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Passed on File. *Calendar 4/2* By COMMITTEE ON BANKS, BUILDING AND LOAN.

Senate File 424

Passed Senate, Date..... Passed House, Date.....

Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....

Approved.....

Legislative Committee 5/14

A BILL FOR

An Act to provide for the licensing and regulation of domestic corporations engaged in the business of lending money to the public, to provide penalties for violations and to repeal sections four hundred twenty-nine point eleven (429.11), four hundred twenty-nine point twelve (429.12) and four hundred twenty-nine point thirteen (429.13), Code 1962.

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

1 Section 1. A domestic corporation may engage in the business
2 of loaning money to deserving persons whose business or
3 circumstances are such as to make it desirable or convenient
4 for them to accumulate funds with which to repay such loans
5 by paying into a fund comparatively small amounts at frequent
6 regular intervals, which fund may be held by such corporation
7 as collateral security for the payment of such loans, provided
8 that such corporation obtains a license and otherwise complies
9 with the provisions of this Act.

1 Sec. 2. Applications for a license shall be made to the
2 superintendent of banking, hereinafter called the superintendent.
3 Such applications shall be in writing, under oath, upon a form
4 prescribed by the superintendent and shall contain at least the
5 following information:

6 1. The name of the corporation and its principal place of
7 business.

8 2. The names and addresses of the officers and directors
9 of the corporation and any managing agent or agents who will

10 be concerned with the transaction of such business.

11 3. The proposed location where the business is to be
12 conducted, and the location of any licensee under chapter five
13 hundred thirty-six (536), Code 1962, if within three hundred
14 (300) feet of such proposed location.

15 4. A statement as to the need for the additional lending
16 facility in the community or locality including a report on
17 other lending facilities available to a borrower.

18 5. A full, clear and accurate statement of the condition of
19 the corporation as of a date within thirty (30) days of the
20 application and directing attention to any substantial, subsequent
21 changes.

1 Sec. 3. At the time of making application, the applicant
2 shall pay the superintendent the sum of one hundred dollars
3 (\$100.00) as an investigation fee and the applicant shall also
4 pay its first annual license fee of one hundred fifty dollars
5 (\$150.00) for the period ending December 31st next following
6 the application, which license fee shall be refunded if the
7 application is denied.

1 Sec. 4. Within ten (10) days after receipt of an application,
2 the superintendent shall give notice of the pending application by
3 ordinary United States mail to other licensees under this Act
4 conducting their business in the same community or locality
5 and to other financial organizations and institutions of the
6 community or locality which the superintendent believes will be
7 affected by the granting of a license. Written objections may
8 be filed in duplicate with the superintendent within twenty (20)
9 days after his receipt of the application. The superintendent

10 shall mail or deliver a copy of any objections to the applicant
11 upon receipt.

1 Sec. 5. The superintendent shall conduct an investigation of
2 the applicant and the community or locality involved from which
3 he can determine the advisability of granting a license. He shall
4 at least make determinations as to the following:

5 1. The financial responsibility of the applicant. If the
6 business is to be located in a city or town or locality of less
7 than twenty-five thousand (25,000) inhabitants according to the
8 last decennial census, the corporation shall have paid in capital
9 stock of at least twenty-five thousand dollars (\$25,000.00). If
10 there are twenty-five thousand (25,000) or more inhabitants,
11 the corporation shall have paid in capital stock of at least fifty
12 thousand dollars (\$50,000.00).

13 2. The ability, character, and experience of the officers
14 and directors of the corporation and its managing agent or agents.
15 They must be such persons as to command the confidence of the
16 community and to warrant a belief that the business will be
17 operated honestly and fairly and without oppression.

18 3. The need for the additional lending agency in the community
19 or locality.

20 4. Whether or not the additional lending agency will be
21 convenient and desirable to the inhabitants of the community
22 or locality.

23 5. Whether or not there is a reasonable expectancy of a
24 successful lending business at the location.

25 6. The suitability of the effective articles of incorporation and
26 by-laws of the applicant.

27 7. Any objections on file.

