-thereunder. The licensee shall pay the
25 cost of the examination as determined by the superintendent,
26 ~~which-fee-shall-not-exceed-the-sum-of-one-hundred-dollars-per~~
27 day-of-examination based on the actual cost of the operation
28 of the finance bureau of the banking division of the
29 department of commerce, including the proportionate share of
30 the administrative expenses in the operation of the banking
31 division attributable to the finance bureau, as determined by
32 the superintendent, incurred in the discharge of duties
33 imposed upon the superintendent by this chapter. Failure to
34 pay the examination fee within thirty days of receipt of
35 demand from the superintendent shall ~~automatically-suspend-the~~

1 ~~license-until-the-fee-is-paid~~ subject the licensee to a late
2 fee of up to five percent per day of the amount of the
3 examination fee for each day the payment is delinquent.

4 2. In the investigation of alleged violations of this
5 chapter, the superintendent may compel the attendance of any
6 person or the production of any books, accounts, records and
7 files ~~used-therein~~, and may examine under oath all persons in
8 attendance ~~pursuant-thereto~~.

9 ~~The-superintendent-is-authorized-to-make-and-promulgate-as~~
10 ~~prescribed-by-law-regulations-necessary-to-carry-out-the~~
11 ~~purposes-of-this-chapter.~~

12 Sec. 10. NEW SECTION. 533A.12 RULES.

13 The superintendent may adopt administrative rules pursuant
14 to chapter 17A to administer and enforce the provisions of
15 this chapter.

16 Sec. 11. Section 533A.13, Code 2005, is amended to read as
17 follows:

18 533A.13 LICENSE MANDATORY TO BUSINESS.

19 It shall be unlawful for ~~an-individual, partnership,~~
20 ~~unincorporated-association, agency-or-corporation~~ a person to
21 engage in the business of debt management without first
22 obtaining a license as required by this chapter. Any
23 ~~individual, partnership, unincorporated-association, agency,~~
24 ~~corporation-or-any-other-group-of-individuals, however~~
25 ~~organized,~~ person or any owner, partner, member, officer,
26 director, employee, agent, or representative thereof who shall
27 willfully or knowingly engage in the business of debt
28 management without the license required by this chapter, shall
29 be guilty of a serious misdemeanor.

30 DIVISION II

31 MORTGAGE BANKERS AND BROKERS

32 Sec. 12. Section 535B.1, subsection 2, Code Supplement
33 2005, is amended to read as follows:

34 2. 5A. "First-mortgage "Mortgage loan" means a loan of
35 money secured by a first lien on residential real property and

1 includes a refinancing of a contract of sale, an assumption of
2 a prior mortgage loan, and a refinancing of a prior mortgage
3 loan.

4 Sec. 13. Section 535B.1, subsection 4, Code 2005, as
5 amended by 2005 Iowa Acts, chapter 83, section 2, is amended
6 to read as follows:

7 4. "Mortgage banker" means a person who does one or more
8 of the following:

9 a. Makes at least four first mortgage loans on residential
10 real property located in this state in a calendar year.

11 b. Originates at least four first mortgage loans on
12 residential real property located in this state in a calendar
13 year and sells four or more such loans in the secondary
14 market.

15 c. Services at least four first mortgage loans on
16 residential real property located in this state. However, a
17 natural person, who services less than fifteen first mortgage
18 loans on residential real estate within the state and who does
19 not sell or transfer first mortgage loans, is exempt from this
20 paragraph if that person is otherwise exempt from the
21 provisions of this chapter.

22 "Mortgage banker" does not include a person whose job
23 responsibilities on behalf of a licensee or individual
24 registrant are to process mortgage loans, are solely clerical
25 in nature, or otherwise do not involve direct contact with
26 loan applicants.

27 Sec. 14. Section 535B.1, subsection 5, Code 2005, as
28 amended by 2005 Iowa Acts, chapter 83, section 3, is amended
29 to read as follows:

30 5. "Mortgage broker" means a person who arranges or
31 negotiates, or attempts to arrange or negotiate, at least four
32 first mortgage loans or commitments for four or more such
33 loans on residential real property located in this state in a
34 calendar year. "Mortgage broker" does not include a person
35 whose job responsibilities on behalf of a licensee or

1 individual registrant are to process mortgage loans, are
2 solely clerical in nature, or otherwise do not involve direct
3 contact with loan applicants.

4 Sec. 15. Section 535B.4, subsection 7, Code 2005, is
5 amended to read as follows:

6 7. Applications for renewals of licenses and individual
7 registrations under this chapter must be filed with the
8 administrator before June 1 of the year of expiration and on
9 forms prescribed by the administrator. A renewal application
10 must be accompanied by a fee of two hundred dollars for a
11 license to transact business solely as a mortgage broker, and
12 four hundred dollars for a license to transact business as a
13 mortgage banker. The fee to renew an individual registration
14 shall be the fee determined pursuant to 2005 Iowa Acts,
15 chapter 83, section 6. The administrator may assess a late
16 fee of ten dollars per day for applications or registrations
17 accepted for processing after June 1.

18 Sec. 16. Section 535B.4, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 8. A licensee shall not conduct business
21 under any other name than that given in the license. A
22 fictitious name may be used, but a licensee shall conduct
23 business only under one name at a time. However, the
24 administrator may issue more than one license to the same
25 person to conduct business under different names at the same
26 time upon compliance for each such additional license with all
27 of the provisions of this chapter governing an original
28 issuance of a license.

29 Sec. 17. Section 535B.4A, subsection 2, as enacted by 2005
30 Iowa Acts, chapter 83, section 6, is amended to read as
31 follows:

32 2. An individual registrant who registers pursuant to this
33 section for the first time shall submit to a national criminal
34 background history check through the federal bureau of
35 investigation prior to being registered. The administrator

1 may submit the registrant's fingerprints to the federal bureau
2 of investigation by the department of public safety through
3 the state criminal history repository for the purpose of a
4 national criminal history check. The results of a criminal
5 history check conducted pursuant to this subsection shall not
6 be considered a public record under chapter 22. The
7 administrator shall collect fees necessary to cover the costs
8 associated with criminal background history checks conducted
9 pursuant to this section.

10 Sec. 18. NEW SECTION. 535B.6A NOTICE AND APPROVAL
11 REQUIRED.

12 1. A licensee shall submit a notice of name change and a
13 twenty-five dollar fee for each license to the administrator
14 thirty days prior to changing the name of the licensee.

15 2. The prior written approval is required whenever a
16 change in control of a licensee or registrant is proposed.
17 For purposes of this section, "control" means as defined in
18 section 524.103. The administrator may require the licensee
19 to provide any information deemed necessary by the
20 administrator to determine whether a new application is
21 required. At the time of requesting the approval, the
22 licensee or registrant requesting the change of control shall
23 pay to the administrator a fee of one hundred dollars.

24 Sec. 19. Section 535B.7, Code 2005, is amended to read as
25 follows:

26 535B.7 SUSPENSION-OR-REVOCATION-OF-LICENSE DISCIPLINARY
27 ACTION.

28 1. The administrator may, pursuant to chapter 17A, suspend
29 or-revoke-any-license-issued-pursuant-to-this-chapter take
30 disciplinary action against a licensee or individual
31 registrant if the administrator finds any of the following:

32 a. The licensee or individual registrant has violated a
33 provision of this chapter or a rule adopted under this chapter
34 or any other state or federal law applicable to the conduct of
35 its business including but not limited to chapters 535 and

1 535A.

2 b. A fact or condition exists which, if it had existed at
3 the time of the original application for the license or
4 individual registration, would have warranted the
5 administrator to refuse originally to issue the license or
6 individual registration.

7 c. The licensee is found upon investigation to be
8 insolvent, in which case the license shall be revoked
9 immediately.

10 d. The licensee or individual registrant has violated an
11 order of the administrator.

12 2. The administrator may impose one or more of the
13 following disciplinary actions against a licensee or
14 individual registrant:

15 a. Revoke a license or individual registration.

16 b. Suspend a license or individual registration until
17 further order of the administrator or for a specified period
18 of time.

19 c. Impose a period of probation under specified
20 conditions.

21 d. Impose civil penalties in an amount not to exceed five
22 thousand dollars for each violation.

23 e. Issue a citation and warning respecting licensee or
24 individual registrant behavior.

25 2- 3. The administrator may order an emergency suspension
26 of a licensee's license or an individual's registration
27 pursuant to section 17A.18A. A written order containing the
28 facts or conduct which warrants the emergency action shall be
29 timely sent to the licensee or individual registrant by
30 restricted certified mail. Upon issuance of the suspension
31 order, the licensee or individual registrant must also be
32 notified of the right to an evidentiary hearing. A suspension
33 proceeding shall be promptly instituted and determined.

34 Except as provided in this section, a license or individual
35 registration shall not be revoked or suspended except after

1 notice and a hearing thereon in accordance with chapter 17A.

2 ~~3-~~ 4. A licensee may surrender a license and an
3 individual registrant may surrender an individual registration
4 by delivering to the administrator written notice of
5 surrender, but a surrender does not affect the licensee's or
6 individual registrant's civil or criminal liability for acts
7 committed before the surrender.

8 ~~4-~~ 5. A revocation, suspension, or surrender of a license
9 or individual registration does not impair or affect the
10 obligation of a preexisting lawful contract between the
11 licensee or individual registrant and any person, including a
12 mortgagor.

13 Sec. 20. Section 535B.9, subsection 1, Code 2005, as
14 amended by 2005 Iowa Acts, chapter 83, section 7, is amended
15 to read as follows:

16 1. An applicant for a license shall file with the
17 administrator a bond furnished by a surety company authorized
18 to do business in this state, together with evidence of
19 whether the applicant is seeking to transact business as a
20 mortgage broker or as a mortgage banker. The bond shall be in
21 the amount of twenty-five ~~five~~ fifty thousand dollars for an
22 applicant-seeking-to-transact-business-solely-as-a-mortgage
23 broker, or fifty-thousand-dollars-for-an-applicant-seeking-to
24 transact-business-as-a-mortgage-banker. The bond shall be
25 continuous in nature until canceled by the surety with not
26 less than thirty days' notice in writing to the mortgage
27 broker or mortgage banker and to the administrator indicating
28 the surety's intention to cancel the bond on a specific date.
29 The bond shall be for the use of the state and any persons who
30 may have causes of action against the applicant. The bond
31 shall be conditioned upon the applicant's faithfully
32 conforming to and abiding by this chapter and any rules
33 adopted under this chapter and shall require that the surety
34 pay to the state and to any persons all moneys that become due
35 or owing to the state and to the persons from the applicant by

1 virtue of this chapter.

2 Sec. 21. Section 535B.10, Code Supplement 2005, is amended
3 to read as follows:

4 535B.10 INVESTIGATIONS AND EXAMINATIONS.

5 1. Within one hundred twenty days after the end of a
6 mortgage banker licensee's fiscal year, the mortgage banker
7 licensee shall file financial statements which are certified
8 audited by an independent certified public accounting firm.

9 2. For the purposes of discovering violations of this
10 chapter or any related rules ~~adopted under this chapter~~ or for
11 securing information lawfully required under this chapter, the
12 administrator may at any time and as often as the
13 administrator deems necessary, investigate the business and
14 examine the books, accounts, records, and files used by a
15 licensee or individual registrant. ~~However, if the financial~~
16 ~~statement required by subsection 1 shows that the licensee~~
17 ~~satisfies the minimum net worth requirement necessary to be an~~
18 ~~approved mortgagee by the United States department of housing~~
19 ~~and urban development pursuant to its guidelines, as amended,~~
20 ~~the licensee is not subject to an investigation or examination~~
21 ~~as described in this subsection.~~

22 3. ~~Notwithstanding subsection 2, all licensees are subject~~
23 ~~to limited examination by the administrator to investigate~~
24 ~~complaints or alleged violations about the licensee made to~~
25 ~~the administrator. Such investigation or examination by the~~
26 ~~administrator shall be restricted to acquiring information~~
27 ~~from the licensee relevant to the alleged violations.~~

28 4. 3. In conducting any examination under this section,
29 the administrator may rely on current reports made by the
30 licensee which have been prepared for the following federal
31 agencies or federally related entities:

32 a. United States department of housing and urban
33 development.

34 b. Federal housing administration.

35 c. Federal national mortgage association.

1 d. Government national mortgage association.

2 e. Federal home loan mortgage corporation.

3 f. Veterans administration.

4 5- 4. With respect to mortgage lenders or mortgage
5 bankers who are specifically exempted from this chapter but
6 are subject to sections 535B.11, 535B.12, and 535B.13, the
7 powers of examination and investigation concerning compliance
8 with sections 535B.11, 535B.12, and 535B.13 shall be exercised
9 by the official or agency to whose supervision the exempted
10 person is subject. If the administrator receives a complaint
11 or other information concerning noncompliance with this
12 chapter by an exempted person, the administrator shall inform
13 the official or agency having supervisory authority over that
14 person.

15 6- 5. a. The licensee shall pay the cost of the
16 examination or investigation as determined by the
17 administrator based on the actual cost of the operation of the
18 finance bureau of the banking division of the department of
19 commerce, including the proportionate share of administrative
20 expenses in the operation of the banking division attributable
21 to the finance bureau as determined by the administrator,
22 incurred in the discharge of duties imposed upon the
23 administrator by this chapter.

24 b. The total charge for an examination or investigation
25 shall be paid by the licensee to the administrator within
26 thirty days after the administrator has requested payment.
27 ~~The administrator may by rule provide for a charge for late~~
28 ~~payment of the fee.--The amount of the fee shall be based on~~
29 ~~the actual costs of the examination as determined by the~~
30 ~~administrator.--Examination reports and correspondence~~
31 ~~regarding these reports~~ Failure to pay the charge within
32 thirty days shall subject the licensee to a late fee of up to
33 five percent of the amount of the examination or investigation
34 charge for each day the payment is delinquent.

35 6. a. All papers, documents, examination reports, and

1 other writings relating to the supervision of licensees and
2 registrants shall be kept confidential except as provided in
3 this subsection, notwithstanding chapter 22.

4 b. The administrator may furnish information relating to
5 the supervision of licensees and registrants to the federal
6 agencies or federally related entities listed in subsection 3,
7 the federal deposit insurance corporation, the federal reserve
8 system, the office of the comptroller of the currency, the
9 office of thrift supervision, the national credit union
10 administration, the federal home loan bank, and financial
11 institution regulatory authorities of other states, or to any
12 official or supervising examiner of such regulatory
13 authorities.

14 c. The administrator may release summary complaint
15 information regarding a particular licensee so long as the
16 information does not specifically identify the complainant.

17 d. The administrator may prepare and circulate reports
18 reflecting financial information and examination results for
19 all licensees on an aggregate basis, including other
20 information considered pertinent to the purpose of each report
21 for general statistical information.

22 e. The administrator may prepare and circulate reports
23 provided by law.

24 f. The administrator may release the reports and
25 correspondence in the course of an enforcement proceeding or a
26 hearing held by the administrator.

27 g. The administrator may also provide this information to
28 the attorney general for purposes of enforcing this chapter or
29 the consumer fraud Act, section 714.16.

30 Sec. 22. Section 535B.11, subsection 6, Code 2005, is
31 amended to read as follows:

32 6. If a person in connection with a first mortgage loan
33 has possession of an abstract of title and fails to deliver
34 the abstract to the borrower within twenty calendar days of
35 the borrower's request made by certified mail return receipt

1 requested in connection with a proposed sale of the property,
2 then the borrower may authorize the preparation of a new
3 abstract of title to the property and the person failing to
4 deliver the original abstract shall pay to the borrower the
5 reasonable costs of preparation. If the borrower brings an
6 action against the person failing to deliver to recover ~~such~~
7 the payment and in the action recovers the payment, then the
8 borrower shall also be entitled to recover attorney fees and
9 court costs incurred in the action.

10 Sec. 23. Section 535B.11, subsection 7, unnumbered
11 paragraph 1, Code 2005, is amended to read as follows:

12 When the servicing of a ~~first~~ mortgage loan is transferred,
13 sold, purchased, or accepted by a licensee or registrant, the
14 licensee or registrant who is transferring or selling the
15 servicing shall issue to the mortgagor, within five-business
16 fifteen calendar days prior to the effective date of the
17 transfer, a notice which shall include at a minimum:

* 18 Sec. 24. NEW SECTION. 535B.17 POWERS AND DUTIES OF THE
19 ADMINISTRATOR -- WAIVER AUTHORITY.

20 In addition to any other duties imposed upon the
21 administrator by law, the administrator may participate in a
22 multistate automated licensing system for mortgage bankers,
23 mortgage brokers, and individual registrants. For this
24 purpose, the administrator may establish by rule or order new
25 requirements as necessary, including but not limited to
26 requirements that license applicants and individual
27 registrants submit to fingerprinting, criminal history checks,
28 and pay fees therefor.

29 DIVISION III

30 DELAYED DEPOSIT SERVICES

31 Sec. 25. Section 533D.3, subsection 2, Code 2005, is
32 amended to read as follows:

33 2. An applicant for a license shall submit an application
34 ~~under-oath,~~ to the superintendent on forms prescribed by the
35 superintendent. The forms shall contain such information as

1 the superintendent may prescribe.

2 Sec. 26. Section 533D.3, subsection 3, paragraph a, Code
3 2005, is amended to read as follows:

4 a. An application fee ~~in-an-amount-prescribed-by-rule~~
5 ~~adopted-by-the-superintendent~~ of one hundred dollars.

6 Sec. 27. Section 533D.3, subsection 6, Code 2005, is
7 amended to read as follows:

8 6. a. A license issued pursuant to this chapter shall be
9 conspicuously posted at the licensee's place of business. A
10 license shall remain in effect until the next succeeding May
11 1, unless earlier suspended or revoked by the superintendent.

12 b. A license shall be renewed annually by filing with the
13 superintendent on or before April 1 an application for renewal
14 containing such information as the superintendent may require
15 to indicate any material change in the information contained
16 in the original application or succeeding renewal applications
17 and a renewal fee of ~~one~~ two hundred fifty dollars.

18 c. The superintendent may assess a late fee of ten dollars
19 per day for applications submitted and accepted for processing
20 after April 1.

21 Sec. 28. Section 533D.6, subsection 1, Code 2005, is
22 amended to read as follows:

23 1. The prior written approval of the superintendent is
24 required for the continued operation of a delayed deposit
25 services business whenever a change in control of a licensee
26 is proposed. The person requesting such approval shall pay to
27 the superintendent a fee of one hundred dollars. Control in
28 the case of a corporation means direct or indirect ownership,
29 or the right to control, ten percent or more of the voting
30 shares of the corporation, or the ability of a person to elect
31 a majority of the directors or otherwise effect a change in
32 policy. Control in the case of any other entity means any
33 change in the principals of the organization, whether active
34 or passive. The superintendent may require information deemed
35 necessary to determine whether a new application is required.

1 Costs incurred by the superintendent in investigating a change
2 of control request shall be paid by the person requesting such
3 approval.

