

1 SEC. 70. Section five hundred fifty-five point one (555.1), Code
2 1973, is amended to read as follows:

3 555.1 **Definitions.** As used in this chapter "transmitting utility"
4 means any corporation or other entity primarily engaged in the rail-
5 road or street railway business, the furnishing of telephone or tele-
6 graph service, the transmission of oil, gas, or petroleum products by
7 pipe line, or the production, transmission, or distribution of electric-
8 ity, steam, gas, or water has the same meaning as defined in the
9 Uniform Commercial Code, section five hundred fifty-four point nine
10 thousand one hundred five (554.9105), subsection one (1), paragraph
11 n of the Code. Security interests filed pursuant to chapter five hun-
12 dred fifty-five (555) of the Code prior to January 1, 1975, which
13 have not been terminated, are deemed to be filed in accordance with
14 section five hundred fifty-four point nine thousand four hundred one
15 (554.9401), subsection five (5), of the Code.

1 SEC. 71. Section five hundred fifty-five point two (555.2), Code
2 1973, is amended by striking the section and inserting in lieu thereof
3 the following:

4 555.2 **Security interest.** A security interest in rolling stock of a
5 transmitting utility may be perfected either as provided in the Uni-
6 form Commercial Code, chapter five hundred fifty-four (554) of the
7 Code, or as provided in the Interstate Commerce Act, forty-nine (49)
8 U.S.C., section twenty c (20c).

1 SEC. 72. Section five hundred fifty-five point four (555.4), Code
2 1973, and Acts of the Sixty-fifth General Assembly, 1974 Session,
3 Senate File four hundred forty-two (442), section eleven (11), are
4 repealed.

Approved June 3, 1974

CHAPTER 1250

CREDIT TRANSACTIONS

S. F. 1405

AN ACT relating to credit related transactions, acts, practices and conduct, enacting the Iowa Consumer Credit Code, making coordinating amendments to the Code, and providing civil remedies and criminal penalties for violations.

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

ARTICLE ONE

GENERAL PROVISIONS AND DEFINITIONS

PART 1

SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS

1 SECTION 1.101. NEW SECTION. Short title. Articles one (1)
2 through seven (7) of this Act shall be known and may be cited as the
3 Iowa Consumer Credit Code.

1 **SEC. 1.102. NEW SECTION. Purposes—rules of construction.**
2 1. This Act shall be liberally construed and applied to promote its
3 underlying purposes and policies.
4 2. The underlying purposes and policies of this Act are to:
5 a. Simplify, clarify and modernize the law governing retail install-
6 ment sales, and other consumer credit.
7 b. Provide rate ceilings for certain creditors in order to assure an
8 adequate supply of credit to consumers.
9 c. Further consumer understanding of the terms of credit trans-
10 actions and foster competition among suppliers of consumer credit
11 so that consumers may obtain credit at reasonable cost.
12 d. Protect consumers against unfair practices by some suppliers,
13 solicitors, or collectors of consumer credit, having due regard for the
14 interests of legitimate and scrupulous creditors.
15 e. Permit and encourage the development of fair and economically
16 sound consumer credit practices.
17 f. Conform the regulation of disclosure in consumer credit trans-
18 actions to the Truth in Lending Act.
19 g. Make the law, including administrative rules, more uniform
20 among the various jurisdictions.
21 3. A reference to a requirement imposed by this Act includes ref-
22 erence to a related rule of the administrator adopted pursuant to
23 this Act.

1 **SEC. 1.103. NEW SECTION. Law applicable.** Unless displaced by
2 the particular provisions of this Act, the Uniform Commercial Code
3 and the principles of law and equity, including the law relative to
4 capacity to contract, principal and agent, estoppel, fraud, misrepre-
5 sentation, duress, coercion, mistake, bankruptcy, or other validating
6 or invalidating cause supplement its provisions.

1 **SEC. 1.104. NEW SECTION. Construction.** This Act being a gen-
2 eral Act intended as a unified coverage of its subject matter, no part
3 of it shall be deemed to be impliedly repealed by subsequent legisla-
4 tion if such construction can reasonably be avoided.

1 **SEC. 1.105. NEW SECTION. Severability.** The provisions of sec-
2 tion four point twelve (4.12) of the Code are applicable to this Act.

1 **SEC. 1.106.** Reserved for future use.

1 **SEC. 1.107. NEW SECTION. Waiver—agreement—settlement.**
2 1. Except in settlement of a bona fide dispute, a consumer may not
3 waive or agree to forego rights or benefits under this Act.
4 2. A claim by a consumer against a creditor relating to an excess
5 charge, any other civil violation of this Act, or a civil penalty, or a
6 claim by a creditor against a consumer for default or breach of a
7 civil duty imposed by this Act, may be settled by agreement if the
8 claim is disputed in good faith.
9 3. A claim against a consumer, whether or not disputed, may be
10 settled for less value than the amount claimed.
11 4. A settlement in which the consumer waives or agrees to forego
12 rights or benefits under this Act is invalid if the court as a matter
13 of law finds the settlement to have been unconscionable at the time
14 it was made. The competence of the consumer, any deception or co-
15 ercion practiced upon him, the nature and extent of the legal advice

16 received by him, and the value of the consideration may be consid-
 17 ered, among other factors, with respect to the issue of unconscion-
 18 ability.

1 **SEC. 1.108. NEW SECTION. Effect on organizations.**

2 1. This Act prescribes maximum charges for certain creditors, ex-
 3 cept lessors and those excluded in section one point two hundred two
 4 (1.202) of this Act, extending credit in consumer credit transactions.

5 2. This Act does not displace limitations on powers of credit un-
 6 ions, savings and loan associations, or other thrift institutions
 7 whether organized for the profit of shareholders or as mutual organ-
 8 izations.

9 3. This Act does not displace:

10 a. Limitations on powers of supervised financial organizations
 11 with respect to the amount of a loan to a single borrower, the ratio
 12 of a loan to the value of collateral, the duration of a loan secured by
 13 an interest in land, or other similar restrictions designed to protect
 14 deposits.

15 b. Limitations on powers an organization is authorized to exer-
 16 cise under the laws of this state or the United States.

1 **SEC. 1.109. Reserved for future use.**

1 **SEC. 1.110. NEW SECTION. Obligation of good faith.** Every
 2 contract or duty within this Act imposes an obligation of good faith
 3 in its performance or enforcement.

PART 2

SCOPE AND JURISDICTION

1 **SEC. 1.201. NEW SECTION. Territorial application.**

2 1. This Act applies to:

3 a. A transaction, or acts, practices or conduct with respect to a
 4 transaction, if the transaction is entered into in this state, except
 5 that a transaction involving other than open end credit or acts, prac-
 6 tices or conduct with respect to such a transaction shall not subject
 7 any person to damages or penalty under article five (5) of this Act,
 8 or administrative enforcement under part one (1) of article six (6)
 9 of this Act,

10 (1) If the buyer, lessee or debtor was physically located outside
 11 of this state, at the time he signed the writing evidencing the trans-
 12 action or made, in face to face solicitation, a written or oral offer to
 13 enter into the transaction,

14 (2) If the transaction or acts, practices or conduct with respect
 15 to the transaction were not in violation of law in the state in which
 16 the buyer, lessee or debtor was physically located, and

17 (3) If, with respect to charges and agreements, the person does
 18 not collect or enforce that transaction except to the extent permitted
 19 by this Act.

20 b. A transaction, or acts, practices or conduct with respect to a
 21 transaction, if it is modified in this state, without regard to where
 22 the transaction is entered into, except that acts, practices, conduct,
 23 disclosures, charges or provisions of agreements not in violation of
 24 law in the state where they occurred or were entered into, shall not
 25 subject any person to damages or penalty under article five (5) of
 26 this Act or administrative enforcement under part one (1) of article

27 six (6), if, with respect to acts, practices, conduct or disclosures,
28 they occurred outside this state and before a modification in this
29 state, and if, with respect to charges and agreements, they are not
30 collected or enforced by that person except to the extent permitted
31 by this Act. A person shall not be required to obtain a license under
32 section two point three hundred one (2.301) of this Act solely be-
33 cause the person modifies a transaction in this state.

34 c. Acts, practices or conduct in this state in the solicitation, in-
35 ducement, negotiation, collection or enforcement of a transaction,
36 without regard to where it is entered into or modified; including,
37 but not limited to, acts, practices or conduct in violation of sections
38 three point two hundred nine (3.209), three point two hundred ten
39 (3.210), three point three hundred eleven (3.311), three point five
40 hundred one (3.501), article five (5), parts one (1) and three (3),
41 and article seven (7) of this Act.

42 2. For the purposes of this section, a transaction is entered into or
43 modified in this state if any of the following apply:

44 a. In a transaction involving other than open end credit:

45 (1) If the buyer, lessee or debtor is a resident of this state at the
46 time the person extending credit solicits the transaction or modifica-
47 tion, whether personally, by mail or by telephone, unless the parties
48 have agreed that the law of the residence of the buyer, lessee or
49 debtor applies, in which case that law applies.

50 (2) If the buyer, lessee or debtor is a resident of this state at the
51 time the person extending credit receives either a signed writing
52 evidencing the transaction or modification, or a written or oral offer
53 of the buyer, lessee or debtor to enter into or modify the transaction.

54 (3) If the transaction otherwise has significant contacts with this
55 state, unless the buyer, lessee or debtor is not a resident of this state
56 at the times designated in subsection two (2), paragraph a, subpara-
57 graphs one (1) and two (2) of this section and the parties have
58 agreed that the law of his residence applies. A person shall not be
59 required to obtain a license under section two point three hundred
60 one (2.301) of this Act solely because this Act applies to a transac-
61 tion pursuant to this subparagraph.

62 b. In an open end credit transaction:

63 (1) If the buyer, lessee or debtor is a resident of this state either
64 at the time the buyer, lessee or debtor forwards or otherwise gives
65 to the person extending credit a written or oral communication of
66 his intention to establish the open end transaction, or at the time
67 the person extending credit forwards or otherwise gives to the buyer,
68 lessee or debtor a written or oral communication giving notice to the
69 buyer, lessee or debtor of the right to enter into open end transac-
70 tions with such person, unless the parties have agreed that the law
71 of the residence of the buyer, lessee or debtor applies in which case
72 that law shall apply.

73 (2) If the transaction otherwise has significant contacts with this
74 state, unless the buyer, lessee or debtor is not a resident of this state
75 at the times designated in subsection two (2), paragraph a, subpara-
76 graph one (1), of this section and the parties have agreed that the
77 law of his residence applies. A person shall not be required to obtain
78 a license under section two point three hundred one (2.301) of this

79 Act solely because this Act applies to a transaction pursuant to this
80 subparagraph.

81 c. In any credit transaction, if the parties have agreed that the
82 law of the residence of the buyer, lessee or debtor applies and the
83 buyer, lessee or debtor is a resident of this state at any time desig-
84 nated, with respect to a transaction other than open end, in sub-
85 section two (2), paragraph a, subparagraphs one (1) and two (2)
86 of this section or, with respect to an open end credit transaction, in
87 subsection two (2), paragraph b, subparagraph one (1) of this sec-
88 tion.

89 3. For the purposes of this section, "modification" shall include,
90 but not be limited to, any alteration in the maturity, schedule of pay-
91 ments, amount financed, rate of finance charge or other term of a
92 transaction.

93 4. For the purposes of this Act, the residence of a buyer, lessee or
94 debtor is the address given by him as his residence in a writing
95 signed by him in connection with a transaction until he notifies the
96 person extending credit of a different address as his residence, and
97 it is then the different address.

98 5. Except as provided in subsection one (1), paragraph c, and
99 subsection six (6) of this section, a transaction entered into or mod-
100 ified in another jurisdiction is valid and enforceable in this state
101 according to its terms to the extent that it is valid and enforceable
102 under the laws of the other jurisdiction.

103 6. A provision of an agreement made by a buyer, lessee or debtor
104 is invalid:

105 a. Which provides, if the buyer, lessee or debtor is a resident of
106 this state at the times designated in subsection two (2), paragraph
107 a, subparagraphs one (1) and two (2) of this section and subsection
108 two (2), paragraph b, subparagraph one (1) of this section:

109 (1) That the law of another jurisdiction shall apply, except as
110 provided in subsection two (2), paragraph a, subparagraph one (1)
111 of this section and in subsection two (2), paragraph b, subpara-
112 graph one (1) of this section.

113 (2) That the buyer, lessee or debtor consents to be subject to the
114 process of another jurisdiction.

115 (3) That the buyer, lessee or debtor appoints an agent to receive
116 service of process.

117 (4) That venue is fixed at a particular place.

118 (5) That the consumer consents to the jurisdiction of a court
119 that does not otherwise have jurisdiction.

120 b. If a provision would negate subsection one (1), paragraph b
121 of this section.

122 7. The following provisions of this Act specify the applicable law
123 governing certain cases:

124 a. Section six point one hundred two (6.102) of this Act specifies
125 the applicability of part one (1) of article six (6) of this Act.

126 b. Section six point two hundred one (6.201) of this Act speci-
127 fies the applicability of part two (2) of article six (6) of this Act.

1 SEC. 1.202. NEW SECTION. Exclusions. This Act does not ap-
2 ply to:

3 1. Extensions of credit to government or governmental agencies or
4 instrumentalities.

5 2. Except as otherwise provided in article four (4) of this Act, the
6 sale of insurance if the insured is not obligated to pay installments
7 of the premium and the insurance may terminate or be cancelled
8 after nonpayment of an installment of the premium.

9 3. Transactions under public utility or common carrier tariffs if a
10 subdivision or agency of this state or of the United States regulates
11 the charges for the services involved, the charges for delayed pay-
12 ment, and any discount allowed for early payment.

13 4. Transactions in securities or commodities accounts with a
14 broker-dealer registered with the securities and exchange commis-
15 sion.

16 5. Pawnbrokers who are licensed and whose rates and charges
17 are regulated under or pursuant to ordinances of cities or towns or
18 statutes of this state, except with respect to the provisions on com-
19 pliance with the Truth in Lending Act in section three point two
20 hundred one (3.201) of this Act, civil liability for violation of dis-
21 closure provisions in section five point two hundred three (5.203)
22 of this Act, criminal penalties for disclosure violations in section five
23 point three hundred two (5.302) of this Act, and powers and func-
24 tions of the administrator with respect to disclosure violations.

1 **SEC. 1.203. NEW SECTION. Jurisdiction—service of process.**

2 1. The district court of this state may exercise jurisdiction over
3 any person with respect to any conduct in this state governed by
4 this Act or with respect to any claim arising from a transaction sub-
5 ject to this Act. In addition to any other method provided by rule
6 or by statute, personal jurisdiction over a person may be acquired
7 in a civil action or proceeding instituted in the district court by the
8 service of process in the manner provided by this section.

9 2. If a person is not a resident of this state or is a corporation not
10 authorized to do business in this state and engages in any conduct
11 in this state governed by this Act, or engages in a transaction sub-
12 ject to this Act, he may designate an agent upon whom service of
13 process or original notice may be made in this state. The agent shall
14 be a resident of this state or a corporation authorized to do business
15 in this state. The designation shall be in a writing and filed with
16 the secretary of state. If no designation is made and filed or if proc-
17 ess or original notice cannot be served in this state upon the desig-
18 nated agent, process or original notice may be served upon the secre-
19 tary of state, in the manner provided in section six hundred seven-
20 teen point three (617.3) of the Code for service upon nonresident
21 persons and foreign corporations which have made contracts with
22 residents of Iowa, and the provisions of that section relating to the
23 service of process or original notice apply.

PART 3

DEFINITIONS

1 **SEC. 1.301. NEW SECTION. General definitions.** As used in this
2 Act, unless otherwise required by the context:

3 1. "Actuarial method" means the method of allocating payments
4 made on a debt between the amount financed and the finance charge,
5 pursuant to which a payment is applied first to the accumulated
6 finance charge and any remainder is subtracted from, or any defi-
7 ciency is added to, the unpaid balance of the amount financed. The

8 administrator may adopt rules not inconsistent with the Truth in
9 Lending Act further defining the term and prescribing its application.

10 2. "Administrator" means the administrator designated in section
11 six point one hundred three (6.103) of this Act.

12 3. "Agreement" means the oral or written bargain of the parties in
13 fact as found in their language or by implication from other circum-
14 stances including course of dealing or usage of trade or course of
15 performance.

16 4. "Agricultural purpose" means a purpose related to the produc-
17 tion, harvest, exhibition, marketing, transportation, processing, or
18 manufacture of agricultural products by a natural person who culti-
19 vates, plants, propagates, or nurtures the agricultural products.
20 "Agricultural products" includes agricultural, horticultural, viticul-
21 tural, and dairy products, livestock, wildlife, poultry, bees, forest
22 products, fish and shellfish, and any products thereof, including proc-
23 essed and manufactured products, and any and all products raised or
24 produced on farms and any processed or manufactured products
25 thereof.

26 5. "Amount financed" means:

27 a. In the case of a sale, the cash price of the goods, services, or
28 interest in land, plus the amount actually paid or to be paid by the
29 seller pursuant to an agreement with the buyer to discharge a secu-
30 rity interest in, a lien on, or a debt with respect to property traded in,
31 less the amount of any down payment whether made in cash or in
32 property traded in, plus additional charges if permitted under para-
33 graph c of this subsection.

34 b. In the case of a loan, the net amount paid to, receivable by, or
35 paid or payable for the account of the debtor, plus the amount of any
36 discount excluded from the finance charge under subsection twenty
37 (20), paragraph b, subparagraph three (3), of this section, plus addi-
38 tional charges if permitted under paragraph c of this subsection.

39 c. In the case of a sale or loan, additional charges permitted under
40 section two point five hundred one (2.501) of this Act, to the extent
41 that payment is deferred, that the charge is not otherwise included,
42 in the amount permitted respectively in paragraph a or b of this sub-
43 section, and that the charge is authorized by and disclosed to the
44 consumer as required by law.

45 6. "Billing cycle" means the time interval between periodic billing
46 statement dates.

47 7. "Card issuer" means a person who issues a credit card.

48 8. "Cardholder" means a person to whom a credit card is issued or
49 who has agreed with the card issuer to pay obligations arising from
50 the issuance or use of the card to or by another person.

51 9. "Cash price" of goods, services, or an interest in land means the
52 price at which they are sold by the seller to cash buyers in the ordi-
53 nary course of business, and may include the cash price of accessories
54 or services related to the sale, such as delivery, installation, altera-
55 tions, modifications, and improvements, and taxes to the extent
56 imposed on a cash sale of the goods, services, or interest in land.

57 10. "Conspicuous". A term or clause is conspicuous when it is so
58 written that a reasonable person against whom it is to operate ought
59 to have noticed it. Whether or not a term or clause is conspicuous is
60 for decision by the court.

- 61 11. "Consumer" means the buyer, lessee, or debtor to whom credit
62 is granted in a consumer credit transaction.
- 63 12. "Consumer credit transaction" means a consumer credit sale or
64 consumer loan, or a refinancing or consolidation thereof, or a con-
65 sumer lease.
- 66 13. "Consumer credit sale".
- 67 a. Except as provided in paragraph b of this subsection, a "con-
68 sumer credit sale" is a sale of goods, services, or an interest in land
69 in which all of the following are applicable:
- 70 (1) Credit is granted either pursuant to a seller credit card or by a
71 seller who regularly engages as a seller in credit transactions of the
72 same kind.
- 73 (2) The buyer is a person other than an organization.
- 74 (3) The goods, services, or interest in land are purchased primarily
75 for a personal, family, household or agricultural purpose.
- 76 (4) Either the debt is payable in installments or a finance charge
77 is made.
- 78 (5) With respect to a sale of goods or services, the amount financed
79 does not exceed thirty-five thousand dollars.
- 80 b. A "consumer credit sale" does not include:
- 81 (1) A sale in which the seller allows the buyer to purchase goods
82 or services pursuant to a lender credit card.
- 83 (2) A sale of an interest in land if the finance charge does not
84 exceed twelve percent per year calculated on the actuarial method on
85 the assumption that the debt will be paid according to the agreed
86 terms and will not be paid before the end of the agreed term.
- 87 14. "Consumer lease". A "consumer lease" is a lease of goods in
88 which all of the following are applicable:
- 89 a. The lessor is regularly engaged in the business of leasing.
- 90 b. The lessee is a person other than an organization.
- 91 c. The lessee takes under the lease primarily for a personal, family,
92 household or agricultural purpose.
- 93 d. The amount payable under the lease does not exceed thirty-five
94 thousand dollars.
- 95 e. The lease is for a term exceeding four months.
- 96 15. "Consumer loan".
- 97 a. Except as provided in paragraph b of this subsection, a "con-
98 sumer loan" is a loan in which all of the following are applicable:
- 99 (1) The person is regularly engaged in the business of making
100 loans.
- 101 (2) The debtor is a person other than an organization.
- 102 (3) The debt is incurred primarily for a personal, family, house-
103 hold or agricultural purpose.
- 104 (4) Either the debt is payable in installments or a finance charge
105 is made.
- 106 (5) Either the amount financed does not exceed thirty-five thou-
107 sand dollars, or the debt is not incurred primarily for an agricultural
108 purpose and is secured by an interest in land.
- 109 b. A "consumer loan" does not include:
- 110 (1) A sale or lease in which the seller or lessor allows the buyer or
111 lessee to purchase or lease pursuant to a seller credit card.
- 112 (2) A loan secured by an interest in land if the security interest is
113 bona fide and not for the purpose of circumvention or evasion of this

114 Act and the finance charge does not exceed twelve percent per year
115 calculated according to the actuarial method on the assumption that
116 the debt will be paid according to the agreed terms and will not be
117 paid before the end of the agreed term.

118 16. "Credit" means the right granted by a person extending credit
119 to a person to defer payment of debt, to incur debt and defer its pay-
120 ment, or to purchase property or services and defer payment there-
121 for.

122 17. "Credit card" means a card or device issued under an arrange-
123 ment pursuant to which a card issuer gives a cardholder the privilege
124 of purchasing or leasing property or purchasing services, obtaining
125 loans, or otherwise obtaining credit from the card issuer or other
126 persons. A transaction is "pursuant to a credit card" if credit is ob-
127 tained according to the terms of the arrangement by transmitting
128 information contained on the card or device orally, in writing, by
129 mechanical or automated methods, or in any other manner. A trans-
130 action is not "pursuant to a credit card" if the card or device is used
131 solely to identify the cardholder and credit is not obtained according
132 to the terms of the arrangement.

133 18. "Creditor" means the person who grants credit in a consumer
134 credit transaction or, except as otherwise provided, an assignee of a
135 creditor's right to payment, but use of the term does not in itself
136 impose on an assignee any obligation of his assignor. In the case of
137 credit granted pursuant to a credit card, the "creditor" is the card
138 issuer and not another person honoring the credit card.

139 19. "Earnings" means compensation paid or payable to an indi-
140 vidual or for his account for personal services rendered or to be
141 rendered by him, whether denominated as wages, salary, commission,
142 bonus, or otherwise, and includes periodic payments pursuant to a
143 pension, retirement, or disability program.

144 20. "Finance charge".

145 a. Except as otherwise provided in subsection b of this section,
146 "finance charge" means the sum of all charges payable directly or
147 indirectly by the consumer and imposed directly or indirectly by the
148 creditor as an incident to or as a condition of the extension of credit,
149 including any of the following types of charges which are applicable:

150 (1) Interest or any amount payable under a point, discount or
151 other system of charges, however denominated, except that, with
152 respect to a consumer loan secured by a first lien on a dwelling of the
153 debtor given to finance the acquisition of that dwelling, points, con-
154 sisting of a charge paid in cash at the time of commitment or closing
155 of a loan transaction, shall not be part of the finance charge for the
156 purpose of determining maximum charges pursuant to section two
157 point four hundred one (2.401) of this Act and chapters five hundred
158 twenty-four (524), five hundred thirty-four (534), and five hundred
159 thirty-five (535) of the Code.

160 (2) Time price differential, credit service, service, carrying or
161 other charge, however denominated.

162 (3) Premium or other charge for any guarantee or insurance pro-
163 tecting the creditor against the consumer's default or other credit loss.

164 (4) Charges incurred for investigating the collateral or credit-
165 worthiness of the consumer or for commissions or brokerage for
166 obtaining the credit, irrespective of the person to whom the charges

167 are paid or payable, unless the creditor had no notice of the charges
168 when the credit was granted.

169 b. "Finance charge" does not include:

170 (1) Charges as a result of default or delinquency if made for actual
171 unanticipated late payment, delinquency, default, or other like occur-
172 rence unless the parties agree that these charges are finance charges.
173 A charge is not made for actual unanticipated late payment, delin-
174 quency, default or other like occurrence if imposed on an account
175 which is or may be debited from time to time for purchases or other
176 debts and, under its terms, payment in full or at a specified amount
177 is required when billed, and in the ordinary course of business the
178 consumer is permitted to continue to have purchases or other debts
179 debited to the account after the imposition of the charge.

180 (2) Additional charges as defined in section two point five hundred
181 one (2.501) of this Act, or deferral charges as defined in section two
182 point five hundred three (2.503) of this Act.

183 (3) A discount, if a creditor purchases or satisfies obligations of a
184 cardho'der pursuant to a credit card and the purchase or satisfaction
185 is made at less than the face amount of the obligation.

186 21. "Gift certificate" means a merchandise certificate conspicuously
187 designated as a gift certificate, and purchased by a buyer for use by
188 a person other than the buyer.

189 22. a. "Goods" includes, but is not limited to:

190 (1) "Goods" as described in section five hundred fifty-four point
191 two thousand one hundred five (554.2105), subsection one (1), of the
192 Code.

193 (2) Goods not in existence at the time the transaction is entered
194 into.

195 (3) Things in action.

196 (4) Investment securities.

197 (5) Mobile homes regardless of whether they are affixed to the
198 land.

199 (6) Gift certificates.

200 b. "Goods" excludes money, chattel paper, documents of title, in-
201 struments and merchandise certificates other than gift certificates.

202 23. "Insurance premium loan" means a consumer loan that is made
203 for the sole purpose of financing the payment by or on behalf of an
204 insured of the premium on one or more policies or contracts issued by
205 or on behalf of an insurer, is secured by an assignment by the insured
206 to the lender of the unearned premium on the policy or contract, and
207 contains an authorization to cancel the policy or contract financed.

208 24. "Lender" means a person who makes a loan or, except as other-
209 wise provided in this Act, a person who takes an assignment of a
210 lender's right to payment, but use of the term does not in itself
211 impose on an assignee any obligation of the lender.