1 Sec. 6. The license shall be granted or denied within sixty
2 (60) days after receipt of the application. If denied, the applicant
3 shall be informed by mail and shall have fifteen (15) days after
4 such mailing to request a hearing which shall be held within
5 fifteen (15) days after such request is received. At the hearing
6 the applicant may present such pertinent evidence as may be
7 desired and may have the proceeding reported by a certified
8 shorthand reporter at its expense. It shall not be necessary
9 that the applicant be represented by a lawyer. The superintendent
10 or a duly authorized representative shall conduct the hearing
11 and decide within five (5) days after close. If again denied,
12 the applicant may seek relief by way of certiorari in the district
13 court of Polk County.

1 Sec. 7. The superintendent or his duly authorized
2 representative shall at least once in each year, without
3 prior notice, examine the books and accounts of the lending
4 business carried on by the licensee to ascertain if loans are
5 being made in accordance with this Act, if the business is in
6 a sound financial condition and if the business is being conducted
7 in a safe and lawful manner. Within ten (10) days after the
8 completion of the examination, the licensee shall pay to the
9 superintendent a fee based upon the assets of the licensee's
10 lending business at the time of examination which shall be one
11 dollar (\$1.00) per one thousand dollars (\$1,000.00) of assets
12 on the first twenty-five thousand dollars (\$25,000.00) and three
13 cents (3¢) per one thousand dollars (\$1,000.00) on all assets above
14 twenty-five thousand dollars (\$25,000.00). Provided that no

15 examination shall be made for less than twenty dollars (\$20.00).

1 Sec. 8. The superintendent shall have the power to make
2 such additional examinations and investigation as he deems
3 necessary to prevent or discover violations of this Act. The
4 examination fee shall be paid for any such additional examinations.

1 Sec. 9. If the superintendent shall believe that good cause
2 exists, he may, upon ten (10) days written notice and opportunity
3 to be heard, suspend for a period not to exceed six (6) months
4 or revoke any license. He may also order any licensee or
5 its agents to cease and desist from any practice considered
6 to be in violation of this Act and may proceed to enforce said
7 order by injunction in district court. Such order, suspension
8 or revocation shall not invalidate pre-existing contracts or
9 prevent their enforcement, if otherwise valid and enforceable.

1 Sec. 10. The superintendent shall have the power to
2 promulgate such general or special rule and regulations as
3 he deems necessary to enforce or clarify the provisions of
4 this Act.

1 Sec. 11. Every domestic corporation holding an auditor's
2 certificate issued pursuant to section four hundred twenty-nine
3 point thirteen (429.13), Code 1962, and actually engaged in the
4 business described in section four hundred twenty-nine point
5 eleven (429.11), Code 1962, at an established location or
6 locations prior to December 31, 1962, shall, upon payment of
7 the annual license fee or fees, be granted a license or licenses
8 for said location or locations without application or investigation.
9 Provided that after December 31st following the effective date
10 of this Act, a domestic corporation shall conduct such business

11 in only one location and shall be issued only one license for
12 that location.

1 Sec. 12. No licensee shall conduct the business of making
2 loans under the provisions of this Act within any office, room,
3 suite or place of business in which any other business is
4 solicited or engaged in, or in association or conjunction
5 therewith. No licensee shall establish a place of business under
6 this Act within one hundred (100) feet of a place of business where
7 chattel loans are made under chapter five hundred thirty-six
8 (536), Code 1962. If a licensee is already so located, such
9 location may be retained after December 31st following the
10 effective date of this Act only with the written permission of the
11 superintendent and upon his finding that the businesses are not
12 so interrelated or so conducted as to lead to violations of this
13 Act and the disadvantage of the public.

1 Sec. 13. Immediately after the effective date of this Act,
2 any domestic corporation which shall receive a license or
3 licenses without investigation shall modify or change its business
4 practices or activities to conform with the provisions of this
5 Act as may be necessary.

1 Sec. 14. Nothing contained in this Act shall be construed
2 to impair or affect the obligation of contracts which were
3 otherwise valid and legal and entered into prior to the effective
4 date of this Act.

1 Sec. 15. Every licensee under this Act shall have the following
2 powers:

3 1. To loan money in accordance with section 1 of this Act
4 provided that no loan shall exceed five thousand dollars (\$5,000.00)

5 and the aggregate of loans to a single borrower shall not exceed
6 five thousand dollars(\$5,000.00).

