

CHAPTER 128
BANKING PROCEDURES

H. F. 649

AN ACT to amend Iowa banking Act provisions regarding state bank reports of condition, directors' qualifications, incorporation procedures, reserve requirements, property ownership, interest payments and loans.

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

Section 1. Chapter three hundred twenty-one (321), Code 1979, is amended by adding the following new section:

NEW SECTION. SEMITRAILER RETAIL INSTALLMENT CONTRACT--FINANCE CHARGES. Notwithstanding the provisions of any other law, a retail installment contract or agreement for the sale of a semitrailer may include a finance charge not in excess of the following rates:

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

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

Class 3. Any used semitrailer not in Class 2 and designated by the manufacturer by a year model more than two years prior to the year in which the sale is made, an amount equivalent to two and one-fourth percent per month simple interest on the declining balance of the amount financed.

Amount financed shall be as defined in section five hundred thirty-seven point one thousand three hundred one (537.1301) of the Code.

Sec. 2. Section five hundred twenty-four point two hundred eleven (524.211), subsections one (1) and two (2), Code 1979, is amended to read as follows:

1. No sum of money or property, as a gift or loan, or otherwise, shall be given or granted, directly or indirectly by a state bank, or by persons subject to chapters 533, 533A, 533B, 536, 536A, or any affiliate of a state bank or of such persons, or any director, officer, employee, member, owner, or partner of a state bank or of such persons, to the superintendent, deputy superintendent, an assistant or examiner, nor shall the superintendent, deputy superintendent, an assistant or examiner receive from a state bank or from persons subject to chapters 533, 533A, 533B, 536, and 536A, or any affiliate of a state bank or of such persons, or any director, officer, employee, member, owner, or partner of a state bank or of such persons, any sum of money or any property as a gift or loan, or otherwise, either directly or indirectly.

2. The deputy superintendent, any assistant or examiner, shall not perform any services for, nor be a shareholder, member, partner, owner, director, officer or employee of any bank or private bank, or of persons subject to chapters ~~533~~, 533A, 533B, 536, or 536A, or of any affiliate of any bank, private bank or of any such persons. A violation of this subsection shall constitute grounds for discharge or suspension from employment or for reduction in rank or grade.

Sec. 3. Section five hundred twenty-four point two hundred twelve (524.212), Code 1979, is amended to read as follows:

524.212 PROHIBITION AGAINST DISCLOSURE. An examiner shall not disclose to any person, other than the superintendent, deputy superintendent, and the person examined, the name of any shareholder, member, partner, owner of, or borrower from, or disclose the nature of the collateral for any loan by any state bank or persons subject to chapters ~~533~~, 533A, 533B, 536, and 536A, or any affiliate of any state bank or of any such persons, or any other information relating to the business of any state bank or of any such persons, or any affiliate of any state bank or of any such persons, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in subsections 1, 2, and 3 of section 524.215.

Sec. 4. Section five hundred twenty-four point two hundred twenty (524.220), subsection two (2), Code 1979, is amended to read as follows:

2. The statement shall be transmitted to the superintendent within ~~ten~~ thirty days after the receipt of a request for the statement from the superintendent. A statement shall be called for by the superintendent at least three times each year.

Sec. 5. Section five hundred twenty-four point two hundred twenty (524.220), subsection three (3), Code 1979, is amended to read as follows:

3. Within ~~twenty~~ forty days after the date of the receipt of the request for a statement of condition, the state bank shall cause the statement to be published once in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business. Proof of such publication by affidavit of the publisher of the newspaper in which it was made, shall be delivered to the superintendent and shall be conclusive evidence of the fact.

Sec. 6. Section five hundred twenty-four point three hundred four (524.304), Code 1979, is amended to read as follows:

524.304 PUBLICATION OF NOTICE. The incorporators of a state bank shall publish notice of their intention to deliver, or the delivery of, the articles of incorporation to the superintendent, once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation which is proposed as the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the proposed state bank is to have its principal place of business. The first publication of the notice shall appear prior to, or within ~~seven~~ ten days after, the date of delivery of the articles of incorporation to the superintendent and shall set forth:

1. The name of the proposed state bank.
2. A statement that it is to be incorporated under this chapter.
3. The purpose or purposes of the state bank.
4. The names and addresses of the incorporators and of the members of the initial board of directors as they appear, or will appear, in the articles of incorporation.
5. The date of the delivery of the articles of incorporation to the superintendent.