4 Sec. 29. Section 533D.7, subsection 3, Code 2005, is
5 amended to read as follows:

6 3. A fee of ~~one-hundred-fifty~~ twenty-five dollars shall be
7 paid to the superintendent for each request made pursuant to
8 subsection 1 or 2 for a change of location. For each new
9 branch office established, a fee of two hundred fifty dollars
10 shall be paid to the superintendent.

11 Sec. 30. NEW SECTION. 533D.7A NOTICE OF NAME CHANGE.

12 A licensee shall notify the superintendent thirty days in
13 advance of the effective date of a change in the name of the
14 licensee. With the notice of change, the licensee shall
15 submit a fee of twenty-five dollars per license to the
16 superintendent.

17 Sec. 31. Section 533D.9, subsection 2, Code 2005, is
18 amended to read as follows:

* 19 2. A licensee shall give to the maker of the check, at the
20 time any delayed deposit service transaction is made, or if
21 there are two or more makers, to one of them, notice written
22 in clear, understandable language disclosing all of the
23 following:

24 a. The fee to be charged for the transaction.

25 b. The annual percentage rate ~~on-the-first-hundred-dollars~~
26 ~~on-the-face-amount-of-the-check-which-the-fee-represents,-and~~
27 ~~the-annual-percentage-rate-on-subsequent-one-hundred-dollar~~
28 ~~increments-which-the-fee-represents,-if-different~~ as computed
29 pursuant to the federal Truth in Lending Act.

30 c. The date on which the check will be deposited or
31 presented for negotiation.

32 d. Any penalty, not to exceed fifteen dollars, which the
33 licensee will charge if the check is not negotiable on the
34 date agreed upon. A penalty to be charged pursuant to this
35 section shall only be collected by the licensee once on a

1 check no matter how long the check remains unpaid. A penalty
2 to be charged pursuant to this section is a licensee's
3 exclusive remedy and if a licensee charges a penalty pursuant
4 to this section no other penalties under this chapter or any
5 other provision apply.

* * 6 Sec. 32. Section 533D.11, Code 2005, is amended to read as
7 follows:

8 533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

9 1. The superintendent shall examine the books, accounts,
10 and records of each licensee annually.---The costs of the
11 superintendent incurred in an examination shall be paid by the
12 licensee at least once a year and as needed to secure
13 information required pursuant to this chapter and to determine
14 whether any violations of this chapter have occurred. The
15 licensee shall pay the cost of the examination.

16 2. The superintendent may examine or investigate
17 complaints or reports concerning alleged violations of this
18 chapter or any rule adopted or order issued by the
19 superintendent. The superintendent may order the actual cost
20 of the examination or investigation to be paid by the person
21 who is the subject of the examination or investigation,
22 whether or not the alleged violator is licensed.

23 3. The superintendent shall determine the cost of the
24 examination or investigation based upon the actual cost of the
25 operation of the finance bureau of the banking division of the
26 department of commerce, including the proportionate share of
27 administrative expenses in the operation of the banking
28 division attributable to the finance bureau as determined by
29 the superintendent, incurred in the discharge of duties
30 imposed upon the superintendent by this chapter.

31 4. Failure to pay the examination or investigation fee
32 within thirty days of receipt of demand from the
33 superintendent shall subject the licensee to a late fee of up
34 to five percent of the amount of the examination or
35 investigation fee for each day the payment is delinquent.

1 5. The superintendent may disclose information to
2 representatives of other state or federal regulatory
3 authorities. The superintendent may release summary complaint
4 information so long as the information does not specifically
5 identify the complainant. The superintendent may prepare and
6 circulate reports reflecting financial information and
7 examination results for all licensees on an aggregate basis,
8 including other information considered pertinent to the
9 purpose of each report for general statistical information.
10 The superintendent may prepare and circulate reports provided
11 by law. The superintendent may release the reports and
12 correspondence in the course of an enforcement proceeding or a
13 hearing held by the superintendent. The superintendent may
14 also provide this information to the attorney general for
15 purposes of enforcing this chapter or the consumer fraud Act,
16 section 714.16.

17 DIVISION IV
18 REGULATED LOANS

19 Sec. 33. Section 536.2, Code 2005, is amended to read as
20 follows:

21 536.2 APPLICATION -- FEES.

22 1. Application An application for such a license shall be
23 in-writing, under-oath, and in the form prescribed by the
24 superintendent, and shall contain the all of the following:

25 a. The name and the address, (both of the residence and
26 place of business), of the applicant, and-if. If the
27 applicant is not a copartnership or-association natural
28 person, the application shall include the name and address of
29 every member thereof, and-if-a-corporation, of-each-officer
30 and-director-thereof, also-the, director, officer, manager,
31 and trustee of the applicant.

32 b. The county and municipality with street and number, if
33 any, of the place where the business of making loans under the
34 provisions of this chapter is to be conducted, and-such
35 further

1 c. Other relevant information as the superintendent may
2 require.

3 2. Such The applicant at the time of making such the
4 application shall pay to the superintendent the sum of fifty
5 one hundred dollars ~~if the liquid assets of the applicant are~~
6 ~~not in excess of twenty thousand dollars, and the sum of one~~
7 ~~hundred dollars if the liquid assets of the applicant are in~~
8 ~~excess of twenty thousand dollars,~~ as a fee for investigating
9 the application and the additional sum of ~~one hundred twenty-~~
10 ~~five dollars if the liquid assets of the applicant are not in~~
11 ~~excess of twenty thousand dollars, and~~ two hundred fifty
12 dollars ~~if the liquid assets of the applicant are in excess of~~
13 ~~twenty thousand dollars,~~ as an annual license fee.

14 3. Every applicant shall also prove, in form satisfactory
15 to the superintendent, that the applicant has available for
16 the operation of such business at the place of business
17 specified in the application, liquid assets of at least five
18 thousand dollars, or that the applicant has at least the said
19 amount actually in use in the conduct of such business at such
20 place of business.

21 Sec. 34. Section 536.7, Code 2005, is amended to read as
22 follows:

23 536.7 SEPARATE LICENSE -- CHANGE OF NAME OR PLACE OF
24 BUSINESS.

25 1. ~~Not more than~~ Only one place of business where such
26 loans are made shall be maintained under ~~the same a~~ license,
27 ~~but.~~ However, the superintendent may issue more than one
28 license to the same licensee upon compliance, for each such
29 additional license, with all the provisions of this chapter
30 governing an original issuance of a license.

31 ~~Whenever a licensee shall change such place of business to~~
32 ~~another location the licensee shall at once give written~~
33 ~~notice thereof to the superintendent who shall attach to the~~
34 ~~license in writing the superintendent's record of the change~~
35 ~~and the date thereof, which shall be authority for the~~

1 ~~operation-of-such-business-under-such-license-at-such-new~~
2 ~~place-of-business.~~

3 2. A licensee shall notify the superintendent and submit a
4 fee of twenty-five dollars per license to the superintendent
5 thirty days in advance of the effective date of any of the
6 following:

7 a. A change in the name of the licensee.

8 b. A change in the address of the location where the
9 business is conducted.

10 Sec. 35. NEW SECTION. 536.7A CHANGE IN CONTROL --
11 APPROVAL.

12 The prior written approval of the superintendent is
13 required whenever a change in control of the licensee is
14 proposed. For purposes of this section, "control" means
15 control as defined in section 524.103. The superintendent may
16 require information deemed necessary to determine whether a
17 new application is required. When requesting approval, the
18 person shall submit a fee of one hundred dollars to the
19 superintendent.

20 Sec. 36. Section 536.8, Code 2005, is amended to read as
21 follows:

22 536.8 ANNUAL FEE -- PAYMENT----NEW-BOND.

23 Every licensee shall annually, on or before the-fifteenth
24 day-of-each December 1, submit a renewal application on forms
25 prescribed by the superintendent and pay to the superintendent
26 the sum as provided in section 536.2 as an annual license fee
27 for the next succeeding calendar year ~~and-shall-at-the-same~~
28 ~~time-file-with-the-superintendent-a-new-bond-or-renewal-of-the~~
29 ~~old-bond-in-the-same-amount-and-of-the-same-character-as~~
30 ~~required-by-section-536-3.~~ The superintendent may assess a
31 late fee of ten dollars per day, per license for renewal
32 applications received after December 1.

33 Sec. 37. Section 536.10, Code 2005, is amended to read as
34 follows:

35 536.10 EXAMINATION OF BUSINESS -- FEE.

1 1. For the purpose of discovering violations of this
2 chapter or securing information lawfully required by the
3 superintendent ~~hereunder~~, the superintendent may at any time,
4 either personally or by ~~an individual or individuals duly~~
5 ~~designated by the superintendent~~ designee, investigate the
6 loans and business and examine the books, accounts, records,
7 and files ~~used therein~~, of every licensee and of every person
8 engaged in the business described in section 536.1, whether
9 such person shall act or claim to act as principal or agent,
10 or under or without the authority of this chapter. ~~For that~~
11 ~~purpose the~~

12 a. ~~The~~ superintendent and the superintendent's ~~duly~~
13 ~~designated representatives~~ designee shall have and be given
14 free access to the place of business, books, accounts, papers,
15 records, files, safes, and vaults of all ~~such~~ persons
16 examined.

17 b. The superintendent and ~~all individuals duly designated~~
18 ~~by the superintendent~~ the designee shall have authority to
19 require the attendance of and to examine under oath all
20 individuals ~~whomsoever~~ whose testimony the superintendent may
21 require relative to ~~such~~ the loans or ~~such~~ the business.

22 2. The superintendent shall make an examination of the
23 affairs, place of business, and records of each licensed place
24 of business at least once each year.

25 3. A licensee subject to examination, supervision, and
26 regulation by the superintendent, shall pay to the
27 superintendent an examination fee, based on the actual cost of
28 the operation of the regulated loan bureau of the banking
29 division of the department of commerce, and the proportionate
30 share of administrative expenses in the operation of the
31 banking division attributable to the regulated loan bureau as
32 determined by the superintendent ~~of banking~~. The fee shall
33 apply equally to all licenses and shall not be changed more
34 frequently than annually ~~and when changed~~. A fee change
35 shall be effective on January 1 of the year following the year

1 in which the change is approved.

2 4. Upon completion of each examination required or allowed
3 by this chapter, the examiner ~~shall render a bill for such~~
4 ~~fee, in triplicate, and~~ shall deliver one copy of the bill for
5 the examination to the licensee and two copies to the
6 superintendent. Failure to pay the fee to the superintendent
7 within ~~ten~~ thirty days after the date of the close of each
8 ~~such the~~ examination shall subject the licensee to an
9 additional fee of five percent of the amount of ~~such the~~ fee
10 for each day the payment is delinquent.

11 5. Except as otherwise provided by this chapter, all
12 papers, documents, examination reports, and other writing
13 relating to the supervision of licensees are not public
14 records and are not subject to disclosure under chapter 22.
15 The superintendent may disclose information to representatives
16 of other state or federal regulatory authorities. The
17 superintendent may release summary complaint information so
18 long as the information does not specifically identify the
19 complainant. The superintendent may prepare and circulate
20 reports reflecting financial information and examination
21 results for all licensees on an aggregate basis, including
22 other information considered pertinent to the purpose of each
23 report for general statistical information. The
24 superintendent may prepare and circulate reports provided by
25 law. The superintendent may release the reports and
26 correspondence in the course of an enforcement proceeding or a
27 hearing held by the superintendent. The superintendent may
28 also provide this information to the attorney general for
29 purposes of enforcing this chapter or the consumer fraud Act,
30 section 714.16.

31 Sec. 38. Section 536.13, Code Supplement 2005, is amended
32 to read as follows:

33 536.13 ~~BANKING-COUNCIL~~ SUPERINTENDENT -- REPORT --
34 CLASSIFICATION -- RULES -- PENALTY -- CONSUMER CREDIT CODE.

35 1. The ~~state-banking-council~~ superintendent may

1 investigate the conditions and find the facts with reference
2 to the business of making regulated loans, as described in
3 section 536.1 and after making the investigation, report in
4 writing its findings to the next regular session of the
5 general assembly, and upon the basis of the facts:

6 a. Classify regulated loans by a rule according to a
7 system of differentiation which will reasonably distinguish
8 the classes of loans for the purposes of this chapter.

9 b. Determine and fix by a rule the maximum rate of
10 interest or charges upon each class of regulated loans which
11 will induce efficiently managed commercial capital to enter
12 the business in sufficient amounts to make available adequate
13 credit facilities to individuals. The maximum rate of
14 interest or charge shall be stated by the ~~council~~
15 superintendent as an annual percentage rate calculated
16 according to the actuarial method and applied to the unpaid
17 balances of the amount financed.

18 2. Except as provided in subsection 7, the ~~council~~
19 superintendent may redetermine and refix by rule, in
20 accordance with subsection 1, any maximum rate of interest or
21 charges previously fixed by it, but the changed maximum rates
22 shall not affect pre-existing loan contracts lawfully entered
23 into between a licensee and a borrower. All rules which the
24 ~~council~~ superintendent may make respecting rates of interest
25 or charges shall state the effective date of the rules, which
26 shall not be earlier than thirty days after notice to each
27 licensee by mailing the notice to each licensed place of
28 business.

29 3. Before fixing any classification of regulated loans or
30 any maximum rate of interest or charges, or changing a
31 classification or rate under authority of this section, the
32 ~~council~~ superintendent shall give reasonable notice of ~~its~~ the
33 superintendent's intention to consider doing so to all
34 licensees and a reasonable opportunity to be heard and to
35 introduce evidence with respect to the change or

1 classification.

2 4. Beginning July 4, 1965, and until such time as a
3 different rate is fixed by the ~~council~~ superintendent, the
4 maximum rate of interest or charges upon the class or classes
5 of regulated loans is three as follows:

6 a. Three percent per month on any part of the unpaid
7 principal balance of the loan not exceeding one hundred fifty
8 dollars and-two.

9 b. Two percent per month on any part of the loan in excess
10 of one hundred fifty dollars, but not exceeding three hundred
11 dollars and-one.

12 c. One and one-half percent per month on any part of the
13 unpaid principal balance of the loan in excess of three
14 hundred dollars, but not exceeding seven hundred dollars and
15 one.

16 d. One percent per month on any part of the unpaid
17 principal balance of the loan in excess of seven hundred
18 dollars.

19 5. A licensee under this chapter may lend any sum of money
20 not exceeding twenty-five thousand dollars in amount and may
21 charge, contract for, and receive on the loan interest or
22 charges at a rate not exceeding the maximum rate of interest
23 or charges determined and fixed by the ~~council~~ superintendent
24 under authority of this section or pursuant to subsection 7
25 for those amounts in excess of ten thousand dollars.

26 6. If any interest or charge on a loan regulated by this
27 chapter in excess of those permitted by this chapter is
28 charged, contracted for, or received, the contract of loan is
29 void as to interest and charges and the licensee has no right
30 to collect or receive any interest or charges. In addition,
31 the licensee shall forfeit the right to collect the lesser of
32 two thousand dollars of principal of the loan or the total
33 amount of the principal of the loan.

34 7. a. The ~~council~~ superintendent may establish the
35 maximum rate of interest or charges as permitted under this

1 chapter for those loans whose with an unpaid principal balance
2 is of ten thousand dollars or less. For those loans whose
3 with an unpaid principal balance is of over ten thousand
4 dollars, the maximum rate of interest or charges which a
5 licensee may charge shall be the greater of the rate permitted
6 by chapter 535 or the rate authorized for supervised financial
7 organizations by chapter 537.

8 b. The Iowa consumer credit code, chapter 537, applies to
9 a consumer loan in which the licensee participates or engages,
10 and a violation of the Iowa consumer credit code, chapter 537,
11 is a violation of this chapter.

12 c. Article 2, parts 3, 5, and 6 of chapter 537, and
13 article 3 of chapter 537, sections 537.3203, 537.3206,
14 537.3209, 537.3304, 537.3305, and 537.3306 apply to any credit
15 transaction, as defined in section 537.1301 in which a
16 licensee participates or engages, and any violation of those
17 parts or sections is a violation of this chapter. For the
18 purpose of applying the Iowa consumer credit code, chapter
19 537, to those credit transactions, "consumer loan" includes a
20 loan for a business purpose.

21 d. A provision of the Iowa consumer credit code, chapter
22 537, applicable to loans regulated by this chapter supersedes
23 a conflicting provision of this chapter.

24 Sec. 39. Section 536.16, subsection 1, Code 2005, is
25 amended to read as follows:

26 1. Section 536.2 to the extent it ~~requires-payment-of-an~~
27 ~~annual-license-fee-in-excess-of-two-hundred-fifty-dollars-and~~
28 requires a person to prove the person has any dollar amount of
29 liquid assets or the use of any dollar amount in the conduct
30 of the person's business at the licensed place of business.

31 Sec. 40. Section 536.23, Code 2005, is amended to read as
32 follows:

33 536.23 JUDICIAL REVIEW.

34 Judicial review of the actions of the superintendent ~~or-the~~
35 ~~state-banking-council~~ may be sought in accordance with the

1 terms of the Iowa administrative procedure Act, chapter 17A.

2 Sec. 41. Section 536.28, subsection 3, Code Supplement
3 2005, is amended by striking the subsection.

4 Sec. 42. Section 536.25, Code 2005, is repealed.

5 DIVISION V

6 INDUSTRIAL LOANS

7 Sec. 43. Section 536A.7, Code 2005, is amended to read as
8 follows:

9 536A.7 APPLICATION FOR LICENSE.

10 1. Applications ~~The application for licenses~~ a license to
11 engage in the business of operating an industrial loan
12 ~~companies~~ company shall be ~~in-writing-on-such-forms~~ in the
13 form as may be prescribed by the superintendent. The
14 application shall give all of the following information:

15 a. The name of the corporation~~7-the.~~

16 b. The location where the business is to be conducted,
17 including the street address of the place of business~~7-the.~~

18 c. The names and addresses of the officers and directors
19 of the corporation ~~and-such-other.~~

20 d. Other relevant information as the superintendent shall
21 require.

22 2. At the time of making such the application the
23 applicant shall pay to the superintendent the sum of fifty one
24 hundred dollars to cover the cost of the investigation of the
25 applicant. The applicant shall also pay to the superintendent
26 the sum of two hundred fifty dollars as an annual license fee
27 for the period ending December 31 next following the
28 application~~7-provided-that-if-the-license-is-granted-after~~
29 ~~June-30-in-any-year7-the-license-fee-for-the-remainder-of-that~~
30 ~~year-shall-be-one-hundred-twenty-five-dollars-and-any-license~~
31 ~~fee-paid-by-the-applicant-in-excess-of-that-amount-shall-be~~
32 ~~refunded-by-the-superintendent.~~

33 Sec. 44. Section 536A.12, Code 2005, is amended to read as
34 follows:

35 536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF

1 LOCATION -- CHANGE OF CONTROL.

2 1. Each ~~such~~ license remains in full force and effect
3 until surrendered, revoked, or suspended, or until there is a
4 change of control ~~on-or-after-January-17-1996~~.