212 25. "Lender credit card" means a credit card issued by a lender.

213 26. a. "Loan" means any of the following, except as provided in
214 paragraph b of this subsection:

215 (1) The creation of debt by the lender's payment of or agreement
216 to pay money to the debtor or to a third person for the account of the
217 debtor.

218 (2) The creation of debt by a credit to an account with the lender
219 upon which the debtor is entitled to draw immediately.

220 (3) The creation of debt pursuant to a lender credit card in any
221 manner, including a cash advance or the card issuer's honoring a draft
222 or similar order for the payment of money drawn or accepted by the
223 debtor, paying or agreeing to pay the debtor's obligation, or purchas-
224 ing or otherwise acquiring the debtor's obligation from the obligee or
225 his assignees.

226 (4) The creation of debt by a cash advance to a debtor pursuant to
227 a seller credit card.

228 (5) The forbearance of debt arising from a loan.

229 b. "Loan" does not include:

230 (1) A card issuer's payment or agreement to pay money to a third
231 person for the account of a debtor if the debt of the debtor arises
232 from a sale or lease and results from use of a seller credit card.

233 (2) The forbearance of debt arising from a sale or lease.

234 27. "Merchandise certificate" means a writing not redeemable in
235 cash and usable in its face amount in lieu of cash in exchange for
236 goods or services. Sale of a merchandise certificate on credit is a
237 credit sale beginning at the time the certificate is redeemed.

238 28. "Official fees" means:

239 a. Fees and charges prescribed by law which actually are or will be
240 paid to public officials for determining the existence of or for per-
241 fecting, releasing, terminating, or satisfying a security interest re-
242 lated to a consumer credit transaction.

243 b. Premiums payable for insurance in lieu of perfecting a security
244 interest otherwise required by the creditor in connection with the
245 transaction, if the premium does not exceed the fees and charges
246 described in paragraph a of this subsection which would otherwise be
247 payable.

248 29. "Open end credit" means an arrangement pursuant to which all
249 of the following are applicable:

250 a. A creditor may permit a consumer, from time to time, to pur-
251 chase or lease on credit from the creditor or pursuant to a credit card,
252 or to obtain loans from the creditor or pursuant to a credit card.

253 b. The amounts financed and the finance and other appropriate
254 charges are debited to an account.

255 c. The finance charge, if made, is computed on the account peri-
256 odically.

257 d. Either the consumer has the privilege of paying in full or in
258 installments or the creditor periodically imposes charges computed
259 on the account for delaying payment of it and permits the consumer
260 to continue to purchase or lease on credit.

261 30. "Organization" means a corporation, government or govern-
262 mental subdivision or agency, trust, estate, partnership, cooperative,
263 or association.

264 31. "Payable in installments" means that payment is required or
265 permitted by agreement to be made in more than four periodic pay-
266 ments, excluding a down payment. If any periodic payment other
267 than the down payment under an agreement requiring or permitting
268 two or more periodic payments is more than twice the amount of any
269 other periodic payment excluding the down payment, a transaction is
270 "payable in installments".

271 32. "Person" means:

272 a. A natural person or an individual.

273 b. An organization.

274 33. a. "Person related to" with respect to a natural person or an
275 individual means any of the following:

276 (1) The spouse of the individual.

277 (2) A brother, brother-in-law, sister, or sister-in-law of the indi-
278 vidual.

279 (3) An ancestor or lineal descendant of the individual or his spouse.

280 (4) Any other relative, by blood or marriage, of the individual or
281 his spouse, if the relative shares the same home with the individual.

282 b. "Person related to" with respect to an organization means:

283 (1) A person directly or indirectly controlling, controlled by or
284 under common control with the organization.

285 (2) An officer or director of the organization or a person perform-
286 ing similar functions with respect to the organization or to a person
287 related to the organization.

288 (3) The spouse of a person related to the organization.

289 (4) A relative by blood or marriage of a person related to the or-
290 ganization who shares the same home with him.

291 34. A "precomputed consumer credit transaction" is a consumer
292 credit transaction, other than a consumer lease, in which the debt is
293 a sum comprising the amount financed and the amount of the finance
294 charge computed in advance. A disclosure required by the Truth in
295 Lending Act does not in itself make a finance charge or transaction
296 precomputed.

297 35. "Presumed" or "presumption" means that the trier of fact
298 must find the existence of the fact presumed unless and until evidence
299 is introduced which would support a finding of its nonexistence.

300 36. "Sale of goods" includes, but is not limited to, any agreement
301 in the form of a bailment or lease of goods if the bailee or lessee pays
302 or agrees to pay as compensation for use a sum substantially equiva-
303 lent to or in excess of the aggregate value of the goods involved and
304 it is agreed that the bailee or lessee will become, or for no other or a
305 nominal consideration has the option to become, the owner of the
306 goods upon full compliance with the terms of the agreement.

307 37. "Sale of an interest in land" includes, but is not limited to, a
308 lease in which the lessee has an option to purchase the interest, by
309 which all or a substantial part of the rental or other payments pre-
310 viously made by him are applied to the purchase price.

311 38. "Sale of services" means furnishing or agreeing to furnish ser-
312 vices for a consideration and includes making arrangements to have
313 services furnished by another.

314 39. "Seller" means a person who makes a sale or, except as other-
315 wise provided in this Act, a person who takes an assignment of the
316 seller's right to payment, but use of the term does not in itself impose
317 on an assignee any obligation of the seller.

318 40. "Seller credit card" means either of the following:

319 a. A credit card issued primarily for the purpose of giving the card-
320 holder the privilege of using the credit card to purchase or lease prop-
321 erty or services from the card issuer, persons related to the card
322 issuer, persons licensed or franchised to do business under the card
323 issuer's business or trade name or designation, or from any of these
324 persons and from other persons as well.

325 b. A credit card issued by a person other than a supervised lender
 326 primarily for the purpose of giving the cardholder the privilege of
 327 using the credit card to purchase or lease property or services from
 328 at least one hundred persons not related to the card issuer.

329 41. "Services" includes, but is not limited to:

330 a. Work, labor, and other personal services.

331 b. Privileges or benefits with respect to transportation, hotel and
 332 restaurant accommodations, education, entertainment, recreation,
 333 physical culture, hospital accommodations, funerals, cemetery accom-
 334 modations, and the like.

335 c. Insurance.

336 42. "Supervised financial organization" means a person, other than
 337 an insurance company or other organization primarily engaged in an
 338 insurance business, which is organized, chartered, or holding an
 339 authorization certificate pursuant to chapter five hundred twenty-four
 340 (524), five hundred thirty-three (533), or five hundred thirty-four
 341 (534) of the Code, or pursuant to the laws of the United States
 342 which authorizes the person to make loans and to receive deposits,
 343 including a savings, share, certificate or deposit account, and which
 344 is subject to supervision by an official or agency of this state or of
 345 the United States.

346 43. "Supervised loan" means a consumer loan, including a loan
 347 made pursuant to open end credit, in which the rate of the finance
 348 charge, calculated according to the actuarial method, exceeds the rate
 349 of finance charge permitted in chapter five hundred thirty-five (535)
 350 of the Code.

351 With respect to a consumer loan made pursuant to open end credit,
 352 the finance charge shall be deemed not to exceed the rate permitted in
 353 chapter five hundred thirty-five (535) of the Code if the finance
 354 charge contracted for and received does not exceed a charge for each
 355 monthly billing cycle which is one-twelfth of that rate multiplied by
 356 the average daily balance of the open end account in the billing cycle
 357 for which the charge is made. The average daily balance of the open
 358 end account is the sum of the amount unpaid each day during that
 359 cycle divided by the number of days in the cycle. The amount unpaid
 360 on a day is determined by adding to the balance, if any, unpaid as of
 361 the beginning of that day all purchases and other debits and deducting
 362 all payments and other credits made or received as of that day. If the
 363 billing cycle is not monthly, the finance charge shall be deemed not to
 364 exceed that rate per year if the finance charge contracted for and
 365 received does not exceed a percentage which bears the same relation
 366 to that rate as the number of days in the billing cycle bears to three
 367 hundred sixty-five. A billing cycle is monthly if the closing date of
 368 the cycle is the same date each month or does not vary by more than
 369 four days from the regular date.

1 **SEC. 1.302. NEW SECTION. Definition—Truth in Lending Act.**

2 As used in this Act, "Truth in Lending Act" means title one (1) of
 3 the Consumer Credit Protection Act, in subchapter one (1) of chap-
 4 ter forty-one (41) of title fifteen of the United States Code, as
 5 amended to and including July 1, 1974, and includes regulations is-
 6 sued pursuant to that Act prior to that date.

1 **SEC. 1.303. NEW SECTION. Other defined terms. Other defined**
 2 **terms in this Act and the sections in which they appear are:**

- 3 1. "Closing costs". Section two point five hundred one (2.501),
4 subsection one (1), paragraph e.
- 5 2. "Computational period". Section two point five hundred ten
6 (2.510), subsection four (4), paragraph a.
- 7 3. "Debt". Section seven point one hundred two (7.102), subsec-
8 tion one (1).
- 9 4. "Debt collection". Section seven point one hundred two (7.102),
10 subsection two (2).
- 11 5. "Debt collector". Section seven point one hundred two (7.102),
12 subsection three (3).
- 13 6. "Disposable earnings". Section five point one hundred five
14 (5.105), subsection one (1), paragraph a.
- 15 7. "Garnishment". Section five point one hundred five (5.105),
16 subsection one (1), paragraph b.
- 17 8. "Interval". Section two point five hundred ten (2.510), subsec-
18 tion four (4), paragraph b.
- 19 9. "Location". Section two point three hundred ten (2.310), sub-
20 section one (1).
- 21 10. "Pursuant to a credit card". Section one point three hundred
22 one (1.301), subsection seventeen (17).
- 23 11. "Residence". Section one point two hundred one (1.201), sub-
24 section four (4).

ARTICLE TWO

FINANCE CHARGES AND RELATED PROVISIONS

PART 1

GENERAL PROVISIONS

- 1 SEC. 2.101. NEW SECTION. **Short title.** This article shall be
2 known and may be cited as the Iowa Consumer Credit Code—Finance
3 Charges and Related Provisions.
- 1 SEC. 2.102. NEW SECTION. **Scope.** Part two (2) of this article
2 applies to consumer credit sales. Parts three (3) and four (4) apply
3 to consumer loans. Part five (5) applies to other charges and modi-
4 fications with respect to consumer credit transactions. Part six (6)
5 applies to other credit transactions.

PART 2

CONSUMER CREDIT SALES:
MAXIMUM FINANCE CHARGES

- 1 SEC. 2.201. NEW SECTION. **Finance charge for consumer credit**
2 **sales not pursuant to open end credit.**
- 3 1. With respect to a consumer credit sale, other than a sale pursu-
4 ant to open end credit, a creditor may contract for and receive a
5 finance charge not exceeding the maximum charge permitted by the
6 law of this state or the United States for similar creditors. In addi-
7 tion, with respect to a consumer credit sale of goods or services, other
8 than a sale pursuant to open end credit or a sale of a motor vehicle,
9 a creditor may contract for and receive a finance charge not exceed-
10 ing that permitted in subsections two (2) through six (6) of this
11 section. With respect to a consumer credit sale of a motor vehicle,
12 a creditor may contract for and receive a finance charge as provided
13 in section three hundred twenty-two point nineteen (322.19) of the

14 Code, and a finance charge in excess of that provided in section three
15 hundred twenty-two point nineteen (322.19) of the Code, is an excess
16 charge in violation of this Act.

17 2. The finance charge, calculated according to the actuarial meth-
18 od, may not exceed fifteen percent per year on the unpaid balances of
19 the amount financed.

20 3. This section does not limit or restrict the manner of calculating
21 the finance charge whether by way of add-on, discount, or otherwise,
22 so long as the rate of the finance charge does not exceed that per-
23 mitted by this section. If the sale is a precomputed consumer credit
24 transaction, the finance charge may be calculated on the assumption
25 that all scheduled payments will be made when due, and the effect of
26 prepayment is governed by the provisions on rebate upon prepayment
27 contained in section two point five hundred ten (2.510) of this Act.

28 4. For the purposes of this section, the term of a sale agreement
29 commences with the date the credit is granted or, if goods are de-
30 livered or services performed ten days or more after that date, with
31 the date of commencement of delivery or performance. Any month
32 may be counted as one-twelfth of a year, but a day is counted as one-
33 three hundred sixty-fifth of a year. Subject to classifications and dif-
34 ferentiations the seller may reasonably establish, a part of a month
35 in excess of fifteen days may be treated as a full month if periods
36 of fifteen days or less are disregarded and that procedure is not
37 consistently used to obtain a greater yield than would otherwise be
38 permitted. The administrator may adopt rules not inconsistent with
39 the Truth in Lending Act with respect to treating as regular other
40 minor irregularities in amount or time.

41 5. Subject to classifications and differentiations the seller may rea-
42 sonably establish, he may make the same finance charge on all
43 amounts financed within a specified range. A finance charge so made
44 does not violate subsection two (2) of this section if both of the fol-
45 lowing are applicable:

46 a. When applied to the median amount within each range, it does
47 not exceed the maximum rate permitted by subsection one (1) of this
48 section.

49 b. When applied to the lowest amount within each range, it does
50 not produce a rate of finance charge exceeding the rate calculated ac-
51 cording to paragraph a of this subsection by more than eight percent
52 of the rate calculated according to paragraph a of this subsection.

53 6. Regardless of subsection two (2) of this section, the seller may
54 contract for and receive a minimum finance charge of not more than
55 five dollars when the amount financed does not exceed seventy-five
56 dollars, or seven dollars and fifty cents when the amount financed ex-
57 ceeds seventy-five dollars.

1 **SEC. 2.202. NEW SECTION. Finance charge for consumer credit**
2 **sales pursuant to open end credit.**

3 1. With respect to a consumer credit sale made pursuant to open
4 end credit, a creditor may contract for and receive a finance charge
5 not exceeding that permitted in this section.

6 2. For each billing cycle, a charge may be made which is a percent-
7 age of an amount not exceeding the greatest of the following:

8 a. The average daily balance of the open end account in the billing
9 cycle for which the charge is made, which is the sum of the amount

10 unpaid each day during that cycle, divided by the number of days in
 11 that cycle. The amount unpaid on a day is determined by adding to
 12 the balance, if any, unpaid as of the beginning of that day all pur-
 13 chases and other debits and deducting all payments and other credits
 14 made or received as of that day.

15 b. The balance of the open end account at the beginning of the
 16 first day of the billing cycle, after deducting all payments and credits
 17 made in the cycle except credits attributable to purchases charged to
 18 the account during the cycle.

19 c. The median amount within a specified range including the bal-
 20 ance of the open end account not exceeding that permitted by para-
 21 graph a or b of this subsection. A charge may be made pursuant to
 22 this paragraph only if the creditor, subject to classifications and dif-
 23 ferentiations he may reasonably establish, makes the same charge
 24 on all balances within the specified range and if the percentage when
 25 applied to the median amount within the range does not produce a
 26 charge exceeding the charge resulting from applying that percentage
 27 to the lowest amount within the range by more than eight percent
 28 of the charge on the median amount.

29 3. If the billing cycle is monthly, the charge may not exceed an
 30 amount equal to one and one-half percent of that part of the maxi-
 31 mum amount pursuant to subsection two (2) of this section which is
 32 five hundred dollars or less and one and one-fourth percent of that
 33 part of the maximum amount which is more than five hundred dol-
 34 lars. If the billing cycle is not monthly, the maximum charge for
 35 the billing cycle shall bear the same relation to the applicable monthly
 36 maximum charge as the number of days in the billing cycle bears to
 37 three hundred sixty-five divided by twelve. A billing cycle is monthly
 38 if the closing date of the cycle is the same date each month or does
 39 not vary by more than four days from the regular date.

40 4. If the charge determined pursuant to subsection three (3) of
 41 this section is less than fifty cents, a charge may be made which does
 42 not exceed fifty cents if the billing cycle is monthly or longer, or the
 43 pro rata part of fifty cents which bears the same relation to fifty
 44 cents as the number of days in the billing cycle bears to three hun-
 45 dred sixty-five divided by twelve if the billing cycle is shorter
 46 than monthly.

PART 3

CONSUMER LOANS: SUPERVISED LOANS

- 1 SEC. 2.301. NEW SECTION. Authority to make supervised loans.
 2 1. As used in this part, "licensing authority" means the agency
 3 designated in chapter five hundred twenty-four (524), five hundred
 4 thirty-three (533), five hundred thirty-four (534), five hundred
 5 thirty-six (536), or five hundred thirty-six A (536A) of the Code to
 6 issue licenses or otherwise authorize the conduct of business pursu-
 7 ant to the respective chapter or this Act, and "licensee" includes any
 8 person subject to regulation by a licensing authority. "License" in-
 9 cludes the authorization, of whatever form, to engage in the conduct
 10 regulated under those chapters.
 11 2. A person who is not authorized to make supervised loans as pro-
 12 vided herein shall not engage in the business of making supervised
 13 loans or undertaking direct collection of payments from or enforce-

14 ment of rights against consumers arising from supervised loans, but
15 he may collect and enforce for three months without a license if he
16 promptly applies for a license and his application has not been denied.

17 3. The following persons are authorized to make supervised loans:

18 a. A person which is a supervised financial organization.

19 b. A person which has obtained a license pursuant to either chap-
20 ter five hundred thirty-six (536) or five hundred thirty-six A (536A)
21 of the Code.

22 c. A person which enters into less than ten supervised loans per
23 year in this state and has neither an office physically located in this
24 state nor engages in face to face solicitation in this state.

25 4. This section shall not affect dollar amount, purpose, or rate of
26 finance charge restrictions imposed by any statute of this state or
27 of the United States with respect to which a person is authorized to
28 make loans at a rate of finance charge in excess of that permitted by
29 chapter five hundred thirty-five (535) of the Code or pursuant to
30 which a person is licensed.

1 SEC. 2.302. Reserved for future use.

1 SEC. 2.303. NEW SECTION. **Revocation or suspension of license.**

2 1. The licensing authority may issue to a person subject to regu-
3 lation by that authority an order to show cause why the person's
4 license with respect to one or more specific places of business should
5 not be suspended for a period not in excess of six months, or revoked.
6 The order shall set the place for a hearing and set a time for the
7 hearing that is not less than ten days from the date of the order.
8 After the hearing, if the licensing authority finds that the licensee
9 has intentionally violated this Act, or any rule or order made pur-
10 suant to law, including an order of discontinuance, or if facts or con-
11 ditions exist which would clearly have justified the licensing author-
12 ity in refusing to grant a license for that place or those places of
13 business had these facts or conditions been known to exist at the time
14 the application for the license was made, he shall revoke or suspend
15 the license or, if there are mitigating circumstances, may accept an
16 assurance of discontinuance as provided in section six point one hun-
17 dred nine (6.109) of this Act, and allow retention of the license.

18 2. No revocation or suspension of a license is lawful unless prior
19 to institution of proceedings by the licensing authority notice is
20 given to the licensee of the facts or conduct which warrant the in-
21 tended action, and the licensee is given an opportunity to show com-
22 pliance with all lawful requirements for retention of the license.

23 3. If the licensing authority finds that probable cause for revoca-
24 tion of a license exists and that enforcement of the law requires im-
25 mediate suspension of the license pending investigation, he may,
26 after a hearing upon five days' written notice, enter an order sus-
27 pending the license for not more than thirty days.

28 4. Whenever the licensing authority revokes or suspends a license,
29 he shall enter an order to that effect and forthwith notify the licen-
30 see of the revocation or suspension. Within five days after the entry
31 of the order he shall deliver to the licensee a copy of the order and
32 the findings supporting the order.

33 5. Any person holding a license to make supervised loans may re-
34 linquish the license by notifying the licensing authority in writing

35 of its relinquishment, but this relinquishment does not affect his lia-
36 bility for acts previously committed.

37 6. No revocation, suspension, or relinquishment of a license im-
38 pairs or affects the obligation of any preexisting lawful contract be-
39 tween the licensee and any consumer.

40 7. The licensing authority may reinstate a license, terminate a
41 suspension, or grant a new license to a person whose license has been
42 revoked or suspended if no fact or condition then exists which clearly
43 would justify the licensing authority in refusing to grant a license.

1 SEC. 2.304. NEW SECTION. **Records—annual reports.**

2 1. Every licensee shall maintain records in conformity with gen-
3 erally accepted accounting principles and practices in a manner that
4 will enable the licensing authority to determine whether the licensee
5 is complying with the provisions of law. The record keeping system
6 of a licensee is sufficient if he makes the required information reason-
7 ably available. The records need not be kept in the place of business
8 where supervised loans are made, if the licensing authority is given
9 free access to the records wherever located.

10 2. On or before April fifteenth each year every licensee shall file
11 with the licensing authority a composite annual report in the form
12 prescribed by that authority relating to all supervised loans made by
13 him. The licensing authority shall consult with comparable officials
14 in other states for the purpose of making the kinds of information
15 required in annual reports uniform among the states. Information
16 contained in annual reports shall be confidential and may be pub-
17 lished only in composite form. The licensing authority shall assess
18 against a licensee who fails to file the prescribed report on or before
19 April fifteenth a penalty of ten dollars for each day the report is over-
20 due, up to a maximum of thirty days. When an annual report is
21 overdue for more than thirty days, the licensing authority may insti-
22 tute proceedings under section two point three hundred three (2.303)
23 of this Act for revocation of the licenses held by the licensee.

1 SEC. 2.305. NEW SECTION. **Examinations and investigations.**

2 1. For the purpose of discovering violations of this Act or secur-
3 ing information lawfully required, the licensing authority shall ex-
4 amine periodically at intervals he deems appropriate, but not less
5 than annually, the loans, business, and records of every licensee, ex-
6 cept a licensee which has no office physically located in this state and
7 engages in no face to face solicitation in this state. In addition, the
8 licensing authority may at any time investigate the loans, business,
9 and records of any lender. For these purposes the licensing author-
10 ity shall be given free and reasonable access to the offices, places of
11 business, and records of the lender.

12 2. If the lender's records are located outside this state, the lender
13 at his option shall make them available to the licensing authority at
14 a convenient location within this state, or pay the reasonable and nec-
15 essary expenses for the licensing authority or his representative to
16 examine them at the place where they are maintained. The licen-
17 sing authority may designate representatives, including comparable
18 officials of the state in which the records are located, to inspect them
19 on his behalf.

20 3. For the purposes of this section, the licensing authority may
 21 administer oaths or affirmations, and upon his own motion or upon
 22 request of any party may subpoena witnesses, compel their attend-
 23 ance, adduce evidence, and require the production of any matter
 24 which is relevant to the investigation, including the existence, de-
 25 scription, nature, custody, condition, and location of any books, docu-
 26 ments, or other tangible things and the identity and location of per-
 27 sons having knowledge of relevant facts, or any other matter reason-
 28 ably calculated to lead to the discovery of admissible evidence.

29 4. Upon failure without lawful excuse to obey a subpoena or to
 30 give testimony and upon reasonable notice to all persons affected
 31 thereby, the licensing authority may apply to the district court for
 32 an order compelling compliance.

1 SEC. 2.306. Reserved for future use.

1 SEC. 2.307. **NEW SECTION. Restrictions on interest in land as**
 2 **security.** With respect to a supervised loan in which the rate of
 3 finance charge is in excess of fifteen percent computed according to
 4 the actuarial method, and the amount financed is two thousand dol-
 5 lars or less, a lender may not contract for a security interest in real
 6 property used as a residence for the consumer or his dependents. A
 7 security interest taken in violation of this section is void.

1 SEC. 2.308. **NEW SECTION. Regular schedule of payments—max-**
 2 **imum loan term.** Supervised loans, not made pursuant to open end
 3 credit and in which the amount financed is one thousand dollars or
 4 less, shall be scheduled to be payable in substantially equal install-
 5 ments at substantially equal periodic intervals except to the extent
 6 that the schedule of payments is adjusted to the seasonal or irregu-
 7 lar income of the debtor, and over a period of not more than thirty-
 8 seven months if the amount financed is more than three hundred dol-
 9 lars, or over a period of not more than twenty-five months if the
 10 amount financed is three hundred dollars or less.

1 SEC. 2.309. **NEW SECTION. No other business for purpose of**
 2 **evasion.** A lender may not carry on other business for the purpose
 3 of evasion or violation of this Act at a location where he makes su-
 4 pervised loans.

1 SEC. 2.310. **NEW SECTION. Conduct of business other than mak-**
 2 **ing loans.**

3 1. Except as provided in subsection two (2) of this section, a
 4 licensee authorized to make supervised loans pursuant to section two
 5 point three hundred one (2.301) of this Act may not engage in the
 6 business of selling or leasing tangible goods at a location where super-
 7 vised loans are made. In this section, "location" means the entire
 8 space in which supervised loans are made and the location must be
 9 separated from any space where goods are sold or leased by walls
 10 which may be broken only by a passageway to which the public is
 11 not admitted.

12 2. This section does not apply to:

13 a. Occasional sales of property used in the ordinary course of busi-
 14 ness of the licensee.

15 b. Sales of items of collateral of which the licensee has taken pos-
 16 session.

17 c. Sales of items by a licensee who is also authorized by law to
18 operate as a pawnbroker.

PART 4

CONSUMER LOANS: MAXIMUM FINANCE CHARGES

1 SEC. 2.401. NEW SECTION. Finance charge for consumer loans
2 not pursuant to open end credit.

3 1. Except as provided with respect to a finance charge for loans
4 pursuant to open end credit under section two point four hundred two
5 (2.402) of this Act, a lender may contract for and receive a finance
6 charge not exceeding the maximum charge permitted by the laws of
7 this state or of the United States for similar lenders, and, in addition,
8 with respect to a consumer loan not secured by a first lien on a
9 dwelling of the debtor given to finance the acquisition of that dwelling,
10 a supervised financial organization may contract for and receive
11 a finance charge, calculated according to the actuarial method, not
12 exceeding fifteen percent per year on the unpaid balance of the
13 amount financed.

