

*Reprinted 2/77*

FILE JAN 17 1979

SENATE FILE 158

BY COMMITTEE ON COMMERCE  
*approved 1/29 (p. 442)*

Passed Senate, Date 2-8-79 (p. 382) Passed House, Date \_\_\_\_\_

Vote: Ayes 47 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved March 27, 1979

*Mention to reconsider p. 382, 419  
-prevalent -/1 (p. 442)*

### A BILL FOR

1 An Act relating to financial transactions which involve loans  
2 of money, extensions of credit or the transfers of funds  
3 by means of drafts, and providing for the restriction or  
4 regulation of interest rates, loan charges and prepayment  
5 penalties, and the use of share drafts drawn on credit  
6 unions, and providing penalties.

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

8  
9 *Proposed Senate 2-19-79 (p. 442)*  
10 *52 - 0*

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1 Section 1. Chapter five hundred thirty-three (533), Code  
2 1979, is amended by adding the following new section:

3 NEW SECTION. SHARE DRAFTS.

4 1. As used in this section or chapter, unless the context  
5 otherwise requires:

6 a. "Share draft" means a negotiable draft which is payable  
7 upon demand and which is used to withdraw funds from a share-  
8 draft account. A share draft is an item for purposes of  
9 chapter five hundred fifty-four (554), article four (4), of  
10 the Code. The term does not include a draft issued by a  
11 credit union for the transfer of funds between the issuing  
12 credit union and another credit union or a bank, savings and  
13 loan association, or other depository financial institution.

14 b. "Payable-through bank" means the bank which is  
15 designated to make presentment of a share draft to the credit  
16 union for payment.

17 c. "Truncation" means the original share draft is not  
18 returned to the member.

19 d. "Share-draft account" means the demand account from  
20 which a credit union has agreed that funds may be withdrawn  
21 by means of a share draft. A share-draft account may bear  
22 interest or dividends as determined by the board of directors  
23 pursuant to this chapter.

24 2. Subject to the provisions of this chapter, a credit  
25 union may provide its members with share-draft accounts.  
26 The board of directors shall determine, prior to requesting  
27 authority to implement a share-draft program, that the members'  
28 use of share drafts is economically and operationally feasible  
29 for the credit union.

30 3. The share accounts and deposit accounts of a credit  
31 union operating a share-draft program must be insured by the  
32 national credit union administrator. The administrator of  
33 the credit union department shall order the termination of  
34 the share-draft program of a credit union which does not  
35 comply with this subsection. The provisions of this subsection

1 supersede the provisions of section five hundred thirty-three  
2 point sixty-four (533.64) of the Code with respect to credit  
3 unions which have share-draft programs.

4 4. A credit union seeking share-draft authority shall  
5 submit to the administrator a written application. The  
6 application shall include all of the following:

7 a. A certified copy of the minutes of the board of  
8 directors authorizing a request to the administrator for  
9 authority to implement the share-draft program.

10 b. All background documentation which supports the decision  
11 of the board of directors that use of share drafts by members  
12 of the credit union is economically and operationally feasible  
13 for the credit union.

14 c. A statement verified by the chairperson of the board  
15 of directors that the forms and procedures which are proposed  
16 to be used by the credit union comply with any applicable  
17 rules.

18 d. A statement verified by the chairperson of the board  
19 of directors that the board of directors has determined  
20 appropriate surety bond coverage is in force. The board of  
21 directors shall purchase a fidelity bond to cover officers  
22 and employees having custody of or handling funds, with good  
23 and sufficient surety in an amount and character to be  
24 determined by the board, to protect the credit union against  
25 losses caused by occurrences such as fraud, dishonesty,  
26 forgery, embezzlement, misappropriation, misapplication, or  
27 unfaithful performance of duty by these officers and employees.

28 e. A statement of operational specifications and procedures  
29 which expressly provides for all of the following:

30 (1) Identification of the payable-through bank. The  
31 payable-through bank must be a bank which is located in this  
32 state or in an adjacent state.

33 (2) Truncation.

34 (3) A share-draft account agreement with each participating  
35 member which outlines the responsibilities of the credit union

1 and the member.

2 (4) The recording of overdrafts and notification to an  
3 overdrawn member.

4 (5) The encoding of each share draft with the routing  
5 and transit number of the payable-through bank, the share-  
6 draft account number, and the serial number of the share draft  
7 in accordance with standards required for use in a clearing  
8 system utilizing magnetic ink character recognition devices.