5 2. A licensee, on or before ~~the-second-day-of-January~~
6 December 1, shall pay to the superintendent the sum of two
7 hundred fifty dollars as an annual license fee for the
8 succeeding calendar year. The licensee shall submit the
9 annual license fee with a renewal application in the form
10 prescribed by the superintendent. The superintendent may
11 assess a late fee of ten dollars per day per license for
12 applications received after December 1.

13 3. When a licensee changes its name or place of business
14 from one location to another in the same city, ~~it-shall-at~~
15 ~~once-give-written-notice-to-the-superintendent-who-shall~~
16 ~~attach-to-the-license-in-writing-the-superintendent's-record~~
17 ~~of-the-change-and-the-date-of-the-change,which-is-authority~~
18 ~~for-the-operation-of-the-business-under-that-license-at-the~~
19 ~~new-place-of-business~~ the licensee shall notify the
20 superintendent thirty days in advance of the effective date of
21 the change. A licensee shall pay a fee of twenty-five dollars
22 per license to the superintendent with the notification of
23 change.

24 2. 4. a. A person who proposes to purchase or otherwise
25 acquire, directly or indirectly, any of the outstanding shares
26 of an industrial loan company which would result in a change
27 of control of the industrial loan company, shall first apply
28 in writing to the superintendent for a certificate of approval
29 for the proposed change of control.

30 b. At the time of making the application, the applicant
31 shall pay to the superintendent one hundred dollars to cover
32 the cost of the investigation of the applicant.

33 c. The superintendent shall grant the certificate if the
34 superintendent is satisfied that of both of the following:

35 (1) The person who proposes to obtain control of the

1 industrial loan company is qualified by character, experience,
2 and financial responsibility to control and operate the
3 industrial loan company in a sound and legal manner, ~~and that~~
4 the.

5 (2) The interests of the thrift certificate holders,
6 creditors, and shareholders of the industrial loan company,
7 and of the public generally, ~~shall~~ will not be jeopardized by
8 the proposed change of control.

9 d. If a board member of the industrial loan company has
10 reason to believe any of the requirements of this subsection
11 have not been ~~complied with~~ met, the board member shall
12 promptly report the facts in writing ~~such facts~~ to the
13 superintendent.

14 e. If there is any doubt as to whether a change in the
15 ownership of the outstanding shares is sufficient to result in
16 control of the industrial loan company, or to effect a change
17 in the control of the industrial loan company, ~~such~~ the doubt
18 shall be resolved in favor of reporting the facts to the
19 superintendent.

20 3. 5. a. For purposes of this section, "control" means
21 control as defined in section 524.103. However, a change of
22 control does not occur when a majority shareholder of an
23 industrial loan company transfers the shareholder's shares of
24 the industrial loan company to a revocable trust, so long as
25 the transferor retains the power to revoke the trust and take
26 possession of ~~such~~ the shares.

27 b. Notwithstanding the provisions of paragraph "a", a
28 change of control is deemed to occur two years after the death
29 of the majority shareholder, whether the shareholder's shares
30 of the industrial loan company are held in a revocable trust
31 or otherwise.

32 Sec. 45. Section 536A.15, Code 2005, is amended to read as
33 follows:

34 536A.15 EXAMINATION OF LICENSEES.

35 1. The superintendent or the superintendent's ~~duty~~

1 ~~authorized-representative designee~~ shall, at least once each
2 year without previous notice, examine the books, accounts, and
3 records of each licensee engaged in the industrial loan
4 business as defined by this chapter. A licensee issuing
5 senior debt to the general public shall be audited at the
6 expense of the licensee by a certified public accountant
7 licensed to practice in the state of Iowa. A licensee not
8 issuing senior debt to the general public may provide an
9 audited statement of the licensee's parent corporation which
10 includes the Iowa licensee. After receiving such an audit or
11 audited statement, the superintendent may make further
12 examination of the licensee as the superintendent deems
13 necessary. A record of each examination shall be kept in the
14 superintendent's office. ~~The examinations and reports, and~~
15 ~~other information connected with them, shall be kept~~
16 ~~confidential in the office of the superintendent and shall not~~
17 ~~be subject to publication or disclosure to others except as in~~
18 ~~this chapter provided.~~

19 2. Except as otherwise provided by this chapter, all
20 papers, documents, examination reports, and other writing
21 relating to the supervision of licensees are not public
22 records and are not subject to disclosure under chapter 22.
23 The superintendent may disclose information to representatives
24 of other state or federal regulatory authorities. The
25 superintendent may release summary complaint information so
26 long as the information does not specifically identify the
27 complainant. The superintendent may prepare and circulate
28 reports reflecting financial information and examination
29 results for all licensees on an aggregate basis, including
30 other information considered pertinent to the purpose of each
31 report for general statistical information. The
32 superintendent may prepare and circulate reports provided by
33 law. The superintendent may release the reports and
34 correspondence in the course of an enforcement proceeding or a
35 hearing held by the superintendent. The superintendent may

1 also provide this information to the attorney general for
2 purposes of enforcing this chapter or the consumer fraud Act,
3 section 714.16.

4 3. Any evidence of criminal acts committed by officers,
5 directors, or employees of an industrial loan company shall be
6 reported by the superintendent to the proper authorities.

7 4. The licensee shall be charged and shall pay the actual
8 costs of the examination as determined by the superintendent
9 based on the actual cost of the operation of the finance
10 bureau of the banking division of the department of commerce
11 including the proportionate share of administrative expenses
12 in the operation of the banking division attributable to the
13 finance bureau as determined by the superintendent incurred in
14 the discharge of the duties imposed upon the superintendent by
15 this chapter. Failure to pay the examination fee within
16 thirty days of receipt of demand from the superintendent shall
17 subject the licensee to a late fee of five percent of the
18 amount of the examination fee for each day the payment is
19 delinquent.

20 Sec. 46. Section 536A.25, subsections 1 and 3, Code 2005,
21 are amended to read as follows:

22 1. a. An industrial loan company licensed under this
23 chapter that sells debt instruments to the general public in
24 the form of thrift certificates, installment thrift
25 certificates, certificates of indebtedness, promissory notes,
26 or similar evidences of indebtedness shall not make a loan of
27 money or property to or guarantee the obligations of its
28 directors or officers; or loan to any borrower, other than a
29 subsidiary or affiliated corporation, more than twenty percent
30 of its total capital, surplus, and undivided profits.

31 b. A licensee shall not make a loan under any other name
32 or at any other place of business than that named in the
33 license.

34 3. Investments by an industrial loan company licensed
35 under this chapter that sells debt instruments to the general

1 public in the form of thrift certificates, installment thrift
2 certificates, certificates of indebtedness, promissory notes,
3 or similar evidences of indebtedness are subject to the
4 provisions of section 524.901 as applied to state banks.

5 Sec. 47. Section 536A.30, Code 2005, is amended to read as
6 follows:

7 536A.30 NONRESIDENT LICENSEES -- FACE-TO-FACE
8 SOLICITATION.

9 Notwithstanding other provisions of this chapter to the
10 contrary, a person which that neither has an office physically
11 located in this state nor engages in face-to-face solicitation
12 in this state, if authorized by another state to make loans in
13 that state at a rate of finance charge in excess of the rate
14 provided in chapter 535, shall not be subject to the following
15 provisions of this chapter:

16 1. ~~Section 536A.7, to the extent it requires payment of an~~
17 ~~annual license fee in excess of two hundred fifty dollars.~~

18 2. Section 536A.8.

19 3. 2. Section 536A.10, subsections 2, 3, and 4.

20 4. ~~Section 536A.12, to the extent it requires a licensee~~
21 ~~to pay an annual license fee which, when combined with that~~
22 ~~required in section 536A.7, is in excess of two hundred fifty~~
23 ~~dollars.~~

24 5. 3. Section 536A.15, to the extent it requires the
25 superintendent to make an examination and audit of the books,
26 accounts and records of the licensee on a periodic basis.

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Stewart co-chair
Kettering co-chair
Rielly
Zawn

Succeeded By
SF / HF 2353

SSB# 3139
Commerce

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/BANKING DIVISION
BILL)

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

A BILL FOR

1 An Act relating to debt management, mortgage bankers and brokers,
2 delayed deposit services, regulated loans, and industrial
3 loans, and providing for fees and penalties.

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

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DIVISION I
DEBT MANAGEMENT

Section 1. Section 533A.1, Code 2005, is amended to read as follows:

533A.1 DEFINITIONS.

As used in this chapter:

1. "Allowable cost" means an actual, identifiable third-party expense incurred by the licensee on behalf of a specific debtor, such as postage and long distance telephone charges, that may be itemized and charged against the debtor for payment.

2. "Creditor" means a person for whose benefit moneys are being collected and distributed by licensees.

~~2.~~ 3. "Debt management" means the planning and management of the financial affairs of a debtor and the receiving therefrom of money or evidences thereof for the purpose of distributing the same to the debtor's creditors in payment or partial payment of the debtor's obligations for a fee.

~~3.~~ 4. "Debtor" means any natural person.

5. "Donation" means money given by the debtor to a licensee as a gift for debt management and outside of the debt management contract.

6. "Fee" means the moneys paid by the debtor to the licensee as payment for debt management and shall not include money paid to the licensee or held by the licensee for distribution to a creditor, allowable costs, a distribution to the debtor as a refund, or a donation.

7. "Gratuitous debt-management service" means debt management without charging a fee.

~~4.~~ 8. "Licensee" means any individual, ~~partnership,~~ unincorporated-association, ~~agency-or-corporation~~ person licensed under this chapter.

9. "Natural person" means an individual who is not an association, joint venture, or joint stock company, partnership, limited partnership, business corporation,

1 nonprofit corporation, other business entity, or any group of
2 individuals or business entities, however organized.

3 5- 10. "Office" means each location by street number,
4 building number, city, and state where any person engages in
5 debt management.

6 11. "Person" means an individual, an association, joint
7 venture or joint stock company, partnership, limited
8 partnership, business corporation, nonprofit corporation, or
9 any other group of individuals however organized.

10 6- 12. "Superintendent" means the superintendent of
11 banking.

12 Sec. 2. Section 533A.2, Code 2005, is amended to read as
13 follows:

14 533A.2 LICENSES REQUIRED -- EXCEPTIONS.

15 1. ~~No-individual, partnership, unincorporated association,~~
16 ~~agency-or-corporation~~ A person shall not engage in the
17 business of debt management in this state without a license
18 therefor as provided for in this chapter, except that the
19 unless exempt under subsection 2. A person engages in the
20 business of debt management in this state if the person
21 solicits to provide, or enters into a contract with one or
22 more debtors to provide debt management to a debtor who
23 resides in this state.

24 2. The following persons, including employees of such
25 persons, shall not be required to be licensed when engaged in
26 the regular course of their respective businesses and
27 professions:

28 a. Attorneys at law.

29 b. Banks, savings and loan associations, credit unions,
30 mortgage bankers and mortgage brokers license or registered
31 under chapter 535B, insurance companies and similar
32 fiduciaries, regulated loan companies licensed under chapter
33 536, and industrial loan companies licensed under chapter
34 536A, authorized and admitted to transact business in this
35 state and performing credit and financial adjusting in the

S.F. _____ H.F. _____

1 regular course of their principal business, or while
2 performing an escrow function.

3 c. Abstract companies, while performing an escrow
4 function.

5 d. Employees of licensees under this chapter.

6 e. Judicial officers or others acting under court orders.

7 f. Nonprofit religious, fraternal or co-operative
8 cooperative organizations, ~~including credit unions~~, offering
9 to debtors gratuitous debt-management service.

10 g. Those persons, ~~associations, or corporations~~ whose
11 principal business is the origination of first mortgage loans
12 on real estate for their own portfolios or for sale to
13 institutional investors.

14 2. 3. The application for such a license shall be in
15 ~~writing, under oath, and in~~ the form prescribed by the
16 superintendent. The application shall contain all of the
17 following:

18 a. ~~The~~ name of the applicant, ~~date of incorporation, if~~
19 ~~incorporated, and the.~~

20 b. ~~If the applicant is not a natural person, the type of~~
21 business entity of the applicant and the date the entity was
22 organized.

23 c. ~~The~~ address where the business is to be conducted, ~~and~~
24 ~~similar, including~~ information as to any branch office of the
25 applicant, ~~the.~~

26 d. ~~The~~ name and resident address of the applicant's owner
27 or partners, or, if a corporation, association, or agency, of
28 the members, shareholders, directors, trustees, principal
29 officers, managers, and agents, ~~and such other pertinent~~
30 ~~information as the superintendent may require. If the~~
31 ~~applicant is a partnership, a copy of the certificate of~~
32 ~~assumed name or articles of partnership shall be filed with~~
33 ~~the application.~~ If the applicant is not a corporation
34 natural person, a copy of the articles of incorporation legal
35 documents creating the applicant shall be filed with the

1 application.

2 e. Other pertinent information as the superintendent may
3 require, including a credit report.

4 ~~3-~~ 4. Each application shall be accompanied by a bond to
5 be approved by the superintendent to in favor of the people of
6 the state of Iowa in the penal sum of ~~ten~~ twenty-five thousand
7 dollars for each office, ~~providing, however, the~~
8 ~~superintendent may require such bond to be raised to a maximum~~
9 ~~sum of twenty-five thousand dollars,~~ and conditioned that the
10 obligor will not violate any law pertaining to such business
11 and upon the faithful accounting of all moneys collected upon
12 accounts entrusted to such person engaged in debt management,
13 and their employees and agents for the purpose of indemnifying
14 debtors for loss resulting from conduct prohibited by this
15 chapter. The aggregate liability of the surety to all debtors
16 doing business with the office for which the bond is filed
17 shall, in no event, exceed the penal sum of such bond. The
18 surety on the bond shall have the right to cancel such bond
19 upon giving thirty days' notice to the superintendent and
20 thereafter shall be relieved of liability for any breach of
21 condition occurring after the effective date of said the
22 cancellation. ~~No individual, partnership, unincorporated~~
23 ~~association, agency or corporation~~ A person shall not engage
24 in the business of debt management until a good and sufficient
25 bond is filed in accordance with the provisions of this
26 chapter.

27 ~~4-~~ 5. Each applicant shall furnish with the application a
28 copy of the contract the applicant proposes to use between the
29 applicant and the debtor, which shall contain a schedule of
30 fees to be charged the debtor for the applicant's services.

31 ~~5-~~ 6. At the time of making such the application the
32 applicant shall pay to the superintendent the sum of two
33 hundred fifty dollars as a license fee for each of the
34 applicant's offices and an investigation fee in the sum of one
35 hundred dollars. A separate application shall be made for

1 each office maintained by the applicant.

2 Sec. 3. Section 533A.3, Code 2005, is amended to read as
3 follows:

4 533A.3 INVESTIGATION -- HEARING.

5 1. Upon the filing of each application and the payment of
6 ~~such~~ the fees, the superintendent shall ~~fix-a-date-and-a-time~~
7 ~~for-a-hearing-upon-such-application, and shall make~~ conduct an
8 investigation of the facts concerning the application and the
9 requirements provided ~~for~~ in subsection 3 ~~of-this-section~~.

10 2. The superintendent shall grant or deny each application
11 for a license within sixty days from the ~~filing-thereof-with~~
12 date that the application and the required fee are filed and
13 paid, unless the period is extended by written agreement
14 between the applicant and the superintendent.

15 3. ~~a. -- If the~~ The superintendent shall ~~find-the~~ enter an
16 order granting the application, and issue and deliver a
17 license to the applicant if the superintendent finds that both
18 of the following are satisfied:

19 a. The experience, financial responsibility, character,
20 and general fitness of the applicant is ~~such~~ sufficient as to
21 command the confidence of the public and to warrant belief
22 that the business will be operated lawfully, honestly, fairly,
23 and efficiently within the purposes of this chapter, ~~and that~~
24 the.

25 b. The applicant, ~~or if the applicant is an unincorporated~~
26 ~~association, agency or partnership, then the individuals~~
27 ~~involved, or if the applicant is a corporation then the~~
28 ~~officers and directors thereof, have~~ has not been convicted of
29 or pled guilty to a felony or a an indictable misdemeanor
30 ~~involving moral turpitude~~ for financial gain, or have has not
31 had a record of having defaulted in payment of money collected
32 for others, including the discharge of such debts through
33 bankruptcy proceedings, ~~the superintendent shall thereupon~~
34 ~~enter an order granting such application and forthwith issue~~
35 ~~and deliver a license to the applicant. The superintendent~~

1 ~~may require as part of the application a credit report and~~
2 ~~other information.~~

3 If the applicant is not a natural person, this subsection
4 shall apply to the owners, partners, members, shareholders,
5 officers, directors, and managers of the applicant.

6 b. 4. If the applicant has, at the time of the
7 application, a license for an office located within ten
8 statute miles of the location of the office named in the
9 application, ~~no~~ a license shall not be issued unless the
10 superintendent finds that public convenience will be served by
11 the issuance of such the license.

12 c. 5. ~~No~~ A license shall not be transferable or
13 assignable.

14 4. 6. If the superintendent finds the applicant not
15 qualified by under subsection 3 ~~of this section~~, the
16 superintendent shall enter an order denying such the
17 application and ~~forthwith~~ notify the applicant of the denial,
18 returning the license fee. Within fifteen days after the
19 entry of such order, the superintendent shall prepare written
20 findings and shall ~~forthwith~~ deliver a copy thereof to the
21 applicant.

22 Sec. 4. Section 533A.5, Code 2005, is amended to read as
23 follows:

24 533A.5 RENEWAL.

25 1. Each To continue in the business of debt management,
26 each licensee shall apply on or before July June 1 may-make
27 application to the superintendent for renewal of its license.
28 The superintendent may assess a late fee of ten dollars per
29 day for applications submitted and accepted for processing
30 after June 1.

31 2. The renewal application shall be on the form prescribed
32 by the superintendent and shall be accompanied by a fee of one
33 two hundred fifty dollars, ~~together with a bond as in the case~~
34 ~~of an original application.~~ A separate renewal application
35 shall be made for each office maintained by the applicant.

1 Sec. 5. NEW SECTION. 533A.5A CHANGE IN CONTROL -- NAME
2 OR ADDRESS.

3 1. The prior written approval of the superintendent is
4 required whenever a change in the control of a licensee is
5 proposed. For purposes of this section, "control" in the case
6 of a corporation means direct or indirect ownership, or the
7 right to control, ten percent or more of the voting shares of
8 the corporation, or the ability of a person to elect a
9 majority of the directors or otherwise effect a change in
10 policy. "Control" in the case of any other entity means the
11 principals of the organization whether active or passive. The
12 superintendent may require information deemed necessary to
13 determine whether a new application is required. When
14 requesting approval, the person shall submit a fee of one
15 hundred dollars to the superintendent.

16 2. A licensee shall notify the superintendent and submit a
17 fee of twenty-five dollars per license to the superintendent
18 thirty days in advance of the effective date of any of the
19 following:

20 a. A change in the name of the licensee.

