



OFFICE OF THE GOVERNOR

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 10, 2008

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2556, an Act relating to the regulatory duties of the banking division of the department of commerce regarding banking, debt management, delayed deposit services, mortgage banking, and industrial loan companies, and providing penalties.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", with a long horizontal flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2556

AN ACT

RELATING TO THE REGULATORY DUTIES OF THE BANKING DIVISION
OF THE DEPARTMENT OF COMMERCE REGARDING BANKING, DEBT
MANAGEMENT, DELAYED DEPOSIT SERVICES, MORTGAGE BANKING,
AND INDUSTRIAL LOAN COMPANIES, AND PROVIDING PENALTIES.

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

Section 1. Section 524.107, subsection 2, Code 2007, is amended to read as follows:

2. A person doing business in this state shall not use the words "bank" or "trust" or use any derivative, plural, or compound of the words "bank", "banking", "bankers", or "trust" in any manner which would tend to create the impression that the person is authorized to engage in the business of banking or to act in a fiduciary capacity, except a state bank authorized to do so by this chapter, a national bank to the extent permitted by the laws of the United States, a bank holding company as defined in section 524.1801, a savings and loan holding company as defined in 12 U.S.C. § 1467a, a state association pursuant to section 534.507, or a federal association to the extent permitted by the laws of the United States, or, insofar as the word "trust" is concerned, an individual permissibly serving as a fiduciary in this state, pursuant to section 633.63, or, insofar as the words "trust" and "bank" are concerned, a nonresident corporate fiduciary permissibly serving as a fiduciary in this state pursuant to section 633.64.

Sec. 2. Section 524.203, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

524.203 SUPERINTENDENT -- VACANCY.

If the office of the superintendent of banking is vacant, the chief of the bank bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If the chief of the bank bureau is unable to serve, the chief of the finance bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If both the chief of the bank bureau and the chief of the finance bureau are unable to serve, the chief of the professional licensing and regulation bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent.

Sec. 3. Section 524.211, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The superintendent, general counsel, examiners, and other employees assigned to the bank bureau of the banking division are prohibited from obtaining a loan of money or property from a state-chartered bank, a state savings and loan association, or any person or entity affiliated with a state-chartered bank or a state savings and loan association, unless they do not personally participate in the examination, oversight, or official review concerning the regulation of the bank or savings and loan association.

Sec. 4. Section 524.212, Code Supplement 2007, is amended to read as follows:

524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY INFORMATION.

1. The superintendent, members of the state banking council, general counsel, examiners, or other employees of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, 533C, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, 533C, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then

only in those instances referred to in section 524.215, subsection 2, paragraphs "a", "b", "c", and "e".

2. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the conference of state bank supervisors and its affiliates or subsidiaries, the American association of mortgage regulators and its affiliates or subsidiaries, and the national association of consumer credit administrators and its affiliates or subsidiaries, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

Sec. 5. Section 524.216, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:

c. A statement of the receipts and disbursements of funds of the superintendent during the ~~calendar~~ fiscal year ending on the preceding ~~December-31~~ June 30 and of the funds on hand on such ~~December-31~~ June 30.

Sec. 6. NEW SECTION. 524.229 EMERGENCY POWERS OF SUPERINTENDENT.

Whenever the superintendent determines that an emergency affecting one or more state-chartered banks or bank offices exists, or is impending, in this state or in any part or parts of this state, the superintendent may temporarily suspend applicable rules or statutes to the extent necessary to allow the affected bank or banks to respond to the emergency.

Sec. 7. Section 524.312, subsection 2, Code 2007, is amended to read as follows:

2. A state bank may, with the prior written approval of the superintendent, change the location of its principal place of business to a new location within the state. ~~A change of location shall be limited to another location in the same municipal corporation, to a location in a municipal corporation in the same county, or to a location in a municipal corporation in a county that is contiguous to or touching or cornering on the county in which the state bank is~~

~~located.--If-a-state-bank-has-its-principal-place-of-business in-an-unincorporated-area, the-superintendent-may-authorize-a change-of-location-of-its-principal-place-of-business-to-a-new location-within-the-same-unincorporated-area-as-well-as-to-any location-referred-to-in-this-subsection.~~

Sec. 8. Section 524.1607, Code 2007, is amended to read as follows:

524.1607 FALSE STATEMENT FOR CREDIT.

1. For the purposes of this section, unless the context otherwise requires:

a. "Financial institution" means a financial institution as defined in 18 U.S.C. § 20.

b. "Mortgage banker" means a person who makes or originates mortgage loans on real property located in this state.

c. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, mortgage loans on real property located in this state.

2. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a bank financial institution, a mortgage banker, a mortgage broker, or any other entity licensed by the banking division for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

Sec. 9. Section 533A.2, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. A person shall not engage in the business of debt management in this state without a license as provided for in this chapter unless exempt under subsection 2. A person engages in the business of debt management in this state if the person solicits, on behalf of the person or another person, to provide, or enters into a contract with one or more

debtors to provide debt management to a debtor who resides in this state.

2. The following persons, including employees of such persons, shall not be required to be licensed ~~when-engaged-in the-regular-course-of-their-respective-businesses-and professions~~ or to otherwise comply with the provisions of this chapter:

a. ~~Attorneys-at-law~~ A licensed attorney admitted to practice in this state acting solely as an incident to the practice of law.

b. Banks, savings and loan associations, credit unions, mortgage bankers and mortgage brokers licensed or registered under chapter 535B, insurance companies and similar fiduciaries, regulated loan companies licensed under chapter 536, and industrial loan companies licensed under chapter 536A, authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

c. Abstract companies, while performing an escrow function.

d. Employees of licensees under this chapter, while performing services for the employee's licensed employer.

e. Judicial officers or others acting under court orders.

f. Nonprofit religious, fraternal, or cooperative organizations offering to debtors gratuitous debt-management service.

g. Those persons whose principal business is the origination of first mortgage loans on real estate for their own portfolios or for sale to institutional investors.

Sec. 10. Section 533A.7, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

533A.7 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has been convicted of a felony or of an indictable misdemeanor for financial gain.

b. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has violated any of the provisions of this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

c. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has engaged in fraud or deceit in procuring the issuance of a license or renewal under this chapter.

d. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has engaged in unfair conduct.

e. The licensee is insolvent, or has filed for bankruptcy, receivership, or assignment for the benefit of creditors.

f. The licensee fails to post the bond required by the provisions of this chapter or the superintendent receives notice that the required bond has been canceled.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent for a specified period of time.

c. Impose a period of probation under specified conditions.

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

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

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

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a debtor.

Sec. 11. NEW SECTION. 533A.17 VIOLATIONS -- INJUNCTIONS -- CIVIL PENALTIES.

1. If the superintendent believes that a person has engaged in, or is about to engage in, an act or practice that constitutes or will constitute a violation of this chapter, the superintendent may apply to the district court for an order enjoining such act or practice. Upon a showing by the superintendent that such person has engaged, or is about to engage, in any such act or practice, the district court shall grant an injunction.

2. The superintendent may investigate or initiate complaints against persons who are not licensed under this chapter to determine whether the person is violating this chapter.

3. In addition to or as an alternative to applying to the district court for an injunction, the superintendent may issue an order to a person who is not licensed under this chapter to require compliance with this chapter, may impose a civil penalty against such person for any violation of this chapter in an amount up to five thousand dollars for each violation, and may order the person to pay restitution.

4. Before issuing an order under this section, the superintendent shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for in disciplinary proceedings involving a licensee under this chapter.

5. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

6. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 12. Section 533D.3, subsection 1, Code 2007, is amended to read as follows:

1. A person shall not operate a delayed deposit services business in this state unless the person is physically located in this state and licensed by the superintendent as provided in this chapter.

Sec. 13. Section 533D.12, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

533D.12 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee or any of its officers, directors, shareholders, partners, or members has violated this chapter, any rule adopted by the superintendent, or any other state or federal law applicable to the conduct of its business.

b. The licensee has failed to pay a license fee required under this chapter or to maintain in effect the bond or bonds required under this chapter.

c. A fact or condition existing which, if it had existed at the time of the original application for the license, would have resulted in the denial of issuance of a license.

d. The licensee has abandoned its place of business for a period of sixty days or more.

e. The licensee fails to pay an administrative penalty or the cost of investigation as ordered by the superintendent.

f. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent or for a specified period of time.

c. Impose a period of probation under specified conditions.

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

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

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

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a debtor.

Sec. 14. Section 535.8, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Lender" means a person who makes or originates a loan; a person who is identified as a lender on the loan documents; a person who arranges, negotiates, or brokers a loan; and a person who provides any goods or services as an incident to or as a condition required for the making or closing of the loan.

b. "Loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. A loan includes the refinancing of a contract or sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

Sec. 15. Section 535B.2, Code 2007, is amended to read as follows:

535B.2 EXEMPTIONS.

This chapter, except for sections 535B.3, 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

1. A bank, bank holding company, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States, or a subsidiary ~~or affiliate of~~ owned or controlled by such a bank, bank holding company, savings bank, savings and loan association, or credit union.

2. A loan company licensed under chapter 536 or 536A.

3. An insurance company or a subsidiary or affiliate of an insurance company organized under the laws of this state, another state, or the United States, and subject to regulation by the commissioner of insurance.

4. Mortgage lenders or mortgage bankers maintaining an office in this state whose principal business in this state is conducted with or through mortgage lenders or mortgage bankers otherwise exempt under this section and which maintain a place of business in this state.

~~5. An insurance producer licensed under chapter 522B.~~

~~6.~~ 5. An individual who is employed by a person otherwise exempt under this section, or who ~~is under an exclusive contract with,~~ by contract, operates exclusively on behalf of a person otherwise exempt under this section to the extent that the individual is acting within the scope of the individual's employment or exclusive contract with the exempt person and is acting within the scope of the exempt person's charter, license, authority, approval, or certificate.

~~7.~~ 6. A real estate broker licensed under chapter 543B while engaged in practice as a real estate broker.

~~8.~~ 7. A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code as defined in section 422.3 which offers housing services to low and moderate income families.

Sec. 16. Section 535B.3, subsections 1 and 3, Code 2007, are amended to read as follows:

1. A person exempt under section 535B.2, subsection 4 or ~~8~~ 7, shall register with the administrator.

3. The registrant, except a nonprofit organization exempt under section 535B.2, subsection 8 ~~7~~, shall pay an annual registration fee of one hundred dollars.

Sec. 17. Section 535B.4, subsections 6 and 7, Code Supplement 2007, are amended to read as follows:

6. Licenses granted under this chapter expire on the next ~~June-30~~ December 31 after their issuance.

7. Applications for renewals of licenses and individual registrations under this chapter must be filed with the administrator before ~~June-1~~ December 1 of the year of expiration on forms prescribed by the administrator. A renewal application must be accompanied by a fee of two hundred dollars for a license to transact business solely as a mortgage broker, and four hundred dollars for a license to transact business as a mortgage banker. The fee to renew an individual registration shall be the fee determined pursuant to section 535B.4A. The administrator may assess a late fee of ten dollars per day for applications or registrations accepted for processing after ~~June~~ December 1.

Sec. 18. Section 535B.4, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. In addition to the application and renewal fees provided for in subsections 4 and 7, the administrator may assess application and renewal fees for each branch location of the licensee, sponsor fees, and change of sponsor fees.

Sec. 19. Section 535B.4A, Code 2007, is amended to read as follows:

535B.4A INDIVIDUAL REGISTRATION REQUIREMENTS -- FEES.

1. A natural person who is a mortgage banker or mortgage broker and who is employed by, under contract with, or is an agent of a licensee under section 535B.4 shall apply for an individual registration with the administrator and shall register annually with the administrator. The administrator shall collect registration fees necessary to cover the costs associated with the annual registrations ~~made-pursuant-to-this section,~~ including but not limited to sponsor fees and change of sponsor fees.

2. Beginning January 1, 2009, each applicant for an individual registration must meet the education and training

requirements adopted by the administrator by rule. The education and training requirements may include a post-high school education requirement or a requirement that the applicant have successfully completed accredited courses covering specified subject matters. The administrator may incorporate any education and training criteria recommended by federal law, or by other financial regulators, self-regulatory organizations, or financial industry organizations.

3. Beginning January 1, 2009, each applicant for an individual registration must have passed an examination prescribed by the administrator within two years immediately prior to making the application to the administrator. An applicant who fails the examination once shall be allowed to take the examination up to two additional times, provided at least one month has elapsed since the applicant last took the examination. An applicant shall pay any fees associated with the examination.

~~2-~~ 4. An individual registrant who ~~registers~~ applies for an individual registration pursuant to this section ~~for-the first-time~~ shall submit to a national criminal history check through the federal bureau of investigation prior to being registered. The administrator may submit the registrant's fingerprints to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. The administrator shall collect fees necessary to cover the costs associated with criminal history checks conducted pursuant to this section.

~~3-~~ 5. A person shall not be eligible for licensing pursuant to section 535B.4 unless all individual registrants employed by, under contract with, or who are agents of the person have successfully completed the registration and criminal background check required by this section.

~~4-~~ 6. The registration of an individual registrant pursuant to this section is not assignable.

~~5-~~ 7. The registration of an individual registrant pursuant to this section expires on ~~June-30~~ December 31 following the date of registration.

6- 8. An individual registrant who fails to comply with the requirements of section 535B.9A shall not be ~~registered~~ renewed or the registration of the individual registrant may be suspended or revoked by the administrator.

Sec. 20. Section 535B.7, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Order the licensee or individual registrant to pay restitution.

Sec. 21. Section 535B.8, Code 2007, is amended to read as follows:

535B.8 OPERATING WITHOUT A LICENSE OR REGISTRATION.

A person, who without first obtaining a license or individual registration under this chapter, engages in the business or occupation of, or advertises or holds the person out as, or claims to be, or temporarily acts as, a mortgage banker or mortgage broker in this state is guilty of a class "D" felony and may be prosecuted by the attorney general or a county attorney.

Sec. 22. Section 535B.9, subsection 1, Code 2007, is amended to read as follows:

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state, together with evidence of whether the applicant is seeking to transact business as a mortgage broker or as a mortgage banker. The bond shall be in the amount of ~~fifty-thousand-dollars~~ one hundred thousand dollars. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 23. Section 535B.10, subsection 2, Code 2007, is amended to read as follows:

2. For the purposes of discovering violations of this chapter or any related rules or for securing information lawfully required under this chapter, the administrator may at any time and as often as the administrator deems necessary, but in no event less frequently than once during each two-year period, investigate the business and examine the books, accounts, records, and files used by a licensee or individual registrant.

Sec. 24. Section 535B.10, subsection 6, paragraph b, Code 2007, is amended to read as follows:

b. The administrator may furnish information relating to the supervision of licensees and registrants to the federal agencies or federally related entities listed in subsection 3, the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, the federal home loan bank, and a financial institution regulatory authorities authority of any other states state, a professional licensing authority of this state or any other state, or a law enforcement agency, or to any official or supervising examiner of such regulatory authorities.

Sec. 25. Section 536.3, Code 2007, is amended to read as follows:

536.3 BOND.

The applicant shall also at the same time file with the superintendent a bond to be approved by the superintendent in which the applicant shall be the obligor, with one or more sureties, in the sum of ~~one~~ twenty-five thousand dollars. The said bond shall run to the state for the use of the state and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of this chapter. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this chapter and of all rules and regulations lawfully made by the superintendent hereunder, and will pay to the state and to any such person or persons any and all moneys that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this chapter.

Sec. 26. Section 536.6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If the superintendent shall find at any time that the bond is insecure or exhausted or otherwise of doubtful validity or collectibility, an additional bond to be approved by the superintendent, with one or more sureties and of the character specified in section 536.3, in the sum of not more than one twenty-five thousand dollars, shall be filed by the licensee within ten days after written demand upon the licensee by the superintendent.

Sec. 27. Section 536.9, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

536.9 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee has violated a provision of this chapter or a rule adopted under this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

b. A fact or condition exists which would have warranted the superintendent to refuse to originally issue the license.

c. The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this chapter.

d. The licensee is insolvent.

e. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent or for a specified period of time.

c. Impose a period of probation under specified conditions.

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

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

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

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a borrower.

Sec. 28. Section 536.11, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Each licensee shall annually on or before the fifteenth day of ~~March~~ April file a report with the superintendent giving such relevant information as the superintendent reasonably may require concerning the business and operations during the preceding calendar year of the licensed places of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the superintendent who shall make and publish annually an analysis and recapitulation of such reports.

Sec. 29. Section 536.12, Code 2007, is amended to read as follows:

536.12 RESTRICTIONS ON PRACTICES.

1. No licensee shall conduct the business of making loans under the provisions of this chapter within any office, room, suite or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the superintendent upon the superintendent's finding that the

character of such other business is such that the granting of such authority would not facilitate evasions of this chapter or of the rules lawfully made by the superintendent hereunder.

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

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

4. No licensee shall agree to obtain or arrange a residential mortgage for a potential borrower from a third person, unless the licensee also has a mortgage broker license and complies with all of the provisions of chapter 535B.

Sec. 30. Section 536.16, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding other provisions of this chapter to the contrary, a person who neither has an office physically located in this state nor engages in face-to-face solicitation in this state, if authorized by another state to make loans in that state at a rate of finance charge in excess of the rate provided in chapter 535, shall not be subject to ~~the following provisions of this chapter:~~ section 536.10 to the extent it requires the superintendent to make an examination of the affairs, place of business, and records of the person on a periodic basis.

Sec. 31. Section 536.16, subsections 1 through 4, Code 2007, are amended by striking the subsections.

Sec. 32. NEW SECTION. 536A.7A BONDS.

1. An applicant for a license shall file with the superintendent a bond furnished by a surety company authorized to do business in this state. The bond shall be in the amount of twenty-five thousand dollars. The bond shall be continuous in nature until canceled by the surety with not less than thirty days notice in writing to the applicant and to the superintendent indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons

all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

2. In lieu of filing a bond, the applicant may pledge an alternative form of collateral acceptable to the superintendent, if the alternative collateral provides protection to the state and any aggrieved person that is equivalent to that provided by a bond.

Sec. 33. Section 536A.14, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Each licensee shall annually on or before the fifteenth day of ~~March~~ April file with the superintendent a report in writing showing the results of the operation of its industrial loan business for the previous calendar year, which reports shall contain:

Sec. 34. Section 536A.18, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

536A.18 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. That the licensee has failed to pay the annual license fee required by this chapter or to maintain in effect the bond or bonds required under this chapter.

b. That the licensee has violated any of the provisions of this chapter or a rule adopted under this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

c. That the licensee has refused to submit to the examination required by this chapter.

d. That the licensee has neglected or refused for a period of more than thirty days to pay a final judgment rendered against it in the courts of this state.

e. That the licensee has become insolvent.

f. A fact or condition exists which would have warranted the superintendent to refuse to originally issue the license.

g. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

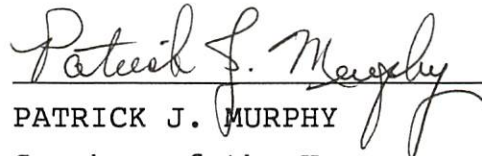
- a. Revoke a license.
 - b. Suspend a license until further order of the superintendent or for a specified period of time.
 - c. Impose a period of probation under specified conditions.
 - d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.
 - e. Issue a citation and warning respecting licensee behavior.
 - f. Order the licensee to pay restitution.
3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.
4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.
5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.
6. A suspension, revocation, relinquishment, or expiration of a license shall not invalidate, impair, or affect the legality of obligations of any preexisting contracts, or prevent the enforcement or collection thereof.
7. Judicial review of the actions of the superintendent may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 35. Section 536A.23, subsection 1, Code 2007, is amended by adding the following new paragraph:


NEW PARAGRAPH. e. Obtain or arrange a residential mortgage loan for a potential borrower from a third person, unless the industrial loan company also has a mortgage broker license and complies with all provisions of chapter 535B.

Sec. 36. Section 558.70, subsection 4, Code Supplement 2007, is amended to read as follows:

4. This section applies to a contract seller who entered into four or more residential real estate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to a person or organization listed in section 535B.2, subsections 1 through 7 6.




PATRICK J. MURPHY
Speaker of the House



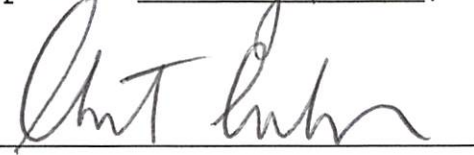
JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2556, Eighty-second General Assembly.



MARK BRANDSGARD
Chief Clerk of the House

Approved May 10th, 2008



CHESTER J. CULVER
Governor