9 (6) The preprinting on the share draft of the names of  
10 the payable-through bank and the credit union.

11 (7) A method by which each member using share drafts may  
12 maintain a record of share drafts drawn.

13 (8) The submission of a periodic statement of account  
14 at least quarterly to each member who has a share-draft  
15 account. This statement shall include the serial number,  
16 the date of payment and the amount of payment of each share  
17 draft processed.

18 (9) Establishing responsibility for detection of  
19 unauthorized or forged drafts.

20 (10) Procedures for processing stop payment orders.

21 (11) Procedures for providing members with copies of paid  
22 drafts, should copies be requested.

23 (12) Procedures for retaining paid drafts or copies of  
24 paid drafts on file for a period of five years. The paid  
25 drafts or copies need not be retained in the custody of the  
26 credit union.

27 (13) The fees, if any, to be charged for share-draft  
28 account services. The fees shall not exceed the direct and  
29 indirect costs of providing the services.

30 (14) Procedures for establishing, maintaining, verifying  
31 and replenishing as necessary the share-draft liquidity reserve  
32 required by section four (4) of this Act.

33 5. A credit union shall not commence the operation of  
34 a share-draft program until it has received written authority  
35 from the administrator. The administrator shall not issue

1 authority if any of the following conditions exist:

2 a. The requirements of subsection four (4) of this section  
3 have not been met.

4 b. The auditing committee of the credit union has not  
5 fulfilled its statutory duties as specified in this chapter.

6 c. The management of the credit union has demonstrated  
7 through prior performance its inability to handle the  
8 additional activity the share-draft program will generate.

9 d. The credit union is not insured by the national credit  
10 union administrator.

11 e. The forms and procedures which are proposed to be used  
12 by the credit union do not comply with rules promulgated by  
13 the administrator.

14 6. a. The credit union shall notify the administrator  
15 in writing of the proposed implementation of a modification  
16 relating to any of the following:

17 (1) The payable-through bank.

18 (2) Truncation procedures.

19 (3) The share-draft agreement.

20 (4) Procedures for establishing and maintaining the share-  
21 draft liquidity reserve.

22 (5) Any material modification of the share-draft program  
23 not previously reviewed and approved by the administrator.

24 b. The written notice under paragraph a of this subsection  
25 shall be submitted to the administrator at least sixty days  
26 prior to the date the credit union intends to implement the  
27 modification, provided that if good cause is shown the adminis-  
28 trator may approve a modification on less than sixty days'  
29 notice. A modification referred to in paragraph a of this  
30 subsection shall not be made except upon written approval  
31 of the administrator.

32 c. The credit union shall immediately notify the  
33 administrator of any matter affecting the information provided  
34 pursuant to subsection four (4), paragraphs a through d, of  
35 this section.

1 7. If a share-draft program is not authorized or a request  
2 for modification is not approved the administrator shall  
3 submit to the credit union a written statement of the reasons  
4 for the action.

5 8. A credit union may guarantee payment of a share draft  
6 if both of the following conditions are met:

7 a. A specific guarantee authorization is obtained for  
8 the share draft from the credit union.

9 b. The guarantee authorization is immediately noted on  
10 the share-draft account to prevent the withdrawal of funds  
11 needed to pay the guaranteed share draft.

12 9. The administrator may promulgate rules as necessary  
13 to administer the provisions of this chapter which relate  
14 to share-draft programs. In order to simplify the application  
15 for share-draft authority and the operation of share-draft  
16 programs, the administrator may cause to be prepared copies  
17 of approved forms and procedures which may be used by credit  
18 unions for guidance.

19 Sec. 2. Chapter five hundred thirty-three (533), Code  
20 1979, is amended by adding the following new section:

21 NEW SECTION. PAYMENT OF SHARE DRAFTS DURING DISSOLUTION.  
22 Other provisions of section five hundred thirty-three point  
23 twenty-two (533.22) of the Code notwithstanding, when a credit  
24 union is dissolved, first priority of payment shall be given  
25 to unpaid share drafts. However, a share draft shall not  
26 be paid if any of the following conditions exist:

27 1. The share draft was issued on or after the date of  
28 appointment of a receiver in the event of an involuntary  
29 dissolution, or on or after the date the credit union is  
30 required by section five hundred thirty-three point twenty  
31 (533.20), subsection two (2) of the Code to cease doing  
32 business in the event of a voluntary dissolution.

