

10 firm, or corporation to whom a license has been issued that violates
 11 this provision of its contract shall have his license canceled."

House File No. 264. Approved January 23, 1934.

CHAPTER 18

LABOR. EMPLOYMENT AGENCIES, ANNUAL LICENSE FEE

H. F. 265

AN ACT to repeal section fifteen fifty-one-c four (1551-c4), Code, 1931, relating to license fees for the operation of an employment agency, and to enact a substitute therefor.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section fifteen fifty-one-c four (1551-c4), Code, 1931,
 2 is hereby repealed and the following is enacted in lieu thereof, to wit:
 3 "1551-c4. Fee. The annual license fee shall be fifty (50) dollars."

House File No. 265. Approved January 3, 1934.

CHAPTER 19

OLD AGE ASSISTANCE

S. F. 42

AN ACT to provide for the protection, welfare, and assistance of aged persons in need and resident in the state of Iowa, providing the method therefor, making an appropriation therefor, levying a tax, and prescribing penalties for the violation of the provisions of this act.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Definitions. When used herein:
 2 a. The term "commission" shall mean the old age assistance
 3 commission.
 4 b. The term "superintendent" shall mean the old age assistance
 5 superintendent.
 6 c. The term "board" shall mean the old age assistance board of
 7 a county.
 8 d. The singular shall include the plural and the masculine shall
 9 include the feminine.

1 SEC. 2. There is hereby created a commission to be known and
 2 designated as the old age assistance commission which shall be com-
 3 posed of three citizens of the state, no more than two of whom shall
 4 belong to the same political party, who shall within ninety days of
 5 the approval of this act, be appointed by the governor for a term of
 6 four years, except that of the members first appointed, one shall be
 7 appointed for a term of three years and one for a term of two years;
 8 provided, however, that the members first so appointed shall be sub-
 9 ject to the approval of the executive council. As the term of a com-
 10 missioner expires, the governor shall appoint a successor for a term

11 of four years. All such appointments shall be with the approval of
12 two thirds of the membership of the senate, in executive session.
13 Each member of the commission shall receive as compensation, in
14 addition to the necessary expenses incurred in the performance of
15 his duties, ten dollars per diem while actually engaged in the busi-
16 ness of the commission. Vacancies shall be filled in the same way as
17 the original appointment.

1 **SEC. 3. Superintendent.** The commission shall appoint a super-
2 intendent who shall be qualified by character, training and expe-
3 rience. He shall receive a salary of three thousand dollars a year.
4 The superintendent, with the approval of the commission, shall ap-
5 point the necessary number of assistants and fix their duties and
6 salaries.

1 **SEC. 4. Rules and regulations.** The commission shall have
2 authority to make such rules and regulations as are necessary to
3 carry out the provisions of this act.

1 **SEC. 5. Appointment of boards in counties.** The old age assist-
2 ance board of a county shall consist of three members, no more
3 than two of whom shall belong to the same political party, of which
4 the overseer of the poor shall be an ex officio member. If any county
5 has more than one overseer of the poor, the board of supervisors of
6 such county shall designate, by writing, filed with the county auditor,
7 the overseer who shall serve as a member of such board. The other
8 two members of the board shall be appointed by the board of super-
9 visors for a term of one and two years, respectively. Upon the ex-
10 piration of the term of office of a member of the board, his successor
11 shall be appointed by the board of supervisors for a full term of two
12 years. If a vacancy occurs, otherwise than by the expiration of a
13 term, in the office of an appointive member of the board, it shall be
14 filled for the unexpired term. At least one member of the board
15 shall be a woman. Appointments shall be made in writing and filed
16 with the county auditor.

1 **SEC. 6. Compensation.** The members of the board as herein pro-
2 vided shall receive no compensation for their services as members
3 of such board, but they shall be entitled to the actual and necessary
4 traveling expenses incurred by them in properly discharging their
5 official duties.

1 **SEC. 7. Local investigators.** The board may appoint one or more
2 local investigators, at a salary for each to be fixed by the board.
3 All appointments shall be made from candidates who have passed
4 an examination prepared by the commission as to character, train-
5 ing and experience of the applicant and conducted under the super-
6 vision of the superintendent. Examinations shall be given at such
7 times and in such places as the commission shall provide. The
8 board in its discretion may arrange with other public or private
9 relief departments or agencies to use one or more of their investi-
10 gators who meet the required qualifications.

