

APR 13 1978

Place On Calendar

HOUSE FILE 2425

By COMMITTEE ON COMMERCE

(Formerly House File 218)

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

A BILL FOR

1 An Act relating to fairness in lending in real estate
 2 mortgages and prohibiting the practice of red-lining
 3 by banks, saving and loan associations and other
 4 financial institutions operating in the state, and
 5 providing penalties.
 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2425

H-6403

- 1 Amend House File 2425 as follows:
 2 1. Page 4, line 13 by inserting after the word
 3 "all" the word "reporting".
 4 2. Page 4, line 18 by inserting after the word
 5 "all" the word "reporting".
 6 3. Page 4, line 20 by inserting after the word
 7 "all" the word "reporting".
 8 4. Page 4, by striking line 35.
 9 5. Page 5, by striking lines 1 through 3.

H-6403 FILED
APRIL 28, 1978

BY WELDEN of Hardin

HOUSE FILE 2425

H-6412

- 1 Amend House File 2425 as follows:
 2 1. Page 1, lines 10 and 11, by inserting after
 3 the word "property" the words "containing or to contain
 4 four or fewer family dwelling units".

H-6412 FILED
APRIL 28, 1978

BY KRAUSE of Kossuth
CHIODO of Polk

1 Section 1. NEW SECTION. DEFINITIONS. For purposes of
2 this Act, unless the context otherwise requires:

3 1. "Red-lining" means the practice by which a financial
4 institution may designate certain areas as unsuitable for
5 the making of mortgage loans and reject applications for
6 mortgage loans upon property within that area because of the
7 prevailing income, racial or ethnic characteristics of the
8 area, or because of the age of the structures in the area.

9 2. "Mortgage loan" means a loan for the purchase, con-
10 struction, improvement or rehabilitation of residential prop-
11 erty in which the property is used as security for the loan.

12 3. "Financial institution" means any bank, credit union,
13 insurance company, mortgage banking company or savings and
14 loan association, small loan company, industrial loan company,
15 or like institution which operates or has a place of business
16 in this state.

17 4. "Reporting financial institution" means a financial
18 institution with an excess of ten million dollars in assets
19 accepting mortgage loan applications in any city with a popu-
20 lation in excess of ten thousand as determined in the most
21 recent regular census or in any standard metropolitan
22 statistical area.

23 5. "Varying the terms of a mortgage loan" includes, but
24 is not limited to the following:

25 a. Requiring a greater than average down payment than
26 is usual for the particular type of mortgage loan involved.

27 b. Requiring a shorter period of amortization than is
28 usual for the particular type of mortgage loan involved.

29 c. Charging a higher interest rate than is usual for the
30 particular type of mortgage loan involved.

31 d. An unreasonable underappraisal of real estate or item
32 of property offered as security.

33 Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE
34 MORTGAGES. It is a discriminatory practice for any financial
35 institution accepting mortgage loan applications to engage

1 in the practice of red-lining as defined in section one (1)
2 of this Act.

3 Sec. 3. NEW SECTION. DISCRIMINATORY LENDING PRACTICE.

4 Subject to section four (4) of this Act, a financial
5 institution in contemplation of any mortgage loan to any
6 person shall not:

7 1. Deny any person any of the services normally offered
8 by such an institution, or provide any person with any service
9 which is different from or provided to other persons similarly
10 situated.

11 2. Deny or vary the terms of a mortgage loan without
12 having considered all of the regular and dependable income
13 of each person who will be liable for the repayment of the
14 mortgage loan. Agencies administering this Act shall
15 promulgate rules as to what constitutes regular and dependable
16 income.

17 3. Deny or vary the terms of a mortgage loan without
18 considering without prejudice the combined income of both
19 husband and wife for the purpose of extending mortgage credit
20 to a married couple or either member of the marriage if both
21 persons are liable for repayment of the mortgage loan.

22 4. Deny or vary the terms of a mortgage loan on the sole
23 basis of the childbearing capacity of an applicant or
24 applicant's spouse.

25 5. Utilize lending qualifications or standards that have
26 no demonstrable economic basis and which are discriminatory
27 in effect. For the purposes of this subsection, a policy
28 providing for a minimum mortgage loan amount shall be suspect.

29 6. Deny an individual the opportunity to submit a written
30 loan application.

