

## CHAPTER 1037

### LOAN OR CREDIT TRANSACTIONS

H.F. 2324

**AN ACT** relating to consumer lending transactions by modifying provisions applicable to certain loan charges and modifying designated monetary limits specified in the consumer credit code, and including applicability provisions.

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

Section 1. Section 535.2, subsection 2, paragraph a, subparagraph (2), Code 2014, is amended to read as follows:

(2) A person borrowing money or obtaining credit in an amount which exceeds ~~twenty-five thousand dollars~~ the threshold amount as defined in section 537.1301, exclusive of interest, for the purpose of constructing improvements on real property, whether or not the real property is owned by the person.

Sec. 2. Section 535.2, subsection 2, paragraph a, subparagraph (5), Code 2014, is amended to read as follows:

(5) 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 ~~twenty-five thousand dollars~~ the threshold amount, as defined in section 537.1301, 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 an investment activity.

Sec. 3. Section 535.8, subsection 1, Code 2014, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. “*Points and fees*” means the fees and charges that are included in the definition of points and fees in 12 C.F.R. §1026.32(b)(1).

Sec. 4. Section 535.8, Code 2014, is amended by adding the following new subsections:

**NEW SUBSECTION.** 1A. If a lender that is a financial institution as defined in section 537.1301 makes a loan in which the points and fees the borrower is charged by all lenders in connection with the loan does not exceed the amounts specified in 12 C.F.R. §1026.43(e)(3), the loan shall not be subject to the provisions of subsection 2, paragraphs “a”, “b”, and “d”, or subsection 3. This subsection applies to the financial institution lender that originates the loan and to subsequent purchasers of the loan originated by the financial institution.

**NEW SUBSECTION.** 1B. This section shall not be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

Sec. 5. Section 535.8, subsection 2, paragraph b, subparagraph (4), Code 2014, is amended by striking the subparagraph.

Sec. 6. Section 535.8, subsection 6, Code 2014, is amended to read as follows:

6. ~~a. The provisions of this section shall not apply to any loan which is subject to the provisions of section 636.46, nor shall it apply to origination fees, administrative fees, commitment fees or similar charges paid by one lender to another lender if these fees are not ultimately paid either directly or indirectly by the borrower who occupies or will occupy the dwelling or by the seller of the dwelling.~~

~~b. A lender shall not use an appraisal for any purpose in connection with making a loan under this section if the appraisal is performed by a person who is employed by or affiliated with any person receiving a commission or fee from the seller of the property. If a lender violates this paragraph subsection the borrower is entitled to recover any actual damages plus the costs paid by the borrower, plus attorney fees incurred in an action necessary to effect recovery.~~

Sec. 7. Section 535.10, subsection 3, paragraph a, Code 2014, is amended to read as follows:

a. A lender may collect in connection with establishing or renewing a home equity line of credit the costs listed in section 535.8, subsection 2, ~~paragraph~~ paragraphs “a” or “b”, charges for insurance as described in section 537.2501, subsection 2, and a loan processing fee as agreed between the borrower and the lender, and annually may collect an account maintenance fee of not more than fifteen dollars. Fees collected under this subsection shall be disregarded for purposes of determining the maximum charge permitted by subsection 4.

Sec. 8. Section 536.1, Code 2014, is amended to read as follows:

**536.1 Title — license required.**

1. This chapter may be referred to as the “*Iowa Regulated Loan Act*”.

2. With respect to a loan other than a consumer loan, a person shall not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of ~~twenty-five thousand dollars~~ the threshold amount or less and charge, contract for, or receive on the loan a greater rate of interest or consideration for the loan than the lender would be permitted by law to charge if the lender were not a licensee under this chapter except as authorized by this chapter and without first obtaining a license from the superintendent of banking.

3. With respect to a consumer loan, a person required by section 537.2301 to have a license shall not engage in the business of making loans of money, credit, goods or things in action in the amount or value of ~~twenty-five thousand dollars~~ the threshold amount or less and charge, contract for, or receive on the loan a greater rate of interest or consideration for the loan than the lender would be permitted by law to charge if the lender were not a licensee under this chapter, except as authorized by this chapter and without first obtaining a license from the superintendent.

4. A person who enters into less than ten supervised loans per year in this state and who neither has an office physically located in this state nor engages in face-to-face solicitation in this state may contract for and receive the rate of interest permitted in this chapter for licensees under this chapter. A “*consumer loan*” means the same as defined in section 537.1301.