1 **SEC. 8. Meetings.** The commission and boards shall meet at such
2 times and places as may be fixed by the rules of the commission.

1 **SEC. 9. Persons entitled to assistance.** Subject to the provisions
2 and under the restrictions contained in this act, every aged person
3 who has not an income of one dollar a day, while residing in the
4 state, shall be entitled to assistance in old age.

1 **SEC. 10. Amount of assistance.** The amount of assistance shall
2 be fixed with due regard to the condition of the individual and com-
3 munity in each case but in no case shall it be an amount which,
4 when added to the income of the applicant from all other sources,
5 shall exceed a total of twenty-five dollars a month.

1 **SEC. 11. Income exempt.** In calculating the income of the appli-
2 cant, earnings or gifts when such do not exceed \$100 in any calendar
3 year, shall not be considered.

1 **SEC. 12. To whom granted.** Old age assistance may be granted
2 only to an applicant who:

3 a. Has resided in the county for two years immediately pre-
4 ceding his application.

5 b. Has attained the age of sixty-five years.

6 c. Has been a citizen of the United States for at least fifteen
7 years before making application for assistance.

8 d. Has a domicile in the state and has had such domicile con-
9 tinuously for at least ten years immediately preceding the date of
10 application, but continuous residence in the state shall not be deemed
11 to have been interrupted by periods of absence therefrom if the
12 total of such periods of absence does not exceed eighteen months
13 and the residence for the last three years preceding the application
14 has been continuous, but absence in the service of the state or of
15 the United States shall not be deemed to interrupt residence in the
16 state if a domicile be not acquired outside the state.

17 e. Is not at the date of making application or of receiving aid, an
18 inmate of any prison, jail, workhouse, insane asylum, or any other
19 public reform or correctional institution.

20 f. For six months or more during the ten years preceding the
21 date of application for assistance, if a husband, has not deserted his
22 wife, or, without just cause, failed to support her and his children
23 under the age of fifteen years; if a wife, has not deserted her hus-
24 band, or, without just cause, failed to support such of her children
25 as were under the age of fifteen (15) years.

26 g. Has not within two years preceding such application for as-
27 sistance been a professional tramp or beggar.

28 h. Has no child or other person responsible under the law of this
29 state and found by the board or by the commission able to support
30 him.

31 i. Is found by the commission to be unable regularly to earn
32 an income of at least one dollar per day, on account of age, infirmity
33 or inability to procure suitable employment.

1 **SEC. 13.** No person shall be allowed assistance if the claimant
2 has deprived himself, directly or indirectly, of any property for the
3 purpose of qualifying for old age assistance.

1 **SEC. 14. Annual income of property.** The annual income of any
2 property, which does not produce a reasonable income, shall be com-

3 puted at five per centum of its value as determined by the board.
4 The income of the applicant shall be his income for twelve months
5 preceding the date on which his application was made.
6 The property owned at the date of application for assistance shall
7 be taken as property of the applicant for the purpose of this act.

1 **SEC. 15. Deduction from estate.** On the death of a person receiv-
2 ing assistance under this act or of the survivor of a married couple,
3 both of whom were so assisted, the total amount paid as assistance,
4 together with simple interest at six per centum annually, shall be
5 allowed as a claim of the second class against the estate of such
6 decedent, and neither the homestead nor the proceeds therefrom
7 of such decedent or his survivor, shall be exempt from the payment
8 of said claim, any act or statute to the contrary notwithstanding.
9 The proceeds of such claim shall be paid into the old age pension
10 fund. In case of the death of either husband or wife, both of whom
11 have been receiving assistance under this act, the estate of deceased
12 shall not be settled or the homestead sold until the surviving spouse
13 shall die or cease to occupy the homestead as such.

1 **SEC. 16. Transfer of property to the state of Iowa.** In any event,
2 the assistance furnished under this act shall be and constitute a
3 lien on any real estate owned either by the husband or wife for
4 assistance furnished to either of such persons. Whenever an order
5 is made for such assistance to any person in whom or in whose
6 spouse the title to any real estate is vested, a copy of such order
7 shall be indexed and recorded in the manner provided for the in-
8 dexing of real estate mortgages in the office of the county recorder
9 of the county in which the real estate is situated, and such record-
10 ing and indexing shall constitute notice of such lien.