6. If the incorporation of the state bank has been approved by the superintendent under section five hundred twenty-four point three hundred five (524.305), subsection six (6), the name and address of the bank with which the state bank will have merged or consolidated, or the assets of which the state bank will have acquired or the condition of which in some other way provided a purpose for the incorporation.

Sec. 7. Section five hundred twenty-four point three hundred five (524.305), Code 1979, is amended to read as follows:

524.305 APPROVAL BY SUPERINTENDENT.

1. Upon receipt of an application for approval of a state bank the superintendent shall conduct such investigation as he deems necessary to ascertain whether:

1 a. The articles of incorporation and supporting items satisfy the requirements of this chapter.

2 b. The convenience and needs of the public will be served by the proposed state bank.

3 c. The population density or other economic characteristics of the area primarily to be served by the proposed state bank afford reasonable promise of adequate support for the state bank.

4 d. The character and fitness of the incorporators and of the members of the initial board of directors are such as to command the confidence of the community and to warrant the belief that the business of the proposed state bank will be honestly and efficiently conducted.

5 e. The capital structure of the proposed state bank is adequate in relation to the amount of the anticipated business of the state bank and the safety of prospective depositors.

6 f. The proposed state bank will have sufficient personnel with adequate knowledge and experience to conduct the business of the state bank, and to administer fiduciary accounts, if the state bank is to be authorized to act in a fiduciary capacity.

2. Within one hundred eighty days after receipt of the application for approval together with the items referred to in section 524.303, subsections 1 and 2, the superintendent shall make a determination whether to approve or disapprove the pending application on the basis of his investigation.

3. Within ninety days after the second publication of the notice referred to in section 524.304 any person opposing the pending application shall file written objections thereto with the superintendent. Following the expiration of the period referred to in the previous sentence and prior to making a determination on the pending application the superintendent shall, upon adequate notice, afford all interested persons, including the incorporators,

an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.

4. If the superintendent approves the pending application, he shall deliver the articles of incorporation, with his approval indicated thereon, to the secretary of state and notify the incorporators, and such other persons who requested in writing that they be notified, of such approval. If the superintendent disapproves the pending application he shall notify the incorporators of his action and the reason for his decision.

5. The actions of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act. The court may award damages to the incorporators if it finds that review is sought frivolously and in bad faith.

6. Subsection three (3) of this section shall not apply if the superintendent finds that one of the purposes of the proposed state bank is the merger or consolidation with, or the purchase of some or all of the assets of and assumption of some or all of the liabilities of, a bank for which a receiver has been appointed or which has been ordered, by authorities of this state or the United States, to cease to carry on its business, or if the superintendent finds for any other reason that immediate action on the pending application is advisable in order to protect the interests of depositors or the assets of any other bank.

7. Before receiving the decision of the superintendent with respect to the pending application the incorporators shall, upon notice, reimburse the superintendent to the extent of the expenses incurred by him in connection with the application.

Sec. 8. Section five hundred twenty-four point three hundred seven (524.307), Code 1979, is amended to read as follows:

524.307 ORGANIZATIONAL MEETING. After the issuance of the certificate of incorporation of a state bank, an organizational meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the incorporators for the purpose of adopting bylaws, if any are to be adopted, electing officers and the transaction of such other business as may properly come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, except that any form of actual notice or written waiver thereof shall be sufficient in the case of a state bank approved under the provisions of section five hundred twenty-four point three hundred five (524.305), subsection six (6). ~~which~~ A notice shall state the time and place of the meeting.