5. For the purposes of this section, “*threshold amount*” means the same as defined in section 537.1301.

Sec. 9. Section 536.13, subsection 5, Code 2014, is amended to read as follows:

5. A licensee under this chapter may lend any sum of money not exceeding ~~twenty-five thousand dollars~~ the threshold amount as defined in section 537.1301 in amount and may charge, contract for, and receive on the loan interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the superintendent under authority of this section or pursuant to subsection 7 for those amounts in excess of ten thousand dollars.

Sec. 10. Section 536.15, Code 2014, is amended to read as follows:

**536.15 Limitation on principal amount over ~~twenty-five thousand dollars~~.**

A licensee shall not directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if the lender were not a licensee upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than ~~twenty-five thousand dollars~~ the threshold amount. This section also applies to a licensee who permits a person, as borrower or as endorser, guarantor, or surety for a borrower, or otherwise, to owe directly or contingently or both to the licensee at any time the sum of more than ~~twenty-five thousand dollars~~ the threshold amount for principal. For the purposes of this section, “threshold amount” means the same as defined in section 537.1301.

Sec. 11. Section 537.1301, subsection 13, paragraph a, subparagraph (5), Code 2014, is amended to read as follows:

(5) With respect to a sale of goods or services, the amount financed does not exceed ~~twenty-five thousand dollars~~ the threshold amount.

Sec. 12. Section 537.1301, subsection 14, paragraph a, subparagraph (4), Code 2014, is amended to read as follows:

(4) The amount payable under the lease does not exceed ~~twenty-five thousand dollars~~ the threshold amount.

Sec. 13. Section 537.1301, subsection 15, paragraph a, subparagraph (5), Code 2014, is amended to read as follows:

(5) The amount financed does not exceed ~~twenty-five thousand dollars~~ the threshold amount.

Sec. 14. Section 537.1301, subsection 15, paragraph b, subparagraph (2), Code 2014, is amended to read as follows:

(2) A debt which is secured by a first lien on real property ~~and which is incurred primarily for the purpose of acquiring that real property, or refinancing a contract for deed to that real property, or constructing on that real property a building containing one or more dwelling units.~~

Sec. 15. Section 537.1301, subsection 21, paragraph b, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) An initial charge imposed by a financial institution for returning an item presented against non-sufficient funds or for paying an item that overdraws an account. For the purposes of this subparagraph, “*item*” includes any form of authorization or order for withdrawal of funds from an account such as a check, automated teller machine card, debit card, automated clearinghouse or other means.

Sec. 16. Section 537.1301, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 21A. “*Financial institution*” means and includes any bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank incorporated under the provisions of state or federal law, or any credit union organized under the provisions of any state or federal law.

Sec. 17. Section 537.1301, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 46. “*Threshold amount*” means the threshold amount, as determined by 12 C.F.R. §226.3(b),<sup>1</sup> in effect during the period the consumer credit transaction was entered into.

Sec. 18. Section 537.2501, subsection 1, paragraph e, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Fees or charges listed in section 535.8, subsection 2, paragraphs “a” and “b”.

Sec. 19. Section 537.2507, Code 2014, is amended to read as follows:

**537.2507 Attorney fee.**

With respect to a consumer credit transaction, the agreement may not provide for the payment by the consumer of attorney fees. However, in a consumer credit transaction with an amount financed exceeding twenty-five thousand dollars secured by an interest in land, the agreement may provide for the payment by the consumer of reasonable attorney fees. A provision in violation of this ~~subsection~~ section is unenforceable.

Sec. 20. Section 537.3604, subsection 8, paragraph e, Code 2014, is amended to read as follows:

e. The amount payable under the consumer rental purchase agreement does not exceed ~~twenty-five thousand dollars~~ the threshold amount.

<sup>1</sup> See chapter 1141, §26 herein

Sec. 21. Section 537.6201, subsection 2, Code 2014, is amended to read as follows:

2. Debt collectors, as defined in section 537.7102, subsection 5, to whose acts, practices, or conduct this chapter applies pursuant to section 537.1201 if the total debt collected by a debt collector in the preceding calendar year exceeds ~~twenty-five thousand dollars~~ the threshold amount, or if not, if the total debt collected during the current calendar year exceeds twenty-five thousand dollars, but this part does not apply to those licensed, certified, or otherwise authorized to engage in business under chapter 524, 533, 536, or 536A.

Sec. 22. APPLICABILITY. Section 537.1301, subsection 21, paragraph b, subparagraph (5), as enacted by this Act, applies to charges assessed by a financial institution on or after July 1, 2014.

Approved March 26, 2014