31 Sec. 4. NEW SECTION. DISCRETION OF FINANCIAL INSTITU-
32 TION. Nothing contained in this Act shall preclude a financial
33 institution from applying economically sound underwriting
34 practices in contemplation of any mortgage loan to any person.
35 Such practices shall include but are not limited to the

1 following:

2 1. The willingness and the financial ability of the
3 borrower to repay the mortgage loan.

4 2. The appraised value of any real estate or other item
5 of property proposed as security for any mortgage loan.

6 3. Diversification of the financial institution's in-
7 vestment portfolio.

8 Sec. 5. NEW SECTION. DISCLOSURE. Each reporting financial
9 institution accepting an application for a mortgage loan
10 shall:

11 1. Maintain a record of mortgage loan applications by
12 census tract.

13 2. Annually make a report based on the mortgage loan
14 application records which shall:

15 a. State the total number of mortgage loan applications
16 filed by census tract.

17 b. Clearly show the total number of mortgage loans which
18 were approved and which were not approved by census tract.

19 c. State the number and total dollar amount of savings
20 accounts and time deposits itemized by census tract.

21 3. The report required by this section shall be placed
22 on file with the Iowa housing finance authority and shall
23 be available to the public.

24 4. In accordance with subsections one (1), two (2) and
25 three (3) of this section, the superintendent of banking,
26 the auditor of state and the commissioner of insurance shall
27 establish rules for the enforcement of the provisions of this
28 section. Rules established pursuant to this Act may permit
29 federal reporting forms to be used as state reporting forms
30 to the extent that the federal reporting forms are in
31 compliance with the provisions of this section.

32 Reporting periods shall be established by rule and shall
33 be uniform for all financial institutions. Rules may also
34 specify separate treatment of oral and written mortgage loan
35 applications. However, records shall be kept on both.

1 The director of the Iowa housing finance authority or the
2 director's designee shall advise and assist the superintendent
3 of banking, the commissioner of insurance, and the auditor
4 of state on the establishment of rules for the enforcement
5 of this section and shall encourage uniformity among the
6 administrator's rule promulgation to the maximum extent
7 practical.

8 Sec. 6. NEW SECTION. AGENCY TO ADMINISTER. Sections
9 two (2), three (3), and five (5) of this Act shall be admin-
10 istered and enforced by the following agencies:

11 1. The superintendent of banking or the superintendent's
12 designee shall be responsible for enforcing the provisions
13 of this Act in regard to all banks, credit unions, and persons
14 licensed under chapter five hundred thirty-six (536) of the
15 Code, and shall be responsible for enforcing the provisions
16 of this Act in regard to mortgage banking companies.

17 2. The auditor of state or a designee shall be responsible
18 for enforcing the provisions of this Act in regard to all
19 savings and loan associations pursuant to chapter five hundred
20 thirty-four (534) of the Code and all persons licensed under
21 chapter five hundred thirty-six A (536A) of the Code.

22 3. The commissioner of insurance or the commissioner's
23 designee shall be responsible for enforcing the provisions
24 of this Act pursuant to chapter five hundred five (505) of
25 the Code in regard to all insurance companies.

26 Sec. 7. NEW SECTION. AGGRIEVED PARTY. Any person who
27 has been aggrieved as a result of a violation of this Act
28 may bring an action in the district court of the county in
29 which the violation occurred or in the county where the
30 financial institution involved is located.

31 Upon a finding that a financial institution has committed
32 a violaton of either section two (2), three (3), or five (5)
33 of this Act, the court may award actual damages and court
34 costs.

35 Sec. 8. NEW SECTION. CRIMINAL PENALTY. Any person who

1 knowingly engages in a practice which violates the provisions
2 of section two (2), three (3), or five (5) of this Act is
3 guilty of a serious misdemeanor.

4 Sec. 9. NEW SECTION. CIVIL PENALTY. Any person who in
5 bad faith fails to comply with the provisions of this Act,
6 is subject to punitive damages not to exceed one thousand
7 dollars in addition to actual damages.

8 Sec. 10. The Code editor is directed to incorporate sec-
9 tions one (1) through nine (9) of this Act as a separate
10 chapter of the Code.

