

February 21, 1957.  
Passed on File.

**Senate File 320**  
By VEST, DEWEL, SHOEMAN and LONG.

Passed Senate, Date..... Passed House, Date.....  
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....  
Approved.....

## A BILL FOR

An Act to authorize, license, and regulate the making of installment loans of three thousand dollars (\$3,000) or less; to fix maximum charges on such loans, and to provide penalties for violation.

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

- 1 Section 1. (a) License Required. Except as otherwise  
2 authorized by statute no person, firm or corporation shall  
3 charge, contract for, or receive, directly or indirectly, more  
4 interest than seven per cent (7%) per annum on any loan of three  
5 thousand dollars (\$3,000) or less which is payable in  
6 installments, directly or indirectly, without first obtaining a  
7 license under this Act from the auditor of state (hereinafter  
8 called the "auditor").
- 9 (b) Exemptions. This Act shall not apply to any person,  
10 firm or corporation doing business under and as permitted by any  
11 law of this state or of the United States relating to banks,  
12 building and loan associations, or credit unions, nor to a  
13 domestic corporation which has a certificate or license under  
14 chapter four hundred twenty-nine (429), Code 1954, nor to loans  
15 made under chapter five hundred thirty-six (536), Code 1954, by  
16 a licensee under such chapter, nor to any lawful bona fide  
17 pawnbroking business, nor to retail installment contracts or  
18 purchase money chattel mortgages arising from the conditional  
19 sale of personal property upon a deferred payment basis  
20 regardless of whether or not a subsequent assignee thereof

21 participated in the consummation of such contract or mortgage.  
22 (c) Penalty. Any person and the several members, officers,  
23 directors, agents and employees thereof, who shall violate or  
24 participate in the violation of subsection (a) of this section  
25 shall be guilty of a misdemeanor and upon conviction thereof  
26 shall be punishable by a fine of not more than three thousand  
27 dollars (\$3,000) or by imprisonment of not more than six (6)  
28 months, or both, in the discretion of the court. Any contract of  
29 loan in the making or collection of which any act shall have been  
30 done which violates subsection (a) of this section shall be void  
31 and the lender shall have no right to collect, receive or retain  
32 any principal, interest or charges.

1 Sec. 2. Issuance or Denial of License. Application for a  
2 license shall be in the form prescribed by the auditor, shall  
3 give the location where the business is to be conducted, and  
4 shall contain such further relevant information as the auditor  
5 may require. Upon the filing of such application and the payment  
6 of seventy-five dollars (\$75.00) as an annual license fee, the  
7 auditor shall investigate the relevant facts, and if he shall  
8 find that the financial responsibility and reputation of the  
9 applicant warrant the belief that the business will be operated  
10 in compliance with this Act, he shall thereupon issue a license  
11 to the applicant. If the auditor shall not so find, he shall  
12 enter an order denying such application and forthwith notify the  
13 applicant of the denial and return the license fee. The auditor  
14 shall approve or deny every application for license under this  
15 section within sixty (60) days from the filing thereof. Within  
16 twenty (20) days after the entry of such an order he shall  
17 prepare a record which shall contain his order and findings and

18 a summary of the evidence supporting them and shall forthwith  
19 deliver or mail a copy of such record to the applicant. No  
20 license shall be denied without first giving the applicant  
21 reasonable notice and an opportunity to be heard. Such license  
22 may be continued from year to year by payment of seventy-five  
23 dollars (\$75.00) on or before December 15 of each year as a  
24 license fee for the following calendar year.

1 Sec. 3. Revocation of License. The auditor shall, upon ten  
2 (10) days' written notice to the licensee stating the contemplated  
3 action and in general the grounds therefor, and upon reasonable  
4 opportunity to be heard, revoke any license issued hereunder if  
5 he finds that the licensee has continued to violate this Act  
6 after receiving written notice of such violation from the  
7 auditor. Such revocation shall not impair the obligation of any  
8 pre-existing lawful contract made under this Act. Whenever the  
9 auditor shall revoke a license, he shall enter an order to that  
10 effect and forthwith notify the licensee of the revocation.  
11 Within five (5) days after the entry of such an order he shall  
12 make a record which shall contain his order and findings and a  
13 summary of the evidence supporting them and he shall forthwith  
14 deliver or mail a copy thereof to the licensee.