21 b. A change in the address where the business is
22 conducted.

23 Sec. 6. Section 533A.7, subsection 1, paragraph a, Code
24 2005, is amended to read as follows:

25 a. Conviction of a felony or of a an indictable
26 misdemeanor involving-moral-turpitude for financial gain.

27 Sec. 7. Section 533A.9, Code 2005, is amended to read as
28 follows:

29 533A.9 FEE AGREED IN ADVANCE.

30 The fee of the licensee charged to the debtor shall be
31 agreed upon in advance and stated in the contract and
32 provision for settlement in case of cancellation or prepayment
33 shall also be clearly stated herein in the contract. The fee
34 of the licensee charged to the debtor shall not exceed fifteen
35 percent of any payment made by the debtor and distributed to

1 the creditors pursuant to the contract. In case of total
2 payment of the contract before the contract period has
3 expired, the licensee shall be entitled only to a fee of no
4 more than three percent of such the final payment.

5 Sec. 8. NEW SECTION. 533A.9A DONATIONS.

6 A donation shall not be charged to a debtor or creditor,
7 deducted from a payment to a creditor, deducted from the
8 debtor's account, or from payments made to the licensee
9 pursuant to the debt management contract. If a licensee
10 requests a donation from a debtor, the licensee must clearly
11 indicate that any donation is voluntary and not a condition or
12 requirement for providing debt management.

13 Sec. 9. Section 533A.10, Code 2005, is amended to read as
14 follows:

15 533A.10 EXAMINATION OF LICENSEE.

16 1. The superintendent may examine the condition and
17 affairs of said a licensee. In connection with any
18 examination, the superintendent may examine on oath any
19 licensee, and any director, officer, employee, customer,
20 creditor, or stockholder of a licensee concerning the affairs
21 and business of the licensee. The superintendent shall
22 ascertain whether the licensee transacts its business in the
23 manner prescribed by the law and the applicable rules and
24 regulations-issued-thereunder. The licensee shall pay the
25 cost of the examination as determined by the superintendent,
26 which-fee-shall-not-exceed-the-sum-of-one-hundred-dollars-per
27 day-of-examination based on the actual cost of the operation
28 of the finance bureau of the banking division of the
29 department of commerce, including the proportionate share of
30 the administrative expenses in the operation of the banking
31 division attributable to the finance bureau, as determined by
32 the superintendent, incurred in the discharge of duties
33 imposed upon the superintendent by this chapter. Failure to
34 pay the examination fee within thirty days of receipt of
35 demand from the superintendent shall automatically-suspend-the

1 ~~license-until-the-fee-is-paid~~ subject the licensee to a late
2 fee of up to five percent per day of the amount of the
3 examination fee for each day the payment is delinquent.

4 2. In the investigation of alleged violations of this
5 chapter, the superintendent may compel the attendance of any
6 person or the production of any books, accounts, records and
7 files ~~used-therein~~, and may examine under oath all persons in
8 attendance ~~pursuant-thereto~~.

9 ~~The-superintendent-is-authorized-to-make-and-promulgate-as~~
10 ~~prescribed-by-law-regulations-necessary-to-carry-out-the~~
11 ~~purposes-of-this-chapter-~~

12 Sec. 10. NEW SECTION. 533A.12 RULES.

13 The superintendent may adopt administrative rules pursuant
14 to chapter 17A to administer and enforce the provisions of
15 this chapter.

16 Sec. 11. Section 533A.13, Code 2005, is amended to read as
17 follows:

18 533A.13 LICENSE MANDATORY TO BUSINESS.

19 It shall be unlawful for an ~~individual, partnership,~~
20 ~~unincorporated association, agency or corporation~~ a person to
21 engage in the business of debt management without first
22 obtaining a license as required by this chapter. Any
23 ~~individual, partnership, unincorporated association, agency,~~
24 ~~corporation or any other group of individuals, however~~
25 ~~organized,~~ person or any owner, partner, member, officer,
26 director, employee, agent, or representative thereof who shall
27 willfully or knowingly engage in the business of debt
28 management without the license required by this chapter, shall
29 be guilty of a serious misdemeanor.

30 DIVISION II

31 MORTGAGE BANKERS AND BROKERS

32 Sec. 12. Section 535B.1, subsection 2, Code Supplement
33 2005, is amended to read as follows:

34 2- 5A. "First-mortgage "Mortgage loan" means a loan of
35 money secured by a first lien on residential real property and

1 includes a refinancing of a contract of sale, an assumption of
2 a prior mortgage loan, and a refinancing of a prior mortgage
3 loan.

4 Sec. 13. Section 535B.1, subsection 4, Code 2005, as
5 amended by 2005 Iowa Acts, chapter 83, section 2, is amended
6 to read as follows:

7 4. "Mortgage banker" means a person who does one or more
8 of the following:

9 a. Makes at least four first mortgage loans on residential
10 real property located in this state in a calendar year.

11 b. Originates at least four first mortgage loans on
12 residential real property located in this state in a calendar
13 year and sells four or more such loans in the secondary
14 market.

15 c. Services at least four first mortgage loans on
16 residential real property located in this state. However, a
17 natural person, who services less than fifteen first mortgage
18 loans on residential real estate within the state and who does
19 not sell or transfer first mortgage loans, is exempt from this
20 paragraph if that person is otherwise exempt from the
21 provisions of this chapter.

22 "Mortgage banker" does not include a person whose job
23 responsibilities on behalf of a licensee or individual
24 registrant are to process mortgage loans, are solely clerical
25 in nature, or otherwise do not involve direct contact with
26 loan applicants.

27 Sec. 14. Section 535B.1, subsection 5, Code 2005, as
28 amended by 2005 Iowa Acts, chapter 83, section 3, is amended
29 to read as follows:

30 5. "Mortgage broker" means a person who arranges or
31 negotiates, or attempts to arrange or negotiate, at least four
32 first mortgage loans or commitments for four or more such
33 loans on residential real property located in this state in a
34 calendar year. "Mortgage broker" does not include a person
35 whose job responsibilities on behalf of a licensee or

1 individual registrant are to process mortgage loans, are
2 solely clerical in nature, or otherwise do not involve direct
3 contact with loan applicants.

4 Sec. 15. Section 535B.4, subsection 7, Code 2005, is
5 amended to read as follows:

6 7. Applications for renewals of licenses and individual
7 registrations under this chapter must be filed with the
8 administrator before June 1 of the year of expiration and on
9 forms prescribed by the administrator. A renewal application
10 must be accompanied by a fee of two hundred dollars for a
11 license to transact business solely as a mortgage broker, and
12 four hundred dollars for a license to transact business as a
13 mortgage banker. The fee to renew an individual registration
14 shall be the fee determined pursuant to 2005 Iowa Acts,
15 chapter 83, section 6. The administrator may assess a late
16 fee of ten dollars per day for applications or registrations
17 accepted for processing after June 1.

18 Sec. 16. Section 535B.4, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 8. A licensee shall not conduct business
21 under any other name than that given in the license. A
22 fictitious name may be used, but a licensee shall conduct
23 business only under one name at a time. However, the
24 administrator may issue more than one license to the same
25 person to conduct business under different names at the same
26 time upon compliance for each such additional license with all
27 of the provisions of this chapter governing an original
28 issuance of a license.

29 Sec. 17. Section 535B.4A, subsection 2, as enacted by 2005
30 Iowa Acts, chapter 83, section 6, is amended to read as
31 follows:

32 2. An individual registrant who registers pursuant to this
33 section for the first time shall submit to a national criminal
34 background history check through the federal bureau of
35 investigation prior to being registered. The administrator

1 may submit the registrant's fingerprints to the federal bureau
2 of investigation by the department of public safety through
3 the state criminal history repository for the purpose of a
4 national criminal history check. The results of a criminal
5 history check conducted pursuant to this subsection shall not
6 be considered a public record under chapter 22. The
7 administrator shall collect fees necessary to cover the costs
8 associated with criminal background history checks conducted
9 pursuant to this section.

10 Sec. 18. NEW SECTION. 535B.6A NOTICE AND APPROVAL
11 REQUIRED.

12 1. A licensee shall submit a notice of name change and a
13 twenty-five dollar fee for each license to the administrator
14 thirty days prior to changing the name of the licensee.

15 2. The prior written approval is required whenever a
16 change in control of a licensee or registrant is proposed.
17 For purposes of this section, "control" means as defined in
18 section 524.103. The administrator may require the licensee
19 to provide any information deemed necessary by the
20 administrator to determine whether a new application is
21 required. At the time of requesting the approval, the
22 licensee or registrant requesting the change of control shall
23 pay to the administrator a fee of one hundred dollars.

24 Sec. 19. Section 535B.7, Code 2005, is amended to read as
25 follows:

26 535B.7 SUSPENSION OR REVOCATION OF LICENSE.

27 1. The administrator may, pursuant to chapter 17A, suspend
28 or revoke any license or individual registration issued
29 pursuant to this chapter if the administrator finds any of the
30 following:

31 a. The licensee or individual registrant has violated a
32 provision of this chapter or a rule adopted under this chapter
33 or any other state or federal law applicable to the conduct of
34 its business including but not limited to chapters 535 and
35 535A.

1 b. A fact or condition exists which, if it had existed at
2 the time of the original application for the license or
3 individual registration, would have warranted the
4 administrator to refuse originally to issue the license or
5 individual registration.

6 c. The licensee is found upon investigation to be
7 insolvent, in which case the license shall be revoked
8 immediately.

9 2. The administrator may order an emergency suspension of
10 a licensee's license or an individual's registration pursuant
11 to section 17A.18A. A written order containing the facts or
12 conduct which warrants the emergency action shall be timely
13 sent to the licensee or individual registrant by restricted
14 certified mail. Upon issuance of the suspension order, the
15 licensee or individual registrant must also be notified of the
16 right to an evidentiary hearing. A suspension proceeding
17 shall be promptly instituted and determined.

18 Except as provided in this section, a license or individual
19 registration shall not be revoked or suspended except after
20 notice and a hearing thereon in accordance with chapter 17A.

21 3. A licensee may surrender a license and an individual
22 registrant may surrender an individual registration by
23 delivering to the administrator written notice of surrender,
24 but a surrender does not affect the licensee's or individual
25 registrant's civil or criminal liability for acts committed
26 before the surrender.

27 4. A revocation, suspension, or surrender of a license or
28 individual registration does not impair or affect the
29 obligation of a preexisting lawful contract between the
30 licensee or individual registrant and any person, including a
31 mortgagor.

32 Sec. 20. Section 535B.10, Code Supplement 2005, is amended
33 to read as follows:

34 535B.10 INVESTIGATIONS AND EXAMINATIONS.

35 1. Within one hundred twenty days after the end of a

1 licensee's fiscal year, the licensee shall file financial
2 statements which are certified by an independent accounting
3 firm.

4 2. For the purposes of discovering violations of this
5 chapter or any related rules ~~adopted under this chapter~~ or for
6 securing information lawfully required under this chapter, the
7 administrator may at any time and as often as the
8 administrator deems necessary, investigate the business and
9 examine the books, accounts, records, and files used by a
10 licensee or individual registrant. ~~However, if the financial~~
11 ~~statement required by subsection 1 shows that the licensee~~
12 ~~satisfies the minimum net worth requirement necessary to be an~~
13 ~~approved mortgagee by the United States department of housing~~
14 ~~and urban development pursuant to its guidelines, as amended,~~
15 ~~the licensee is not subject to an investigation or examination~~
16 ~~as described in this subsection.~~

17 3. ~~Notwithstanding subsection 2, all licensees are subject~~
18 ~~to limited examination by the administrator to investigate~~
19 ~~complaints or alleged violations about the licensee made to~~
20 ~~the administrator. Such investigation or examination by the~~
21 ~~administrator shall be restricted to acquiring information~~
22 ~~from the licensee relevant to the alleged violations.~~

23 4. 3. In conducting any examination under this section,
24 the administrator may rely on current reports made by the
25 licensee which have been prepared for the following federal
26 agencies or federally related entities:

- 27 a. United States department of housing and urban
- 28 development.
- 29 b. Federal housing administration.
- 30 c. Federal national mortgage association.
- 31 d. Government national mortgage association.
- 32 e. Federal home loan mortgage corporation.
- 33 f. Veterans administration.

34 5. 4. With respect to mortgage lenders or mortgage
35 bankers who are specifically exempted from this chapter but

1 are subject to sections 535B.11, 535B.12, and 535B.13, the
2 powers of examination and investigation concerning compliance
3 with sections 535B.11, 535B.12, and 535B.13 shall be exercised
4 by the official or agency to whose supervision the exempted
5 person is subject. If the administrator receives a complaint
6 or other information concerning noncompliance with this
7 chapter by an exempted person, the administrator shall inform
8 the official or agency having supervisory authority over that
9 person.

10 ~~6.~~ 5. a. The licensee shall pay the cost of the
11 examination or investigation as determined by the
12 administrator based on the actual cost of the operation of the
13 finance bureau of the banking division of the department of
14 commerce, including the proportionate share of administrative
15 expenses in the operation of the banking division attributable
16 to the finance bureau as determined by the administrator,
17 incurred in the discharge of duties imposed upon the
18 administrator by this chapter.

19 b. The total charge for an examination or investigation
20 shall be paid by the licensee to the administrator within
21 thirty days after the administrator has requested payment.
22 ~~The administrator may by rule provide for a charge for late~~
23 ~~payment of the fee. The amount of the fee shall be based on~~
24 ~~the actual costs of the examination as determined by the~~
25 ~~administrator. Examination reports and correspondence~~
26 ~~regarding these reports~~ Failure to pay the charge within
27 thirty days shall subject the licensee to a late fee of up to
28 five percent of the amount of the examination or investigation
29 charge for each day the payment is delinquent.

30 6. a. All papers, documents, examination reports, and
31 other writings relating to the supervision of licensees and
32 registrants shall be kept confidential except as provided in
33 this subsection, notwithstanding chapter 22.

34 b. The administrator may furnish information relating to
35 the supervision of licensees and registrants to the federal

1 agencies or federally related entities listed in subsection 3,
2 the federal deposit insurance corporation, the federal reserve
3 system, the office of the comptroller of the currency, the
4 office of thrift supervision, the national credit union
5 administration, the federal home loan bank, and financial
6 institution regulatory authorities of other states, or to any
7 official or supervising examiner of such regulatory
8 authorities.

9 c. The administrator may release summary complaint
10 information regarding a particular licensee so long as the
11 information does not specifically identify the complainant.

12 d. The administrator may prepare and circulate reports
13 reflecting financial information and examination results for
14 all licensees on an aggregate basis, including other
15 information considered pertinent to the purpose of each report
16 for general statistical information.

17 e. The administrator may prepare and circulate reports
18 provided by law.

19 f. The administrator may release the reports and
20 correspondence in the course of an enforcement proceeding or a
21 hearing held by the administrator.

22 g. The administrator may also provide this information to
23 the attorney general for purposes of enforcing this chapter or
24 the consumer fraud Act, section 714.16.

25 Sec. 21. Section 535B.11, subsection 6, Code 2005, is
26 amended to read as follows:

27 6. If a person in connection with a first mortgage loan
28 has possession of an abstract of title and fails to deliver
29 the abstract to the borrower within twenty calendar days of
30 the borrower's request made by certified mail return receipt
31 requested in connection with a proposed sale of the property,
32 then the borrower may authorize the preparation of a new
33 abstract of title to the property and the person failing to
34 deliver the original abstract shall pay to the borrower the
35 reasonable costs of preparation. If the borrower brings an

1 action against the person failing to deliver to recover such
2 the payment and in the action recovers the payment, then the
3 borrower shall also be entitled to recover attorney fees and
4 court costs incurred in the action.

5 Sec. 22. Section 535B.11, subsection 7, unnumbered
6 paragraph 1, Code 2005, is amended to read as follows:

7 When the servicing of a first mortgage loan is transferred,
8 sold, purchased, or accepted by a licensee or registrant, the
9 licensee or registrant who is transferring or selling the
10 servicing shall issue to the mortgagor, within five business
11 days of the transfer, a notice which shall include at a
12 minimum:

13 Sec. 23. Section 535B.13, Code 2005, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 4. If the administrator finds, after
16 notice and hearing as provided in this chapter, that a person
17 has violated this chapter or a corresponding rule or an order
18 of the administrator, the administrator may order the person
19 to pay an administrative penalty of not more than five
20 thousand dollars for each violation, in addition to the costs
21 of investigation. If a person fails to pay the penalty and
22 costs, a lien in the amount of the penalty and costs may be
23 imposed upon all assets and property of the person in this
24 state and may be recovered in a civil action by the
25 administrator. Failure of the person to pay the penalty and
26 costs constitutes a separate violation of this chapter.

27 Sec. 24. NEW SECTION. 535B.17 POWERS AND DUTIES OF THE
28 ADMINISTRATOR -- WAIVER AUTHORITY.

29 In addition to any other duties imposed upon the
30 administrator by law, the administrator may participate in a
31 multistate automated licensing system for mortgage bankers,
32 mortgage brokers, and individual registrants. For this
33 purpose, the administrator may establish by rule or order new
34 requirements as necessary, including but not limited to
35 requirements that license applicants and individual

1 registrants submit to fingerprinting, criminal history checks,
2 and pay fees therefor.

3 DIVISION III

4 DELAYED DEPOSIT SERVICES

5 Sec. 25. Section 533D.3, subsection 2, Code 2005, is
6 amended to read as follows:

7 2. An applicant for a license shall submit an application,
8 ~~under-oath~~, to the superintendent on forms prescribed by the
9 superintendent. The forms shall contain such information as
10 the superintendent may prescribe.

11 Sec. 26. Section 533D.3, subsection 3, paragraph a, Code
12 2005, is amended to read as follows:

13 a. An application fee ~~in-an-amount-prescribed-by-rule~~
14 ~~adopted-by-the-superintendent~~ of one hundred dollars.

15 Sec. 27. Section 533D.3, subsection 6, Code 2005, is
16 amended to read as follows:

17 6. a. A license issued pursuant to this chapter shall be
18 conspicuously posted at the licensee's place of business. A
19 license shall remain in effect until the next succeeding May
20 1, unless earlier suspended or revoked by the superintendent.

21 b. A license shall be renewed annually by filing with the
22 superintendent on or before April 1 an application for renewal
23 containing such information as the superintendent may require
24 to indicate any material change in the information contained
25 in the original application or succeeding renewal applications
26 and a renewal fee of one two hundred fifty dollars.

27 c. The superintendent may assess a late fee of ten dollars
28 per day for applications submitted and accepted for processing
29 after April 1.