14 2. This section does not limit or restrict the manner of calculating
15 the finance charge, whether by way of add-on, discount, or otherwise,
16 so long as the rate of the finance charge does not exceed that permitted
17 by this section or the laws of this state or of the United States.
18 The finance charge permitted by this section or the laws of this state
19 or of the United States may be calculated by determining the single
20 annual percentage rate as required to be disclosed to the consumer
21 pursuant to section three point two hundred one (3.201) of this Act
22 which, when applied according to the actuarial method to the unpaid
23 balances of the amount financed, will yield the finance charge for that
24 transaction which would result from applying any graduated rates
25 permitted by this section or the laws of this state or of the United
26 States to the transaction on the assumption that all scheduled payments
27 will be made when due. If the loan is a precomputed consumer
28 credit transaction, the finance charge may be calculated on the assumption
29 that all scheduled payments will be made when due, and the effect
30 of prepayment is governed by section two point five hundred
31 ten (2.510) of this Act.

32 3. Except as provided in subsection five (5) of this section, the
33 term of a loan for the purposes of this section commences on the
34 date the loan is made. Any month may be counted as one-twelfth of
35 a year but a day is counted as one-three hundred sixty-fifth of a year.
36 Subject to classifications and differentiations the lender may reasonably
37 establish, a part of a month in excess of fifteen days may be treated
38 as a full month if periods of fifteen days or less are disregarded and
39 that procedure is not consistently used to obtain a greater yield than
40 would otherwise be permitted. The administrator may adopt rules
41 not inconsistent with the Truth in Lending Act with respect to treating
42 as regular other minor irregularities in amount or time.

43 4. Subject to classifications and differentiations the lender may
44 reasonably establish, he may make the same finance charge on all
45 amounts financed within a specified range. A finance charge so made
46 does not violate subsection one (1) of this section, if both of the following
47 are applicable:

48 a. When applied to the median amount within each range, it does
49 not exceed the maximum permitted by that subsection.

50 b. When applied to the lowest amount within each range, it does
51 not produce a rate of finance charge exceeding the rate calculated ac-
52 cording to paragraph a of this subsection by more than eight percent
53 of the rate calculated according to paragraph a of this subsection.

54 5. With respect to an insurance premium loan, the term of the loan
55 commences on the earliest inception date of a policy or contract of
56 insurance for which the premium is financed.

1 **SEC. 2.402. NEW SECTION. Finance charge for consumer loans**
2 **pursuant to open end credit.**

3 1. If authorized to make supervised loans, a creditor may contract
4 for and receive a finance charge with respect to a loan pursuant to
5 open end credit not exceeding that permitted in this section.

6 2. For each billing cycle, a charge may be made which is a percent-
7 age of an amount not exceeding the greatest of the following:

8 a. The average daily balance of the open end account in the billing
9 cycle for which the charge is made, which is the sum of the amount
10 unpaid each day during that cycle, divided by the number of days
11 in that cycle. The amount unpaid on a day is determined by adding
12 to the balance, if any, unpaid as of the beginning of that day all pur-
13 chases and other debits and deducting all payments and other credits
14 made or received as of that day.

15 b. The balance of the open end account at the beginning of the
16 first day of the billing cycle, after deducting all payments and credits
17 made in the cycle except credits attributable to purchases charged to
18 the account during the cycle.

19 c. The median amount within a specified range including the bal-
20 ance of the open end account not exceeding that permitted by para-
21 graph a or b of this subsection. A charge may be made pursuant to
22 this paragraph only if the organization, subject to classifications and
23 differentiations it may reasonably establish, makes the same charge
24 on all balances within the specified range and if the percentage when
25 applied to the median amount within the range does not produce a
26 charge exceeding the charge resulting from applying that percentage
27 to the lowest amount within the range by more than eight percent
28 of the charge on the median amount.

29 3. If the billing cycle is monthly, the charge may not exceed an
30 amount equal to one and one-half percent of that part of the maxi-
31 mum amount pursuant to subsection two (2) of this section which is
32 five hundred dollars or less and one and one-fourth percent of that
33 part of the maximum amount which is more than five hundred dol-
34 lars. If the billing cycle is not monthly, the maximum charge for
35 the billing cycle shall bear the same relation to the applicable monthly
36 maximum charge as the number of days in the billing cycle bears to
37 three hundred sixty-five divided by twelve. A billing cycle is monthly
38 if the closing date of the cycle is the same date each month or does not
39 vary by more than four days from the regular date.

40 4. If the charge determined pursuant to subsection three (3) of
41 this section is less than fifty cents, a charge may be made which does
42 not exceed fifty cents if the billing cycle is monthly or longer, or the
43 pro rata part of fifty cents which bears the same relation to fifty
44 cents as the number of days in the billing cycle bears to three hun-

45 dred sixty-five divided by twelve if the billing cycle is shorter than
46 monthly.

PART 5

CONSUMER CREDIT TRANSACTIONS:
OTHER CHARGES AND MODIFICATIONS

1 SEC. 2.501. NEW SECTION. Additional charges.

2 1. In addition to the finance charge permitted by parts two (2)
3 and four (4) of this article, a creditor may contract for and receive
4 the following additional charges:

5 a. Official fees and taxes.

6 b. Charges for insurance as described in subsection two (2) of
7 this section.

8 c. Amounts actually paid or to be paid by the creditor for regis-
9 tration, certificate of title, or license fees.

10 d. Annual charges, payable in advance, for the privilege of using a
11 credit card which entitles the cardholder to purchase or lease goods
12 or services from at least one hundred persons not related to the card
13 issuer, under an arrangement pursuant to which the debts resulting
14 from the purchases or leases are payable to the card issuer.

15 e. With respect to a debt secured by an interest in land, the fol-
16 lowing "closing costs," provided they are bona fide, reasonable in
17 amount, and not for the purpose of circumvention or evasion of this
18 Act:

19 (1) Fees or premiums for title examination, abstract of title, title
20 insurance, or similar purposes including surveys.

21 (2) Fees for preparation of a deed, settlement statement, or other
22 documents, if not paid to the creditor or a person related to the
23 creditor.

24 (3) Escrows for future payments of taxes, including assessments
25 for improvements, insurance and water, sewer and land rents.

26 (4) Fees for notarizing deeds and other documents, if not paid to
27 the creditor or a person related to the creditor.

28 f. Charges for other benefits, including insurance, conferred on the
29 consumer, if the benefits are of value to him and if the charges are
30 reasonable in relation to the benefits, are of a type which is not for
31 credit, and are authorized as permissible additional charges by rule
32 adopted by the administrator.

33 2. An additional charge may be made for insurance written in con-
34 nection with the transaction, as follows:

35 a. With respect to insurance against loss of or damage to property,
36 or against liability arising out of the ownership or use of property, if
37 the creditor furnishes a clear, conspicuous and specific statement in
38 writing to the consumer setting forth the cost of the insurance if
39 obtained from or through the creditor and stating that the consumer
40 may choose the person through whom the insurance is to be obtained.

41 b. With respect to consumer credit insurance providing life, acci-
42 dent, or health coverage, if the insurance coverage is not required by
43 the creditor, and this fact is clearly and conspicuously disclosed in
44 writing to the consumer, and if, in order to obtain the insurance in
45 connection with the extension of credit, the consumer gives specific
46 dated and separately signed affirmative written indication of his de-
47 sire to do so after written disclosure to him of the cost.

1 **SEC. 2.502. NEW SECTION. Delinquency charges.**

2 1. With respect to a precomputed consumer credit transaction, the
3 parties may contract for a delinquency charge on any installment not
4 paid in full within ten days after its due date, as originally scheduled
5 or as deferred, in an amount not exceeding the greater of either of
6 the following:

7 a. One and one-half percent of the unpaid amount of the install-
8 ment, or a maximum of five dollars.

9 b. The deferral charge that would be permitted to defer the unpaid
10 amount of the installment for the period that it is delinquent.

11 2. A delinquency charge under paragraph a of subsection one (1)
12 of this section may be collected only once on an installment however
13 long it remains in default. No delinquency charge may be collected
14 with respect to a deferred installment unless the installment is not
15 paid in full within ten days after its deferred due date. A delin-
16 quency charge may be collected at the time it accrues or at any time
17 afterward.

18 3. No delinquency charge may be collected under paragraph a of
19 subsection one (1) of this section on an installment which is paid in
20 full within ten days after its scheduled or deferred installment due
21 date even though an earlier maturing installment or a delinquency
22 or deferral charge on an earlier installment may not have been paid
23 in full. For purposes of this subsection payments are applied first to
24 current installments and then to delinquent installments.

1 **SEC. 2.503. NEW SECTION. Deferral charges.**

2 1. Before or after default in payment of a scheduled installment of
3 a precomputed consumer credit transaction, the parties to the trans-
4 action may agree in writing to a deferral of all or part of one or
5 more unpaid installments and the creditor may make at the time of
6 deferral and receive at that time or at any time thereafter a deferral
7 charge which is not in excess of one and one-half percent per month
8 for the period of time for which it is deferred, but not to exceed the
9 rate of finance charge which was required to be disclosed in the
10 transaction to the consumer pursuant to section three point two hun-
11 dred one (3.201) of this Act applied to each amount deferred for the
12 period for which it is deferred. In computing a deferral charge for
13 one or more months, any month may be counted as one-twelfth of a
14 year and in computing a deferral charge for part of a month, a day
15 shall be counted as one three hundred sixty-fifth of a year.

16 2. In addition to the deferral charge permitted by this section, a
17 creditor may make and receive appropriate additional charges as
18 permitted under section two point five hundred one (2.501) of this
19 Act, and the amount of these charges which is not paid may be added
20 to the amount deferred for the purpose of computing the deferral
21 charge according to subsection one (1) of this section.

22 3. The parties may agree in writing at the time of a precomputed
23 consumer credit transaction that if an installment is not paid within
24 ten days after its due date, the creditor may unilaterally grant a de-
25 ferral and make charges as provided in this section. No deferral
26 charge may be made for a period after the date that the creditor
27 elects to accelerate the maturity of the transaction.

28 4. A delinquency charge made by the creditor on an installment
29 may not be retained if a deferral charge is made pursuant to this
30 section with respect to the period of delinquency.

1 **SEC. 2.504. NEW SECTION. Finance charge on refinancing.** With
2 respect to a consumer credit transaction in which the rate of finance
3 charge required to be disclosed in the transaction pursuant to section
4 three point two hundred one (3.201) of this Act does not exceed eigh-
5 teen percent per year, other than a consumer lease, the creditor may,
6 by agreement with the consumer, refinance the unpaid balance and
7 may contract for and receive a finance charge based on the amount
8 financed resulting from the refinancing at a rate not exceeding that
9 permitted by the provisions on finance charge for consumer credit
10 sales other than open end credit in section two point two hundred
11 one (2.201) of this Act if a consumer credit sale is refinanced, the
12 provisions on finance charge for a consumer loan other than a super-
13 vised loan in section two point four hundred one (2.401), subsection
14 one (1) of this Act, or the provisions on finance charge for a super-
15 vised loan not pursuant to open end credit in section two point four
16 hundred one (2.401), subsection two (2) of this Act, as applicable,
17 if a consumer loan is refinanced. With respect to a consumer credit
18 transaction in which the rate of finance charge required to be dis-
19 closed in the transaction to the consumer pursuant to section three
20 point two hundred one (3.201) of this Act exceeds eighteen percent
21 per year, other than a consumer lease, the creditor may by agree-
22 ment with the consumer, refinance the unpaid balance and may con-
23 tract for and receive a finance charge based on the amount financed
24 resulting from the refinancing at a rate of finance charge not to ex-
25 ceed that which was required to be disclosed in the original transac-
26 tion to the consumer pursuant to section three point two hundred one
27 (3.201) of this Act. For the purpose of determining the finance
28 charge permitted, the amount financed resulting from the refinancing
29 consists of:

30 1. If the transaction was not precomputed, the total of the unpaid
31 balance of the amount financed and the accrued charges, including
32 finance charges, on the date of the refinancing, or, if the transaction
33 was precomputed, the amount determined by deducting the unearned
34 portion of the finance charge and any other unearned charges, in-
35 cluding charges for insurance or deferral charges, from the unpaid
36 balance on the date of refinancing. For the purposes of this section,
37 the unearned portion of the finance charge and deferral charge, if
38 any, shall be determined as provided in section two point five hun-
39 dred ten (2.510), subsection two (2) of this Act, but without allow-
40 ing any minimum charge.

41 2. Appropriate additional charges as permitted under section two
42 point five hundred one (2.501) of this Act, payment of which is de-
43 ferred.

1 **SEC. 2.505. NEW SECTION. Finance charge on consolidation.**

2 1. In this section, "consumer credit transaction" does not include a
3 consumer lease.

4 2. If a consumer owes an unpaid balance to a creditor with respect
5 to a consumer credit transaction and becomes obligated on another
6 consumer credit transaction with the same creditor, the parties may

7 agree to a consolidation resulting in a single schedule of payments. If
8 the previous consumer credit transaction was not precomputed, the
9 parties may agree to add the unpaid amount of the amount financed
10 and accrued charges including finance charges on the date of consoli-
11 dation to the amount financed with respect to the subsequent con-
12 sumer credit transaction. If the previous consumer credit transac-
13 tion was precomputed, the parties may agree to refinance the un-
14 paid balance pursuant to section two point five hundred four (2.504)
15 of this Act, and to consolidate the amount financed resulting from
16 the refinancing by adding it to the amount financed with respect to
17 the subsequent consumer credit transaction. In either case the cred-
18 itor may contract for and receive a finance charge as provided in sub-
19 section three (3) of this section, based on the aggregate amount
20 financed resulting from the consolidation.

21 3. If all debts consolidated arise exclusively from consumer loans,
22 the creditor may contract for and receive the finance charge per-
23 mitted by the provisions on finance charge for consumer loans pur-
24 suant to section two point four hundred one (2.401) of this Act. If
25 the debts consolidated include a debt arising from a consumer credit
26 sale, including a transaction pursuant to a lender credit card, the
27 amount of the finance charge is governed by the provisions on finance
28 charge for consumer credit sales in section two point two hundred
29 one (2.201) of this Act.

30 4. If a consumer owes an unpaid balance to a creditor with respect
31 to a consumer credit transaction arising out of a consumer credit sale,
32 and becomes obligated on another consumer credit transaction arising
33 out of another consumer credit sale by the same seller, the parties
34 may agree to a consolidation resulting in a single schedule of pay-
35 ments either pursuant to subsection two (2) of this section or by add-
36 ing together the unpaid balances with respect to the two sales.

1 **SEC. 2.506. NEW SECTION. Advances to perform covenants of**
2 **consumer.**

3 1. If the agreement with respect to a consumer credit transaction
4 other than a consumer lease contains covenants by the consumer to
5 perform certain duties pertaining to insuring or preserving collateral
6 and the creditor pursuant to the agreement pays for performance of
7 the duties on behalf of the consumer, he may add the amounts paid
8 to the debt. Within a reasonable time after advancing any sums, he
9 shall state to the consumer in writing the amount of the sums ad-
10 vanced, any charges with respect to this amount, and any revised pay-
11 ment schedule and, if the duties of the consumer performed by the
12 creditor pertain to insurance, a brief description of the insurance
13 paid for by the creditor including the type and amount of coverages.
14 No further information need be given.

15 2. A finance charge may be made for sums advanced pursuant to
16 subsection one (1) of this section at a rate not exceeding the rate of
17 finance charge required to be stated to the consumer pursuant to
18 law in the disclosure statement required by this Act and the Truth
19 in Lending Act, except that with respect to open end credit the
20 amount of the advance may be added to the unpaid balance of the
21 debt and the creditor may make a finance charge not exceeding that

22 permitted by section two point two hundred two (2.202) or two point
23 four hundred two (2.402) of this Act, as applicable.

1 **SEC. 2.507. NEW SECTION. Attorney's fees.** With respect to a
2 consumer credit transaction, the agreement may not provide for the
3 payment by the consumer of attorney's fees. A provision in violation
4 of this subsection is unenforceable.

1 **SEC. 2.508. NEW SECTION. Conversion to open end credit.** The
2 parties may agree at or within ten days prior to the time of conver-
3 sion to add the unpaid balance of a consumer credit transaction,
4 other than a consumer lease, not made pursuant to open end credit
5 to the consumer's open end credit account with the creditor. The un-
6 paid balance so added is an amount equal to the amount financed
7 determined according to the provisions on finance charge on refinanc-
8 ing under section two point five hundred four (2.504) of this Act.

1 **SEC. 2.509. NEW SECTION. Right to prepay.** Subject to the pro-
2 visions on prepayment and minimum charge under section two point
3 five hundred ten (2.510) of this Act, the consumer may prepay in full
4 the unpaid balance of a consumer credit transaction, other than a
5 consumer lease, at any time.

1 **SEC. 2.510. NEW SECTION. Rebate upon prepayment.**

2 1. Except as provided in this section, upon prepayment in full of
3 a precomputed consumer credit transaction, the creditor shall rebate
4 to the consumer an amount not less than the amount of rebate pro-
5 vided in paragraph a of subsection two (2) of this section, or rede-
6 termine the earned finance charge as provided in paragraph b of sub-
7 section two (2) of this section, and rebate any other unearned
8 charges including charges for insurance. If the rebate otherwise re-
9 quired is less than one dollar, no rebate need be made.

10 2. The amount of rebate and the redetermined earned finance
11 charge shall be as follows:

12 a. The amount of rebate shall be determined by applying the rate
13 of finance charge which was required to be disclosed in the transac-
14 tion pursuant to section three point two hundred one (3.201) of this
15 Act, according to the actuarial method,

16 (1) If no deferral charges have been made in a transaction, to the
17 unpaid balances and time remaining as originally scheduled for the
18 period following prepayment.

19 (2) If a deferral charge has been made, to the unpaid balances and
20 time remaining as deferred for the period following prepayment.

21 The time remaining for the period following prepayment shall be
22 either the full days following the prepayment; or both the full days,
23 counting the date of prepayment, between the prepayment date and
24 the end of the computational period in which the prepayment occurs,
25 and the full computational periods following the date of prepayment
26 to the scheduled due date of the final installment of the transaction.

27 b. The redetermined earned finance charge shall be determined by
28 applying, according to the actuarial method, the rate of finance
29 charge which was required to be disclosed in the transaction pursu-
30 ant to section three point two hundred one (3.201) of this Act to the
31 actual unpaid balances of the amount financed for the actual time the
32 unpaid balances were outstanding as of the date of prepayment. Any

33 delinquency or deferral charges collected before the date of prepay-
 34 ment shall be applied to reduce the amount financed as of the date
 35 collected.

36 3. Upon prepayment, but not otherwise, of a consumer credit trans-
 37 action whether or not precomputed, other than a consumer lease or
 38 one pursuant to open end credit:

39 a. If the prepayment is in full, the creditor may collect or retain
 40 a minimum charge not exceeding five dollars in a transaction which
 41 had an amount financed of seventy-five dollars or less, or not exceed-
 42 ing seven dollars and fifty cents in a transaction which had an amount
 43 financed of more than seventy-five dollars, if the minimum charge
 44 was contracted for, and the finance charge earned at the time of pre-
 45 payment is less than the minimum charge contracted for.

46 b. If the prepayment is in part, the creditor may not collect or re-
 47 tain a minimum charge.

48 4. For the purposes of this section, the following defined terms
 49 apply:

50 a. "Computational period" means the interval between scheduled
 51 due dates of installments under the transaction if the intervals are
 52 substantially equal or, if the intervals are not substantially equal,
 53 one month if the smallest interval between the scheduled due dates
 54 of installments under the transaction is one month or more, and
 55 otherwise one week.

56 b. The "interval" between specified dates means the interval be-
 57 tween them including one or the other but not both of them. If the
 58 interval between the date of a transaction and the due date of the
 59 first scheduled installment does not exceed one month by more than
 60 fifteen days when the computational period is one month, or eleven
 61 days when the computational period is one week, the interval may be
 62 considered by the creditor as one computational period.

63 5. This section does not preclude the collection or retention by
 64 the creditor of delinquency charges under section two point five hun-
 65 dred two (2.502) of this Act.

66 6. If the maturity is accelerated for any reason and judgment is ob-
 67 tained, the consumer is entitled to the same rebate as if payment had
 68 been made on the date maturity is accelerated.

69 7. Upon prepayment in full of a precomputed consumer credit
 70 transaction by the proceeds of consumer credit insurance, the con-
 71 sumer or his estate is entitled to the same rebate as though the con-
 72 sumer had prepaid the agreement on the date the proceeds of the
 73 insurance are paid to the creditor, but no later than ten business days
 74 after satisfactory proof of loss is furnished to the creditor.

PART 6

OTHER CREDIT TRANSACTIONS

1 SEC. 2.601. NEW SECTION. Charges for other credit transac-
 2 tions.

3 1. Except as provided in subsection two (2) of this section, with
 4 respect to a credit transaction other than a consumer credit transac-
 5 tion, the parties may contract for the payment by the debtor of any
 6 finance or other charge as permitted by law. Except with respect to
 7 debt obligations issued by a government, governmental agency or
 8 instrumentality, in calculating any finance charge contracted for, any

9 month may be counted as one-twelfth of a year, but a day is to be
10 counted as one three-hundred sixty-fifth of a year.

11 2. With respect to a credit transaction which would be a consumer
12 credit transaction if a finance charge were made, a charge for delin-
13 quency may not exceed amounts allowed for finance charges for con-
14 sumer credit sales pursuant to open end credit.

ARTICLE 3

REGULATION OF AGREEMENTS AND PRACTICES

PART 1

GENERAL PROVISIONS

1 SEC. 3.101. NEW SECTION. **Short title.** This article shall be
2 known and may be cited as the Iowa Consumer Credit Code—Regula-
3 tion of Agreements and Practices.

1 SEC. 3.102. NEW SECTION. **Scope.** Part two (2) of this article
2 applies to disclosure with respect to consumer credit transactions,
3 and the provision in section three point two hundred one (3.201) of
4 this Act applies to a sale of an interest in land or a loan secured by
5 an interest in land, without regard to the rate of finance charge, if
6 the sale or loan is otherwise a consumer credit sale or consumer loan.
7 Parts three (3) and four (4) of this article apply, respectively, to
8 disclosure, limitations on agreements and practices, and limitations
9 on consumer's liability with respect to certain consumer credit trans-
10 actions. Part five (5) applies to home solicitation sales.

PART 2

DISCLOSURE

1 SEC. 3.201. NEW SECTION. **Compliance with Truth in Lending**
2 **Act.** A person upon whom the Truth in Lending Act imposes duties
3 or obligations shall make or give to the consumer the disclosures, in-
4 formation and notices required of him by that Act and in all respects
5 shall comply with that Act. To the extent the Truth in Lending Act
6 does not impose duties or obligations upon a person in a credit trans-
7 action, other than a consumer lease, which is a consumer credit trans-
8 action under this Act, the person shall make or give to the consumer
9 disclosures, information and notices in accordance with the Truth in
10 Lending Act, with respect to the credit transaction.

1 SEC. 3.202. NEW SECTION. **Consumer leases.**

2 1. With respect to a consumer lease the lessor shall give to the
3 consumer the following information:
4 a. Brief description or identification of the goods.
5 b. Amount of any payment required at the inception of the lease.
6 c. Amount paid or payable for official fees, registration, certificate
7 of title, or license fees or taxes.
8 d. Amount of other charges not included in the periodic payments
9 and a brief description of the charges.
10 e. Brief description of insurance to be provided or paid for by the
11 lessor, including the types and amounts of the coverages.
12 f. Except with respect to a consumer lease made pursuant to a
13 lender credit card, the number of periodic payments, the amount of
14 each payment, the due date of the first payment, the due dates of

15 subsequent payments or interval between payments, and the total
16 amount payable by the consumer.

17 g. Statement of the conditions under which the consumer may
18 terminate the lease prior to the end of the term.

19 h. Statement of the liabilities the lease imposes upon the consumer
20 at the end of the term.

21 2. The disclosures required by this section are subject to the fol-
22 lowing:

23 a. They shall be made clearly and conspicuously in writing, a copy
24 of which shall be delivered to the lessee.

25 b. They may be supplemented by additional information or expla-
26 nations supplied by the lessor but none shall be stated, utilized or
27 placed so as to mislead or confuse the lessee or contradict, obscure,
28 or detract attention from the information required to be disclosed
29 by this section.

30 c. They need be made only to the extent applicable.

31 d. They shall be made on the assumption that all scheduled pay-
32 ments will be made when due and will comply with this section, al-
33 though the assumption may be rendered inaccurate by an act, occur-
34 rence, or agreement subsequent to the required disclosure.

35 e. They shall be made before the lease transaction is consummated
36 but may be made in the lease to be signed by the lessee.

1 SEC. 3.203. NEW SECTION. Notice to consumer. The creditor
2 shall give to the consumer a copy of any writing evidencing a con-
3 sumer credit transaction, other than one pursuant to open end credit,
4 if the writing requires or provides for signature of the consumer.
5 The writing evidencing the consumer's obligation to pay under a
6 consumer credit transaction, other than one pursuant to open end
7 credit, shall contain a clear and conspicuous notice to the consumer
8 that he should not sign it before reading it, that he is entitled to a
9 copy of it, and, except in the case of a consumer lease, that he is en-
10 titled to prepay the unpaid balance at any time with such penalty
11 and minimum charges as the agreement and section two point five
12 hundred ten (2.510) of this Act may permit, and may be entitled to
13 receive a refund of unearned charges in accordance with law. The
14 following notices if clear and conspicuous comply with this section:

15 1. In all transactions to which this section applies:

16 NOTICE TO CONSUMER: 1. Do not sign this paper before you read
17 it. 2. You are entitled to a copy of this paper. 3. You may prepay
18 the unpaid balance at any time without penalty and may be entitled
19 to receive a refund of unearned charges in accordance with law.

20 2. In addition, in a transaction in which a minimum charge will
21 be collected or retained, the notice to consumer shall state "4. If you
22 prepay the unpaid balance, you may have to pay a minimum charge
23 not greater than seven dollars and fifty cents."

1 SEC. 3.204. NEW SECTION. Notice of assignment. A consumer
2 is authorized to pay the original creditor until he receives notification
3 of assignment of rights to payment pursuant to a consumer credit
4 transaction and that payment is to be made to the assignee. A noti-
5 fication which does not reasonably identify the rights assigned is in-
6 effective. If requested by the consumer, the assignee must season-

7 ably furnish reasonable proof that the assignment has been made and
8 unless he does so the consumer may pay the original creditor.

1 **SEC. 3.205. NEW SECTION. Change in terms of open end credit**
2 **accounts.**

3 1. Whether or not a change is authorized by prior agreement, a
4 creditor may make a change in the terms of an open end credit ac-
5 count applying to any balance incurred after the effective date of the
6 change only if either the consumer after receiving disclosure of the
7 change agrees to it in writing or the creditor delivers or mails to the
8 consumer two written disclosures of the change, the first at least
9 three months before the effective date of the change and the second
10 at a later time before the effective date of the change.

