

JUN 30 1978

HOUSE FILE 2467

Place On Calendar

By JOINT STANDING COMMITTEE
ON INTEREST RATES

Passed House, Date July 1, 1978 Passed Senate, Date _____
Vote: Ayes 65 Nays 26 Vote: Ayes _____ Nays _____
Approved July 26, 1978

A BILL FOR

1 An Act which is an emergency and temporary Act and shall
2 be in effect until July 1, 1979, and which relates to
3 transactions which involve the payment of interest
4 pursuant to agreement of the parties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. The joint standing committee on interest rates
2 created pursuant to the authority contained in Senate
3 Concurrent Resolution one hundred thirty-six (136), Sixty-
4 seventh General Assembly, 1978 Session; shall reconvene during
5 the 1978-1979 legislative interim at the call of its co-
6 chairpersons or as the committee otherwise shall provide,
7 and shall continue to conduct during that interim the
8 investigation and review provided for in that resolution.
9 All of the powers, rights and privileges granted to the joint
10 standing committee on interest rates by that resolution shall
11 continue in the committee during the 1978-1979 legislative
12 interim.

13 The joint standing committee on interest rates shall sub-
14 mit a report of its findings to the general assembly convening
15 in January of 1979, containing such recommendations as the
16 committee shall approve.

17 Sec. 2. This Act, being deemed of immediate importance,
18 shall take effect and be in force, except as otherwise
19 specifically provided, from and after its publication in The
20 Waterloo Courier, a newspaper published in Waterloo, Iowa,
21 and in The Hawk Eye, a newspaper published in Burlington,
22 Iowa.

23 EXPLANATION

24 This bill continues the existence of the Joint Standing
25 Committee on Interest Rates, effective on the date of publi-
26 cation of the bill as enacted and until July 1, 1979, as pro-
27 vided in the title. The Joint Standing Committee would meet
28 during the 1978-1979 legislative interim and would submit
29 recommendations to the legislature which convenes in January
30 of 1979.

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FINAL REPORT OF THE JOINT
STANDING COMMITTEE ON
INTEREST RATES

June 30, 1978

The Joint Standing Committee on Interest Rates was created by Senate Concurrent Resolution 136, adopted during the 1978 legislative session. That Resolution provided for a recess of the General Assembly from May 13, 1978 to June 30, 1978. During that recess the Joint Standing Committee was charged with the duty to

“investigate and review the impact on the Iowa economy of existing statutory provisions which establish interest rates or finance charges and the methods and procedures for determining those interest rates or finance charges . . .”.

Pursuant to section five (5) of that Resolution the Committee submits this report of its findings and recommendations.

The Committee initially was composed of the following legislative members:

Senator Fred W. Nolting, Co-chairperson
Representative W. R. Monroe, Jr., Co-chairperson
Senator Warren E. Curtis
Senator Eugene M. Hill
Senator Edgar H. Holden
Senator William D. Palmer
Representative Glenn F. Brockett
Representative Ned F. Chiodo
Representative Cooper Evans
Representative Arthur A. Small, Jr.

Because of health problems, Senator Warren E. Curtis resigned from the Committee and Senator Irvin L. Bergman was appointed to membership on the Committee.

The following advisory Committee members were provided for, or were appointed by officers of the executive branch, pursuant to S.C.R. 136:

Mr. Thomas H. Huston, Superintendent of Banking
Mr. Howard Hall, Deputy Superintendent of Banking
Mr. Ron Sagraves, Office for Planning and Programming
Mr. Richard G. Sheppard, Supervisor of Savings and Loan Associations
Mr. Ken Wilson, Supervisor of Industrial Loan Licensees
Dr. Gerry Barnard, representing the State Comptroller

The Committee held a series of meetings, during which commentary was received from various invited guests. The Committee also held a public hearing at which comments were received from twelve persons. The Committee also submitted written questionnaires to the 656 banks and 78 savings and loan associations doing business in this state. The Committee also received a written study prepared by a professor of economics at Drake University.

The greatest amount of the commentary which was received dealt with the effects of Iowa's nine percent usury limit on the home construction and finance industries. Representatives of home builders, institutional lenders, realtors and a mortgage banking company agreed in general that the existing usury limit is having, or soon will have a detrimental effect on the availability of housing in this state because the prevailing interest rates in the national mortgage market exceed nine percent. Commentary also was received which indicated that the availability of loans to finance agricultural endeavors is being adversely affected by the Iowa usury law. In addition to comments directed at the Iowa usury law, other comments were received which dealt with matters related to mortgage lending, including the practice of charging points and red lining, and other matters relating to interest rates, including the statutory minimum interest rate applicable to open accounts and interest paid by regulated financial institutions. Copies of the written commentary received by the Committee are on file with the Legislative Service Bureau for reference.

The Committee considered approximately twelve legislative proposals which were offered by legislative members of the Committee and which were determined to be within the scope of the Committee's authority. Considerable difference of opinion existed among the members of the Committee respecting the nature and extent of the problems attributable to Iowa laws relating to interest rates and affiliated matters. A bill draft ultimately evolved after a lengthy process of amendment and revision. The draft failed to receive the necessary affirmative votes on final passage, however, and the Committee appeared to have reached a deadlock.

Following several attempts to break the stalemate, the Committee agreed to submit to the House of Representatives a bill providing for continuation of the legislative study of interest rates, plus three amendments to that bill. The study matters contained in those three amendments were, generally, as follows:

- (1) amendments to the Iowa usury law and closely related matters;
- (2) amendments to the open-end credit finance charge provisions;
- (3) other statutory changes affecting or affected by statutory interest rate provisions and the transactions to which they relate.

The motion finally adopted by the Committee also provided that the title of the bill and the various provisions contained in the amendments would limit the effect of the proposed legislation to a period of time ending July 1, 1979.

Pursuant to Senate Concurrent Resolution 136 the Committee submits as attachments to this Report the bill proposal and amendments passed by the Committee. The bill and the amendments are submitted without recommendation.

Respectfully submitted,

FRED W. NOLTING, Co-chairperson
W.R. MONROE, JR. Co-chairperson

HOUSE FILE 2467

H-6757

Amend House File 2467 as follows:

1. Page 1, by inserting before line 1 the following:

"Section 1, NEW SECTION. DEFINITIONS. For

purposes of this Act, unless the context otherwise requires:

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

2. "Mortgage loan" means a loan for the purchase, construction, improvement or rehabilitation of residential property in which the property is used as security for the loan.

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

4. "Reporting financial institution" means a financial institution with an excess of ten million dollars in assets accepting mortgage loan applications in any city with a population in excess of ten thousand as determined in the most recent regular census or in any standard metropolitan statistical area.

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

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

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

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

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

Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE MORTGAGES. It is a discriminatory practice for any financial institution accepting mortgage loan applications to engage in the practice of red-lining as defined in section one (1) of this Act.

Sec. 3. NEW SECTION. DISCRIMINATORY LENDING PRACTICE. Subject to section four (4) of this Act, a financial institution in contemplation of any mortgage loan to any person shall not:

1. Deny any person any of the services normally

1 offered by such an institution, or provide any person
2 with any service which is different from or provided
3 to other persons similarly situated.

4 2. Deny or vary the terms of a mortgage loan
5 without having considered all of the regular and
6 dependable income of each person who will be liable
7 for the repayment of the mortgage loan. Agencies
8 administering this Act shall promulgate rules as to
9 what constitutes regular and dependable income.

10 3. Deny or vary the terms of a mortgage loan
11 without considering without prejudice the combined
12 income of both husband and wife for the purpose of
13 extending mortgage credit to a married couple or
14 either member of the marriage if both persons are
15 liable for repayment of the mortgage loan.

16 4. Deny or vary the terms of a mortgage loan
17 on the sole basis of the childbearing capacity of
18 an applicant or applicant's spouse.

19 5. Utilize lending qualifications or standards
20 that have no demonstrable economic basis and which
21 are discriminatory in effect. For the purpose of
22 this subsection, a policy providing for a minimum
23 mortgage loan amount shall be suspect.

24 6. Deny an individual the opportunity to submit
25 a written loan application.

26 Sec. 4. NEW SECTION. DISCRETION OF FINANCIAL
27 INSTITUTION. Nothing contained in this Act shall
28 preclude a financial institution from applying
29 economically sound underwriting practices in con-
30 templation of any mortgage loan to any person. Such
31 practices shall include but are not limited to the
32 following:

33 1. The willingness and the financial ability
34 of the borrower to repay the mortgage loan.

35 2. The appraised value of any real estate or
36 other item of property proposed as security for any
37 mortgage loan.

38 3. Diversification of the financial institution's
39 investment portfolio.

40 Sec. 5. NEW SECTION. DISCLOSURE. Each reporting
41 financial institution accepting an application for a
42 mortgage loan shall:

43 1. Maintain a record of mortgage loan applications
44 by census tract.

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

47 a. State the total number of mortgage loan
48 applications filed by census tract.

49 b. Clearly show the total number of mortgage
50 loans which were approved and which were not approved.

1 by census tract.

2 c. State the number and total dollar amount of
3 savings accounts and time deposits itemized by census
4 tract.

5 3. The report required by this section shall be
6 placed on file with the Iowa housing finance
7 authority and shall be available to the public.

8 4. In accordance with subsections one (1),
9 two (2) and three (3) of this section, the superintendent
10 of banking, the auditor of state and the commissioner
11 of insurance shall establish rules for the enforcement
12 of the provisions of this section. Rules established
13 pursuant to this Act may permit federal reporting
14 forms to be used as state reporting forms to the
15 extent that the federal reporting forms are in
16 compliance with the provisions of this section.

17 Reporting periods shall be established by rule
18 and shall be uniform for all financial institutions.
19 Rules may also specify separate treatment of oral
20 and written mortgage loan applications. However,
21 records shall be kept on both.

22 The director of the Iowa housing finance authority
23 or the director's designee shall advise and assist the
24 superintendent of banking, the commissioner of
25 insurance, and the auditor of state on the establishment
26 of rules for the enforcement of this section and shall
27 encourage uniformity among the administrator's rule
28 promulgation to the maximum extent practical.

29 Sec. 6. NEW SECTION. AGENCY TO ADMINISTER.
30 Sections two (2), three (3), and five (5) of this Act
31 shall be administered and enforced by the following
32 agencies:

33 1. The superintendent of banking or the super-
34 intendent's designee shall be responsible for
35 enforcing the provisions of this Act in regard to
36 all banks, credit unions, and persons licensed under
37 chapter five hundred thirty-six (536) of the Code,
38 and shall be responsible for enforcing the provisions
39 of this Act in regard to mortgage banking companies.

40 2. The auditor of state or a designee shall be
41 responsible for enforcing the provisions of this Act
42 in regard to all savings and loan associations pursuant
43 to chapter five hundred thirty-four (534) of the Code
44 and all persons licensed under chapter five hundred
45 thirty-six A (536A) of the Code.

46 3. The commissioner of insurance or the commiss-
47 ioner's designee shall be responsible for enforcing
48 the provisions of this Act pursuant to chapter five
49 hundred five (505) of the Code in regard to all
50

1 insurance companies.

2 Sec. 7. NEW SECTION. AGGRIEVED PARTY.

3 Any person who has been aggrieved as a result of a
4 violation of this Act may bring an action in the
5 district court of the county in which the violation
6 occurred or in the county where the financial
7 institution involved is located.

8 Upon a finding that a financial institution has
9 committed a violation of either section two (2),
10 three (3), or five (5) of this Act, the court may
11 award actual damages and court costs.

12 Sec. 8. NEW SECTION. CRIMINAL PENALTY.

13 Any person who knowingly engages in a practice which
14 violates the provisions of section two (2), three
15 (3), or five (5) of this Act is guilty of a serious
16 misdemeanor.

17 Sec. 9. NEW SECTION. CIVIL PENALTY.

18 Any person who in bad faith fails to comply with the
19 provisions of this Act, is subject to punitive
20 damages not to exceed one thousand dollars in
21 addition to actual damages.

22 Sec. 10. The Code editor is directed to incor-
23 porate sections one (1) through nine (9) of this
24 Act as a separate chapter of the Code.

25 Sec. 11. The director of the Iowa housing
26 authority shall report to the Iowa general assembly
27 in February of 1980, an analysis of the nature and
28 status of the disclosure reports filed with the
29 authority by the superintendent of banking, the comm-
30 issioner of insurance and the auditor of state in
31 accordance with section five (5) of this Act.

32 The director's report shall also include but is
33 not limited to an analysis of the financial needs
34 of economically depressed urban residential areas,
35 and recommendations for future action to insure the
36 economic health of urban residential areas.

37 Sec. 12. This Act is effective January 1, 1979."
38

H-6757 FILED
June 30, 1978

*Revised and
German 6/30* BY KRAUSE of Kossuth
(p. 2861)

HOUSE FILE 2467

H-6752

- 1 Amend amendment H-6730 to House File 2467 as
- 2 follows:
- 3 1. Page 2, line 43, by inserting after the
- 4 word "borrower" the words ", or a mobile home used
- 5 as a single-family or a two-family dwelling occupied
- 6 or to be occupied by the borrower".

H-6752 FILED *Adopted* BY MILLER of Buchanan
 June 30, 1978 *6/30 (p. 2845)*

HOUSE FILE 2467

H-6754

- 1 Amend House File 2467 as follows:
- 2 1. Page 1, by inserting after line 16 the
- 3 following section:
- 4 "Sec. _____. If any provision of this Act or the
- 5 application thereof to any person or circumstance
- 6 is held invalid, the invalidity does not affect other
- 7 provisions or applications of the Act which can be
- 8 given effect without the invalid provision or
- 9 application, and to this end the provisions of this
- 10 Act are severable."

H-6754 FILED *Adopted 6/30* BY SMALL of Johnson
 June 30, 1978 *(p. 2856)*

HOUSE FILE 2467

H-6755

- 1 Amend House File 2467 as follows:
- 2 1. Page 1, by inserting after line 12 the
- 3 following:
- 4 "The committee in its investigation and review
- 5 shall also consider methods of requiring cash dis-
- 6 counts to consumers who pay cash for purchases as
- 7 opposed to purchasing on credit."

H-6755 FILED *Adopted 7/20* BY SVOBODA of Iowa
 June 30, 1978. *(p. 2853)* LAGESCHULTE of Bremer
 KRAUSE of Kossuth
 HALVORSON of Clayton

HOUSE FILE 2467

H-6756

- 1 Amend amendment H-6730, to House File 2467, as
- 2 follows:
- 3 1. Page 2, line 47, by inserting after the word
- 4 "or" the words "two percent in the case of".

H-6756 FILED *Adopted 6/30* BY SPEAR of Lee
 June 30, 1978 *(p. 2846)*

1 Amend the amendment H-6729 to House File 2467
2 as follows:

- 3 1. Page 2, by striking lines 42 through 50.
4 2. Page 3, by striking lines 1 through 40 and
5 inserting in lieu thereof the following:

6 "NEW SECTION. 537.2104 REMEDIES.

7 1. The provisions of section five hundred thirty-
8 seven point two thousand one hundred three (537.2103)
9 of the Code shall apply whether or not the card
10 issuer has or claims to have any right or privilege
11 under the laws of the United States or any other state
12 to impose a finance charge in excess of that permitted
13 under this article.

14 2. In the event that a creditor or lender
15 domiciled outside of this state fails to comply with
16 the limitations contained in sections five hundred
17 thirty-seven point two thousand two hundred two
18 (537.2202) or five hundred thirty-seven point two
19 thousand four hundred two (537.2402) of the Code,
20 and that limitation is applicable to that creditor
21 or lender pursuant to section five hundred thirty-
22 seven point two thousand one hundred three (537.2103)
23 of the Code, the administrator may commence a class
24 action in the district court of the state of Iowa in
25 the name of the state on behalf of all Iowa residents
26 who are damaged by the failure of the creditor or
27 lender to comply with those limitations. In any
28 such action the administrator may seek judicial
29 order to:

30 a. Prevent or restrain conduct prohibited under
31 this section and remove the conduct's effect by
32 injunction, divestiture of right to do business in
33 this state, or granting other equitable relief. The
34 state may bring suit under this subsection without
35 posting bond.

36 b. Recover actual damages to members of the
37 class resulting from conduct prohibited under this
38 chapter.

39 c. Recover the necessary costs of bringing suit,
40 including a reasonable attorney fee.

41 3. Any creditor or lender who issues a seller
42 credit card or a lender credit card to one or more
43 residents of this state and who authorizes one or
44 more seller or lessors engaged in business in this
45 state, whether or not affiliated with the card
46 issuer, to accept credit cards issued by the card
47 issuer as tender of payment for property or services
48 provided by the seller or lessor to holders of those
49 credit cards shall thereby consent to the jurisdiction
50 of the district court of this state for purposes of

Page 2

(1 any action commenced under subsection two (2) of this
2 section."

3 2. By renumbering sections or subsections and
4 correcting internal references as necessary.

H-6753 FILED
June 30, 1978

Adopted 6/30
(p. 2833) BY

CHIODO of Polk
DOYLE of Woodbury
MONROE of Des Moines
NIELSEN of Polk

HOUSE FILE 2467

6749

- 1 Amend Amendment H-6729 to House File 2467 as
 2 follows:
 3 1. Page 2, by striking lines 6 through 50.
 4 2. Page 3, by striking lines 1 through 42.
 5 3. Page 3, by striking lines 43 and 44 and insert-
 6 ing in lieu thereof the following:
 7 "Sec. ____ Sections one (1) and two (2) of this
 8 Act shall take effect January 1, 1979."

H-6749 FILED *Adopted 6/30* BY CHIODO of Polk
 June 30, 1978 *(p. 2828)*
Reconsidered 6/30 (2832)

HOUSE FILE 2467

H-6750

- 1 Amend House amendment H-6730 to House File 2467
 2 as follows:
 3 1. Page 1, by striking lines 26 through 35
 4 and inserting in lieu thereof the following:
 5 "(2) Any written agreement for the payment
 6 of interest made pursuant to a prior written agree-
 7 ment by a lender to lend money in the future, either
 8 to the other party to such prior written agreement
 9 or a third party beneficiary to such prior agree-
 10 ment, may provide for payment of interest at the
 11 lawful rate of interest at the time of the execu-
 12 tion of the prior agreement, regardless of whether
 13 the subsequent agreement is executed before, on or
 14 after July 1, 1979."

H-6750 FILED *Adopted 6/30* BY SCHROEDER of Pottawattamie
 June 30, 1978 *(p. 2843)*

HOUSE FILE 2467

H-6751

- 1 Amend House File 2467 as follows:
 2 1. Page 1, by striking lines 1 through 12 and
 3 inserting in lieu thereof the following:
 4 "Section 1. There is created a joint standing
 5 committee on interest rates. The committee shall
 6 consist of five members from each house of the
 7 general assembly to be appointed by the legislative
 8 council on or before August 15, 1978. The committee
 9 shall hold its first meeting on or before August 30,
 10 1978 upon the call of the chairperson of the council.
 11 All meetings thereafter shall be at the call of the
 12 co-chairpersons of the committee or as the committee
 13 otherwise provides. The committee shall continue
 14 the investigation and review of the matters author-
 15 ized by Senate Concurrent Resolution one hundred
 16 thirty-six. All of the rights, powers, duties and
 17 privileges granted to the joint standing committee
 18 on interest rates by that resolution shall continue
 19 in the newly appointed committee during the 1978-
 20 1979 interim."

H-6751 FILED *Adopted 6/30* BY ANDERSON of Jasper
 June 30, 1978 *(p. 2853)*

HOUSE FILE 2467

H-6758

- 1 Amend amendment H-6728 to House File 2467 as
- 2 follows:
- 3 1. Page 6, line 8, by inserting after the
- 4 word "Act" the words "except the provisions of
- 5 amendment H-6729 as amended".

H-6758 FILED *Adopted* BY MONROE of Des Moines
June 30, 1978 *6/30 (p. 2861)*

HOUSE FILE 2467

H-6759

- 1 Amend amendment H-6730 to House File 2467 as
- 2 follows:
- 3 1. Page 5, by striking lines 39 through 44.

H-6759 FILED *Adopted* BY MONROE of Des Moines
June 30, 1978 *6/30 (p. 2861)*

HOUSE FILE 2467

H-6760

- 1 Amend House File 2467 as follows:
- 2 1. Amend the title by striking lines 1 and 2
- 3 and inserting in lieu thereof the words "An Act
- 4 which relates to".

H-6760 FILED *Adopted* BY MONROE of Des Moines
June 30, 1978 *6/30 (2861)*

HOUSE FILE 2467

6748

1 Amend the committee amendment H-6730 to House File
 2 2467 as follows:
 3 1. Page 1, by striking lines 11 through 49 and
 4 inserting in lieu thereof the words: "of interest
 5 which may be provided for in any written agreement for
 6 the payment of interest shall be ten cents on the hundred
 7 by the year for any written agreement entered into on
 8 or after the effective date of this Act and before
 9 March 1, 1979; and the maximum lawful rate of interest
 10 for any written agreement entered into on or after
 11 March 1, 1979, shall be the sum of four percent plus
 12 the maximum simple interest rate payable on savings
 13 deposits in regular accounts in savings and loan associa-
 14 tions insured by the federal savings and loan insurance
 15 corporation, as established by the federal home loan
 16 bank board and in effect on March 1, 1979."

H-6748 FILED *Loat* BY EGENES of Story
 June 30, 1978 *6/30 (p. 2821)*

HOUSE FILE 2467

H-6745

1 Amend the amendment, H-6729, to House File 2467,
 2 as follows:
 3 1. Page 1, by striking lines 9 through 13 and
 4 inserting in lieu thereof the following: "may not
 5 exceed an amount equal to one and one-half percent
 6 of that part of the maximum amount pursuant to sub-
 7 section 2 which is five one hundred dollars or less,
 8 and one and one-fourth percent of that part of the
 9 maximum amount which is more than one hundred dollars
 10 but not more than five hundred dollars, and one percent
 11 of that part of the maximum amount which".
 12 2. Page 1, by striking lines 42 through 45 and
 13 inserting in lieu thereof the following: "may not
 14 exceed an amount equal to one and one-half percent
 15 of that part of the maximum amount pursuant to sub-
 16 section 2 which is five one hundred dollars or less,
 17 and one and one-fourth percent of that part of the
 18 maximum amount which is more than one hundred dollars
 19 but not more than five hundred dollars, and one".

H-6745 FILED *Loat* BY CHIODO of Polk
 June 30, 1978 *6/30 (p. 2825)* MIDDLESWART of Warren
 HULLINGER of Decatur
 GARRISON of Black Hawk
 GILSON of Guthrie

HOUSE FILE 2467

H-6746

- 1 Amend amendment H-6740 to amendment H-6728, to
- 2 House File 2467 as follows:
- 3 1. Page 1, by inserting after line 19 the fol-
- 4 lowing:
- 5 " Page 4, by striking lines 1 and 2."
- 6 2. Page 1, by inserting after line 21 the fol-
- 7 lowing:
- 8 " Page 4, by striking line 15."
- 9

H-6746 FILED *Adopted* BY SCHROEDER of Pottawattamie
June 30, 1978 *(p. 2817)*

HOUSE FILE 2467

6747

- 1 Amend House amendment H-6730 to House File 2467
- 2 as follows:
- 3 1. Page 1, line 29, by striking the word "The".
- 4 2. Page 1, by striking lines 30 through 35
- 5 and inserting in lieu thereof the following:
- 6 "Any written agreement for the payment of in-
- 7 terest made pursuant to a prior written agreement
- 8 by a lender to lend money in the future, either to
- 9 the other party to such prior written agreement or
- 10 a third party beneficiary of such prior agreement,
- 11 may provide for payment of interest at the lawful
- 12 rate of interest at the time of the execution of the
- 13 prior agreement, regardless of whether the subsequent
- 14 agreement is executed before, on or after July 1,
- 15 1979."

H-6747 FILED *w/d* BY SCHROEDER of Pottawattamie
June 30, 1978 *6/30*
(p. 2843)

H-6744

1 Amend House File 2467 as follows:
2 1. Page 1, by inserting before line 1 the following:
3 "Section 1, NEW SECTION. DEFINITIONS. For

4 purposes of this Act, unless the context otherwise
5 requires:

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

13 2. "Mortgage loan" means a loan for the purchase,
14 construction, improvement or rehabilitation of
15 residential property in which the property is used
16 as security for the loan.

17 3. "Financial institution" means any bank,
18 credit union, insurance company, mortgage banking
19 company or savings and loan association, small loan
20 company, industrial loan company, or like institution
21 which operates or has a place of business in this
22 state.

23 4. "Reporting financial institution" means a
24 financial institution with an excess of ten million
25 dollars in assets, accepting mortgage loan applications
26 in any city with a population in excess of ten
27 thousand as determined in the most recent regular census
28 or in any standard metropolitan statistical area.

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

31 a. Requiring a greater than average down payment
32 than is usual for the particular type of mortgage
33 loan involved.

34 b. Requiring a shorter period of amortization
35 than is usual for the particular type of mortgage loan
36 involved.

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

39 d. An unreasonable underappraisal of real estate
40 or item of property offered as security.

41 Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE
42 MORTGAGES. It is a discriminatory practice for any
43 financial institution accepting mortgage loan applications
44 to engage in the practice of red-lining as defined in
45 section one (1) of this Act.

46 Sec. 3. NEW SECTION. DISCRIMINATORY LENDING
47 PRACTICE. Subject to section four (4) of this Act, a
48 financial institution in contemplation of any mortgage
49 loan to any person shall not:

50 1. Deny any person any of the services normally

1 offered by such an institution, or provide any person
2 with any service which is different from or provided
3 to other persons similarly situated.

4 2. Deny or vary the terms of a mortgage loan
5 without having considered all of the regular and
6 dependable income of each person who will be liable
7 for the repayment of the mortgage loan. Agencies
8 administering this Act shall promulgate rules as to
9 what constitutes regular and dependable income.

10 3. Deny or vary the terms of a mortgage loan
11 without considering without prejudice the combined
12 income of both husband and wife for the purpose of
13 extending mortgage credit to a married couple or
14 either member of the marriage if both persons are
15 liable for repayment of the mortgage loan.

16 4. Deny or vary the terms of a mortgage loan
17 on the sole basis of the childbearing capacity of
18 an applicant or applicant's spouse.

19 5. Utilize lending qualifications or standards
20 that have no demonstrable economic basis and which
21 are discriminatory in effect. For the purpose of
22 this subsection, a policy providing for a minimum
23 mortgage loan amount shall be suspect.

24 6. Deny an individual the opportunity to submit
25 a written loan application.

26 Sec. 4. NEW SECTION. DISCRETION OF FINANCIAL
27 INSTITUTION. Nothing contained in this Act shall
28 preclude a financial institution from applying
29 economically sound underwriting practices in con-
30 templation of any mortgage loan to any person. Such
31 practices shall include but are not limited to the
32 following:

33 1. The willingness and the financial ability
34 of the borrower to repay the mortgage loan.

35 2. The appraised value of any real estate or
36 other item of property proposed as security for any
37 mortgage loan.

38 3. Diversification of the financial institution's
39 investment portfolio.

40 Sec. 5. NEW SECTION. DISCLOSURE. Each reporting
41 financial institution accepting an application for a
42 mortgage loan shall:

43 1. Maintain a record of mortgage loan applications
44 by zip code.

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

47 a. State the total number of mortgage loan
48 applications filed by zip code.

49 b. Clearly show the total number of mortgage
50 loans which were approved and which were not approved

1 by zip code.

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

5 4. In accordance with subsections one (1),
6 two (2) and three (3) of this section, the superintendent
7 of banking, the auditor of state and the commissioner
8 of insurance shall establish rules for the enforcement
9 of the provisions of this section. Rules established
10 pursuant to this Act may permit federal reporting
11 forms to be used as state reporting forms to the
12 extent that the federal reporting forms are in
13 compliance with the provisions of this section.

14 Reporting periods shall be established by rule
15 and shall be uniform for all financial institutions.
16 Rules may also specify separate treatment of oral
17 and written mortgage loan applications. However,
18 records shall be kept on both.

19 The director of the Iowa housing finance authority
20 or the director's designee shall advise and assist the
21 superintendent of banking, the commissioner of
22 insurance, and the auditor of state on the establishment
23 of rules for the enforcement of this section and shall
24 encourage uniformity among the administrator's rule
25 promulgation to the maximum extent practical.

26 Sec. 6. NEW SECTION. AGENCY TO ADMINISTER.
27 Sections two (2), three (3), and five (5) of this Act
28 shall be administered and enforced by the following
29 agencies:

30 1. The superintendent of banking or the super-
31 intendent's designee shall be responsible for
32 enforcing the provisions of this Act in regard to
33 all banks, credit unions, and persons licensed under
34 chapter five hundred thirty-six, (536) of the Code,
35 and shall be responsible for enforcing the provisions
36 of this Act in regard to mortgage banking companies.

37 2. The auditor of state or a designee shall be
38 responsible for enforcing the provisions of this Act
39 in regard to all savings and loan associations pursuant
40 to chapter five hundred thirty-four (534) of the Code
41 and all persons licensed under chapter five hundred
42 thirty-six A (536A) of the Code.

43 3. The commissioner of insurance or the commiss-
44 ioner's designee shall be responsible for enforcing
45 the provisions of this Act pursuant to chapter five
46 hundred five (505) of the Code in regard to all
47 insurance companies.

48 Sec. 7. NEW SECTION. AGGRIEVED PARTY.
49 Any person who has been aggrieved as a result of a
50 violation of this Act may bring an action in the

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Page 4

1 district court of the county in which the violation
2 occurred or in the county where the financial
3 institution involved is located.

4 Upon a finding that a financial institution has
5 committed a violation of either section two (2),
6 three (3), or five (5) of this Act, the court may
7 award actual damages and court costs.

8 Sec. 8. NEW SECTION. CRIMINAL PENALTY.

9 Any person who knowingly engages in a practice which
10 violates the provisions of section two (2), three
11 (3), or five (5) of this Act is guilty of a serious
12 misdemeanor.

13 Sec. 9. NEW SECTION. CIVIL PENALTY.

14 Any person who in bad faith fails to comply with the
15 provisions of this Act, is subject to punitive
16 damages not to exceed one thousand dollars in
17 addition to actual damages.

18 Sec. 10. The Code editor is directed to incor-
19 porate sections one (1) through nine (9) of this
20 Act as a separate chapter of the Code.

21 Sec. 11. The director of the Iowa housing
22 authority shall report to the Iowa general assembly
23 in February of 1980, an analysis of the nature and
24 status of the disclosure reports filed with the
25 authority by the superintendent of banking, the comm-
26 issioner of insurance and the auditor of state in
27 accordance with section five (5) of this Act.

28 The director's report shall also include but is
29 not limited to an analysis of the financial needs
30 of economically depressed urban residential areas,
31 and recommendations for future action to insure the
32 economic health of urban residential areas.

33 Sec. 12. This Act is effective January 1, 1979."

H-6744 FILED *withdrawn 6/30* BY
June 30, 1978 (*p. 2848*)

- KREWSON of Polk
- PELTON of Clinton
- WALTER of Pottawattamie
- BINA of Scott
- RINAS of Linn
- KRAUSE of Kossuth
- WEST of Marshall

6743

1 Amend House File 2467 as follows:

2 1. Page 1, by inserting after line 16 the fol-
3 lowing:

4 "Sec. _____. Chapter five hundred thirty-five (535),
5 Code 1977, is amended by adding the following new
6 section:

7 NEW SECTION.

8 1. Any bank, savings and loan association, or
9 credit union, which receives money in this state on
10 deposit in an interest bearing deposit or share ac-
11 count, or in an account evidenced by a certificate
12 of deposit, shall be subject to the provisions of
13 this section.

14 2. As a condition of charging any rate of interest
15 in excess of nine cents on the hundred by the year in
16 any transaction which is subject to the interest rate
17 limitation provided in chapter five hundred thirty-five
18 (535) of the Code, a bank, savings and loan association,
19 or credit union which is subject to the provisions of
20 this section shall comply with subsection three (3) of
21 this section.

22 3. In consideration of the receipt of any deposit
23 to an account referred to in subsection one (1) of
24 this section, a depository institution which is subject
25 to the provisions of this section shall pay to the de-
26 positor at the time the deposit is made an amount in
27 cash equal to the product of the total amount deposited
28 multiplied by a point factor equal to either (a), one-
29 half of the difference between the usury rate as
30 specified in chapter five hundred thirty-five (535)
31 of the Code and in effect on the day on which the de-
32 posit is made and nine cents on the hundred by the
33 year, or (b), one-half of the difference between nine
34 cents on the hundred by the year and the average of
35 the contract interest rates payable on loans which
36 were secured by mortgages or deeds of trust on single
37 or two-family dwellings to be occupied by the borrower
38 and which were made by the depository institution dur-
39 ing the preceding calendar month, whichever factor is
40 smaller.