Sec. 9. Section five hundred twenty-four point three hundred twelve (524.312), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. A state bank approved under the provisions of section five hundred twenty-four point three hundred five (524.305), subsection six (6), shall not commence its business at any location other than within a municipal corporation or unincorporated area in which was located the principal place of business or an office of the bank whose condition was the basis for the superintendent authorizing incorporation of the new state bank.

Sec. 10. Section five hundred twenty-four point six hundred one (524.601), subsection one (1), Code 1979, is amended to read as follows:

1. The business and affairs of a state bank shall be managed by a board of five or more directors eighteen years of age or older, a majority of whom shall be citizens of this state and all of whom shall be citizens of the United States. ~~No individual shall be eligible to serve as a director of any state bank unless he is the owner, in his own right, free of any lien and encumbrance, of common shares in the state bank of which he is a director having a par value of not less than five hundred dollars.~~

Sec. 11. Section five hundred twenty-four point six hundred twelve (524.612), subsection one (1), Code 1979, is amended to read as follows:

1. The total obligations, as defined in subsection 1 of section 524.904, of a director to a state bank of which he is a director shall not exceed twenty percent of the capital and surplus of the state bank except that the total obligations of a director to a state bank of which he is a director shall not exceed forty percent of the capital and surplus of the state bank if the amount by which such obligations exceed twenty percent of the capital and surplus of the state bank shall consist of obligations described in ~~subparagraphs (1), (2), and (3)~~ of paragraph "a" of subsection 2 of section 524.904. A majority of the board of directors, voting in the absence of the applying director, shall give its prior approval to any obligation, as defined in subsection 1 of section 524.904, of a director to the state bank of which he is a director. The form of such approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors.

Sec. 12. Section five hundred twenty-four point seven hundred six (524.706), subsection one (1), paragraph a, Code 1979, is amended to read as follows:

1. a. An executive officer of a state bank may receive loans or extensions of credit from a state bank of which he is an executive officer, resulting in obligations as defined in section 524.904, subsection 1, not exceeding, in the aggregate:

(1) Such amount as the bank is permitted to lend pursuant to section 524.905, subsection 2, if, at the time such obligations* is incurred, it is secured by a first lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used by him as his residence, provided that at the time the loan is made there is no other loan by the bank to the executive officer, under authority of this subparagraph, outstanding; and

(2) An amount not exceeding an aggregate of ~~ten~~ twenty thousand dollars outstanding at any one time, to finance the education of a child or children of the executive officer; and

(3) Any other loans or extensions of credit which in aggregate do not at any one time exceed ~~five~~ ten thousand dollars.

Sec. 13. Section five hundred twenty-four point eight hundred three (524.803), subsection two (2), Code 1979, is amended to read as follows:

2. The book value of all real and personal property acquired and held pursuant to this section, of all alterations to buildings on real property

*According to enrolled Act

owned or leased by a state bank, of all shares in corporations acquired pursuant to paragraphs "c" and "d" of subsection 1 of this section, and of any and all obligations of such corporations to the state bank, shall not exceed twenty-five percent of the capital, and surplus and undivided profits of the state bank or such larger amount as may be approved by the superintendent.

Sec. 14. Section five hundred twenty-four point eight hundred five (524.805), subsection two (2), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

2. However, interest paid on a demand account shall not exceed a rate which exceeds the maximum interest rate which Iowa state banks insured by the federal deposit insurance corporation are permitted by federal law to pay on insured passbook savings accounts.

Sec. 15. Section five hundred twenty-four point eight hundred fourteen (524.814), subsection one (1), Code 1979, is amended to read as follows:

1. To secure deposits when a customer is required to obtain such security by the laws of the United States, by any agency or instrumentality of the United States, by the laws of the state of Iowa, by the state board of regents, by a resolution or ordinance relating to the issuance of bonds, by the terms of any interstate compact or by order of any court of competent jurisdiction.