11 2. Unless authorized by a provision of this Act, no creditor shall
12 change the terms of an open end credit account, with respect to any
13 balance incurred before the effective date of the change, which re-
14 sults in an increase of the rate of the finance charge or other charge
15 or an increase in the amount of a periodic payment due, or which
16 otherwise adversely affects the interests of the consumer with re-
17 spect to such balance.

18 3. A disclosure provided for in subsection one (1) of this section
19 is mailed to the consumer when mailed to him at his address used
20 by the creditor for mailing him periodic billing statements.

21 4. If a creditor attempts to make a change in the terms of an open
22 end credit account without complying with this section, any addi-
23 tional cost or charge to the consumer resulting from the change is
24 an excess charge and is subject to the remedies available to the con-
25 sumer under section five point two hundred one (5.201) and to the
26 administrator under section six point one hundred thirteen (6.113)
27 of this Act.

1 **SEC. 3.206. NEW SECTION. Receipt — statements of account —**
2 **evidence of payment.**

3 1. The creditor shall deliver or mail to the consumer, without re-
4 quest, a written receipt for each payment by coin or currency on an
5 obligation pursuant to a consumer credit transaction. A periodic
6 statement for a computational period showing a payment received
7 by mail complies with this subsection.

8 2. Upon written request of a consumer, the person to whom an
9 obligation is owed pursuant to a consumer credit agreement shall pro-
10 vide a written statement of the dates and amounts of payments made
11 within the twelve months preceding the month in which the request
12 is received and the total amount unpaid as of the end of the period
13 covered by the statement. The statement shall be provided without
14 charge once during each year of the term of the obligation. If addi-
15 tional statements are requested the creditor may charge not in excess
16 of three dollars for each additional statement.

17 3. After a consumer has fulfilled all obligations with respect to a
18 consumer credit transaction, other than one pursuant to open end
19 credit, the person to whom the obligation was owed shall, upon re-
20 quest of the consumer, deliver or mail to the consumer written evi-
21 dence acknowledging payment in full of all obligations with respect
22 to the transaction.

1 SEC. 3.207. NEW SECTION. Form of insurance premium loan
 2 agreement. An agreement pursuant to which an insurance premium
 3 loan is made shall contain the names of the insurance agent or broker
 4 negotiating each policy or contract and of the insurer issuing each
 5 policy or contract, the number and inception date of, and premium
 6 for, each policy or contract, the date on which the term of the loan
 7 begins, and a clear and conspicuous notice that each policy or con-
 8 tract may be cancelled if payment is not made in accordance with
 9 the agreement. If a policy or contract has not been issued when the
 10 agreement is signed, the agreement may provide that the insurance
 11 agent or broker may insert the appropriate information in the agree-
 12 ment and, if he does so, shall furnish the information promptly in
 13 writing to the insured.

1 SEC. 3.208. NEW SECTION. Notice to co-signers and similar par-
 2 ties.

3 1. No natural person, other than the spouse of the consumer, is
 4 obligated as a co-signer, co-maker, guarantor, endorser, surety, or
 5 similar party with respect to a consumer credit transaction, unless
 6 before or contemporaneously with signing any separate agreement of
 7 obligation or any writing setting forth the terms of the debtor's
 8 agreement, the person receives a separate written notice that con-
 9 tains a completed identification of the debt he may have to pay and
 10 reasonably informs him of his obligation with respect to it.

11 2. A clear and conspicuous notice in substantially the following
 12 form complies with this section:

13 NOTICE

14 You agree to pay the debt identified below although you may not
 15 personally receive any property, services, or money. You may be
 16 sued for payment although the person who receives the property,
 17 services, or money is able to pay. This notice is not the contract
 18 that obligates you to pay the debt. Read the contract for the exact
 19 terms of your obligation.

20 IDENTIFICATION OF DEBT YOU MAY HAVE TO PAY

21 -----
 22 (Name of Debtor)

23 -----
 24 (Name of Creditor)

25 -----
 26 (Date)

27 -----
 28 (Kind of Debt)

29 I have received a copy of this notice.

30 -----
 31 (Date)

 (Signed)

32 3. The notice required by this section need not be given to a seller,
 33 lessor, or lender who is obligated to an assignee of his rights.

34 4. A person entitled to notice under this section shall also be given
 35 a copy of any writing setting forth the terms of the debtor's agree-
 36 ment and of any separate agreement of obligation signed by the
 37 person entitled to the notice.

1 **SEC. 3.209. NEW SECTION. Advertising.**

2 1. A seller, lessor, or lender shall not advertise, print, display, pub-
3 lish, distribute, utter or broadcast, or cause to be advertised, printed,
4 displayed, published, distributed, uttered or broadcast in any man-
5 ner, any false, misleading, or deceptive statement or representation
6 with regard to the rates, terms or conditions of credit with respect
7 to a consumer credit transaction.

8 2. Advertising that complies with the Truth in Lending Act does
9 not violate this section.

10 3. This section does not apply to the owner or personnel, as such,
11 of any medium in which an advertisement appears or through which
12 it is disseminated.

1 **SEC. 3.210. NEW SECTION. Prohibited statements relating to**
2 **rates.** A creditor shall not state the rate of a finance charge to a
3 consumer, in response to any inquiry, or in any advertisement, in the
4 form of an add-on or discount rate, or in any form other than the
5 rate calculated according to the actuarial method as a percent per
6 year on the unpaid balances of the amount financed, or the annual
7 percentage rate required to be disclosed under the Truth in Lending
8 Act.

1 **SEC. 3.211. NEW SECTION. Notice of consumer paper.** Every
2 note which is a negotiable instrument pursuant to section five hun-
3 dred fifty-four point three thousand one hundred four (554.3104) of
4 the Code taken in a consumer credit transaction, if the writing re-
5 quires or provides for a signature of the consumer, shall conspicu-
6 ously show on its face the following: "This is a consumer credit
7 transaction."

1 **SEC. 3.212. NEW SECTION. Notice of methods of financing and**
2 **rates.**

3 1. With respect to a consumer who has an open end credit account
4 with a creditor, and with respect to a creditor which offers to some
5 or all of its customers consumer credit sales of goods or services both
6 pursuant to open end credit and not pursuant to open end credit, that
7 creditor shall give written notice to that consumer of those alterna-
8 tive methods at the times provided in subsection three (3) of this sec-
9 tion. The notice shall be as provided in subsection two (2) of this
10 section.

11 2. The notice required by this section shall conspicuously state the
12 highest finance charge charged by that creditor to any consumer
13 within the last calendar year for each type of credit sale. Such
14 finance charge shall be stated as an annual percentage rate in such
15 form as is required pursuant to section three point two hundred one
16 (3.201) of this Act for each type of credit sale described in subsec-
17 tion one (1) of this section, and the terms of repayment for each
18 type of credit sale.

19 3. This section is complied with if notice is given at the following
20 times:

21 a. With respect to an existing open end credit account holder, in a
22 writing contained as a part of, or mailed with a periodic statement
23 mailed to the account holders and no less than once every six months.

24 b. With respect to a consumer not holding an existing open end
 25 credit account, if the written notice is presented to the person at the
 26 time of the consumer credit transaction, and thereafter as provided
 27 in paragraph a of this subsection.

PART 3

LIMITATIONS ON AGREEMENTS AND PRACTICES

1 SEC. 3.301. NEW SECTION. Security in consumer credit transac- 2 tions.

3 1. With respect to a consumer credit sale, a seller may take a secu-
 4 rity interest in the property sold. In addition, a seller may take a
 5 security interest in goods upon which services are performed or in
 6 which goods sold are installed or to which they are annexed, or in
 7 land to which the goods are affixed or which is maintained, repaired
 8 or improved as a result of the sale of the goods or services, if in the
 9 case of a security interest in land the amount financed is one thou-
 10 sand dollars or more, or in the case of a security interest in goods if
 11 either the amount financed is three hundred dollars or more, or if the
 12 goods are household goods, or motor vehicles used by a consumer, his
 13 dependents, or the family with which the consumer resides, as trans-
 14 portation to and from a place of employment, one hundred dollars or
 15 more. The seller may also take a security interest in property which
 16 is itemized in the security agreement, to secure the debt arising from
 17 a consumer credit sale primarily for an agricultural purpose. Except
 18 as provided with respect to cross-collateral under section three point
 19 three hundred two (3.302) of this Act, a seller may not otherwise
 20 take a security interest in property to secure the debt arising from
 21 a consumer credit sale.

22 2. With respect to a consumer lease other than a lease primarily
 23 for an agricultural purpose, a lessor may not take a security interest
 24 in property to secure the debt arising from the lease. This subsec-
 25 tion does not apply to a security deposit for a consumer lease.

26 3. With respect to a supervised loan, a lender may not take a secu-
 27 rity interest, other than a purchase money security interest, in the
 28 clothing, one dining table and set of chairs, one refrigerator, one
 29 heating stove, one cooking stove, one radio, beds and bedding, one
 30 couch, two living-room chairs, cooking utensils, or kitchenware used
 31 by the consumer, his dependents, or the family with which the con-
 32 sumer resides.

33 4. A security interest taken in violation of this section is void.

1 SEC. 3.302. NEW SECTION. Cross-collateral.

2 1. In addition to contracting for a security interest pursuant to the
 3 provisions on security in consumer credit transactions under section
 4 three point three hundred one (3.301) of this Act, a seller in a con-
 5 sumer credit sale may secure the debt arising from the sale by con-
 6 tracting for a security interest in other property if as a result of a
 7 prior sale the seller has an existing security interest in the other
 8 property. The seller may also contract for a security interest in the
 9 property sold in the subsequent sale as security for the previous debt.

10 2. If the seller contracts for a security interest in other property
 11 pursuant to this section, the rate of finance charge thereafter on the
 12 aggregate unpaid balances so secured may not exceed that permitted
 13 if the balances so secured were consolidated pursuant to the provi-

14 sions on finance charge on consolidation under section two point five
 15 hundred five (2.505) of this Act. The seller has a reasonable time after
 16 so contracting to make any adjustments required by this section.

1 **SEC. 3.303. NEW SECTION. Debt secured by cross-collateral.**

2 1. If debts arising from two or more consumer credit sales, other
 3 than sales primarily for an agricultural purpose or pursuant to open
 4 end credit, are secured by cross-collateral or consolidated into one
 5 debt payable on a single schedule of payments, and the debt is se-
 6 cured by security interests taken with respect to one or more of the
 7 sales, payments received by the seller after the taking of the cross-
 8 collateral or the consolidation are deemed, for the purpose of deter-
 9 mining the amount of the debt secured by the various security inter-
 10 ests, to have been first applied to the payment of the debts arising
 11 from the sales first made. To the extent debts are paid according to
 12 this section, security interests in items of property terminate as the
 13 debt originally incurred with respect to each item is paid.

14 2. Payments received by the seller upon an open end credit ac-
 15 count are deemed, for the purpose of determining the amount of the
 16 debt secured by the various security interests, to have been applied
 17 first to the payment of finance charges in the order of their entry to
 18 the account and then to the payment of debts in the order in which
 19 the entries to the account showing the debts were made.

20 3. If the debts consolidated arose from two or more sales made on
 21 the same day, payments received by the seller are deemed, for the
 22 purpose of determining the amount of the debt secured by the various
 23 security interests, to have been applied first to the payment of the
 24 smallest debt.

1 **SEC. 3.304. NEW SECTION. Use of multiple agreements.**

2 1. With respect to a sale or loan other than a supervised loan, a
 3 creditor may not use multiple agreements in what is in substance a
 4 single transaction, with intent to obtain a higher finance charge than
 5 would otherwise be permitted by the provisions of article two (2) of
 6 this Act.

7 2. With respect to a supervised loan, a lender may not use multiple
 8 agreements with intent to obtain a higher finance charge than would
 9 otherwise be permitted. For the purposes of this subsection, multiple
 10 agreements are used if a lender allows any person, or husband and
 11 wife, to become obligated in any way under more than one loan agree-
 12 ment with the lender or with a person related to the lender.

13 3. The excess amount of finance charge obtained in violation of
 14 this section is an excess charge for the purposes of the provisions on
 15 rights of parties in section five point two hundred one (5.201) of this
 16 Act and the provisions on civil actions by the administrator in sec-
 17 tion six point one hundred thirteen (6.113) of this Act.

1 **SEC. 3.305. NEW SECTION. No assignment of earnings.**

2 1. A creditor may not take an assignment of earnings of the con-
 3 sumer for payment or as security for payment of a debt arising out
 4 of a consumer credit transaction. An assignment of earnings in vio-
 5 lation of this section is unenforceable by the assignee of the earnings
 6 and revocable by the consumer. This section does not prohibit a con-
 7 sumer from authorizing deductions in favor of his creditor if the

8 authorization is revocable, the consumer is given a complete copy of
9 the writing evidencing the authorization at the time he signs it, and
10 the writing contains on its face a conspicuous notice of the consum-
11 er's right to revoke the authorization.

12 2. A sale of unpaid earnings made in consideration of the payment
13 of money to or for the account of the seller of the earnings is deemed
14 to be a loan to him secured by an assignment of earnings.

1 SEC. 3.306. NEW SECTION. **Authorization to confess judgment**
2 **prohibited.** Unless executed after default on a claim arising out of
3 a consumer credit transaction, authorization for a judgment by con-
4 fession on that claim pursuant to chapter six hundred seventy-six
5 (676) of the Code is void. Any other authorization by a consumer
6 for any person to confess judgment on the claim, whenever executed,
7 is void.

1 SEC. 3.307. NEW SECTION. **Certain negotiable instruments pro-**
2 **hibited.** With respect to a consumer credit sale or consumer lease,
3 other than a sale or lease primarily for an agricultural purpose, the
4 creditor may not take a negotiable instrument other than a check
5 dated not later than ten days after its issuance as evidence of the
6 obligation of the consumer.

1 SEC. 3.308. NEW SECTION. **Balloon payments.**

2 1. Except as provided in subsection two (2) of this section, if any
3 scheduled payment of a consumer credit transaction is more than
4 twice as large as the average of earlier scheduled payments, the con-
5 sumer has the right to refinance the amount of that payment at the
6 time it is due without penalty, as provided in section two point five
7 hundred four (2.504) of this Act. The terms of the refinancing shall
8 be no less favorable to the consumer than the terms of the original
9 transaction.

10 2. This section does not apply to any of the following:

11 a. A consumer lease.

12 b. A transaction pursuant to open end credit.

13 c. A transaction primarily for an agricultural purpose.

14 d. A transaction to the extent that the payment schedule is ad-
15 justed to the seasonal or irregular income or scheduled payments of
16 obligations of the consumer.

17 e. A transaction of a class defined by rule of the administrator as
18 not requiring for the protection of the consumer his right to refinance
19 as provided in this section.

1 SEC. 3.309. NEW SECTION. **Referral sales and leases.** A prac-
2 tice unlawful under section seven hundred thirteen point twenty-four
3 (713.24), subsection two (2), paragraph b, of the Code, if done in
4 connection with a consumer credit sale or consumer lease, is a viola-
5 tion of this Act for which the consumer has a cause of action under
6 section five point two hundred one (5.201), subsection one (1) of this
7 Act. The administrator has all powers granted under article six (6),
8 part one (1) of this Act, to enforce the provisions of section seven
9 hundred thirteen point twenty-four (713.24), subsection two (2), par-
10 agraph b of the Code. If a consumer is induced by a violation of sec-
11 tion seven hundred thirteen point twenty-four (713.24), subsection
12 two (2), paragraph b of the Code to enter into a consumer credit sale

13 or consumer lease, the agreement is unenforceable by the seller or
 14 lessor and the consumer, at his option, in addition to other remedies,
 15 may rescind the agreement or retain the goods delivered and the ben-
 16 efit of any services performed, without any obligation to pay for them.

1 **SEC. 3.310. NEW SECTION. Limitations on executory transac-**
 2 **tions.**

3 1. In a consumer credit transaction, if performance by a creditor
 4 is by delivery of goods, services or both, in four or more installments,
 5 either on demand of the consumer or by prearranged scheduled per-
 6 formance, the consumer shall have the right to cancel the obligation
 7 with respect to that part which has not been performed on the date
 8 of cancellation.

9 2. If the consumer exercises his right to cancel or, in any event,
 10 if the creditor attempts to exercise a right to accelerate, the creditor
 11 is entitled to recover only that part of the cash price and charges at-
 12 tributable to the part of the creditor's obligation which has been per-
 13 formed.

14 3. Cancellation under this section shall be effective when the con-
 15 sumer mails or delivers a written notice of cancellation.

16 4. Notwithstanding an agreement to the contrary, a creditor may
 17 not exercise a right to accelerate beyond the amount set forth in sub-
 18 section two (2) of this section.

1 **SEC. 3.311. NEW SECTION. Discrimination prohibited.** A cred-
 2 itor shall not refuse to enter into a consumer credit transaction or
 3 impose finance charges or other terms or conditions more onerous
 4 than those regularly extended by that creditor to consumers of sim-
 5 ilar economic backgrounds because of the age, color, creed, national
 6 origin, political affiliation, race, religion, sex, marital status or dis-
 7 ability of the consumer, or because the consumer receives public as-
 8 sistance, social security benefits, pension benefits or the like, or be-
 9 cause of the exercise by the consumer of rights pursuant to this Act
 10 or other provisions of law.

PART 4

LIMITATIONS ON CONSUMER'S LIABILITY

1 **SEC. 3.401. NEW SECTION. Restriction on liability in consumer**
 2 **lease.** The obligation of a lessee upon expiration of a consumer lease
 3 other than one primarily for an agricultural purpose, may not exceed
 4 twice the average payment allocable to a monthly period under the
 5 lease. This limitation does not apply to charges for damages to the
 6 leased property or for other default.

1 **SEC. 3.402. NEW SECTION. Limitation on default charges.** Ex-
 2 cept for reasonable expenses incurred in realizing on a security in-
 3 terest, the agreement with respect to a consumer credit transaction
 4 other than a consumer lease may not provide for any charges as a
 5 result of default by the consumer other than those authorized by this
 6 Act. A provision in violation of this section is unenforceable.

1 **SEC. 3.403. NEW SECTION. Card issuer subject to claims and**
 2 **defenses.**

3 1. This section neither limits the liability of nor imposes liability
 4 on a card issuer as a manufacturer, supplier, seller, or lessor of prop-

5 erty or services sold or leased pursuant to the credit card. This sec-
6 tion may subject a card issuer to claims and defenses of a cardholder
7 against a seller or lessor arising from sales or leases made pursuant
8 to the credit card.

9 2. A card issuer is subject to claims and defenses of a cardholder
10 against the seller or lessor arising from the sale or lease of property
11 or services by a seller or lessor licensed, franchised, or permitted by
12 the card issuer or a person related to the card issuer to do business
13 under the trade name or designation of the card issuer or a person
14 related to the card issuer, to the extent of the original amount owing
15 to the card issuer with respect to the sale or lease of the property
16 or services as to which the claim or defense arose.

17 3. Except as otherwise provided in subsection two (2) of this sec-
18 tion, a card issuer, including a lender credit card issuer, is subject
19 to all claims and defenses of a cardholder against the seller or lessor
20 arising from the sale or lease of property or services pursuant to the
21 credit card only if all of the following apply:

22 a. The original amount owing to the card issuer with respect to
23 the sale or lease of the property or services as to which the claim
24 or defense arose exceeds fifty dollars.

25 b. The residence of the cardholder and the place where the sale
26 or lease occurred are in the same state or within one hundred miles
27 of each other.

28 c. The cardholder has made a good faith attempt to obtain satis-
29 faction from the seller or lessor with respect to the claim or defense.

30 4. Except as otherwise provided in subsection two (2) of this sec-
31 tion, a card issuer, including a lender credit card issuer, is subject
32 to claims and defenses only to the extent of the amount owing to the
33 card issuer with respect to the sale or lease of the property or ser-
34 vices as to which the claim or defense arose at the time the card
35 issuer has notice of the claim or defense. Notice of the claim or
36 defense may be given prior to the attempt to obtain satisfaction
37 specified in subsection three (3) of this section. Written notice is
38 effective when mailed or delivered.

39 5. For the purpose of determining the amount owing to the card
40 issuer with respect to the sale or lease upon an open end credit ac-
41 count, payments received for the account are deemed to have been
42 first applied to the payment of finance charges in the order of their
43 entry to the account and then to the payment of debts in the order
44 in which the entries of the debts are made to the account.

45 6. Except as provided in section one point one hundred seven
46 (1.107) of this Act, an agreement may not contain a provision to
47 limit or waive the claims or defenses of a cardholder under this sec-
48 tion. A provision in violation of this subsection is unenforceable.

1 **SEC. 3.404. NEW SECTION. Assignee subject to claims and de-**
2 **defenses.**

3 1. With respect to a consumer credit sale or consumer lease, other
4 than one primarily for an agricultural purpose, an assignee of the
5 rights of the seller or lessor is subject to all claims and defenses of the
6 consumer against the seller or lessor arising from the sale or
7 lease of property or services, notwithstanding that the assignee is
8 a holder in due course of a negotiable instrument issued in violation
9 of the provisions prohibiting certain negotiable instruments in sec-

10 tion three point three hundred seven (3.307) of this Act; unless
11 the consumer has agreed in writing not to assert against an as-
12 signee a claim or defense arising out of such sale, and the consumer's
13 contract has been assigned to an assignee not related to the seller
14 who acquired the consumer's contract in good faith and for value and
15 who gives the consumer notice of the assignment as provided in this
16 subsection and who within thirty days after the mailing of the notice
17 receives no written notice of the facts giving rise to the consumer's
18 claim or defense. Such agreement not to assert a claim or defense
19 is not valid if the assignee receives such written notice from the con-
20 sumer within such thirty-day period. The notice of assignment shall
21 be in writing and addressed to the consumer at his address as stated
22 in the contract, identify the contract, describe the property pur-
23 chased by the consumer, state the names of the seller and consumer,
24 the name and address of the assignee, the amount payable by the
25 consumer and the number, amounts and due dates of the installments,
26 and contain a conspicuous notice to the consumer that he has thirty
27 days from the date of the mailing of the notice to him within which
28 to notify the assignee in writing of any claims or defenses he may
29 have against the seller and that if written notification of any such
30 claims or defenses is not received by the assignee within such thirty-
31 day period, the assignee will have the right to enforce the contract
32 free of any claims or defenses the consumer may have against the
33 seller. An assignee does not acquire a consumer's contract in good
34 faith within the meaning of this subsection if the assignee has knowl-
35 edge or, from his course of dealing with the seller or his records,
36 notice of substantial complaints by other consumers of the seller's
37 failure or refusal to perform his contracts with them and of the sell-
38 er's failure to remedy his defaults within a reasonable time after the
39 assignee notifies him of the complaints.

40 2. A claim or defense of a consumer specified in subsection one (1)
41 of this section may be asserted against the assignee under this sec-
42 tion only if the consumer has made a good faith attempt to obtain
43 satisfaction from the seller or lessor with respect to the claim or de-
44 fense, and only to the extent of the amount owing to the assignee
45 with respect to the sale or lease of the property or services as to
46 which the claim or defense arose, at the time the assignee has notice
47 of the claim or defense. Notice of the claim or defense may be given
48 prior to the attempt specified in this subsection. Written notice is
49 effective when mailed or delivered.

50 3. For the purpose of determining the amount owing to the as-
51 signee with respect to the sale or lease:

52 a. Payments received by the assignee after the consolidation of
53 two or more consumer credit sales, other than pursuant to open end
54 credit, are deemed to have been first applied to the payment of the
55 sales first made, and if the sales consolidated arose from sales made
56 on the same day, payments are deemed to have been first applied to
57 the smaller or smallest sale or sales.

58 b. Payments received upon an open end credit account are deemed
59 to have been first applied to the payment of finance charges in the
60 order of their entry to the account and then to the payment of
61 debts in the order in which the entries of the debts are made to the
62 account.

63 4. Except as provided in section one point one hundred seven
64 (1.107) of this Act, an agreement may not contain a provision to limit
65 or waive the claims or defenses of a consumer under this section. A
66 provision in violation of this subsection is unenforceable.

1 SEC. 3.405. NEW SECTION. **Lender subject to defenses arising**
2 **from sales and leases.**

3 1. A lender, other than the issuer of a lender credit card, who,
4 with respect to a particular transaction, makes a consumer loan for
5 the purpose of enabling a consumer to buy or lease from a particular
6 seller or lessor property or services, other than for use primarily for
7 an agricultural purpose, is subject to all claims and defenses of the
8 consumer against the seller or lessor arising from that sale or lease
9 of the property or services if any of the following are applicable:

10 a. The lender knows that the seller or lessor arranged for a com-
11 mission, brokerage, or referral fee, for the extension of credit by the
12 lender.

13 b. The lender is a person related to the seller or lessor, unless the
14 relationship is remote or is not a factor in the transaction.

15 c. The seller or lessor guarantees the loan or otherwise assumes
16 the risk of loss by the lender upon the loan.

17 d. The lender directly supplies the seller or lessor with the contract
18 document used by the consumer to evidence the loan, and the seller
19 or lessor has knowledge of the credit terms and participates in the
20 preparation of the document.

21 e. The loan is conditioned upon the consumer's purchase or lease
22 of the property or services from the particular seller or lessor, but
23 the lender's payment of proceeds of the loan to the seller or lessor
24 does not in itself establish that the loan was so conditioned.

25 f. The lender otherwise knowingly participates with the seller in
26 the sale. The fact that the lender takes a security interest in prop-
27 erty sold in that sale, or makes the proceeds of the loan payable to
28 the seller does not in itself constitute knowing participation in the
29 sale.

30 2. A claim or defense of a consumer specified in subsection one (1)
31 of this section may be asserted against the lender under this section
32 only if the consumer has made a good faith attempt to obtain satis-
33 faction from the seller or lessor with respect to the claim or defense
34 and only to the extent of the amount owing to the lender with respect
35 to the sale or lease of the property or services as to which the claim
36 or defense arose at the time the lender has notice of the claim or de-
37 fense. Notice of the claim or defense may be given prior to the at-
38 tempt specified in this subsection. Written notice is effective when
39 mailed or delivered.