30 Sec. 28. Section 533D.6, subsection 1, Code 2005, is
31 amended to read as follows:

32 1. The prior written approval of the superintendent is
33 required for the continued operation of a delayed deposit
34 services business whenever a change in control of a licensee
35 is proposed. The person requesting such approval shall pay to

1 the superintendent a fee of one hundred dollars. Control in
2 the case of a corporation means direct or indirect ownership,
3 or the right to control, ten percent or more of the voting
4 shares of the corporation, or the ability of a person to elect
5 a majority of the directors or otherwise effect a change in
6 policy. Control in the case of any other entity means any
7 change in the principals of the organization, whether active
8 or passive. The superintendent may require information deemed
9 necessary to determine whether a new application is required.
10 Costs incurred by the superintendent in investigating a change
11 of control request shall be paid by the person requesting such
12 approval.

13 Sec. 29. Section 533D.7, subsection 3, Code 2005, is
14 amended to read as follows:

15 3. A fee of ~~one-hundred-fifty~~ twenty-five dollars shall be
16 paid to the superintendent for each request made pursuant to
17 subsection 1 or 2 for a change of location. For each new
18 branch office established, a fee of two hundred fifty dollars
19 shall be paid to the superintendent.

20 Sec. 30. NEW SECTION. 533D.7A NOTICE OF NAME CHANGE.

21 A licensee shall notify the superintendent thirty days in
22 advance of the effective date of a change in the name of the
23 licensee. With the notice of change, the licensee shall
24 submit a fee of twenty-five dollars per license to the
25 superintendent.

26 Sec. 31. Section 533D.9, subsections 2 and 3, Code 2005,
27 are amended to read as follows:

28 2. The licensee must indicate on the face of the check
29 that the check is an instrument in a delayed deposit
30 transaction.

31 ~~2-~~ 3. A licensee shall give to the maker of the check, at
32 the time any delayed deposit service transaction is made, or
33 if there are two or more makers, to one of them, notice
34 written in clear, understandable language disclosing all of
35 the following:

1 a. The fee to be charged for the transaction.

2 b. The annual percentage rate ~~on the first hundred dollars~~
3 ~~on the face amount of the check which the fee represents, and~~
4 ~~the annual percentage rate on subsequent one hundred dollar~~
5 ~~increments which the fee represents, if different~~ as computed
6 pursuant to the federal Truth in Lending Act.

7 c. The date on which the check will be deposited or
8 presented for negotiation.

9 d. Any penalty, not to exceed fifteen dollars, which the
10 licensee will charge if the check is not negotiable on the
11 date agreed upon. A penalty to be charged pursuant to this
12 section shall only be collected by the licensee once on a
13 check no matter how long the check remains unpaid. A penalty
14 to be charged pursuant to this section is a licensee's
15 exclusive remedy and if a licensee charges a penalty pursuant
16 to this section no other penalties under this chapter or any
17 other provision apply.

18 ~~3-~~ 4. In addition to the notice required by subsection 2
19 3, every licensee shall conspicuously display a schedule of
20 all fees, charges, and penalties for all services provided by
21 the licensee authorized by this section. The notice shall be
22 posted at the office and every branch office of the licensee.

23 Sec. 32. Section 533D.10, subsection 1, paragraph f, Code
24 2005, is amended to read as follows:

25 f. Receive any other charges or fees in addition to the
26 fees listed in section 533D.9, subsections 1 and 2 3.

27 Sec. 33. Section 533D.11, Code 2005, is amended to read as
28 follows:

29 533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

30 1. The superintendent shall examine the books, accounts,
31 and records of each licensee annually. ~~The costs of the~~
32 ~~superintendent incurred in an examination shall be paid by the~~
33 licensee at least once a year and as needed to secure
34 information required pursuant to this chapter and to determine
35 whether any violations of this chapter have occurred. The

1 licensee shall pay the cost of the examination.

2 2. The superintendent may examine or investigate
3 complaints or reports concerning alleged violations of this
4 chapter or any rule adopted or order issued by the
5 superintendent. The superintendent may order the actual cost
6 of the examination or investigation to be paid by the person
7 who is the subject of the examination or investigation,
8 whether or not the alleged violator is licensed.

9 3. The superintendent shall determine the cost of the
10 examination or investigation based upon the actual cost of the
11 operation of the finance bureau of the banking division of the
12 department of commerce, including the proportionate share of
13 administrative expenses in the operation of the banking
14 division attributable to the finance bureau as determined by
15 the superintendent, incurred in the discharge of duties
16 imposed upon the superintendent by this chapter.

17 4. Failure to pay the examination or investigation fee
18 within thirty days of receipt of demand from the
19 superintendent shall subject the licensee to a late fee of up
20 to five percent of the amount of the examination or
21 investigation fee for each day the payment is delinquent.

22 5. Except as otherwise provided by this chapter, all
23 papers, documents, examination reports, and other writing
24 relating to the supervision of licensees are not public
25 records and are not subject to disclosure under chapter 22.
26 The superintendent may disclose information to representatives
27 of other state or federal regulatory authorities. The
28 superintendent may release summary complaint information so
29 long as the information does not specifically identify the
30 complainant. The superintendent may prepare and circulate
31 reports reflecting financial information and examination
32 results for all licensees on an aggregate basis, including
33 other information considered pertinent to the purpose of each
34 report for general statistical information. The
35 superintendent may prepare and circulate reports provided by

1 law. The superintendent may release the reports and
2 correspondence in the course of an enforcement proceeding or a
3 hearing held by the superintendent. The superintendent may
4 also provide this information to the attorney general for
5 purposes of enforcing this chapter or the consumer fraud Act,
6 section 714.16.

7 DIVISION IV

8 REGULATED LOANS

9 Sec. 34. Section 536.2, Code 2005, is amended to read as
10 follows:

11 536.2 APPLICATION -- FEES.

12 1. Application An application for such a license shall be
13 ~~in-writing, under-oath, and~~ in the form prescribed by the
14 superintendent, and shall contain the all of the following:

15 a. The name and the address, (both of the residence and
16 place of business), of the applicant, ~~and-if.~~ If the
17 applicant is not a copartnership or association natural
18 person, the application shall include the name and address of
19 every member thereof, and-if-a-corporation, of each officer
20 and-director thereof, also-the, director, officer, manager,
21 and trustee of the applicant.

22 b. The county and municipality with street and number, if
23 any, of the place where the business of making loans under the
24 provisions of this chapter is to be conducted, and-such
25 further

26 c. Other relevant information as the superintendent may
27 require.

28 2. Such The applicant at the time of making such the
29 application shall pay to the superintendent the sum of fifty
30 one hundred dollars if-the-liquid-assets-of-the-applicant-are
31 not-in-excess-of-twenty-thousand-dollars, and-the-sum-of-one
32 hundred-dollars-if-the-liquid-assets-of-the-applicant-are-in
33 excess-of-twenty-thousand-dollars, as a fee for investigating
34 the application and the additional sum of one-hundred-twenty-
35 five-dollars-if-the-liquid-assets-of-the-applicant-are-not-in

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1 ~~excess-of-twenty-thousand-dollars, and~~ two hundred fifty
2 ~~dollars if-the-liquid-assets-of-the-applicant-are-in-excess-of~~
3 ~~twenty-thousand-dollars,~~ as an annual license fee.

4 3. Every applicant shall also prove, in form satisfactory
5 to the superintendent, that the applicant has available for
6 the operation of such business at the place of business
7 specified in the application, liquid assets of at least five
8 thousand dollars, or that the applicant has at least the said
9 amount actually in use in the conduct of such business at such
10 place of business.

11 Sec. 35. Section 536.7, Code 2005, is amended to read as
12 follows:

13 536.7 SEPARATE LICENSE -- CHANGE OF NAME OR PLACE OF
14 BUSINESS.

15 1. ~~Not-more-than~~ Only one place of business where such
16 loans are made shall be maintained under ~~the-same~~ a license,
17 ~~but.~~ However, the superintendent may issue more than one
18 license to the same licensee upon compliance, for each such
19 additional license, with all the provisions of this chapter
20 governing an original issuance of a license.

21 ~~Whenever-a-licensee-shall-change-such-place-of-business-to~~
22 ~~another-location-the-licensee-shall-at-once-give-written~~
23 ~~notice-thereof-to-the-superintendent-who-shall-attach-to-the~~
24 ~~license-in-writing-the-superintendent's-record-of-the-change~~
25 ~~and-the-date-thereof,which-shall-be-authority-for-the~~
26 ~~operation-of-such-business-under-such-license-at-such-new~~
27 ~~place-of-business.~~

28 2. A licensee shall notify the superintendent and submit a
29 fee of twenty-five dollars per license to the superintendent
30 thirty days in advance of the effective date of any of the
31 following:

32 a. A change in the name of the licensee.

33 b. A change in the address of the location where the
34 business is conducted.

35 Sec. 36. NEW SECTION. 536.7A CHANGE IN CONTROL --

1 APPROVAL.

2 The prior written approval of the superintendent is
3 required whenever a change in control of the licensee is
4 proposed. For purposes of this section, "control" means
5 control as defined in section 524.103. The superintendent may
6 require information deemed necessary to determine whether a
7 new application is required. When requesting approval, the
8 person shall submit a fee of one hundred dollars to the
9 superintendent.

10 Sec. 37. Section 536.8, Code 2005, is amended to read as
11 follows:

12 536.8 ANNUAL FEE -- PAYMENT----NEW-BOND.

13 Every licensee shall annually, on or before ~~the-fifteenth~~
14 ~~day-of-each~~ December 1, submit a renewal application on forms
15 prescribed by the superintendent and pay to the superintendent
16 the sum as provided in section 536.2 as an annual license fee
17 for the next succeeding calendar year ~~and-shall-at-the-same~~
18 ~~time-file-with-the-superintendent-a-new-bond-or-renewal-of-the~~
19 ~~old-bond-in-the-same-amount-and-of-the-same-character-as~~
20 ~~required-by-section-536-3.~~ The superintendent may assess a
21 late fee of ten dollars per day, per license for renewal
22 applications received after December 1.

23 Sec. 38. Section 536.10, Code 2005, is amended to read as
24 follows:

25 536.10 EXAMINATION OF BUSINESS -- FEE.

26 1. For the purpose of discovering violations of this
27 chapter or securing information lawfully required by the
28 superintendent ~~hereunder~~, the superintendent may at any time,
29 either personally or by ~~an-individual-or-individuals-duly~~
30 ~~designated-by-the-superintendent~~ designee, investigate the
31 loans and business and examine the books, accounts, records,
32 and files ~~used-therein~~, of every licensee and of every person
33 engaged in the business described in section 536.1, whether
34 such person shall act or claim to act as principal or agent,
35 or under or without the authority of this chapter. ~~For-that~~

1 purpose-the

2 a. The superintendent and the superintendent's duly
3 designated-representatives designee shall have and be given
4 free access to the place of business, books, accounts, papers,
5 records, files, safes, and vaults of all such persons
6 examined.

7 b. The superintendent and ~~all-individuals-duly-designated~~
8 ~~by-the-superintendent~~ the designee shall have authority to
9 require the attendance of and to examine under oath all
10 individuals ~~whomsoever~~ whose testimony the superintendent may
11 require relative to such the loans or such the business.

12 2. The superintendent shall make an examination of the
13 affairs, place of business, and records of each licensed place
14 of business at least once each year.

15 3. A licensee subject to examination, supervision, and
16 regulation by the superintendent, shall pay to the
17 superintendent an examination fee, based on the actual cost of
18 the operation of the regulated loan bureau of the banking
19 division of the department of commerce, and the proportionate
20 share of administrative expenses in the operation of the
21 banking division attributable to the regulated loan bureau as
22 determined by the superintendent ~~of-banking~~. The fee shall
23 apply equally to all licenses and shall not be changed more
24 frequently than annually ~~and-when-changed~~. A fee change
25 shall be effective on January 1 of the year following the year
26 in which the change is approved.

27 4. Upon completion of each examination required or allowed
28 by this chapter, the examiner ~~shall-render-a-bill-for-such~~
29 ~~fee-in-triplicate~~, and shall deliver one copy of the bill for
30 the examination to the licensee and two copies to the
31 superintendent. Failure to pay the fee to the superintendent
32 within ten thirty days after the date of the close of each
33 such the examination shall subject the licensee to an
34 additional fee of five percent of the amount of such the fee
35 for each day the payment is delinquent.

1 5. Except as otherwise provided by this chapter, all
2 papers, documents, examination reports, and other writing
3 relating to the supervision of licensees are not public
4 records and are not subject to disclosure under chapter 22.
5 The superintendent may disclose information to representatives
6 of other state or federal regulatory authorities. The
7 superintendent may release summary complaint information so
8 long as the information does not specifically identify the
9 complainant. The superintendent may prepare and circulate
10 reports reflecting financial information and examination
11 results for all licensees on an aggregate basis, including
12 other information considered pertinent to the purpose of each
13 report for general statistical information. The
14 superintendent may prepare and circulate reports provided by
15 law. The superintendent may release the reports and
16 correspondence in the course of an enforcement proceeding or a
17 hearing held by the superintendent. The superintendent may
18 also provide this information to the attorney general for
19 purposes of enforcing this chapter or the consumer fraud Act,
20 section 714.16.

21 Sec. 39. Section 536.13, Code Supplement 2005, is amended
22 to read as follows:

23 536.13 ~~BANKING-COUNCIL~~ SUPERINTENDENT -- REPORT --
24 CLASSIFICATION -- RULES -- PENALTY -- CONSUMER CREDIT CODE.

25 1. The ~~state-banking-council~~ superintendent may
26 investigate the conditions and find the facts with reference
27 to the business of making regulated loans, as described in
28 section 536.1 and after making the investigation, report in
29 writing its findings to the next regular session of the
30 general assembly, and upon the basis of the facts:

31 a. Classify regulated loans by a rule according to a
32 system of differentiation which will reasonably distinguish
33 the classes of loans for the purposes of this chapter.

34 b. Determine and fix by a rule the maximum rate of
35 interest or charges upon each class of regulated loans which

1 will induce efficiently managed commercial capital to enter
2 the business in sufficient amounts to make available adequate
3 credit facilities to individuals. The maximum rate of
4 interest or charge shall be stated by the ~~council~~
5 superintendent as an annual percentage rate calculated
6 according to the actuarial method and applied to the unpaid
7 balances of the amount financed.

8 2. Except as provided in subsection 7, the ~~council~~
9 superintendent may redetermine and refix by rule, in
10 accordance with subsection 1, any maximum rate of interest or
11 charges previously fixed by it, but the changed maximum rates
12 shall not affect pre-existing loan contracts lawfully entered
13 into between a licensee and a borrower. All rules which the
14 ~~council~~ superintendent may make respecting rates of interest
15 or charges shall state the effective date of the rules, which
16 shall not be earlier than thirty days after notice to each
17 licensee by mailing the notice to each licensed place of
18 business.

19 3. Before fixing any classification of regulated loans or
20 any maximum rate of interest or charges, or changing a
21 classification or rate under authority of this section, the
22 ~~council~~ superintendent shall give reasonable notice of ~~its~~ the
23 superintendent's intention to consider doing so to all
24 licensees and a reasonable opportunity to be heard and to
25 introduce evidence with respect to the change or
26 classification.

27 4. Beginning July 4, 1965, and until such time as a
28 different rate is fixed by the ~~council~~ superintendent, the
29 maximum rate of interest or charges upon the class or classes
30 of regulated loans is three as follows:

31 a. Three percent per month on any part of the unpaid
32 principal balance of the loan not exceeding one hundred fifty
33 dollars and-two.

34 b. Two percent per month on any part of the loan in excess
35 of one hundred fifty dollars, but not exceeding three hundred

1 dollars ~~7-and-one.~~

2 c. One and one-half percent per month on any part of the
3 unpaid principal balance of the loan in excess of three
4 hundred dollars, but not exceeding seven hundred dollars ~~7-and~~
5 one.

6 d. One percent per month on any part of the unpaid
7 principal balance of the loan in excess of seven hundred
8 dollars.

9 5. A licensee under this chapter may lend any sum of money
10 not exceeding twenty-five thousand dollars in amount and may
11 charge, contract for, and receive on the loan interest or
12 charges at a rate not exceeding the maximum rate of interest
13 or charges determined and fixed by the ~~council~~ superintendent
14 under authority of this section or pursuant to subsection 7
15 for those amounts in excess of ten thousand dollars.

16 6. If any interest or charge on a loan regulated by this
17 chapter in excess of those permitted by this chapter is
18 charged, contracted for, or received, the contract of loan is
19 void as to interest and charges and the licensee has no right
20 to collect or receive any interest or charges. In addition,
21 the licensee shall forfeit the right to collect the lesser of
22 two thousand dollars of principal of the loan or the total
23 amount of the principal of the loan.

24 7. a. The ~~council~~ superintendent may establish the
25 maximum rate of interest or charges as permitted under this
26 chapter for those loans whose with an unpaid principal balance
27 is of ten thousand dollars or less. For those loans whose
28 with an unpaid principal balance is of over ten thousand
29 dollars, the maximum rate of interest or charges which a
30 licensee may charge shall be the greater of the rate permitted
31 by chapter 535 or the rate authorized for supervised financial
32 organizations by chapter 537.

33 b. The Iowa consumer credit code, chapter 537, applies to
34 a consumer loan in which the licensee participates or engages,
35 and a violation of the Iowa consumer credit code, chapter 537,

1 is a violation of this chapter.

2 c. Article 2, parts 3, 5, and 6 of chapter 537, and
3 article 3 of chapter 537, sections 537.3203, 537.3206,
4 537.3209, 537.3304, 537.3305, and 537.3306 apply to any credit
5 transaction, as defined in section 537.1301 in which a
6 licensee participates or engages, and any violation of those
7 parts or sections is a violation of this chapter. For the
8 purpose of applying the Iowa consumer credit code, chapter
9 537, to those credit transactions, "consumer loan" includes a
10 loan for a business purpose.

11 d. A provision of the Iowa consumer credit code, chapter
12 537, applicable to loans regulated by this chapter supersedes
13 a conflicting provision of this chapter.

14 Sec. 40. Section 536.16, subsection 1, Code 2005, is
15 amended to read as follows:

16 1. Section 536.2 to the extent it ~~requires-payment-of-an~~
17 ~~annual-license-fee-in-excess-of-two-hundred-fifty-dollars-and~~
18 requires a person to prove the person has any dollar amount of
19 liquid assets or the use of any dollar amount in the conduct
20 of the person's business at the licensed place of business.

21 Sec. 41. Section 536.23, Code 2005, is amended to read as
22 follows:

23 536.23 JUDICIAL REVIEW.

24 Judicial review of the actions of the superintendent ~~or-the~~
25 ~~state-banking-council~~ may be sought in accordance with the
26 terms of the Iowa administrative procedure Act, chapter 17A.

27 Sec. 42. Section 536.28, subsection 3, Code Supplement
28 2005, is amended by striking the subsection.

29 Sec. 43. Section 536.25, Code 2005, is repealed.

30 DIVISION V
31 INDUSTRIAL LOANS

32 Sec. 44. Section 536A.7, Code 2005, is amended to read as
33 follows:

34 536A.7 APPLICATION FOR LICENSE.