33 2. The obligation of the member which is evidenced by  
34 the share draft has been satisfied.

35 3. The share draft is written against an account which

1 does not contain sufficient funds with which to pay the share  
2 draft.

3 4. The share draft is payable to a member of the credit  
4 union, or to a member of the family of the issuer of the share  
5 draft, or to a business in which the issuer of the share draft  
6 has an interest.

7 Sec. 3. Chapter five hundred thirty-three (533), Code  
8 1979, is amended by adding the following new section:

9 NEW SECTION. SHARE DRAFT VIOLATIONS--REVOCATION OF  
10 AUTHORITY. A credit union which offers a share-draft program  
11 to its members shall promptly honor share drafts which are  
12 written on accounts containing sufficient funds at the time  
13 the share drafts are presented for payment, and shall comply  
14 with the requirements of section one (1) of this Act respecting  
15 the operation of the share-draft program. If after notice  
16 and opportunity for hearing the administrator finds that a  
17 credit union has violated this section the administrator shall  
18 order the credit union to correct the condition. Failure  
19 of the credit union to comply with the order within a  
20 reasonable period of time as specified in the order shall  
21 be grounds for revocation of the authority to operate the  
22 share-draft program. The administrator shall revoke the  
23 authority to operate a share-draft program of a credit union  
24 demonstrating a continuing pattern of violations of this  
25 section.

26 A credit union whose share-draft authority has been revoked  
27 under this section is ineligible to receive authority to  
28 operate a share-draft program for two years after the date  
29 of revocation.

30 Sec. 4. Chapter five hundred thirty-three (533), Code  
31 1979, is amended by adding the following new section:

32 NEW SECTION. SHARE-DRAFT LIQUIDITY RESERVE--VIOLATIONS--  
33 -PENALTY.

34 1. A credit union which operates a share-draft program  
35 shall maintain a share-draft liquidity reserve to be used

1 to ensure that share drafts are honored promptly.

2 2. The share-draft liquidity reserve shall be an amount  
3 which is equal to the sum of three percent of the amounts  
4 held by the credit union in deposit accounts and share accounts  
5 other than share-draft accounts, plus seven percent of the  
6 amounts held by the credit union in share-draft accounts.

7 3. The share-draft liquidity reserve of a credit union  
8 shall be maintained as follows:

9 a. At least one-fifth of the reserve shall be held in  
10 the form of cash, or demand deposits in the name of the credit  
11 union in state or national banks, or both. All cash in the  
12 credit union and all demand deposits held in banks in the  
13 name of the credit union shall be credited against the reserve  
14 requirements of this section.

15 b. The balance of the reserve may be invested in one or  
16 more of the following:

17 (1) United States treasury instruments owned by the credit  
18 union.

19 (2) In an account held in the corporate central credit  
20 union referred to in section five hundred thirty-three point  
21 thirty-eight (533.38) of the Code under an agreement which  
22 provides that the funds shall be invested in a qualified  
23 common trust fund as defined in subparagraph three (3) of  
24 this paragraph, and that the funds may be withdrawn by the  
25 credit union on not more than one business day's notice.

26 (3) In a qualified common trust fund. A qualified common  
27 trust fund is one which has the approval of the administrator.  
28 The administrator shall not approve a trust fund for purposes  
29 of this subsection unless the trust arrangement satisfies  
30 all of the following:

31 (a) All beneficiaries of the trust are credit unions  
32 organized under the laws of this state or another state or  
33 the United States, or affiliates of these credit unions.

34 (b) Funds of the credit union which are invested in the  
35 common trust fund must be subject to withdrawal by the credit

1 union on not more than one business day's notice.

2 (c) The trustee of the trust fund is a commercial bank  
3 which is subject to examination and audit under the laws of  
4 this state or of another state or of the United States.

5 (d) Investment of funds held in trust is limited to  
6 securities issued by the United States government or its  
7 agents or instrumentalities.

8 The administrator shall be given a copy of the trust agreement  
9 and all amendments to the trust agreement. The administrator  
10 shall revoke the approval of an approved common trust fund  
11 which subsequently fails to meet the requirements of this  
12 subsection.

