

c. Renegotiable rate mortgages.

d. Alternative mortgage instruments under chapter 535B.

Sec. 8. Section 3 of this Act shall not be construed to exempt property improvement loans from the provisions of chapter 537, the Iowa consumer credit code, where applicable.

Approved May 5, 1981

CHAPTER 176

REAL PROPERTY PURCHASE-MONEY LOANS

H. F. 588

AN ACT relating to the collection by lenders of certain fees from persons other than sellers and borrowers in connection with certain real property purchase-money loans.

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

Section 1. Section 535.8, subsection 2, paragraphs a and d, Code 1981, are amended to read as follows:

2. a. A lender may collect in connection with a loan a loan processing fee which does not exceed one percent of an amount which is equal to the loan principal less twelve thousand five hundred dollars, except that in the event of an assumption of a prior loan the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expense of processing the loan assumption but which does not exceed one percent of the amount assumed. In addition, a lender may collect in connection with a loan a commitment fee, closing fee, or similar charge from the person who developed or constructed the dwelling or from any other person who is neither the borrower nor the owner of the dwelling that is being purchased with part or all of the proceeds of the loan. A loan ~~processing~~ fee collected under the authority of this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan ~~processing~~ fee collected under the authority of this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. The collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge other than expressly authorized by this paragraph is prohibited.

d. If a lender collects a fee or charge which is prohibited by paragraph "a" or "b" of this subsection or which exceeds the amount permitted by paragraph "a" or "b" of this subsection, the borrower person from whom the fee was collected has the right to recover the unlawful fee or charge or the unlawful portion of the fee or charge, plus attorney fees and costs incurred in any action necessary to effect recovery.

Sec. 2. Section 535.8, subsection 5, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Approved April 28, 1981

CHAPTER 177
REAL PROPERTY LOANS

S. F. 423

AN ACT establishing definitions and rules of construction to be applied in connection with the interpretation of laws relating to real property loans.

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

Section 1. Section 535.10, subsection 1, Code 1981, is amended to read as follows:

1. The following persons may agree in writing to pay any rate of interest, and a person so agreeing in writing shall not plead or interpose the claim or defense of usury in any action or proceeding, and the person agreeing to receive such rate of interest shall not be subject to any penalty or forfeiture for agreeing to receive or receiving such interest:

a. A person borrowing money ~~to finance the acquisition of~~ for the purpose of acquiring real property, ~~including the~~ or refinancing of a contract for deed, ~~and including the refinancing or assumption of a prior loan by a new borrower if the lender releases the original borrower from all personal liability with respect to the loan;~~

b. A person borrowing money or obtaining credit in an amount which exceeds thirty-five thousand dollars, exclusive of interest, for the purpose of constructing improvements on real property, whether or not the real property is owned by that person;

c. A vendee under a contract for deed to real property; ~~or~~

d. A person described in section 535.2, subsection 2; or

e. A person borrowing money or obtaining credit for business or agricultural purposes, or a person borrowing money or obtaining credit in an amount which exceeds thirty-five thousand dollars for personal, family or household purposes. As used in this paragraph, "agricultural purpose" means as defined in section 535.13; and "business purpose" includes but is not limited to a commercial, service or industrial enterprise carried on for profit, and any investment activity.

f. In determining which loans are exempt under this subsection, the rules of construction stated in this paragraph shall apply:

(1) The purpose for which money is borrowed is the purpose to which a majority of the loan proceeds are applied or are designated in the agreement to be applied.