41 4. A depositor who accepts the cash consideration
42 required by subsection three (3) of this section shall
43 be deemed to have agreed that in the event the depositor
44 withdraws the amount deposited at a time earlier than
45 was agreed to at the time the deposit was made, the
46 depository institution shall be entitled to recover
47 the cash consideration paid by deducting that amount
48 from the amount otherwise payable to the depositor at
49 the time of withdrawal.

50 5. Any depository institution which is subject to

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Page 2

1 the provisions of this Act and which fails to pay the
2 cash consideration required by subsection three (3)
3 of this section shall be liable to the depositor in
4 a civil action commenced for that purpose for the
5 amount of cash consideration required to be paid,
6 plus statutory damages in the amount of one hundred
7 dollars, plus court costs and a reasonable attorneys
8 fee."

9 2. By renumbering sections and correcting internal
10 references as necessary.

H-6743 FILED *Last 6/30* BY MILLER of Buchanan
June 30, 1978 (*p. 2855*)

HOUSE FILE 2467

H-6742

1 Amend the Committee Amendment, H-6730, to House
2 File 2467 as follows:

3 1. Page 2, line 46, by striking the word "one"
4 and inserting in lieu thereof the word "two".
5

H-6742 FILED *Last 6/30* BY THOMPSON of Polk
June 30, 1978 (*p. 2845*)

HOUSE FILE 2467

(5733

1 Amend amendment H-6728 to House File 2467 as
2 follows:

3 1. Page 3, line 9, by striking the words
4 "VARIABLE RATE MORTGAGES PROHIBITED" and inserting
5 in lieu thereof the words "REFINANCING OF HOME
6 MORTGAGES".

7 2. Page 3, by striking lines 15 through 21 and
8 inserting in lieu thereof the following: "2. In
9 the".

10 3. Page 3, by striking lines 36 through 39 and
11 inserting in lieu thereof the following: "3. In
12 the event that a borrower".

H-6733 FILED *Adopted 6/30*
June 30, 1978 (*p. 2819*) BY EVANS of Grundy

HOUSE FILE 2467

6738

- 1 Amend amendment H-6730 to House File 2467 as
 2 follows:
 3 1. Page 1, line 16 by striking the following:
 4 "and before July 1, 1979,".
 5 2. Page 3 by striking line 41.
 6 3. Page 3, line 45 by striking the following:
 7 "and until July 1, 1979,".
 8 4. Page 4, line 33 by striking the following:
 9 "and until July 1, 1979,"
 10 5. Page 4, line 49 by striking the following:
 11 "and until July 1, 1979,".
 12 6. Page 5, by striking line 39 through line 44.

H-6738 FILED *Lost 6/30 (p. 2843)* BY SCHROEDER of Pottawattamie HARBOR of Mills
 June 30, 1978 HOFFMANN of Muscatine EVANS of Grundy
 WEST of Marshall MENKE of O'Brien
 BROCKETT of Marshall DANKER of Pottawattamie
 LIND of Black Hawk

HOUSE FILE 2467

H-6739

- 1 Amend amendment H-6729, to House File 2467, as
 2 follows:
 3 1. Page 3, by inserting after line 42 the
 4 following section:
 5 "Sec. _____ Chapter five hundred thirty-seven
 6 (537), Code 1977, Article 2, is amended by adding
 7 the following new section:
 8 NEW SECTION. With respect to the sale of an
 9 item which could be a consumer credit sale pursuant
 10 to open end credit, if the consumer pays cash the
 11 business shall discount the purchase price of that
 12 item in an amount at least equal to the dealer
 13 charge which could be charged if the consumer
 14 chooses to make it a consumer credit sale."

H-6739 FILED *Adopted 6/30 (p. 2826)* BY HALVORSON of Clayton
 June 30, 1978 *Reconsidered & Lost 6/30 (2827)* BROCKETT of Marshall
 LAGESCHULTE of Bremer

HOUSE FILE 2467

H-6741

- 1 Amend amendment H-6728 to House File 2467 as
 2 follows:
 3 1. Page 2, by inserting after line 12 the
 4 following new subsection:
 5 "NEW SUBSECTION. If a customer elects to
 6 assign a loan secured by a mortgage or deed of trust
 7 upon real property which is a single-family or two-
 8 family dwelling the lender shall not charge more than
 9 the assumption fee allowable for F.H.A. insured or
 10 V.A. guaranteed loans."

H-6741 FILED *Adopted 6/30 (p. 2819)* BY SMALLEY of Polk
 June 30, 1978

HOUSE FILE 2467

H-6740

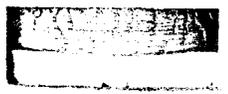
- 1 Amend amendment H-6728 to House File 2467 as
2 follows:
3 1. Page 1, line 6 by striking the following:
4 "and until July 1, 1979,".
5 2. Page 1 by striking line 50.
6 3. Page 2 by striking line 1.
7 4. Page 2, line 5 by striking the following:
8 "and until July 1, 1979,".
9 5. Page 2 by striking lines 15 and 16 and
10 inserting in lieu thereof the following:
11 "commencing on the effective date of this Act by
12 adding the following new unnum-"
13 6. Page 2 by striking lines 29 and 30 and
14 inserting in lieu thereof the following: "commencing
15 on the effective date of this Act to read as follows:".
16 7. Page 2, line 47 by striking the following:
17 "and until July 1, 1979,".
18 8. Page 3, line 7 by striking the following:
19 "and until July 1, 1979,".
20 9. Page 4, line 5 by striking the following:
21 "and until July 1, 1979,".
22 10. Page 4, line 19 by striking the following:
23 "and until July 1, 1979,".
24 11. Page 4, line 42 by striking the following:
25 "and until July 1, 1979,".
26 12. Page 5, line 28 by striking the following:
27 "and until July 1, 1979,".
28 13. Page 5, line 38 by striking the following:
29 "and until July 1, 1979,".
30 14. Page 6 by striking lines 6 through 11.

H-6740 FILED
June 30, 1978

BY SCHROEDER of Pottawattamie
HOFFMANN of Muscatine
WEST of Marshall
BROCKETT of Marshall
LIND of Black Hawk

EVANS of Grundy
MENKE of O'Brien
DANKER of
Pottawattamie
THOMPSON of Polk

*Lost 6/30
(p. 2819)*



HOUSE FILE 2467

H-6736

Amend House File 2467 as follows:

1. Page 1, by inserting before line 1 the following:

"Sec. ____ . Section five hundred thirty-three point four (533.4), Code 1977, as amended by Senate File one hundred thirty-seven (137), section twenty-four (24), is amended by adding the following new subsection:
NEW SUBSECTION. Offer to their members third party demand type accounts that may pay interest, which accounts may be accessed by drawing upon either a share or deposit account the member holds in the credit union. Reserves if required by the administrator, shall be held where possible in an account established for that purpose in the corporate central credit union."

H-6736 FILED Adopted 6/30

June 30, 1978

BY GARRISON of Black Hawk

WOODS of Polk

HOUSE FILE 2467

H-6737

Amend amendment H-6729 to House File 2467 as follows:

1. Page 1, by striking lines 6 and 7 and inserting in lieu thereof the following:

"amended, commencing January 1, 1979, to read as follows:"

2. Page 1, by striking lines 39 and 40 and inserting in lieu thereof the following:

"amended, commencing January 1, 1979, to read as follows:"

3. Page 2, by striking lines 8 and 9 and inserting in lieu thereof the following:

"porarily amended, commencing January 1, 1979, by adding the following new".

4. Page 2, by striking lines 40 and 41.

5. Page 3, by striking lines 41 and 42.

6. Page 3, by striking line 50 and inserting in lieu thereof the following:

"January 1, 1979."

7. Page 4, by striking lines 1 through 7.

H-6737 FILED
June 30, 1978

BY SCHROEDER of Pottawattamie

HARBOR of Mills

WEST of Marshall

EVANS of Grundy

HOFFMANN of Muscatine

MENKE of O'Brien

HALVORSON of Clayton

DANKER of Pottawattamie

BROCKETT of Marshall

THOMPSON of Polk

LIND of Black Hawk

Lost BY
Reconciled and
Adopted 6/30 (2823)

H-6732

1 Amend amendment H-6730 to House File 2467 as
 2 follows:
 3 1. Page 1, line 48, by inserting after the
 4 word "month" the words "and ten thousand (10,000)
 5 dollars is appropriated from the general fund to the
 6 department of banking for that purpose".

H-6732 FILED *Lost 6/30/78*
 June 30, 1978 *(p. 2844)*

BY EVANS of Grundy

HOUSE FILE 2467

H-6731

1 Amend amendment H-6730 to House File 2467 as
 2 follows:
 3 1. Page 3, line 25, by inserting after the
 4 word "Code" the words ", nor shall it apply to
 5 origination fees, administrative fees, commitment fees
 6 or similar charges paid by one lender to another
 7 lender if these fees are not ultimately paid by the
 8 borrower who occupies or will occupy the dwelling".

H-6731 FILED *Adopted 6/30*
 June 30, 1978 *(p. 2846)*

BY EVANS of Grundy

HOUSE FILE 2467

H-6734

1 Amend amendment H-6728 to House File 2467 as
 2 follows:
 3 1. Page 1, line 24, by inserting after the word
 4 "section" the words ", and under a loan agreement made
 5 subsequent to August 1, 1978,".

H-6734 FILED *Adopted 6/30 (p. 2818)*
 June 30, 1978

BY EVANS of Grundy

HOUSE FILE 2467

H-6735

1 Amend House File 2467 as follows:
 2 1. Page 1, by inserting after line 16 the fol-
 3 lowing section:
 4 "Sec. ____ . Members of the general assembly and the
 5 lieutenant governor shall be reimbursed for necessary
 6 travel and actual expenses incurred in attending
 7 meetings authorized by law for members of the general
 8 assembly who serve on statutory boards, commissions,
 9 or councils, and for standing or subcommittee meetings
 10 or when on authorized legislative business during the
 11 period of May 14, 1978 through June 29, 1978, section
 12 two point ten (2.10) of the Code notwithstanding.
 13 Such expenses for members of the general assembly
 14 shall be paid from funds available under section two
 15 point twelve (2.12) of the Code, and for the lieuten-
 16 ant governor from the funds appropriated to the office
 17 of lieutenant governor by the general assembly."

H-6735 FILED *Lost 6/30 (p. 2854)*
 June 30, 1978

BY SCHROEDER of Pottawattamie
 HARBOR of Mills
 HALVORSON of Clayton

HOUSE FILE 2467

730

1 Amend House File 2467 as follows:

2 1. Page 1, by inserting before line 1, the
3 following:

4 "Section 1. Chapter five hundred thirty-five
5 (535), Code 1977, is amended by adding the following
6 temporary new section:

7 NEW SECTION.

8 1. a. Notwithstanding the maximum rate of inter-
9 est specified in section five hundred thirty-five
10 point two (535.2) of the Code, the maximum lawful rate
11 of interest which may be provided for in any of the
12 following agreements entered into on or after the
13 effective date of this Act and before August 1, 1978,
14 shall be ten cents on the hundred by the year; and
15 in those entered into during any calendar month on
16 or after August 1, 1978, and before July 1, 1979,
17 shall be two percentage points above the monthly average
18 ten-year constant maturity interest rate of United
19 States government notes and bonds as published by the
20 board of governors of the federal reserve system for
21 the calendar month second preceding the month during
22 which the agreement is executed, rounded to the near-
23 est one-fourth of one percent per year:

24 (1) Any written agreement for the payment of in-
25 terest.

26 (2) Any written agreement by a lender to lend
27 money in the future at a specified interest rate,
28 either to the other party to the agreement, or to a
29 third party beneficiary whether or not named. The
30 rate of interest specified in any such agreement shall
31 be the lawful rate of interest with respect to any
32 subsequent agreement between the lender and the third
33 party beneficiary pursuant to the original commitment,
34 whether the subsequent agreement is executed before,
35 on or after July 1, 1979.

36 On or before the twentieth day of each month the
37 superintendent of banking shall determine, based on
38 available statistics, the monthly average ten-year
39 constant maturity interest rate of United States
40 government notes and bonds for the preceding month,
41 and the maximum lawful rate of interest for the fol-
42 lowing calendar month as prescribed herein, and shall
43 cause such rate to be published, as a notice in the
44 Iowa administrative bulletin or as a legal notice in
45 a newspaper of general circulation published in Polk
46 county, prior to the first day of the following calen-
47 dar month. Such maximum lawful rate of interest shall
48 be effective on the first day of the calendar month
49 following publication.

50 b. Any rate of interest specified in any written

1 agreement providing for the payment of interest shall,
2 if such rate was lawful at the time the agreement was
3 made, remain lawful during the entire term of the
4 agreement, including any extensions or renewals thereof,
5 for all money due or to become due thereunder including
6 future advances, if any.

7 c. Any contract, note or other written agreement
8 providing for the payment of a rate of interest permitted
9 by this subsection which contains any provision providing
10 for an increase in the rate of interest prescribed
11 therein shall, if such increase could be to a rate which
12 would have been unlawful at the time the agreement was
13 made, also provide for a reduction in the rate of in-
14 terest prescribed therein, to be determined in the same
15 manner and with the same frequency as any increase so
16 provided for.

17 2. Notwithstanding the provisions of subsection one
18 (1) of this section, with respect to any agreement which
19 was executed prior to August 1, 1978, and which contained
20 a provision for the adjustment of the rate of interest
21 specified in that agreement, the maximum lawful rate
22 of interest which may be imposed under that agreement
23 shall be nine cents on the hundred by the year, and any
24 excess charge shall be a violation of section five hun-
25 dred thirty-five point four (535.4) of the Code.

26 3. The limitations contained in subsections one (1)
27 and two (2) of this section shall not apply to any loan
28 which is subject to the provisions of section six hun-
29 dred eighty-two point forty-six (682.46) of the Code.

30 4. Nothing contained in this section shall apply to
31 any transaction which is exempt from the maximum rate
32 specified in subsection one (1) of section five hundred
33 thirty-five point two (535.2) of the Code by virtue of
34 subsection two (2) of that section.

35 Sec. 2. Chapter five hundred thirty-five (535),
36 Code 1977, is amended by adding the following temporary
37 new section:

38 NEW SECTION.

39 1. As used in this section, the term "loan" means
40 any money loaned to a borrower who furnishes, as security
41 for all or part of the loan, a mortgage on real property
42 which is a single-family or a two-family dwelling occu-
43 pied or to be occupied by the borrower.

44 2. The assessment and collection in connection with
45 a loan of a loan origination fee, closing fee, commit-
46 ment fee or similar charge which exceeds one percent of
47 the amount loaned in the case of a construction loan or
48 a combined construction and permanent loan or one per-
49 cent of the amount loaned in the case of all other loans
50 subject to this section is prohibited. If any lender

1 receives any amount as a loan origination fee, closing
2 fee, commitment fee or similar charge, or any combina-
3 tion thereof, which exceeds the amount permitted by
4 this section, the borrower shall have the right to
5 recover that charge, plus attorney fees and court
6 costs incurred in any action necessary to effect such
7 recovery.

8 Any additional costs charged to a buyer, associated
9 with the purchase of a house and mortgage shall not
10 exceed actual costs which shall be listed and include:

- 11 a. Credit reports.
- 12 b. Appraisal fees.
- 13 c. Attorney's opinions.
- 14 d. Abstracting.
- 15 e. County recorder's fees.
- 16 f. Inspection fees.
- 17 g. P.M.I. prepayment or reinsurance charge.
- 18 h. Surveying of property.
- 19 i. Termite inspection.

20 These cost limits shall not include revenue stamps or
21 real estate commissions which are paid by the seller.

22 The provisions of this subsection shall not apply to
23 any loan which is subject to the provisions of section
24 six hundred eighty-two point forty-six (682.46) of the
25 Code.

26 2. A lender shall not, as a condition of making a
27 loan as defined in this section, require the borrower to
28 place money, or to place property other than that which
29 is given as security for the loan, on deposit with or in
30 the possession or control of the lender or some other
31 person if the effect is to increase the yield to the
32 lender with respect to that loan.

33 3. If any lender receives interest either in a man-
34 ner or in an amount which is prohibited by subsection
35 one (1) or subsection two (2) of this section, the
36 borrower shall have the right to recover all amounts
37 collected or earned by the lender, whether or not from
38 the borrower, in violation of this section, plus at-
39 torney's fees, plus court costs incurred in any action
40 necessary to effect such recovery.

41 4. This section is repealed effective July 1, 1979.

42 Sec. 3. Section five hundred thirty-six A point
43 twenty-three (536A.23), subsection one (1), Code 1977,
44 is temporarily amended, commencing on the effective
45 date of this Act and until July 1, 1979, to read as
46 follows:

47 1. Charge, receive or collect interest at a rate
48 ~~greater than that authorized by section 535-2~~ exceed-
49 ing nine cents on the hundred by the year, except that
50 the interest may be computed when the note is made on

1 the full amount of the cash advanced on the loan from
2 the date of the note to the date of the final install-
3 ment thereof, and the interest so computed may be in-
4 cluded in the note, notwithstanding any agreement to
5 pay the entire amount in installments; or the interest
6 may be computed on the amount of the note and dis-
7 counted or collected in advance when the loan is
8 made, notwithstanding any agreement to pay the entire
9 amount in installments. If the note is repayable in
10 other than equal monthly installments, the interest
11 may be an amount computed on the basis of the effec-
12 tive rates permitted as provided above; provided, how-
13 ever there shall be no compounding of interest and
14 when an interest rate as authorized herein is adver-
15 tised, or negotiated for with a prospective borrower,
16 with intent that it be computed by either of the two
17 methods authorized herein, they being the "add on"
18 method or the "discount" method, in such case such
19 rate shall be further described as to the method of
20 computation to be used, but interest computed by either
21 method shall be stated to the borrower as provided in
22 section 537.3210.

23 The limitation on interest rate which is contained
24 in this subsection shall not apply to any loan in which
25 the borrower is a corporation or investment trust or
26 any other person who is referred to in subsection two
27 (2) of section five hundred thirty-five point two (535.2)
28 of the Code.

29 Sec. 4. Section five hundred thirty-seven point one
30 thousand three hundred one (537.1301), subsection fif-
31 teen (15), paragraph b, subparagraph two (2), Code
32 1977, is temporarily amended, commencing on the effec-
33 tive date of this Act and until July 1, 1979, to read
34 as follows:

35 (2) A loan secured by an interest in land if the
36 security interest is bona fide and not for the purpose
37 of circumvention or evasion of this chapter and the
38 finance charge ~~does not exceed twelve percent per year,~~
39 calculated according to the actuarial method on the as-
40 sumption that the debt will be paid according to the
41 agreed terms and will not be paid before the end of
42 the agreed term, does not exceed the rate of finance
43 charge permitted under chapter five hundred thirty-five
44 (535) of the Code.

45 Sec. 5. Section five hundred thirty-seven point one
46 thousand three hundred one (537.1301), subsection twenty
47 (20), paragraph a, subparagraph one (1), Code 1977, is
48 temporarily amended, commencing on the effective date
49 of this Act and until July 1, 1979, to read as follows:

50 (1) Interest or any amount payable under a point,

1 discount or other system of charges, however demoni-
 2 nated, except that, ~~with respect to a consumer loan~~
 3 ~~secured by a first lien on a dwelling of the debtor~~
 4 ~~given to finance the acquisition of that dwelling,~~
 5 ~~points, consisting of a charge paid in cash at the~~
 6 ~~time of commitment or closing of a loan transaction~~
 7 ~~or~~ with respect to a consumer credit sale of goods
 8 or services, a cash discount of five percent or less
 9 of the stated price of goods or services which is
 10 offered to the consumer for payment by cash, check
 11 or the like either immediately or within a period
 12 of time, shall not be part of the finance charge
 13 for the purpose of determining maximum charges pur-
 14 suant to section 537.2401 and chapters 524, 534, and
 15 535. A cash discount permitted by this subparagraph
 16 shall not be considered part of the finance charge
 17 for the purpose of determining compliance with Truth
 18 in Lending pursuant to section 537.3201 if it is
 19 properly disclosed as required by the Truth in Lend-
 20 ing Act as amended to and including October 28, 1975
 21 and regulations issued pursuant to that Act as so
 22 amended prior to October 28, 1975.

23 Sec. 6. With respect to any loan secured by a
 24 first lien on a dwelling of a natural person given
 25 to finance the acquisition of that dwelling and
 26 executed on or after July 1, 1974, but before the
 27 effective date of this Act, the assessment and col-
 28 lection pursuant to that loan transaction of points,
 29 consisting of a charge paid in cash at the time of
 30 commitment or closing of the transaction, shall not
 31 be considered as part of the contractual interest
 32 rate for the purpose of determining whether or not
 33 the interest rate agreed to exceeded the rate per-
 34 mitted by section five hundred thirty-five point
 35 two (535.2) of the Code as it existed during that
 36 period of time. The provisions of this section are
 37 retroactive to July 1, 1974, to the extent necessary
 38 to effect its purpose.

39 Sec. 7. It is the intent of the general assembly
 40 in enacting this Act that the law contained in this
 41 Act shall be of temporary effect only, and that each
 42 provision of the law of this state as it existed
 43 prior to amendment by this Act shall be the law of
 44 this state on and after July 1, 1979."

45 2. By renumbering sections and correcting internal
 46 references as necessary.

H-6730 FILED *Adopted* BY JOINT STANDING COMMITTEE ON INTEREST RATES
 June 30, 1978 *as amended* MONROE of Des Moines, Chair

5/30 (p. 2846)
Corrected (p. 2861)
by 6759

5729

1 Amend House File 2467 as follows:

2 1. Page 1, by inserting before line 1 the following:

3 "Section 1. Section five hundred thirty-seven
4 point two thousand two hundred two (537.2202),
5 subsection three (3), Code 1977, is temporarily
6 amended, commencing January 1, 1979, and until
7 July 1, 1979, to read as follows:

8 3. If the billing cycle is monthly, the charge
9 may not exceed an amount equal to one and ~~one-half~~
10 one-fourth percent of that part of the maximum
11 amount pursuant to subsection 2 which is five
12 hundred dollars or less and one ~~and one-fourth~~
13 percent of that part of the maximum amount which
14 is more than five hundred dollars; provided,
15 however, that a creditor directly or indirectly
16 operating not more than one retail business with
17 not more than two locations in this state which
18 employs ten or fewer full-time employees may
19 impose, for consumer credit sales originating in
20 connection with the operation of that retail
21 business, a charge which does not exceed an amount
22 equal to one and one-half percent of that part of
23 the maximum amount pursuant to subsection two (2)
24 of this section which is five hundred dollars or
25 less and one and one-fourth percent of that part
26 of the maximum amount which is more than five
27 hundred dollars. If the billing cycle is not
28 monthly, the maximum charge for the billing cycle
29 shall bear the same relation to the applicable
30 monthly maximum charge as the number of days in
31 the billing cycle bears to three hundred sixty-
32 five divided by twelve. A billing cycle is monthly
33 if the closing date of the cycle is the same date
34 each month or does not vary by more than four
35 days from the regular date.

36 Sec. 2. Section five hundred thirty-seven
37 point two thousand four hundred two (537.2402),
38 subsection three (3), Code 1977, is temporarily
39 amended, commencing January 1, 1979, and until
40 July 1, 1979, to read as follows:

41 3. If the billing cycle is monthly, the charge
42 may not exceed an amount equal to one and ~~one-half~~
43 one-fourth percent of that part of the maximum
44 amount pursuant to subsection 2 which is five
45 hundred dollars or less and one ~~and one-fourth~~
46 percent of that part of the maximum amount which
47 is more than five hundred dollars. If the billing
48 cycle is not monthly, the maximum charge for the
49 billing cycle shall bear the same relation to the
50 applicable monthly maximum charge as the number

1 of days in the billing cycle bears to three hundred
2 sixty-five divided by twelve. A billing cycle is
3 monthly if the closing date of the cycle is the
4 same date each month or does not vary by more than
5 four days from the regular date.

6 Sec. 3. Chapter five hundred thirty-seven (537),
7 article two (2), part one (1), Code 1977, is tem-
8 porarily amended, commencing January 1, 1979, and
9 until July 1, 1979, by adding the following new
10 sections as sections five hundred thirty-seven
11 point two thousand one hundred three (537.2103)
12 and five hundred thirty-seven point two thousand
13 one hundred four (537.2104), respectively:

14 NEW SECTION. 537.2103 APPLICABILITY. The
15 limitations on a finance charge which are imposed
16 by sections five hundred thirty-seven point two
17 thousand two hundred two (537.2202) and five
18 hundred thirty-seven point two thousand four
19 hundred two (537.2402) of the Code shall apply
20 irrespective of the domicile of the creditor or
21 lender if the following conditions apply:

22 1. The extension of credit to the buyer, lessor
23 or debtor is pursuant to a seller credit card or
24 a lender credit card;

25 2. The cardholder was a resident of this state
26 at the time the credit card was issued for his or
27 her use; or the cardholder has become a resident
28 of this state since the credit card was issued
29 and has given notice thereof to the card issuer,
30 and the card issuer has not discontinued the
31 credit arrangement which permits the use of the
32 credit card; and

33 3. The card issuer authorizes one or more
34 sellers or lessors engaged in business in this
35 state, whether or not affiliated with the card
36 issuer, to accept credit cards issued by the
37 card issuer as tender of payment for property
38 or services provided by the seller or lessor
39 to holders of those credit cards.

40 4. This section is repealed effective July 1,
41 1979.

42 NEW SECTION. 537.2104 ACCEPTANCE OF CERTAIN
43 CREDIT CARDS PROHIBITED.

44 1. A person engaged in the business of selling
45 or leasing property or services or both in this
46 state shall not agree with any credit card issuer
47 to accept, or accept from any cardholder, or
48 advertise or otherwise communicate to any card-
49 holder that he or she accepts, any seller credit
50 card or lender credit card as tender of payment

1 for property or services sold or leased if the
2 person knows or has reason to know that the
3 card issuer imposes upon cardholders who are
4 residents of this state a finance charge with respect
5 to the credit card account which exceeds the amount
6 permitted under this article.

7 2. The prohibition contained in subsection one
8 (1) of this section shall apply whether or not the
9 card issuer has or claims to have any right or
10 privilege under the laws of the United States or
11 any other state to impose a finance charge in
12 excess of that permitted under this article.

13 3. In the event of a violation of subsection one
14 (1) of this section, a consumer has a cause of action
15 against the violator to recover actual damages in-
16 curred as a result of the violation, if any, and to
17 recover a penalty in an amount determined by the
18 court of not less than one hundred dollars nor more
19 than one thousand dollars, plus costs of the action,
20 plus reasonable attorney fees as determined
21 according to the provisions of subsection eight (8)
22 of section five hundred thirty-seven point five
23 thousand two hundred one (537.5201) of the Code.

24 4. In the event the administrator of chapter
25 five hundred thirty-seven (537) of the Code
26 determines that a lender or seller whose credit
27 cards are issued to cardholders in this state
28 imposes a finance charge with respect to credit
29 card accounts in excess of that permitted under
30 this article, the administrator may give notice
31 thereof in writing by certified mail to any
32 seller or lessor who is subject to the provisions
33 of subsection one (1) of this section. Upon
34 receipt of the notice the seller or lessor shall
35 be deemed to have reason to know that the card
36 issuer identified in the notice imposes upon
37 cardholders who are residents of this state
38 a finance charge with respect to the credit
39 card accounts which exceeds the amount permitted
40 under this article.

41 5. This section is repealed effective July 1,
42 1979.

43 Sec. 4. Sections one (1), two (2) and three
44 (3) of this Act shall take effect January 1, 1979.
45 The provisions of sections one (1) and two (2)
46 of this Act shall apply with respect to that
47 part of a credit balance which exists on or
48 after January 1, 1979, as a result of consumer
49 credit transactions occurring on or after
50 January 1, 1979 but before July 1, 1979.

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Page 4

1 Sec. 5. It is the intent of the general
2 assembly in enacting this Act that the law
3 contained in this Act shall be of temporary
4 effect only, and that each provision of the
5 law of this state as it existed prior to amend-
6 ment by this Act shall be the law of this state
7 on and after July 1, 1979."

8 2. By renumbering sections and correcting
9 internal references as necessary.

H-6729 FILED *Adopted* BY JOINT STANDING COMMITTEE ON INTEREST RATES
June 30, 1978 *amended* MONROE of Des Moines, Chair
6/20 (2821) (2834)

HOUSE CLIP SHEET

JULY 1, 1978

HOUSE FILE 2467

H-6728

1 Amend House File 2467 as follows:

2 1. Page 1, by inserting before line 1 the follow-
3 ing:

4 "Section 1. Chapter five hundred thirty-five (535),
5 Code 1977, is temporarily amended, commencing on the
6 effective date of this Act and until July 1, 1979, by
7 adding the following new section:

8 NEW SECTION. PREPAYMENT PENALTIES PROHIBITED.

9 1. As used in this section:

10 a. "loan" means money loaned to a borrower who has
11 furnished, as security for all or any part of the
12 loan, a mortgage on real property which is a single-
13 family or a two-family dwelling occupied or to be oc-
14 cupied by the borrower. The term "loan" does not in-
15 clude any loan which is a consumer loan as defined
16 in chapter five hundred thirty-seven (537) of the
17 Code.

18 b. "Lender" means any state or federally chartered
19 bank, savings and loan association or credit union,
20 any industrial loan company, any insurance company,
21 or any other person or entity which makes a loan, as
22 defined in this section.

23 2. Whenever a borrower under a loan as defined in
24 this section repays the full amount of the loan in
25 connection with a transfer of ownership of the real
26 property given as security for that loan the lender
27 shall not receive an amount in payment of interest
28 which is greater than the amount determined by ap-
29 plying the rate of interest agreed upon by the lender
30 and the borrower to the unpaid balance of the loan
31 for the period of time during which the borrower
32 had the use of the money loaned; and the lender shall
33 not impose any penalty or other charge in addition to
34 the amount of interest due as a result of the repay-
35 ment of that loan at a date earlier than is required
36 by the terms of the loan agreement. A lender may,
37 however, require advance notice of not more than
38 thirty days of a borrower's intent to repay the full
39 amount of a loan at a date earlier than is required
40 by the terms of the loan agreement.

41 3. If any lender receives an amount of interest
42 greater than permitted by subsection two (2) of this
43 section, or imposes any penalty or other charge pro-
44 hibited by subsection two (2) of this section, the
45 borrower shall have the right to recover all amounts
46 paid the lender which are in excess of the amounts
47 permitted by subsection two (2) of this section, plus
48 attorney's fees and court costs incurred in any ac-
49 tion necessary to effect such recovery.

50 4. This section is repealed effective July 1,

1979.

Sec. 2. Section five hundred twenty-four point nine hundred five (524.905), Code 1977, is temporarily amended commencing on the effective date of this Act and until July 1, 1979, by adding the following new subsection:

NEW SUBSECTION. If a customer elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling at a date earlier than is required by the terms of the loan, the state bank shall be governed by section one (1) of this Act.

Sec. 3. Section five hundred thirty-three point sixteen (533.16), Code 1977, is temporarily amended commencing on the effective date of this Act and until July 1, 1979, by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling at a date earlier than is required by the terms of the loan, the credit union shall be governed by section one (1) of this Act.

Sec. 4. Section five hundred thirty-four point twenty-one (534.21), subsection ten (10), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred thirty-three (133), section seven (7), is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on a single-family or a two-family dwelling may be repaid in part or in full at any time, subject to the provisions of section one (1) of this Act. Real estate loans on ~~one-to~~ three and four family dwellings may be repaid in part or in full at any time, excepting that the association may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans, except real estate loans on single-family and two-family dwellings.

Sec. 5. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a customer elects to repay a loan secured by a mortgage or deed of trust

1 upon real property which is a single-family or two-
2 family dwelling at a date earlier than is required by
3 the terms of the loan, the licensee shall be governed
4 by section one (1) of this Act.

5 Sec. 6. Chapter five hundred thirty-five (535),
6 Code 1977, is temporarily amended, commencing on the
7 effective date of this Act and until July 1, 1979, by
8 adding the following new section:

9 NEW SECTION. VARIABLE RATE MORTGAGES PROHIBITED.

10 1. As used in this section, the term "loan" means
11 any money loaned to a borrower who furnishes, as
12 security for all or part of the loan, a mortgage on
13 real property which is a single-family or a two-family
14 dwelling occupied or to be occupied by the borrower.

15 2. A lender shall not use any form of an agreement
16 for the repayment of money in connection with a loan
17 as defined in this section which authorizes the parties,
18 whether mutually or unilaterally, to adjust the rate
19 of interest at any time during the term of the loan
20 either above or below that rate of interest which
21 initially is applicable to the money loaned. In the
22 event of a loan agreement in which any scheduled pay-
23 ment is substantially greater than the average of
24 earlier payments, the borrower shall have the right
25 to refinance the amount of that payment, any provision
26 of the agreement to the contrary notwithstanding. The
27 rate of interest which shall be applicable to the
28 amount refinanced shall be the prevailing market rate
29 for loans of similar terms at the time of the refi-
30 nancing; provided, however, that if the loan agreement
31 expressly provides for refinancing of the balance
32 owed at the rate of interest specified in the loan
33 agreement, then the rate of interest which shall be
34 applicable to the amount refinanced shall be the
35 rate of interest specified in the agreement.

36 3. Any provision of a loan agreement which is pro-
37 hibited by subsection two (2) of this section shall
38 be void insofar as it purports to permit adjustment
39 of the interest rate. In the event that a borrower
40 pays to a lender as a result of the use of an agree-
41 ment prohibited by subsection two (2) of this section
42 a greater rate of interest than is permitted under
43 that subsection, the borrower shall have the right
44 to commence an action to recover the excess interest
45 paid, and shall be entitled to a reasonable attorney
46 fee and costs of any action brought to recover such
47 excess interest.

48 4. This section shall not apply to any loan
49 agreement executed prior to the effective date of
50 this Act.

1 5. This section is repealed effective July 1,
2 1979.

3 Sec. 7. Chapter five hundred thirty-five (535),
4 Code 1977, is temporarily amended, commencing on the
5 effective date of this Act and until July 1, 1979, by
6 adding the following new section:

7 NEW SECTION. No bank, savings and loan association,
8 or other lender requiring a borrower to give a mort-
9 gage on real estate as security for a loan or on
10 existing indebtedness shall designate the attorney to
11 represent the mortgagor's interest in connection with
12 the giving of the mortgage when the mortgagor has em-
13 ployed or desires to employ his or her own attorney
14 for that purpose.

15 This section is repealed effective July 1, 1979.

16 Sec. 8. Section five hundred thirty-four point
17 nineteen (534.19), subsection six (6), Code 1977, is
18 temporarily amended, commencing on the effective date
19 of this Act and until July 1, 1979, to read as follows:

20 6. PROPERTY IMPROVEMENT LOANS. To make loans for
21 maintenance, repair, landscaping, modernization,
22 furniture and fixtures, improvement and equipment,
23 with or without security provided that no such loan
24 without security shall exceed ten thousand dollars,
25 and provided further that not in excess of twenty per-
26 cent of the assets of the association shall be so in-
27 vested, said twenty percent to be exclusive of the
28 forty percent of assets power set out in section
29 534.21 hereof. ~~Such loans, other than consumer loans~~
30 ~~as defined in the Iowa consumer credit code, shall be~~
31 ~~amortized to mature in not to exceed eight years.~~
32 The provisions of the Iowa consumer credit code shall
33 apply to consumer loans made by a savings and loan
34 association and a provision of that code shall super-
35 sede any conflicting provision of this chapter with
36 respect to a consumer loan. Loans made pursuant to
37 this subsection shall be for terms not exceeding fif-
38 teen years and shall not be made at interest rates in
39 excess of rates allowed for consumer loans.

40 Sec. 9. Section five hundred thirty-six point one
41 (536.1), Code 1977, is temporarily amended, commencing
42 on January 1, 1979 and until July 1, 1979, to read as
43 follows:

44 536.1 LICENSE AND RIGHTS THEREUNDER--FACE-TO-FACE
45 SOLICITATION. With respect to a loan other than a
46 consumer loan, no person, copartnership, association,
47 or corporation shall engage in the business of making
48 loans of money, credit, goods, or things in action in
49 the amount or of the value of one two thousand dol-
50 lars or less and charge, contract for, or receive on

1 any such loan a greater rate of interest or considera-
 2 tion therefor than the lender would be permitted by
 3 law to charge if he or she were not a licensee here-
 4 under except as authorized by this chapter and without
 5 first obtaining a license from the superintendent of
 6 banking, hereinafter called the superintendent. With
 7 respect to a consumer loan, a person required by sec-
 8 tion 537.2301 to have a license shall not engage in
 9 the business of making loans of money, credit, goods
 10 or things in action in the amount or value of one two
 11 thousand dollars or less and charge, contract for, or
 12 receive on any such loan a greater rate of interest
 13 or consideration therefor than the lender would be
 14 permitted by law to charge if he or she were not a
 15 licensee hereunder, except as authorized by this chap-
 16 ter and without first obtaining a license from the
 17 superintendent. A person who enters into less than
 18 ten supervised loans per year in this state and who
 19 neither has an office physically located in this
 20 state nor engages in face-to-face solicitation in this
 21 state may contract for and receive the rate of in-
 22 terest permitted in this chapter for licensees here-
 23 under. A "consumer loan" shall be as defined in sec-
 24 tion 537.1301.

25 Sec. 10. Section five hundred thirty-six point
 26 thirteen (536.13), subsection five (5), Code 1977, is
 27 temporarily amended, commencing on January 1, 1979,
 28 and until July 1, 1979, to read as follows:

29 5. Every licensee hereunder may lend any sum of
 30 money not exceeding one two thousand dollars in amount
 31 and may charge, contract for, and receive thereon in-
 32 terest or charges at a rate not exceeding the maximum
 33 rate of interest or charges determined and fixed by
 34 the board under authority of this section or by the
 35 provisions of the preceding subsection 4.

36 Sec. 11. Section five hundred thirty-six point
 37 fifteen (536.15), Code 1977, is temporarily amended,
 38 commencing on January 1, 1979, and until July 1, 1979,
 39 to read as follows:

40 536.15 USURY--LIMITATION ON PRINCIPAL LOAN. No
 41 licensee shall directly or indirectly charge, contract
 42 for, or receive any interest or consideration greater
 43 than the lender would be permitted by law to charge
 44 if he or she were not a licensee hereunder upon the
 45 loan, use, or forbearance of money, goods, or things
 46 in action, or upon the loan, use, or sale of credit,
 47 of the amount or value of more than one two thousand
 48 dollars. The foregoing prohibition shall also apply
 49 to any licensee who permits any person, as borrower
 50 or as endorser, guarantor, or surety for any borrower,

H-6728

1 or otherwise, to owe directly or contingently or both
2 to the licensee at any time the sum of more than one
3 two thousand dollars for principal.

4 Sec. 12. Sections nine (9), ten (10) and eleven
5 (11) of this Act shall take effect January 1, 1979.

6 Sec. 13. It is the intent of the general assembly
7 in enacting this Act that the law contained in this
8 Act shall be of temporary effect only, and that each
9 provision of the law of this state as it existed
10 prior to amendment by this Act shall be the law of
11 this state on and after July 1, 1979."

12 2. By renumbering sections and correcting internal
13 references as necessary.

H-6728 FILED BY JOINT STANDING COMMITTEE ON INTEREST RATES
June 30, 1978 MONROE of Des Moines, Chair

*Adopted as amended
6/30 (p. 2819)*

*Corrected (p. 2861)
by 6758*

BY JOINT STANDING COMMITTEE
ON INTEREST RATES

(As Amended and Passed by the House)

Passed House, Date July 1, 1978 ^{Failed} Passed Senate, Date 7-1-78 (p.1692)
Vote: Ayes _____ Nays _____ Vote: Ayes 1 Nays _____
Approved July 2, 1978

A BILL FOR

1 An Act which relates to transactions which involve the 43-7
2 payment of interest pursuant to agreement of the parties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4 *Conference Committee appointed*
5 *Senators Halting, Glenn, Pries, Drake, Hill of Pald 7/14 (1722)*
6 *Representatives Monroe, Chiodo, Averson, Evans, Harvey 7/14 (2900)*
7

8
9 All but lines 26-29 on page 19
10 and lines 2-7 on page 20 are
11 new material added by amendment
12 by the House

13 *Passed July 15, 1978*
14 *Conference Committee Report - July 15, 1978*
15 *House 80-15 (p.2926) Senate 35-12 (p.1741)*

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17
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1 Section 1. Chapter five hundred thirty-five (535),
2 Code 1977, is temporarily amended, commencing on the
3 effective date of this Act and until July 1, 1979, by
4 adding the following new section:

5 NEW SECTION. PREPAYMENT PENALTIES PROHIBITED.

6 1. As used in this section:

7 a. "Loan" means money loaned to a borrower who has
8 furnished, as security for all or any part of the
9 loan, a mortgage on real property which is a single-
10 family or a two-family dwelling occupied or to be oc-
11 cupied by the borrower. The term "loan" does not in-
12 clude any loan which is a consumer loan as defined
13 in chapter five hundred thirty-seven (537) of the
14 Code.

15 b. "Lender" means any state or federally chartered
16 bank, savings and loan association or credit union,
17 any industrial loan company, any insurance company,
18 or any other person or entity which makes a loan, as
19 defined in this section.

20 2. Whenever a borrower under a loan as defined in
21 this section, and under a loan agreement made
22 subsequent to August 1, 1978,
23 repays the full amount of the loan in
24 connection with a transfer of ownership of the real
25 property given as security for that loan the lender
26 shall not receive an amount in payment of interest
27 which is greater than the amount determined by ap-
28 plying the rate of interest agreed upon by the lender
29 and the borrower to the unpaid balance of the loan
30 for the period of time during which the borrower
31 had the use of the money loaned; and the lender shall
32 not impose any penalty or other charge in addition to
33 the amount of interest due as a result of the repay-
34 ment of that loan at a date earlier than is required
35 by the terms of the loan agreement. A lender may,

1 however, require advance notice of not more than
2 thirty days of a borrower's intent to repay the full
3 amount of a loan at a date earlier than is required
4 by the terms of the loan agreement.

5 3. If any lender receives an amount of interest
6 greater than permitted by subsection two (2) of this
7 section, or imposes any penalty or other charge pro-
8 hibited by subsection two (2) of this section, the
9 borrower shall have the right to recover all amounts
10 paid the lender which are in excess of the amounts
11 permitted by subsection two (2) of this section, plus
12 attorney's fees and court costs incurred in any ac-
13 tion necessary to effect such recovery.

14 4. This section is repealed effective July 1,
15 1979.

16 Sec. 2. Section five hundred twenty-four point
17 nine hundred five (524.905), Code 1977, is temporarily
18 amended commencing on the effective date of this Act
19 and until July 1, 1979, by adding the following new
20 subsection:

21 NEW SUBSECTION. If a customer elects to repay a
22 loan secured by a mortgage or deed of trust upon real
23 property which is a single-family or two-family
24 dwelling at a date earlier than is required by the
25 terms of the loan, the state bank shall be governed by
26 section one (1) of this Act.

27 NEW SUBSECTION. If a customer elects to assign
28 a loan secured by a mortgage or deed of trust upon real
29 property which is a single-family or two-family dwelling
30 the lender shall not charge more than the assumption fee
31 allowable for F.H.A. insured or V.A. guaranteed loans.

32 Sec. 3. Section five hundred thirty-three point
33 sixteen (533.16), Code 1977, is temporarily amended
34 commencing on the effective date of this Act and un-
35 til July 1, 1979, by adding the following new unnum-

1 bered paragraph:

2 NEW UNNUMBERED PARAGRAPH. If a member elects to re-
3 pay a loan secured by a mortgage or deed of trust upon
4 real property which is a single-family or a two-family
5 dwelling at a date earlier than is required by the
6 terms of the loan, the credit union shall be governed
7 by section one (1) of this Act.

8 Sec. 4. Section five hundred thirty-four point
9 twenty-one (534.21), subsection ten (10), Code 1977,
10 as amended by Acts of the Sixty-seventh General Assem-
11 bly, 1977 Session, chapter one hundred thirty-three
12 (133), section seven (7), is temporarily amended,
13 commencing on the effective date of this Act and un-
14 til July 1, 1979, to read as follows:

15 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate
16 loans on a single-family or a two-family dwelling may
17 be repaid in part or in full at any time, subject to
18 the provisions of section one (1) of this Act. Real
19 estate loans on ~~one-to~~ three and four family dwellings
20 may be repaid in part or in full at any time, excepting
21 that the association may charge not to exceed six
22 months advance interest on that part of the aggregate
23 amount of all prepayments made on such loan in any
24 twelve-month period which exceeds twenty percent of
25 the original principal amount of the loan; and may
26 charge any negotiated rate on other loans, except real
27 estate loans on single-family and two-family dwellings.

28 Sec. 5. Section five hundred thirty-six A point
29 twenty-three (536A.23), subsection one (1), Code 1977,
30 is temporarily amended, commencing on the effective
31 date of this Act and until July 1, 1979, by adding
32 the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. If a customer elects to
34 repay a loan secured by a mortgage or deed or trust
35 upon real property which is a single-family or two-

1 family dwelling at a date earlier than is required by
2 the terms of the loan, the licensee shall be governed
3 by section one (1) of this Act.

4 Sec. 6. Chapter five hundred thirty-five (535),
5 Code 1977, is temporarily amended, commencing on the
6 effective date of this Act and until July 1, 1979, by
7 adding the following new section:

8 NEW SECTION. REFINANCING OF HOME MORTGAGES.

9 1. As used in this section, the term "loan" means
10 any money loaned to a borrower who furnishes, as
11 security for all or part of the loan, a mortgage on
12 real property which is a single-family or a two-family
13 dwelling occupied or to be occupied by the borrower.

14 2. In the
15 event of a loan agreement in which any scheduled pay-
16 ment is substantially greater than the average of
17 earlier payments, the borrower shall have the right
18 to refinance the amount of that payment, any provision
19 of the agreement to the contrary notwithstanding. The
20 rate of interest which shall be applicable to the
21 amount refinanced shall be the prevailing market rate
22 for loans of similar terms at the time of the refi-
23 nancing; provided, however, that if the loan agreement
24 expressly provides for refinancing of the balance
25 owed at the rate of interest specified in the loan
26 agreement, then the rate of interest which shall be
27 applicable to the amount refinanced shall be the
28 rate of interest specified in the agreement.

29 3. In the event that a borrower
30 pays to a lender as a result of the use of an agree-
31 ment prohibited by subsection two (2) of this section
32 a greater rate of interest than is permitted under
33 that subsection, the borrower shall have the right
34 to commence an action to recover the excess interest
35 paid, and shall be entitled to a reasonable attorney

1 fee and costs of any action brought to recover such
2 excess interest.

3 4. This section shall not apply to any loan
4 agreement executed prior to the effective date of
5 this Act.

6 5. This section is repealed effective July 1,
7 1979.

8 Sec. 7. Chapter five hundred thirty-five (535),
9 Code 1977, is temporarily amended, commencing on the
10 effective date of this Act and until July 1, 1979, by
11 adding the following new section:

12 NEW SECTION. No bank, savings and loan association,
13 or other lender requiring a borrower to give a mort-
14 gage on real estate as security for a loan or on
15 existing indebtedness shall designate the attorney to
16 represent the mortgagor's interest in connection with
17 the giving of the mortgage when the mortgagor has em-
18 ployed or desires to employ his or her own attorney
19 for that purpose.

20 This section is repealed effective July 1, 1979.

21 Sec. 8. Section five hundred thirty-four point
22 nineteen (534.19), subsection six (6), Code 1977, is
23 temporarily amended, commencing on the effective date
24 of this Act and until July 1, 1979, to read as follows:

25 6. PROPERTY IMPROVEMENT LOANS. To make loans for
26 maintenance, repair, landscaping, modernization,
27 furniture and fixtures, improvement and equipment,
28 with or without security provided that no such loan
29 without security shall exceed ten thousand dollars,
30 and provided further that not in excess of twenty per-
31 cent of the assets of the association shall be so in-
32 vested, said twenty percent to be exclusive of the
33 forty percent of assets power set out in section
34 534.21 hereof. ~~Such loans, other than consumer loans~~
35 ~~as defined in the Iowa consumer credit code, shall be~~

1 ~~amortized-to-mature-in-not-to-exceed-eight-years.~~
2 The provisions of the Iowa consumer credit code shall
3 apply to consumer loans made by a savings and loan
4 association and a provision of that code shall super-
5 sede any conflicting provision of this chapter with
6 respect to a consumer loan. Loans made pursuant to
7 this subsection shall be for terms not exceeding fif-
8 teen years and shall not be made at interest rates in
9 excess of rates allowed for consumer loans.

10 Sec. 9. Section five hundred thirty-six point one
11 (536.1), Code 1977, is temporarily amended, commencing
12 on January 1, 1979 and until July 1, 1979, to read as
13 follows:

14 536.1 LICENSE AND RIGHTS THEREUNDER--FACE-TO-FACE
15 SOLICITATION. With respect to a loan other than a
16 consumer loan, no person, copartnership, association,
17 or corporation shall engage in the business of making
18 loans of money, credit, goods, or things in action in
19 the amount or of the value of ~~one~~ two thousand dol-
20 lars or less and charge, contract for, or receive on
21 any such loan a greater rate of interest or considera-
22 tion therefor than the lender would be permitted by
23 law to charge if he or she were not a licensee here-
24 under except as authorized by this chapter and without
25 first obtaining a license from the superintendent of
26 banking, hereinafter called the superintendent. With
27 respect to a consumer loan, a person required by sec-
28 tion 537.2301 to have a license shall not engage in
29 the business of making loans of money, credit, goods
30 or things in action in the amount or value of ~~one~~ two
31 thousand dollars or less and charge, contract for, or
32 receive on any such loan a greater rate of interest
33 or consideration therefor than the lender would be
34 permitted by law to charge if he or she were not a
35 licensee hereunder, except as authorized by this chap-

1 ter and without first obtaining a license from the
2 superintendent. A person who enters into less than
3 ten supervised loans per year in this state and who
4 neither has an office physically located in this
5 state nor engages in face-to-face solicitation in this
6 state may contract for and receive the rate of in-
7 terest permitted in this chapter for licensees here-
8 under. A "consumer loan" shall be as defined in sec-
9 tion 537.1301.

10 Sec. 10. Section five hundred thirty-six point
11 thirteen (536.13), subsection five (5), Code 1977, is
12 temporarily amended, commencing on January 1, 1979,
13 and until July 1, 1979, to read as follows:

14 5. Every licensee hereunder may lend any sum of
15 money not exceeding ~~one~~ two thousand dollars in amount
16 and may charge, contract for, and receive thereon in-
17 terest or charges at a rate not exceeding the maximum
18 rate of interest or charges determined and fixed by
19 the board under authority of this section or by the
20 provisions of the preceding subsection 4.

21 Sec. 11. Section five hundred thirty-six point
22 fifteen (536.15), Code 1977, is temporarily amended,
23 commencing on January 1, 1979, and until July 1, 1979,
24 to read as follows:

25 536.15 USURY--LIMITATION ON PRINCIPAL LOAN. No
26 licensee shall directly or indirectly charge, contract
27 for, or receive any interest or consideration greater
28 than the lender would be permitted by law to charge
29 if he or she were not a licensee hereunder upon the
30 loan, use, or forbearance of money, goods, or things
31 in action, or upon the loan, use, or sale of credit,
32 of the amount or value of more than ~~one~~ two thousand
33 dollars. The foregoing prohibition shall also apply
34 to any licensee who permits any person, as borrower
35 or as endorser, guarantor, or surety for any borrower,

1 or otherwise, to owe directly or contingently or both
2 to the licensee at any time the sum of more than one
3 two thousand dollars for principal.

4 Sec. 12. Sections nine (9), ten (10) and eleven
5 (11) of this Act shall take effect January 1, 1979.

6 Sec. 13. Chapter five hundred thirty-five
7 (535), Code 1977, is amended by adding the following
8 temporary new section:

9 NEW SECTION.

10 1. a. Notwithstanding the maximum rate of inter-
11 est specified in section five hundred thirty-five
12 point two (535.2) of the Code, the maximum lawful rate
13 of interest which may be provided for in any of the
14 following agreements entered into on or after the
15 effective date of this Act and before August 1, 1978,
16 shall be ten cents on the hundred by the year; and
17 in those entered into during any calendar month on
18 or after August 1, 1978, and before July 1, 1979,
19 shall be two percentage points above the monthly average
20 ten-year constant maturity interest rate of United
21 States government notes and bonds as published by the
22 board of governors of the federal reserve system for
23 the calendar month second preceding the month during
24 which the agreement is executed, rounded to the near-
25 est one-fourth of one percent per year:

26 (1) Any written agreement for the payment of in-
27 terest:

28 Any written agreement for the payment of interest
29 made pursuant to a prior written agreement by a lender
30 to lend money in the future, either to the other
31 party to such prior written agreement or a third party
32 beneficiary to such prior agreement, may provide for
33 payment of interest at the lawful rate of interest at
34 the time of the execution of the prior agreement, regardless
35 of whether the subsequent agreement is executed before, on

1 or after July 1, 1979.

2 On or before the twentieth day of each month the
3 superintendent of banking shall determine, based on
4 available statistics, the monthly average ten-year
5 constant maturity interest rate of United States
6 government notes and bonds for the preceding month,
7 and the maximum lawful rate of interest for the fol-
8 lowing calendar month as prescribed herein, and shall
9 cause such rate to be published, as a notice in the
10 Iowa administrative bulletin or as a legal notice in
11 a newspaper of general circulation published in Polk
12 county, prior to the first day of the following calen-
13 dar month. Such maximum lawful rate of interest shall
14 be effective on the first day of the calendar month
15 following publication.

16 b. Any rate of interest specified in any written
17 agreement providing for the payment of interest shall,
18 if such rate was lawful at the time the agreement was
19 made, remain lawful during the entire term of the
20 agreement, including any extensions or renewals thereof,
21 for all money due or to become due thereunder including
22 future advances, if any.

23 c. Any contract, note or other written agreement
24 providing for the payment of a rate of interest permitted
25 by this subsection which contains any provision providing
26 for an increase in the rate of interest prescribed
27 therein shall, if such increase could be to a rate which
28 would have been unlawful at the time the agreement was
29 made, also provide for a reduction in the rate of in-
30 terest prescribed therein, to be determined in the same
31 manner and with the same frequency as any increase so
32 provided for.

33 2. Notwithstanding the provisions of subsection one
34 (1) of this section, with respect to any agreement which
35 was executed prior to August 1, 1978, and which contained

1 a provision for the adjustment of the rate of interest
2 specified in that agreement, the maximum lawful rate
3 of interest which may be imposed under that agreement
4 shall be nine cents on the hundred by the year, and any
5 excess charge shall be a violation of section five hun-
6 dred thirty-five point four (535.4) of the Code.

7 3. The limitations contained in subsections one (1)
8 and two (2) of this section shall not apply to any loan
9 which is subject to the provisions of section six hun-
10 dred eighty-two point forty-six (682.46) of the Code.

11 4. Nothing contained in this section shall apply to
12 any transaction which is exempt from the maximum rate
13 specified in subsection one (1) of section five hundred
14 thirty-five point two (535.2) of the Code by virtue of
15 subsection two (2) of that section.

16 Sec. 14. Chapter five hundred thirty-five (535),
17 Code 1977, is amended by adding the following temporary
18 new section.

19 NEW SECTION.

20 1. As used in this section, the term "loan" means
21 any money loaned to a borrower who furnishes, as security
22 for all or part of the loan, a mortgage on real property
23 which is a single-family or a two-family dwelling occu-
24 pied or to be occupied by the borrower, or a mobile
25 home used as a single-family or a two-family dwelling
26 occupied or to be occupied by the borrower.

27 2. The assessment and collection in connection with
28 a loan of a loan origination fee, closing fee, commit-
29 ment fee or similar charge which exceeds one percent of
30 the amount loaned in the case of a construction loan or
31 a combined construction and permanent loan or one per-
32 cent of the amount loaned in the case of all other loans
33 subject to this section is prohibited. If any lender
34 receives any amount as a loan origination fee, closing
35 fee, commitment fee or similar charge, or any combina-

1 tion thereof, which exceeds the amount permitted by
2 this section, the borrower shall have the right to
3 recover that charge, plus attorney fees and court
4 costs incurred in any action necessary to effect such
5 recovery.

6 Any additional costs charged to a buyer, associated
7 with the purchase of a house and mortgage shall not
8 exceed actual costs which shall be listed and include:

- 9 a. Credit reports.
- 10 b. Appraisal fees.
- 11 c. Attorney's opinions.
- 12 d. Abstracting.
- 13 e. County recorder's fees.
- 14 f. Inspection fees.
- 15 g. P.M.I. prepayment or reinsurance charge.
- 16 h. Surveying of property.
- 17 i. Termite inspection.

18 These cost limits shall not include revenue stamps or
19 real estate commissions which are paid by the seller.

20 The provisions of this subsection shall not apply to
21 any loan which is subject to the provisions of section
22 six hundred eighty-two point forty-six (682.46) of the
23 Code, nor shall it apply to origination fees,
24 administrative fees, commitment fees or similar
25 charges paid by one lender to another lender if these
26 fees are not ultimately paid by the borrower who
27 occupies or will occupy the dwelling.

28 3. A lender shall not, as a condition of making a
29 loan as defined in this section, require the borrower to
30 place money, or to place property other than that which
31 is given as security for the loan, on deposit with or in
32 the possession or control of the lender or some other
33 person if the effect is to increase the yield to the
34 lender with respect to that loan.

35 4. If any lender receives interest either in a man-

1 ner or in an amount which is prohibited by subsection
2 one (1) or subsection two (2) of this section, the
3 borrower shall have the right to recover all amounts
4 collected or earned by the lender, whether or not from
5 the borrower, in violation of this section, plus at-
6 torney's fees, plus court costs incurred in any action
7 necessary to effect such recovery.

8 5. This section is repealed effective July 1, 1979.

9 Sec. 15. Section five hundred thirty-six A point
10 twenty-three (536A.23), subsection one (1), Code 1977,
11 is temporarily amended, commencing on the effective
12 date of this Act and until July 1, 1979, to read as
13 follows:

14 1. Charge, receive or collect interest at a rate
15 ~~greater than that authorized by section 535-2~~ exceed-
16 ing nine cents on the hundred by the year, except that
17 the interest may be computed when the note is made on
18 the full amount of the cash advanced on the loan from
19 the date of the note to the date of the final install-
20 ment thereof, and the interest so computed may be in-
21 cluded in the note, notwithstanding any agreement to
22 pay the entire amount in installments; or the interest
23 may be computed on the amount of the note and dis-
24 counted or collected in advance when the loan
25 is made, notwithstanding any agreement to pay the en-
26 tire amount in installments. If the note is repayable
27 in other than equal monthly installments, the interest
28 may be an amount computed on the basis of the effec-
29 tive rates permitted as provided above; provided, how-
30 ever there shall be no compounding of interest and
31 when an interest rate as authorized herein is adver-
32 tised, or negotiated for with a prospective borrower,
33 with intent that it be computed by either of the two
34 methods authorized herein, they being the "add on"
35 method or the "discount" method, in such case such

1 rate shall be further described as to the method of
2 computation to be used, but interest computed by either
3 method shall be stated to the borrower as provided in
4 section 537.3210.

5 The limitation on interest rate which is contained
6 in this subsection shall not apply to any loan in which
7 the borrower is a corporation or investment trust or
8 any other person who is referred to in subsection two
9 (2) of section five hundred thirty-five point two (535.2)
10 of the Code.

11 Sec. 16. Section five hundred thirty-seven point one
12 thousand three hundred one (537.1301), subsection fif-
13 teen (15), paragraph b, subparagraph two (2), Code
14 1977, is temporarily amended, commencing on the effec-
15 tive date of this Act and until July 1, 1979, to read
16 as follows:

17 (2) A loan secured by an interest in land if the
18 security interest is bona fide and not for the purpose
19 of circumvention or evasion of this chapter and the
20 ~~finance charge does not exceed twelve percent per year,~~
21 calculated according to the actuarial method on the as-
22 sumption that the debt will be paid according to the
23 agreed terms and will not be paid before the end of
24 the agreed term, does not exceed the rate of finance
25 charge permitted under chapter five hundred thirty-five
26 (535) of the Code.

27 Sec. 17. Section five hundred thirty-seven point one
28 thousand three hundred one (537.1301), subsection twenty
29 (20), paragraph a, subparagraph one (1), Code 1977, is
30 temporarily amended, commencing on the effective date
31 of this Act and until July 1, 1979, to read as follows:

32 (1) Interest or any amount payable under a point,
33 discount or other system of charges, however demoni-
34 nated, except that, ~~with respect to a consumer loan~~
35 ~~secured by a first lien on a dwelling of the debtor~~

1 ~~given to finance the acquisition of that dwelling,~~
2 ~~points, consisting of a charge paid in cash at the~~
3 ~~time of commitment or closing of a loan transaction~~
4 or, with respect to a consumer credit sale of goods
5 or services, a cash discount of five percent or less
6 of the stated price of goods or services which is
7 offered to the consumer for payment by cash, check
8 or the like either immediately or within a period
9 of time, shall not be part of the finance charge
10 for the purpose of determining maximum charges pur-
11 suant to section 537.2401 and chapters 524, 534, and
12 535. A cash discount permitted by this subparagraph
13 shall not be considered part of the finance charge
14 for the purpose of determining compliance with Truth
15 in Lending pursuant to section 537.3201 if it is
16 properly disclosed as required by the Truth in Lend-
17 ing Act as amended to and including October 28, 1975
18 and regulations issued pursuant to that Act as so
19 amended prior to October 28, 1975.

20 Sec. 18. With respect to any loan secured by a
21 first lien on a dwelling of a natural person given
22 to finance the acquisition of that dwelling and
23 executed on or after July 1, 1974, but before the
24 effective date of this Act, the assessment and col-
25 lection pursuant to that loan transaction of points,
26 consisting of a charge paid in cash at the time of
27 commitment or closing of the transaction, shall not
28 be considered as part of the contractual interest
29 rate for the purpose of determining whether or not
30 the interest rate agreed to exceeded the rate per-
31 mitted by section five hundred thirty-five point
32 two (535.2) of the Code as it existed during that
33 period of time. The provisions of this section are
34 retroactive to July 1, 1974, to the extent necessary
35 to effect its purpose.

1 Sec. 19. Section five hundred thirty-seven
2 point two thousand two hundred two (537.2202),
3 subsection three (3), Code 1977, is temporarily
4 amended, commencing January 1, 1979, to read as
5 follows:

6 3. If the billing cycle is monthly, the charge
7 may not exceed an amount equal to one and one-half
8 percent of that part of the maximum amount pursuant to
9 subsection 2 which is five one hundred dollars or less,
10 and one and one-fourth percent of that part of the
11 maximum amount which is more than one hundred dollars
12 but not more than five hundred dollars, and one percent
13 of that part of the maximum amount which
14 is more than five hundred dollars; provided,
15 however, that a creditor directly or indirectly
16 operating not more than one retail business with
17 not more than two locations in this state which
18 employs ten or fewer full-time employees may
19 impose, for consumer credit sales originating in
20 connection with the operation of that retail
21 business, a charge which does not exceed an amount
22 equal to one and one-half percent of that part of
23 the maximum amount pursuant to subsection two (2)
24 of this section which is five hundred dollars or
25 less and one and one-fourth percent of that part
26 of the maximum amount which is more than five
27 hundred dollars. If the billing cycle is not
28 monthly, the maximum charge for the billing cycle
29 shall bear the same relation to the applicable
30 monthly maximum charge as the number of days in
31 the billing cycle bears to three hundred sixty-
32 five divided by twelve. A billing cycle is monthly
33 if the closing date of the cycle is the same date
34 each month or does not vary by more than four
35 days from the regular date.

1 Sec. 20. Section five hundred thirty-seven
2 point two thousand four hundred two (537.2402),
3 subsection three (3), Code 1977, is temporarily
4 amended, commencing January 1, 1979, to read as
5 follows:

6 3. If the billing cycle is monthly, the charge
7 may not exceed an amount equal to one and one-half
8 percent of that part of the maximum amount pursuant to
9 subsection 2 which is five one hundred dollars or less,
10 and one and one-fourth percent of that part of the
11 maximum amount which is more than one hundred dollars
12 but not more than five hundred dollars, and one
13 percent of that part of the maximum amount which
14 is more than five hundred dollars. If the billing
15 cycle is not monthly, the maximum charge for the
16 billing cycle shall bear the same relation to the
17 applicable monthly maximum charge as the number
18 of days in the billing cycle bears to three hundred
19 sixty-five divided by twelve. A billing cycle is
20 monthly if the closing date of the cycle is the
21 same date each month or does not vary by more than
22 four days from the regular date.

23 Sec. 21. Chapter five hundred thirty-seven (537),
24 article two (2), part one (1), Code 1977, is tem-
25 porarily amended, commencing January 1, 1979, by
26 adding the following new
27 sections as sections five hundred thirty-seven
28 point two thousand one hundred three (537.2103)
29 and five hundred thirty-seven point two thousand
30 one hundred four (537.2104), respectively:

31 NEW SECTION. 537.2103 APPLICABILITY. The
32 limitations on a finance charge which are imposed
33 by sections five hundred thirty-seven point two
34 thousand two hundred two (537.2202) and five
35 hundred thirty-seven point two thousand four

1 hundred two (537.2402) of the Code shall apply
2 irrespective of the domicile of the creditor or
3 lender if the following conditions apply:

4 1. The extension of credit to the buyer, lessor
5 or debtor is pursuant to a seller credit card or
6 a lender credit card;

7 2. The cardholder was a resident of this state
8 at the time the credit card was issued for his or
9 her use; or the cardholder has become a resident
10 of this state since the credit card was issued
11 and has given notice thereof to the card issuer,
12 and the card issuer has not discontinued the
13 credit arrangement which permits the use of the
14 credit card; and

15 3. The card issuer authorizes one or more
16 sellers or lessors engaged in business in this
17 state, whether or not affiliated with the card
18 issuer, to accept credit cards issued by the
19 card issuer as tender of payment for property
20 or services provided by the seller or lessor
21 to holders of those credit cards.

22 NEW SECTION. 537.2104 REMEDIES.

23 1. The provisions of section five hundred thirty-
24 seven point two thousand one hundred three (537.2103)
25 of the Code shall apply whether or not the card
26 issuer has or claims to have any right or privilege
27 under the laws of the United States or any other state
28 to impose a finance charge in excess of that permitted
29 under this article.

30 2. In the event that a creditor or lender
31 domiciled outside of this state fails to comply with
32 the limitations contained in sections five hundred
33 thirty-seven point two thousand two hundred two
34 (537.2202) or five hundred thirty-seven point two
35 thousand four hundred two (537.2402) of the Code,

1 and that limitation is applicable to that creditor
2 or lender pursuant to section five hundred thirty-
3 seven point two thousand one hundred three (537.2103)
4 of the Code, the administrator may commence a class
5 action in the district court of the state of Iowa in
6 the name of the state on behalf of all Iowa residents
7 who are damaged by the failure of the creditor or
8 lender to comply with those limitations. In any
9 such action the administrator may seek judicial
10 order to:

11 a. Prevent or restrain conduct prohibited under
12 this section and remove the conduct's effect by
13 injunction, divestiture of right to do business in
14 this state, or granting other equitable relief. The
15 state may bring suit under this subsection without
16 posting bond.

17 b. Recover actual damages to members of the
18 class resulting from conduct prohibited under this
19 chapter.

20 c. Recover the necessary costs of bringing suit,
21 including a reasonable attorney fee.

22 3. Any creditor or lender who issues a seller
23 credit card or a lender credit card to one or more
24 residents of this state and who authorizes one or
25 more seller or lessors engaged in business in this
26 state, whether or not affiliated with the card
27 issuer, to accept credit cards issued by the card
28 issuer as tender of payment for property or services
29 provided by the seller or lessor to holders of those
30 credit cards shall thereby consent to the jurisdiction
31 of the district court of this state for purposes of
32 any action commenced under subsection two (2) of this
33 section.

34 Sec. 22. It is the intent of the general assembly
35 in enacting this Act that the law contained in this

1 Act except sections 19 through 21 shall be of
2 temporary effect only, and that each provision of
3 the law of this state as it existed prior to
4 amendment by this Act shall be the law of this state
5 on and after July 1, 1979.

6 Sec. 23. There is created a joint standing committee
7 on interest rates. The committee shall consist of five
8 members from each house of the general assembly to be
9 appointed by the legislative council on or before
10 August 15, 1978. The committee shall hold its first
11 meeting on or before August 30, 1978 upon the call of the
12 chairperson of the council. All meetings thereafter shall
13 be at the call of the co-chairpersons of the committee
14 or as the committee otherwise provides. The committee
15 shall continue the investigation and review of the matters
16 authorized by Senate Concurrent Resolution one hundred
17 thirty-six. All of the rights, powers, duties and
18 privileges granted to the joint standing committee on
19 interest rates by that resolution shall continue
20 in the newly appointed committee during the 1978-1979
21 interim.

22 The committee in its investigation and review shall
23 also consider methods of requiring cash discounts to
24 consumers who pay cash for purchases as opposed to
25 purchasing on credit.

26 The joint standing committee on interest rates shall sub-
27 mit a report of its findings to the general assembly convening
28 in January of 1979, containing such recommendations as the
29 committee shall approve.

30 Sec. 24. If any provision of this Act or the
31 application thereof to any person or circumstance is
32 held invalid, the invalidity does not affect other
33 provisions or applications of the Act which can be
34 given effect without the invalid provision or
35 application, and to this end the provisions of this Act

HOUSE FILE 2467

H-6769

- 1 Amend the Senate amendment H-6761 to House File
 2 2467 as amended, passed and reprinted by the House
 3 as follows:
 4 1. Page 1, line 33, by striking the word "ten"
 5 and inserting in lieu thereof the word "five".
 6 2. Page 1, line 36, by striking the word "fifty"
 7 and inserting in lieu thereof the word "ten".

H-6769 FILED *Adopted* BY KRAUSE OF KOSSUTH
 JULY 14, 1978 (*p. 2891*) GARRISON OF BLACK HAWK

HOUSE FILE 2467

H-6766

- 1 Amend the Senate Amendment, H-6761, to House File
 2 2467 as follows:
 3 1. Page 1, line 19, by inserting after the word
 4 "area" the following: "or make statements which
 5 discourage loan applications, loan requests, or
 6 inquiries about mortgage loans with respect to property
 7 located in a certain area".

H-6766 FILED *Withdrawn* BY KRAUSE OF KOSSUTH
 JULY 14, 1978 (*p. 2886*) GARRISON OF BLACK HAWK

HOUSE FILE 2467

H-6768

- 1 Amend the Senate amendment H-6761, to House
 2 File 2467, as follows:
 3 1. Page 7, line 25, by striking the word "section"
 4 and inserting in lieu thereof the word "sections".
 5 2. Page 8, by inserting after line 19 the following:
 6 "NEW SECTION. No bank, savings and loan association,
 7 or other lender requiring a borrower to give a mortgage
 8 on real estate as security for a loan or on existing
 9 indebtedness shall designate the attorney to represent
 10 the mortgagor's interest in connection with the giving
 11 of the mortgage when the mortgagor has employed or
 12 desires to employ his or her own attorney for that
 13 purpose."

H-6768 FILED *Adopted* BY WALTER OF POTTAWATTAMIE
 JULY 14, 1978 (*p. 2890*)

HOUSE FILE 2467

H-6767

1 Amend the Senate Amendment, H-6761, to House File
2 2467 as follows:

3 1. Page 2, by inserting after line 33 the follow-
4 ing:

5 " c. Show the results of the determination by
6 the financial institution of the existence or non-
7 existence of underserved census tracts, in the form
8 and manner required by section six (6) of this Act."

9 2. Page 3, by inserting after line 41 the follow-
10 ing:

11 "Sec. 6. NEW SECTION. PRACTICES REVIEWED. Each
12 financial institution annually shall review its adver-
13 tising and marketing practices to ascertain the extent
14 to which its lending services are available throughout
15 the area which it serves. Each financial institution
16 shall develop advertising practices designed to
17 encourage and to increase the number of loans made
18 in any census tract within the prime service area
19 of the financial institution when that census tract
20 is determined to be underserved.

21 As used in this section, a census tract shall be
22 underserved if the financial institution has made
23 significantly fewer mortgage loans within that census
24 tract than in other census tracts within the prime
25 service area of that financial institution, when
26 adjusted to reflect the difference in numbers of
27 properties containing four or fewer dwelling units
28 which are within each such census tract. The director
29 of the Iowa housing finance authority, with the advice
30 of the enforcement agencies designated in section
31 five (5) of this Act, shall promulgate rules to es-
32 tablish the methods and procedures by which financial
33 institutions shall determine whether or not census
34 tracts are underserved within the meaning of this
35 section, and shall report those determinations under
36 section four (4) of this Act.

37 The agency to which a financial institution submits
38 its annual report under section four (4) of this Act
39 shall review the determinations made by the financial
40 institution as required by this section, and in the
41 event underservicing of a census tract exists the
42 regulatory agency shall require the financial
43 institution to develop new marketing procedures
44 designed to increase the number of mortgage loans
45 in that census tract."

46 3. By renumbering sections and subsections of
47 the Act as necessary and correcting internal references
48 as necessary.

H-6767 FILED
JULY 14, 1978

BY KRAUSE OF KOSSUTH

HOUSE FILE 2467

H-6765

1 Amend Senate Amendment, H-6761, to House File 2467
2 as amended, passed and reprinted by the House as
3 follows:

4 1. Page 10, by inserting after line 10 the
5 following:

6 "Sec. 20. NEW SECTION.

7 1. Any bank, savings and loan association, or
8 credit union, which receives money in this state on
9 deposit in interest bearing deposits or share accounts,
10 or in accounts evidenced by certificates of deposit
11 may offer to its customers or members, subject to
12 the provisions of this section. The opportunity to
13 deposit or transfer their funds into a pooled time
14 deposit account. Any bank, savings and loan
15 association or credit union wishing to offer a pooled
16 time deposit account shall notify its customers or
17 members of its intention of establishing such an
18 account and the basic terms of that account. These
19 basic terms shall be that any customer or member may
20 deposit funds or transfer funds from any existing
21 account with that institution into this account.
22 These funds when deposited or transferred shall earn
23 interest at a rate not less than that paid by that
24 institution on saving deposits until such time as
25 the funds in the pooled time deposit account equal
26 or exceed the minimum amount as determined pursuant
27 to subsection three (3) of this section. At that
28 time the funds deposited or transferred shall earn
29 interest at the rate as determined by that institution.
30 This rate shall be determined and specified to the
31 customer or member before the institution may accept
32 any funds to be deposited or transferred into the
33 account. The customer or member shall also be notified
34 that any deposits or transfers of funds must remain
35 on deposit for a specified period of time which shall
36 not be less than thirty days.

37 2. All depositors and transferrors of funds to
38 a pooled time deposit account shall enter into a
39 uniform contract with the bank, savings and loan
40 association or credit union offering that account.
41 This uniform contract shall include but not be limited
42 to the following terms:

43 a. That all funds deposited or transferred shall
44 earn the same rate of interest that is paid by that
45 institution on saving deposits until such time as
46 the amount of funds in the account equals or exceeds
47 the minimum amount.

48 b. The rate of interest to be earned on all funds
49 in the account from the date on which the funds in
50 the account equals or exceeds the minimum amount.

1 c. The minimum amount of funds that must be in
2 the account before the interest rate specified in
3 paragraph b of this subsection will apply.
4 d. The length of time for which funds must remain
5 on deposit in the account.
6 e. That the customer or member does not acquire
7 any interest in or right to any funds in the account
8 other than those deposited or transferred by him or
9, her and the interest earned on his or her funds.
10 3. For purposes of this section, "minimum amount"
11 means that amount of funds deposited for which there
12 is no maximum rate of interest prescribed under federal
13 regulations at the time of the establishing of the
14 pooled time deposit account increased by the amount
15 of funds deemed necessary to reduce the likelihood
16 that as a result of withdrawals or transfers the total
17 funds in the pooled time deposit account will be less
18 than that specified by the federal regulations for
19 which a maximum rate of interest is not prescribed.
20 4. The depositing or transferring of funds to
21 a pooled time deposit account or the entering into
22 a contract with regard to a pooled time deposit account
23 shall not entitle the customer or member depositing
24 or transferring funds or his or her creditors, heirs
25 or assigns to any interest in or right to any funds
26 in that account other than to those funds deposited
27 or transferred by that customer or member and the
28 interest earned on those funds.
29 The bank, savings and loan association or credit
30 union shall at all times maintain a listing of each
31 customer or member who has funds in the pooled time
32 deposit account and that portion of the account which
33 each customer or member is entitled to.
34 5. It is the intent of the general assembly in
35 enacting this section to provide a means for banks,
36 savings and loan associations and credit unions to
37 charge a rate of interest on savings deposits of its
38 customers and members which will more closely reflect
39 the rate of return on money which the customers and
40 members could earn elsewhere with comparable risk
41 and to avoid the artificial limitation set by federal
42 regulations on the rate of interest that may be paid
43 on deposits.
44 The superintendent of banking, for banks, the
45 supervisor of savings and loan associations, for
46 savings and loan associations, and the administrator
47 of credit unions, as defined in Senate File one hundred
48 thirty-seven (137) as passed by the Sixty-seventh
49 General Assembly, 1978 Session or the superintendent
50 of banking, as the case may be, for credit unions,

Page 3
1 shall promulgate rules for the purpose of carrying
2 out the intent and provisions of this section."
3 2. Page 10, by striking line 35 and inserting
4 in lieu thereof the following: "(11) and section
5 twenty (20) of this Act, are repealed effective July
6 1, 1979,".
7 3. Page 10, by striking line 42 and inserting
8 in lieu thereof the following: "eleven (11) and
9 section twenty (20) of this Act."

HOUSE FILE 2467

H-6762

- 1 Amend the Senate amendment H-6761, to House File
- 2 2467, as follows:
- 3 1. Page 5, line 17, by striking the word "one"
- 4 and inserting in lieu thereof the word "one-half".

H-6762 FILED *Lost 7/14* BY SPEAR OF LEE
 JULY 14, 1978 (*p. 2886*)
Revised & Adopted (p. 2893)

HOUSE FILE 2467

H-6763

- 1 Amend Senate Amendment H-6761 to House File 2467
- 2 as follows:
- 3 1. Page 10 by striking lines 27 through 42.
- 4 2. By renumbering the remaining sections.

H-6763 FILED *Adopted* BY NIELSEN OF POLK
 JULY 14, 1978 (*p. 2890*)

HOUSE FILE 2467

H-6764

- 1 Amend the Senate amendment, H-6761, amending House
- 2 File 2467, as follows:
- 3 1. Page 10, by inserting after line 10, the follow-
- 4 ing:
- 5 "Sec. 20. Chapter five hundred thirty-seven (537),
- 6 article two (2), Code 1977, is amended by adding the
- 7 following new section:
- 8 NEW SECTION. Notwithstanding the maximum finance
- 9 charges specified in this chapter of the Code, the
- 10 maximum lawful rate of interest which may be charged
- 11 for money loaned to a borrower who furnishes as
- 12 security for all or part of the loan, a mobile home
- 13 used as a single-family or a two-family dwelling
- 14 occupied or to be occupied by the borrower, shall
- 15 be two percentage points greater than the maximum
- 16 interest rate allowed, at the time this loan is entered
- 17 into, for money loaned to a borrower who furnishes
- 18 as security for all or part of the loan, a mortgage
- 19 on real property which is a single-family or a two-
- 20 family dwelling occupied or to be occupied by the
- 21 borrower."
- 22 2. Page 10, by striking line 35 and inserting
- 23 in lieu thereof the following: "(11) and except
- 24 section twenty (20) of this Act, are repealed effective
- 25 July 1, 1979,".
- 26 3. Page 10, by striking line 42 and inserting
- 27 in lieu thereof the following: "eleven (11) and
- 28 section twenty (20) of this Act."
- 29 4. By renumbering sections and correcting internal
- 30 references to conform to this amendment.

H-6764 FILED *Adopted* BY MILLER OF BUCHANAN
 JULY 14, 1978 (*p. 2887*)

SENATE AMENDMENT TO HOUSE FILE 2467

H-6761

1 Amend House File 2467 as amended, passed and re-
2 printed by the House as follows:

3 1. Title page, by striking lines 1 and 2 and
4 inserting in lieu thereof the following: "An Act
5 relating to charges which lawfully may be imposed
6 in connection with transactions which are subject
7 to the provisions of section five hundred thirty-five
8 point two (535.2) of the Code."

9 2. By striking everything after the enacting
10 clause and inserting in lieu thereof the following:

11 "Section 1. NEW SECTION. DEFINITIONS. For pur-
12 poses of this Act, unless the context otherwise
13 requires:

14 1. "Red-lining" means the practice by which a
15 financial institution may designate certain areas
16 as unsuitable for the making of mortgage loans and
17 reject applications for mortgage loans or vary the
18 terms of a mortgage loan upon property within that
19 area because of the prevailing income, racial or
20 ethnic characteristics of the area, or because of
21 the age of the structures in the area.

22 2. "Mortgage loan" means a loan for the purchase,
23 construction, improvement or rehabilitation of
24 residential property containing or to contain four
25 or fewer family dwelling units in which the property
26 is used as security for the loan.

27 3. "Financial institution" means any bank, credit
28 union, insurance company, mortgage banking company
29 or savings and loan association, industrial loan
30 company, or like institution which operates or has
31 a place of business in this state.

32 4. "Reporting financial institution" means a
33 financial institution with an excess of ten million
34 dollars in assets which during a reporting period
35 accepts mortgage loan applications from persons in
36 any Iowa city with a population in excess of fifty
37 thousand as determined in the most recent regular
38 census or in any standard metropolitan statistical
39 area.

40 5. "Vary the terms of a mortgage loan" includes,
41 but is not limited to the following:

42 a. Requiring a greater than average down payment
43 than is usual for the particular type of mortgage
44 loan involved.

45 b. Requiring a shorter period of amortization
46 than is usual for the particular type of mortgage
47 loan involved.

48 c. Charging a higher interest rate or higher loan
49 origination fees than is usual for the particular
50 type of mortgage loan involved.

1 d. An unreasonable underappraisal of real estate
2 or item of property offered as security.

3 Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE
4 MORTGAGES. It is a discriminatory practice for any
5 financial institution accepting mortgage loan
6 applications to engage in the practice of red-lining
7 as defined in section one (1) of this Act.

8 Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL
9 INSTITUTION. Nothing contained in this Act shall
10 preclude a financial institution from applying
11 economically sound underwriting practices in con-
12 templation of any mortgage loan to any person. Such
13 practices shall include but are not limited to the
14 following:

15 1. The willingness and the financial ability of
16 the borrower to repay the mortgage loan.

17 2. The appraised value of any real estate or other
18 item of property proposed as security for any mortgage
19 loan.

20 3. Diversification of the financial institution's
21 investment portfolio.

22 Sec. 4. NEW SECTION. DISCLOSURE. Each reporting
23 financial institution accepting an application for
24 a mortgage loan shall:

25 1. Maintain a record of mortgage loan applications
26 by census tract.

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

29 a. State the total number of mortgage loan
30 applications filed by census tract.

31 b. Clearly show the total number of mortgage loans
32 which were approved and which were not approved by
33 census tract.

34 3. The report required by this section shall be
35 placed on file with the Iowa housing finance authority
36 and shall be available to the public.

37 4. In accordance with subsections one (1), two
38 (2) and three (3) of this section, the superintendent
39 of banking, the auditor of state, the administrator
40 of the credit union department, and the commissioner
41 of insurance shall establish rules for the enforcement
42 of the provisions of this section. Rules established
43 pursuant to this Act shall permit a financial
44 institution which is required to file a disclosure
45 report pursuant to the federal home mortgage disclosure
46 act of 1975, 12 U.S.C. 2801 to 2809, and the
47 regulations promulgated under that act, to file a
48 copy of that report with the Iowa housing finance
49 authority. If a financial institution is not required
50 to file a disclosure report pursuant to the federal

1 home mortgage disclosure act, the financial institution
2 shall file with the Iowa housing finance authority
3 a report that conforms in form and substance with
4 the requirements of the federal home mortgage
5 disclosure act.

6 Reporting periods shall be established by rule
7 and shall be uniform for all financial institutions.

8 The director of the Iowa housing finance authority
9 or the director's designee shall advise and assist
10 the superintendent of banking, the commissioner of
11 insurance, the administrator of the credit union
12 department, and the auditor of state on the
13 establishment of rules for the enforcement of this
14 section and shall encourage uniformity among the
15 administrator's rule promulgation to the maximum
16 extent practical.

17 Sec. 5. NEW SECTION. AGENCY TO ADMINISTER.

18 Sections two (2), and four (4) of this Act shall be
19 administered and enforced by the following agencies:

20 1. The superintendent of banking or the super-
21 intendent's designee shall be responsible for enforcing
22 the provisions of this Act in regard to all banks
23 and persons licensed under chapter five hundred thirty-
24 six (536) of the Code, and shall be responsible for
25 enforcing the provisions of this Act in regard to
26 mortgage banking companies.

27 2. The auditor of state or a designee shall be
28 responsible for enforcing the provisions of this Act
29 in regard to all savings and loan associations pursuant
30 to chapter five hundred thirty-four (534) of the Code
31 and all persons licensed under chapter five hundred
32 thirty-six A (536A) of the Code.

33 3. The commissioner of insurance or the commiss-
34 ioner's designee shall be responsible for enforcing
35 the provisions of this Act pursuant to chapter five
36 hundred five (505) of the Code in regard to all
37 insurance companies.

38 4. The administrator of the credit union depart-
39 ment or a designee shall be responsible for enforcing
40 the provisions of this Act in regard to all credit
41 unions.

42 Sec. 6. NEW SECTION. AGGRIEVED PARTY. Any person
43 who has been aggrieved as a result of a violation
44 of this Act may bring an action in the district court
45 of the county in which the violation occurred or in
46 the county where the financial institution involved
47 is located.

48 Upon a finding that a financial institution has
49 committed a violation of either section two (2), or
50 four (4) of this Act, the court may award actual

1 damages, court costs and attorney fees.

2 Sec. 7. NEW SECTION. CRIMINAL PENALTY. Any
3 person who knowingly engages in a practice which
4 violates the provisions of section two (2) or four
5 (4) of this Act is guilty of a serious misdemeanor.

6 Sec. 8. NEW SECTION. CIVIL PENALTY. Any person
7 who in bad faith fails to comply with the provisions
8 of this Act, is subject to punitive damages not to
9 exceed one thousand dollars in addition to actual
10 damages as set forth in section six (6) of this Act.

11 Sec. 9. The Code editor is directed to incor-
12 porate sections one (1) through eight (8) of this
13 Act as a separate chapter of the Code.

14 Sec. 10. The director of the Iowa housing finance
15 authority shall report to the Iowa general assembly
16 in February of 1980, an analysis of the nature and
17 status of the disclosure reports filed pursuant to
18 section four (4) of this Act.

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

24 Sec. 11. Section five hundred thirty-five point
25 two (535.2), Code 1977, is amended to read as follows:

26 535.2 RATE OF INTEREST.

27 1. Except as provided in subsection 2 hereof,
28 the rate of interest shall be five cents on the hundred
29 by the year in the following cases, unless the parties
30 shall agree in writing for the payment of interest
31 at a rate not exceeding nine-cents-on-the-hundred
32 by-the-year the rate permitted by subsection three
33 (3) of this section:

34 a. Money due by express contract.

35 b. Money after the same becomes due.

36 c. Money loaned.

37 d. Money received to the use of another and re-
38 tained beyond a reasonable time, without the owner's
39 consent, express or implied.

40 e. Money due on the settlement of accounts from
41 the day the balance is ascertained.

42 f. Money due upon open accounts after six months
43 from the date of the last item.

44 g. Money due, or to become due, where there is
45 a contract to pay interest, and no rate is stipulated.

46 2. Any domestic or foreign corporation ~~or~~, and
47 any real estate investment trust as defined in section
48 856 of the Internal Revenue Code, and any person
49 purchasing securities as defined in chapter 502 on
50 credit from a broker or dealer registered or licensed

1 under chapter 502 or under the Security Exchange Act
2 of 1934, 48 Stat. 881, 15 United States Code 78A,
3 as amended, and any person borrowing money in the
4 principal amount of two hundred thousand dollars or
5 more for either business or agricultural purposes
6 or both, may agree in writing to pay any rate of
7 interest in excess of the rate prescribed-in permitted
8 by subsection 1-hereof three (3) of this section,
9 and no such corporation or real estate investment
10 trust or person so agreeing in writing shall plead
11 or interpose the claim or defense of usury in any
12 action or proceeding.

13 3. a. The maximum lawful rate of interest which
14 may be provided for in any written agreement for the
15 payment of interest entered into during any calendar
16 quarter commencing on or after July 1, 1978, shall
17 be one percentage point above the numerical average
18 of the monthly national average contract interest
19 rates charged by all major types of lenders on (1)
20 conventional home mortgages issued on newly-built
21 homes and (2) conventional home mortgages on previously
22 occupied homes as published by the federal home loan
23 bank board for the calendar month second preceding
24 the first month of the calendar quarter during which
25 the maximum rate based thereon will be effective,
26 rounded to the nearest one-fourth of one percent per
27 year.

28 On or before the twentieth day of March, June,
29 September and December of each year the superintendent
30 of banking shall determine the maximum lawful rate
31 of interest for the following calendar quarter as
32 prescribed herein, and shall cause such rate to be
33 published, as a notice in the Iowa administrative
34 bulletin or as a legal notice in a newspaper of gen-
35 eral circulation published in Polk county, prior to
36 the first day of the following calendar month. Such
37 maximum lawful rate of interest shall be effective
38 on the first day of the calendar month following
39 publication. As soon as practicable after the
40 effective date of this Act, the superintendent of
41 banking shall determine and publish the maximum lawful
42 rate pursuant to this paragraph for the third quarter
43 of 1978, which maximum rate shall be effective upon
44 publication thereof.

45 b. Any rate of interest specified in any written
46 agreement providing for the payment of interest shall,
47 if such rate was lawful at the timethe agreement was
48 made, remain lawful during the entire term of the
49 agreement, including any extensions or renewals
50 thereof, for all money due or to become due there-

1 under including future advances, if any.

2 c. Any written agreement for the payment of in-
3 terest made pursuant to a prior written agreement
4 by a lender to lend money in the future, either to
5 the other party to such prior written agreement or
6 a third party beneficiary of such prior agreement,
7 may provide for payment of interest at the lawful
8 rate of interest at the time of the execution of the
9 prior agreement regardless of the time at which the
10 subsequent agreement is executed.

11 d. Any contract, note or other written agreement
12 providing for the payment of a rate of interest per-
13 mitted by this subsection which contains any provisions
14 providing for an increase in the rate of interest
15 prescribed therein shall, if such increase could be
16 to a rate which would have been unlawful at the time
17 the agreement was made, also provide for a reduction
18 in the rate of interest prescribed therein, to be
19 determined in the same manner and with the same
20 frequency as any increase so provided for.

21 4. Notwithstanding the provisions of subsection
22 three (3) of this section, with respect to any agree-
23 ment which was executed prior to the effective date
24 of this section and which contained a provision for
25 the adjustment of the rate of interest specified in
26 that agreement, the maximum lawful rate of interest
27 which may be imposed under that agreement shall be
28 nine cents on the hundred by the year, and any ex-
29 cess charge shall be a violation of section five
30 hundred thirty-five point four (535.4) of the Code.

31 5. This section shall not apply to any loan which
32 is subject to the provisions of section six hundred
33 eighty-two point forty-six (682.46) of the Code.

34 Sec. 12. Chapter five hundred thirty-five (535),
35 Code 1977, is amended by adding the following new
36 section:

37 NEW SECTION.

38 1. As used in this section, the term "loan" means
39 any money loaned to a borrower who furnishes, as
40 security for all or part of the loan, a mortgage on
41 real property which is a single-family or a two-family
42 dwelling to be occupied by the borrower.

43 2. The assessment and collection in connection
44 with a loan of a loan origination fee, closing fee,
45 commitment fee or similar charge in any loan as defined
46 in this section is prohibited. Any costs charged
47 to a borrower by a lender in connection with a loan
48 shall not exceed the actual costs thereof. If any
49 lender receives any amount as a loan origination fee,
50 closing fee, commitment fee or similar charge, or

1 any combination thereof, the borrower shall have the
2 right to recover the excess charge, plus attorney
3 fees and court costs incurred in any action necessary
4 to effect such recovery.

5 3. A lender shall not, as a condition of making
6 a loan as defined in this section, require the borrower
7 to place money, or to place property other than that
8 which is given as security for the loan, on deposit
9 with or in the possession or control of the lender
10 or some other person if the effect is to increase
11 the yield to the lender with respect to that loan.
12 If any lender receives interest in a manner prohibited
13 by this subsection, the borrower shall have the right
14 to recover all amounts collected or earned by the
15 lender whether or not from the borrower in viola-
16 tion of this subsection, plus attorney fees, plus court
17 costs incurred in any action necessary to effect such
18 recovery.

19 4. The provisions of this section shall not apply
20 to any loan which is subject to provisions of sec-
21 tion six hundred eighty-two point forty-six (682.46)
22 of the Code.

23 Sec. 13. Chapter five hundred thirty-five (535),
24 Code 1977, is amended by adding the following new
25 section:

26 NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED
27 BY REAL ESTATE MORTGAGES PROHIBITED.

28 1. As used in this section:

29 a. "Loan" means money loaned to a borrower who
30 furnishes, as security for all or any part of the
31 loan, a mortgage on real property which is a single-
32 family or a two-family dwelling to be occupied by
33 the borrower or money loaned to a borrower for the
34 purpose of purchasing agricultural land where the
35 borrower furnishes a mortgage on the real property
36 to be purchased as security for the loan.

37 b. "Lender" means any state or federally chartered
38 bank, savings and loan association or credit union,
39 any industrial loan company, any insurance company,
40 or any other person or entity which makes a loan,
41 as defined in this section.

42 2. Whenever a borrower under a loan repays the
43 full amount of the loan in connection with a transfer
44 of ownership of the real property given as security
45 for that loan, the lender shall not receive an amount
46 in payment of interest which is greater than the
47 amount determined by applying the rate of interest
48 agreed upon by the lender and the borrower to the
49 unpaid balance of the loan for a period of time during
50 which the borrower had the use of the money loaned;

1 and the lender shall not impose any penalty or other
2 charge in addition to the amount of interest due as
3 a result of the repayment of that loan at a date
4 earlier than is required by the terms of the loan
5 agreement. A lender may, however, require advance
6 notice of not more than thirty days of a borrower's
7 intent to repay the full amount of a loan at a date
8 earlier than is required by the terms of the loan
9 agreement.

10 3. If any lender receives an amount of interest
11 greater than permitted by subsection two (2) of this
12 section, or imposes any penalty or other charge
13 prohibited by subsection two (2) of this section,
14 the borrower shall have the right to recover all
15 amounts paid the lender which are in excess of the
16 amounts permitted by subsection two (2) of this
17 section, plus attorney's fees and court costs in-
18 curred in any action necessary to effect such re-
19 covery.

20 Sec. 14. Section five hundred twenty-four point
21 nine hundred five (524.905), Code 1977, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. If a customer elects to repay
24 a loan secured by a mortgage or deed of trust upon
25 real property which is a single-family or two-family
26 dwelling or agricultural land at a date earlier than
27 is required by the terms of the loan, the state bank
28 shall be governed by section three (3) of this Act.

29 Sec. 15. Section five hundred thirty-three point
30 sixteen (533.16), Code 1977, is amended by adding
31 the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. If a member elects to
33 repay a loan secured by a mortgage or deed of trust
34 upon real property which is a single-family or a two-
35 family dwelling or agricultural land at a date earlier
36 than is required by the terms of the loan, the credit
37 union shall be governed by section three (3) of this
38 Act.

39 Sec. 16. Section five hundred thirty-four point
40 twenty-one (534.21), subsection ten (10), Code 1977,
41 as amended by Acts of the Sixty-seventh General
42 Assembly, 1977 Session, chapter one hundred thirty-
43 three (133), section seven (7), is amended to read
44 as follows:

45 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate
46 loans on a single-family or a two-family dwelling
47 or agricultural land may be repaid in part or in full
48 at any time subject to the provisions of section three
49 (3) of this Act. Real estate loans on ~~one-to~~ three
50 and four family dwellings may be repaid in part or

1 in full at any time, excepting that the association
 2 may charge not to exceed six months advance interest
 3 on that part of the aggregate amount of all prepayments
 4 made on such loan in any twelve-month period which
 5 exceeds twenty percent of the original principal
 6 amount of the loan; and may charge any negotiated
 7 rate on other loans, except real estate loans on
 8 single-family and two-family dwellings or agricultural
 9 land.

10 Sec. 17. Section five hundred thirty-six A point
 11 twenty-three (536A.23), subsection one (1), Code 1977,
 12 is amended by adding the following new unnumbered
 13 paragraph:

14 NEW UNNUMBERED PARAGRAPH. If a borrower elects
 15 to repay a loan secured by a mortgage or deed of trust
 16 upon real property which is a single-family or two-
 17 family dwelling or agricultural land at a date earlier
 18 than is required by the terms of the loan, the licensee
 19 shall be governed by section three (3) of this Act.

20 Sec. 18. Section five hundred thirty-seven point
 21 one thousand three hundred one (537.1301), subsec-
 22 tion fifteen (15), paragraph b, subparagraph two (2),
 23 Code 1977, is amended to read as follows:

24 (2) A loan secured by an interest in land if the
 25 security interest is bona fide and not for the pur-
 26 pose of circumvention or evasion of this chapter and
 27 the finance charge ~~does not exceed twelve percent~~
 28 ~~per year~~, calculated according to the actuarial method
 29 on the assumption that the debt will be paid accord-
 30 ing to the agreed terms and will not be paid before
 31 the end of the agreed term, does not exceed the rate
 32 of interest permitted under chapter five hundred
 33 thirty-five (535) of the Code.

34 Sec. 19. Section five hundred thirty-seven point
 35 one thousand three hundred one (537.1301), subsection
 36 twenty (20), paragraph a, subparagraph one (1), Code
 37 1977, is amended to read as follows:

38 (1) Interest or any amount payable under a point,
 39 discount or other system of charges, however denomi-
 40 nated, except that, ~~with respect to a consumer loan~~
 41 ~~secured by a first lien on a dwelling of the debtor~~
 42 ~~given to finance the acquisition of that dwelling,~~
 43 ~~points, consisting of a charge paid in cash at the~~
 44 ~~time of commitment or closing of a loan transaction~~
 45 ~~or~~, with respect to a consumer credit sale of goods
 46 or services, a cash discount of five percent or less
 47 of the stated price of goods or services which is
 48 offered to the consumer for payment by cash, check
 49 or the like either immediately or within a period
 50 of time, shall not be part of the finance charge for

1 the purpose of determining maximum charges pursu-
2 ant to section 537.2401 and ~~chapters 524, 534, and~~
3 535. A cash discount permitted by this subparagraph
4 shall not be considered part of the finance charge
5 for the purpose of determining compliance with Truth
6 in Lending pursuant to section 537.3201 if it is
7 properly disclosed as required by the Truth in Lending
8 Act as amended to and including October 28, 1975 and
9 regulations issued pursuant to that Act as so amended
10 prior to October 28, 1975.

11 Sec. 20. With respect to any loan secured by a
12 first lien on a dwelling of a natural person given
13 to finance the acquisition of that dwelling and
14 executed on or after July 1, 1974, but before the
15 effective date of this Act, the assessment and
16 collection pursuant to that loan transaction of points,
17 consisting of a charge paid in cash at the time of
18 commitment or closing of the transaction, shall not
19 be considered as part of the contractual interest
20 rate for the purpose of determining whether or not
21 the interest rate agreed to exceeded the rate permitted
22 by section five hundred thirty-five point two (535.2)
23 of the Code as it existed during the period of time.
24 The provisions of this section are retroactive to
25 July 1, 1974, to the extent necessary to effect its
26 purpose.

27 Sec. 21. If the maximum lawful rate of interest
28 as determined by the superintendent of banking pursu-
29 ant to section one (1) of this Act to be in effect
30 during the month of January, 1979, is less than nine
31 percent, then the amendatory provisions of this Act,
32 except paragraphs b and c of subsection three (3)
33 of section one (1) of this Act and except sections
34 one (1) through ten (10), and except section eleven
35 (11) of this Act, are repealed effective July 1, 1979,
36 and each provision of the law of this state as it
37 existed prior to amendment by this Act shall be the
38 law of this state on and after July 1, 1979, except
39 those provisions of law which are amended by paragraphs
40 b and c of subsection three (3) of section one (1),
41 and sections one (1) through ten (10) and section
42 eleven (11) of this Act.

43 Sec. 22. This Act, being deemed of immediate
44 importance, shall take effect and be in force from
45 and after its publication in the Muscatine Journal,
46 a newspaper published in Muscatine, Iowa, and in the
47 Iowa City Press-Citizen, a newspaper published in
48 Iowa City, Iowa. Sections one (1) through ten (10)
49 of this Act shall take effect January 1, 1979."

RECEIVED FROM THE SENATE
JULY 14, 1978

*House amended & refused to concur 7/14 (p. 2894)
Senate insisted 7/14 (p. 1722)
House reconsidered & refused to concur (p. 2899)*

HOUSE FILE 2467

S-5970

1 Amend the Drake et al. amendment, S-5956 to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. By striking lines 11 through 50 on page 1 and
5 lines 1 through 50 on page 2 and lines 1 through 20
6 on page 3 and inserting in lieu thereof the following:
7 "Section 1. Chapter five hundred thirty-five
8 (535), Code 1977, is amended by adding the following
9 new section:

10 NEW SECTION.

11 1. a. Notwithstanding the maximum rate of interest
12 specified in section five hundred thirty-five point
13 two (535.2) of the Code, the maximum lawful rate of
14 interest which may be provided for in any written
15 agreement for the payment of interest where the
16 borrower furnishes, as security for all or part of
17 the loan, a mortgage on real property which is a
18 single-family or a two-family dwelling occupied or
19 to be occupied by the borrower or where money is
20 loaned to a borrower for the purpose of purchasing
21 agricultural land and the borrower furnishes a mortgage
22 on the real property to be purchased as security for
23 the loan, entered into during any calendar quarter
24 commencing on or after July 1, 1978, shall be one
25 percentage point above the numerical average of the
26 monthly national average contract interest rates
27 charged by all major types of lenders on (1)
28 conventional home mortgages issued on newly-built
29 homes and (2) conventional home mortgages on previously
30 occupied homes as published by the federal home loan
31 bank board for the calendar month second preceding
32 the first month of the calendar quarter during which
33 the maximum rate based thereon will be effective,
34 rounded to the nearest one-fourth of one percent per
35 year.

36 On or before the twentieth day of March, June,
37 September and December of each year the superintendent
38 of banking shall determine the maximum lawful rate
39 of interest for the following calendar quarter as
40 prescribed herein, and shall cause such rate to be
41 published, as a notice in the Iowa administrative
42 bulletin or as a legal notice in a newspaper of gen-
43 eral circulation published in Polk county, prior to
44 the first day of the following calendar month. Such
45 maximum lawful rate of interest shall be effective
46 on the first day of the calendar month following
47 publication. As soon as practicable after the
48 effective date of this Act, the superintendent of
49 banking shall determine and publish the maximum lawful
50 rate pursuant to this paragraph for the third quarter

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1 of 1978, which maximum rate shall be effective upon
2 publication thereof.

3 b. Any rate of interest specified in any written
4 agreement providing for the payment of interest shall,
5 if such rate was lawful at the time the agreement was
6 made, remain lawful during the entire term of the
7 agreement, including any extensions or renewals
8 thereof, for all money due or to become due there-
9 under including future advances, if any.

10 c. Any written agreement for the payment of in-
11 terest made pursuant to a prior written agreement
12 by a lender to lend money in the future, either to
13 the other party to such prior written agreement or
14 a third party beneficiary of such prior agreement,
15 may provide for payment of interest at the lawful
16 rate of interest at the time of the execution of the
17 prior agreement regardless of the time at which the
18 subsequent agreement is executed.

19 d. Any contract, note or other written agreement
20 providing for the payment of a rate of interest per-
21 mitted by this subsection which contains any provisions
22 providing for an increase in the rate of interest
23 prescribed therein shall, if such increase could be
24 to a rate which would have been unlawful at the time
25 the agreement was made, also provide for a reduction
26 in the rate of interest prescribed therein, to be
27 determined in the same manner and with the same
28 frequency as any increase so provided for.

29 4. Notwithstanding the provisions of subsection
30 three (3) of this section, with respect to any agree-
31 ment which was executed prior to the effective date
32 of this section and which contained a provision for
33 the adjustment of the rate of interest specified in
34 that agreement, the maximum lawful rate of interest
35 which may be imposed under that agreement shall be
36 nine cents on the hundred by the year, and any ex-
37 cess charge shall be a violation of section five
38 hundred thirty-five point four (535.4) of the Code.

39 5. This section shall not apply to any loan which
40 is subject to the provisions of section six hundred
41 eighty-two point forty-six (682.46) of the Code."

S-5970 FILED & LOST (7/17/78)
JULY 13, 1978

BY NORMAN RODGERS
BERL E. PRIEBE
C. W. HUTCHINS

HOUSE FILE 2467

S-5969

1 Amend the Drake et al. amendment S-5956 to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. Page 1, by striking lines 40 through 43 and
A 5 inserting in lieu thereof the following: "as amended,
6 may agree in writing to pay any rate of".

7 2. Page 4, line 14, by inserting after the word
8 "borrower" the words "or money loaned to a borrower
9 for the purpose of purchasing agricultural land where
10 the borrower furnishes a mortgage on the real property
D' 11 to be purchased as security for the loan".

12 3. Page 5, line 4, by inserting after the word
B 13 "dwelling" the words "or agricultural land".

14 4. Page 5, line 13, by inserting after the word
15 "dwelling" the words "or agricultural land".

16 5. Page 5, line 23, by inserting after the word
17 "dwelling" the words "or agricultural land".

18 6. Page 5, line 35, by inserting after the word
19 "dwellings" the words "and agricultural land".

20 7. Page 5, line 43, by inserting after the word
21 "dwelling" the words "and agricultural land".

S-5969 FILED
JULY 13, 1978

BY BERL PRIEBE

DIV A - LOST
DIV B - ADOPTED } p. 1714

HOUSE FILE 2467

S-5971

1 Amend the Drake et al. amendment, S-5956, to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. Page 2, line 4, by striking the word "one" and
5 inserting in lieu thereof the word "one-half".

S-5971 FILED & LOST
JULY 13, 1978

BY GENE W. GLENN
JAMES V. GALLAGHER
NORMAN G. RODGERS
CLOYD E. ROBINSON
BASS VAN GILST
CHARLES P. MILLER
BERL E. PRIEBE
LOUIS P. CULVER
JOAN ORR
DALE L. TIEDEN

HOUSE FILE 2467

S-5966

1 Amend the Drake, et al amendment, S-5956, to
2 House File 2467 as amended, passed and reprinted.
3 by the House as follows:
4 1. Page 3, by inserting after line 49 the
5 following:
6 "____. A lender shall not, as a condition of
7 making a loan as defined in this section, require
8 the borrower to place money, or to place property
9 other than that which is given as security for the
10 loan, on deposit with or in the possession or
11 control of the lender or some other person if the
12 effect is to increase the yield to the lender with
13 respect to that loan. If any lender receives
14 interest in a manner prohibited by this subsection,
15 the borrower shall have the right to recover all
16 amounts collected or earned by the lender, whether
17 or not from the borrower, in violation of this
18 subsection, plus attorney fees, plus court costs
19 incurred in any action necessary to effect such
20 recovery."

S-5966 FILED & ADOPTED (p. 1712) BY EDGAR H. HOLDEN
JULY 13, 1978

HOUSE FILE 2467

S-5968

1 Amend the Drake et al. amendment, S-5956, to House
2 File 2467, as amended, passed and reprinted by the
3 House as follows:
4 1. Page 4, by inserting after line 47 the following
5 new section:
6 "NEW SECTION. If a borrower under a loan elects to
7 assign his or her interest in real property which has
8 been given as security for a loan and the loan is assign-
9 able by its terms, the lender shall not charge the bor-
10 rower or the transferee or assignee, or both, any amount
11 for an assumption fee, assignment fee, or similar fee
12 or charge which exceeds the amount allowable as an
13 assumption fee for F.H.A. insured or V.A. guaranteed
14 loans."

S-5968 FILED, WITHDRAWN (p. 1712) BY E. KEVIN KELLY
JULY 13, 1978

S-5964

- 1 Amend the Drake et al. amendment, S-5956, to House
 2 File 2467 as amended, passed and reprinted by the
 3 House as follows:
 4 1. Page 3, line 32 by striking the words "which
 5 does not exceed" and inserting in lieu thereof the words
 6 "in any loan as defined in this section is prohibited."
 7 2. Page 3, by striking lines 33 through 40 and
 8 inserting in lieu thereof the words "Any costs charged
 9 to a".
 10 3. Page 3, lines 45 and 46 by striking the words
 11 "which exceeds the amount permitted by this section,".

S-5964 FILED & ADOPTED (p. 1711)
 JULY 13, 1978

BY CLOYD ROBINSON

Reconsidered & adopted (p. 1716)

HOUSE FILE 2467

S-5965

- 1 Amend S-5956 to House File 2467 as amended, passed
 2 and reprinted by the House as follows:
 3 1. Page 1, lines 42 and 43, by striking the words
 4 "business or agricultural purposes or both," and
 5 inserting in lieu thereof the words "a business purpose
 6 or for the purpose of purchasing agricultural land
 7 where that person furnishes a mortgage on the real
 8 property to be purchased as security for the loan
 9 or for both such purposes,".
 10 2. Page 4, line 14, by inserting after the word
 11 "borrower" the words "or money loaned to a borrower
 12 for the purpose of purchasing agricultural land where
 13 the borrower furnishes a mortgage on the real property
 14 to be purchased as security for the loan".
 15 3. Page 5, line 4, by inserting after the word
 16 "dwelling" the words "or agricultural land".
 17 4. Page 5, line 13, by inserting after the word
 18 "dwelling" the words "or agricultural land".
 19 5. Page 5, line 23, by inserting after the word
 20 "dwelling" the words "or agricultural land".
 21 6. Page 5, line 35, by inserting after the word
 22 "dwellings" the words "and agricultural land".
 23 7. Page 5, line 43, by inserting after the word
 24 "dwelling" the words "and agricultural land".

S-5965 FILED, WITHDRAWN (p. 1712)
 JULY 13, 1978

BY BERL E. PRIEBE
 C. W. HUTCHINS
 ROGER J. SHAFF
 BASS VAN GILST
 DALE L. TIEDEN

HOUSE FILE 2467

S-5967

1 Amend the Drake et al. amendment, S-5956 to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. By striking lines 11 through 50 on page 1 and
5 lines 1 and 2 on page 2 and inserting in lieu thereof
6 the following:

7 "Section 1. Chapter five hundred thirty-five (535),
8 Code 1977, is amended by adding the following new sec-
9 tion:

10 NEW SECTION.

11 1. a. Notwithstanding the maximum rate of interest
12 specified in section five hundred thirty-five point
13 two (535.2) of the Code, the maximum lawful rate of in-
14 terest which may be provided for in any written agree-
15 ment for the payment of interest where the borrower
16 furnishes, as security for all or part of the loan,
17 a mortgage on real property which is a single-family
18 or a two-family dwelling occupied or to be occupied
19 by the borrower entered into during any calendar"

20 2. Page 3, by striking lines 32 through 40 and
21 inserting in lieu thereof the following: "commitment
22 fee or similar charge is prohibited. Any other costs
23 charged to a".

24 3. The secretary of the Senate is authorized to
25 edit the remainder of section one (1) of S-5956 not
26 amended by this amendment to conform to proper draft-
27 ing style by deleting the underscores contained
28 therein.

S-5967 FILED, WITHDRAWN (p. 17/2)
JULY 13, 1978

BY NORMAN RODGERS

HOUSE FILE 2467

S-5961

- 1 Amend the Drake et al. amendment, S-5956, to House
2 File 2467, as amended, passed and reprinted by the
3 House as follows:
-
- 4 1. Page 5, line 1, by striking the word
5 "customer" and inserting in lieu thereof the word
6 "borrower".
-
- 7 2. Page 5, line 40, by striking the word "customer"
8 and inserting in lieu thereof the word "borrower".
-

S-5961 FILED
JULY 13, 1978

BY EDGAR H. HOLDEN

DIV. A
DIV. B
DIVISION A WITHDRAWN; DIV. B ADOPTED (p. 171)

HOUSE FILE 2467

S-5962

- 1 Amend the Drake et al. amendment S-5956 to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:
- 4 1. Page 4, by inserting after line 47 the
5 following:
6 "NEW SECTION. If a borrower elects to assign a
7 loan secured by a mortgage or deed of trust upon
8 either real property which is a single-family or two-
9 family dwelling or real property which is agricultural
10 land and the mortgage or deed of trust was given as
11 security for money loaned for the purchase of that
12 real property, the lender shall not charge more than
13 the assumption fee allowable for F.H.A. insured or
14 V.A. guaranteed loans."

S-5962 FILED, WITHDRAWN
JULY 13, 1978

BY E. KEVIN KELLY

HOUSE FILE 2467

S-5963

- 1 Amend the Drake et al. amendment, S-5956, to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:
4 1. Page 6, by striking line 37 through page 7,
5 line 2.

S-5963 FILED & LOST (p. 171)
July 13, 1978

BY GENE W. GLENN
CLOYD ROBINSON

S-5960

1 Amend the Drake et. al. amendment, S-5956, to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. Page 1, by inserting after line 10 the fol-
5 lowing:

6 "Section 1. NEW SECTION. DEFINITIONS. For pur-
7 poses of this Act, unless the context otherwise
8 requires:

9 1. "Red-lining" means the practice by which a
10 financial institution may designate certain areas
11 as unsuitable for the making of mortgage loans and
12 reject applications for mortgage loans or vary the
13 terms of a mortgage loan upon property within that
14 area because of the prevailing income, racial or
15 ethnic characteristics of the area, or because of
16 the age of the structures in the area.

17 2. "Mortgage loan" means a loan for the purchase,
18 construction, improvement or rehabilitation of
19 residential property containing or to contain four
20 or fewer family dwelling units in which the property
21 is used as security for the loan.

22 3. "Financial institution" means any bank, credit
23 union, insurance company, mortgage banking company
24 or savings and loan association, industrial loan
25 company, or like institution which operates or has
26 a place of business in this state.

27 4. "Reporting financial institution" means a
28 financial institution with an excess of ten million
29 dollars in assets which during a reporting period
30 accepts mortgage loan applications from persons in
31 any Iowa city with a population in excess of fifty
32 thousand as determined in the most recent regular
33 census or in any standard metropolitan statistical
34 area.

35 5. "Vary the terms of a mortgage loan" includes,
36 but is not limited to the following:

37 a. Requiring a greater than average down payment
38 than is usual for the particular type of mortgage
39 loan involved.

40 b. Requiring a shorter period of amortization
41 than is usual for the particular type of mortgage
42 loan involved.

43 c. Charging a higher interest rate or higher loan
44 origination fees than is usual for the particular
45 type of mortgage loan involved.

46 d. An unreasonable underappraisal of real estate
47 or item of property offered as security.

48 Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE
49 MORTGAGES. It is a discriminatory practice for any
50 financial institution accepting mortgage loan

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Page 2

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

3 Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL
4 INSTITUTION. Nothing contained in this Act shall
5 preclude a financial institution from applying
6 economically sound underwriting practices in con-
7 templation of any mortgage loan to any person. Such
8 practices shall include but are not limited to the
9 following:

10 1. The willingness and the financial ability of
11 the borrower to repay the mortgage loan.

12 2. The appraised value of any real estate or other
13 item of property proposed as security for any mortgage
14 loan.

15 3. Diversification of the financial institution's
16 investment portfolio.

17 Sec. 4. NEW SECTION. DISCLOSURE. Each reporting
18 financial institution accepting an application for
19 a mortgage loan shall:

20 1. Maintain a record of mortgage loan applications
21 by census tract.

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

24 a. State the total number of mortgage loan
25 applications filed by census tract.

26 b. Clearly show the total number of mortgage loans
27 which were approved and which were not approved by
28 census tract.

29 3. The report required by this section shall be
30 placed on file with the Iowa housing finance authority
31 and shall be available to the public.

32 4. In accordance with subsections one (1), two
33 (2) and three (3) of this section, the superintendent
34 of banking, the auditor of state, the administrator
35 of the credit union department, and the commissioner
36 of insurance shall establish rules for the enforcement
37 of the provisions of this section. Rules established
38 pursuant to this Act shall permit a financial
39 institution which is required to file a disclosure
40 report pursuant to the federal home mortgage disclosure
41 act of 1975, 12 U.S.C. 2801 to 2809, and the regulations
42 promulgated under that act, to file a copy of that
43 report with the Iowa housing finance authority. If
44 a financial institution is not required to file a
45 disclosure report pursuant to the federal home mortgage
46 disclosure act, the financial institution shall file
47 with the Iowa housing finance authority a report that
48 conforms in form and substance with the requirements
49 of the federal home mortgage disclosure act.

50 Reporting periods shall be established by rule

1 and shall be uniform for all financial institutions.

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

11 Sec. 5. NEW SECTION. AGENCY TO ADMINISTER.

12 Sections two (2), and four (4) of this Act shall be
13 administered and enforced by the following agencies:

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

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

27 3. The commissioner of insurance or the commiss-
28 ioner's designee shall be responsible for enforcing
29 the provisions of this Act pursuant to chapter five
30 hundred five (505) of the Code in regard to all
31 insurance companies.

32 4. The administrator of the credit union depart-
33 ment or a designee shall be responsible for enforcing
34 the provisions of this Act in regard to all credit
35 unions.

36 Sec. 6. NEW SECTION. AGGRIEVED PARTY. Any person
37 who has been aggrieved as a result of a violation
38 of this Act may bring an action in the district court
39 of the county in which the violation occurred or in
40 the county where the financial institution involved
41 is located.

42 Upon a finding that a financial institution has
43 committed a violation of either section two (2), or
44 four (4) of this Act, the court may award actual
45 damages, court costs and attorney fees.

46 Sec. 7. NEW SECTION. CRIMINAL PENALTY. Any
47 person who knowingly engages in a practice which
48 violates the provisions of section two (2) or four
49 (4) of this Act is guilty of a serious misdemeanor.

50 Sec. 8. NEW SECTION. CIVIL PENALTY. Any person

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1 who in bad faith fails to comply with the provisions
2 of this Act, is subject to punitive damages not to
3 exceed one thousand dollars in addition to actual
4 damages as set forth in section six (6) of this Act.

5 Sec. 9. The Code editor is directed to incor-
6 porate sections one (1) through eight (8) of this
7 Act as a separate chapter of the Code.

8 Sec. 10. The director of the Iowa housing finance authority
9 shall report to the Iowa general assembly in February
10 of 1980, an analysis of the nature and status of the
11 disclosure reports filed pursuant to section four
12 (4) of this Act.

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

18 2. Page 7, line 9, by inserting after the word
19 "except" the following: "sections one (1) through
20 ten (10), and except".

21 3. Page 7, line 16, by inserting after the word
22 "and" the following: "sections one (1) through ten
23 (10) and".

24 4. Page 7, line 22, by inserting after the period
25 the following sentence: "Sections one (1) through
26 ten (10) of this Act shall take effect January 1,
27 1979."

28 5. By renumbering sections and correcting internal
29 references to conform to this amendment.

S-5960 FILED & ADOPTED (7.17.78)
JULY 13, 1978

BY EARL WILLITS
PHIL HILL

S-5959

1 Amend the Drake, et al. amendment, S-~~595~~⁵⁹⁶ to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:

4 1. By striking everything after page 1, line 10
5 and inserting in lieu thereof the following:

6 "Section 1. Chapter five hundred thirty-five
7 (535), Code 1977, is amended by adding the following
8 temporary new section:

9 NEW SECTION. PREPAYMENT PENALTIES PROHIBITED.

10 1. As used in this section:

11 a. "Loan" means money loaned to a borrower who
12 has furnished, as security for all or any part of
13 the loan, a mortgage on real property which is a
14 single-family or a two-family dwelling occupied or
15 to be occupied by the borrower, or money loaned to
16 a borrower for the purpose of purchasing agricultural
17 land where the borrower furnishes a mortgage on the
18 real property to be purchased as security for the
19 loan. The term "loan" does not include any loan which
20 is a consumer loan as defined in chapter five hundred
21 thirty-seven (537) of the Code.

22 b. "Lender" means any state or federally chartered
23 bank, savings and loan association or credit union,
24 any industrial loan company, any insurance company,
25 or any other person or entity which makes a loan,
26 as defined in this section.

27 2. Whenever a borrower under a loan which is
28 executed on or after the effective date of this Act
29 and before July 1, 1979, repays the full amount of
30 the loan in connection with a transfer of ownership
31 of the real property given as security for that loan
32 the lender shall not receive an amount in payment
33 of interest which is greater than the amount determined
34 by applying the rate of interest agreed upon by the
35 lender and the borrower to the unpaid balance of the
36 loan for the period of time during which the borrower
37 had the use of the money loaned; and the lender shall
38 not impose any penalty or other charge in addition
39 to the amount of interest due as a result of the
40 repayment of that loan at a date earlier than is
41 required by the terms of the loan agreement. A lender
42 may, however, require advance notice of not more than
43 thirty days of a borrower's intent to repay the full
44 amount of a loan at a date earlier than is required
45 by the terms of the loan agreement.

46 3. If any lender receives an amount of interest
47 greater than permitted by subsection two (2) of this
48 section, or imposes any penalty or other charge
49 prohibited by subsection two (2) of this section,
50 the borrower shall have the right to recover all

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1 amounts paid the lender which are in excess of the
2 amounts permitted by subsection two (2) of this
3 section, plus attorney's fees and court costs in-
4 curred in any action necessary to effect such re-
5 covery.

6 4. This section is repealed effective July 1,
7 1979.

8 Sec. 2. Section five hundred twenty-four point
9 nine hundred five (524.905), Code 1977, is temporarily
10 amended commencing on the effective date of this Act
11 and until July 1, 1979, by adding the following new
12 subsection:

13 NEW SUBSECTION. If a borrower elects to repay
14 a loan secured by a mortgage or deed of trust upon
15 real property which is a single-family or two-family
16 dwelling or agricultural land at a date earlier than
17 is required by the terms of the loan, the state bank
18 shall be governed by section one (1) of this Act.

19 Sec. 3. Section five hundred thirty-three point
20 sixteen (533.16), Code 1977, is temporarily amended
21 commencing on the effective date of this Act and until
22 July 1, 1979, by adding the following new unnumbered
23 paragraph:

24 NEW UNNUMBERED PARAGRAPH. If a member elects to
25 repay a loan secured by a mortgage or deed of trust
26 upon real property which is a single-family or a two-
27 family dwelling or agricultural land at a date earlier
28 than is required by the terms of the loan, the credit
29 union shall be governed by section one (1) of this
30 Act.

31 Sec. 4. Section five hundred thirty-four point
32 twenty-one (534.21), subsection ten (10), Code 1977,
33 as amended by Acts of the Sixty-seventh General
34 Assembly, 1977 Session, chapter one hundred thirty-
35 three (133), section seven (7), is temporarily amended,
36 commencing on the effective date of this Act and until
37 July 1, 1979, to read as follows:

38 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate
39 loans on a single-family or a two-family dwelling
40 or agricultural land may be repaid in part or in full
41 at any time subject to the provisions of section one
42 (1) of this Act. Real estate loans on ~~one-to~~ three
43 and four family dwellings may be repaid in part or
44 in full at any time, excepting that the association
45 may charge not to exceed six months advance interest
46 on that part of the aggregate amount of all prepay-
47 ments made on such loan in any twelve-month period
48 which exceeds twenty percent of the original prin-
49 cipal amount of the loan; and may charge any negotiated
50 rate on other loans, except real estate loans on

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Page 3

1 single-family and two-family dwellings and agricultural
2 land which is governed by section one (1) of this
3 Act.

4 Sec. 5. Section five hundred thirty-six A point
5 twenty-three (536A.23), subsection one (1), Code 1977,
6 is temporarily amended, commencing on the effective
7 date of this Act and until July 1, 1979, by adding
8 the following new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. If a borrower elects
10 to repay a loan secured by a mortgage or deed of trust
11 upon real property which is a single-family or two-
12 family dwelling or agricultural land at a date earlier
13 than is required by the terms of the loan, the licensee
14 shall be governed by section three (3) of this Act.

15 Sec. 6. Chapter five hundred thirty-five (535),
16 Code 1977, is amended by adding the following temporary
17 new section:

18 NEW SECTION. If a borrower elects to assign a
19 loan which is executed on or after the effective date
20 of this Act and before July 1, 1979, and which is
21 secured by a mortgage or deed of trust upon either
22 real property which is a single-family or two-family
23 dwelling or real property which is agricultural land
24 and the mortgage or deed of trust was given as security
25 for money loaned for the purchase of that real
26 property, the lender shall not charge more than the
27 assumption fee allowable for F.H.A. insured or V.A.
28 guaranteed loans.

29 This section is repealed effective July 1, 1979.

30 Sec. 7. Chapter five hundred thirty-five (535),
31 Code 1977, is amended by adding the following temporary
32 new section:

33 NEW SECTION.

34 1. a. Notwithstanding the maximum rate of interest
35 specified in section five hundred thirty-five point
36 two (535.2) of the Code, the maximum lawful rate of
37 interest which may be provided for in any written
38 agreement for the payment of interest which otherwise
39 is subject to the provisions of section five hundred
40 thirty-five point two (535.2) of the Code shall be
41 ten cents on the hundred by the year if that agreement
42 is entered into on or after the effective date of
43 this Act and before July 1, 1979.

44 Any written agreement for the payment of interest
45 made pursuant to a prior written agreement by a lender
46 to lend money in the future, either to the other party
47 to such prior written agreement or a third party
48 beneficiary to such prior agreement, may provide for
49 payment of interest at the lawful rate of interest
50 at the time of the execution of the prior agreement,

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1 regardless of whether the subsequent agreement is
2 executed before, on or after July 1, 1979.

3 b. Any rate of interest specified in any written
4 agreement providing for the payment of interest shall,
5 if such rate was lawful during the entire term of
6 the agreement, include any extensions or renewals
7 thereof, for all money due or to become due thereunder
8 including future advances, if any.

9 2. Notwithstanding the provisions of subsection
10 one (1) of this section, with respect to any agreement
11 which was executed prior to the effective date of
12 this Act, and which contained a provision for the
13 adjustment of the rate of interest specified in that
14 agreement, the maximum lawful rate of interest which
15 may be imposed under that agreement shall be nine
16 cents on the hundred by the year, and any excess
17 charge shall be a violation of section five hundred
18 thirty-five point four (535.4) of the Code.

19 3. The limitations contained in subsections one
20 (1) and two (2) of this section shall not apply to
21 any loan which is subject to the provisions of section
22 six hundred eighty-two point forty-six (682.46) of
23 the Code.

24 4. Nothing contained in this section shall apply
25 to any transaction which is exempt from the maximum
26 rate specified in subsection one (1) of section five
27 hundred thirty-five point two (535.2) of the Code
28 by virtue of subsection two (2) of that section.

29 5. This section is repealed effective July 1,
30 1979.

31 Sec. 8. Chapter five hundred thirty-five (535),
32 Code 1977, is amended by adding the following temporary
33 new section:

34 NEW SECTION.

35 1. As used in this section, the term "loan" means
36 any money loaned to a borrower who furnishes, as
37 security for all or part of the loan, a mortgage on
38 real property which is a single-family or a two-family
39 dwelling occupied or to be occupied by the borrower.

40 2. The assessment and collection in connection
41 with a loan of a loan origination fee, closing fee,
42 commitment fee or similar charge in the case of a
43 construction loan, combined construction and permanent
44 loan, or any other loan as defined in this section,
45 is prohibited; provided that if the lender intends
46 at the time the loan is made to sell the loan to
47 another person, whether by discount or otherwise,
48 and if the lender actually sells the loan to another
49 person after the loan is made, then the lender may
50 assess, collect and retain a single charge which shall

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1 not exceed one percent of the amount loaned. If the
2 lender receives or retains any amount of the loan
3 origination fee, closing fee, commitment fee or similar
4 charge, or any combination thereof, which exceeds
5 the amount permitted by this section, the borrower
6 shall have the right to recover that charge, plus
7 attorney fees and court costs incurred in any action
8 necessary to effect such recovery.

9 Any additional costs charged to a borrower by a
10 lender in connection with a loan shall not exceed
11 the actual costs thereof.

12 The provisions of this subsection shall not apply
13 to any loan which is subject to the provisions of
14 section six hundred eighty-two point forty-six (682.46)
15 of the Code, nor shall it apply to origination fees,
16 administrative fees, commitment fees or similar charges
17 paid by one lender to another lender if these fees
18 are not ultimately paid by the borrower who occupies
19 or will occupy the dwelling.

20 3. A lender shall not, as a condition of making
21 a loan as defined in this section, require the borrower
22 to place money, or to place property other than that
23 which is given as security for the loan, on deposit
24 with or in the possession or control of the lender
25 or some other person if the effect is to increase
26 the yield to the lender with respect to that loan.

27 4. If any lender receives interest either in a
28 manner or in an amount which is prohibited by
29 subsection two (2) or subsection three (3) of this
30 section the borrower shall have the right to recover
31 all amounts collected or earned by the lender, whether
32 or not from the borrower, in violation of this section,
33 plus attorney's fees, plus court costs incurred in
34 any action necessary to effect such recovery.

35 5. This section is repealed effective July 1,
36 1979.

37 Sec. 9. It is the intent of the general assembly
38 in enacting this Act that the law contained in this
39 Act shall be of temporary effect only, and that each
40 provision of the law of this state as it existed prior
41 to amendment by this Act shall be the law of this
42 state on and after July 1, 1979. It is the further
43 intent of the general assembly that the repeal or
44 expiration of any temporary provision contained in
45 this Act shall not abridge the rights of any person
46 which rights were acquired under the authority of
47 this Act.

48 Sec. 10. If any provision of this Act or the
49 application thereof to any person or circumstance
50 is held invalid, the invalidity does not affect other

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1 provisions or applications of the Act which can be
2 given effect without the invalid provision or
3 application, and to this end the provisions of this
4 Act are severable.

5 Sec. 11. This Act, being deemed of immediate
6 importance, shall take effect and be in force from
7 and after its publication in The Forest City Summit,
8 a newspaper published in Forest City, Iowa, and in
9 The Sioux City Journal, a newspaper published in Sioux
10 City, Iowa."

S-5959 FILED & LOST (p. 1709)
JULY 13, 1978

BY BERL E. PRIEBE
E. KEVIN KELLY

HOUSE FILE 2467

S-5958

1 Amend House File 2467 as amended and passed by
2 the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Chapter five hundred thirty-five
6 (535), Code 1977, is amended by adding the following
7 temporary new section:

8 NEW SECTION. PREPAYMENT PENALTIES PROHIBITED.

9 1. As used in this section:

10 a. "Loan" means money loaned to a borrower who
11 has furnished, as security for all or any part of
12 the loan, a mortgage on real property which is a
13 single-family or a two-family dwelling occupied or
14 to be occupied by the borrower, or money loaned to
15 a borrower for the purpose of purchasing agricultural
16 land where the borrower furnishes a mortgage on the
17 real property to be purchased as security for the
18 loan. The term "loan" does not include any loan which
19 is a consumer loan as defined in chapter five hundred
20 thirty-seven (537) of the Code.

21 b. "Lender" means any state or federally chartered
22 bank, savings and loan association or credit union,
23 any industrial loan company, any insurance company,
24 or any other person or entity which makes a loan,
25 as defined in this section.

26 2. Whenever a borrower under a loan which is
27 executed on or after the effective date of this Act
28 and before July 1, 1979, repays the full amount of
29 the loan in connection with a transfer of ownership
30 of the real property given as security for that loan
31 the lender shall not receive an amount in payment
32 of interest which is greater than the amount determined
33 by applying the rate of interest agreed upon by the
34 lender and the borrower to the unpaid balance of the
35 loan for the period of time during which the borrower
36 had the use of the money loaned; and the lender shall
37 not impose any penalty or other charge in addition
38 to the amount of interest due as a result of the
39 repayment of that loan at a date earlier than is
40 required by the terms of the loan agreement. A lender
41 may, however, require advance notice of not more than
42 thirty days of a borrower's intent to repay the full
43 amount of a loan at a date earlier than is required
44 by the terms of the loan agreement.

45 3. If any lender receives an amount of interest
46 greater than permitted by subsection two (2) of this
47 section, or imposes any penalty or other charge
48 prohibited by subsection two (2) of this section,
49 the borrower shall have the right to recover all
50 amounts paid the lender which are in excess of the

1 amounts permitted by subsection two (2) of this
2 section, plus attorney's fees and court costs in-
3 curred in any action necessary to effect such re-
4 covery.

5 4. This section is repealed effective July 1,
6 1979.

7 Sec. 2. Section five hundred twenty-four point
8 nine hundred five (524.905), Code 1977, is temporarily
9 amended commencing on the effective date of this Act
10 and until July 1, 1979, by adding the following new
11 subsection:

12 NEW SUBSECTION. If a borrower elects to repay
13 a loan secured by a mortgage or deed of trust upon
14 real property which is a single-family or two-family
15 dwelling or agricultural land at a date earlier than
16 is required by the terms of the loan, the state bank
17 shall be governed by section one (1) of this Act.

18 Sec. 3. Section five hundred thirty-three point
19 sixteen (533.16), Code 1977, is temporarily amended
20 commencing on the effective date of this Act and until
21 July 1, 1979, by adding the following new unnumbered
22 paragraph:

23 NEW UNNUMBERED PARAGRAPH. If a member elects to
24 repay a loan secured by a mortgage or deed of trust
25 upon real property which is a single-family or a two-
26 family dwelling or agricultural land at a date earlier
27 than is required by the terms of the loan, the credit
28 union shall be governed by section one (1) of this
29 Act.

30 Sec. 4. Section five hundred thirty-four point
31 twenty-one (534.21), subsection ten (10), Code 1977,
32 as amended by Acts of the Sixty-seventh General
33 Assembly, 1977 Session, chapter one hundred thirty-
34 three (133), section seven (7), is temporarily amended,
35 commencing on the effective date of this Act and until
36 July 1, 1979, to read as follows:

37 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate
38 loans on a single-family or a two-family dwelling
39 or agricultural land may be repaid in part or in full
40 at any time subject to the provisions of section one
41 (1) of this Act. Real estate loans on ~~one-to~~ three
42 and four family dwellings may be repaid in part or
43 in full at any time, excepting that the association
44 may charge not to exceed six months advance interest
45 on that part of the aggregate amount of all prepay-
46 ments made on such loan in any twelve-month period
47 which exceeds twenty percent of the original prin-
48 cipal amount of the loan; and may charge any negotiated
49 rate on other loans, except real estate loans on
50 single-family and two-family dwellings and agricultural

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1 land which is governed by section one (1) of this
2 Act.

3 Sec. 5. Section five hundred thirty-six A point
4 twenty-three (536A.23), subsection one (1), Code 1977,
5 is temporarily amended, commencing on the effective
6 date of this Act and until July 1, 1979, by adding
7 the following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. If a borrower elects
9 to repay a loan secured by a mortgage or deed of trust
10 upon real property which is a single-family or two-
11 family dwelling or agricultural land at a date earlier
12 than is required by the terms of the loan, the licensee
13 shall be governed by section three (3) of this Act.

14 Sec. 6. Chapter five hundred thirty-five (535),
15 Code 1977, is amended by adding the following temporary
16 new section:

17 NEW SECTION. If a borrower elects to assign a
18 loan which is executed on or after the effective date
19 of this Act and before July 1, 1979, and which is
20 secured by a mortgage or deed of trust upon either
21 real property which is a single-family or two-family
22 dwelling or real property which is agricultural land
23 and the mortgage or deed of trust was given as security
24 for money loaned for the purchase of that real
25 property, the lender shall not charge more than the
26 assumption fee allowable for F.H.A. insured or V.A.
27 guaranteed loans.

28 This section is repealed effective July 1, 1979.

29 Sec. 7. Chapter five hundred thirty-five (535),
30 Code 1977, is amended by adding the following temporary
31 new section:

32 NEW SECTION.

33 1. a. Notwithstanding the maximum rate of interest
34 specified in section five hundred thirty-five point
35 two (535.2) of the Code, the maximum lawful rate of
36 interest which may be provided for in any written
37 agreement for the payment of interest which otherwise
38 is subject to the provisions of section five hundred
39 thirty-five point two (535.2) of the Code shall be
40 ten cents on the hundred by the year if that agreement
41 is entered into on or after the effective date of
42 this Act and before July 1, 1979.

43 Any written agreement for the payment of interest
44 made pursuant to a prior written agreement by a lender
45 to lend money in the future, either to the other party
46 to such prior written agreement or a third party
47 beneficiary to such prior agreement, may provide for
48 payment of interest at the lawful rate of interest
49 at the time of the execution of the prior agreement,
50 regardless of whether the subsequent agreement is

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1 executed before, on or after July 1, 1979.

2 b. Any rate of interest specified in any written
3 agreement providing for the payment of interest shall,
4 if such rate was lawful during the entire term of
5 the agreement, include any extensions or renewals
6 thereof, for all money due or to become due thereunder
7 including future advances, if any.

8 2. Notwithstanding the provisions of subsection
9 one (1) of this section, with respect to any agreement
10 which was executed prior to the effective date of
11 this Act, and which contained a provision for the
12 adjustment of the rate of interest specified in that
13 agreement, the maximum lawful rate of interest which
14 may be imposed under that agreement shall be nine
15 cents on the hundred by the year, and any excess
16 charge shall be a violation of section five hundred
17 thirty-five point four (535.4) of the Code.

18 3. The limitations contained in subsections one
19 (1) and two (2) of this section shall not apply to
20 any loan which is subject to the provisions of section
21 six hundred eighty-two point forty-six (682.46) of
22 the Code.

23 4. Nothing contained in this section shall apply
24 to any transaction which is exempt from the maximum
25 rate specified in subsection one (1) of section five
26 hundred thirty-five point two (535.2) of the Code
27 by virtue of subsection two (2) of that section.

28 5. This section is repealed effective July 1,
29 1979.

30 Sec. 8. Chapter five hundred thirty-five (535),
31 Code 1977, is amended by adding the following temporary
32 new section:

33 NEW SECTION.

34 1. As used in this section, the term "loan" means
35 any money loaned to a borrower who furnishes, as
36 security for all or part of the loan, a mortgage on
37 real property which is a single-family or a two-family
38 dwelling occupied or to be occupied by the borrower.

39 2. The assessment and collection in connection
40 with a loan of a loan origination fee, closing fee,
41 commitment fee or similar charge in the case of a
42 construction loan, combined construction and permanent
43 loan, or any other loan as defined in this section,
44 is prohibited; provided that if the lender intends
45 at the time the loan is made to sell the loan to
46 another person, whether by discount or otherwise,
47 and if the lender actually sells the loan to another
48 person after the loan is made, then the lender may
49 assess, collect and retain a single charge which shall
50 not exceed one percent of the amount loaned. If the

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1 lender receives or retains any amount of the loan
2 origination fee, closing fee, commitment fee or similar
3 charge, or any combination thereof, which exceeds
4 the amount permitted by this section, the borrower
5 shall have the right to recover that charge, plus
6 attorney fees and court costs incurred in any action
7 necessary to effect such recovery.

8 Any additional costs charged to a borrower by a
9 lender in connection with a loan shall not exceed
10 the actual costs thereof.

11 The provisions of this subsection shall not apply
12 to any loan which is subject to the provisions of
13 section six hundred eighty-two point forty-six (682.46)
14 of the Code, nor shall it apply to origination fees,
15 administrative fees, commitment fees or similar charges
16 paid by one lender to another lender if these fees
17 are not ultimately paid by the borrower who occupies
18 or will occupy the dwelling.

19 3. A lender shall not, as a condition of making
20 a loan as defined in this section, require the borrower
21 to place money, or to place property other than that
22 which is given as security for the loan, on deposit
23 with or in the possession or control of the lender
24 or some other person if the effect is to increase
25 the yield to the lender with respect to that loan.

26 4. If any lender receives interest either in a
27 manner or in an amount which is prohibited by
28 subsection two (2) or subsection three (3) of this
29 section the borrower shall have the right to recover
30 all amounts collected or earned by the lender, whether
31 or not from the borrower, in violation of this section,
32 plus attorney's fees, plus court costs incurred in
33 any action necessary to effect such recovery.

34 5. This section is repealed effective July 1,
35 1979.

36 Sec. 9. It is the intent of the general assembly
37 in enacting this Act that the law contained in this
38 Act shall be of temporary effect only, and that each
39 provision of the law of this state as it existed prior
40 to amendment by this Act shall be the law of this
41 state on and after July 1, 1979. It is the further intent
42 of the general assembly that the repeal or expiration
43 of any temporary provision contained in this Act shall
44 not abridge the rights of any person which rights
45 were acquired under the authority of this Act.

46 Sec. 10. If any provision of this Act or the
47 application thereof to any person or circumstance
48 is held invalid, the invalidity does not affect other
49 provisions or applications of the Act which can be
50 given effect without the invalid provision or

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1 application, and to this end the provisions of this
2 Act are severable.
3 Sec. 11. This Act, being deemed of immediate
4 importance, shall take effect and be in force from
5 and after its publication in The Forest City Summit,
6 a newspaper published in Forest City, Iowa, and in
7 The Sioux City Journal, a newspaper published in Sioux
8 City, Iowa."

S-5958 FILED
JULY 13, 1978
RULED OUT OF ORDER (p. 1716)

BY BERL E. PRIEBE
E. KEVIN KELLY

HOUSE FILE 2467

S-5957

1 Amend the Drake et al. amendment, S-5956, to House
2 File 2467 as amended, passed and reprinted by the
3 House as follows:
4 1. Page 1, line 3, by striking the word "By" and
5 inserting in lieu thereof the words "Title page, by".
6 2. Page 6, line 5, by striking the word "of" and
7 inserting in lieu thereof the word "on".

S-5957 FILED & ADOPTED (p. 1709)
JULY 13, 1978

BY RICHARD F. DRAKE

SENATE CLIP SHEET

JULY 14, 1978

HOUSE FILE 2467

S-5956

1 Amend House File 2467 as amended, passed and re-
2 printed by the House as follows:
3 1. By striking lines 1 and 2 and inserting in
4 lieu thereof the following: "An Act relating to
5 charges which lawfully may be imposed in connection
6 with transactions which are subject to the provisions
7 of section five hundred thirty-five point two (535.2)
8 of the Code."
9 2. By striking everything after the enacting
10 clause and inserting in lieu thereof the following:
11 "Section 1. Section five hundred thirty-five point
12 two (535.2), Code 1977, is amended to read as follows:
13 535.2 RATE OF INTEREST.
14 1. Except as provided in subsection 2 hereof,
15 the rate of interest shall be five cents on the hundred
16 by the year in the following cases, unless the parties
17 shall agree in writing for the payment of interest
18 at a rate not exceeding nine-cents-on-the-hundred
19 by-the-year the rate permitted by subsection three
20 (3) of this section:
21 a. Money due by express contract.
22 b. Money after the same becomes due.
23 c. Money loaned.
24 d. Money received to the use of another and re-
25 tained beyond a reasonable time, without the owner's
26 consent, express or implied.
27 e. Money due on the settlement of accounts from
28 the day the balance is ascertained.
29 f. Money due upon open accounts after six months
30 from the date of the last item.
31 g. Money due, or to become due, where there is
32 a contract to pay interest, and no rate is stipulated.
33 2. Any domestic or foreign corporation ~~or~~, and
34 any real estate investment trust as defined in section
35 856 of the Internal Revenue Code, and any person
36 purchasing securities as defined in chapter 502 on
37 credit from a broker or dealer registered or licensed
38 under chapter 502 or under the Security Exchange Act
39 of 1934, 48 Stat. 881, 15 United States Code 78A,
40 as amended, and any person borrowing money in the
41 principal amount of two hundred thousand dollars or
42 more for either business or agricultural purposes
43 or both, may agree in writing to pay any rate of
44 interest in excess of the rate ~~prescribed-in~~ permitted
45 by subsection ~~1-hereof~~ three (3) of this section,
46 and no such corporation or real estate investment
47 trust or person so agreeing in writing shall plead
48 or interpose the claim or defense of usury in any
49 action or proceeding.
50 3. a. The maximum lawful rate of interest which

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1 may be provided for in any written agreement for the
2 payment of interest entered into during any calendar
3 quarter com-mencing on or after July 1, 1978, shall
4 be one percentage point above the numerical average
5 of the monthly national average contract interest
6 rates charged by all major types of lenders on (1)
7 conventional home mortgages issued on newly-built
8 homes and (2) con-ventional home mortgages on
9 previously occupied homes as published by the federal
10 home loan bank board for the calendar month second
11 preceding the first month of the calendar quarter
12 during which the maximum rate based thereon will be
13 effective, rounded to the nearest one-fourth of one
14 percent per year.

15 On or before the twentieth day of March, June,
16 September and December of each year the suprintendent
17 of banking shall determine the maximum lawful rate
18 of interest for the following calendar quarter as
19 pre-scribed herein, and shall cause such rate to be
20 published, as a notice in the Iowa administrative
21 bulletin or as a legal notice in a newspaper of gen-
22 eral circulation published in Polk county, prior to
23 the first day of the following calendar month. Such
24 maximum lawful rate of interest shall be effective
25 on the first day of the calendar month following
26 publi-cation. As soon as practicable after the
27 effective date of this Act, the superintendent of
28 banking shall determine and publish the maximum lawful
29 rate pursuant to this paragraph for the third quarter
30 of 1978, which maximum rate shall be effective upon
31 publication thereof.

32 b. Any rate of interest specified in any written
33 agreement providing for the payment of interest shall,
34 if such rate was lawful at the time of agreement was
35 made, remain lawful during the entire term of the
36 agreement, including any extensions or renewals
37 thereof, for all money due or to become due there-
38 under including future advances, if any.

39 c. Any written agreement for the payment of in-
40 terest made pursuant to a prior written agreement
41 by a lender to lend money in the future, either to
42 the other party to such prior written agreement or
43 a third party beneficiary of such prior agreement,
44 may provide for payment of interest at the lawful
45 rate of interest at the time of the execution of the
46 prior agreement regardless of the time at which the
47 subsequent agree-ment is executed.

48 d. Any contract, note or other written agreement
49 providing for the payment of a rate of interest per-
50 mitted by this subsection which contains any provisions

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1 providing for an increase in the rate of interest
2 pre-scribed therein shall, if such increase could
3 be to a rate which would have been unlawful at the
4 time the agreement was made, also provide for a
5 reduction in the rate of interest prescribed therein,
6 to be deter-mined in the same manner and with the
7 same frequency as any increase so provided for.

8 4. Notwithstanding the provisions of subsection
9 three (3) of this section, with respect to any agree-
10 ment which was executed prior to the effective date
11 of this section and which contained a provision for
12 the adjustment of the rate of interest specified in
13 that agreement, the maximum lawful rate of interest
14 which may be imposed under that agreement shall be
15 nine cents on the hundred by the year, and any ex-
16 cess charge shall be a violation of section five
17 hundred thirty-five point four (535.4) of the Code.

18 5. This section shall not apply to any loan which
19 is subject to the provisions of section six hundred
20 eighty-two point forty-six (682.46) of the Code.

21 Sec. 2. Chapter five hundred thirty-five (535),
22 Code 1977, is amended by adding the following new
23 section:

24 NEW SECTION.

25 1. As used in this section, the term "loan" means
26 any money loaned to a borrower who furnishes, as
27 security for all or part of the loan, a mortgage on
28 real property which is a single-family or a two-family
29 dwelling to be occupied by the borrower.

30 2. The assessment and collection in connection
31 with a loan of a loan origination fee, closing fee,
32 commitment fee or similar charge which does not exceed
33 one percent of the amount loaned in the case of a
34 construction loan or a combined construction and per-
35 manent loan, or one percent of the amount loaned in
36 the case of all other loans subject to this section,
37 shall not be part of the interest rate for the pur-
38 pose of determining the maximum charge pursuant to
39 section five hundred thirty-five point two (535.2)
40 of the Code. Any additional costs charged to a
41 borrower by a lender in connection with a loan shall
42 not ex-ceed the actual costs thereof. If any lender
43 re-ceives any amount as a loan origination fee, closing
44 fee, commitment fee or similar charge, or any com-
45 bination thereof, which exceeds the amount permitted
46 by this section, the borrower shall have the right
47 to recover the excess charge, plus attorney fees and
48 court costs incurred in any action necessary to effect
49 such recovery.

50 3. The provisions of this section shall not apply

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1 to any loan which is subject to provisions of sec-
2 tion six hundred eighty-two point forty-six (682.46)
3 of the Code.

4 Sec. 3. Chapter five hundred thirty-five (535),
5 Code 1977, is amended by adding the following new
6 section.

7 NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED
8 BY REAL ESTATE MORTGAGES PROHIBITED.

9 1. As used in this section:

10 a. "Loan" means money loaned to a borrower who
11 furnishes, as security for all or any part of the
12 loan, a mortgage on real property which is a single-
13 family or a two-family dwelling to be occupied by
14 the borrower.

15 b. "Lender" means any state or federally chartered
16 bank, savings and loan association or credit union,
17 any industrial loan company, any insurance company,
18 or any other person or entity which makes a loan,
19 as defined in this section.

20 2. Whenever a borrower under a loan repays the
21 full amount of the loan in connection with a transfer
22 of ownership of the real property given as security
23 for that loan, the lender shall not receive an amount
24 in payment of interest which is greater than the
25 amount determined by applying the rate of interest
26 agreed upon by the lender and the borrower to the
27 unpaid balance of the loan for a period of time during
28 which the borrower had the use of the money loaned;
29 and the lender shall not impose any penalty or other
30 charge in addition to the amount of in-terest due
31 as a result of the repayment of that loan at a date
32 earlier than is required by the terms of the loan
33 agreement. A lender may, however, re-quire advance
34 notice of not more than thirty days of a borrower's
35 intent to repay the full amount of a loan at a date
36 earlier than is required by the terms of the loan
37 agreement.

38 3. If any lender receives an amount of interest
39 greater than permitted by subsection two (2) of this
40 section, or imposes any penalty or other charge
41 prohibited by subsection two (2) of this section,
42 the borrower shall have the right to recover all
43 amounts paid the lender which are in excess of the
44 amounts permitted by subsection two (2) of this
45 section, plus attorney's fees and court costs in-
46 curred in any action necessary to effect such re-
47 covery.

48 Sec. 4. Section five hundred twenty-four point
49 nine hundred five (524.905), Code 1977, is amended
50 by adding the following new subsection:

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1 NEW SUBSECTION. If a customer elects to repay
2 a loan secured by a mortgage or deed of trust upon
3 real property which is a single-family or two-family
4 dwelling at a date earlier than is required by the
5 terms of the loan, the state bank shall be governed
6 by section three (3) of this Act.

7 Sec. 5. Section five hundred thirty-three point
8 sixteen (533.16), Code 1977, is amended by adding
9 the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. If a member elects to
11 repay a loan secured by a mortgage or deed of trust
12 upon real property which is a single-family or a two-
13 family dwelling at a date earlier than is required
14 by the terms of the loan, the credit union shall be
15 governed by section three (3) of this Act.

16 Sec. 6. Section five hundred thirty-four point
17 twenty-one (534.21), subsection ten (10), Code 1977,
18 as amended by Acts of the Sixty-seventh General
19 Assembly, 1977 Session, chapter one hundred thirty-
20 three (133), section seven (7), is amended to read
21 as follows:

22 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate
23 loans on a single-family or a two-family dwelling
24 may be repaid in part or in full at any time subject
25 to the provisions of section three (3) of this Act.
26 Real estate loans on one-~~to~~ three and four family
27 dwellings may be repaid in part or in full at any
28 time, excepting that the association may charge not
29 to exceed six months advance interest on that part
30 of the aggregate amount of all prepayments made on
31 such loan in any twelve-month period which exceeds
32 twenty percent of the original principal amount of
33 the loan; and may charge any negotiated rate on other
34 loans, except real estate loans on single-family and
35 two-family dwellings.

36 Sec. 7. Section five hundred thirty-six A point
37 twenty-three (536A.23), subsection one (1), Code 1977,
38 is amended by adding the following new unnumbered
39 paragraph:

40 NEW UNNUMBERED PARAGRAPH. If a customer elects
41 to repay a loan secured by a mortgage or deed of trust
42 upon real property which is a single-family or two-
43 family dwelling at a date earlier than is required
44 by the terms of the loan, the licensee shall be
45 governed by section three (3) of this Act.

46 Sec. 8. Section five hundred thirty-seven point
47 one thousand three hundred one (537.1301), subsec-
48 tion fifteen (15), paragraph b, subparagraph two (2),
49 Code 1977, is amended to read as follows:

50 (2) A loan secured by an interest in land if the

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1 security interest is bona fide and not for the pur-
2 pose of circumvention or evasion of this chapter and
3 the finance charge ~~does not exceed twelve percent~~
4 ~~per year~~, calculated according to the actuarial method
5 of the assumption that the debt will be paid accord-
6 ing to the agreed terms and will not be paid before
7 the end of the agreed term, does not exceed the rate
8 of interest permitted under chapter five hundred
9 thirty-five (535) of the Code.

10 Sec. 9. Section five hundred thirty-seven point
11 one thousand three hundred one (537.1301), subsection
12 twenty (20), paragraph a, subparagraph one (1), Code
13 1977, is amended to read as follows:

14 (1) Interest or any amount payable under a point,
15 discount or other system of charges, however denomi-
16 nated, except that, ~~with respect to a consumer loan~~
17 ~~secured by a first lien on a dwelling of the debtor~~
18 ~~given to finance the acquisition of that dwelling,~~
19 ~~points, consisting of a charge paid in cash at the~~
20 ~~time of commitment or closing of a loan transaction~~
21 ~~or,~~ with respect to a consumer credit sale of goods
22 or services, a cash discount of five percent or less
23 of the stated price of goods or services which is
24 offered to the consumer for payment by cash, check
25 or the like either immediately or within a period
26 of time, shall not be part of the finance charge for
27 the purpose of determining maximum charges pursu-
28 ant to section 537.2401 and ~~chapters 524, 534, and~~
29 535. A cash discount permitted by this subparagraph
30 shall not be considered part of the finance charge
31 for the purpose of determining compliance with Truth
32 in Lending pursuant to section 537.3201 if it is
33 properly disclosed as required by the Truth in Lending
34 Act as amended to and including October 28, 1975 and
35 regulations issued pursuant to that Act as so amended
36 prior to October 28, 1975.

37 Sec. 10. With respect to any loan secured by a
38 first lien on a dwelling of a natural person given
39 to finance the acquisition of that dwelling and
40 executed on or after July 1, 1974, but before the
41 effective date of this Act, the assessment and
42 collection pursuant to that loan transaction of points,
43 consisting of a charge paid in cash at the time of
44 commitment or closing of the transaction, shall not
45 be considered as part of the contractual interest
46 rate for the purpose of determining whether or not
47 the interest rate agreed to exceeded the rate permitted
48 by section five hundred thirty-five point two (535.2)
49 of the Code as it existed during the period of time.
50 The provisions of this section are retroactive to

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1 July 1, 1974, to the extent necessary to effect its
2 purpose.

3 Sec. 11. If the maximum lawful rate of interest
4 as determined by the superintendent of banking pursu-
5 ant to section one (1) of this Act to be in effect
6 during the month of January, 1979, is less than nine
7 percent, then the amendatory provisions of this Act,
8 except paragraphs b and c of subsection three (3)
9 of section one (1) of this Act and except section
10 ten (10) of this Act, are repealed effective July
11 1, 1979, and each provision of the law of this state
12 as it existed prior to amendment by this Act shall
13 be the law of this state on and after July 1, 1979,
14 except those provisions of law which are amended by
15 paragraphs b and c of subsection three (3) of sec-
16 tion one (1), and section ten (10) of this Act.

17 Sec. 12. This Act, being deemed of immediate
18 importance, shall take effect and be in force from
19 and after its publication in the Muscatine Journal,
20 a newspaper published in Muscatine, Iowa, and in the
21 Iowa City Press-Citizen, a newspaper published in
22 Iowa City, Iowa."

S-5956 FILED & ADOPTED
July 13, 1978

indicated by
5960, 5961B, 5964,
5966, 5969B (p. 1716)

BY RICHARD F. DRAKE
MINNETTE DODERER
EDGAR HOLDEN
TOM SLATER
PHILIP B. HILL
MILO MERRITT
JACK NYSTROM
BOB RUSH
JAMES REDMOND

SENATE CLIP SHEET

JULY 7, 1978

HOUSE FILE 2467

S-5936

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 8, by striking line 16 and inserting in
- 4 lieu thereof the following: "shall be nine and three-
- 5 fourths cents on the hundred by the year."
- 6 2. Page 8, by striking line 17 through page 9,
- 7 line 15.
- 8 3. Page 10, line 4, by striking the word "nine"
- 9 and inserting in lieu thereof the words "nine and
- 10 three-fourths".

S-5936 FILED

BY GENE W. GLENN

JULY 1, 1978

RULED OUT OF ORDER (p. 1685)

HOUSE FILE 2467

S-5938

- 1 Amend the Drake et al. amendment, S-5937, to House
- 2 File 2467 as amended, passed and reprinted by the House
- 3 as follows:
- 4 1. Page 1, line 46, by striking the words "one and
- 5 one-" and inserting in lieu thereof the words "nine
- 6 and one-half cents on the hundred by the year.".
- 7 2. Page 1, by striking line 47, through page 2,
- 8 line 22.
- 9 3. Page 2, by striking lines 30 through 38.

S-5938 FILED & LOST (p. 1683)

BY GENE W. GLENN

JULY 1, 1978

HOUSE FILE 2467

S-5943

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 19, by striking the words and figures
- 4 "except sections 19 through 21".

S-5943 FILED, WITHDRAWN (p. 1689)

BY E. KEVIN KELLY

JULY 1, 1978

HOUSE FILE 2467

S-5937

1 Amend House File 2467 as amended, passed and re-
2 printed by the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section five hundred thirty-five point
6 two (535.2), Code 1977, is amended to read as follows:

7 535.2 RATE OF INTEREST.

8 1. Except as provided in subsection 2 hereof, the
9 rate of interest shall be five cents on the hundred by
10 the year in the following cases, unless the parties
11 shall agree in writing for the payment of interest
12 at a rate not exceeding ~~nine-cents-on-the-hundred-by~~
13 the-year the rate permitted by subsection three (3)
14 of this section:

15 a. Money due by express contract.

16 b. Money after the same becomes due.

17 c. Money loaned.

18 d. Money received to the use of another and re-
19 tained beyond a reasonable time, without the owner's
20 consent, express or implied.

21 e. Money due on the settlement of accounts from
22 the day the balance is ascertained.

23 f. Money due upon open accounts after six months
24 from the date of the last item.

25 g. Money due, or to become due, where there is a
26 contract to pay interest, and no rate is stipulated.

27 2. Any domestic or foreign corporation ~~or~~, and any
28 real estate investment trust as defined in section 856
29 of the Internal Revenue Code, and any person purchasing
30 securities as defined in chapter 502 on credit from a
31 broker or dealer registered or licensed under chapter
32 502 or under the Security Exchange Act of 1934, 48 Stat.
33 881, 15 United States Code 78A, as amended, and any per-
34 son borrowing money in the principal amount of one hun-
35 dred thousand dollars or more for either business or
36 agricultural purposes or both, may agree in writing to
37 pay any rate of interest in excess of the rate prescribed
38 in permitted by subsection 4-hereof three (3) of this
39 section, and no such corporation or real estate invest-
40 ment trust or person so agreeing in writing shall plead
41 or interpose the claim or defense of usury in any action
42 or proceeding.

43 3. a. The maximum lawful rate of interest which may
44 be provided for in any written agreement for the payment
45 of interest entered into during any calendar quarter com-
46 encing on or after July 1, 1978, shall be one and one-
47 fourth percentage point above the numerical average of
48 the monthly national average contract interest rates
49 charged by all major types of lenders on (1) conventional
50 home mortgages issued on newly-built homes and (2) con-

1 ventional home mortgages on previously occupied homes
2 as published by the federal home loan bank board for
3 the calendar month second preceding the first month
4 of the calendar quarter during which the maximum rate
5 based thereon will be effective, rounded to the nearest
6 one-fourth of one percent per year.

7 On or before the twentieth day of March, June,
8 September and December of each year the superintendent
9 of banking shall determine the maximum lawful rate of
10 interest for the following calendar quarter as pre-
11 scribed herein, and shall cause such rate to be
12 published, as a notice in the Iowa administrative
13 bulletin or as a legal notice in a newspaper of gen-
14 eral circulation published in Polk county, prior to
15 the first day of the following calendar month. Such
16 maximum lawful rate of interest shall be effective on
17 the first day of the calendar month following publi-
18 cation. As soon as practicable after the effective
19 date of this Act, the superintendent of banking shall
20 determine and publish the maximum lawful rate pursuant
21 to this paragraph for the third quarter of 1978, which
22 maximum rate shall be effective upon publication thereof.

23 b. Any rate of interest specified in any written
24 agreement providing for the payment of interest shall,
25 if such rate was lawful at the time the agreement was
26 made, remain lawful during the entire term of the
27 agreement, including any extensions or renewals
28 thereof, for all money due or to become due there-
29 under including future advances, if any.

30 c. Any written agreement for the payment of in-
31 terest made pursuant to a prior written agreement by
32 a lender to lend money in the future, either to the
33 other party to such prior written agreement or a third
34 party beneficiary of such prior agreement, may provide
35 for payment of interest at the lawful rate of interest
36 at the time of the execution of the prior agreement
37 regardless of the time at which the subsequent agree-
38 ment is executed.

39 d. Any contract, note or other written agreement
40 providing for the payment of a rate of interest per-
41 mitted by this subsection which contains any provisions
42 providing for an increase in the rate of interest pre-
43 scribed therein shall, if such increase could be to a
44 rate which would have been unlawful at the time the
45 agreement was made, also provide for a reduction in
46 the rate of interest prescribed therein, to be deter-
47 mined in the same manner and with the same frequency
48 as any increase so provided for.

49 4. Notwithstanding the provisions of subsection
50 three (3) of this section, with respect to any agree-

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1 ment which was executed prior to the effective date
2 of this section and which contained a provision for
3 the adjustment of the rate of interest specified in
4 that agreement, the maximum lawful rate of interest
5 which may be imposed under that agreement shall be
6 nine cents on the hundred by the year, and any ex-
7 cess charge shall be a violation of section five
8 hundred thirty-five point four (535.4) of the Code.

9 5. This section shall not apply to any loan which
10 is subject to the provisions of section six hundred
11 eighty-two point forty-six (682.46) of the Code.

12 Sec. 2. Chapter five hundred thirty-five (535),
13 Code 1977, is amended by adding the following new
14 section:

15 NEW SECTION.

16 1. As used in this section, the term "loan"
17 means any money loaned to a borrower who furnishes,
18 as security for all or part of the loan, a mortgage
19 on real property which is a single-family or a two-
20 family dwelling to be occupied by the borrower.

21 2. The assessment and collection in connection
22 with a loan of a loan origination fee, closing fee,
23 commitment fee or similar charge which does not exceed
24 two percent of the amount loaned in the case of a
25 construction loan or a combined construction and per-
26 manent loan, or one percent of the amount loaned in
27 the case of all other loans subject to this section,
28 shall not be part of the interest rate for the pur-
29 pose of determining the maximum charge pursuant to
30 section five hundred thirty-five point two (535.2) of
31 the Code. Any additional costs charged to a borrower
32 by a lender in connection with a loan shall not ex-
33 ceed the actual costs thereof. If any lender re-
34 ceives any amount as a loan origination fee, closing
35 fee, commitment fee or similar charge, or any com-
36 bination thereof, which exceeds the amount permitted
37 by this section, the borrower shall have the right
38 to recover the excess charge, plus attorney fees and
39 court costs incurred in any action necessary to effect
40 such recovery.

41 3. The provisions of this section shall not apply
42 to any loan which is subject to the provisions of sec-
43 tion six hundred eighty-two point forty-six (682.46)
44 of the Code.

45 Sec. 3. Chapter five hundred thirty-five (535),
46 Code 1977, is amended by adding the following new
47 section:

48 NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED
49 BY REAL ESTATE MORTGAGES PROHIBITED.

50 1. As used in this section:

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1 a. "Loan" means money loaned to a borrower who
2 furnishes, as security for all or any part of the
3 loan, a mortgage on real property which is a single-
4 family or a two-family dwelling to be occupied by
5 the borrower.

6 b. "Lender" means any state or federally chartered
7 bank, savings and loan association or credit union,
8 any industrial loan company, any insurance company,
9 or any other person or entity which makes a loan, as
10 defined in this section.

11 2. Whenever a borrower under a loan repays the
12 full amount of the loan in connection with a transfer
13 of ownership of the real property given as security
14 for that loan, the lender shall not receive an amount
15 in payment of interest which is greater than the
16 amount determined by applying the rate of interest
17 agreed upon by the lender and the borrower to the
18 unpaid balance of the loan for the period of time
19 during which the borrower had the use of the money
20 loaned; and the lender shall not impose any penalty
21 or other charge in addition to the amount of in-
22 terest due as a result of the repayment of that
23 loan at a date earlier than is required by the terms
24 of the loan agreement. A lender may, however, re-
25 quire advance notice of not more than thirty days
26 of a borrower's intent to repay the full amount of
27 a loan at a date earlier than is required by the
28 terms of the loan agreement.

29 3. If any lender receives an amount of interest
30 greater than permitted by subsection two (2) of this
31 section, or imposes any penalty or other charge
32 prohibited by subsection two (2) of this section,
33 the borrower shall have the right to recover all
34 amounts paid the lender which are in excess of the
35 amounts permitted by subsection two (2) of this
36 section, plus attorney's fees and court costs in-
37 curred in any action necessary to effect such re-
38 covery.

39 Sec. 4. Section five hundred twenty-four point
40 nine hundred five (524.905), Code 1977, is amended
41 by adding the following new subsection:

42 NEW SUBSECTION. If a customer elects to repay a
43 loan secured by a mortgage or deed of trust upon
44 real property which is a single-family or two-
45 family dwelling at a date earlier than is required
46 by the terms of the loan, the state bank shall be
47 governed by section three (3) of this Act.

48 Sec. 5. Section five hundred thirty-three point
49 sixteen (533.16), Code 1977, is amended by adding
50 the following new unnumbered paragraph:

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1 NEW UNNUMBERED PARAGRAPH. If a member elects to
2 repay a loan secured by a mortgage or deed of trust
3 upon real property which is a single-family or a
4 two-family dwelling at a date earlier than is re-
5 quired by the terms of the loan, the credit union
6 shall be governed by section three (3) of this
7 Act.

8 Sec. 6. Section five hundred thirty-four point
9 twenty-one (534.21), subsection ten (10), Code
10 1977, as amended by Acts of the Sixty-seventh
11 General Assembly, 1977 Session, chapter one hundred
12 thirty-three (133), section seven (7), is amended
13 to read as follows:

14 10. ADVANCE INTEREST ON PREPAYMENTS. Real
15 estate loans on a single-family or a two-family
16 dwelling may be repaid in part or in full at any
17 time subject to the provisions of section three
18 (3) of this Act. Real estate loans on ~~one-to~~ three
19 and four family dwellings may be repaid in part or
20 in full at any time, excepting that the association
21 may charge not to exceed six months advance interest
22 on that part of the aggregate amount of all prepay-
23 ments made on such loan in any twelve-month period
24 which exceeds twenty percent of the original prin-
25 cipal amount of the loan; and may charge any
26 negotiated rate on other loans, except real estate
27 loans on single-family and two-family dwellings.

28 Sec. 7. Section five hundred thirty-six A
29 point twenty-three (536A.23), subsection one (1),
30 Code 1977, is amended by adding the following new
31 unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. If a customer elects to
33 repay a loan secured by a mortgage or deed of trust
34 upon real property which is a single-family or two-
35 family dwelling at a date earlier than is required
36 by the terms of the loan, the licensee shall be
37 governed by section three (3) of this Act.

38 Sec. 8. Section five hundred thirty-seven point
39 one thousand three hundred one (537.1301), subsec-
40 tion fifteen (15), paragraph b, subparagraph two
41 (2), Code 1977, is amended to read as follows:

42 (2) A loan secured by an interest in land if the
43 security interest is bona fide and not for the pur-
44 pose of circumvention or evasion of this chapter and
45 the finance charge ~~does not exceed twelve percent per~~
46 year, calculated according to the actuarial method
47 on the assumption that the debt will be paid accord-
48 ing to the agreed terms and will not be paid before
49 the end of the agreed term, does not exceed the rate
50 of interest permitted under chapter five hundred

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1 thirty-five (535) of the Code.

2 Sec. 9. Section five hundred thirty-seven point
3 one thousand three hundred one (537.1301), subsection
4 twenty (20), paragraph a, subparagraph one (1), Code
5 1977, is amended to read as follows:

6 (1) Interest or any amount payable under a point,
7 discount or other system of charges, however denomi-
8 nated, except that, ~~with respect to a consumer loan~~
9 ~~secured by a first lien on a dwelling of the debtor~~
10 ~~given to finance the acquisition of that dwelling,~~
11 ~~points, consisting of a charge paid in cash at the~~
12 ~~time of commitment or closing of a loan transaction~~
13 ~~or,~~ with respect to a consumer credit sale of goods
14 or services, a cash discount of five percent or less
15 of the stated price of goods or services which is
16 offered to the consumer for payment by cash, check
17 or the like either immediately or within a period of
18 time, shall not be part of the finance charge for
19 the purpose of determining maximum chargers pursu-
20 ant to section 537.2401 ~~and chapters 524, 534, and~~
21 ~~535.~~ A cash discount permitted by this subparagraph
22 shall not be considered part of the finance charge
23 for the purpose of determining compliance with
24 Truth in Lending pursuant to section 537.3201 if it
25 is properly disclosed as required by the Truth in
26 Lending Act as amended to and including October 28,
27 1975 and regulations issued pursuant to that Act as
28 so amended prior to October 28, 1975.

29 Sec. 10. With respect to any loan secured by a
30 first lien on a dwelling of a natural person given
31 to finance the acquisition of that dwelling and
32 executed on or after July 1, 1974, but before the
33 effective date of this Act, the assessment and
34 collection pursuant to that loan transaction of
35 points, consisting of a charge paid in cash at the
36 time of commitment or closing of the transaction,
37 shall not be considered as part of the contractual
38 interest rate for the purpose of determining whether
39 or not the interest rate agreed to exceeded the
40 rate permitted by section five hundred thirty-five
41 point two (535.2) of the Code as it existed during
42 the period of time. The provisions of this section
43 are retroactive to July 1, 1974, to the extent
44 necessary to effect its purpose.

45 Sec. 11. If the maximum lawful rate of interest
46 as determined by the superintendent of banking pursu-
47 ant to section one (1) of this Act to be in effect
48 during the month of January, 1979, is less than nine
49 percent, then the amendatory provisions of this Act,
50 except paragraphs b and c of subsection three (3)

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1 of section one (1) of this Act, and except section
2 ten (10) of this Act, are repealed effective July 1,
3 1979, and each provision of the law of this state
4 as it existed prior to amendment by this Act shall
5 be the law of this state on and after July 1, 1979,
6 except those provisions of law which are amended by
7 paragraphs b and c of subsection three (3) of sec-
8 tion one (1), and section ten (10) of this Act.

9 Sec. 12. This Act, being deemed of immediate
10 importance, shall take effect and be in force from
11 and after its publication in the Muscatine Journal,
12 a newspaper published in Muscatine, Iowa, and in
13 the Iowa City Press-Citizen, a newspaper published
14 in Iowa City, Iowa."

15 2. Amend the title by striking lines 1 and
16 2 and inserting in lieu thereof the following: "An
17 Act relating to charges which lawfully may be imposed
18 in connection with transactions which are subject
19 to the provisions of section five hundred thirty-
20 five point two (535.2) of the Code."

S-5937 FILED & ADOPTED *as amended*
July 1, 1978 *by 5937 (p. 1685)*
RECONSIDERED & LOST *(p. 1685)*
motion to reconsider (p. 1687)

BY RICHARD R. DRAKE
MINNETTE DODERER
JOHN N. NYSTROM
IRVIN L. BERGMAN
EDGAR H. HOLDEN
PHILIP B. HILL

HOUSE FILE 2467

S-5941

1 Amend House File 2467 as amended, passed and re-
2 printed by the House as follows:
3 1. Page 8, by striking line 16, and inserting in
4 lieu thereof the following: "shall be nine and one-
5 half cents on the hundred by the year."
6 2. Page 8, by striking line 17 through page 9,
7 line 15.

S-5941 FILED & LOST *(p. 1688)*
JULY 1, 1978

BY GENE W. GLENN *(p.)*

HOUSE FILE 2467

S-5939

1 Amend the Drake et. al. amendment, S-5937, to
2 House File 2467 as amended, passed and reprinted by
3 the House as follows:

4 1. Page 1, by inserting after line 4 the following:
5 "Section 1. NEW SECTION. DEFINITIONS. For pur-
6 poses of this Act, unless the context otherwise requires:

7 1. "Red-lining" means the practice by which a
8 financial institution may designate certain areas as
9 unsuitable for the making of mortgage loans and reject
10 applications for mortgage loans or vary the terms of a
11 mortgage loan upon property within that area because of
12 the prevailing income, racial or ethnic characteristics
13 of the area, or because of the age of the structures in
14 the area.

15 2. "Mortgage loan" means a loan for the purchase,
16 construction, improvement or rehabilitation of
17 residential property in which the property is used
18 as security for the loan.

19 3. "Financial institution" means any bank,
20 credit union, insurance company, mortgage banking
21 company or savings and loan association, small loan
22 company, industrial loan company, or like institution
23 which operates or has a place of business in this
24 state.

25 4. "Reporting financial institution" means a
26 financial institution with an excess of ten million
27 dollars in assets accepting mortgage loan applications
28 in any city with a population in excess of ten
29 thousand as determined in the most recent regular census
30 or in any standard metropolitan statistical area.

31 5. "Vary the terms of a mortgage loan"
32 includes, but is not limited to the following:

33 a. Requiring a greater than average down payment
34 than is usual for the particular type of mortgage
35 loan involved.

36 b. Requiring a shorter period of amortization
37 than is usual for the particular type of mortgage loan
38 involved.

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

41 d. An unreasonable underappraisal of real estate
42 or item of property offered as security.

43 Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE
44 MORTGAGES. It is a discriminatory practice for any
45 financial institution accepting mortgage loan applications
46 to engage in the practice of red-lining as defined in
47 section one (1) of this Act.

48 Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL
49
50

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Page 2

1 INSTITUTION. Nothing contained in this Act shall
2 preclude a financial institution from applying
3 economically sound underwriting practices in con-
4 templation of any mortgage loan to any person. Such
5 practices shall include but are not limited to the
6 following:

7 1. The willingness and the financial ability
8 of the borrower to repay the mortgage loan.

9 2. The appraised value of any real estate or
10 other item of property proposed as security for any
11 mortgage loan.

12 3. Diversification of the financial institution's
13 investment portfolio.

14 Sec. 4. NEW SECTION. DISCLOSURE. Each reporting
15 financial institution accepting an application for a
16 mortgage loan shall:

17 1. Maintain a record of mortgage loan applications
18 by census tract.

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

21 a. State the total number of mortgage loan
22 applications filed by census tract.

23 b. Clearly show the total number of mortgage
24 loans which were approved and which were not approved
25 by census tract.

26 c. State the number and total dollar amount of
27 savings accounts and time deposits itemized by census
28 tract.

29 3. The report required by this section shall be
30 placed on file with the Iowa housing finance
31 authority and shall be available to the public.

32 4. In accordance with subsections one (1),
33 two (2) and three (3) of this section, the superintendent
34 of banking, the auditor of state and the commissioner
35 of insurance shall establish rules for the enforcement
36 of the provisions of this section. Rules established
37 pursuant to this Act may permit federal reporting
38 forms to be used as state reporting forms to the
39 extent that the federal reporting forms are in
40 compliance with the provisions of this section.

41 Reporting periods shall be established by rule
42 and shall be uniform for all financial institutions.
43 Rules may also specify separate treatment of oral
44 and written mortgage loan applications. However,
45 records shall be kept on both.

46 The director of the Iowa housing finance authority
47 or the director's designee shall advise and assist the
48 superintendent of banking, the commissioner of
49 insurance, and the auditor of state on the establishment
50

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1 of rules for the enforcement of this section and shall.
2 encourage uniformity among the administrator's rule
3 promulgation to the maximum extent practical.

4 Sec. 5. NEW SECTION. AGENCY TO ADMINISTER.

5 Sections two (2), and four (4) of this Act
6 shall be administered and enforced by the following
7 agencies:

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

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

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

26 Sec. 6. NEW SECTION. AGGRIEVED PARTY.

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

32 Upon a finding that a financial institution has
33 committed a violation of either section two (2),
34 or four (4) of this Act, the court may
35 award actual damages, court costs and attorney fees.

36 Sec. 7. NEW SECTION. CRIMINAL PENALTY.

37 Any person who knowingly engages in a practice which
38 violates the provisions of section two (2)
39 or four (4) of this Act is guilty of a serious
40 misdemeanor.

41 Sec. 8. NEW SECTION. CIVIL PENALTY.

42 Any person who in bad faith fails to comply with the
43 provisions of this Act, is subject to punitive
44 damages not to exceed one thousand dollars in
45 addition to actual damages.

46 Sec. 9. The Code editor is directed to incor-
47 porate sections one (1) through eight (8) of this
48 Act as a separate chapter of the Code.
49
50

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1 Sec. 10. The director of the Iowa housing
2 authority shall report to the Iowa general assembly
3 in February of 1980, an analysis of the nature and
4 status of the disclosure reports filed with the
5 authority by the superintendent of banking, the comm-
6 issioner of insurance and the auditor of state in
7 accordance with section four (4) of this Act.

8 The director's report shall also include but is
9 not limited to an analysis of the financial needs
10 of economically depressed urban residential areas,
11 and recommendations for future action to insure the
12 economic health of urban residential areas."

13 2. Page 7, line 1, by inserting after the word
14 "except" the following: "sections one (1) through
15 ten (10), and except".

16 3. Page 7, line 8, by inserting after the word
17 "and" the following: "sections one (1) through ten
18 (10) and".

19 4. Page 7, line 14, by inserting after the
20 period the following sentence: "Sections one (1)
21 through ten (10) of this Act shall take effect
22 January 1, 1979."

23 5. By renumbering sections and correcting internal
24 references to conform to this amendment.

S-5939 FILED & ADOPTED (p. 1683) BY EARL M. WILLITS
JULY 1, 1978

HOUSE FILE 2467

S-5940

1 Amend the Drake et al. amendment, S-5937, to House
2 File 2467, as amended, passed and reprinted by the
3 House as follows:

4 1. Page 3, line 23, by striking the words "which
5 does not exceed" and inserting in lieu thereof the words
6 "in any loan as defined in this section is prohibited."

7 2. Page 3, by striking lines 24 through 33 and
8 inserting in lieu thereof the words "If any lender
9 re-".

10 3. Page 3, lines 36 and 37, by striking the words
11 "which exceeds the amount permitted by this section,".

12 4. Page 4, line 29, by striking the words "an
13 amount of interest" and inserting in lieu thereof the
14 words "a charge".

S-5940 FILED & LOST (p. 1684) BY CLOYD ROBINSON
JULY 1, 1978

SENATE 13
JULY 7, 1978

HOUSE FILE 2467

S-5942

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 16, by striking line 23 through page 18,
- 4 line 33.

S-5942 FILED & LOST (p. 1689)
JULY 1, 1978

BY E. KEVIN KELLY

HOUSE FILE 2467

S-5944

- 1 Amend House File 2467, as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. By striking page 13, line 11, through page 18,
- 4 line 33.
- 5 2. By renumbering the sections and internal refer-
- 6 ences accordingly.

S-5944 FILED, WITHDRAWN (p. 1688)
JULY 1, 1978

BY PHILIP B. HILL

HOUSE FILE 2467

S-5945

- 1 Amend House File 2467 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 3, line 34, by striking the words "or
- 4 trust" and inserting in lieu thereof the words "of
- 5 trust".
- 6 2. Page 8, by striking lines 26 through 27.

S-5945 FILED & ADOPTED (p. 1687)
JULY 1, 1978

BY EDGAR H. HOLDEN

SENATE '14
JULY 7, 1978

HOUSE FILE 2467

S-5946

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 13, lines 33 and 34 by striking the word
- 4 "demoninated" and inserting in lieu thereof the word
- 5 "denominated".

S-5946 FILED & ADOPTED (p. 168E)
JULY 1, 1978

BY ROLF V. CRAFT

HOUSE FILE 2467

S-5947

- 1 Amend House File 2467 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. By striking page 15, line 1 through page 18,
- 4 line 33.

S-5947 FILED & LOST (p. 1689)
JULY 1, 1978

BY EDGAR H. HOLDEN
PHILIP B. HILL

HOUSE FILE 2467

S-5948

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 19, line 1 by striking the words and
- 4 figures "except sections 19 through 21".

S-5948 FILED & LOST (p. 1690)
JULY 1, 1978

BY E. KEVIN KELLY

HOUSE FILE 2467

S-5949

- 1 Amend House File 2467 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 5, line 16, by striking the word "mortgagor's"
- 4 and inserting in lieu thereof the word "borrower's".
- 5 2. Page 5, line 17, by striking the word "mortgagor"
- 6 and inserting in lieu thereof the word "borrower".

S-5949 FILED & ADOPTED (p. 1691)
JULY 1, 1978

BY CLIFF BURROUGHS
JOHN S. MURRAY

HOUSE FILE 2467

S-5950

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 10, by striking lines 29 through 33 and
- 4 inserting in lieu thereof the words "ment fee or
- 5 similar charge in any loan as defined in this section
- 6 is prohibited. If any lender".
- 7 2. Page 11, lines 1 and 2, by striking the words
- 8 ", which exceeds the amount permitted by this sec-
- 9 tion,".
- 10 3. Page 11, line 6, by striking the word "addi-
- 11 tional".
- 12 4. Page 11, line 35, by striking the word "interest"
- 13 and inserting in lieu thereof the word "the charge".

S-5950 FILED & LOST (*p. 1691*)
JULY 1, 1978

BY CLOYD ROBINSON

HOUSE FILE 2467

S-5951

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 10, line 24, by striking the words "borrower,
- 4 or a mobile" and inserting in lieu thereof the word
- 5 "borrower."
- 6 2. Page 10, by striking lines 25 and 26.

S-5951 FILED & ADOPTED (*p. 1691*)
JULY 1, 1978

BY RICHARD R. RAMSEY

HOUSE FILE 2467

S-5952

- 1 Amend House File 2467 as amended, passed and reprint-
- 2 ed by the House as follows:
- 3 1. Page 8, by inserting after line 25 the following:
- 4 "(1) Any written agreement for the payment of
- 5 interest."

S-5952 FILED & WITHDRAWN (*p. 1691*)
JULY 1, 1978

BY RICHARD F. DRAKE

SENATE 16
JULY 7, 1978

HOUSE FILE 2467

S-5953

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 8, lines 13 and 14, by striking the words
- 4 "of the following agreements" and inserting in lieu
- 5 thereof the words "written agreement for the payment
- 6 of interest".
- 7 2. Page 8, line 25, by striking the word "year:"
- 8 and inserting in lieu thereof the word "year."

S-5953 FILED & ADOPTED (*p. 1691*)
JULY 1, 1978

BY RICHARD F. DRAKE

HOUSE FILE 2467

S-5954

- 1 Amend House File 2467 as amended, passed and re-
- 2 printed by the House as follows:
- 3 1. Page 11, line 6, by striking the word "buyer"
- 4 and inserting in lieu thereof the word "borrower".
- 5 2. Page 11, by adding after line 17 the following:
- 6 "j. Title insurance premiums."

S-5954 FILED & ADOPTED (*p. 1692*)
JULY 1, 1978

BY PHILIP B. HILL

REPORT OF THE CONFERENCE COMMITTEE

ON HOUSE FILE 2467

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 2467, A bill for an Act which relates to transactions which involve the payment of interest pursuant to agreement of the parties, respectfully make the following report:

1. That the Senate recede from its amendment H-6761 to House File 2467 as amended, passed and reprinted by the House.

2. That House File 2467 as amended, passed and reprinted by the House be amended by striking everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. NEW SECTION. DEFINITIONS. For purposes of sections one (1) through ten (10) of this Act, unless the context otherwise requires:

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

2. "Mortgage loan" means a loan for the purchase, construction, improvement or rehabilitation of residential property containing or to contain four or fewer family dwelling units in which the property is used as security for the loan.

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

4. "Reporting financial institution" means a financial institution with an excess of ten million dollars in assets which during a reporting period accepts mortgage loan applications from persons in any Iowa city with a population in excess of fifty thousand as determined in the most recent regular census or in any standard metropolitan statistical area.

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

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

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

c. Charging a higher interest rate or higher loan origination fees than is usual for the particular type of mortgage loan involved.

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

Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE MORTGAGES. It is a discriminatory practice for any financial institution accepting mortgage loan applications to engage in the practice of red-lining as defined in section one (1) of this Act.

Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL INSTITUTION. Nothing contained in sections one (1) through ten (10) of this Act shall preclude a financial institution from applying economically sound underwriting practices in contemplation of any mortgage loan to any person. Such practices shall include but are not limited to the following:

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

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

3. Diversification of the financial institution's investment portfolio.

Sec. 4. NEW SECTION. DISCLOSURE. Each reporting financial

institution accepting an application for a mortgage loan shall:

1. Maintain a record of mortgage loan applications by census tract.
2. Annually make a report based on the mortgage loan application records which shall:
 - a. State the total number of mortgage loan applications filed by census tract.
 - b. Clearly show the total number of mortgage loans which were approved and which were not approved by census tract.
3. The report required by this section shall be placed on file with the Iowa housing finance authority and shall be available to the public.
4. In accordance with subsections one (1), two (2) and three (3) of this section, the superintendent of banking, the auditor of state, the administrator of the credit union department, and the commissioner of insurance shall establish rules for the enforcement of the provisions of this section. Rules established pursuant to sections one (1) through ten (10) of this Act shall permit a financial institution which is required to file a disclosure report pursuant to the federal home mortgage disclosure act of 1975, 12 U.S.C. 2801 to 2809, and the regulations promulgated under that act, to file a copy of that report with the Iowa housing finance authority. If a financial institution is not required to file a disclosure report pursuant to the federal home mortgage disclosure act, the financial institution shall file with the Iowa housing finance authority a report that conforms in form and substance with the requirements of the federal home mortgage disclosure act.

Reporting periods shall be established by rule and shall be uniform for all financial institutions.

The director of the Iowa housing finance authority or the director's designee shall advise and assist the superintendent of banking, the commissioner of insurance, the administrator of the credit union department, and the auditor of state on

the establishment of rules for the enforcement of this section and shall encourage uniformity among the administrator's rule promulgation to the maximum extent practical.

Sec. 5. NEW SECTION. AGENCY TO ADMINISTER. Sections two (2), and four (4) of this Act shall be administered and enforced by the following agencies:

1. The superintendent of banking or the super-intendent's designee shall be responsible for enforcing those sections in regard to all banks and mortgage banking companies.

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

3. The commissioner of insurance or the commiss-ioner's designee shall be responsible for enforcing those sections pursuant to chapter five hundred five (505) of the Code in regard to all insurance companies.

4. The administrator of the credit union department or a designee shall be responsible for enforcing those sections in regard to all credit unions.

Sec. 6. NEW SECTION. AGGRIEVED PARTY. Any person who has been aggrieved as a result of a violation of sections one (1) through ten (10) of this Act may bring an action in the district court of the county in which the violation occurred or in the county where the financial institution involved is located.

Upon a finding that a financial institution has committed a violation of either section two (2), or four (4) of this Act, the court may award actual damages, court costs and attorney fees.

Sec. 7. NEW SECTION. CRIMINAL PENALTY. Any person who knowingly engages in a practice which violates the provisions of section two (2) or four (4) of this Act is guilty of a serious misdemeanor.

Sec. 8. NEW SECTION. CIVIL PENALTY. Any person who in

bad faith fails to comply with the provisions of sections one (1) through ten (10) of this Act, is subject to punitive damages not to exceed one thousand dollars in addition to actual damages as set forth in section six (6) of this Act.

Sec. 9. The Code editor is directed to incorporate sections one (1) through eight (8) of this Act as a separate chapter of the Code.

Sec. 10. The director of the Iowa housing finance authority shall report to the Iowa general assembly in February of 1980, an analysis of the nature and status of the disclosure reports filed pursuant to section four (4) of this Act.

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

Sec. 11. Section five hundred thirty-five point two (535.2), Code 1977, is temporarily, except as otherwise specifically provided in section twenty-six (26) of this Act, amended commencing on the effective date of this Act and until July 1, 1979, to read as follows:

535.2 RATE OF INTEREST.

1. Except as provided in subsection 2 hereof, the rate of interest shall be five cents on the hundred by the year in the following cases, unless the parties shall agree in writing for the payment of interest at a rate not exceeding nine-cents-on-the-hundred-by-the-year the rate permitted by subsection three (3) of this section:

- a. Money due by express contract.
- b. Money after the same becomes due.
- c. Money loaned.
- d. Money received to the use of another and retained beyond a reasonable time, without the owner's consent, express or implied.
- e. Money due on the settlement of accounts from the day the balance is ascertained.
- f. Money due upon open accounts after six months from

the date of the last item.

g. Money due, or to become due, where there is a contract to pay interest, and no rate is stipulated.

2. Any domestic or foreign corporation ~~or~~, and any real estate investment trust as defined in section 856 of the Internal Revenue Code, and any person purchasing securities as defined in chapter 502 on credit from a broker or dealer registered or licensed under chapter 502 or under the Security Exchange Act of 1934, 48 Stat. 881, 15 United States Code 78A, as amended, and any person borrowing money in the principal amount of two hundred thousand dollars or more for business purposes, and any person borrowing money in the principal amount of five hundred thousand dollars or more for agricultural purposes, may agree in writing to pay any rate of interest in excess of the rate ~~prescribed in subsection 4-hereof~~ permitted by this section, and no such corporation or real estate investment trust or person so agreeing in writing shall plead or interpose the claim or defense of usury in any action or proceeding.

3. a. The maximum lawful rate of interest which may be provided for in any written agreement for the payment of interest entered into during any calendar quarter commencing on or after July 1, 1978, shall be two percentage points above the monthly average ten-year constant maturity interest rate of United States government notes and bonds as published by the board of governors of the federal reserve system for the calendar month second preceding the first month of the calendar quarter during which the maximum rate based thereon will be effective, rounded to the nearest one-fourth of one percent per year.

On or before the twentieth day of March, June, September and December of each year the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar quarter as prescribed herein, and shall cause such rate to be published, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general

circulation published in Polk county, prior to the first day of the following calendar month. Such maximum lawful rate of interest shall be effective on the first day of the calendar month following publication. As soon as practicable after the effective date of this Act, the superintendent of banking shall determine and publish the maximum lawful rate pursuant to this paragraph for the third quarter of 1978, which maximum rate shall be effective upon publication thereof. The determination of the maximum lawful rate of interest by the superintendent of banking shall be exempt from the provisions of chapter seventeen A (17A) of the Code. b. Any rate of interest specified in any written agreement providing for the payment of interest shall, if such rate was lawful at the time the agreement was made, remain lawful during the entire term of the agreement, including any extensions or renewals thereof, for all money due or to become due thereunder including future advances, if any.

c. Any written agreement for the payment of interest made pursuant to a prior written agreement by a lender to lend money in the future, either to the other party to such prior written agreement or a third party beneficiary of such prior agreement, may provide for payment of interest at the lawful rate of interest at the time of the execution of the prior agreement regardless of the time at which the subsequent agreement is executed.

d. Any contract, note or other written agreement providing for the payment of a rate of interest permitted by this subsection which contains any provisions providing for an increase in the rate of interest prescribed therein shall, if such increase could be to a rate which would have been unlawful at the time the agreement was made, also provide for a reduction in the rate of interest prescribed therein, to be determined in the same manner and with the same frequency as any increase so provided for.

4. Notwithstanding the provisions of subsection three (3) of this section, with respect to any agreement which was

executed prior to the effective date of this Act and which contained a provision for the adjustment of the rate of interest specified in that agreement, the maximum lawful rate of interest which may be imposed under that agreement shall be nine cents on the hundred by the year, and any excess charge shall be a violation of section five hundred thirty-five point four (535.4) of the Code.

5. This section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code.

Sec. 12. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. LOAN CHARGES LIMITED.

1. As used in this section, the term "loan" means any money loaned to a borrower who furnishes, as security for all or part of the loan, a mortgage on real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower.

2. The assessment and collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge is prohibited. If any lender receives any amount as a loan origination fee, closing fee, commitment fee or similar charge, or any combination thereof, which exceeds the amount permitted by this section, the borrower shall have the right to recover that charge, plus attorney fees and court costs incurred in any action necessary to effect such recovery.

Any costs charged to a borrower, associated with a loan shall not exceed actual costs which shall be disclosed to the borrower. Such costs may only include one or more of the following:

- a. Credit reports.
- b. Appraisal fees.
- c. Attorney's opinions.

- d. Abstracting.
- e. County recorder's fees.
- f. Inspection fees.
- g. Mortgage guarantee insurance charge.
- h. Surveying of property.
- i. Termite inspection.

The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller.

3. A lender shall not, as a condition of making a loan as defined in this section, require the borrower to place money, or to place property other than that which is given as security for the loan, on deposit with or in the possession or control of the lender or some other person if the effect is to increase the yield to the lender with respect to that loan; provided that this subsection shall not prohibit a lender from requiring the borrower to deposit money without interest with the lender in an escrow account for the payment of insurance premiums, property taxes and special assessments payable by the borrower to third persons. Any lender who requires an escrow account shall not violate the provisions of paragraph a of subsection one (1) of section five hundred seven B point five (507B.5) of the Code.

4. If any lender receives interest either in a manner or in an amount which is prohibited by subsection three (3) of this section, the borrower shall have the right to recover all amounts collected or earned by the lender, whether or not from the borrower, in violation of this section, plus attorney fees, plus court costs incurred in any action necessary to effect such recovery.

5. The provisions of this section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code, 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.

6. This section is repealed effective July 1, 1979.

Sec. 13. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED BY REAL ESTATE MORTGAGES PROHIBITED.

1. As used in this section:

a. "Loan" means money loaned to a borrower who furnishes, as security for all or any part of the loan, a mortgage on real property which is a single-family or a two-family dwelling to be occupied by the borrower or money loaned to a borrower for the purpose of purchasing agricultural land where the borrower furnishes a mortgage on the real property to be purchased as security for the loan.

b. "Lender" means any state or federally chartered bank, savings and loan association or credit union, any industrial loan company, any insurance company, or any other person or entity which makes a loan, as defined in this section.

2. Whenever a borrower under a loan repays the full amount of the loan in connection with a transfer of ownership of the real property given as security for that loan, the lender shall not receive an amount in payment of interest which is greater than the amount determined by applying the rate of interest agreed upon by the lender and the borrower to the unpaid balance of the loan for a period of time during which the borrower had the use of the money loaned; and the lender shall not impose any penalty or other charge in addition to the amount of interest due as a result of the repayment of that loan at a date earlier than is required by the terms of the loan agreement. A lender may, however, require advance notice of not more than thirty days of a borrower's intent to repay the full amount of a loan at a date earlier than is required by the terms of the loan agreement.

3. If any lender receives an amount of interest greater than permitted by subsection two (2) of this section, or imposes any penalty or other charge prohibited by subsection two (2) of this section, the borrower shall have the right to recover all amounts paid the lender which are in excess of the amounts permitted by subsection two (2) of this section, plus attorney's fees and court costs incurred in any action necessary to effect such recovery.

Sec. 14. Section five hundred twenty-four point nine hundred five (524.905), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new subsection:

NEW SUBSECTION. If a customer elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the state bank shall be governed by section thirteen (13) of this Act.

Sec. 15. Section five hundred thirty-three point sixteen (533.16), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the credit union shall be governed by section thirteen (13) of this Act.

Sec. 16. Section five hundred thirty-four point twenty-one (534.21), subsection ten (10), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred thirty-three (133), section seven (7), is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on a single-family or a two-family dwelling or agricultural

land may be repaid in part or in full at any time subject to the provisions of section thirteen (13) of this Act. Real estate loans on ~~one-to~~ three and four family dwellings may be repaid in part or in full at any time, excepting that the association may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans, except the real estate loans on single-family and two-family dwellings or agricultural land previously referred to in this subsection.

Sec. 17. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a borrower elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the licensee shall be governed by section thirteen (13) of this Act.

Sec. 18. Section five hundred thirty-four point nineteen (534.19), subsection six (6), Code 1977, is amended to read as follows:

6. PROPERTY IMPROVEMENT LOANS. To make loans for maintenance, repair, landscaping, modernization, furniture and fixtures, improvement and equipment, with or without security provided that no such loan without security shall exceed ten thousand dollars, and provided further that not in excess of twenty percent of the assets of the association shall be so invested, said twenty percent to be exclusive of the forty percent of assets power set out in section 534.21 hereof. ~~Such loans, other than consumer loans as defined in the Iowa consumer credit code, shall be amortized to mature~~

~~in-not-to-exceed-eight-years.~~ The provisions of the Iowa consumer credit code shall apply to consumer loans made by a savings and loan association and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan. Loans made pursuant to this subsection shall be for terms not exceeding fifteen years and shall not be made at interest rates in excess of rates allowed for consumer loans.

Sec. 19. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

1. Charge, receive or collect interest at a rate greater ~~than that authorized by section 535.2~~ exceeding nine cents on the hundred by the year, except that the interest may be computed when the note is made on the full amount of the cash advanced on the loan from the date of the note to the date of the final installment thereof, and the interest so computed may be included in the note, notwithstanding any agreement to pay the entire amount in installments; or the interest may be computed on the amount of the note and discounted or collected in advance when the loan is made, notwithstanding any agreement to pay the entire amount in installments. If the note is repayable in other than equal monthly installments, the interest may be an amount computed on the basis of the effective rates permitted as provided above; provided, however there shall be no compounding of interest and when an interest rate as authorized herein is advertised, or negotiated for with a prospective borrower, with intent that it be computed by either of the two methods authorized herein, they being the "add on" method or the "discount" method, in such case such rate shall be further described as to the method of computation to be used, but interest computed by either method shall be stated to the borrower as provided in section 537.3210.

The limitation on interest rate which is contained in this

subsection shall not apply to any loan in which the borrower is a corporation or investment trust or any other person who is referred to in subsection two (2) of section five hundred thirty-five point two (535.2) of the Code.

Sec. 20. Chapter five hundred thirty-seven (537), article two (2), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following new section:

NEW SECTION. MOBILE HOME LOANS. Notwithstanding the maximum finance charges specified in this chapter of the Code, the maximum finance charge which may be charged for money loaned to a borrower who furnishes as security for all or part of the loan, a mobile home occupied or to be occupied by the borrower as a dwelling shall be as follows:

1. For a new mobile home, three percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

2. For a used mobile home, five percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

Sec. 21. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection fifteen (15), paragraph b, subparagraph two (2), Code 1977, is amended to read as follows:

(2) A loan secured by an interest in land if the security interest is bona fide and not for the purpose of circumvention or evasion of this chapter and the finance charge ~~does not exceed twelve percent per year,~~ calculated according to the actuarial method on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term, does not exceed the rate of interest permitted under chapter five hundred thirty-five

(535) of the Code.

Sec. 22. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection twenty (20), paragraph a, subparagraph one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

(1) Interest or any amount payable under a point, discount or other system of charges, however denominated, except that ~~with respect to a consumer loan secured by a first lien on a dwelling of the debtor given to finance the acquisition of that dwelling, points consisting of a charge paid in cash at the time of commitment or closing of a loan transaction~~ or, with respect to a consumer credit sale of goods or services, a cash discount of five percent or less of the stated price of goods or services which is offered to the consumer for payment by cash, check or the like either immediately or within a period of time, shall not be part of the finance charge for the purpose of determining maximum charges pursuant to section 537.2401 ~~and chapters 524, 534, and 535.~~ A cash discount permitted by this subparagraph shall not be considered part of the finance charge for the purpose of determining compliance with Truth in Lending pursuant to section 537.3201 if it is properly disclosed as required by the Truth in Lending Act as amended to and including October 28, 1975 and regulations issued pursuant to that Act as so amended prior to October 28, 1975.

Sec. 23. Chapter five hundred thirty-three (533), Code 1977, is amended by adding the following temporary new section:

NEW SECTION. Each credit union which on June 28, 1978, the date on which the supreme court of the state of Iowa held share drafts to be illegal, had in operation third party demand type accounts for its members, whether or not interest bearing, and commonly known or referred to as share draft accounts, may continue to provide that service to its members until terminated by order of the superintendent of banking

or the administrator of the credit union department as provided in this section; provided, however, that as a condition of providing such service the credit union shall comply with the reserve requirements established pursuant to this section.

Commencing on the effective date of this Act the superintendent of banking, and commencing on January 1, 1979, the administrator of the credit union department, shall have the continuing duty to provide by rule for legal reserve requirements with respect to credit unions maintaining third party demand type accounts which are subject to this section in such amounts as may be necessary to protect the financial soundness of those credit unions and their members. Such legal reserves shall be in addition to the reserve requirements established by or under the authority of section five hundred thirty-three point seventeen (533.17) of the Code. However, any such rule shall not require a reserve amount for any credit union which for any calendar month exceeds the quotient of one hundred twenty-five percent of the aggregate amount actually paid by the credit union during the preceding calendar month in satisfaction of drafts issued by members against third party demand type accounts divided by the number of days during that preceding calendar month on which payments in satisfaction of share drafts actually were made by the credit union. Reserves shall be held in an account established for that purpose in the corporate central credit union.

Until January 1, 1979, the superintendent of banking, and commencing January 1, 1979, the administrator of the credit union department, shall provide by rule for the discontinuance of the use of third party demand type accounts in an orderly manner and according to such procedures as shall protect the financial integrity of credit unions and their members. Third party demand type accounts in credit unions shall be terminated in this state effective April 15, 1979, but no rule issued by the superintendent of banking or the administrator of the credit union department shall require the termination of such accounts prior to February 1, 1979.

Sec. 24. The legislative council shall create a study committee consisting of such number of members as specified by the legislative council who shall represent both houses and political parties of the general assembly. The senate members shall be appointed by the majority floor leader of the senate and the house members shall be appointed by the speaker of the house. The study committee shall undertake a study for the purpose of determining the need for legislation relating to share drafts of credit unions. The study committee shall make periodic reports to the legislative council and a final report to the general assembly convening in the year 1979.

Sec. 25. Notwithstanding section twenty-seven (27) of this Act, sections one (1) through ten (10) of this Act shall take effect January 1, 1979.

Sec. 26. It is the intent of the general assembly in enacting this Act that the provisions of this Act except sections one (1) through ten (10) of this Act and except subsection two (2) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except sections eighteen (18) and twenty-one (21) of this Act shall have temporary effect only, and that the laws of this state as they existed prior to amendment by the provisions of this Act other than the provisions contained in sections one (1) through ten (10), and in subsection two (2) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in sections eighteen (18) and twenty-one (21) of this Act, shall be the laws of this state on and after July 1, 1979.

Sec. 27. This Act, being deemed of immediate importance,

shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in The Hawk Eye, a newspaper published in Burlington, Iowa."

3. Amend the title by striking lines 1 and 2 and inserting in lieu thereof the following: "An Act relating to the authority, procedures, practices and transactions of persons who lend money or extend credit, and providing penalties."

ON THE PART OF THE SENATE:

NOLTING, CHAIRPERSON
GLENN
PRIEBE
DRAKE
HILL

Senate adopted (p. 1741)

ON THE PART OF THE HOUSE:

MONROE, CHAIRPERSON
CHIDO
AVENSON
EVANS
HARVEY

*House adopted
(p. 2926)*

FILED JULY 15, 1978
ADOPTED JULY 15, 1978

BILL SYNOPSIS

House File 2467

An Act relating to the authority, procedures, practices and transactions of persons who lend money or extend credit, and providing penalties.

House File 2467 is a comprehensive Act which touches upon the following subject matters: redlining by financial institutions, the Iowa usury rate as set forth in section 535.2 of the Code, costs and fees and charges which lawfully may be collected in connection with mortgage loans on single-family and two-family dwellings, prepayment penalties in connection with mortgage loans on either one or two family dwellings or purchase money ag land loans, the maximum interest rate which may be collected by savings and loan associations in nonconsumer property improvement loans, the maximum permissible finance charge which may be imposed in consumer mobile home purchase money loans, and the use by credit unions and their members of share drafts. In addition, several corrective or coordinating amendments are made to the 1977 Code.

The Act contains some permanent Code amendments, and some temporary amendments which will cease to have effect on July 1, 1979. The Act takes effect upon publication, except for sections 1 through 10.

The various sections of the bill have general effect as follows:

1. Sections 1 through 10 prohibit discrimination by lending institutions in lending practices with respect to mortgage loans on one to four family dwellings where the discrimination is based upon the income, racial or ethnic characteristics of the geographic area in which the property is located, or based upon the age of structures in that area. The redlining provisions establish civil and criminal penalties for violations. In addition, the Act requires the annual reporting by a lending institution to the state regulatory agency if the institution has more than ten million dollars in assets and does business in an Iowa city of more than 50 thousand population or which otherwise is located in a standard metropolitan statistical area. The redlining provisions are a permanent addition to the Code, and take effect January 1, 1979.

2. Section 11 of the Act amends section 535.2 of the Code relating to usury.

a. Subsection 2 of that section as amended exempts two additional types of transactions from the usury ceiling: business purpose loans where the principal amount exceeds two hundred thousand dollars, and agricultural purpose loans where the principal amount exceeds five hundred thousand dollars. This amendment is a permanent change to the Code.

b. A new subsection 3 is temporarily added to section 535.2 of the Code which supersedes the existing 9% usury ceiling with a ceiling which "floats". The temporary ceiling is two percentage points above the monthly average ten-year constant maturity interest rate on United States government bonds and notes. Commencing in July of 1978, the Iowa superintendent of banking will ascertain and publish the actual usury rate, as determined by the formula, on a quarterly basis. The rate for the third calendar quarter of 1978 is indicated to be 10½ percent, and will become effective as soon as the superintendent publishes the effective rate. Thereafter the new quarterly rate, if any, will be effective October 1, 1978, January 1, 1979, and April 1, 1979, as published by the superintendent.

The new subsection provides that once a contract has been executed at a lawful rate, that rate is lawful for the duration of that agreement, even if the usury rate should decrease below that rate.

The existing Code exemptions for V.A. and F.H.A. loans is continued.

The new subsection is a temporary amendment commencing on the effective date of the Act and until July 1, 1979. On and after July 1, 1979, the usury rate once again would be 9%.

The section also provides that the old usury ceiling of 9% applies to any agreement executed prior to the effective date of the Act, even if the agreement contained a variable (adjustable) rate provision.

3. Section 12 of the Act deals with charges other than interest in mortgage loans on single-family and two-family dwellings.

a. Subsection 2 prohibits the collection by the lender from the borrower of points (a percentage of the purchase price paid in cash at the time of loan closing). The subsection also itemizes the other types of charges which the lender may collect from the borrower, including appraisal fees and title opinion fees, and provides that such other charges, if collected, cannot exceed the actual cost to the lender of obtaining those services.

b. Subsection 3 prohibits compensating balances and other deposit or security requirements tied to a mortgage loan if the effect is to increase the overall yield to the lender. But subsection 3 specifically authorizes the use of escrow accounts for the payment of taxes, insurance and special assessments, even though interest is not paid to the borrower on amounts held in escrow.

c. Subsection 5 exempts V.A. and F.H.A. loans from the section; and also authorizes payment of other or higher charges in the secondary mortgage market if those charges are not ultimately imposed upon the borrower.

d. The section provides for recovery by the borrower of excess charges or unlawful charges, plus attorney fees and court costs incurred in collecting those charges.

Section 12 takes effect on publication and is repealed July 1, 1979.

4. Sections 13 through 17 temporarily amend various Code sections to implement section 12.

5. Section 18 is a permanent Code amendment, and it authorizes savings and loan associations to charge the same maximum finance charge in nonconsumer property improvement loans as is authorized by the 1977 Code in consumer property improvement loans (not more than 15% A.P.R.). The section also makes a technical correction relating to amortization of property improvement loans, thereby eliminating an inconsistency in Code language.

6. Section 19 amends the industrial loan company chapter to provide that the maximum interest charge which such a company may collect will be limited to 9% add-on or discount, to the same extent as under the 1977 Code. This section precludes an industrial loan company from charging a higher rate of interest under the new floating usury ceiling. This amendment ceases to have effect on July 1, 1979, but the maximum rate will continue to be 9% unless further changed by the legislature.

7. Section 20 temporarily amends chapter 537 of the Code to establish new usury ceilings on purchase money loans for new and used mobile homes used as dwellings. The temporary new rate for new mobile homes would be 3 percentage points above the section 535.2 usury rate (the floating rate established by section 11) and 5 percentage points above that usury rate for used mobile homes. These ceilings would float up or down with the chapter 535 usury rate. The section is repealed July 1, 1979.

8. Section 21 is a permanent Code amendment which corrects a definition in the consumer credit code.

9. Section 22 temporarily strikes from the consumer credit code the authority for a lender to collect points in consumer loans involving real property. The amendment would cease to have effect July 1, 1979.

10. Section 23 temporarily allows a credit union to provide share draft service to its members if the credit union was providing that service on June 28, 1978, and if the credit union establishes reserves. The section provides for the phase-out of share drafts between February 1, 1979 and April 15, 1979, as provided by administrative rules.

11. Section 24 provides for a legislative study of credit union share drafts during the 1978-1979 legislative interim.

12. Sections 25, 26 and 27 establish the effective dates for the various provisions of the Act.

HOUSE FILE 2467

AN ACT

RELATING TO THE AUTHORITY, PROCEDURES, PRACTICES AND TRANSACTIONS OF PERSONS WHO LEND MONEY OR EXTEND CREDIT, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. DEFINITIONS. For purposes of sections one (1) through ten (10) of this Act, unless the context otherwise requires:

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

2. "Mortgage loan" means a loan for the purchase, construction, improvement or rehabilitation of residential property containing or to contain four or fewer family dwelling units in which the property is used as security for the loan.

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

4. "Reporting financial institution" means a financial institution with an excess of ten million dollars in assets which during a reporting period accepts mortgage loan applications from persons in any Iowa city with a population in excess of fifty thousand as determined in the most recent regular census or in any standard metropolitan statistical area.

5. "Vary the terms of a mortgage loan" includes, but is

not limited to the following:

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

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

c. Charging a higher interest rate or higher loan origination fees than is usual for the particular type of mortgage loan involved.

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

Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE MORTGAGES. It is a discriminatory practice for any financial institution accepting mortgage loan applications to engage in the practice of red-lining as defined in section one (1) of this Act.

Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL INSTITUTION. Nothing contained in sections one (1) through ten (10) of this Act shall preclude a financial institution from applying economically sound underwriting practices in contemplation of any mortgage loan to any person. Such practices shall include but are not limited to the following:

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

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

3. Diversification of the financial institution's investment portfolio.

Sec. 4. NEW SECTION. DISCLOSURE. Each reporting financial institution accepting an application for a mortgage loan shall:

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

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

a. State the total number of mortgage loan applications

filed by census tract.

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

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

4. In accordance with subsections one (1), two (2) and three (3) of this section, the superintendent of banking, the auditor of state, the administrator of the credit union department, and the commissioner of insurance shall establish rules for the enforcement of the provisions of this section. Rules established pursuant to sections one (1) through ten (10) of this Act shall permit a financial institution which is required to file a disclosure report pursuant to the federal home mortgage disclosure act of 1975, 12 U.S.C. 2801 to 2809, and the regulations promulgated under that act, to file a copy of that report with the Iowa housing finance authority. If a financial institution is not required to file a disclosure report pursuant to the federal home mortgage disclosure act, the financial institution shall file with the Iowa housing finance authority a report that conforms in form and substance with the requirements of the federal home mortgage disclosure act.

Reporting periods shall be established by rule and shall be uniform for all financial institutions.

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

Sec. 5. NEW SECTION. AGENCY TO ADMINISTER. Sections two (2), and four (4) of this Act shall be administered and enforced by the following agencies:

1. The superintendent of banking or the superintendent's designee shall be responsible for enforcing those sections in regard to all banks and mortgage banking companies.

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

3. The commissioner of insurance or the commissioner's designee shall be responsible for enforcing those sections pursuant to chapter five hundred five (505) of the Code in regard to all insurance companies.

4. The administrator of the credit union department or a designee shall be responsible for enforcing those sections in regard to all credit unions.

Sec. 6. NEW SECTION. AGGRIEVED PARTY. Any person who has been aggrieved as a result of a violation of sections one (1) through ten (10) of this Act may bring an action in the district court of the county in which the violation occurred or in the county where the financial institution involved is located.

Upon a finding that a financial institution has committed a violation of either section two (2), or four (4) of this Act, the court may award actual damages, court costs and attorney fees.

Sec. 7. NEW SECTION. CRIMINAL PENALTY. Any person who knowingly engages in a practice which violates the provisions of section two (2) or four (4) of this Act is guilty of a serious misdemeanor.

Sec. 8. NEW SECTION. CIVIL PENALTY. Any person who in bad faith fails to comply with the provisions of sections one (1) through ten (10) of this Act, is subject to punitive damages not to exceed one thousand dollars in addition to actual damages as set forth in section six (6) of this Act.

Sec. 9. The Code editor is directed to incorporate sections

one (1) through eight (8) of this Act as a separate chapter of the Code.

Sec. 10. The director of the Iowa housing finance authority shall report to the Iowa general assembly in February of 1980, an analysis of the nature and status of the disclosure reports filed pursuant to section four (4) of this Act.

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

Sec. 11. Section five hundred thirty-five point two (535.2), Code 1977, is temporarily, except as otherwise specifically provided in section twenty-six (26) of this Act, amended commencing on the effective date of this Act and until July 1, 1979, to read as follows:

535.2 RATE OF INTEREST.

1. Except as provided in subsection 2 hereof, the rate of interest shall be five cents on the hundred by the year in the following cases, unless the parties shall agree in writing for the payment of interest at a rate not exceeding nine-cents-on-the-hundred-by-the-year the rate permitted by subsection three (3) of this section:

- a. Money due by express contract.
 - b. Money after the same becomes due.
 - c. Money loaned.
 - d. Money received to the use of another and retained beyond a reasonable time, without the owner's consent, express or implied.
 - e. Money due on the settlement of accounts from the day the balance is ascertained.
 - f. Money due upon open accounts after six months from the date of the last item.
 - g. Money due, or to become due, where there is a contract to pay interest, and no rate is stipulated.
2. Any domestic or foreign corporation ~~or~~, and any real

estate investment trust as defined in section 856 of the Internal Revenue Code, and any person purchasing securities as defined in chapter 502 on credit from a broker or dealer registered or licensed under chapter 502 or under the Security Exchange Act of 1934, 48 Stat. 881, 15 United States Code 78A, as amended, and any person borrowing money in the principal amount of two hundred thousand dollars or more for business purposes, and any person borrowing money in the principal amount of five hundred thousand dollars or more for agricultural purposes, may agree in writing to pay any rate of interest in excess of the rate ~~prescribed in subsection 4-hereof~~ permitted by this section, and no such corporation or real estate investment trust or person so agreeing in writing shall plead or interpose the claim or defense of usury in any action or proceeding.

3. a. The maximum lawful rate of interest which may be provided for in any written agreement for the payment of interest entered into during any calendar quarter commencing on or after July 1, 1978, shall be two percentage points above the monthly average ten-year constant maturity interest rate of United States government notes and bonds as published by the board of governors of the federal reserve system for the calendar month second preceding the first month of the calendar quarter during which the maximum rate based thereon will be effective, rounded to the nearest one-fourth of one percent per year.

On or before the twentieth day of March, June, September and December of each year the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar quarter as prescribed herein, and shall cause such rate to be published, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county, prior to the first day of the following calendar month. Such maximum lawful rate of interest shall be effective on the first day of the calendar

month following publication. As soon as practicable after the effective date of this Act, the superintendent of banking shall determine and publish the maximum lawful rate pursuant to this paragraph for the third quarter of 1978, which maximum rate shall be effective upon publication thereof. The determination of the maximum lawful rate of interest by the superintendent of banking shall be exempt from the provisions of chapter seventeen A (17A) of the Code.

b. Any rate of interest specified in any written agreement providing for the payment of interest shall, if such rate was lawful at the time the agreement was made, remain lawful during the entire term of the agreement, including any extensions or renewals thereof, for all money due or to become due thereunder including future advances, if any.

c. Any written agreement for the payment of interest made pursuant to a prior written agreement by a lender to lend money in the future, either to the other party to such prior written agreement or a third party beneficiary of such prior agreement, may provide for payment of interest at the lawful rate of interest at the time of the execution of the prior agreement regardless of the time at which the subsequent agreement is executed.

d. Any contract, note or other written agreement providing for the payment of a rate of interest permitted by this subsection which contains any provisions providing for an increase in the rate of interest prescribed therein shall, if such increase could be to a rate which would have been unlawful at the time the agreement was made, also provide for a reduction in the rate of interest prescribed therein, to be determined in the same manner and with the same frequency as any increase so provided for.

4. Notwithstanding the provisions of subsection three (3) of this section, with respect to any agreement which was executed prior to the effective date of this Act and which contained a provision for the adjustment of the rate of

interest specified in that agreement, the maximum lawful rate of interest which may be imposed under that agreement shall be nine cents on the hundred by the year, and any excess charge shall be a violation of section five hundred thirty-five point four (535.4) of the Code.

5. This section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code.

Sec. 12. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. LOAN CHARGES LIMITED.

1. As used in this section, the term "loan" means any money loaned to a borrower who furnishes, as security for all or part of the loan, a mortgage on real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower.

2. The assessment and collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge is prohibited. If any lender receives any amount as a loan origination fee, closing fee, commitment fee or similar charge, or any combination thereof, which exceeds the amount permitted by this section, the borrower shall have the right to recover that charge, plus attorney fees and court costs incurred in any action necessary to effect such recovery.

Any costs charged to a borrower, associated with a loan, shall not exceed actual costs which shall be disclosed to the borrower. Such costs may only include one or more of the following:

- a. Credit reports.
- b. Appraisal fees.
- c. Attorney's opinions.
- d. Abstracting.

- e. County recorder's fees.
- f. Inspection fees.
- g. Mortgage guarantee insurance charge.
- h. Surveying of property.
- i. Termite inspection.

The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller.

3. A lender shall not, as a condition of making a loan as defined in this section, require the borrower to place money, or to place property other than that which is given as security for the loan, on deposit with or in the possession or control of the lender or some other person if the effect is to increase the yield to the lender with respect to that loan; provided that this subsection shall not prohibit a lender from requiring the borrower to deposit money without interest with the lender in an escrow account for the payment of insurance premiums, property taxes and special assessments payable by the borrower to third persons. Any lender who requires an escrow account shall not violate the provisions of paragraph a of subsection one (1) of section five hundred seven B point five (507B.5) of the Code.

4. If any lender receives interest either in a manner or in an amount which is prohibited by subsection three (3) of this section, the borrower shall have the right to recover all amounts collected or earned by the lender, whether or not from the borrower, in violation of this section, plus attorney fees, plus court costs incurred in any action necessary to effect such recovery.

5. The provisions of this section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code, 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.

6. This section is repealed effective July 1, 1979.

Sec. 13. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED BY REAL ESTATE MORTGAGES PROHIBITED.

1. As used in this section:

a. "Loan" means money loaned to a borrower who furnishes, as security for all or any part of the loan, a mortgage on real property which is a single-family or a two-family dwelling to be occupied by the borrower or money loaned to a borrower for the purpose of purchasing agricultural land where the borrower furnishes a mortgage on the real property to be purchased as security for the loan.

b. "Lender" means any state or federally chartered bank, savings and loan association or credit union, any industrial loan company, any insurance company, or any other person or entity which makes a loan, as defined in this section.

2. Whenever a borrower under a loan repays the full amount of the loan in connection with a transfer of ownership of the real property given as security for that loan, the lender shall not receive an amount in payment of interest which is greater than the amount determined by applying the rate of interest agreed upon by the lender and the borrower to the unpaid balance of the loan for a period of time during which the borrower had the use of the money loaned; and the lender shall not impose any penalty or other charge in addition to the amount of interest due as a result of the repayment of that loan at a date earlier than is required by the terms of the loan agreement. A lender may, however, require advance notice of not more than thirty days of a borrower's intent to repay the full amount of a loan at a date earlier than

is required by the terms of the loan agreement.

3. If any lender receives an amount of interest greater than permitted by subsection two (2) of this section, or imposes any penalty or other charge prohibited by subsection two (2) of this section, the borrower shall have the right to recover all amounts paid the lender which are in excess of the amounts permitted by subsection two (2) of this section, plus attorney's fees and court costs incurred in any action necessary to effect such recovery.

Sec. 14. Section five hundred twenty-four point nine hundred five (524.905), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new subsection:

NEW SUBSECTION. If a customer elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the state bank shall be governed by section thirteen (13) of this Act.

Sec. 15. Section five hundred thirty-three point sixteen (533.16), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the credit union shall be governed by section thirteen (13) of this Act.

Sec. 16. Section five hundred thirty-four point twenty-one (534.21), subsection ten (10), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred thirty-three (133), section seven (7), is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on a single-family or a two-family dwelling or agricultural land may be repaid in part or in full at any time subject to the provisions of section thirteen (13) of this Act. Real estate loans on ~~one-to~~ three and four family dwellings may be repaid in part or in full at any time, excepting that the association may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans, except the real estate loans on single-family and two-family dwellings or agricultural land previously referred to in this subsection.

Sec. 17. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a borrower elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the licensee shall be governed by section thirteen (13) of this Act.

Sec. 18. Section five hundred thirty-four point nineteen (534.19), subsection six (6), Code 1977, is amended to read as follows:

6. PROPERTY IMPROVEMENT LOANS. To make loans for maintenance, repair, landscaping, modernization, furniture and fixtures, improvement and equipment, with or without security provided that no such loan without security shall exceed ten thousand dollars, and provided further that not in excess of twenty percent of the assets of the association shall be so invested, said twenty percent to be exclusive

of the forty percent of assets power set out in section 534.21 hereof. ~~Such loans, other than consumer loans as defined in the Iowa consumer credit code, shall be amortized to mature in not to exceed eight years.~~ The provisions of the Iowa consumer credit code shall apply to consumer loans made by a savings and loan association and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan. Loans made pursuant to this subsection shall be for terms not exceeding fifteen years and shall not be made at interest rates in excess of rates allowed for consumer loans.

Sec. 19. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

1. Charge, receive or collect interest at a rate greater than that authorized by section 535.2 exceeding nine cents on the hundred by the year, except that the interest may be computed when the note is made on the full amount of the cash advanced on the loan from the date of the note to the date of the final installment thereof, and the interest so computed may be included in the note, notwithstanding any agreement to pay the entire amount in installments; or the interest may be computed on the amount of the note and discounted or collected in advance when the loan is made, notwithstanding any agreement to pay the entire amount in installments. If the note is repayable in other than equal monthly installments, the interest may be an amount computed on the basis of the effective rates permitted as provided above; provided, however there shall be no compounding of interest and when an interest rate as authorized herein is advertised, or negotiated for with a prospective borrower, with intent that it be computed by either of the two methods authorized herein, they being the "add on" method or the "discount" method, in such case such rate shall be further described as to the method

of computation to be used, but interest computed by either method shall be stated to the borrower as provided in section 537.3210.

The limitation on interest rate which is contained in this subsection shall not apply to any loan in which the borrower is a corporation or investment trust or any other person who is referred to in subsection two (2) of section five hundred thirty-five point two (535.2) of the Code.

Sec. 20. Chapter five hundred thirty-seven (537), article two (2), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following new section:

NEW SECTION. MOBILE HOME LOANS. Notwithstanding the maximum finance charges specified in this chapter of the Code, the maximum finance charge which may be charged for money loaned to a borrower who furnishes as security for all or part of the loan, a mobile home occupied or to be occupied by the borrower as a dwelling shall be as follows:

1. For a new mobile home, three percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

2. For a used mobile home, five percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

Sec. 21. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection fifteen (15), paragraph b, subparagraph two (2), Code 1977, is amended to read as follows:

(2) A loan secured by an interest in land if the security interest is bona fide and not for the purpose of circumvention or evasion of this chapter and the finance charge does not

~~exceed twelve percent per year~~, calculated according to the actuarial method on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term, does not exceed the rate of interest permitted under chapter five hundred thirty-five (535) of the Code.

Sec. 22. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection twenty (20), paragraph a, subparagraph one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

(1) Interest or any amount payable under a point, discount or other system of charges, however denominated, except that ~~with respect to a consumer loan secured by a first lien on a dwelling of the debtor given to finance the acquisition of that dwelling, points, consisting of a charge paid in cash at the time of commitment or closing of a loan transaction or~~ with respect to a consumer credit sale of goods or services, a cash discount of five percent or less of the stated price of goods or services which is offered to the consumer for payment by cash, check or the like either immediately or within a period of time, shall not be part of the finance charge for the purpose of determining maximum charges pursuant to section 537.2401 ~~and chapters 524, 534, and 535.~~ A cash discount permitted by this subparagraph shall not be considered part of the finance charge for the purpose of determining compliance with Truth in Lending pursuant to section 537.3201 if it is properly disclosed as required by the Truth in Lending Act as amended to and including October 28, 1975 and regulations issued pursuant to that Act as so amended prior to October 28, 1975.

Sec. 23. Chapter five hundred thirty-three (533), Code 1977, is amended by adding the following temporary new section:

NEW SECTION. Each credit union which on June 28, 1978,

the date on which the supreme court of the state of Iowa held share drafts to be illegal, had in operation third party demand type accounts for its members, whether or not interest bearing, and commonly known or referred to as share draft accounts, may continue to provide that service to its members until terminated by order of the superintendent of banking or the administrator of the credit union department as provided in this section; provided, however, that as a condition of providing such service the credit union shall comply with the reserve requirements established pursuant to this section.

Commencing on the effective date of this Act the superintendent of banking, and commencing on January 1, 1979, the administrator of the credit union department, shall have the continuing duty to provide by rule for legal reserve requirements with respect to credit unions maintaining third party demand type accounts which are subject to this section in such amounts as may be necessary to protect the financial soundness of those credit unions and their members. Such legal reserves shall be in addition to the reserve requirements established by or under the authority of section five hundred thirty-three point seventeen (533.17) of the Code. However, any such rule shall not require a reserve amount for any credit union which for any calendar month exceeds the quotient of one hundred twenty-five percent of the aggregate amount actually paid by the credit union during the preceding calendar month in satisfaction of drafts issued by members against third party demand type accounts divided by the number of days during that preceding calendar month on which payments in satisfaction of share drafts actually were made by the credit union. Reserves shall be held in an account established for that purpose in the corporate central credit union.

Until January 1, 1979, the superintendent of banking, and commencing January 1, 1979, the administrator of the credit union department, shall provide by rule for the discontinuance of the use of third party demand type accounts in an orderly

manner and according to such procedures as shall protect the financial integrity of credit unions and their members. Third party demand type accounts in credit unions shall be terminated in this state effective April 15, 1979, but no rule issued by the superintendent of banking or the administrator of the credit union department shall require the termination of such accounts prior to February 1, 1979.

Sec. 24. The legislative council shall create a study committee consisting of such number of members as specified by the legislative council who shall represent both houses and political parties of the general assembly. The senate members shall be appointed by the majority floor leader of the senate and the house members shall be appointed by the speaker of the house. The study committee shall undertake a study for the purpose of determining the need for legislation relating to share drafts of credit unions. The study committee shall make periodic reports to the legislative council and a final report to the general assembly convening in the year 1979.

Sec. 25. Notwithstanding section twenty-seven (27) of this Act, sections one (1) through ten (10) of this Act shall take effect January 1, 1979.

Sec. 26. It is the intent of the general assembly in enacting this Act that the provisions of this Act except sections one (1) through ten (10) of this Act and except subsection two (2) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except sections eighteen (18) and twenty-one (21) of this Act shall have temporary effect only, and that the laws of this state as they existed prior to amendment by the provisions of this Act other than the provisions contained in sections one (1) through ten (10), and in subsection two (2) of section

five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in sections eighteen (18) and twenty-one (21) of this Act, shall be the laws of this state on and after July 1, 1979.

Sec. 27. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in The Hawk Eye, a newspaper published in Burlington, Iowa.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2467, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved July 26, 1978

ROBERT D. RAY
Governor