40 3. For the purpose of determining the amount owing to the lender
41 with respect to the sale or lease:

42 a. Payments received by the lender after the consolidation of two
43 or more consumer loans, other than pursuant to open end credit, are
44 deemed to have been first applied to the payment of the loans first
45 made, and if the loans consolidated arose from loans made on the
46 same day, payments are deemed to have been first applied to the
47 smaller or smallest loan or loans.

48 b. Payments received upon an open end credit account are deemed
49 to have been first applied to the payment of finance charges in the

50 order of their entry to the account and then to the payment of debts
 51 in the order in which the entries of the debts are made to the account.
 52 4. Except as provided in section one point one hundred seven
 53 (1.107) of this Act, an agreement may not contain a provision to
 54 limit or waive the claims or defenses of a consumer under this sec-
 55 tion. A provision in violation of this section is unenforceable.

PART 5

HOME SOLICITATION SALES

1 SEC. 3.501. NEW SECTION. **Door-to-door sales.** In a consumer
 2 credit sale or a sale in which the goods or services are paid for in
 3 whole or in part by a lender credit card or a consumer loan in which
 4 the lender is subject to defenses arising from the sale under section
 5 three point four hundred five (3.405) of this Act, other than a trans-
 6 action for an agricultural purpose, a consumer has, in addition to all
 7 the rights and remedies provided by Acts of the Sixty-fifth General
 8 Assembly, 1973 Session, chapter two hundred ninety-one (291), a
 9 cause of action under section five point two hundred one (5.201), sub-
 10 section one (1) of this Act, and the administrator has all powers
 11 granted under article six (6), part one (1) of this Act, to enforce the
 12 provisions of Acts of the Sixty-fifth General Assembly, 1973 Session,
 13 chapter two hundred ninety-one (291).

ARTICLE 4

INSURANCE

1 SEC. 4.101. NEW SECTION. **Scope—excess charges.**
 2 1. This article applies to insurance provided in relation to a con-
 3 sumer credit transaction.
 4 2. A charge for insurance in excess of the rates promulgated by
 5 the commissioner of insurance, or otherwise made in violation of the
 6 law, including this Act, or the rules promulgated by the commis-
 7 sioner of insurance, is an excess charge for purposes of determining
 8 rights of parties under section five point two hundred one (5.201)
 9 of this Act, and authority of the administrator to bring civil action
 10 under section six point one hundred thirteen (6.113) of this Act.

ARTICLE 5

REMEDIES AND PENALTIES

PART 1

LIMITATIONS ON CREDITORS' REMEDIES

1 SEC. 5.101. NEW SECTION. **Short title.** This article shall be
 2 known and may be cited as the Iowa Consumer Credit Code—Reme-
 3 dies and Penalties.

1 SEC. 5.102. NEW SECTION. **Scope.** This part applies to actions
 2 or other proceedings to enforce rights arising from consumer credit
 3 transactions, to extortionate or unlawful extensions of credit, and to
 4 unconscionability.

1 SEC. 5.103. NEW SECTION. **Creditor's obligations on reposse-
 2 sion—restriction on deficiency judgments.**

3 1. This section applies to a consumer credit sale of goods or ser-
 4 vices and a consumer loan. A consumer is not liable for a deficiency

5 unless the creditor has disposed of repossessed or surrendered goods
6 in good faith and in a commercially reasonable manner.

7 2. If the seller repossesses or voluntarily accepts surrender either
8 of goods which were the subject of the sale and in which he has a
9 security interest, or of goods which were not the subject of the sale
10 but in which he has a security interest to secure a debt arising from
11 a sale of goods or services or a combined sale of goods and services,
12 the seller's duty to dispose of the collateral is governed by the pro-
13 visions on disposition of collateral in sections five hundred fifty-four
14 point nine thousand five hundred one (554.9501) through five hun-
15 dred fifty-four point nine thousand five hundred seven (554.9507) of
16 the Code.

17 3. If a lender takes possession or voluntarily accepts surrender of
18 goods in which he has a security interest to secure a debt arising
19 from a consumer loan, the lender's duty to dispose of the collateral
20 is governed by the provisions on disposition of collateral in sections
21 five hundred fifty-four point nine thousand five hundred one
22 (554.9501) through five hundred fifty-four point nine thousand five
23 hundred seven (554.9507) of the Code.

1 **SEC. 5.104. NEW SECTION. No garnishment before judgment.**
2 Prior to entry of judgment in an action against the consumer arising
3 from a consumer credit transaction, the creditor may not attach un-
4 paid earnings of the consumer, or earnings deposited in a financial
5 institution by the consumer, by garnishment, attachment, or pro-
6 ceedings under chapter six hundred thirty (630) of the Code.

1 **SEC. 5.105. NEW SECTION. Limitation on garnishment.**

2 1. For the purposes of this part:

3 a. "Disposable earnings" means that part of the earnings of an in-
4 dividual remaining after the deduction from those earnings of
5 amounts required by law to be withheld.

6 b. "Garnishment" means any legal or equitable procedure through
7 which the earnings of an individual are required to be withheld for
8 payment of a debt.

9 2. In addition to the provisions of section six hundred forty-two
10 point twenty-one (642.21) of the Code, the maximum part of the
11 aggregate disposable earnings of an individual for any workweek
12 which is subjected to garnishment to enforce payment of a judgment
13 arising from a consumer credit transaction may not exceed the lesser
14 of twenty-five percent of his disposable earnings for that week, or the
15 amount by which his disposable earnings for that week exceed forty
16 times the federal minimum hourly wage prescribed by the Fair Labor
17 Standards Act of 1938, United States Code, title twenty-nine (29),
18 section two hundred six (206), subsection a, paragraph one (1), in
19 effect at the time the earnings are payable.

20 In the case of earnings for a pay period other than a week, the
21 administrator shall prescribe by rule a multiple of the federal mini-
22 mum hourly wage equivalent in effect to that set forth for a pay
23 period of a week.

24 3. No court may make, execute, or enforce an order or process in
25 violation of this section.

26 4. At any time after the entry of a judgment in favor of a credi-
27 tor in an action against a consumer for debt arising from a con-

28 sumer credit transaction, the consumer may file with the court his
 29 verified application for an order exempting from garnishment pursu-
 30 ant to that judgment for an appropriate period of time a greater por-
 31 tion or all of his aggregate disposable earnings for a workweek or
 32 other applicable pay period than is provided for in subsection two (2)
 33 of this section. The application shall designate the portion of his
 34 earnings which are not exempt from garnishment under this section
 35 and other law, shall specify the period of time for which the addi-
 36 tional exemption is sought, shall describe the judgment with respect
 37 to which the application is made, and shall state that the designated
 38 portion in addition to earnings that are exempt by law is necessary
 39 for the maintenance of the consumer or a family supported wholly or
 40 partly by the earnings. Upon the filing of a sufficient application
 41 under this subsection, the court may issue any temporary order stay-
 42 ing enforcement of the judgment by garnishment that may be nec-
 43 essary under the circumstances, shall set a hearing on the applica-
 44 tion not less than five nor more than ten days from the date of the
 45 filing of the application, and shall cause notice of the application and
 46 the hearing date to be served on the judgment creditor or his attor-
 47 ney of record. At the hearing, if it appears to the court that all or
 48 any portion of the earnings sought to be additionally exempted are
 49 necessary for the maintenance of the consumer or a family sup-
 50 ported wholly or partly by the earnings of the consumer for all or
 51 any part of the time requested in the application, the court shall issue
 52 an order granting the application to that extent, otherwise it shall
 53 deny the application. The order is subject to modification or vaca-
 54 tion upon the further application of any party to it upon a showing
 55 of changed circumstances after a hearing upon notice to all inter-
 56 ested parties.

1 **SEC. 5.106. NEW SECTION. No discharge from employment for**
 2 **garnishment.** The administrator has all powers granted under article
 3 six (6), part one (1) of this Act, to enforce the provisions of section
 4 six hundred forty-two point twenty-one (642.21) of the Code, in rela-
 5 tion to a garnishment arising from a consumer credit transaction.

1 **SEC. 5.107. NEW SECTION. Extortionate or unlawful extensions**
 2 **of credit.** If it is the understanding of the creditor and the debtor at
 3 the time an extension of credit is made that delay in making repay-
 4 ment or failure to make repayment could result in the use of vio-
 5 lence or other criminal means to cause harm to the person, reputa-
 6 tion, or property of any person, the repayment of the extension of
 7 credit is unenforceable through civil judicial processes against the
 8 consumer.

1 **SEC. 5.108. NEW SECTION. Unconscionability — inducement by**
 2 **unconscionable conduct—unconscionable debt collection.**

3 1. With respect to a transaction that is, gives rise to, or leads the
 4 debtor to believe it will give rise to a consumer credit transaction, in
 5 an action other than a class action, if the court as a matter of law
 6 finds the agreement or transaction to have been unconscionable at
 7 the time it was made, or to have been induced by unconscionable con-
 8 duct, the court may refuse to enforce the agreement, or if the court
 9 finds any term or part of the agreement or transaction to have been
 10 unconscionable at the time it was made, the court may refuse to en-

11 force the agreement, or may enforce the remainder of the agreement
12 without the unconscionable term or part, or may so limit the applica-
13 tion of any unconscionable term or part as to avoid any unconscion-
14 able result.

15 2. With respect to a consumer credit transaction, or a transaction
16 which would have been a consumer credit transaction if a finance
17 charge was made or the obligation was payable in installments, if the
18 court as a matter of law finds in an action other than a class action,
19 that a person has engaged in, is engaging in, or is likely to engage in
20 unconscionable conduct in collecting a debt arising from that trans-
21 action, the court may grant an injunction and award the consumer
22 any actual damages he has sustained.

23 3. If it is claimed or appears to the court that the agreement or
24 transaction or any term or part of it may be unconscionable, or that
25 a person has engaged in, is engaging in, or is likely to engage in un-
26 conscionable conduct in collecting a debt, the parties shall be afforded
27 a reasonable opportunity to present evidence as to the setting, pur-
28 pose, and effect of the agreement or transaction or term or part
29 thereof, or of the conduct, to aid the court in making the determina-
30 tion.

31 4. In applying subsection one (1) of this section, consideration
32 shall be given to each of the following factors, among others, as appli-
33 cable:

34 a. Belief by the seller, lessor, or lender at the time a transaction
35 is entered into that there is no reasonable probability of payment in
36 full of the obligation by the consumer or debtor.

37 b. In the case of a consumer credit sale or consumer lease, knowl-
38 edge by the seller or lessor at the time of the sale or lease of the in-
39 ability of the consumer to receive substantial benefits from the prop-
40 erty or services sold or leased.

41 c. In the case of a consumer credit sale or consumer lease, gross
42 disparity between the price of the property or services sold or leased
43 and the value of the property or services measured by the price at
44 which similar property or services are readily obtainable in credit
45 transactions by like consumers.

46 d. The fact that the creditor contracted for or received separate
47 charges for insurance with respect to a consumer credit sale or con-
48 sumer loan with the effect of making the sale or loan, considered as
49 a whole, unconscionable.

50 e. The fact that the seller, lessor, or lender has knowingly taken
51 advantage of the inability of the consumer or debtor reasonably to
52 protect his interests by reason of physical or mental infirmities, ig-
53 norance, illiteracy or inability to understand the language of the
54 agreement, or similar factors.

55 f. The fact that the seller, lessor or lender has engaged in conduct
56 with knowledge or reason to know that like conduct has been re-
57 strained or enjoined by a court in a civil action by the administrator
58 against any person pursuant to the provisions on injunctions against
59 fraudulent or unconscionable agreements or conduct in section six
60 point one hundred eleven (6.111) of this Act.

61 5. In applying subsection two (2) of this section, violations of sec-
62 tion seven point one hundred three (7.103) of this Act shall be con-
63 sidered, among other factors, as applicable.

64 6. If in an action in which unconscionability is claimed the court
 65 finds unconscionability pursuant to subsections one (1) or two (2) of
 66 this Act,* the court shall award reasonable fees to the attorney for
 67 the consumer or debtor. If the court does not find unconscionability
 68 and the consumer or debtor claiming unconscionability has brought
 69 or maintained an action he knew to be groundless, the court shall
 70 award reasonable fees to the attorney for the party against whom the
 71 claim is made. Reasonable attorney's fees shall be determined by
 72 the value of the time reasonably expended by the attorney on the
 73 unconscionability issue and not by the amount of the recovery on be-
 74 half of the prevailing party.

75 7. The remedies of this section are in addition to remedies other-
 76 wise available for the same conduct under law other than this Act,
 77 but no double recovery of actual damages may be had.

78 8. For the purpose of this section, a charge or practice expressly
 79 permitted by this Act is not in itself unconscionable.

1 SEC. 5.109. NEW SECTION. **Default.** "Default" with respect to
 2 a consumer credit transaction and for the purposes of this article,
 3 means either of the following, if without justification under any law:

4 1. Failure to make a payment within ten days of the time required
 5 by agreement.

6 2. Failure to observe any other covenant of the transaction, breach
 7 of which materially impairs the condition, value or protection of or
 8 the creditor's right in any collateral securing the transaction, or ma-
 9 terially impairs the consumer's prospect to pay amounts due under
 10 the transaction. The burden of establishing material impairment is
 11 on the creditor.

1 SEC. 5.110. NEW SECTION. **Cure of default.**

2 1. Notwithstanding any term or agreement to the contrary, the ob-
 3 ligation of a consumer in a consumer credit transaction is enforce-
 4 able by a creditor only after compliance with this section.

5 2. A creditor who believes in good faith that a consumer is in de-
 6 fault may give the consumer written notice of the alleged default,
 7 and, if the consumer has a right to cure the default, shall give the
 8 consumer the notice of right to cure provided in section five point one
 9 hundred eleven (5.111) of this Act before exercising any right he
 10 may have to enforce.

11 3. A consumer has a right to cure the default unless, in other than
 12 an insurance premium loan transaction, the creditor has given the
 13 consumer a proper notice of right to cure with respect to a prior de-
 14 fault which occurred within three hundred sixty-five days of the
 15 present default, or the consumer has voluntarily surrendered posses-
 16 sion of goods that are collateral and the creditor has accepted them
 17 in full satisfaction of any debt owing on the transaction in default.

18 4. If the consumer has a right to cure a default:

19 a. A creditor shall not accelerate the maturity of the unpaid bal-
 20 ance of the obligation, demand or take possession of collateral, other-
 21 wise than by accepting a voluntary surrender of it, or otherwise at-
 22 tempt to enforce the obligation until twenty days after a proper no-
 23 tice of right to cure is given.

*According to enrolled Act

24 b. With respect to an insurance premium loan, a creditor shall not
 25 give notice of cancellation as provided in subsection six (6) of this
 26 section until thirteen days after a proper notice of right to cure is
 27 given.

28 c. Until the expiration of the minimum applicable period after the
 29 notice is given, the consumer may cure the default by tendering
 30 either the amount of all unpaid installments due at the time of the
 31 tender, without acceleration, plus any unpaid delinquency or deferral
 32 charges, or the amount stated in the notice of right to cure, which-
 33 ever is less, or by tendering any performance necessary to cure any
 34 default other than nonpayment of amounts due, which is described
 35 in the notice of right to cure. The act of curing a default restores to
 36 the consumer his rights under the agreement as though no default
 37 had occurred, except as provided in subsection three (3) of this sec-
 38 tion.

39 5. This section and the provisions on waiver, agreements to forego
 40 rights, and settlement of claims under section one point one hundred
 41 seven (1.107) of this Act do not prohibit a consumer from voluntar-
 42 ily surrendering possession of goods which are collateral and do not
 43 prohibit the creditor from thereafter enforcing his security interest
 44 in the goods at any time after default.

45 6. If a default on an insurance premium loan is not cured, the
 46 lender may give notice of cancellation of each insurance policy or
 47 contract to be cancelled. If given, the notice of cancellation shall be
 48 in writing and given to the insurer that issued the policy or contract
 49 and to the insured. The insurer, within two business days after re-
 50 ceipt of the notice of cancellation together with a copy of the insur-
 51 ance premium loan agreement if not previously given to him, shall
 52 give any notice of cancellation required by the policy or contract or
 53 by law and, within ten business days after the effective date of the
 54 cancellation, pay to the lender any premium unearned on the policy
 55 or contracts as of that effective date. Within ten business days
 56 after receipt of the unearned premium, the lender shall pay to the
 57 consumer indebted upon the insurance premium loan any excess of
 58 the unearned premium received over the amount owing by the con-
 59 sumer upon the insurance premium loan.

1 SEC. 5.111. NEW SECTION. Notice of right to cure.

2 1. The notice of right to cure shall be in writing and shall conspic-
 3 uously state the name, address, and telephone number of the creditor
 4 to which payment is to be made, a brief identification of the credit
 5 transaction and of the consumer's right to cure the default, a state-
 6 ment of the nature of the right to cure the default, a statement of the
 7 nature of the alleged default, a statement of the total payment, in-
 8 cluding an itemization of any delinquency or deferral charges, or
 9 other performance necessary to cure the alleged default, and the
 10 exact date by which the amount must be paid or performance ten-
 11 dered.

12 2. Except as provided in subsection four (4) of this section, a
 13 notice in substantially the following form complies with this section:

14 -----
 15 (name, address, and telephone number of creditor)

16 -----
 17 (account number, if any)

18 -----
 19 (brief identification of credit transaction)
 20 You are now in default on this credit transaction. You have a right
 21 to correct this default until ----- If you do so, you may continue
 22 (date)
 23 with the contract as though you did not default. Your default consists
 24 of ----- Correction of the Default: Before
 25 (describe default alleged)
 26 ----- If you do not correct
 27 (date) (describe the acts necessary for cure)
 28 your default by the date stated above, we may exercise rights against
 29 you under the law.

30 If you default again in the next year, we may exercise our rights
 31 without sending you another notice like this one. If you have ques-
 32 tions, write or telephone ----- promptly.
 33 (the creditor)

34 3. A creditor gives notice to the consumer under this part when he
 35 delivers the notice to the consumer or mails the notice to him at his
 36 residence as defined in section one point two hundred one (1.201),
 37 subsection four (4) of this Act.

38 4. If the consumer credit transaction is an insurance premium
 39 loan, the notice shall conform to the requirements of subsection two
 40 (2) of this section, and a notice in substantially the form specified in
 41 that subsection complies with this subsection except for the follow-
 42 ing:

43 a. In lieu of a brief identification of the credit transaction, the
 44 notice shall identify the transaction as an insurance premium loan
 45 and each insurance policy or contract that may be cancelled.

46 b. In lieu of the statement in the form of notice specified in sub-
 47 section two (2) of this section that the creditor may exercise his
 48 rights under the law, the statement that each policy or contract iden-
 49 tified in the notice may be cancelled.

50 c. The last paragraph of the form of notice specified in subsection
 51 two (2) of this section shall be omitted.

1 SEC. 5.112. Reserved for future use.

1 SEC. 5.113. NEW SECTION. **Venue.** An action by a creditor
 2 against a consumer arising from a consumer credit transaction shall
 3 be brought in the county of the consumer's residence as defined in sec-
 4 tion one point two hundred one (1.201), subsection four (4) of this
 5 Act, unless an action is brought to enforce an interest in land secur-
 6 ing the consumer's obligation, in which case the action shall be
 7 brought in the county in which the land or a part of it is located. If
 8 the county of the consumer's residence has changed, the consumer
 9 upon motion may have the action removed to the county of his cur-
 10 rent residence. If the residence of the consumer is not within this
 11 state, the action may be brought in the county in which the sale,
 12 lease, or loan was made. If the initial papers offered for filing in the
 13 action on their face show noncompliance with this section, they shall
 14 not be accepted by the clerk of the court.

1 SEC. 5.114. NEW SECTION. **Complaint—proof.**

2 1. In an action brought by a creditor against a consumer arising
 3 from a consumer credit transaction, the complaint shall allege the

4 facts of the consumer's default, the amount to which the creditor is
5 entitled, and an indication of how that amount was determined.

6 2. No default judgment shall be entered in the action in favor of
7 the creditor unless the complaint is verified by the creditor, or unless
8 sworn testimony, by affidavit or otherwise, is adduced showing that
9 the creditor is entitled to the relief demanded.

1 SEC. 5.115. Reserved for future use.

PART 2

CONSUMERS' REMEDIES

1 SEC. 5.201. NEW SECTION. Effect of violations on rights of par-
2 ties.

3 1. The consumer has a cause of action to recover actual damages
4 and in addition a right in an action other than a class action to recover
5 from the person violating this Act a penalty in an amount determined
6 by the court not less than one hundred dollars nor more than one
7 thousand dollars, if a person has violated the provisions of this Act
8 relating to:

9 a. Authority to make supervised loans under section two point
10 three hundred one (2.301).

11 b. Restrictions on interests in land as security under section two
12 point three hundred seven (2.307).

13 c. Limitations on the schedule of payments or loan terms for super-
14 vised loans under section two point three hundred eight (2.308).

15 d. Attorney's fees under section two point five hundred seven
16 (2.507).

17 e. Charges for other credit transactions under section two point six
18 hundred one (2.601).

19 f. Disclosure with respect to consumer leases under section three
20 point two hundred two (3.202).

21 g. Notice to consumers under section three point two hundred three
22 (3.203).

23 h. Receipts, statements of account and evidences of payment under
24 section three point two hundred six (3.206).

25 i. Form of insurance premium loan agreement under section three
26 point two hundred seven (3.207).

27 j. Notice to co-signers and similar parties under section three point
28 two hundred eight (3.208).

29 k. Restrictions on rates stated to the consumer under section three
30 point two hundred ten (3.210).

31 l. Security in consumer credit transactions under section three
32 point three hundred one (3.301).

33 m. Prohibition against assignments of earnings under section three
34 point three hundred five (3.305).

35 n. Authorizations to confess judgment under section three point
36 three hundred six (3.306).

37 o. Certain negotiable instruments prohibited under section three
38 point three hundred seven (3.307).

39 p. Referral sales and leases under section three point three hundred
40 nine (3.309).

41 q. Limitations on executory transactions under section three point
42 three hundred ten (3.310).

- 43 r. Prohibition against discrimination under section three point
44 three hundred eleven (3.311).
- 45 s. Limitations on default charges under section three point four
46 hundred two (3.402).
- 47 t. Card issuer subject to claims and defenses under section three
48 point four hundred three (3.403).
- 49 u. Assignees subject to claims and defenses under section three
50 point four hundred four (3.404).
- 51 v. Lenders subject to claims and defenses arising from sales and
52 leases, under section three point four hundred five (3.405).
- 53 w. Door-to-door sales under section three point five hundred one
54 (3.501).
- 55 x. Assurance of discontinuance under section six point one hundred
56 nine (6.109).
- 57 y. Prohibitions against unfair debt collection practices under sec-
58 tion seven point one hundred three (7.103).
- 59 z. Failure to provide a proper notice of cure or right to cure under
60 sections five point one hundred ten (5.110) and five point one hundred
61 eleven (5.111).
- 62 aa. Failure to provide a notice of consumer paper under section
63 three point two hundred eleven (3.211).
- 64 With respect to violations arising from sales or loans made pur-
65 suant to open end credit, no action pursuant to this subsection may
66 be brought more than two years after the violations occurred. With
67 respect to violations arising from other consumer credit transactions,
68 no action pursuant to this subsection may be brought more than one
69 year after the due date of the last scheduled payment of the agree-
70 ment.
- 71 2. A consumer is not obligated to pay a charge in excess of that
72 allowed by this Act, and has a right of refund of any excess charge
73 paid. A refund may not be made by reducing the consumer's obliga-
74 tion by the amount of the excess charge unless the creditor has noti-
75 fied the consumer that the consumer may request a refund and the
76 consumer has not so requested within thirty days thereafter. If the
77 consumer has paid an amount in excess of the lawful obligation under
78 the agreement, the consumer may recover the excess amount either
79 from the person who made the excess charge or from an assignee of
80 that person's rights who undertakes direct collection of payments from
81 or enforcement of rights against consumers arising from the debt.
- 82 3. If a creditor has contracted for or received a charge in excess of
83 that allowed by this Act, or if a consumer is entitled to a refund and
84 a person liable to the consumer refuses to make a refund within a
85 reasonable time after demand, the consumer may recover from the
86 creditor or the person liable, in an action other than a class action,
87 the excess charge or refund and a penalty in an amount determined
88 by the court not less than one hundred dollars or more than one
89 thousand dollars. With respect to excess charges arising from sales
90 or loans made pursuant to open end credit, no action pursuant to this
91 subsection may be brought more than two years after the time the
92 excess charge was made. With respect to excess charges arising from
93 other consumer credit transactions no action pursuant to this sub-
94 section may be brought more than one year after the due date of the
95 last scheduled payment of the agreement pursuant to which the charge

96 was made. For purposes of this subsection, a reasonable time is pre-
97 sumed to be thirty days.

98 4. Except as otherwise provided in this Act, no violation of this Act
99 impairs rights on a debt.

100 5. If an employer discharges an employee in violation of the pro-
101 visions prohibiting discharge in section six hundred forty-two point
102 twenty-one (642.21), subsection two (2), paragraph c, of the Code,
103 the employee may within two years bring a civil action for recovery
104 of wages lost as a result of the violation and for an order requiring
105 the reinstatement of the employee. Damages recoverable shall not
106 exceed lost wages for six weeks.

107 6. A person is not liable for a penalty under subsection one (1) or
108 three (3) of this section if he notifies the consumer of an error before
109 the person receives from the consumer written notice of the error or
110 before the consumer has brought an action under this section, and the
111 person corrects the error within forty-five days after notifying the
112 consumer. If the violation consists of a prohibited agreement, giving
113 the consumer a corrected copy of the writing containing the error is
114 sufficient notification and correction. If the violation consists of an
115 excess charge, correction shall be made by an adjustment or refund
116 as provided in subsection two (2) of this section. The administrator,
117 and any official or agency of this state having supervisory authority
118 over a person, shall give prompt notice to a person of any errors
119 discovered pursuant to an examination or investigation of the trans-
120 actions, business, records and acts of the person.

121 7. A person may not be held liable in any action brought under this
122 section for a violation of this Act if the person shows by a preponder-
123 ance of evidence that the violation was not intentional and resulted
124 from a bona fide error notwithstanding the maintenance of procedures
125 reasonably adapted to avoid the error.

126 8. In an action in which it is found that a person has violated this
127 Act, the court shall award to the consumer the costs of the action and
128 to his attorneys their reasonable fees. Reasonable attorney's fees
129 shall be determined by the value of the time reasonably expended by
130 the attorney and not by the amount of the recovery on behalf of the
131 consumer.