1 Sec. 4. Place of Business. Not more than one place of  
2 business shall be maintained under the same license, but the  
3 auditor may issue additional licenses to the same licensee upon  
4 compliance with all the provisions of this Act governing the  
5 issuance of a single license. Whenever a licensee shall change  
6 his place of business, he shall give written notice thereof to  
7 the auditor who shall attach to the license in writing his record  
8 of the change and the date thereof, which shall be authority for

9 the operation of such business under such license at such new  
10 place of business. No licensee shall conduct the business of  
11 making loans under this Act under any name or at any place of  
12 business other than that stated in the license. Any person, firm  
13 or corporation that is licensed under this Act and also licensed  
14 under chapter five hundred thirty-six (536), Code 1954, shall  
15 have the right to operate a lending business under each license  
16 in the same office, room or place of business without obtaining  
17 written authorization from the superintendent of banking of the  
18 State of Iowa under section five hundred thirty-six point twelve  
19 (536.12), Code 1954.

1 Sec 5. (a) Records and Examination. Every licensee shall  
2 keep records pertaining to loans made under this Act. Every  
3 licensee shall preserve such books, accounts and records,  
4 including cards used in the card system, if any, for at least two  
5 (2) years after making the final entry on any loan recorded  
6 therein. At least once each year the auditor shall make or cause  
7 to be made an examination of records pertaining to loans made  
8 under this Act for the purpose of determining whether the  
9 licensee is complying with this Act and of verifying the annual  
10 report required by subsection (b) of this section. The actual  
11 reasonable cost of such examination shall be paid to the auditor  
12 by such licensee and the auditor may maintain an action for the  
13 recovery of such cost in any court of competent jurisdiction.

14 (b) Annual Report. Each licensee shall file with the  
15 auditor on or before April 30 of each year a report for the  
16 preceding calendar year in the form prescribed by the auditor  
17 which shall show the annual volume and outstanding amounts of  
18 such loans, and the gross income from, and expenses properly

19 chargeable to such loans, and such other information relating to  
20 loans made under this Act as the auditor shall reasonably  
21 require. The auditor shall publish annually a summary of all  
22 such reports.

23 (c) Investigations. The auditor or his authorized  
24 representative may at any time investigate any transaction with  
25 borrowers and may examine the books, accounts and records in this  
26 state to discover violations of this Act (1) by any licensee or  
27 (2) by any other person, firm or corporation engaged or  
28 participating in the business of making installment loans of  
29 three thousand dollars (\$3,000) or less who the auditor has  
30 sufficient and adequate reason to believe is violating this Act.  
31 For the purposes of this section, the auditor or his authorized  
32 representatives shall have and shall be given free access to the  
33 offices, places of business, files and vaults within this state  
34 of any such licensee or other person, firm or corporation.

1 Sec. 6. (a) Regulations. The auditor may make regulations  
2 necessary for the enforcement of this Act and consistent with all  
3 of its provisions. At least twenty (20) days before making a  
4 regulation the auditor shall give every licensee notice of a  
5 public hearing thereon containing a statement of the time and  
6 place thereof and the terms or substance of the proposed  
7 regulation. At such hearing any licensee may be heard and may  
8 introduce evidence, data or argument or place the same on file.  
9 After consideration of all relevant matter presented, the auditor  
10 shall promulgate every regulation in written form stating its  
11 effective date and the date of promulgation. Each regulation  
12 shall be entered in a permanent book which shall be a public  
13 record and be kept in the auditor's office. A copy of every

14 regulation shall be mailed to each licensee and no regulation  
15 shall become effective until ten (10) days after such mailing.

16 (b) Certified Copies of Official Documents. On application  
17 of any person, the auditor shall furnish a certified copy of any  
18 license, regulation, or order which shall be prima facie evidence  
19 in any court or proceeding of the issuance of such certificate or  
20 the making of such regulation or order.