35 1. Applications ~~The application~~ for ~~licenses~~ a license to

1 engage in the business of operating an industrial loan
2 companies company shall be ~~in-writing-on-such-forms~~ in the
3 form as may be prescribed by the superintendent. The
4 application shall give all of the following information:

5 a. The name of the corporation~~7-the.~~

6 b. The location where the business is to be conducted,
7 including the street address of the place of business~~7-the.~~

8 c. The names and addresses of the officers and directors
9 of the corporation ~~and-such-other.~~

10 d. Other relevant information as the superintendent shall
11 require.

12 2. At the time of making such the application the
13 applicant shall pay to the superintendent the sum of fifty one
14 hundred dollars to cover the cost of the investigation of the
15 applicant. The applicant shall also pay to the superintendent
16 the sum of two hundred fifty dollars as an annual license fee
17 for the period ending December 31 next following the
18 application~~7-provided-that-if-the-license-is-granted-after~~
19 ~~June-30-in-any-year7-the-license-fee-for-the-remainder-of-that~~
20 ~~year-shall-be-one-hundred-twenty-five-dollars-and-any-license~~
21 ~~fee-paid-by-the-applicant-in-excess-of-that-amount-shall-be~~
22 ~~refunded-by-the-superintendent.~~

23 Sec. 45. Section 536A.12, Code 2005, is amended to read as
24 follows:

25 536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF
26 LOCATION -- CHANGE OF CONTROL.

27 1. Each such license remains in full force and effect
28 until surrendered, revoked, or suspended, or until there is a
29 change of control ~~on-or-after-January-17-1996.~~

30 2. A licensee, on or before ~~the-second-day-of-January~~
31 December 1, shall pay to the superintendent the sum of two
32 hundred fifty dollars as an annual license fee for the
33 succeeding calendar year. The licensee shall submit the
34 annual license fee with a renewal application in the form
35 prescribed by the superintendent. The superintendent may

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1 assess a late fee of ten dollars per day per license for
2 applications received after December 1.

3 3. When a licensee changes its name or place of business
4 from one location to another in the same city, it shall at
5 once give written notice to the superintendent who shall
6 attach to the license in writing the superintendent's record
7 of the change and the date of the change, which is authority
8 for the operation of the business under that license at the
9 new place of business the licensee shall notify the
10 superintendent thirty days in advance of the effective date of
11 the change. A licensee shall pay a fee of twenty-five dollars
12 per license to the superintendent with the notification of
13 change.

14 2- 4. a. A person who proposes to purchase or otherwise
15 acquire, directly or indirectly, any of the outstanding shares
16 of an industrial loan company which would result in a change
17 of control of the industrial loan company, shall first apply
18 in writing to the superintendent for a certificate of approval
19 for the proposed change of control.

20 b. At the time of making the application, the applicant
21 shall pay to the superintendent one hundred dollars to cover
22 the cost of the investigation of the applicant.

23 c. The superintendent shall grant the certificate if the
24 superintendent is satisfied that of both of the following:

25 (1) The person who proposes to obtain control of the
26 industrial loan company is qualified by character, experience,
27 and financial responsibility to control and operate the
28 industrial loan company in a sound and legal manner, and that
29 the.

30 (2) The interests of the thrift certificate holders,
31 creditors, and shareholders of the industrial loan company,
32 and of the public generally, shall will not be jeopardized by
33 the proposed change of control.

34 d. If a board member of the industrial loan company has
35 reason to believe any of the requirements of this subsection

1 have not been ~~complied-with~~ met, the board member shall
2 promptly report the facts in writing ~~such-facts~~ to the
3 superintendent.

4 e. If there is any doubt as to whether a change in the
5 ownership of the outstanding shares is sufficient to result in
6 control of the industrial loan company, or to effect a change
7 in the control of the industrial loan company, ~~such~~ the doubt
8 shall be resolved in favor of reporting the facts to the
9 superintendent.

10 3. 5. a. For purposes of this section, "control" means
11 control as defined in section 524.103. However, a change of
12 control does not occur when a majority shareholder of an
13 industrial loan company transfers the shareholder's shares of
14 the industrial loan company to a revocable trust, so long as
15 the transferor retains the power to revoke the trust and take
16 possession of ~~such~~ the shares.

17 b. Notwithstanding the provisions of paragraph "a", a
18 change of control is deemed to occur two years after the death
19 of the majority shareholder, whether the shareholder's shares
20 of the industrial loan company are held in a revocable trust
21 or otherwise.

22 Sec. 46. Section 536A.15, Code 2005, is amended to read as
23 follows:

24 536A.15 EXAMINATION OF LICENSEES.

25 1. The superintendent or the superintendent's ~~duy~~
26 ~~authorized-representative~~ designee shall, at least once each
27 year without previous notice, examine the books, accounts, and
28 records of each licensee engaged in the industrial loan
29 business as defined by this chapter. A licensee issuing
30 senior debt to the general public shall be audited at the
31 expense of the licensee by a certified public accountant
32 licensed to practice in the state of Iowa. A licensee not
33 issuing senior debt to the general public may provide an
34 audited statement of the licensee's parent corporation which
35 includes the Iowa licensee. After receiving such an audit or

1 audited statement, the superintendent may make further
2 examination of the licensee as the superintendent deems
3 necessary. A record of each examination shall be kept in the
4 superintendent's office. ~~The examinations and reports, and~~
5 ~~other information connected with them, shall be kept~~
6 ~~confidential in the office of the superintendent and shall not~~
7 ~~be subject to publication or disclosure to others except as in~~
8 ~~this chapter provided.~~

9 2. Except as otherwise provided by this chapter, all
10 papers, documents, examination reports, and other writing
11 relating to the supervision of licensees are not public
12 records and are not subject to disclosure under chapter 22.
13 The superintendent may disclose information to representatives
14 of other state or federal regulatory authorities. The
15 superintendent may release summary complaint information so
16 long as the information does not specifically identify the
17 complainant. The superintendent may prepare and circulate
18 reports reflecting financial information and examination
19 results for all licensees on an aggregate basis, including
20 other information considered pertinent to the purpose of each
21 report for general statistical information. The
22 superintendent may prepare and circulate reports provided by
23 law. The superintendent may release the reports and
24 correspondence in the course of an enforcement proceeding or a
25 hearing held by the superintendent. The superintendent may
26 also provide this information to the attorney general for
27 purposes of enforcing this chapter or the consumer fraud Act,
28 section 714.16.

29 3. Any evidence of criminal acts committed by officers,
30 directors, or employees of an industrial loan company shall be
31 reported by the superintendent to the proper authorities.

32 4. The licensee shall be charged and shall pay the actual
33 costs of the examination as determined by the superintendent
34 based on the actual cost of the operation of the finance
35 bureau of the banking division of the department of commerce

1 including the proportionate share of administrative expenses
2 in the operation of the banking division attributable to the
3 finance bureau as determined by the superintendent incurred in
4 the discharge of the duties imposed upon the superintendent by
5 this chapter. Failure to pay the examination fee within
6 thirty days of receipt of demand from the superintendent shall
7 subject the licensee to a late fee of five percent of the
8 amount of the examination fee for each day the payment is
9 delinquent.

10 Sec. 47. Section 536A.25, subsections 1 and 3, Code 2005,
11 are amended to read as follows:

12 1. a. An industrial loan company licensed under this
13 chapter that sells debt instruments to the general public in
14 the form of thrift certificates, installment thrift
15 certificates, certificates of indebtedness, promissory notes,
16 or similar evidences of indebtedness shall not make a loan of
17 money or property to or guarantee the obligations of its
18 directors or officers; or loan to any borrower, other than a
19 subsidiary or affiliated corporation, more than twenty percent
20 of its total capital, surplus, and undivided profits.

21 b. A licensee shall not make a loan under any other name
22 or at any other place of business than that named in the
23 license.

24 3. Investments by an industrial loan company licensed
25 under this chapter that sells debt instruments to the general
26 public in the form of thrift certificates, installment thrift
27 certificates, certificates of indebtedness, promissory notes,
28 or similar evidences of indebtedness are subject to the
29 provisions of section 524.901 as applied to state banks.

30 Sec. 48. Section 536A.30, Code 2005, is amended to read as
31 follows:

32 536A.30 NONRESIDENT LICENSEES -- FACE-TO-FACE
33 SOLICITATION.

34 Notwithstanding other provisions of this chapter to the
35 contrary, a person which that neither has an office physically

1 located in this state nor engages in face-to-face solicitation
2 in this state, if authorized by another state to make loans in
3 that state at a rate of finance charge in excess of the rate
4 provided in chapter 535, shall not be subject to the following
5 provisions of this chapter:

6 1. ~~Section 536A.7, to the extent it requires payment of an~~
7 ~~annual license fee in excess of two hundred fifty dollars.~~

8 2. Section 536A.8.

9 3. 2. Section 536A.10, subsections 2, 3, and 4.

10 4. ~~Section 536A.12, to the extent it requires a licensee~~
11 ~~to pay an annual license fee which, when combined with that~~
12 ~~required in section 536A.7, is in excess of two hundred fifty~~
13 ~~dollars.~~

14 5. 3. Section 536A.15, to the extent it requires the
15 superintendent to make an examination and audit of the books,
16 accounts and records of the licensee on a periodic basis.

17 EXPLANATION

18 This bill amends and updates five different Code chapters,
19 the provisions of which are administered by the superintendent
20 of banking, as follows:

21 Chapter 533A Debt management.

22 Chapter 535B Mortgage bankers and brokers.

23 Chapter 533D Delayed deposit services.

24 Chapter 536 Regulated loans.

25 Chapter 536A Industrial loans.

26 The bill makes similar amendments to the various chapter
27 provisions, including the following:

28 1. Licensure requirements. The bill deletes the writing
29 requirement for applications, addresses what persons are
30 required to apply for a license and pay an annual fee, and the
31 basis upon which the superintendent grants a license and
32 conducts investigations.

33 2. Renewal of license. The bill provides for an annual
34 renewal application, and adjusts the due dates for
35 applications. The bill also provides for annual fees and late

1 fees.

2 3. Change in control, name or address provisions; fee
3 required. Prior to a change in control, as defined, the
4 superintendent must approve the change and may require
5 information to determine whether a new application must be
6 filed. A \$100 fee is required for approval. Likewise, the
7 licensee must notify the superintendent of a proposed change
8 in the name or address. A \$25 fee is required for each
9 license affected by the change in name or address.

10 4. Cost of examination. The superintendent is required to
11 determine the cost of examination based upon the actual cost
12 of operation of the finance bureau of the banking division,
13 including the proportionate share of administrative expenses.
14 The licensee must pay a fee for late payment of the
15 examination fee.

16 5. Release of information. All documents relating to the
17 superintendent's supervision of licensees are confidential;
18 however, the superintendent is authorized to disclose
19 information to state or federal regulatory authorities and
20 also under circumstances that do not disclose the identity of
21 the licensee, i.e., aggregate reporting. The superintendent
22 may provide information to the attorney general as well for
23 purposes of enforcing the law.

24 In Code chapter 533A, the bill defines "allowable cost",
25 "donation", and "gratuitous debt-management service" and other
26 terms. A donation is an amount of money paid by the debtor to
27 the licensee as a gift outside the debt management service.
28 If a licensee requests a donation, the licensee must make it
29 clear to the debtor that the donation is not a condition or
30 requirement for debt management services. A donation is not a
31 fee. For the licensing, the bill increases the bond amount
32 from \$10,000 to \$25,000. And, the renewal license fee is
33 raised from \$100 to \$250.

34 Code chapter 535B currently applies to first mortgage
35 loans. The bill strikes the word "first" so that the chapter

1 provisions now apply to any loan secured by residential real
2 property. The bill requires the licensee to conduct business
3 under the name named in the license; however, the
4 administrator may issue more than one license upon compliance
5 with the chapter. The bill also adds an enforcement
6 provision. If a person violates the chapter, or a rule or
7 order as applicable, the administrator may order that the
8 person pay a penalty of not more than \$5,000 for each
9 violation, in addition to the costs of the investigation.
10 Finally, the bill provides that the administrator may
11 participate in a multistate automated licensing system for
12 mortgage bankers, mortgage brokers, and individual
13 registrants. For purposes of such a multistate automated
14 licensing system, the administrator may create by rule or
15 order new requirements for applicants, such as fingerprinting
16 and criminal history checks and related fees.

17 In Code chapter 533D, the bill requires that the licensee
18 indicate on the face of the check that the check is an
19 instrument in a delayed deposit transaction. The licensee
20 must disclose to the maker of the check the annual percentage
21 rate as computed pursuant to the federal Truth In Lending Act.

22 In Code chapter 536, the bill strikes and replaces "state
23 banking council" with "superintendent" to reflect that certain
24 duties have been transferred to the superintendent. The bill
25 repeals Code section 536.25 that requires the licensee when
26 making a loan to obtain a written statement of the borrower's
27 installment indebtedness.

28 In Code chapter 536A the bill applies restrictions to an
29 industrial loan company that sells debt instruments to the
30 general public.

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IOWA DIVISION OF BANKING

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

THOMAS B. GRONSTAL
SUPERINTENDENT

Date: January 31, 2006
To: Members of the General Assembly
From: Tom Gronstal 
RE: LSB 5324DP

One of the primary purposes of our proposed legislation is to promote uniformity within 5 licensing chapters administered by my office. Along those lines we have requested the following for each (if it is not already provided for): ability to accept applications electronically; submission of renewal applications 30 days prior to expiration of the license; application fee of \$100; approval for change of control with a corresponding fee that matches the application fee; provisions for a fee for change of name or address; exam fee to be cost of exam plus cost to administer chapter as determined by superintendent; late charges for late payment of exam fee; late fees for late submission of renewal application; sharing of supervisory information with other regulators.

The proposed legislation is broken into 3 divisions and covers 5 chapters regulated by the Division of Banking. Division I addresses Chapter 533A-Debt Management. Division II covers Chapter 535B-Mortgage Bankers and Brokers. Division III covers Chapters 533D-Delayed Deposit Services, 536-Regulated Loans, and 536A-Industrial Loans. Additional comments regarding the divisions follow.

Division I, Chapter 533A-Debt Management: In addition to the uniform things mentioned above, we are seeking to clarify that if business is done with an Iowa resident, a license is necessary. Other changes are to clarify our present position relating to debt management regarding fees charged customers.

Division II, Chapter 535B-Mortgage Bankers and Brokers: In addition to uniform things mentioned above we are seeking to have chapter 535B apply to any loan secured by owner occupied residential real estate, not just a first mortgage. We are also seeking to remove the exemption from examination presently granted entities with sufficient capital to be a HUD approved lender. We are also seeking authority to participate in the establishment of a multi-state automated licensing system with the authority to waive and modify, by rule or order, any and all requirements of this chapter as deemed necessary to participate in the multi-state licensing system.

Division III, 533D-Delayed Deposit Services, 536-Regulated Loans, and 536A-Industrial Loans: While there may be some technical changes, this Division addresses primarily the uniform things mentioned above.

SENATE FILE 2353

AN ACT

RELATING TO DEBT MANAGEMENT, MORTGAGE BANKERS AND BROKERS,
DELAYED DEPOSIT SERVICES, REGULATED LOANS, AND INDUSTRIAL
LOANS, AND PROVIDING FOR FEES AND PENALTIES.

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

DIVISION I
DEBT MANAGEMENT

Section 1. Section 533A.1, Code 2005, is amended to read
as follows:

533A.1 DEFINITIONS.

As used in this chapter:

1. "Allowable cost" means an actual, identifiable third-party expense incurred by the licensee on behalf of a specific debtor, such as postage and long distance telephone charges, that may be itemized and charged against the debtor for payment.

2. "Creditor" means a person for whose benefit moneys are being collected and distributed by licensees.

~~2~~ 3. "Debt management" means the planning and management of the financial affairs of a debtor and the receiving therefrom of money or evidences thereof for the purpose of distributing the same to the debtor's creditors in payment or partial payment of the debtor's obligations for a fee.

~~3~~ 4. "Debtor" means any natural person.

5. "Donation" means money given by the debtor to a licensee as a gift for debt management and outside of the debt management contract.

6. "Fee" means the moneys paid by the debtor to the licensee as payment for debt management and shall not include

money paid to the licensee or held by the licensee for distribution to a creditor, allowable costs, a distribution to the debtor as a refund, or a donation.

7. "Gratuitous debt-management service" means debt management without charging a fee.

~~4~~ 8. "Licensee" means any ~~individual, partnership, unincorporated association, agency or corporation~~ person licensed under this chapter.

9. "Natural person" means an individual who is not an association, joint venture, or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, other business entity, or any group of individuals or business entities, however organized.

~~5~~ 10. "Office" means each location by street number, building number, city, and state where any person engages in debt management.

11. "Person" means an individual, an association, joint venture or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, or any other group of individuals however organized.

~~6~~ 12. "Superintendent" means the superintendent of banking.

Sec. 2. Section 533A.2, Code 2005, is amended to read as follows:

533A.2 LICENSES REQUIRED -- EXCEPTIONS.

1. ~~No individual, partnership, unincorporated association, agency or corporation~~ A person shall not engage in the business of debt management in this state without a license therefor as provided for in this chapter, except that the unless exempt under subsection 2. A person engages in the business of debt management in this state if the person solicits to provide, or enters into a contract with one or more debtors to provide debt management to a debtor who resides in this state.

2. The following persons, including employees of such persons, shall not be required to be licensed when engaged in the regular course of their respective businesses and professions:

- a. Attorneys at law.
- b. Banks, savings and loan associations, credit unions, mortgage bankers and mortgage brokers licensed or registered under chapter 535B, insurance companies and similar fiduciaries, regulated loan companies licensed under chapter 536, and industrial loan companies licensed under chapter 536A, authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.
- c. Abstract companies, while performing an escrow function.
- d. Employees of licensees under this chapter.
- e. Judicial officers or others acting under court orders.
- f. Nonprofit religious, fraternal or co-operative cooperative organizations, including credit unions, offering to debtors gratuitous debt-management service.
- g. Those persons, ~~associations, or corporations~~ whose principal business is the origination of first mortgage loans on real estate for their own portfolios or for sale to institutional investors.

2- 3. The application for such a license shall be in ~~writing, under oath, and in~~ the form prescribed by the superintendent. The application shall contain all of the following:

- a. The name of the applicant, date of incorporation, if incorporated, and the,
- b. If the applicant is not a natural person, the type of business entity of the applicant and the date the entity was organized.

c. The address where the business is to be conducted, and similar, including information as to any branch office of the applicant, ~~the,~~

d. The name and resident address of the applicant's owner or partners, or, if a corporation, association, or agency, of the members, shareholders, directors, trustees, principal officers, managers, and agents, and such other pertinent information as the superintendent may require. If the applicant is a partnership, a copy of the certificate of assumed name or articles of partnership shall be filed with the application. If the applicant is not a corporation natural person, a copy of the articles of incorporation legal documents creating the applicant shall be filed with the application.

e. Other pertinent information as the superintendent may require, including a credit report.