7 2. To charge interest in advance at a rate not exceeding
8 seven per cent (7%) per annum of the principal amount of the
9 loan, which interest may be computed and included in the face
10 amount of a note.

11 3. To charge a service charge in lieu of all other loan fees
12 of three per cent (3%) of the cash which the borrower actually
13 receives, provided that there shall be no service charge on
14 any loan which is renewed or rewritten within six (6) months
15 or any part of a new loan used to discharge a prior loan within
16 six (6) months.

17 4. To charge a delinquency charge of five per cent (5%) of
18 an installment or payment which is not paid within ten (10) days
19 after its scheduled due date.

20 5. To write life, accident and health insurance on one party
21 obligated on the loan and property insurance on collateral. Life
22 insurance shall not exceed the amount of the note and be for a
23 term not exceeding the term of the loan by more than fifteen
24 (15) days. Accident and health insurance shall not provide for
25 periodic benefits in excess of each scheduled periodic installment
26 and aggregate benefits shall not exceed the amount of the note.
27 Property insurance shall bear a reasonable relation to value
28 and risk and shall be for a term approximate to the term of
29 the loan. A borrower shall not be required to purchase any
30 insurance as a condition to the granting of a loan.

31 6. To collect the actual fees paid to public officials in
32 connection with the loan.

1 Sec. 16. Every licensee shall:

2 1. Give a statement to each borrower showing the amount of
3 the loan, the interest charge, the service charge and the schedule
4 of payments.

5 2. Give receipts for all cash payments.

6 3. Permit prepayment of a loan at any time, in whole or in
7 part, and shall refund all unearned interest pursuant to the sum of
8 digits method, commonly called the Rule of 78.

9 4. Pay an annual license fee to the superintendent of one
10 hundred fifty dollars (\$150.00) on or before December 15th
11 preceding the year of license. If not so paid, the license shall
12 expire December 31st.

13 5. File an annual report with the superintendent for the
14 preceding year on or before March 15th of each year with
15 beginning and ending balance sheets and upon forms containing
16 information prescribed by the superintendent.

1 Sec. 17. A licensee shall not issue or sell thrift or investment
2 certificates, contracts, agreements, promissory notes or any
3 security under any descriptive name whatsoever to the general
4 public unless the same shall be registered under the Iowa
5 Securities Law or the Federal Securities Act of 1933.

1 Sec. 18. No licensee shall publish, disseminate or distribute
2 any advertising containing any false, misleading or deceptive
3 statements concerning rates, terms and conditions for loans
4 under this Act. Violations of the provisions of this section
5 shall be punishable as provided in section seven hundred thirteen
6 point twenty-four (713.24). Any statement indicating the amount
7 of the installment or the total charge in dollars required for any

8 loan shall also state the percentage rate per year computed on
9 declining balances of the original principal amount to which the
10 total charge would be equivalent if the loan were repaid according
11 to the contract. The percentage rate stated may be closely
12 approximate rather than exact if the statement so indicates.

1 Sec. 19. Engaging in such business without a license shall
2 be punishable as a misdemeanor. Any licensee or any officer,
3 director or agent of a licensee who shall knowingly and willfully
4 violate any provisions of this Act, shall be guilty of a misdemeanor
5 and upon conviction thereof shall be punished by a fine of not
6 more than five hundred dollars (\$500.00) or imprisonment
7 for not more than six (6) months or both.

1 Sec. 20. If any clause, sentence, section, subsection, provision
2 or part of this Act shall be adjudged to be unconstitutional or
3 invalid by any court of competent jurisdiction, such judgment
4 shall not impair, invalidate or affect the remainder of this Act,
5 which shall remain in full force and effect.

1 Sec. 21. The provisions of this Act shall not apply to businesses
2 organized and doing business as permitted under the authority
3 of any law of this state, or of the United States, relating to
4 banks, trust companies, building and loan associations, savings
5 and loan associations, insurance companies, small loan
6 companies licensed under the provisions of chapter five hundred
7 thirty-six (536), Code 1962, credit unions or pawn brokers.

1 Sec. 22. Sections four hundred twenty-nine point eleven
2 (429.11), four hundred twenty-nine point twelve (429.12),
3 and four hundred twenty-nine point thirteen (429.13), Code
4 1962, are hereby repealed.