1 SEC. 5.202. NEW SECTION. **Damages or penalties as setoff to**
2 **obligation.** Damages or penalties to which a consumer is entitled
3 pursuant to this part may be setoff against the consumer's obliga-
4 tion, and may be raised as a defense to a suit on the obligation with-
5 out regard to the time limitations prescribed by this part.

1 SEC. 5.203. NEW SECTION. **Civil liability for violation of dis-**
2 **closure provisions.**

3 1. Except as otherwise provided in this section, a creditor who, in
4 violation of the provisions of the Truth in Lending Act other than
5 its provisions concerning advertising of credit terms, fails to disclose
6 information to a person entitled to the information under this Act
7 is liable to that person, in other than a class action, in an amount
8 equal to the sum of the following:

9 a. Twice the amount of the finance charge in connection with the
10 transaction, but the liability pursuant to this paragraph shall be not
11 less than one hundred dollars or more than one thousand dollars.

12 b. In the case of a successful action to enforce the liability under
13 paragraph a of this subsection, the costs of the action together with
14 reasonable attorney's fees as determined by the court.

15 2. A creditor has no liability under this section if within fifteen
16 days after discovering an error, and prior to the institution of an
17 action under this section or the receipt of written notice of the error,
18 the creditor notifies the person concerned of the error and makes
19 whatever adjustments in the appropriate account are necessary to
20 assure that the person will not be required to pay a finance charge in
21 excess of the amount or percentage rate actually disclosed. The ad-
22 ministrators, and any official or agency of this state having super-
23 visory authority over a creditor, shall give prompt notice to a creditor
24 of any errors discovered pursuant to an examination or investigation
25 of the transactions, business, records and acts of the creditor.

26 3. A creditor may not be held liable in any action brought under
27 this section for a violation of this Act if the creditor shows by a pre-
28 ponderance of evidence that the violation was not intentional and
29 resulted from a bona fide error notwithstanding the maintenance of
30 procedures reasonably adapted to avoid the error.

31 4. Any action which may be brought under this section against
32 the original creditor in any credit transaction involving a security in-
33 terest in land may be maintained against any subsequent assignee
34 of the original creditor where the assignee, its subsidiaries, or affil-
35 iates were in a continuing business relationship with the original
36 creditor either at the time the credit was extended or at the time
37 of the assignment, unless the assignment was involuntary, or the as-
38 signee shows by a preponderance of evidence that it did not have rea-
39 sonable grounds to believe that the original creditor was engaged in
40 violations of this Act and that it maintained procedures reasonably
41 adapted to apprise it of the existence of the violations.

42 5. An obligor or consumer has all rights under this Act that he
43 has under the provisions of the Truth in Lending Act concerning a
44 right of rescission as to certain transactions, and a creditor or other
45 person has all liabilities and defenses under this section that he has
46 under the Truth in Lending Act.

47 6. No action pursuant to this section may be brought more than
48 one year after the date of the occurrence of the violation.

49 7. In this section, creditor includes a person who in the ordinary
50 course of business regularly extends or arranges for the extension of
51 credit, or offers to arrange for the extension of credit, and includes
52 the seller of an interest in land and the lender who makes a loan
53 secured by an interest in land if, but for the rate of the finance
54 charge made in the transaction, the sale or loan would be a consumer
55 credit sale or consumer loan.

56 8. The liability of a creditor under this section is in lieu of and
57 not in addition to his liability under the Truth in Lending Act. An
58 action by a person with respect to a violation may not be maintained
59 pursuant to this section if a final judgment has been rendered for or
60 against that person with respect to the same violation pursuant to
61 the Truth in Lending Act, and if a final judgment has been rendered
62 in favor of a person pursuant to this section and thereafter a final
63 judgment with respect to the same violation is rendered in favor of
64 the same person pursuant to the Truth in Lending Act, a creditor

65 liable under both judgments has a cause of action against that per-
 66 son for appropriate relief to the extent necessary to avoid double lia-
 67 bility with respect to the same violation.

68 9. The administrator shall adopt rules to keep this section in har-
 69 mony with the Truth in Lending Act. These rules supersede any
 70 provisions of this section which are inconsistent with the Truth in
 71 Lending Act as adopted by section one point three hundred two
 72 (1.302) of this Act.

PART 3

CRIMINAL PENALTIES

1 SEC. 5.301. NEW SECTION. Willful violations.

2 1. A person who willfully and knowingly makes charges in excess
 3 of those permitted by the provisions of article two (2), part four (4)
 4 of this Act, applying to supervised loans, is guilty of a misdemeanor
 5 and upon conviction may be sentenced to pay a fine not exceeding
 6 one thousand dollars, or to imprisonment not exceeding one year, or
 7 both.

8 2. A person who, in violation of the provisions of this Act apply-
 9 ing to authority to make supervised loans under section two point
 10 three hundred one (2.301), willfully and* and knowingly engages with-
 11 out a license in the business of making supervised loans, or of taking
 12 assignments of and undertaking direct collection of payments from
 13 and enforcement of rights against consumers arising from super-
 14 vised loans, is guilty of a misdemeanor and upon conviction may be
 15 sentenced to pay a fine not exceeding one thousand dollars, or to im-
 16 prisonment not exceeding one year, or both.

17 3. A person who willfully and knowingly engages in the business
 18 of entering into consumer credit transactions, or of taking assign-
 19 ments of rights against consumers arising therefrom and undertak-
 20 ing direct collection of payments or enforcement of these rights,
 21 without complying with the provisions of this Act concerning notifi-
 22 cation under section six point two hundred two (6.202) or payment
 23 of fees under section six point two hundred three (6.203) of this Act,
 24 is guilty of a misdemeanor and upon conviction may be sentenced to
 25 pay a fine not exceeding one hundred dollars.

26 4. A person who willfully and knowingly violates the provisions of
 27 section seven point one hundred three (7.103) of this Act is guilty of
 28 a misdemeanor and upon conviction may be sentenced to pay a fine
 29 not exceeding one thousand dollars.

1 SEC. 5.302. NEW SECTION. Disclosure violations. A person is
 2 guilty of a misdemeanor and upon conviction may be sentenced to
 3 pay a fine not exceeding five thousand dollars, or to imprisonment not
 4 exceeding one year, or both, if he willfully and knowingly does any
 5 of the following:

6 1. Gives false or inaccurate information or fails to provide infor-
 7 mation which he is required to disclose under the provisions of the
 8 Truth in Lending Act.

9 2. Uses any rate table or chart, the use of which is authorized by
 10 the provisions of the Truth in Lending Act, in a manner which con-

*According to enrolled Act

11 sistently understates the annual percentage rate determined accord-
12 ing to those provisions.

13 3. Otherwise fails to comply with any requirement of the provi-
14 sions on disclosure of the Truth in Lending Act.

15 4. The criminal liability of a person under this section is in lieu of
16 and not in addition to his criminal liability under the Truth in Lend-
17 ing Act. No prosecution of a person with respect to the same viola-
18 tion may be maintained pursuant to both this section and the Truth
19 in Lending Act.

ARTICLE SIX
ADMINISTRATION

PART 1

POWERS AND FUNCTIONS OF ADMINISTRATOR

1 SEC. 6.101. NEW SECTION. **Short title.** This article shall be
2 known and may be cited as the Iowa Consumer Credit Code—Admin-
3 istration.

1 SEC. 6.102. NEW SECTION. **Applicability.** This part applies to
2 persons who:

3 1. Participate in transactions, acts, practices or conduct to which
4 this Act applies pursuant to section one point two hundred one
5 (1.201).

6 2. Participate in this state in transactions, acts, practices or con-
7 duct to which this Act would apply pursuant to section one point two
8 hundred one (1.201), but for the residence of the consumer.

9 3. Enter into or modify a sale of an interest in land or a loan
10 secured by an interest in land, if, but for the rate of the finance
11 charge, the sale, loan or modification would involve a consumer credit
12 sale or consumer loan, but applies only for the purpose of authoriz-
13 ing the administrator to enforce the provisions on compliance with
14 the Truth in Lending Act.

1 SEC. 6.103. NEW SECTION. **Administrator.** Except as expressly
2 provided in sections six point one hundred six (6.106) and six point
3 one hundred eight (6.108) of this part, "administrator" means the
4 attorney general or his designee.

1 SEC. 6.104. NEW SECTION. **Powers of administrator—reliance**
2 **on rules—duty to report.**

3 1. The administrator, within the limitations provided by law, may:

4 a. Receive and act on complaints.

5 b. Take action designed to obtain voluntary compliance with this
6 Act.

7 c. Commence proceedings on his own initiative.

8 d. Counsel persons and groups on their rights and duties under
9 this Act.

10 e. Establish programs for the education of consumers with respect
11 to credit practices and problems.

12 f. Make studies appropriate to effectuate the purposes and policies
13 of this Act and make the results available to the public.

14 g. Maintain offices within this state.

15 2. The administrator may enforce the Truth in Lending Act to the
16 fullest extent provided by law.

17 3. To keep the administrator's rules in harmony with the rules of
18 administrators in other jurisdictions which enact the Uniform Con-
19 sumer Credit Code, the administrator, so far as is consistent with
20 the purposes, policies and provisions of this Act, shall do both of the
21 following:

22 a. Before adopting, amending, and repealing rules, advise and con-
23 sult with administrators in other jurisdictions which enact the Uni-
24 form Consumer Credit Code.

25 b. In adopting, amending, and repealing rules, take into consider-
26 ation the rules of administrators in other jurisdictions which enact
27 the Uniform Consumer Credit Code.

28 4. Except for refund of an excess charge, no liability is imposed
29 under this Act for an act done or omitted in conformity with a rule
30 of the administrator notwithstanding that after the act or omission
31 the rule is amended or repealed or determined by judicial or other
32 authority to be invalid for any reason.

33 5. The administrator shall report annually on or before January
34 first to the general assembly on the operation of the consumer credit
35 protection bureau and the other agencies of this state charged with
36 administering this Act, on the use of consumer credit in the state,
37 and on the problems of persons of small means obtaining credit from
38 persons regularly engaged in extending sales or loan credit. For the
39 purpose of making the report, the administrator may conduct re-
40 search and make appropriate studies. The report shall include, for
41 the consumer credit protection bureau and for other state agencies
42 enforcing this Act, a description of the examination and investiga-
43 tion procedures and policies, a statement of policies followed in de-
44 ciding whether to investigate or examine the offices of credit sup-
45 pliers subject to this Act, a statement of the number and percentages
46 of offices which are periodically investigated or examined, a state-
47 ment of the types of consumer credit problems of both creditors and
48 consumers which have come to his attention through his examina-
49 tions and investigations and the disposition of them under existing
50 law, and recommendations, if any, for legislation to deal with those
51 problems within his general jurisdiction, a statement of the extent
52 to which the rules of the administrator pursuant to this Act are
53 not in harmony with the rules of administrators in other jurisdic-
54 tions which enact the Uniform Consumer Credit Code and the reas-
55 ons for the variations, and a general statement of the activities of
56 his office and of others to promote the purposes of this Act. The re-
57 port shall not identify the creditors against whom action is taken.

1 **SEC. 6.105. NEW SECTION. Administrative powers with respect**
2 **to supervised financial organizations and supervised loan licensees.**

3 1. With respect to supervised financial organizations subject to
4 regulation under chapters five hundred twenty-four (524), five hun-
5 dred thirty-three (533) and five hundred thirty-four (534) of the
6 Code, and persons licensed under chapters five hundred thirty-six
7 (536) and five hundred thirty-six A (536A) of the Code, the powers
8 of examination and investigation as provided in sections two point
9 three hundred five (2.305) and six point one hundred six (6.106) of
10 this Act, and administrative enforcement as provided in sections two
11 point three hundred three (2.303) and six point one hundred eight
12 (6.108) of this Act, shall be exercised by the official or agency to

13 whose supervision the person is subject. All other powers of the ad-
14 ministrator under this Act may be exercised by the administrator
15 with respect to such persons. In all actions or other court proceed-
16 ings brought to enforce this Act, the attorney general or his designee
17 shall participate.

18 2. If the administrator receives a complaint or other information
19 concerning noncompliance with this Act by a person specified in sub-
20 section one (1) of this section, he shall inform the official or agency
21 having supervisory authority over that person. The administrator
22 may obtain information about any such person from the officials or
23 agencies supervising them.

24 3. The administrator and any official or agency of this state hav-
25 ing supervisory authority over a supervised financial organization or
26 a chapter five hundred thirty-six (536) or five hundred thirty-six A
27 (536A) licensee are authorized and directed to consult and assist one
28 another in maintaining compliance with this Act. They may jointly
29 pursue investigations, prosecute suits, and take other official action
30 against violations of this Act, as they deem appropriate, if either
31 of them otherwise is empowered to take the action.

1 SEC. 6.106. NEW SECTION. **Investigatory powers.**

2 1. For purposes of this section, "administrator" means either the
3 attorney general or his designee, or the official or agency charged
4 with enforcing this Act against the person under investigation, as
5 provided in subsection one (1) of section six point one hundred five
6 (6.105) of this Act. If the administrator has reasonable cause to be-
7 lieve that a person has engaged in conduct or committed an act which
8 is in violation of this Act, he may make an investigation to deter-
9 mine whether the person has engaged in the conduct or committed
10 the act, and, to the extent necessary for this purpose, may adminis-
11 ter oaths or affirmations, and, upon his own motion or upon request
12 of any party, may subpoena witnesses, compel their attendance, ad-
13 duce evidence, and require the production of, or testimony as to, any
14 matter which is relevant to the investigation, including the existence,
15 description, nature, custody, condition, and location of any books,
16 documents, or other tangible things and the identity and location of
17 persons having knowledge of relevant facts, or any other matter rea-
18 sonably calculated to lead to the discovery of admissible evidence. In
19 any civil action brought by the administrator as a result of such an
20 investigation, the administrator shall be awarded the reasonable costs
21 of making the investigation if he prevails in the action.

22 2. If the person's records are located outside this state, the person
23 at his option shall either make them available to the administrator
24 at a convenient location within this state or pay the reasonable and
25 necessary expenses for the administrator or his representative to ex-
26 amine them at the place where they are maintained. The adminis-
27 trator may designate representatives, including comparable officials
28 of the state in which the records are located, to inspect them on his
29 behalf.

30 3. Upon application by the administrator showing failure without
31 lawful excuse to obey a subpoena or to give testimony and upon rea-
32 sonable notice to all persons affected thereby, the district court shall
33 grant an order compelling compliance.

34 4. The administrator shall not make public the name or identity
35 of a person whose acts or conduct he investigates pursuant to this
36 section or the facts disclosed in the investigation, but this subsection
37 does not prohibit disclosures in actions or enforcement proceedings
38 pursuant to this Act.

1 SEC. 6.107. Reserved for future use.

1 SEC. 6.108. NEW SECTION. **Administrative enforcement orders.**

2 1. For purposes of this section, "administrator" means either the
3 attorney general or his designee, or the official or agency charged
4 with enforcing this Act against the person under investigation, as
5 provided in subsection one (1) of section six point one hundred five
6 (6.105) of this Act. Except as provided in subsection six (6) of this
7 section, after notice and hearing the administrator may order a per-
8 son to cease and desist from engaging in violations of this Act. A
9 person aggrieved by an order of the administrator may obtain judi-
10 cial review of the order and the administrator may obtain an order
11 of the district court for enforcement of the cease and desist order if
12 he prevails in the proceeding for review, or as provided in subsection
13 five (5) of this section. The proceeding for review or enforcement
14 is initiated by filing a petition in the district court. Copies of the
15 petition shall be served upon all parties of record.

16 2. Within thirty days after service of the petition for review
17 upon the administrator, or within any further time the court may
18 allow, the administrator shall transmit to the court the original or a
19 certified copy of the entire record upon which the order is based, in-
20 cluding any transcript of testimony, which need not be printed. By
21 stipulation of all parties to the review proceeding, the record may be
22 shortened. After hearing, the court may reverse or modify the
23 order if the findings of fact of the administrator are clearly erro-
24 neous in view of the reliable, probative, and substantial evidence on
25 the whole record, or grant any temporary relief or restraining order
26 it deems just, and enter an order enforcing, modifying and enforcing
27 as modified, or setting aside in whole or in part the order of the ad-
28 ministrator, or remanding the case to the administrator for further
29 proceedings.

30 3. An objection not urged at the hearing shall not be considered
31 by the court unless the failure to urge the objection is excused for
32 good cause shown. A party may move the court to remand the case
33 to the administrator in the interest of justice for the purpose of ad-
34 ducing additional specified and material evidence and seeking findings
35 thereon upon good cause shown for the failure to adduce this evi-
36 dence before the administrator.

37 4. The jurisdiction of the court shall be exclusive and its final judg-
38 ment or decree shall be subject to review by the supreme court in the
39 same manner and form and with the same effect as in appeals from
40 a final judgment or decree in an equitable proceeding. The adminis-
41 trator's copy of the testimony shall be available at reasonable times
42 to all parties for examination without cost.

43 5. A proceeding for review under this section must be initiated
44 within thirty days after a copy of the order of the administrator is
45 received. If no proceeding is so initiated, the administrator may ob-
46 tain a decree of the district court for enforcement of the cease and

47 desist order upon a showing that the order was issued in compliance
 48 with this section, that no proceeding for review was initiated within
 49 thirty days after copy of the order was received, and that the per-
 50 son against whom the order was directed is subject to the jurisdiction
 51 of the court.

52 6. With respect to unconscionable agreements or fraudulent or un-
 53 conscionable conduct by the respondent, the administrator may not
 54 issue an order pursuant to this section but may bring a civil action
 55 for an injunction under section six point one hundred eleven (6.111)
 56 of this Act.

1 SEC. 6.109. NEW SECTION. **Assurance of discontinuance.** If it
 2 is claimed that a person has engaged in conduct which could be sub-
 3 ject to an order by the administrator or by a court, the administra-
 4 tor may accept an assurance in writing that the person will not en-
 5 gage in the same or in similar conduct in the future. The assurance
 6 may include stipulations that the creditor will voluntarily pay the
 7 costs of investigation, or that an amount will be held in escrow as
 8 restitution to debtors aggrieved by future conduct of the creditor or
 9 as a reserve to cover costs of future investigation, or may include ad-
 10 missions of past specific acts by the creditor or admissions that those
 11 acts violated this Act or other statutes. A violation of an assur-
 12 ance of discontinuance is a violation of this Act.

1 SEC. 6.110. NEW SECTION. **Injunctions and other proceedings in**
 2 **equity of Act.** The administrator may bring a civil action to restrain
 3 a person from violating this Act and for other appropriate relief, in-
 4 cluding but not limited to the following:

5 a. To prevent the use or employment by a person of practices pro-
 6 hibited by this Act.

7 b. To reform contracts to conform to this Act and to rescind con-
 8 tracts into which a creditor has induced a consumer to enter by con-
 9 duct violating this Act, even though the consumers are not parties
 10 to the action. An action under this section may be joined with an
 11 action under the provisions on civil actions by the administrator
 12 under section six point one hundred thirteen (6.113) of this Act.

1 SEC. 6.111. NEW SECTION. **Injunctions against unconscionable**
 2 **agreements and fraudulent or unconscionable conduct.**

3 1. The administrator may bring a civil action to restrain a person
 4 to whom this part applies from engaging in any of the following
 5 courses of action:

6 a. Making or enforcing unconscionable terms or provisions of con-
 7 sumer credit transactions.

8 b. Fraudulent or unconscionable conduct in inducing consumers to
 9 enter into consumer credit transactions.

10 c. Conduct of any of the types specified in paragraphs a or b of
 11 this subsection with respect to transactions that give rise to or that
 12 lead persons to believe they will give rise to consumer credit trans-
 13 actions.

14 d. Fraudulent or unconscionable conduct in the collection of debts
 15 arising from consumer credit transactions or from transactions which
 16 would have been consumer credit transactions if a finance charge was
 17 made or the obligation was payable in installments.

18 2. In an action brought pursuant to this section the court may
19 grant relief only if it finds all of the following:

20 a. That the defendant has made unconscionable agreements or has
21 engaged in or is likely to engage in a course of fraudulent or uncon-
22 scionable conduct.

23 b. That the defendant's agreements have caused or are likely to
24 cause, or the conduct of the defendant has caused or is likely to cause,
25 injury to consumers or debtors.

26 c. That the defendant has been able to cause or will be able to cause
27 the injury primarily because the transactions involved are credit
28 transactions.

29 3. In applying subsection one (1), paragraphs a, b, or c of this
30 section, consideration shall be given to the factors specified in the
31 provisions on unconscionability with respect to a transaction that is
32 or gives rise to or that a person leads the debtor to believe will give
33 rise to a consumer credit transaction, as provided in section five point
34 one hundred eight (5.108), subsection three (3), of this Act, among
35 others.

36 4. In applying subsection one (1), paragraph d, of this section, vio-
37 lations of section seven point one hundred three (7.103) of this Act
38 shall be considered, among other factors, as applicable.

39 5. In an action brought pursuant to this section, a charge or prac-
40 tice expressly permitted by this Act is not in itself unconscionable.

1 SEC. 6.112. NEW SECTION. **Temporary relief.** With respect to
2 an action brought to enjoin violations of this Act under section six
3 point one hundred ten (6.110) or unconscionable agreements or fraud-
4 ulent or unconscionable conduct under section six point one hundred
5 eleven (6.111) of this Act, the administrator may apply to the court
6 for appropriate temporary relief against a defendant, pending final
7 determination of the action. The court may grant appropriate tem-
8 porary relief.

1 SEC. 6.113. NEW SECTION. **Civil actions by administrator.**

2 1. After demand, the administrator may bring a civil action
3 against a person for all amounts of money, other than penalties,
4 which a consumer or class of consumers has a right to recover explic-
5 itly granted by this Act. The court shall order amounts recovered or
6 recoverable under this subsection to be paid to each consumer or set
7 off against his obligation. A consumer's action, other than a class
8 action, takes precedence over a prior or subsequent action by the ad-
9 ministrator with respect to the claim of that consumer. A consum-
10 er's class action takes precedence over a subsequent action by the
11 administrator with respect to claims common to both actions but
12 intervention by the administrator is authorized. An administrator's
13 action on behalf of a class of consumers takes precedence over a con-
14 sumer's subsequent class action with respect to claims common to
15 both actions. Whenever an action takes precedence over another ac-
16 tion under this subsection, the latter action may be stayed to the
17 extent appropriate while the precedent action is pending and dis-
18 missed if the precedent action is dismissed with prejudice or results in
19 a final judgment granting or denying the claim asserted in the prece-
20 dent action. A defense available to a person in a civil action brought

21 by a consumer is available to him in a civil action brought under this
22 subsection.

23 2. The administrator may bring a civil action against a person to
24 recover a civil penalty of no more than five thousand dollars for re-
25 peatedly and intentionally violating this Act. No civil penalty pur-
26 suant to this subsection may be imposed for violations of this Act
27 occurring more than two years before the action is brought or for
28 making unconscionable agreements or engaging in a course of fraud-
29 ulent or unconscionable conduct.

30 3. The administrator may bring a civil action against a person for
31 failure to file notification in accordance with the provisions on notifi-
32 cation in section six point two hundred two (6.202) of this Act, or
33 to pay fees in accordance with the provisions on fees in section six
34 point two hundred three (6.203) of this Act, to recover the fees the
35 defendant has failed to pay plus interest at the rate of seven per-
36 cent per annum and the administrator's reasonable costs in bringing
37 the action, and a civil penalty in an amount determined by the court
38 not exceeding the greater of three times the amount of fees the per-
39 son has failed to pay or one thousand dollars.

1 SEC. 6.114. Reserved for future use.

1 SEC. 6.115. NEW SECTION. **Consumer's remedies not affected.**
2 The grant of powers to the administrator in this article does not
3 affect remedies available to consumers under this Act or under other
4 principles of law or equity, except as provided in section six point
5 one hundred thirteen (6.113) of this Act.

1 SEC. 6.116. NEW SECTION. **Venue.** The administrator may bring
2 actions or proceedings in the district court in a county in which an
3 act on which the action or proceeding is based occurred, or in a
4 county in which the defendant resides or transacts business.

PART 2

NOTIFICATION AND FEES

1 SEC. 6.201. NEW SECTION. **Applicability.** This part applies to
2 all of the following:

3 1. Creditors engaged in consumer credit transactions and acts, prac-
4 tices or conduct involving consumer credit transactions to which this
5 Act applies pursuant to section one point two hundred one (1.201)
6 of this Act, but not to those licensed, certificated, or otherwise author-
7 ized to engage in business by chapter five hundred twenty-four (524),
8 five hundred thirty-three (533), five hundred thirty-four (534), five
9 hundred thirty-six (536) or five hundred thirty-six A (536A) of
10 the Code.

11 2. Debt collectors, as defined in subsection three (3) of section
12 seven point one hundred two (7.102) of this Act, to whose acts, prac-
13 tices, or conduct this Act applies pursuant to section one point two
14 hundred one (1.201) of this Act.

1 SEC. 6.202. NEW SECTION. **Notification.**

2 1. Persons subject to this part shall file notification with the ad-
3 ministrator within thirty days after commencing business in this

4 state, and, thereafter, on or before January thirty-first of each year.
5 The notification must state all of the following:
6 a. Name of the person.
7 b. Every name in which business is transacted if different from
8 the name of the person.
9 c. Address of principal office, whether or not within this state.
10 d. Address of all offices or retail stores, if any, in this state at
11 which consumer credit transactions are entered into or acts, practices
12 or conduct involving consumer credit transactions are engaged in,
13 or in the case of a person taking assignments of obligations, any
14 offices or places of business within this state at which business is
15 transacted or, in the case of debt collectors, any offices in this state
16 from or at which debt collection is engaged in.
17 e. If consumer credit transactions or acts, practices or conduct
18 involving consumer credit transactions or debt collection, are engaged
19 in otherwise than at an office or retail store in this state and this Act
20 applies to such transactions, acts, practices or conduct, pursuant to
21 section one point two hundred one (1.201) of this Act, a brief descrip-
22 tion of the manner in which they are engaged in.
23 f. Address of designated agent upon whom service of process may
24 be made in this state.
25 g. Whether or not supervised loans are made.
26 2. If information in a notification becomes inaccurate after filing,
27 no further notification is required until the following January thirty-
28 first.