11 If the commission deems it necessary to protect the interest of
12 the state, it may require, as a condition to the grant of assistance,
13 the absolute conveyance of all, or any part, of the property of an
14 applicant for assistance to the state of Iowa. Such property shall
15 be managed by the board which shall pay the net income to the
16 person or persons entitled thereto. The commission shall have power
17 to sell, lease, or transfer such property or defend and prosecute all
18 suits concerning it, and to pay all just claims against it, and to do
19 all other things necessary for the protection, preservation and man-
20 agement of the property.

21 Upon the death of the applicant, the property shall be disposed of
22 and the proceeds shall be transferred to the old age pension fund
23 of the state.

24 The attorney general, at the request of the commission, shall take
25 the necessary proceedings, and represent and advise the commission
26 in respect to any matters arising under this act.

1 **SEC. 17. Applicants.** An applicant for assistance shall deliver
2 his claim, in writing, to the board of the county in which he resides,
3 in the manner and form prescribed by the commission.

4 All statements in the application shall be sworn to or affirmed by
5 the applicant setting forth that all facts are true in every material
6 point.

1 **SEC. 18. Investigation.** Whenever an application is made for old
2 age assistance, the board directly or through an investigation shall
3 promptly make investigations, and after hearing the applicant, if
4 he so request, if it approves the application, shall make a recom-
5 mendation of the amount of the assistance to be allowed, or, if it
6 disapprove, make a recommendation that no assistance be allowed.
7 The board shall send a copy of the application, its recommendation,
8 and the reasons for its decision, to the commission with such sup-
9 porting papers as the commission may require. The commission may
10 thereupon make investigation as it sees fit through the superin-
11 tendent or through the board making the recommendation, and may
12 direct a hearing before the board, of which the applicant shall have
13 at least ten days' notice, and at which he may appear and offer evi-
14 dence. The commission shall decide upon the application and fix the
15 amount of the assistance, if any. An applicant whose application
16 for assistance has been rejected may within thirty days appeal from
17 the decision of the commission to the district court of the county in
18 which the application was filed by serving a ten-days' notice of such
19 appeal upon the superintendent or upon any member of the commis-
20 sion, in the manner required for service of an original notice. Upon
21 service of such notice, the commission shall furnish the applicant a
22 copy of the application, a copy of all supporting papers, a tran-
23 script of the testimony and a copy of its decision. The court shall
24 hear and determine said application on its merits. Upon the allow-
25 ance of any such application, any taxpayer of the county in which
26 said application was filed may appeal to the district court of such
27 county by serving notice as hereinabove provided, and upon service
28 of said notice the commission shall furnish such taxpayer with a
29 copy of said application, a copy of all supporting papers, a tran-
30 script of the testimony and a copy of its decision. The district court
31 may either affirm or reverse the decision of the commission appealed
32 from, and enter such order as may be proper; and said order and
33 judgment of the district court shall be final. An applicant whose
34 application for assistance has been rejected may not re-apply for
35 assistance until the expiration of twelve months from the date of the
36 previous application.

1 **SEC. 19. Witnesses.** For the purpose of any such investigation,
2 the commission and the board shall have the power to compel, by
3 subpoena, the attendance and testimony of witnesses and the pro-
4 duction of books and papers. All witnesses shall be examined on
5 oath, and any member of the commission or of the board may ad-
6 minister said oath.

1 **SEC. 20. Assistance certificate.** The commission shall issue to
2 each applicant to whom assistance is allowed a certificate for one
3 year, stating the amount of each installment, which may be monthly
4 or quarterly, as the commission may decide; and, on written order
5 of the commission, the state comptroller shall issue and forward
6 warrant, or warrant check, to such recipient in payment of each
7 installment.

1 **SEC. 21. New certificate annually.** An assistance certificate shall
2 be required for each subsequent year, to be issued by the commission

3 after such investigation as it may deem necessary; and the amount
4 of the assistance may be changed if the commission finds that the
5 applicant's circumstances have changed.