11 Sec. 11. The director of the Iowa housing authority shall
12 report to the Iowa general assembly in February of 1980, an
13 analysis of the nature and status of the disclosure reports
14 filed with the authority by the superintendent of banking,
15 the commissioner of insurance and the auditor of state in
16 accordance with section five (5) of this Act.

17 The director's report shall also include but is not limited
18 to an analysis of the financial needs of economically depressed
19 urban residential areas, and recommendations for future action
20 to insure the economic health of urban residential areas.

21 Sec. 12. This Act is effective January 1, 1979.

22 EXPLANATION

23 This bill prohibits banks, saving and loan associations,
24 insurance companies and other financial institutions who
25 accept mortgage loan applications, from carrying out the
26 practice of red-lining.

27 It is unlawful for any financial institution to provide
28 service to any applicant which is different from or which
29 is provided in a different manner than that which is provided
30 for other persons similarly situated.

31 No financial institution in the contemplation of any
32 mortgage loan to any person shall deny or vary the terms of
33 the loan in any manner which will prejudice or will
34 discriminatorily affect the applicant. However, this bill
35 does not require banks, or savings and loan associations or

1 other financial institutions to issue mortgage loans without
2 regard to the financial risk of the borrower.

3 The bill establishes a criminal penalty and a civil penalty
4 and permits any person aggrieved as a result of a violation
5 to bring an action in the district court of the county in
6 which the particular financial institution involved is located.

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HOUSE FILE 2425

H-6508

1 Amend House File 2425 as follows:
2 1. Page 1, line 5, by inserting after the word
3 "and" the words "act in a manner contrary to the
4 principles set forth in section four (4) of this
5 Act to".

H-6508 FILED BY EVANS of Grundy
MAY 3, 1978

HOUSE FILE 2425

H-6562

1 Amend House File 2425 as follows:
2 1. Page 1, line 8, by inserting after the word
3 "area" the words ", in contrast to the usual and
4 acceptable practice of making or rejecting loans on
5 grounds as set forth in section four (4) of this Act".

H-6562 FILED BY EVANS of Grundy
MAY 5, 1978

HOUSE FILE 2425

H-6572

1 Amend House File 2425 as follows:
2 1. Page 3, line 28, by striking the word "may"
3 and by inserting in lieu thereof the word "shall".
4 2. Page 5, by striking lines 11 through 20.

H-6572 FILED BY CONLON of Muscatine
MAY 8, 1978

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FISCAL NOTE
HOUSE FILE 2425

Requested by Representative Conlon
May 8, 1978

In compliance with a written request, there is submitted a Fiscal Note for H.F. 2425, pursuant to Joint Rule 16:

House File 2425, An Act relating to fairness in lending in real estate mortgages and prohibiting the practice of red-lining by banks, saving and loan associations and other financial institutions operating in the state, and providing penalties.

This bill prohibits banks, saving and loan associations, insurance companies and other financial institutions who accept mortgage loan applications, from carrying out the practice of red-lining.

The bill establishes a criminal penalty and a civil penalty and permits any person aggrieved as a result of a violation to bring an action in the district court of the county in which the particular financial institution involved is located.

The administrative cost to the state is estimated to be negligible; approximately \$20,000 annually to the Iowa Housing Authority.

However, the increased cost to the financial institutions in the state could be considerable because new computer programs will be needed in order to provide records on a census tract basis instead of the present zip code basis. It should be noted that there are some areas in the state that are not on census tract and therefore records for those areas cannot be supplied on that basis.

Sources: State Auditor's Office
Iowa Insurance Department
Banking Department
Iowa Savings & Loan League
Iowa Bankers Association
Iowa Credit Union League

FILED
MAY 10, 1978

GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 2425

H-6452

- 1 Amend House File 2425 as follows:
- 2 1. Page 1, line 14, by striking the words "small
- 3 loan company,".
- 4 2. Page 3, line 16, by striking the words "census
- 5 tract" and inserting in lieu thereof the words "zip
- 6 code".
- 7 3. Page 3, line 18, by striking the words "census
- 8 tract" and inserting in lieu thereof the words "zip
- 9 code".
- 10 4. Page 4, by striking lines 13 and 14 and
- 11 inserting in lieu thereof the words "of this Act in
- 12 regard to all banks and credit unions".
- 13 5. Page 4, line 15, by striking the word "Code".

H-6452 FILED
MAY 2, 1978

BY SCHROEDER of Pottawattamie