3- 4. Each application shall be accompanied by a bond to be approved by the superintendent to in favor of the people of the state of Iowa in the penal sum of ten twenty-five thousand dollars for each office, providing, however, the superintendent may require such bond to be raised to a maximum sum of twenty-five thousand dollars, and conditioned that the obligor will not violate any law pertaining to such business and upon the faithful accounting of all moneys collected upon accounts entrusted to such person engaged in debt management, and their employees and agents for the purpose of indemnifying debtors for loss resulting from conduct prohibited by this chapter. The aggregate liability of the surety to all debtors doing business with the office for which the bond is filed shall, in no event, exceed the penal sum of such bond. The surety on the bond shall have the right to cancel such bond upon giving thirty days' notice to the superintendent and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said the cancellation. ~~No individual, partnership, unincorporated~~

~~association, agency or corporation~~ A person shall not engage in the business of debt management until a good and sufficient bond is filed in accordance with the provisions of this chapter.

4- 5. Each applicant shall furnish with the application a copy of the contract the applicant proposes to use between the applicant and the debtor, which shall contain a schedule of fees to be charged the debtor for the applicant's services.

5- 6. At the time of making such the application the applicant shall pay to the superintendent the sum of two hundred fifty dollars as a license fee for each of the applicant's offices and an investigation fee in the sum of one hundred dollars. A separate application shall be made for each office maintained by the applicant.

Sec. 3. Section 533A.3, Code 2005, is amended to read as follows:

533A.3 INVESTIGATION -- HEARING.

1. Upon the filing of each application and the payment of such the fees, the superintendent shall ~~fix a date and a time for a hearing upon such application, and shall make~~ conduct an investigation of the facts concerning the application and the requirements provided for in subsection 3 ~~of this section.~~

2. The superintendent shall grant or deny each application for a license within sixty days from the ~~filing thereof with date that the application and the required fee are filed and paid,~~ unless the period is extended by written agreement between the applicant and the superintendent.

3. ~~a--If the~~ The superintendent shall ~~find the~~ enter an order granting the application, and issue and deliver a license to the applicant if the superintendent finds that both of the following are satisfied:

a. The experience, financial responsibility, character, and general fitness of the applicant is such sufficient as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly,

and efficiently within the purposes of this chapter, ~~and that the.~~

~~b. The applicant, or if the applicant is an unincorporated association, agency or partnership, then the individuals involved, or if the applicant is a corporation then the officers and directors thereof, have~~ has not been convicted of or pled guilty to a felony or a an indictable misdemeanor involving moral turpitude for financial gain, or have has not had a record of having defaulted in payment of money collected for others, including the discharge of such debts through bankruptcy proceedings, ~~the superintendent shall thereupon enter an order granting such application and forthwith issue and deliver a license to the applicant. The superintendent may require as part of the application a credit report and other information.~~

If the applicant is not a natural person, this subsection shall apply to the owners, partners, members, shareholders, officers, directors, and managers of the applicant.

~~b- 4.~~ 4. If the applicant has, at the time of the application, a license for an office located within ten statute miles of the location of the office named in the application, no a license shall not be issued unless the superintendent finds that public convenience will be served by the issuance of such the license.

~~c- 5.~~ 5. No A license shall not be transferable or assignable.

~~4- 6.~~ 6. If the superintendent finds the applicant not qualified by under subsection 3 ~~of this section,~~ the superintendent shall enter an order denying such the application and forthwith notify the applicant of the denial, returning the license fee. Within fifteen days after the entry of such order, the superintendent shall prepare written findings and shall forthwith deliver a copy thereof to the applicant.

Sec. 4. Section 533A.5, Code 2005, is amended to read as follows:

533A.5 RENEWAL.

1. ~~Each To continue in the business of debt management, each licensee shall apply on or before July June 1 may-make application to the superintendent for renewal of its license. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after June 1.~~

2. The renewal application shall be on the form prescribed by the superintendent and shall be accompanied by a fee of one two hundred fifty dollars, ~~together with a bond as in the case of an original application.~~ A separate renewal application shall be made for each office maintained by the applicant.

Sec. 5. NEW SECTION. 533A.5A CHANGE IN CONTROL -- NAME OR ADDRESS.

1. The prior written approval of the superintendent is required whenever a change in the control of a licensee is proposed. For purposes of this section, "control" in the case of a corporation means direct or indirect ownership, or the right to control, ten percent or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy. "Control" in the case of any other entity means the principals of the organization whether active or passive. The superintendent may require information deemed necessary to determine whether a new application is required. When requesting approval, the person shall submit a fee of one hundred dollars to the superintendent.

2. A licensee shall notify the superintendent and submit a fee of twenty-five dollars per license to the superintendent thirty days in advance of the effective date of any of the following:

a. A change in the name of the licensee.

b. A change in the address where the business is conducted.

Sec. 6. Section 533A.7, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Conviction of a felony or of a an indictable misdemeanor involving moral turpitude for financial gain.

Sec. 7. Section 533A.9, Code 2005, is amended to read as follows:

533A.9 FEE AGREED IN ADVANCE.

The fee of the licensee charged to the debtor shall be agreed upon in advance and stated in the contract and provision for settlement in case of cancellation or prepayment shall also be clearly stated herein in the contract. The fee of the licensee charged to the debtor shall not exceed fifteen percent of any payment made by the debtor and distributed to the creditors pursuant to the contract. In case of total payment of the contract before the contract period has expired, the licensee shall be entitled only to a fee of no more than three percent of such the final payment.

Sec. 8. NEW SECTION. 533A.9A DONATIONS.

A donation shall not be charged to a debtor or creditor, deducted from a payment to a creditor, deducted from the debtor's account, or from payments made to the licensee pursuant to the debt management contract. If a licensee requests a donation from a debtor, the licensee must clearly indicate that any donation is voluntary and not a condition or requirement for providing debt management.

Sec. 9. Section 533A.10, Code 2005, is amended to read as follows:

533A.10 EXAMINATION OF LICENSEE.

1. The superintendent may examine the condition and affairs of said a licensee. In connection with any examination, the superintendent may examine on oath any licensee, and any director, officer, employee, customer, creditor, or stockholder of a licensee concerning the affairs

and business of the licensee. The superintendent shall ascertain whether the licensee transacts its business in the manner prescribed by the law and the applicable rules and regulations issued thereunder. The licensee shall pay the cost of the examination as determined by the superintendent, which fee shall not exceed the sum of one hundred dollars per day of examination based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of the administrative expenses in the operation of the banking division attributable to the finance bureau, as determined by the superintendent, incurred in the discharge of duties imposed upon the superintendent by this chapter. Failure to pay the examination fee within thirty days of receipt of demand from the superintendent shall automatically suspend the license until the fee is paid subject the licensee to a late fee of up to five percent per day of the amount of the examination fee for each day the payment is delinquent.

2. In the investigation of alleged violations of this chapter, the superintendent may compel the attendance of any person or the production of any books, accounts, records and files used therein, and may examine under oath all persons in attendance pursuant thereto.

The superintendent is authorized to make and promulgate as prescribed by law regulations necessary to carry out the purposes of this chapter.

Sec. 10. NEW SECTION. 533A.12 RULES.

The superintendent may adopt administrative rules pursuant to chapter 17A to administer and enforce the provisions of this chapter.

Sec. 11. Section 533A.13, Code 2005, is amended to read as follows:

533A.13 LICENSE MANDATORY TO BUSINESS.

It shall be unlawful for an individual, partnership, unincorporated association, agency or corporation a person to

engage in the business of debt management without first obtaining a license as required by this chapter. Any individual, partnership, unincorporated association, agency, corporation or any other group of individuals, however organized, person or any owner, partner, member, officer, director, employee, agent, or representative thereof who shall willfully or knowingly engage in the business of debt management without the license required by this chapter, shall be guilty of a serious misdemeanor.

DIVISION II

MORTGAGE BANKERS AND BROKERS

Sec. 12. Section 535B.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. 5A. "First-mortgage Mortgage loan" means a loan of money secured by a first lien on residential real property and includes a refinancing of a contract of sale, an assumption of a prior mortgage loan, and a refinancing of a prior mortgage loan.

Sec. 13. Section 535B.1, subsection 4, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 2, is amended to read as follows:

4. "Mortgage banker" means a person who does one or more of the following:

a. Makes at least four first mortgage loans on residential real property located in this state in a calendar year.

b. Originates at least four first mortgage loans on residential real property located in this state in a calendar year and sells four or more such loans in the secondary market.

c. Services at least four first mortgage loans on residential real property located in this state. However, a natural person, who services less than fifteen first mortgage loans on residential real estate within the state and who does not sell or transfer first mortgage loans, is exempt from this paragraph if that person is otherwise exempt from the provisions of this chapter.

"Mortgage banker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 14. Section 535B.1, subsection 5, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 3, is amended to read as follows:

5. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, at least four ~~first~~ mortgage loans or commitments for four or more such loans on residential real property located in this state in a calendar year. "Mortgage broker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 15. Section 535B.4, subsection 7, Code 2005, is amended to read as follows:

7. Applications for renewals of licenses and individual registrations under this chapter must be filed with the administrator before June 1 of the year of expiration and on forms prescribed by the administrator. A renewal application must be accompanied by a fee of two hundred dollars for a license to transact business solely as a mortgage broker, and four hundred dollars for a license to transact business as a mortgage banker. The fee to renew an individual registration shall be the fee determined pursuant to 2005 Iowa Acts, chapter 83, section 6. The administrator may assess a late fee of ten dollars per day for applications or registrations accepted for processing after June 1.

Sec. 16. Section 535B.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensee shall not conduct business under any other name than that given in the license. A

fictitious name may be used, but a licensee shall conduct business only under one name at a time. However, the administrator may issue more than one license to the same person to conduct business under different names at the same time upon compliance for each such additional license with all of the provisions of this chapter governing an original issuance of a license.

Sec. 17. Section 535B.4A, subsection 2, as enacted by 2005 Iowa Acts, chapter 83, section 6, is amended to read as follows:

2. An individual registrant who registers pursuant to this section for the first time shall submit to a national criminal background history check through the federal bureau of investigation prior to being registered. The administrator may submit the registrant's fingerprints to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. The administrator shall collect fees necessary to cover the costs associated with criminal background history checks conducted pursuant to this section.

Sec. 18. NEW SECTION. 535B.6A NOTICE AND APPROVAL REQUIRED.

1. A licensee shall submit a notice of name change and a twenty-five dollar fee for each license to the administrator thirty days prior to changing the name of the licensee.

2. The prior written approval is required whenever a change in control of a licensee or registrant is proposed. For purposes of this section, "control" means as defined in section 524.103. The administrator may require the licensee to provide any information deemed necessary by the administrator to determine whether a new application is required. At the time of requesting the approval, the

licensee or registrant requesting the change of control shall pay to the administrator a fee of one hundred dollars.

Sec. 19. Section 535B.7, Code 2005, is amended to read as follows:

535B.7 SUSPENSION-OR-REVOCATION-OF-LICENSE DISCIPLINARY ACTION.

1. The administrator may, pursuant to chapter 17A, ~~suspend or revoke any license issued pursuant to this chapter~~ take disciplinary action against a licensee or individual registrant if the administrator finds any of the following:

a. The licensee or individual registrant has violated a provision of this chapter or a rule adopted under this chapter or any other state or federal law applicable to the conduct of its business including but not limited to chapters 535 and 535A.

b. A fact or condition exists which, if it had existed at the time of the original application for the license or individual registration, would have warranted the administrator to refuse originally to issue the license or individual registration.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee or individual registrant has violated an order of the administrator.

2. The administrator may impose one or more of the following disciplinary actions against a licensee or individual registrant:

- a. Revoke a license or individual registration.
- b. Suspend a license or individual registration until further order of the administrator or for a specified period of time.
- c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee or individual registrant behavior.

2- 3. The administrator may order an emergency suspension of a licensee's license or an individual's registration pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee or individual registrant by restricted certified mail. Upon issuance of the suspension order, the licensee or individual registrant must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

Except as provided in this section, a license or individual registration shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

3- 4. A licensee may surrender a license and an individual registrant may surrender an individual registration by delivering to the administrator written notice of surrender, but a surrender does not affect the licensee's or individual registrant's civil or criminal liability for acts committed before the surrender.

4- 5. A revocation, suspension, or surrender of a license or individual registration does not impair or affect the obligation of a preexisting lawful contract between the licensee or individual registrant and any person, including a mortgagor.

Sec. 20. Section 535B.9, subsection 1, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 7, is amended to read as follows:

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state, together with evidence of whether the applicant is seeking to transact business as a mortgage broker or as a mortgage banker. The bond shall be in

the amount of twenty-five ~~five~~ fifty thousand dollars for an applicant seeking to transact business solely as a mortgage broker, or fifty thousand dollars for an applicant seeking to transact business as a mortgage banker. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 21. Section 535B.10, Code Supplement 2005, is amended to read as follows:

535B.10 INVESTIGATIONS AND EXAMINATIONS.

1. Within one hundred twenty days after the end of a mortgage banker licensee's fiscal year, the mortgage banker licensee shall file financial statements which are certified audited by an independent certified public accounting firm.
2. For the purposes of discovering violations of this chapter or any related rules ~~adopted under this chapter~~ or for securing information lawfully required under this chapter, the administrator may at any time and as often as the administrator deems necessary, investigate the business and examine the books, accounts, records, and files used by a licensee or individual registrant. ~~However, if the financial statement required by subsection 1 shows that the licensee satisfies the minimum net worth requirement necessary to be an approved mortgagee by the United States department of housing and urban development pursuant to its guidelines, as amended, the licensee is not subject to an investigation or examination as described in this subsection.~~

~~3. Notwithstanding subsection 2, all licensees are subject to limited examination by the administrator to investigate complaints or alleged violations about the licensee made to the administrator. Such investigation or examination by the administrator shall be restricted to acquiring information from the licensee relevant to the alleged violations.~~

4. 3. In conducting any examination under this section, the administrator may rely on current reports made by the licensee which have been prepared for the following federal agencies or federally related entities:

- a. United States department of housing and urban development.
- b. Federal housing administration.
- c. Federal national mortgage association.
- d. Government national mortgage association.
- e. Federal home loan mortgage corporation.
- f. Veterans administration.

5. 4. With respect to mortgage lenders or mortgage bankers who are specifically exempted from this chapter but are subject to sections 535B.11, 535B.12, and 535B.13, the powers of examination and investigation concerning compliance with sections 535B.11, 535B.12, and 535B.13 shall be exercised by the official or agency to whose supervision the exempted person is subject. If the administrator receives a complaint or other information concerning noncompliance with this chapter by an exempted person, the administrator shall inform the official or agency having supervisory authority over that person.

6. 5. a. The licensee shall pay the cost of the examination or investigation as determined by the administrator based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the administrator,

incurred in the discharge of duties imposed upon the administrator by this chapter.

b. The total charge for an examination or investigation shall be paid by the licensee to the administrator within thirty days after the administrator has requested payment. ~~The administrator may by rule provide for a charge for late payment of the fee. The amount of the fee shall be based on the actual costs of the examination as determined by the administrator. Examination reports and correspondence regarding these reports~~ Failure to pay the charge within thirty days shall subject the licensee to a late fee of up to five percent of the amount of the examination or investigation charge for each day the payment is delinquent.

6. a. All papers, documents, examination reports, and other writings relating to the supervision of licensees and registrants shall be kept confidential except as provided in this subsection, notwithstanding chapter 22.

b. The administrator may furnish information relating to the supervision of licensees and registrants to the federal agencies or federally related entities listed in subsection 3, the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, the federal home loan bank, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory authorities.

c. The administrator may release summary complaint information regarding a particular licensee so long as the information does not specifically identify the complainant.

d. The administrator may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information.

e. The administrator may prepare and circulate reports provided by law.

f. The administrator may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the administrator.

g. The administrator may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 22. Section 535B.11, subsection 6, Code 2005, is amended to read as follows:

6. If a person in connection with a first mortgage loan has possession of an abstract of title and fails to deliver the abstract to the borrower within twenty calendar days of the borrower's request made by certified mail return receipt requested in connection with a proposed sale of the property, then the borrower may authorize the preparation of a new abstract of title to the property and the person failing to deliver the original abstract shall pay to the borrower the reasonable costs of preparation. If the borrower brings an action against the person failing to deliver to recover such the payment and in the action recovers the payment, then the borrower shall also be entitled to recover attorney fees and court costs incurred in the action.

Sec. 23. Section 535B.11, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

When the servicing of a first mortgage loan is transferred, sold, purchased, or accepted by a licensee or registrant, the licensee or registrant who is transferring or selling the servicing shall issue to the mortgagor, within five-business fifteen calendar days prior to the effective date of the transfer, a notice which shall include at a minimum:

Sec. 24. NEW SECTION. 535B.17 POWERS AND DUTIES OF THE ADMINISTRATOR -- WAIVER AUTHORITY.

In addition to any other duties imposed upon the administrator by law, the administrator may participate in a

multistate automated licensing system for mortgage bankers, mortgage brokers, and individual registrants. For this purpose, the administrator may establish by rule or order new requirements as necessary, including but not limited to requirements that license applicants and individual registrants submit to fingerprinting, criminal history checks, and pay fees therefor.

DIVISION III
DELAYED DEPOSIT SERVICES

Sec. 25. Section 533D.3, subsection 2, Code 2005, is amended to read as follows:

2. An applicant for a license shall submit an application ~~under oath~~ to the superintendent on forms prescribed by the superintendent. The forms shall contain such information as the superintendent may prescribe.

Sec. 26. Section 533D.3, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. An application fee ~~in an amount prescribed by rule adopted by the superintendent~~ of one hundred dollars.

Sec. 27. Section 533D.3, subsection 6, Code 2005, is amended to read as follows:

6. a. A license issued pursuant to this chapter shall be conspicuously posted at the licensee's place of business. A license shall remain in effect until the next succeeding May 1, unless earlier suspended or revoked by the superintendent.

b. A license shall be renewed annually by filing with the superintendent on or before April 1 an application for renewal containing such information as the superintendent may require to indicate any material change in the information contained in the original application or succeeding renewal applications and a renewal fee of one two hundred fifty dollars.

c. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after April 1.

Sec. 28. Section 533D.6, subsection 1, Code 2005, is amended to read as follows:

1. The prior written approval of the superintendent is required for the continued operation of a delayed deposit services business whenever a change in control of a licensee is proposed. The person requesting such approval shall pay to the superintendent a fee of one hundred dollars. Control in the case of a corporation means direct or indirect ownership, or the right to control, ten percent or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy. Control in the case of any other entity means any change in the principals of the organization, whether active or passive. The superintendent may require information deemed necessary to determine whether a new application is required. Costs incurred by the superintendent in investigating a change of control request shall be paid by the person requesting such approval.

Sec. 29. Section 533D.7, subsection 3, Code 2005, is amended to read as follows:

3. A fee of one-hundred-fifty twenty-five dollars shall be paid to the superintendent for each request made pursuant to subsection 1 or 2 for a change of location. For each new branch office established, a fee of two hundred fifty dollars shall be paid to the superintendent.