Sec. 16. Section five hundred twenty-four point nine hundred one (524.901), subsection two (2), Code 1979, is amended to read as follows:

2. A state bank may invest for its own account in other readily marketable bonds or securities, with investment characteristics as defined by the superintendent by general regulation applicable to all state banks, subject to the following limitations:

a. The total amount of such bonds or securities of any one issuer or obligor, other than revenue or improvement bonds issued by a municipality pursuant to section 419.2 and subjected to separate investment limits under paragraphs "b", "c", or "d" of this subsection, shall not exceed twenty percent of the capital and surplus of the state bank.

b. The total amount of special assessment improvement or refunding bonds which have been issued by a municipality under authority of section three hundred eighty-four point sixty-eight (384.68) and which are repayable from the proceeds of any one levy shall not exceed twenty percent of the capital and surplus of the state bank.

c. The total amount of revenue bonds and pledge orders which have been issued by a municipality under authority of chapter three hundred eighty-four (384), division five (V), and which are repayable from the revenues of any one city utility, combined utility system, city enterprise or combined city enterprise shall not exceed twenty percent of the capital and surplus of the state bank.

d. The total amount of revenue bonds issued by a municipality pursuant to section 419.2 which have been issued on behalf of any one lessee, as defined in section 419.1, or which are guaranteed by any one guarantor, or which are issued on behalf of or guaranteed by a corporation, a ten percent or greater ownership interest in which is held by or in common with a ~~lessee~~ lessee or

guarantor, or any combination of the foregoing whereby the municipality could receive revenues for payment of such bonds from any one person or any group of persons under common control, shall not exceed twenty percent of the capital and surplus of the state bank.

e. A state bank shall obtain the express consent of the superintendent prior to investment by that bank of an amount in excess of twenty percent of its capital and surplus in bonds or securities issued by any one municipality, regardless of the sources of funds proposed for repayment of the various bonds or securities.

e f. No bond or security shall be eligible for investment by a state bank within this subsection if the bond or security has been in default either as to principal or interest at any time within five years prior to the date of purchase.

Sec. 17. Section five hundred twenty-four point nine hundred four (524.904), subsection four (4), Code 1979, is amended by striking paragraph g and inserting in lieu thereof the following:

g. Obligations of a customer which is a bank to the extent the obligations are repayable on demand or on the first business day following demand for repayment.

Sec. 18. Section five hundred twenty-four point nine hundred four (524.904), subsection two (2), paragraph d, Code 1979, is amended to read as follows:

d. The total obligations of any one customer, ~~who~~ which is an individual or a corporation, to a state bank at any one time shall not exceed forty percent of the capital and surplus of the state bank if all of the amount by which such obligations exceed twenty percent of the capital and surplus of the state bank consists of amounts owed by one or more corporations of which the customer owns or controls more than fifty percent of the shares entitled to vote, or, if the customer is a corporation, of amounts owed by another corporation which owns or controls more than fifty percent of the shares of the customer entitled to vote, or of amounts owed by one or more other corporations more than fifty percent of the voting shares of each of which are owned or controlled by a person which also owns or controls more than fifty percent of the shares of the customer entitled to vote, provided however, when this paragraph applies:

(1) The amounts owed by such customer shall not exceed twenty percent of the capital and surplus of the state bank.

(2) The amounts owed by any one or all of ~~such~~ the corporations other than the customer shall not exceed twenty percent of the capital and surplus of the state bank.

(3) The shares, assets and any liabilities of any such corporation other than the customer shall not be included in the financial statement of such customer or otherwise relied upon as a basis for a loan to such customer.

(4) The assets or guarantee of such customer shall not be relied upon as a basis for a loan to any such corporation.

(5) The proceeds of the amounts owed by the customer shall not be intermingled with or used for a common purpose with the proceeds of the amounts owed by the corporation or corporations other than the customer.

For the purposes of this paragraph, the term "amounts owed" means the amounts for the payment of which such customer or any one or all such corporations are obligated, whether directly or indirectly, primarily or secondarily, to a state bank as a result of the exercise by the state bank of the powers conferred by section 524.902, but determined without reference to paragraphs "e", "f" and "g" of subsection 1 of this section.