1 SEC. 6.203. NEW SECTION. Fees.

2 1. A person required to file notification shall pay to the adminis-
3 trator an annual fee of ten dollars. The fee shall be paid with the
4 filing of the first notification and on or before January thirty-first of
5 each succeeding year.
6 2. A person required to file notification who is a seller, lessor, or
7 lender and who is not an assignee shall pay an additional fee at the
8 time and in the manner stated in subsection one (1) of this section
9 of ten dollars for each one hundred thousand dollars, or part thereof
10 exceeding ten thousand dollars, of the average unpaid balances, in-
11 cluding unpaid scheduled periodic payments under consumer leases,
12 of obligations arising from consumer credit transactions entered into
13 or modified by him in this state and held on the last day of each cal-
14 endar month during the preceding calendar year and held either by
15 the seller, lessor, or lender, or by his immediate or remote assignee
16 who has not filed notification. The unpaid balances of assigned obli-
17 gations held by an assignee who has not filed notifications are pre-
18 sumed to be the unpaid balances of the assigned obligations at the
19 time of their assignment by the seller, lessor, or lender.
20 3. A person required to file notification who is an assignee shall
21 pay an additional fee at the time and in the manner stated in sub-
22 section one (1) of this section of ten dollars for each one hundred
23 thousand dollars, or part thereof exceeding ten thousand dollars, of
24 the average unpaid balances including unpaid scheduled periodic pay-
25 ments payable by lessees, of obligations arising from consumer credit
26 transactions entered into or modified in this state taken by him by

27 assignment and held by him on the last day of each calendar month
28 during the preceding calendar year.

29 4. In addition to the penalties provided by subsection three (3) of
30 section six point one hundred thirteen (6.113) of this Act, the ad-
31 ministrator may collect a charge, established by rule, not exceeding
32 twenty-five dollars from each person required to pay fees under this
33 section who fails to pay the fees in full within thirty days after they
34 are due.

1 **SEC. 6.204. Administrative rules.**

2 1. The attorney general or his designee pursuant to chapter seven-
3 teen A (17A) of the Code may adopt, amend and repeal rules which
4 he deems reasonably necessary for the enforcement of this Act. Each
5 rule so adopted shall be applicable to and binding upon every person
6 subject to the provisions of this Act.

7 2. An official or agency of this state charged with the enforce-
8 ment of provisions of this Act may adopt, amend or repeal rules pur-
9 suant to chapter seventeen A (17A) of the Code, subject to the fol-
10 lowing limitations:

11 a. A rule adopted pursuant to this subsection which conflicts with
12 a rule adopted by the administrator is void.

13 b. An official or agency shall not adopt a rule which interprets or
14 prescribes law or policy which has not been approved in advance of
15 adoption by the administrator. If, in the opinion of the administra-
16 tor, the proposed rule interprets the provisions of this Act, or other-
17 wise should be a rule of general applicability, the administrator may
18 disapprove the proposed rule, in which case the official or agency shall
19 not adopt that rule. The administrator may adopt that rule or a
20 different rule relating to the same subject, or may determine that
21 no rule relating to that subject shall be adopted.

ARTICLE SEVEN

DEBT COLLECTION PRACTICES

1 **SEC. 7.101. NEW SECTION. Short title.** This article shall be
2 known and may be cited as the "Iowa Debt Collection Practices Act".

1 **SEC. 7.102. NEW SECTION. Definitions.** As used in this article,
2 unless the context otherwise requires:

3 1. "Debt" means an actual or alleged obligation arising out of a
4 consumer credit transaction, or a transaction which would have been
5 a consumer credit transaction either if a finance charge was made, if
6 the obligation was not payable in installments, if a lease was for a
7 term of four months or less, or if a lease was of an interest in land.

8 2. "Debt collection" means an action, conduct or practice in solicit-
9 ing debts for collection or in the collection or attempted collection of
10 a debt.

11 3. "Debt collector" means a person engaging, directly or indirectly,
12 in debt collection, whether for himself, his employer, or others, and
13 includes a person who sells, or offers to sell, forms represented to be
14 a collection system, device, or scheme, intended to be used to collect
15 debts.

16 4. "Administrator" means the person designated in section six
17 point one hundred three (6.103) of this Act.

18 5. "Debtor", for the purposes of this Part,* means the person obli-
19 gated.

20 6. "Creditor", for the purposes of this Part,* means the person to
21 whom a debtor is obligated, either directly or indirectly, on a debt.

1 SEC. 7.103. NEW SECTION. **Prohibited practices.**

2 1. A debt collector shall not collect or attempt to collect a debt by
3 means of an illegal threat, coercion, or attempt to coerce. The conduct
4 described in each of the following paragraphs is an illegal threat,
5 coercion or attempt to coerce within the meaning of this subsection:

6 a. The use, or express or implicit threat of use, of force, violence or
7 other criminal means, to cause harm to a person or to property of a
8 person.

9 b. The false accusation or threat to falsely accuse a person of fraud
10 or any other crime.

11 c. False accusations made to a person, including a credit reporting
12 agency, or the threat to falsely accuse, that a debtor is willfully refus-
13 ing to pay a just debt. However, a failure to reply to requests for
14 payment and a failure to negotiate disputes in good faith are deemed
15 willful refusal.

16 d. The threat to sell or assign to another an obligation of the debtor
17 with an attending representation or implication that the result of the
18 sale or assignment will be to subject the debtor to harsh, vindictive,
19 or abusive collection attempts.

20 e. The false threat that nonpayment of a debt may result in the
21 arrest of a person or the seizure, garnishment, attachment or sale of
22 property or wages of that person.

23 f. An action or threat to take an action prohibited by this Act or
24 any other law.

25 2. A debt collector shall not oppress, harass, or abuse a person in
26 connection with the collection or attempted collection of a debt of that
27 person or another person. The following conduct is oppressive, harass-
28 ing or abusive within the meaning of this subsection:

29 a. The use of profane or obscene language or language that is in-
30 tended to abuse the hearer or reader and which by its utterance would
31 tend to incite an immediate breach of the peace.

32 b. The placement of telephone calls to the debtor without disclosure
33 of the name of the business or company the debt collector represents.

34 c. Causing expense to a person in the form of long distance tele-
35 phone tolls, telegram fees, or other charges incurred by a medium of
36 communication by attempting to deceive or mislead persons as to the
37 true purpose of the notice, letter, message or communication.

38 d. Causing a telephone to ring or engaging a person in telephone
39 conversation* repeatedly or continuously or at unusual hours or times
40 known to be inconvenient, with intent to annoy, harass, or threaten a
41 person.

42 3. A debt collector shall not disseminate information relating to a
43 debt or debtor as follows:

44 a. The communication or threat to communicate or imply the fact
45 of a debt to a person other than the debtor or a person who might
46 reasonably be expected to be liable for the debt, except with the writ-
47 ten permission of the debtor given after default. For the purposes of

*According to enrolled Act

48 this paragraph, the use of language on envelopes indicating that the
49 communication relates to the collection of a debt is a communication
50 of the debt. However, this paragraph does not prohibit a debt col-
51 lector from any of the following:

52 (1) Notifying a debtor of the fact that he may report a debt to a
53 credit bureau or engage an agent or an attorney for the purpose of
54 collecting the debt.

55 (2) Reporting a debt to a credit reporting agency or any other
56 person reasonably believed to have a legitimate business need for the
57 information.

58 (3) Engaging an agent or attorney for the purpose of collecting a
59 debt.

60 (4) Attempting to locate a debtor whom the debt collector has
61 reasonable grounds to believe has moved from his residence, where
62 the purpose of the communication is to trace the debtor, and the con-
63 tent of the communication is restricted to requesting information on
64 the debtor's location.

65 (5) Communicating with the debtor's employer or credit union not
66 more than once during any three month period when the purpose of
67 the communication is to obtain an employer's or credit union's debt
68 counselling services for the debtor. In the event no response is re-
69 ceived by the debt collector from a communication to the debtor's
70 employer or credit union the debt collector may make one inquiry as
71 to whether the communication was received. In addition a debt col-
72 lector may respond to any communications by a debtor's employer or
73 credit union.

74 (6) Communicating with the debtor's employer once during any
75 one-month period, if the purpose of the communication is to verify
76 with an employer the fact of the debtor's employment and if the debt
77 collector does not disclose, except as permitted in subparagraph five
78 (5) of this subsection, any information other than the fact that a
79 debt exists. This subparagraph shall not authorize a debtor* collector
80 to disclose to an employer the fact that a debt is in default.

81 (7) Communicating the fact of the debt not more than once in any
82 three-month period, with the parents of a minor debtor, or with any
83 trustee of any property of the debtor, conservator of the debtor or the
84 debtor's property, or guardian of the debtor. In addition, a debt col-
85 lector may respond to inquiry from a parent, trustee, conservator or
86 guardian.

87 (8) Communicating with the debtor's spouse with the consent of
88 the debtor, or responding to inquiry from the debtor's spouse.

89 b. The disclosure, publication, or communication of information
90 relating to a person's indebtedness to another person, by publishing
91 or posting a list of indebted persons, commonly known as "deadbeat
92 lists", or by advertising for sale a claim to enforce payment of a debt
93 when the advertisement names the debtor.

94 c. The use of a form of communication to the debtor, except a
95 telegram, an original notice or other court process, or an envelope
96 displaying only the name and address of a debtor and the return
97 address of the debt collector, intended or so designed as to display or
98 convey information about the debt to another person other than the
99 name, address, and phone number of the debt collector.

*According to enrolled Act

100 4. A debt collector shall not use a fraudulent, deceptive, or mislead-
101 ing representation or means to collect or attempt to collect a debt or
102 to obtain information concerning debtors. The following conduct is
103 fraudulent, deceptive, or misleading within the meaning of this sub-
104 section:

105 a. The use of a business, company, or organization name while
106 engaged in the collection of debts, other than the true name of the
107 debt collector's business, company, or organization or the name of the
108 business or company the debt collector represents.

109 b. The failure to clearly disclose in all written communications
110 made to collect or attempt to collect a debt or to obtain or attempt to
111 obtain information about a debtor, that the debt collector is attempt-
112 ing to collect a debt and that information obtained will be used for that
113 purpose, except where disclosure would tend to embarrass the debtor.

114 c. A false representation that the debt collector has information
115 in his possession or something of value for the debtor, which is made
116 to solicit or discover information about the debtor.

117 d. The failure to clearly disclose the name and full business address
118 of the person to whom the claim has been assigned at the time of
119 making a demand for money.

120 e. An intentional misrepresentation, or a representation which
121 tends to create a false impression of the character, extent or amount
122 of a debt, or of its status in a legal proceeding.

123 f. A false representation, or a representation which tends to create
124 a false impression, that a debt collector is vouched for, bonded by,
125 affiliated with, or an instrumentality, agency or official of the state or
126 an agency of federal, state or local government.

127 g. The use or distribution or sale of a written communication which
128 simulates or is falsely represented to be a document authorized, issued
129 or approved by a court, an official, or other legally constituted or
130 authorized authority, or which tends to create a false impression
131 about its source, authorization, or approval.

132 h. A representation that an existing obligation of the debtor may
133 be increased by the addition of attorney's fees, investigation fees,
134 service fees, or other fees or charges, when in fact such fees or
135 charges may not legally be added to the existing obligation.

136 i. A false representation, or a representation which tends to create
137 a false impression, about the status or true nature of, or services
138 rendered by, the debt collector or his business.

139 5. A debt collector shall not engage in the following conduct to col-
140 lect or attempt to collect a debt:

141 a. The seeking or obtaining of a written statement or acknowledge-
142 ment in any form that specifies that a debtor's obligation is one
143 chargeable upon the property of either husband or wife or both, under
144 section five hundred ninety-seven point fourteen (597.14) of the Code,
145 when the original obligation was not in fact so chargeable.

146 b. The seeking or obtaining of a written statement or acknowledge-
147 ment in any form containing an affirmation of an obligation which has
148 been discharged in bankruptcy, without clearly disclosing the nature
149 and consequences of the affirmation and the fact that the debtor is not
150 legally obligated to make the affirmation. However, this subsection
151 does not prohibit the accepting of promises to pay that are volun-
152 tarily written and offered by a bankrupt debtor.

153 c. The collection of or the attempt to collect from the debtor a part
154 or all of the debt collector's fee for services rendered, unless the debt
155 collector is legally entitled to collect the fee from the debtor.

156 d. The collection of or the attempt to collect interest or other
157 charge, fee or expense incidental to the principal obligation unless the
158 interest or incidental charge, fee, or expense is expressly authorized
159 by the agreement creating the obligation and is legally chargeable to
160 the debtor, or is otherwise legally chargeable.

161 e. A communication with a debtor when the debt collector knows
162 that the debtor is represented by an attorney and the attorney's name
163 and address are known, or could be easily ascertained, unless the attor-
164 ney fails to answer correspondence, return phone calls, or discuss the
165 obligation in question, within a reasonable time, or prior approval is
166 obtained from the debtor's attorney or when the communication is a
167 response in the ordinary course of business to the debtor's inquiry.

168 6. A debt collector shall not use or distribute, sell, or prepare for
169 use, a written communication that violates or fails to conform to
170 United States postal laws and regulations.

ARTICLE EIGHT

RESERVED FOR FUTURE USE

ARTICLE NINE

CONFORMING AMENDMENTS AND REPEALER

1 SEC. 9.101. Section five hundred twenty-four point one hundred
2 three (524.103), Code 1973, is amended by adding the following new
3 subsections:

4 NEW SUBSECTION. "Administrator" means the person designated
5 in section six point one hundred three (6.103) of this Act.

6 NEW SUBSECTION. "Supervised financial organization" as defined
7 and used in the Iowa Consumer Credit Code includes a person organ-
8 ized pursuant to this chapter.

1 SEC. 9.102. Chapter five hundred twenty-four (524), Code 1973,
2 is amended by adding the following new section:

3 **NEW SECTION. Enforcement of Iowa Consumer Credit Code.**

4 1. The superintendent shall enforce the Iowa Consumer Credit
5 Code with respect to banks, as provided in sections two point three
6 hundred three (2.303), two point three hundred five (2.305), and six
7 point one hundred five (6.105) of this Act.

8 2. The superintendent shall cooperate with the administrator, and
9 shall assist the administrator whenever necessary to provide for the
10 discharge of the duties of the administrator.

11 3. Notwithstanding other provisions of this chapter to the con-
12 trary, the superintendent shall authorize to be furnished to the ad-
13 ministrator, access to or copies of records in the possession of the
14 superintendent or other persons which relate to a bank when neces-
15 sary to enable the administrator to enforce this Act.

16 4. The superintendent shall make an annual report in writing to
17 the administrator. A copy of the report shall be furnished at cost
18 by the superintendent to each bank or other person upon request.
19 The annual report shall contain:

20 a. A summary of applications to engage in the business of bank-
21 ing approved or denied by the superintendent since the last report.

22 b. A summary of the volume of consumer installment credit out-
23 standing per bank under the superintendent's supervision as of De-
24 cember thirty-first of the year for which the report is made.

25 c. A statement of the receipts and disbursements of agency funds
26 for consumer credit protection during the calendar year ending the
27 preceding December thirty-first, and of the funds on hand on that
28 date.

29 d. Information which the superintendent may deem appropriate
30 and advisable to disclose.

31 e. Information which the administrator may require to be in-
32 cluded.

1 SEC. 9.103. Chapter five hundred thirty-three (533), Code 1973,
2 is amended by adding the following new sections:

3 **NEW SECTION. Definitions.** As used in this chapter unless the
4 context otherwise requires:

5 1. "Administrator" means the person designated in section six
6 point one hundred three (6.103) of this Act.

7 2. "Credit union" means a person having a certificate of approval
8 issued pursuant to this chapter. A credit union is also a supervised
9 financial organization as defined and used in the Iowa Consumer
10 Credit Code.

11 **NEW SECTION. Enforcement of Iowa Consumer Credit Code.**

12 1. The superintendent shall enforce the Iowa Consumer Credit
13 Code with respect to credit unions, as provided in sections two point
14 three hundred three (2.303), two point three hundred five (2.305)
15 and six point one hundred five (6.105) of this Act.

16 2. The superintendent shall cooperate with the administrator, and
17 shall assist the administrator whenever necessary to provide for the
18 discharge of the duties of the administrator.

19 3. Notwithstanding other provisions of this chapter to the con-
20 trary, the superintendent shall authorize to be furnished to the ad-
21 ministrator, access to or copies of records in the possession of the
22 superintendent or other persons which relate to a credit union, when
23 necessary to enable the administrator to enforce this Act.

24 4. The superintendent shall make an annual report in writing to
25 the administrator. A copy of the report shall be furnished at cost
26 by the superintendent to each credit union or other person upon re-
27 quest. The annual report shall contain:

28 a. A summary of applications for organization approved or denied
29 by the superintendent since the last report.

30 b. A summary of the assets, liabilities and capital structure of all
31 credit unions, and a summary of the volume of consumer installment
32 credit outstanding per credit union, as of December thirty-first of
33 the year for which the report is made.

34 c. A statement of the receipts and disbursements of agency funds
35 for consumer credit protection during the calendar year ending the
36 preceding December thirty-first, and of the funds on hand on that
37 date.

38 d. Information which the superintendent may deem appropriate
39 and advisable to disclose.

40 e. Information which the administrator may require to be in-
41 cluded.

1 SEC. 9.104. Section five hundred thirty-four point two (534.2),
2 Code 1973, is amended by adding the following new subsections:

3 NEW SUBSECTION. "Administrator" means the person designated
4 in section six point one hundred three (6.103) of this Act.

5 NEW SUBSECTION. "Supervised financial organization" as defined
6 and used in the Iowa Consumer Credit Code includes a person or-
7 ganized pursuant to this chapter.

1 SEC. 9.105. Chapter five hundred thirty-four (534), Code 1973, is
2 amended by adding the following new section:

3 NEW SECTION. **Enforcement of Iowa Consumer Credit Code.**

4 1. The supervisor shall enforce the Iowa Consumer Credit Code
5 with respect to associations, as provided in sections two point three
6 hundred three (2.303), two point three hundred five (2.305) and six
7 point one hundred five (6.105) of this Act.

8 2. The supervisor shall cooperate with the administrator, and shall
9 assist the administrator whenever necessary to provide for the dis-
10 charge of the duties of the administrator.

11 3. Notwithstanding other provisions of this chapter to the con-
12 trary, the supervisor shall authorize to be furnished to the adminis-
13 trator, access to or copies of records in the possession of the super-
14 visor or other persons which relate to a savings and loan association
15 when necessary to enable the administrator to enforce this Act.

16 4. The supervisor shall make an annual report in writing to the
17 administrator. A copy of the report shall be furnished at cost by
18 the supervisor to each association or other person upon request. The
19 annual report shall contain:

20 a. A summary of applications for organization approved or denied
21 by the supervisor since the last report.

22 b. A summary of the volume of consumer installment credit out-
23 standing per association as of December thirty-first of the year for
24 which the report is made.

25 c. A statement of the receipts and disbursements of agency funds
26 for consumer credit protection during the calendar year ending the
27 preceding December thirty-first, and of the funds on hand on that
28 date.

29 d. Information which the supervisor may deem appropriate and
30 advisable to disclose.

31 e. Information which the administrator may require to be in-
32 cluded.

1 SEC. 9.106. Chapter five hundred thirty-six (536), Code 1973, is
2 amended by adding the following new sections:

3 NEW SECTION. **Definitions.** As used in this chapter, unless the
4 context otherwise requires:

5 1. "Administrator" means the person designated in section six
6 point one hundred three (6.103) of this Act.

7 2. "Licensee" means a person licensed under this chapter.

8 NEW SECTION. **Enforcement of Iowa Consumer Credit Code.**

9 1. The superintendent shall enforce the Iowa Consumer Credit
10 Code with respect to licensees, as provided in sections two point three
11 hundred three (2.303), two point three hundred five (2.305) and six
12 point one hundred five (6.105) of this Act.

13 2. The superintendent shall cooperate with the administrator, and
14 shall assist the administrator whenever necessary to provide for the
15 discharge of the duties of the administrator.

16 3. Notwithstanding other provisions of this chapter to the con-
17 trary, the superintendent shall authorize to be furnished to the ad-
18 ministrator, access to or copies of records in the possession of the
19 superintendent or other persons which relate to a person licensed
20 under this chapter, when necessary to enable the administrator to
21 enforce this Act.

22 4. The superintendent shall make an annual report in writing to
23 the administrator. A copy of the report shall be furnished at cost
24 by the superintendent to each licensee or other person upon request.
25 The annual report shall contain:

26 a. A summary of license applications approved or denied by the
27 superintendent since the last report.

28 b. A summary of the assets, liabilities and capital structure of all
29 licensees, and volume of consumer installment of credit outstanding
30 per licensee, as of December thirty-first of the year for which the
31 report is made.

32 c. A statement of the receipts and disbursements of agency funds
33 for consumer credit protection during the calendar year ending the
34 preceding December thirty-first, and of the funds on hand on that
35 date.

36 d. Information which the superintendent may deem appropriate
37 and advisable to disclose.

38 e. Information which the administrator may require to be in-
39 cluded.

1 SEC. 9.107. Section five hundred thirty-six A point two (536A.2),
2 Code 1973, is amended by adding the following new subsections:

3 NEW SUBSECTION. "Administrator" means the person designated
4 in section six point one hundred three (6.103) of this Act.

5 NEW SUBSECTION. "Licensee" means a person licensed under this
6 chapter.

1 SEC. 9.108. Chapter five hundred thirty-six A (536A), Code 1973,
2 is amended by adding the following new section:

3 **NEW SECTION. Enforcement of Iowa Consumer Credit Code.**

4 1. The auditor shall enforce the Iowa Consumer Credit Code with
5 respect to licensees, as provided in sections two point three hundred
6 three (2.303), two point three hundred five (2.305) and six point one
7 hundred five (6.105) of this Act.

8 2. The auditor shall cooperate with the administrator, and shall
9 assist the administrator whenever necessary to provide for the dis-
10 charge of the duties of the administrator.

11 3. Notwithstanding other provisions of this chapter to the con-
12 trary, the auditor shall authorize to be furnished to the administra-
13 tor, access to or copies of records in the possession of the auditor or
14 other persons which relate to a licensee when necessary to enable
15 the administrator to enforce this Act.

16 4. The auditor shall make an annual report in writing to the ad-
17 ministrator. A copy of the report shall be furnished at cost by the
18 auditor to each licensee or other person upon request. The annual
19 report shall contain:

- 20 a. A summary of license applications approved or denied by the
21 auditor since the last report.
- 22 b. A summary of the assets, liabilities and capital structure of all
23 licensees, and volume of consumer installment credit outstanding per
24 licensee, as of December thirty-first of the year for which the report
25 is made.
- 26 c. A statement of the receipts and disbursements of agency funds
27 for consumer credit protection during the calendar year ending the
28 preceding December thirty-first, and of the funds on hand on that
29 date.
- 30 d. Information which the auditor may deem appropriate and ad-
31 visable to disclose.
- 32 e. Information which the administrator may require to be in-
33 cluded.

1 SEC. 9.109. Section three hundred twenty-two point two (322.2),
2 subsection eight (8), Code 1973, is amended to read as follows:

3 8. "Retail installment transaction" means any sale evidenced by a
4 retail installment contract between a retail buyer and a retail seller
5 wherein the retail buyer buys a motor vehicle from a retail seller at a
6 time price payable in one or more deferred installments. ~~The cash sale~~
7 ~~price of the motor vehicle, the amount included for insurance and~~
8 ~~other benefits, if a separate charge is made therefor, official fees and~~
9 ~~finance charge, shall together constitute the time price.~~

1 SEC. 9.110. Section three hundred twenty-two point two (322.2),
2 Code 1973, is amended by striking subsections twelve (12), thirteen
3 (13), fourteen (14), and fifteen (15).

1 SEC. 9.111. Section three hundred twenty-two point three (322.3),
2 subsection six (6), Code 1973, is amended by striking paragraphs b,
3 c, d, and e, and by adding the following new paragraph:

4 NEW PARAGRAPH. The contract shall comply with the Iowa Con-
5 sumer Credit Code, where applicable.

1 SEC. 9.112. Section three hundred twenty-two point six (322.6),
2 Code 1973, is amended by adding the following new subsection:

3 NEW SUBSECTION. If it has been judicially determined that the
4 licensee has intentionally violated any of the provisions of the Iowa
5 Consumer Credit Code, and the licensee continues to make consumer
6 credit sales, consumer loans or consumer leases in violation of the
7 Iowa Consumer Credit Code.

1 SEC. 9.113. Section three hundred twenty-two point fourteen
2 (322.14), Code 1973, is amended to read as follows:

3 **322.14 Penalties.** Any person violating any of the provisions of
4 this chapter where a penalty is not specifically provided for shall be
5 deemed guilty of a misdemeanor and upon conviction thereof shall be
6 punished by a fine not exceeding one hundred dollars or thirty days
7 in jail.

8 ~~Any person who shall willfully and intentionally violate the provi-~~
9 ~~sions of subsection 6 of section 322.3 shall be guilty of a misdemeanor~~
10 ~~and upon conviction shall be punished by a fine not to exceed five hun-~~
11 ~~dred dollars.~~

12 *If a retail installment contract is subject to a provision of the Iowa*
 13 *Consumer Credit Code which is enforced by a criminal penalty, such*
 14 *penalty shall be considered to be specifically provided for a violation*
 15 *of this chapter.*

16 The provisions of this section shall not apply to violations under
 17 subsection 5 of section 322.3.

1 SEC. 9.114. Section three hundred twenty-two point nineteen
 2 (322.19), subsection one (1), Code 1973, is amended to read as fol-
 3 lows:

4 1. Amount. Notwithstanding the provisions of any other existing
 5 law, a retail installment transaction may include a finance charge not
 6 in excess of the following rates:

7 Class 1. Any new motor vehicle designated by the manufacturer
 8 by a year model not earlier than the year in which the sale is made,
 9 an amount equivalent to one and one-fourth percent per month simple
 10 interest on the declining balance *of the amount financed.*

11 Class 2. Any new motor vehicle not in Class 1 and any used motor
 12 vehicle designated by the manufacturer by a year model of the same
 13 or not more than two years prior to the year in which the sale is
 14 made, an amount equivalent to one and three-fourths percent per
 15 month simple interest on the declining balance *of the amount*
 16 *financed.*

17 Class 3. Any used motor vehicle not in Class 2 and designated by
 18 the manufacturer by a year model ~~not more than four~~ *more than two*
 19 years prior to the year in which the sale is made, an amount equiva-
 20 lent to two and one-fourth percent per month simple interest on the
 21 declining balance *of the amount financed.*

22 Class 4. ~~Any used motor vehicle not in Class 2 or Class 3 and~~
 23 ~~designated by the manufacturer by a year model more than four~~
 24 ~~years prior to the year in which the sale is made, an amount equiva-~~
 25 ~~lent to two and one-fourth percent per month simple interest on the~~
 26 ~~declining balance, plus a flat charge of one dollar per month for the~~
 27 ~~number of months from the date of the contract to the maturity date~~
 28 ~~of the last installment thereunder, but in no event in excess of twelve~~
 29 ~~dollars.~~

30 *Amount financed shall be as defined in section one point three hun-*
 31 *dred one (1.301) of the Iowa Consumer Credit Code.*

1 SEC. 9.115. Section three hundred twenty-two point nineteen
 2 (322.19), Code 1973, is amended by striking subsections two (2) and
 3 three (3).