1 Sec. 7. Judicial Review. The District Court of the State of  
2 Iowa in and for Polk County shall have jurisdiction in an  
3 equitable action by an aggrieved party to review any final order,  
4 demand, finding, decision or regulation of the auditor and to  
5 grant such relief as may be warranted by the facts under this Act.  
6 An appeal to the Supreme Court may be taken as in other equitable  
7 actions.

1 Sec. 8. (a) Maximum Charges on Equal Payment Contracts.  
2 On loan contracts payable in equal and consecutive monthly  
3 installments every licensee hereunder may contract for and receive  
4 charges at a rate not exceeding one and one-fourth per cent ( $1\frac{1}{4}\%$ )  
5 per month on that part of the original principal amount of the  
6 loan not in excess of five hundred dollars (\$500), and at a rate  
7 not exceeding three-fourths ( $\frac{3}{4}$ ) of one per cent (1%) per month  
8 on that part of the original principal amount of the loan in  
9 excess of five hundred dollars (\$500), but not in excess of three  
10 thousand dollars (\$3,000), multiplied by the number of months the  
11 loan contract is scheduled to be outstanding. Charges may be  
12 added to the principal amount of the loan and included in the  
13 face of the loan contract. Every loan contract shall provide for  
14 repayment over a period not exceeding thirty-six (36) months and  
15 fifteen (15) days. For the purpose of this subsection (a) the

16 words "principal" or "principal amount of the loan" shall mean  
17 the amount of money advanced to, for or on behalf of the  
18 borrower, including the amount required to retire an existing  
19 loan and insurance premiums as in this Act permitted, but shall  
20 not include any charges authorized by this subsection (a). The  
21 principal amount of such loan shall not exceed three thousand  
22 dollars (\$3,000).

23 (b) Maximum Charges on Irregular Payment Contracts. When a  
24 loan contract provides for payments which are unequal in amount  
25 or irregular in time or both, the total maximum charges shall not  
26 exceed an amount that bears the same ratio to the total of all  
27 the monthly principal balances scheduled to be outstanding which  
28 the total maximum charges permitted in subsection (a) of this  
29 section bear to the total of the monthly principal balances  
30 scheduled to be outstanding under a contract which requires  
31 consecutive and equal monthly installments (assuming the same  
32 amount is applied to principal each month) over the same period  
33 of time.

34 (c) Payment in Advance—Refunds. Every licensee shall  
35 permit payment to be made in advance in any amount on any  
36 contract of loan at any time. If the loan contract is paid in  
37 full (by cash, renewal or refinancing), one (1) full month or  
38 more before the final installment date, a portion of the charges  
39 shall be refunded or credited to the borrower. The amount of  
40 such refund or credit shall be that proportion of the original  
41 charge which the sum of the monthly balances of the contract  
42 scheduled to follow the installment date nearest the date of  
43 prepayment bears to the sum of all of the monthly balances of the  
44 contract, both sums to be determined according to the payment

45 schedule provided in the contract.

46 (d) Default Charge. In case of default in any payment, the  
47 licensee may charge and collect from the borrower a delinquent  
48 charge in an amount equal to five per cent (5%) of any  
49 installment which is not paid within fifteen (15) days from the  
50 date such installment is due, provided that this delinquent  
51 charge shall not be collected more than once for the same  
52 default.

53 (e) Insurance. A licensee may require (1) life insurance  
54 on the life of one obligor on the contract covering the unpaid  
55 balances scheduled to be outstanding, (2) comprehensive fire,  
56 theft, deductible collision insurance, public liability and  
57 property damage insurance on an automobile securing the loan, and  
58 (3) fire and extended insurance on any property securing the loan.  
59 A licensee shall not require or sell any other type of insurance  
60 in connection with a loan made under this Act. A licensee shall  
61 not require a borrower to purchase insurance from the licensee or  
62 a person designated by the licensee as a condition precedent to  
63 obtaining a loan. If a borrower procures insurance from or  
64 through a licensee, the licensee shall deliver to the borrower  
65 within fifteen (15) days after the making of the loan an executed  
66 copy of the insurance policy or certificate of insurance. If such  
67 certificate or policy of insurance is not delivered to the  
68 borrower at the time the loan is made, then the licensee shall,  
69 when loan is made, give to the borrower, or if more than one, to  
70 one of them, a statement concerning any insurance procured by or  
71 through the licensee, which statement shall disclose the type,  
72 amount and term of such insurance and the premium therefor.