Sec. 19. Section five hundred twenty-four point nine hundred four (524.904), subsection four (4), Code 1979, is amended by adding the following new paragraph:

NEW PARAGRAPH. Obligations of a customer as endorser or guarantor for a corporation in which that customer owns or controls more than fifty percent of the shares entitled to vote, provided that under rules promulgated by the superintendent the customer and the corporation qualify as separate customers because the assets and the demonstrated ability to generate income of the corporation and the customer taken together are adequate to secure and fund all outstanding and contemplated debt of the corporation and the customer.

Sec. 20. Section five hundred twenty-four point nine hundred five (524.905), subsection one (1), Code 1979, is amended to read as follows:

1. A state bank may make permanent loans or combined construction and permanent loans, secured by liens on residential real property housing more than two families, and on real property consisting of farmland, industrial, manufacturing and commercial properties including a leasehold in such properties. Any such loan may be made in an amount not to exceed seventy-five percent of the appraised value of the property offered as security and for a term not longer than ~~twenty~~ twenty-five years, provided that the loan is secured by an amortized mortgage, deed of trust or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of not more than ~~twenty~~ twenty-five years. In the case of a combined construction and permanent loan made pursuant to this subsection, the amount of the loan shall not exceed seventy-five percent of the value of the property upon completion of the construction.

Sec. 21. Section five hundred twenty-four point nine hundred five (524.905), subsection three (3), paragraph c, Code 1979, is amended to read as follows:

c. Financing the acquisition and development of unimproved real property if the maturity of any such loan does not exceed three years from the date thereof and the amount of any such loan does not exceed ~~one-half~~ seventy-five percent of the cost of the real property acquired for development plus ~~one-half~~ seventy-five percent of the cost of development exclusive of the cost of construction of buildings.

Sec. 22. Section five hundred twenty-four point nine hundred five (524.905), subsection five (5), paragraph f, Code 1979, is amended to read as follows:

f. The state bank shall obtain either a written opinion by an attorney admitted to practice in Iowa stating that the mortgage, deed of trust or similar instrument is a first lien on the real property, or a loan policy of title insurance written by an insurance company licensed to do business in

the state in which the real property is located insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust or similar instrument as a first lien on the real property.

Sec. 23. Section five hundred twenty-four point nine hundred five (524.905), subsection six (6), paragraph e, subparagraph three (3), Code 1979, is amended to read as follows:

(3) On a financially responsible lessee of the real property provided that the lease shall be assigned to the state bank and the lease by its terms shall be sufficient to amortize the entire principal of the loan within a period of not more than ~~twenty~~ twenty-five years.

Approved June 8, 1979

CHAPTER 129

ELECTRONIC FUND TRANSFERS BY INDUSTRIAL LOAN COMPANIES

S. F. 211

AN ACT authorizing a corporation licensed under chapter five hundred thirty-six A (536A) of the Code to establish, own, operate, utilize, and participate in electronic fund transfer systems.

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

Section 1. Section five hundred twenty-four point eight hundred twenty-one (524.821), subsection one (1), Code 1979, is amended to read as follows:

1. A state bank may engage in any transaction incidental to the conduct of the business of banking and otherwise permitted by applicable law, by means of either the direct transmission of electronic impulses to or from customers and banks or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank. Subject to the provisions of chapter 527, a state bank may utilize, establish or operate, alone or with one or more other banks, savings and loan associations incorporated under the provisions of chapter 534 or ~~the Home-Owners'-Loan-Act of 1933~~ ~~(12-U.S.C. sections 1461-1463)~~ federal law, credit unions incorporated under the provisions of chapter 533 or ~~the federal-Credit-Union Act~~ ~~(12-U.S.C. sections 1751-1790)~~ federal law, corporations licensed under chapter five hundred thirty-six A (536A) of the Code, or third parties, the satellite terminals permitted under chapter 527, by means of which customers and banks may transmit and receive electronic impulses constituting transactions pursuant to this section. However, such utilization, establishment, or operation shall be lawful only when, in compliance with chapter 527. Nothing in this section shall be construed as authority for any person to engage in transactions not otherwise permitted by applicable law, nor shall anything in this section be deemed to repeal, replace or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by any bank.