1 SEC. 9.116. Section three hundred twenty-two point twenty
 2 (322.20), Code 1973, is amended to read as follows:

3 322.20 Extension of time. *If Sections two point five hundred*
 4 *three (2.503) and three point four hundred two (3.402) of the Iowa*
 5 *Consumer Credit Code notwithstanding, if the holder of a retail*
 6 *installment contract, at the request of the buyer, extends the sched-*
 7 *uled due date of all or any part of any installment or installments,*
 8 *the holder may restate the amount of the installments and the time*
 9 *schedule therefor, and collect for such extension not more than one*
 10 *percent* per month simple interest on the respective declining bal-*

*According to enrolled Act

11 ances of the amount financed computed on the amount and for the
12 period of such extension or renewal.

1 SEC. 9.117. Sections three hundred twenty-two point twenty-one
2 (322.21) and three hundred twenty-two point twenty-two (322.22),
3 Code 1973, are repealed.

1 SEC. 9.118. Chapter three hundred twenty-two (322), Code 1973,
2 is amended by adding the following new section:

3 **NEW SECTION. Applicability of the Iowa Consumer Credit Code.**

4 1. The provisions of the Iowa Consumer Credit Code shall apply
5 to a consumer credit sale in which a licensed motor vehicle dealer par-
6 ticipates or engages, and any violation of that Code shall be a viola-
7 tion of this chapter.

8 2. Article two (2), parts five (5) and six (6), and article three
9 (3), sections three point two hundred three (3.203), three point two
10 hundred six (3.206), three point two hundred nine (3.209), three
11 point three hundred four (3.304), three point three hundred five
12 (3.305), and three point three hundred six (3.306) of the Iowa Con-
13 sumer Credit Code shall apply to any credit transaction as defined in
14 section one point three hundred one (1.301) of that Code, that is a
15 retail installment transaction. For the purpose of applying provi-
16 sions of that Code to those transactions, "consumer credit sale" shall
17 include a sale for a business purpose.

18 3. A provision of the Iowa Consumer Credit Code shall supersede
19 a conflicting provision of this chapter.

1 SEC. 9.119. Section five hundred twenty-four point nine hundred
2 six (524.906), Code 1973, is amended by inserting the following new
3 unnumbered paragraph ahead of subsection one (1):

4 **NEW UNNUMBERED PARAGRAPH.** This section shall apply to in-
5 stallment loans other than consumer loans as defined in the Iowa Con-
6 sumer Credit Code.

1 SEC. 9.120. Section five hundred twenty-four point nine hundred
2 six (524.906), subsection six (6), Code 1973, is amended to read as
3 follows:

4 6. No state bank shall have outstanding loans subject to this sec-
5 tion *and section five hundred twenty-four point nine hundred thirteen*
6 *(524.913) of this chapter* in an aggregate amount exceeding twenty-
7 five percent of its total assets.

1 SEC. 9.121. Chapter five hundred twenty-four (524), Division
2 nine (IX), Code 1973, is amended by adding the following new sec-
3 tion:

4 **NEW SECTION. 524.913. Consumer loans.**

5 1. The provisions of the Iowa Consumer Credit Code shall apply
6 to consumer loans made by a bank, and provisions of that Code shall
7 supersede any conflicting provision of this chapter with respect to
8 consumer loans.

9 2. This section shall not apply to a consumer loan which is a real
10 property improvement loan insured wholly or in part by the federal
11 housing administration of the United States.

1 SEC. 9.122. Section five hundred thirty-three point sixteen
2 (533.16), Code 1973, is amended by adding the following new un-
3 numbered paragraph:

4 NEW UNNUMBERED PARAGRAPH. The provisions of the Iowa Con-
5 sumer Credit Code shall apply to consumer loans made by a credit
6 union, and a provision of that Code shall supersede any conflicting
7 provision of this chapter with respect to a consumer loan.

1 SEC. 9.123. Section five hundred thirty-four point nineteen
2 (534.19), subsection six (6), Code 1973, is amended to read as fol-
3 lows:

4 6. Property improvement loans. To make property improvement
5 loans to home owners and other property owners for maintenance, re-
6 pair, landscaping, modernization, furniture and fixtures, improve-
7 ment and equipment for their properties, and loans on mobile homes,
8 with or without security provided that no such loan without security
9 shall exceed five thousand dollars, and provided further that not in
10 excess of fifteen percent of the assets of the association shall be so
11 invested, said fifteen percent to be exclusive of the forty percent of
12 assets power set out in section 534.21 hereof. Such loans, *other than*
13 *consumer loans as defined in the Iowa Consumer Credit Code*, shall
14 be amortized to mature in not to exceed eight years. Such loans may
15 also be based on a discount or add-on charge of not to exceed six dol-
16 lars per one hundred dollars face amount per year in lieu of straight
17 interest otherwise provided by law.

18 *The provisions of the Iowa Consumer Credit Code shall apply to*
19 *consumer loans made by a savings and loan association and a provi-*
20 *sion of that Code shall supersede any conflicting provision of this*
21 *chapter with respect to a consumer loan.*

1 SEC. 9.124. Section five hundred thirty-six point one (536.1),
2 Code 1973, is amended to read as follows:

3 536.1 License and rights thereunder. *No With respect to a loan*
4 *other than a consumer loan, no person, copartnership, association,*
5 *or corporation shall engage in the business of making loans of money,*
6 *credit, goods, or things in action in the amount or of the value of one*
7 *thousand dollars or less and charge, contract for, or receive on any*
8 *such loan a greater rate of interest or consideration therefor than the*
9 *lender would be permitted by law to charge if he were not a licensee*
10 *hereunder except as authorized by this chapter and without first*
11 *obtaining a license from the superintendent of banking, hereinafter*
12 *called the superintendent. The word "person", when used hereinafter,*
13 *shall include individuals, copartnerships, associations, and corpora-*
14 *tions unless the context requires a different meaning. With respect*
15 *to a consumer loan, a person required by section two point three hun-*
16 *dred one (2.301) of the Iowa Consumer Credit Code to have a license*
17 *shall not engage in the business of making loans of money, credit,*
18 *goods, or things in action in the amount or value of one thousand*
19 *dollars or less and charge, contract for, or receive on any such loan*
20 *a greater rate of interest or consideration therefor than the lender*
21 *would be permitted by law to charge if he were not a licensee here-*
22 *under, except as authorized by this chapter and without first obtain-*
23 *ing a license from the superintendent. A person which enters into*
24 *less than ten supervised loans per year in this state and which neither*

25 *has an office physically located in this state nor engages in face-to-*
 26 *face solicitation in this state may contract for and receive the rate of*
 27 *interest permitted in this chapter for licensees hereunder. A "con-*
 28 *sumer loan" shall be as defined in section one point three hundred one*
 29 *(1.301) of the Iowa Consumer Credit Code.*

1 SEC. 9.125. Section five hundred thirty-six point twelve (536.12),
 2 Code 1973, is amended by striking the section and inserting in lieu
 3 thereof the following:

4 **536.12 Restrictions on practices.** No licensee shall conduct the
 5 business of making loans under the provisions of this chapter within
 6 any office, room, suite, or place of business in which any other business
 7 is solicited or engaged in, or in association or conjunction therewith,
 8 except as may be authorized in writing by the superintendent upon
 9 his finding that the character of such other business is such that the
 10 granting of such authority would not facilitate evasions of this chap-
 11 ter or of the rules and regulations lawfully made by him hereunder.

12 No licensee shall make any loan provided for by this chapter under
 13 any other name or at any other place of business than that named in
 14 the license.

15 No licensee shall take any instrument in which blanks are left to
 16 be filled in after execution.

1 SEC. 9.126. Section five hundred thirty-six point thirteen
 2 (536.13), subsection one (1), paragraph b, Code 1973, is amended to
 3 read as follows:

4 b. To determine and fix by a regulation such maximum rate of
 5 interest or charges upon each such class of small loans as will in-
 6 duce efficiently managed commercial capital to enter such business
 7 in sufficient amounts to make available adequate credit facilities to
 8 individuals without the security or financial responsibility usually
 9 required by banks. *Such maximum rate of interest or charge shall*
 10 *be stated by the board as an annual percentage rate calculated ac-*
 11 *cording to the actuarial method and applied to the unpaid balances of*
 12 *the amount financed.*

1 SEC. 9.127. Section five hundred thirty-six point thirteen
 2 (536.13), subsection six (6), Code 1973, is amended by striking the
 3 subsection and inserting in lieu thereof the following:

4 6. The following provision shall apply to all loans including **con-**
 5 **sumer loans** made by a licensee hereunder: If any interest or charge
 6 in excess of those permitted by this chapter are charged, contracted
 7 for, or received, the contract of loan shall be void and the licensee
 8 shall have no right to collect or receive any principal, interest, or
 9 charges whatsoever.

10 The provisions of the Iowa Consumer Credit Code shall apply to
 11 a consumer loan in which the licensee participates or engages, and
 12 any violation of the Iowa Consumer Credit Code shall be a violation
 13 of this chapter.

14 Article two (2), parts three (3), five (5) and six (6), and article
 15 three (3), sections three point two hundred three (3.203), three point
 16 two hundred six (3.206), three point two hundred nine (3.209),
 17 three point three hundred four (3.304), three point three hundred
 18 five (3.305), and three point three hundred six (3.306) of the Iowa

19 Consumer Credit Code shall apply to any credit transaction, as de-
 20 fined in section one point three hundred one (1.301) of that Code, in
 21 which a licensee participates or engages, and any violation of those
 22 parts or sections shall be a violation of this chapter. For the pur-
 23 pose of applying the provisions of the Iowa Consumer Credit Code
 24 to those credit transactions, "consumer loan" shall include a loan for
 25 a business purpose.

26 A provision of the Iowa Consumer Credit Code applicable to loans
 27 regulated by this chapter shall supersede a conflicting provision of
 28 this chapter.

1 SEC. 9.128. Section five hundred thirty-six point fourteen
 2 (536.14), unnumbered paragraph one (1), is amended to read as fol-
 3 lows:

4 Every licensee, *in addition to complying with requirements of the*
 5 *Iowa Consumer Credit Code respecting consumer loans*, shall:

1 SEC. 9.129. Section five hundred thirty-six point nineteen
 2 (536.19), Code 1973, is amended to read as follows:

3 **536.19 Violations.** Any person, copartnership, association, or cor-
 4 poration and the several members, officers, directors, agents, and
 5 employees thereof, who shall violate or participate in the violation of
 6 any of the provisions of sections 536.1, 536.12, 536.13, or 536.14, ~~or~~
 7 ~~536.18~~, *which are not also violations of article five (5), part three (3),*
 8 *of the Iowa Consumer Credit Code*, shall be guilty of a misdemeanor,
 9 and upon conviction thereof, shall be punishable by a fine of not more
 10 than five hundred dollars or by imprisonment of not more than six
 11 months, or by both such fine and imprisonment, in the discretion of
 12 the court. *Violations of the Iowa Consumer Credit Code shall be*
 13 *subject to the penalties provided therein.*

1 SEC. 9.130. Section five hundred thirty-six point twenty-six
 2 (536.26), unnumbered paragraphs four (4) and five (5), Code 1973,
 3 are amended to read as follows:

4 The premium, which shall be the only charge for such insurance,
 5 shall not exceed that approved by the commissioner of insurance of
 6 the state of Iowa as filed in the office of such commissioner. Such
 7 charge, computed at the time the loan is made for the full term of the
 8 loan contract on the total amount required to pay principal and inter-
 9 est, ~~shall be stated separately in the contract and in the same location~~
 10 ~~in such contract as are the statements of the principal and interest of~~
 11 ~~the loan.~~

12 If a borrower procures insurance by or through a licensee, ~~the~~
 13 ~~statement required by section 536.14 shall disclose the cost to the~~
 14 ~~borrower and the type of insurance, and the licensee shall cause to be~~
 15 delivered to the borrower a copy of the policy within fifteen days
 16 from the date such insurance is procured. No licensee shall decline
 17 new or existing insurance which meets the standards set out herein
 18 nor prevent any obligor from obtaining such insurance coverage from
 19 other sources.

1 SEC. 9.131. Chapter five hundred thirty-six (536), Code 1973, is
 2 amended by adding the following new section:

3 **NEW SECTION. Nonresident licensees.** Notwithstanding other
 4 provisions of this chapter to the contrary, a person which neither has

5 an office physically located in this state nor engages in face-to-face
6 solicitation in this state, if authorized by another state to make loans
7 in that state at a rate of finance charge in excess of the rate provided
8 in chapter five hundred thirty-five (535) of the Code, shall not be sub-
9 ject to the following provisions of this chapter:

10 1. Section five hundred thirty-six point two (536.2), Code 1973, to
11 the extent it requires payment of an annual license fee in excess of
12 ten dollars and requires a person to prove he has any dollar amount of
13 liquid assets or the use of any dollar amount in the conduct of his
14 business at the licensed place of business.

15 2. Section five hundred thirty-six point four (536.4), Code 1973,
16 however, the superintendent may deny a license if upon investigation
17 he determines that the financial responsibility, experience, character
18 or general fitness of the person, or members, officers, or directors
19 thereof, do not warrant the belief that the business will be operated
20 lawfully, honestly, fairly, and efficiently, within the purposes of this
21 chapter.

22 3. Section five hundred thirty-six point six (536.6), Code 1973, to
23 the extent it requires a person to have any dollar amount of assets
24 available for a licensed place of business.

25 4. Section five hundred thirty-six point ten (536.10), Code 1973,
26 to the extent it requires the superintendent to make an examination
27 of the affairs, place of business, and records of the person on a peri-
28 odic basis.

1 SEC. 9.132. Sections five hundred thirty-six point sixteen
2 (536.16), five hundred thirty-six point seventeen (536.17), five hun-
3 dred thirty-six point eighteen (536.18), five hundred thirty-six point
4 twenty-seven (536.27), and subsections seven (7) and eight (8) of
5 section five hundred thirty-six point thirteen (536.13), subsections
6 one (1) and two (2) of section five hundred thirty-six point fourteen
7 (536.14), and paragraph seven (7) of section five hundred thirty-six
8 point twenty-six (536.26), Code 1973, are repealed.

1 SEC. 9.133. Section five hundred thirty-six A point three
2 (536A.3), Code 1973, is amended to read as follows:

3 **536A.3 License.** *No corporation With respect to a loan other*
4 *than a consumer loan, no person shall engage in the business of oper-*
5 *ating an "Industrial Loan Company" in the state of Iowa without*
6 *first having obtained a license from the auditor of the state of Iowa.*
7 *With respect to a consumer loan, no person required by section*
8 *two point three hundred one (2.301) of the Iowa Consumer Credit*
9 *Code to have a license shall be authorized to engage in the business of*
10 *operating an "Industrial Loan Company" without first obtaining a*
11 *license from the auditor of the state of Iowa. A person which enters*
12 *into less than ten supervised loans per year in this state and which*
13 *neither has an office physically located in this state nor engages in*
14 *face-to-face solicitation in this state may contract for and receive the*
15 *rate of interest permitted in this chapter for licensees hereunder. A*
16 *"consumer loan" shall be as defined in section one point three hundred*
17 *one (1.301) of the Iowa Consumer Credit Code.*

1 SEC. 9.134. Section five hundred thirty-six A point twenty-three
2 (536A.23), subsection one (1), Code 1973, is amended to read as fol-
3 lows:

4 1. Charge, receive or collect interest at a rate greater than that
5 authorized by section 535.2, except that the interest may be computed
6 when the note is made on the full amount of the cash advanced on the
7 loan from the date of the note to the date of the final installment
8 thereof, and the interest so computed may be included in the note,
9 notwithstanding any agreement to pay the entire amount in install-
10 ments; or the interest may be computed on the amount of the note
11 and discounted or collected in advance when the loan is made, not-
12 withstanding any agreement to pay the entire amount in installments.
13 If the note is repayable in other than equal monthly installments, the
14 interest may be an amount computed on the basis of the effective
15 rates permitted as provided above; provided, however, there shall be
16 no compounding of interest and when an interest rate as authorized
17 herein is advertised, or negotiated for with a prospective borrower,
18 with intent that it be computed by either of the two methods author-
19 ized herein, they being the "add on" method or the "discount" method,
20 in such case such rate shall be further described as to the method of
21 computation to be used, *but interest computed by either method shall*
22 *be stated to the borrower as provided in section three point two hun-*
23 *dred ten (3.210) of the Iowa Consumer Credit Code.*

1 SEC. 9.135. Section five hundred thirty-six A point twenty-three
2 (536A.23), Code 1973, is amended by adding the following new sub-
3 section:

4 NEW SUBSECTION. Industrial loan companies licensed under the
5 provisions of this chapter may purchase notes, contracts, mortgages,
6 accounts, receivables, leases and securities of a type and kind author-
7 ized by the auditor.

1 SEC. 9.136. Section five hundred thirty-six A point twenty-six
2 (536A.26), Code 1973, is amended by striking the section and insert-
3 ing in lieu thereof the following:

4 536A.26 Prepayment. In addition to the requirements of the
5 Iowa Consumer Credit Code respecting consumer loans, and notwith-
6 standing the provisions of any note or contract to the contrary, a
7 borrower may, at any time, prepay all or any part of the unpaid bal-
8 ance to become payable under any note or installment contract.

1 SEC. 9.137. Section five hundred thirty-six A point twenty-seven
2 (536A.27), Code 1973, is amended to read as follows:

3 536A.27 Penalty. If any officer, director or agent of any corpo-
4 ration engaged in the business of operating an industrial loan com-
5 pany shall violate any of the provisions of this chapter *which are not*
6 *also violations of the Iowa Consumer Credit Code*; or if any person
7 individually or as a partner, or officer, director or agent of any cor-
8 poration shall engage in the business of operating an industrial loan
9 company without obtaining the license required by section 536A.3,
10 *when that person is not required by section two point three hundred*
11 *one (2.301) of the Iowa Consumer Credit Code to have a license*, he
12 shall be guilty of a misdemeanor and upon conviction thereof shall be
13 punishable by a fine of not more than five hundred dollars or by
14 imprisonment in the county jail for not more than six months, or by
15 both such fine and imprisonment. *Violations of the Iowa Consumer*
16 *Credit Code shall be subject to the penalties provided therein.*

1 SEC. 9.138. Chapter five hundred thirty-six A (536A), Code 1973,
2 is amended by adding the following new sections:

3 NEW SECTION. **Nonresident licensees.** Notwithstanding other
4 provisions of this chapter to the contrary, a person which neither has
5 an office physically located in this state nor engages in face-to-face
6 solicitation in this state, if authorized by another state to make loans
7 in that state at a rate of finance charge in excess of the rate provided
8 in chapter five hundred thirty-five (535) of the Code, shall not be
9 subject to the following provisions of this chapter:

10 1. Section five hundred thirty-six A point seven (536A.7) of the
11 Code, to the extent it requires payment of an annual license fee in
12 excess of ten dollars.

13 2. Section five hundred thirty-six A point eight (536A.8) of the
14 Code.

15 3. Section five hundred thirty-six A point ten (536A.10), subsec-
16 tions two (2), three (3) and four (4) of the Code.

17 4. Section five hundred thirty-six A point twelve (536A.12) of the
18 Code, to the extent it requires a licensee to pay an annual licensee fee
19 which, when combined with that required in section five hundred
20 thirty-six A point seven (536A.7) of this chapter, is in excess of ten
21 dollars.

22 5. Section five hundred thirty-six A point fifteen (536A.15) of this
23 chapter, to the extent it requires the auditor to make an examination
24 and audit of the books, accounts and records of the licensee on a
25 periodic basis.

26 NEW SECTION. **Applicability of Iowa Consumer Credit Code.**

27 1. The provisions of the Iowa Consumer Credit Code shall apply to
28 a consumer loan in which the licensee participates or engages, and
29 any violation of the Iowa Consumer Credit Code shall be a violation of
30 this chapter.

31 2. Article two (2), parts three (3), five (5), and six (6), and
32 article three (3), sections three point two hundred three (3.203),
33 three point two hundred six (3.206), three point two hundred nine
34 (3.209), three point two hundred ten (3.210), three point three hun-
35 dred four (3.304), three point three hundred five (3.305), and three
36 point three hundred six (3.306) of the Iowa Consumer Credit Code
37 shall apply to any credit transaction, as defined in section one point
38 three hundred one (1.301) of that Code, in which a licensee partici-
39 pates or engages, and any violation of those parts or sections shall be
40 violations of this chapter. For the purpose of applying the provisions
41 of the Iowa Consumer Credit Code to those credit transactions, "con-
42 sumer loan" shall include a loan for a business purpose.

43 3. A provision of the Iowa Consumer Credit Code applicable to
44 loans regulated by this chapter shall supersede a conflicting provision
45 of this chapter.

1 SEC. 9.139. Sections five hundred thirty-six A point twenty
2 (536A.20) and five hundred thirty-six A point twenty-four (536A.24),
3 and subsections three (3), four (4), six (6) and seven (7) of section
4 five hundred thirty-six A point twenty-three (536A.23), Code 1973,
5 are repealed.

1 SEC. 9.140. Section five hundred fifty-four point nine thousand
2 two hundred three (554.9203), subsection two (2), Code 1973, is
3 amended to read as follows:

4 2. A transaction, although subject to this Article, is also subject
5 to chapters 322, 534, 535, 536, 536A and, section 524.906, and the
6 Iowa Consumer Credit Code, where applicable, and in the case of
7 conflict between the provisions of this Article and ~~any such statute~~
8 ~~those statutes~~, the provisions of ~~such statute~~ those statutes control.
9 Failure to comply with any applicable statute has only the effect
10 which is specified therein.

1 SEC. 9.141. Section six hundred forty-two point two (642.2),
2 Code 1973, is amended by striking the section and inserting in lieu
3 thereof the following:

4 **642.2 Garnishment of public employer.**

5 1. The state of Iowa, and all of its governmental subdivisions and
6 agencies may be garnisheed, only as provided in this section and the
7 consent of the state and of its governmental subdivisions and agencies
8 to those garnishment proceedings is hereby given.

9 2. Garnishment pursuant to this section may be made only upon a
10 judgment against an employee of the state, or of a governmental sub-
11 division or agency thereof.

12 3. No debt of the garnishee is subject to garnishment other than
13 the wages of the public employee.

14 4. Service upon the garnishee shall be made by serving an original
15 notice with a copy of the judgment against the defendant, and with a
16 copy of the questions specified in section six hundred forty-two point
17 five (642.5) of this chapter, by certified mail or by personal service
18 upon the attorney general, county attorney, city attorney, or other
19 legal counsel of the appropriate governmental unit. The garnishee
20 shall be required to answer within thirty days following receipt of the
21 notice.

22 5. If it is established that the garnishee owed wages to the defend-
23 ant at the time of being served with the notice of garnishment, judg-
24 ment shall be entered, subject to the requirement of section six
25 hundred forty-two point fourteen (642.14) of the Code against the
26 garnishee in an amount not exceeding the amount recoverable upon
27 the judgment against the defendant employee, but in no event shall
28 the judgment granted be for any amount in excess of that permitted
29 by section six hundred forty-two point twenty-one (642.21) of the
30 Code, and section five point one hundred five (5.105) of the Iowa
31 Consumer Credit Code.

32 6. A judgment in garnishment issued pursuant to this section shall
33 be enforceable against a garnishee only to the extent of the defend-
34 ant's wages actually in the possession of the garnishee, and shall not
35 be enforceable against any property, claims or other rights of the
36 garnishee.

37 7. A person garnisheed pursuant to this section shall be subject to
38 the provisions of this chapter not inconsistent with this section.

1 SEC. 9.142. The secretary of the senate is authorized to correct
2 any errors in internal referencing which may appear in this bill.

1 SEC. 9.143. Section five hundred thirty-three point fourteen
2 (533.14), Code 1973, is amended to read as follows:
3 **533.14 Interest rates.** Interest rates on loans made by a credit
4 union shall not exceed one percent a month on unpaid balances, *except*
5 *that with respect to consumer loans, a credit union may charge the*
6 *finance charge permitted in sections two point four hundred one*
7 *(2.401) and two point four hundred two (2.402) of the Iowa Con-*
8 *sumer Credit Code.*

Approved June 3, 1974

CHAPTER 1251

PERSONAL PROPERTY REMOVED FROM REAL ESTATE

S. F. 354

AN ACT relating to property unlawfully placed on public or private property.

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

1 SECTION 1. NEW SECTION.
2 1. The owner or other lawful possessor of real property may remove
3 or cause to be removed any motor vehicle or other personal property
4 which has been unlawfully parked or placed on that real property, and
5 may place or cause such personal property to be placed in storage until
6 the owner of the same pays a fair and reasonable charge for towing,
7 storage, or other expense incurred. The real property owner or pos-
8 sessor, or his agent, shall not be liable for damages caused to the per-
9 sonal property by the removal or storage unless the damage is caused
10 willfully or by gross negligence.
11 2. The real property owner or possessor shall notify the sheriff of
12 the county where the real property is located of the removal of the
13 motor vehicle or other personal property. If the owner of the motor
14 vehicle or other personal property can be determined, he shall be
15 notified of the removal by the sheriff by certified mail, return receipt
16 requested. If such owner cannot be identified, notice by one publica-
17 tion in one newspaper of general circulation in the area where the
18 personal property was parked or placed shall be sufficient to meet all
19 notice requirements under this Act. If the personal property has not
20 been reclaimed by the owner within six months after notice has been
21 effected, it may be sold by the sheriff at public or private sale. The net
22 proceeds after deducting the cost of the sale shall be applied to the cost
23 of removal and storage of the property, and the remainder, if any,
24 shall be paid to the county treasurer for the use and benefit of the
25 county general fund.

Approved May 10, 1974