Sec. 30. NEW SECTION. 533D.7A NOTICE OF NAME CHANGE.

A licensee shall notify the superintendent thirty days in advance of the effective date of a change in the name of the licensee. With the notice of change, the licensee shall submit a fee of twenty-five dollars per license to the superintendent.

Sec. 31. Section 533D.9, subsection 2, Code 2005, is amended to read as follows:

2. A licensee shall give to the maker of the check, at the time any delayed deposit service transaction is made, or if

there are two or more makers, to one of them, notice written in clear, understandable language disclosing all of the following:

- a. The fee to be charged for the transaction.
- b. The annual percentage rate ~~on-the-first-hundred-dollars on-the-face-amount-of-the-check-which-the-fee-represents,-and the-annual-percentage-rate-on-subsequent-one-hundred-dollar increments-which-the-fee-represents,-if-different~~ as computed pursuant to the federal Truth in Lending Act.
- c. The date on which the check will be deposited or presented for negotiation.
- d. Any penalty, not to exceed fifteen dollars, which the licensee will charge if the check is not negotiable on the date agreed upon. A penalty to be charged pursuant to this section shall only be collected by the licensee once on a check no matter how long the check remains unpaid. A penalty to be charged pursuant to this section is a licensee's exclusive remedy and if a licensee charges a penalty pursuant to this section no other penalties under this chapter or any other provision apply.

Sec. 32. Section 533D.11, Code 2005, is amended to read as follows:

533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

1. The superintendent shall examine the books, accounts, and records of each licensee annually. ~~The costs of the superintendent-incurred-in-an-examination-shall-be-paid-by-the licensee at least once a year and as needed to secure information required pursuant to this chapter and to determine whether any violations of this chapter have occurred. The licensee shall pay the cost of the examination.~~

2. The superintendent may examine or investigate complaints or reports concerning alleged violations of this chapter or any rule adopted or order issued by the superintendent. The superintendent may order the actual cost of the examination or investigation to be paid by the person

who is the subject of the examination or investigation, whether or not the alleged violator is licensed.

3. The superintendent shall determine the cost of the examination or investigation based upon the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the superintendent, incurred in the discharge of duties imposed upon the superintendent by this chapter.

4. Failure to pay the examination or investigation fee within thirty days of receipt of demand from the superintendent shall subject the licensee to a late fee of up to five percent of the amount of the examination or investigation fee for each day the payment is delinquent.

5. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superintendent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

DIVISION IV
REGULATED LOANS

Sec. 33. Section 536.2, Code 2005, is amended to read as follows:

536.2 APPLICATION -- FEES.

1. Application An application for such a license shall be in writing, under oath, and in the form prescribed by the superintendent, and shall contain the all of the following:

a. The name and the address, (both of the residence and place of business), of the applicant, and if, If the applicant is not a copartnership or association natural person, the application shall include the name and address of every member thereof, and if a corporation, of each officer and director thereof, also the, director, officer, manager, and trustee of the applicant.

b. The county and municipality with street and number, if any, of the place where the business of making loans under the provisions of this chapter is to be conducted, and such further

c. Other relevant information as the superintendent may require.

2. Such The applicant at the time of making such the application shall pay to the superintendent the sum of fifty one hundred dollars if the liquid assets of the applicant are not in excess of twenty thousand dollars, and the sum of one hundred dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as a fee for investigating the application and the additional sum of one hundred twenty five dollars if the liquid assets of the applicant are not in excess of twenty thousand dollars, and two hundred fifty dollars if the liquid assets of the applicant are in excess of twenty thousand dollars, as an annual license fee.

3. Every applicant shall also prove, in form satisfactory to the superintendent, that the applicant has available for the operation of such business at the place of business specified in the application, liquid assets of at least five thousand dollars, or that the applicant has at least the said amount actually in use in the conduct of such business at such place of business.

Sec. 34. Section 536.7, Code 2005, is amended to read as follows:

536.7 SEPARATE LICENSE -- CHANGE OF NAME OR PLACE OF BUSINESS.

1. Not more than Only one place of business where such loans are made shall be maintained under the same a license, but. However, the superintendent may issue more than one license to the same licensee upon compliance, for each such additional license, with all the provisions of this chapter governing an original issuance of a license.

Whenever a licensee shall change such place of business to another location the licensee shall at once give written notice thereof to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date thereof, which shall be authority for the operation of such business under such license at such new place of business.

2. A licensee shall notify the superintendent and submit a fee of twenty-five dollars per license to the superintendent thirty days in advance of the effective date of any of the following:

a. A change in the name of the licensee.

b. A change in the address of the location where the business is conducted.

Sec. 35. NEW SECTION. 536.7A CHANGE IN CONTROL -- APPROVAL.

The prior written approval of the superintendent is required whenever a change in control of the licensee is proposed. For purposes of this section, "control" means control as defined in section 524.103. The superintendent may require information deemed necessary to determine whether a new application is required. When requesting approval, the person shall submit a fee of one hundred dollars to the superintendent.

Sec. 36. Section 536.8, Code 2005, is amended to read as follows:

536.8 ANNUAL FEE -- PAYMENT ---NEW-BOND.

Every licensee shall annually, on or before ~~the-fifteenth day-of-each~~ December 1, submit a renewal application on forms prescribed by the superintendent and pay to the superintendent the sum as provided in section 536.2 as an annual license fee for the next succeeding calendar year and shall-at-the-same time-file-with-the-superintendent-a-new-bond-or-renewal-of-the-old-bond-in-the-same-amount-and-of-the-same-character-as required-by-section-536.3. The superintendent may assess a late fee of ten dollars per day, per license for renewal applications received after December 1.

Sec. 37. Section 536.10, Code 2005, is amended to read as follows:

536.10 EXAMINATION OF BUSINESS -- FEE.

1. For the purpose of discovering violations of this chapter or securing information lawfully required by the superintendent hereunder, the superintendent may at any time, either personally or by ~~an-individual-or-individuals-duy designated-by-the-superintendent~~ designee, investigate the loans and business and examine the books, accounts, records, and files ~~used-therein~~, of every licensee and of every person engaged in the business described in section 536.1, whether such person shall act or claim to act as principal or agent, or under or without the authority of this chapter. ~~For-that purpose-the~~

a. ~~The superintendent and the superintendent's duty designated-representatives~~ designee shall have and be given free access to the place of business, books, accounts, papers, records, files, safes, and vaults of all such persons examined.

b. The superintendent and ~~all-individuals-duy-designated by-the-superintendent~~ the designee shall have authority to require the attendance of and to examine under oath all

individuals whomsoever whose testimony the superintendent may require relative to such the loans or such the business.

2. The superintendent shall make an examination of the affairs, place of business, and records of each licensed place of business at least once each year.

3. A licensee subject to examination, supervision, and regulation by the superintendent, shall pay to the superintendent an examination fee, based on the actual cost of the operation of the regulated loan bureau of the banking division of the department of commerce, and the proportionate share of administrative expenses in the operation of the banking division attributable to the regulated loan bureau as determined by the superintendent ~~of-banking~~. The fee shall apply equally to all licenses and shall not be changed more frequently than annually ~~and-when-changed~~. A fee change shall be effective on January 1 of the year following the year in which the change is approved.

4. Upon completion of each examination required or allowed by this chapter, the examiner ~~shall-render-a-bill-for-such fee,-in-triplicate,-and~~ shall deliver one copy of the bill for the examination to the licensee and two copies to the superintendent. Failure to pay the fee to the superintendent within ~~ten~~ thirty days after the date of the close of each such the examination shall subject the licensee to an additional fee of five percent of the amount of such the fee for each day the payment is delinquent.

5. Except as otherwise provided by this chapter, all papers, documents, examination reports, and other writing relating to the supervision of licensees are not public records and are not subject to disclosure under chapter 22. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate

reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superintendent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 38. Section 536.13, Code Supplement 2005, is amended to read as follows:

536.13 ~~BANKING-COUNCIL~~ SUPERINTENDENT -- REPORT -- CLASSIFICATION -- RULES -- PENALTY -- CONSUMER CREDIT CODE.

1. The ~~state-banking-council~~ superintendent may investigate the conditions and find the facts with reference to the business of making regulated loans, as described in section 536.1 and after making the investigation, report in writing its findings to the next regular session of the general assembly, and upon the basis of the facts:

a. Classify regulated loans by a rule according to a system of differentiation which will reasonably distinguish the classes of loans for the purposes of this chapter.

b. Determine and fix by a rule the maximum rate of interest or charges upon each class of regulated loans which will induce efficiently managed commercial capital to enter the business in sufficient amounts to make available adequate credit facilities to individuals. The maximum rate of interest or charge shall be stated by the ~~council~~ superintendent as an annual percentage rate calculated according to the actuarial method and applied to the unpaid balances of the amount financed.

2. Except as provided in subsection 7, the ~~council~~ superintendent may redetermine and refix by rule, in

accordance with subsection 1, any maximum rate of interest or charges previously fixed by it, but the changed maximum rates shall not affect pre-existing loan contracts lawfully entered into between a licensee and a borrower. All rules which the ~~council~~ superintendent may make respecting rates of interest or charges shall state the effective date of the rules, which shall not be earlier than thirty days after notice to each licensee by mailing the notice to each licensed place of business.

3. Before fixing any classification of regulated loans or any maximum rate of interest or charges, or changing a classification or rate under authority of this section, the ~~council~~ superintendent shall give reasonable notice of ~~its~~ the superintendent's intention to consider doing so to all licensees and a reasonable opportunity to be heard and to introduce evidence with respect to the change or classification.

4. Beginning July 4, 1965, and until such time as a different rate is fixed by the ~~council~~ superintendent, the maximum rate of interest or charges upon the class or classes of regulated loans is ~~three~~ as follows:

a. ~~Three~~ Three percent per month on any part of the unpaid principal balance of the loan not exceeding one hundred fifty dollars ~~and-two.~~

b. ~~Two~~ Two percent per month on any part of the loan in excess of one hundred fifty dollars, but not exceeding three hundred dollars ~~and-one.~~

c. ~~One~~ One and one-half percent per month on any part of the unpaid principal balance of the loan in excess of three hundred dollars, but not exceeding seven hundred dollars ~~and one.~~

d. ~~One~~ One percent per month on any part of the unpaid principal balance of the loan in excess of seven hundred dollars.

5. A licensee under this chapter may lend any sum of money not exceeding twenty-five thousand dollars in amount and may charge, contract for, and receive on the loan interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the ~~council~~ superintendent under authority of this section or pursuant to subsection 7 for those amounts in excess of ten thousand dollars.

6. If any interest or charge on a loan regulated by this chapter in excess of those permitted by this chapter is charged, contracted for, or received, the contract of loan is void as to interest and charges and the licensee has no right to collect or receive any interest or charges. In addition, the licensee shall forfeit the right to collect the lesser of two thousand dollars of principal of the loan or the total amount of the principal of the loan.

7. a. The ~~council~~ superintendent may establish the maximum rate of interest or charges as permitted under this chapter for those loans whose with an unpaid principal balance is of ten thousand dollars or less. For those loans whose with an unpaid principal balance is of over ten thousand dollars, the maximum rate of interest or charges which a licensee may charge shall be the greater of the rate permitted by chapter 535 or the rate authorized for supervised financial organizations by chapter 537.

b. The Iowa consumer credit code, chapter 537, applies to a consumer loan in which the licensee participates or engages, and a violation of the Iowa consumer credit code, chapter 537, is a violation of this chapter.

c. Article 2, parts 3, 5, and 6 of chapter 537, and article 3 of chapter 537, sections 537.3203, 537.3206, 537.3209, 537.3304, 537.3305, and 537.3306 apply to any credit transaction, as defined in section 537.1301 in which a licensee participates or engages, and any violation of those parts or sections is a violation of this chapter. For the purpose of applying the Iowa consumer credit code, chapter

537, to those credit transactions, "consumer loan" includes a loan for a business purpose.

d. A provision of the Iowa consumer credit code, chapter 537, applicable to loans regulated by this chapter supersedes a conflicting provision of this chapter.

Sec. 39. Section 536.16, subsection 1, Code 2005, is amended to read as follows:

1. Section 536.2 to the extent it ~~requires payment of an annual license fee in excess of two hundred fifty dollars and~~ requires a person to prove the person has any dollar amount of liquid assets or the use of any dollar amount in the conduct of the person's business at the licensed place of business.

Sec. 40. Section 536.23, Code 2005, is amended to read as follows:

536.23 JUDICIAL REVIEW.

Judicial review of the actions of the superintendent ~~or the state banking council~~ may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 41. Section 536.28, subsection 3, Code Supplement 2005, is amended by striking the subsection.

Sec. 42. Section 536.25, Code 2005, is repealed.

DIVISION V INDUSTRIAL LOANS

Sec. 43. Section 536A.7, Code 2005, is amended to read as follows:

536A.7 APPLICATION FOR LICENSE.

1. Applications ~~The application~~ for licenses a license to engage in the business of operating an industrial loan companies company shall be in-writing-on-such-forms in the form as may be prescribed by the superintendent. The application shall give all of the following information:

a. The name of the corporation, the,

b. The location where the business is to be conducted, including the street address of the place of business, the,

c. The names and addresses of the officers and directors of the corporation ~~and such other.~~

d. Other relevant information as the superintendent shall require.

2. At the time of making such the application the applicant shall pay to the superintendent the sum of fifty one hundred dollars to cover the cost of the investigation of the applicant. The applicant shall also pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the period ending December 31 next following the application; ~~provided that if the license is granted after June 30 in any year, the license fee for the remainder of that year shall be one hundred twenty-five dollars and any license fee paid by the applicant in excess of that amount shall be refunded by the superintendent.~~

Sec. 44. Section 536A.12, Code 2005, is amended to read as follows:

536A.12 CONTINUING LICENSE -- ANNUAL FEE -- CHANGE OF LOCATION -- CHANGE OF CONTROL.

1. Each such license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control ~~on or after January 17, 1996.~~

2. A licensee, on or before ~~the second day of January~~ December 1, shall pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the succeeding calendar year. The licensee shall submit the annual license fee with a renewal application in the form prescribed by the superintendent. The superintendent may assess a late fee of ten dollars per day per license for applications received after December 1.

3. When a licensee changes its name or place of business from one location to another in the same city, ~~it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date of the change, which is authority~~

~~for the operation of the business under that license at the new place of business the licensee shall notify the superintendent thirty days in advance of the effective date of the change. A licensee shall pay a fee of twenty-five dollars per license to the superintendent with the notification of change.~~

2- 4. a. A person who proposes to purchase or otherwise acquire, directly or indirectly, any of the outstanding shares of an industrial loan company which would result in a change of control of the industrial loan company, shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control.

b. At the time of making the application, the applicant shall pay to the superintendent one hundred dollars to cover the cost of the investigation of the applicant.

c. The superintendent shall grant the certificate if the superintendent is satisfied that of both of the following:

(1) The person who proposes to obtain control of the industrial loan company is qualified by character, experience, and financial responsibility to control and operate the industrial loan company in a sound and legal manner; and that the

(2) The interests of the thrift certificate holders, creditors, and shareholders of the industrial loan company, and of the public generally, shall will not be jeopardized by the proposed change of control.

d. If a board member of the industrial loan company has reason to believe any of the requirements of this subsection have not been ~~complied with met~~, the board member shall promptly report the facts in writing ~~such facts~~ to the superintendent.

e. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control of the industrial loan company, or to effect a change in the control of the industrial loan company, such the doubt

shall be resolved in favor of reporting the facts to the superintendent.

3- 5. a. For purposes of this section, "control" means control as defined in section 524.103. However, a change of control does not occur when a majority shareholder of an industrial loan company transfers the shareholder's shares of the industrial loan company to a revocable trust, so long as the transferor retains the power to revoke the trust and take possession of such the shares.

b. Notwithstanding the provisions of paragraph "a", a change of control is deemed to occur two years after the death of the majority shareholder, whether the shareholder's shares of the industrial loan company are held in a revocable trust or otherwise.

Sec. 45. Section 536A.15, Code 2005, is amended to read as follows:

536A.15 EXAMINATION OF LICENSEES.

1. The superintendent or the superintendent's duty authorized-representative designee shall, at least once each year without previous notice, examine the books, accounts, and records of each licensee engaged in the industrial loan business as defined by this chapter. A licensee issuing senior debt to the general public shall be audited at the expense of the licensee by a certified public accountant licensed to practice in the state of Iowa. A licensee not issuing senior debt to the general public may provide an audited statement of the licensee's parent corporation which includes the Iowa licensee. After receiving such an audit or audited statement, the superintendent may make further examination of the licensee as the superintendent deems necessary. A record of each examination shall be kept in the superintendent's office. ~~The examinations and reports, and other information connected with them, shall be kept confidential in the office of the superintendent and shall not be subject to publication or disclosure to others except as in this chapter provided.~~

2. Except as otherwise provided by this chapter, all papers, documents, examination reports, and other writing relating to the supervision of licensees are not public records and are not subject to disclosure under chapter 22. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superintendent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

3. Any evidence of criminal acts committed by officers, directors, or employees of an industrial loan company shall be reported by the superintendent to the proper authorities.

4. The licensee shall be charged and shall pay the actual costs of the examination as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the superintendent incurred in the discharge of the duties imposed upon the superintendent by this chapter. Failure to pay the examination fee within thirty days of receipt of demand from the superintendent shall subject the licensee to a late fee of five percent of the amount of the examination fee for each day the payment is delinquent.

Sec. 46. Section 536A.25, subsections 1 and 3, Code 2005, are amended to read as follows:

1. a. An industrial loan company licensed under this chapter that sells debt instruments to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness shall not make a loan of money or property to or guarantee the obligations of its directors or officers; or loan to any borrower, other than a subsidiary or affiliated corporation, more than twenty percent of its total capital, surplus, and undivided profits.

b. A licensee shall not make a loan under any other name or at any other place of business than that named in the license.

3. Investments by an industrial loan company licensed under this chapter that sells debt instruments to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness are subject to the provisions of section 524.901 as applied to state banks.

Sec. 47. Section 536A.30, Code 2005, is amended to read as follows:

536A.30 NONRESIDENT LICENSEES -- FACE-TO-FACE SOLICITATION.

Notwithstanding other provisions of this chapter to the contrary, a person which that neither has an office physically located in this state nor engages in face-to-face solicitation in this state, if authorized by another state to make loans in that state at a rate of finance charge in excess of the rate provided in chapter 535, shall not be subject to the following provisions of this chapter:

1. ~~Section 536A.77, to the extent it requires payment of an annual license fee in excess of two hundred fifty dollars;~~

2. Section 536A.8.

3. 2. Section 536A.10, subsections 2, 3, and 4.

~~4. Section 536A.127, to the extent it requires a licensee to pay an annual license fee which, when combined with that required in section 536A.77, is in excess of two hundred fifty dollars;~~

5. 3. Section 536A.15, to the extent it requires the superintendent to make an examination and audit of the books, accounts and records of the licensee on a periodic basis.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2353, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor