

CHAPTER 102

BANKING AND MORTGAGE LOAN ADMINISTRATION

H.F. 328

AN ACT relating to matters under the purview of the division of banking of the department of commerce, and including effective date provisions.

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

Section 1. Section 524.211, subsection 3, Code 2011, is amended to read as follows:

3. The superintendent, general counsel, examiners, and other employees of the banking division, who have credit relations with a person or entity licensed or registered pursuant to chapter 535B, 535D, or 536C, are prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the licensee or registrant.

Sec. 2. Section 524.212, subsection 2, Code 2011, is amended to read as follows:

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. With respect to documents, materials, or other information that is shared or stored electronically, the superintendent is authorized to take any necessary steps to ensure the division's information technology systems comply with the information technology security requirements established by any of the regulatory agencies or associations of state regulatory agencies described in this section.

Sec. 3. Section 524.904, subsection 5, Code 2011, is amended to read as follows:

5. a. A state bank may grant loans and extensions of credit to a corporate borrowing group in an amount not to exceed twenty-five percent of the state bank's aggregate capital if all loans and extensions of credit to any one borrower within a corporate borrowing group conform to subsection 2 or 3, and the financial strength, assets, guarantee, or endorsement of any one corporate borrowing group member is not relied upon as a basis for loans and extensions of credit to any other corporate borrowing group member. A state bank may grant loans and extensions of credit to a corporate borrowing group in an amount not to exceed thirty-five percent of aggregate capital if all loans and extensions of credit to any one borrower within a corporate borrowing group conform to subsection 2, 3, or 4, and the financial strength, assets, guarantee, or endorsement of any one corporate borrowing group member is not relied upon as a basis for loans and extensions of credit to any other corporate borrowing group member. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote. While not to be construed as an endorsement of the quality of any loan or extension of credit, the superintendent may authorize a state bank to grant loans and extensions of credit to a borrowing group in an amount not to exceed fifty percent of aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to subsection 2 or 3, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member.

b. For the purposes of this subsection, a borrowing group includes a person and any legal entity, including but not limited to corporations, limited liability companies, partnerships, trusts, and associations where the following exist:

(1) The interests of a group of more than one borrower, or any combination of the members of the group, are so interrelated that they should be considered a unit for the purpose of applying the lending limit limitations of this section. For the purposes of this subparagraph, interrelated borrowers include but are not limited to borrowers having separate operations

that cannot exist without the other, borrowers sharing collateral, borrowers commingling assets, borrowers sharing operational proceeds, or borrowers for whom there is a common source of repayment for the borrowers' loans.

(2) One or more persons owns or controls fifty percent or more of the voting securities or membership interests of the borrowing entity or a member of the group.

(3) One or more persons controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of the borrowing entity or a member of the group.

(4) One or more persons has the power to vote fifty percent or more of any class of voting securities or membership interests of the borrowing entity or a member of the group.

c. To demonstrate compliance with this subsection, a bank shall maintain in its files, at a minimum, all of the following:

(1) Documentation demonstrating the current ownership of the borrowing entity.

(2) Documentation identifying the persons who have voting rights in the borrowing entity.

(3) Documentation identifying the board of directors and senior management of the borrowing entity.

(4) The bank's assessment of the borrowing entity's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrowing entity's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrowing entity by members of the borrowing group and third parties.

Sec. 4. Section 524.904, subsection 7, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. A renewal or restructuring of a loan as a new loan or extension of credit following the exercise by a state bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the bank to the borrower or unless a new borrower replaces the original borrower or unless the superintendent determines that the renewal or restructuring was undertaken as a means to evade the bank's lending limit.

Sec. 5. Section 524.1201, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 6. Section 535B.4, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. A licensee may not establish branch locations outside of the United States.

Sec. 7. Section 535B.6, Code 2011, is amended to read as follows:

535B.6 Licensing of foreign corporation certain corporations.

1. An applicant that is a foreign corporation incorporated under the laws of another state in the United States must be authorized to do business in this state. A foreign corporation Such a corporation shall file with the license application both of the following:

1. a. An irrevocable consent, duly acknowledged, that suits and actions may be commenced against that licensee in the courts of this state by service of process in the usual manner provided for by the statutes and court rules of this state.

2. b. Proof of authorization to do business in this state.

2. Businesses that are incorporated outside of the United States are not eligible for a license.

Sec. 8. Section 535D.4, subsection 1, Code 2011, is amended to read as follows:

1. On or after January 1, 2010, an individual shall not engage in the business of a mortgage loan originator with respect to any dwelling or residential real estate located in this state without first obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

Sec. 9. NEW SECTION. 535D.23 Reports of condition required — exceptions.

Each mortgage loan originator licensee shall submit reports of condition to the nationwide

mortgage licensing system and registry unless the mortgage loan originator's activity is included in a report submitted by the mortgage loan originator's employer in accordance with section 535B.11, subsection 3, section 535B.18, or section 536A.14, subsection 2. The reports shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

Sec. 10. EFFECTIVE UPON ENACTMENT. The section of this Act amending section 524.904, subsection 7, takes effect upon enactment.

Approved May 3, 2011