1 **SEC. 22. When assistance commences.** The assistance, if allowed,
2 shall commence on the date named in the certificate, which shall be
3 the first day of the calendar month following that on which the
4 petition was received by the board; provided, however, that no old
5 age assistance payments shall be made before July 1, 1935, except
6 as provided in section thirty-five (35) of this act.

1 **SEC. 23. To notify board of increase of property or income.** If
2 at any time during the currency or continuance of an old age assist-
3 ance certificate the recipient, or the wife or husband of the recipient,
4 becomes possessed of any property or income in excess of the amount
5 allowed by this act in respect of the amount of assistance granted,
6 it shall be the duty of the recipient immediately to notify the board
7 of the receipt and possession of any such property or income, and
8 the board may on inquiry, and with the approval of the commission,
9 either cancel the assistance or pay the amount thereof during the
10 period of the certificate. Any excess assistance paid shall be re-
11 turned to the state, and recoverable as a debt due the state.

1 **SEC. 24. Recovery in case of assistance from state.** If on the
2 death of any person receiving assistance it is found that he was
3 possessed of property or income in excess of the amount allowed by
4 this act, in respect of the amount of assistance, double the total
5 amount of the assistance in excess of that to which the recipient was
6 entitled may be recovered by the commission as a preferred claim
7 from his estate, and the amount so recovered shall be transferred
8 to the old age pension fund of the state.

1 **SEC. 25. Funeral expenses.** On the death of any person receiving
2 old age assistance, such reasonable funeral expenses for burial shall
3 be paid to such persons as the board directs; provided, such expenses
4 do not exceed one hundred dollars and the estate of the deceased is
5 insufficient to defray the same.

1 **SEC. 26. Inmate of institution.** While any person receiving
2 assistance is an inmate of any charitable, benevolent, or fraternal
3 institution, the amount of assistance shall be paid to the governing
4 authorities of that institution, and shall be applied toward defraying
5 the actual expenses of such person in such institution; provided,
6 that the commission has approved and that it and its agents are per-
7 mitted freely to visit and inspect said institution. Any moneys re-
8 maining after defraying such expense shall be paid to the recipient.
9 It shall not be lawful for the authorities of any charitable institution
10 receiving public moneys, to refuse admission as an inmate of such
11 institution, or to refuse relief, on the ground that the person is re-
12 ceiving assistance under this act.

1 **SEC. 27. Recipient not to receive other assistance.** No person
2 receiving assistance under this act shall at the same time receive any
3 other assistance from the state, or from any political subdivision

4 thereof, except for medical and surgical assistance, and hospitali-
5 zation.

1 **SEC. 28. Incapacity of assisted.** If the person receiving assist-
2 ance is, on the testimony of reputable witnesses, found incapable of
3 taking care of himself or his money, the board may direct the pay-
4 ment of the installments of the assistance to any responsible person
5 or corporation for his benefit. It shall be within the power of the
6 commission to suspend payment for such period as the board shall
7 recommend.

1 **SEC. 29. Assistance to be inalienable.** All rights to old age assist-
2 ance shall be absolutely inalienable by any assignment, sale, execu-
3 tion or otherwise, and, in the case of bankruptcy, the assistance shall
4 not pass to or through any trustees or other persons acting on behalf
5 of creditors.

1 **SEC. 30. Assistance certificate improperly obtained.** If at any
2 time the commission has reason to believe that an assistance certifi-
3 cate has been improperly obtained, it shall cause special inquiry to
4 be made by the board, and may suspend payment of any installment
5 pending the inquiry. It shall also notify the board of such suspen-
6 sion. If on inquiry it appears that the certificate was improperly
7 obtained, it shall be canceled by the commission, but if it appears
8 that the certificate was properly obtained, the suspended installments
9 shall be payable in due course.

1 **SEC. 31. Violations.** Any person who by means of a wilfully
2 false statement or representation or by impersonation or other
3 fraudulent device obtains, or attempts to obtain, or aids or abets any
4 person to obtain:
5 a. An assistance certificate to which he is not entitled; or
6 b. A larger amount of assistance than that to which he is justly
7 entitled; or
8 c. Payment of any forfeited installment grant; or any person
9 who buys or aids or abets in buying or in any way disposing of the
10 property of a person receiving assistance, without the consent of the
11 commission, shall be guilty of a misdemeanor, and upon conviction,
12 shall be punished by a fine not exceeding one hundred dollars, or by
13 imprisonment in the county jail for not more than thirty days, or
14 both.

1 **SEC. 32. Penalty.** Any person who violates any provision of this
2 act for which no penalty is specifically provided shall be guilty of a
3 misdemeanor, and, upon conviction, shall be punished by a fine of
4 not exceeding one hundred dollars, or by imprisonment in the county
5 jail not exceeding thirty days, or both. Where a person receiving
6 assistance is convicted of an offense under this section the commis-
7 sion shall cancel the certificate.

1 **SEC. 33. No assistance during imprisonment.** If any person re-
2 ceiving assistance is convicted of any crime or offense and punished
3 by imprisonment for one month or longer, the board shall direct that
4 payments shall not be made during the period of imprisonment.

1 **SEC. 34. Appropriations by local authorities.** There is hereby
2 created a fund to be known as the old age pension fund to be ad-
3 ministered by the commission, the proceeds of which shall be used to
4 pay the expenditures incurred under this act. To provide money for
5 said fund, there is hereby levied on all persons residing in this state
6 and who are citizens of the United States and of twenty-one (21)
7 years of age and upwards, except inmates of state and county insti-
8 tutions, an annual tax of two (2) dollars. From the list certified
9 to the county treasurer under the provisions of section 36 of this act,
10 it shall be the duty of such county treasurer to place the names of all
11 persons subject to said tax on the tax list, and the said annual tax
12 levied by the provisions of this section and act shall be collected in
13 1935, and each year thereafter, by the county treasurer at the same
14 time as property taxes and subject to the same penalties, and the
15 county treasurer shall make remittance thereof to the treasurer of
16 state who shall credit same to the old age pension fund; provided,
17 however, that said tax, if paid, shall be credited on any poll taxes
18 assessed for street, road, or other purposes against the person pay-
19 ing same. Any person, firm, association or corporation, including
20 municipal corporations and special charter cities, having in their
21 employ continuously for a period of thirty days or more any resident
22 of this state and who is a citizen of the United States, and to whom
23 this act applies and who has not paid the tax provided for in this
24 section, shall deduct said tax from the earnings of such employee
25 and deliver to such employee a receipt for said collection and remit
26 same to the treasurer of state, together with a report showing the
27 amount and name of the person from whom collected; and the treas-
28 urer of state shall credit said tax as other taxes provided for in this
29 section and act, and report to the county treasurer of the county
30 from which such remittance was received, giving the name of the
31 employee and the amount of such tax collected; and when said re-
32 port has been received by the county treasurer, he shall credit such
33 person on his books with said payment. Any employer failing to
34 collect and so report said tax shall be liable therefor. As a condition
35 for obtaining assistance under this act and from this fund, satis-
36 factory proof shall be furnished to the board or commission that
37 the applicant for said aid has paid all taxes due to said fund. Any
38 one who becomes in arrears more than three (3) years on this tax
39 for any year shall forfeit all claim to old age pensions provided for
40 herein.

41 All taxes collected under the provisions of this section and act
42 shall be deposited to the credit of the old age pension fund, and shall
43 be kept separate from the general fund of the state. On receipt of
44 written order from the commission, the state comptroller shall draw
45 warrants, and/or warrant checks against the old age pension fund
46 for any and all old age assistance payments and other expenditures
47 provided for in this act.

1 **SEC. 35.** For the purpose of affording old age assistance com-
2 mencing November 1, 1934, under the provisions of this act prior
3 to July 1, 1935, there is hereby levied on all persons pursuant to
4 section 34, a tax of one (1) dollar, payable on or before July 1,
5 1934. The board of assessment and review is hereby directed to

6 instruct the auditors of the several counties of the state to have the
7 assessors submit lists of persons over twenty-one (21) years of age,
8 subject to this tax in their respective districts and the said auditor
9 to pass these lists on to the treasurer of such counties for collection.

1 **SEC. 36.** Each assessor shall at the time of listing property for
2 assessment list and return to the county auditor on or before March
3 15, 1935, and each year thereafter, the names and post-office ad-
4 dresses of all persons subject to the tax provided for in this act;
5 and the county auditor shall certify said list to the county treasurer
6 on or before April 1, 1935, and each year thereafter.