73 (f) Unauthorized Charges Prohibited. In addition to the

74 charges, default charge and insurance premiums provided for in  
75 subsections (a), (b), (d) and (e) of this section, no further or  
76 other amount whatsoever shall be directly or indirectly charged,  
77 contracted for, deducted or received with respect to loans made  
78 under this Act, except fees actually paid to a public officer for  
79 filing, recording or releasing any instrument of security  
80 including any fee for a certificate of title to a motor vehicle.  
81 Notwithstanding any other provision of this Act, any gain or  
82 advantages in the form of commission, dividend, identifiable  
83 charge or otherwise, to the licensee or to any employee,  
84 affiliate or associate of the licensee from such insurance or its  
85 sale shall not be deemed to be additional or further interest or  
86 charge in connection with such a loan.

87 (g) Violations. If any amount in excess of the charges  
88 permitted by this section is contracted for or received, except  
89 as the result of a bona fide error, the contract of loan shall be  
90 unenforceable. Section five hundred thirty-five point six  
91 (535.6), Code 1954, shall not apply to a loan made by a licensee  
92 under and in accordance with this Act.

1 Sec. 9. (a) Maximum Indebtedness. A licensee under this  
2 Act shall not permit any person to owe such licensee, directly or  
3 indirectly or contingently, more than three thousand dollars  
4 (\$3,000) at any time for loans made under this Act, exclusive of  
5 charges permitted by section eight (8).

6 (b) Splitting of Loans. No person shall be indebted under  
7 this Act and also under chapter five hundred thirty-six (536),  
8 Code 1954, to the same lender or any affiliate or agent of the  
9 same lender at the same time. No licensee shall induce or permit  
10 any person, nor husband or wife, jointly or severally, to become

11 obligated upon more than one contract of loan at the same time  
12 under the provisions of this Act for the purpose of obtaining a  
13 higher rate of charge than would otherwise be permitted by this  
14 Act, provided that the foregoing prohibition shall not apply to  
15 loans made to co-makers, endorsers or guarantors upon their own  
16 behalf. The provisions of this subsection (b) shall apply to the  
17 making of loans to the same borrower by licensees controlled,  
18 owned or operated by the same parent company, corporation,  
19 association, partnership or individuals, notwithstanding that such  
20 licensees may be operating under separate licenses or other  
21 corporate or trade names, and for the purposes of this subsection  
22 (b), all such controlled, owned or operated licensees shall be  
23 *considered as the same licensee and governed by and be subject*  
24 *to the restrictions of this subsection (b).*

1     Sec. 10. Loan Statement. In connection with any loan made  
2 under this Act, a licensee shall deliver a statement to the  
3 borrower or, if there are two or more borrowers, to one of them,  
4 which shall disclose the name and address of the licensee and  
5 the borrower, the original face amount of the contract, the  
6 amount of charges, the net proceeds of the loan after deducting  
7 the charges, the actual date of the loan, a schedule of payments  
8 or a description thereof, the date of final payment, the type of  
9 security, if any, and the rate of charge for default. The  
10 statement shall also disclose that the loan is subject to The  
11 Installment Loan Act, that the borrower may prepay the loan at  
12 any time, and that on prepayment in full the borrower will  
13 receive a refund of a portion of the charges as provided by The  
14 Installment Loan Act.

1     Sec. 11. Receipt. A licensee shall give a receipt for each

2 payment in cash or currency on a loan made under this Act.

1 Sec. 12. Advertising. No statement in advertising for  
2 loans under this Act shall be false, misleading or deceptive.  
3 In any such advertising, the amount of the loan shall be the  
4 proceeds of loan contract after deducting the charges from the  
5 face amount of the loan contract, and the face amount of the  
6 contract shall not be stated or referred to in advertising unless  
7 the amount of the loan is stated. Any such advertising which  
8 states a charge for the loan or the amount of an installment  
9 shall also state the amount of the loan, the amount and number  
10 of installments required to pay the loan, and the interval  
11 between installments.

1 Sec. 13. Name of Act. This Act shall be known and may be  
2 cited as The Installment Loan Act.