1 **SEC. 37. Report of commission.** Within ninety days after the
2 close of each calendar year, the commission shall make a report to
3 the governor for the preceding year, stating:
4 a. The total number of recipients.
5 b. The amount paid in cash.
6 c. The total number of applications.
7 d. The number granted.
8 e. The number denied.
9 f. The number canceled during that year, and
10 g. Such other information as the commission may deem advisable.

1 **SEC. 37-a.** There shall be kept on file in the state comptroller's
2 office an itemized record of all receipts and disbursements showing
3 the money received from each county and the assistance granted to
4 each county. A summary of the said record shall be compiled and
5 published at the end of the tax year.

1 **SEC. 38. Procedure.** All methods of procedure in hearings, inves-
2 tigation, recording, registration, and accounting, pertaining to old
3 age assistance under this act, shall be in accordance with the rules
4 and regulations as laid down, from time to time, by the commission.

1 **SEC. 39. Assistance subject to future statute.** Every assistance
2 granted under the provisions of this act shall be deemed to be
3 granted and shall be held subject to the provisions of any amending
4 or repealing act that may hereafter be passed, and no recipient under
5 this act shall have any claims for compensation, or otherwise, by
6 reason of his assistance being affected in any way by such amending
7 or repealing act.

1 **SEC. 40.** The sum of ten thousand (10,000) dollars or so much
2 thereof as may be found necessary, is hereby appropriated to the
3 commission, out of any funds not otherwise appropriated for the
4 purpose of carrying out the provisions of this act.

1 **SEC. 41. Construction of this act.** 1. Nothing in this act shall
2 be construed as repealing any other act or part of an act providing
3 for the support of the poor except insofar as inconsistent therewith,
4 and the provisions of this act shall be construed as an additional
5 method of supporting and providing for the aged poor.

6 2. This act shall be liberally construed.

7 3. If any provision of this act is held invalid, the validity of the
8 remainder of the act shall not be affected thereby.

1 SEC. 42. This act, being deemed of immediate importance, shall
2 be in full force and effect after its publication in the Mount Pleasant
3 News, a newspaper published at Mount Pleasant, Iowa, and the
4 Burlington Hawkeye-Gazette, a newspaper published at Burlington,
5 Iowa.

Senate File No. 42. Approved March 10, 1934.

I hereby certify that the foregoing act was published in the Burlington Hawkeye-Gazette, March 16, 1934, and Mount Pleasant News, March 14, 1934.

MRS. ALEX MILLER, *Secretary of State.*

CHAPTER 20

FISH AND GAME. LICENSE FEES, CONSERVATION PROGRAM

S. F. 243

AN ACT to amend section ten (10) of chapter thirty (30) of the laws of the Forty-fifth General Assembly to provide for an increase in license fees, to provide adequate funds, to make possible the development of the Iowa twenty-five year conservation program.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section ten (10) of chapter thirty (30) of the acts
2 of the Forty-fifth General Assembly is amended by striking lines 8,
3 9, and 10 and substituting in lieu thereof the following:
4 "Hunting license:
5 All persons legal residents of the state, except as otherwise
6 provided\$2.00
7 All persons legal residents of the state under 16 years of
8 age\$1.00
9 "Fishing license:
10 All persons legal residents of the state, except as otherwise
11 provided\$1.00
12 "Hunting and fishing combined license:
13 All persons legal residents of the state, except as other-
14 wise provided\$2.50"

1 SEC. 2. Section ten (10) of chapter thirty (30) of the acts of the
2 Forty-fifth General Assembly is amended by adding thereto the fol-
3 lowing:
4 "During the years 1934 to 1938, inclusive, the commission shall set
5 aside from each \$2 resident hunting license, the sum of \$1.50, and
6 from each \$2.50 resident combination license, the sum of \$1, which
7 amounts shall be expended by the commission prior to the first day
8 of January, 1940, for acquisition, establishment, and maintenance
9 of public shooting grounds, acquisition and restoration of marsh and
10 lake areas suitable for breeding areas for migratory wild fowl,
11 establishment and improvement of upland game refuges and pro-
12 ducing areas and game management areas, and development of new
13 lakes and improvement of present lakes."

1 SEC. 3. This act, being deemed of immediate importance, shall be
2 in force and effect after its passage and publication in the Marcus