13 4. The share-draft liquidity reserve shall be verified  
14 and shall be replenished by the credit union as necessary  
15 at the end of each business day. The share-draft liquidity  
16 reserve of the credit union is deficient and in violation  
17 of this section if after the end of any business day, and  
18 after any deposits as required by this subsection, either  
19 of the following conditions exists:

20 a. The average of the amounts actually held by the credit  
21 union in the forms authorized by subsection three (3) of this  
22 section on that business day and each of the preceding four  
23 business days is less than the nominal amount specified in  
24 subsection two (2) of this section.

25 b. The average of the amounts actually held by the credit  
26 union in cash and demand deposits on that business day and  
27 each of the preceding four business days is less than the  
28 minimum amount specified in subsection three (3), paragraph  
29 a, of this section.

30 5. If after notice and opportunity for hearing the  
31 administrator finds that a credit union has violated this  
32 section, the administrator shall order the credit union to  
33 correct the condition within two business days, and the  
34 administrator may, in his or her discretion, order payment  
35 by the credit union to the state of a monetary penalty of

1 not more than one hundred dollars per day for each day during  
2 which a deficiency existed. Failure of the credit union to  
3 correct the condition within the prescribed time shall be  
4 grounds for revocation of the authority to operate the share-  
5 draft program. The administrator shall revoke the authority  
6 for a credit union demonstrating a continuing pattern of  
7 violations of this subsection.

8 6. A credit union whose share-draft authority has been  
9 revoked under this section is ineligible to receive authority  
10 to operate a share-draft program for two years after the date  
11 of revocation.

12 Sec. 5. Section five hundred thirty-three point six  
13 (533.6), subsection four (4), Code 1979, is amended to read  
14 as follows:

15 4. ~~If it shall appear~~ after notice and opportunity for  
16 hearing the administrator determines that any a credit union  
17 is insolvent or that it has violated any of the provisions  
18 of this chapter, the administrator ~~may,--after-a-hearing-or~~  
19 ~~after-an-opportunity-for-a-hearing-is-given,~~ shall order that  
20 the credit union to correct the condition. The administrator  
21 shall grant the credit union not less than sixty days within  
22 which to comply with the order. Failure to comply shall  
23 afford the administrator grounds to revoke the certificate  
24 of approval and shall afford the administrator the authority  
25 to apply to the district court of the district in which this  
26 credit union is located for the appointment of a receiver  
27 for the credit union. The district court shall appoint the  
28 administrator of the credit union department as receiver  
29 unless the administrator of the credit union department has  
30 tendered the appointment to the administrator of the plan  
31 by which the accounts of the credit union are insured. Either  
32 administrator as receiver shall possess the rights, powers,  
33 and privileges granted by state law to a receiver of a state  
34 credit union. Neither administrator shall be required to  
35 furnish bond as receiver of a state credit union. This

1 subsection does not apply to violations of section three (3)  
2 or four (4) of this Act.

3 Sec. 6. Section five hundred thirty-three point nineteen  
4 (533.19), Code 1979, is amended to read as follows:

5 533.19 EXPULSION--WITHDRAWAL. A member may be expelled  
6 by a majority vote of the board of directors at a regular  
7 or special meeting of the board. The expelled member may  
8 request a hearing before the membership of the credit union.  
9 A meeting of the membership shall be held within sixty days  
10 of the member's request. The membership may, by majority  
11 vote at the membership meeting, reinstate the expelled member  
12 upon terms and conditions prescribed by it. Any member may  
13 withdraw from the credit union at any time but notice of  
14 withdrawal may be required. All amounts paid on shares or  
15 as deposits of an expelled or withdrawing member, with any  
16 dividends or interest accredited thereto, to the date thereof,  
17 shall, as funds become available and after deducting all  
18 amounts due from the member to the credit union and an amount  
19 as necessary to honor outstanding share drafts, be paid to  
20 ~~him~~ the member. The credit union may require sixty days'  
21 notice of intention to withdraw shares and thirty days' notice  
22 of intention to withdraw deposits, except that a credit union  
23 shall not require notice with respect to funds which are  
24 subject to withdrawal by share drafts. Withdrawing or expelled  
25 members shall have no further rights in the credit union but  
26 are not, by such expulsion or withdrawal, released from any  
27 remaining liability to the credit union.

28 Sec. 7. Section seven hundred fourteen point one (714.1),  
29 subsection six (6), unnumbered paragraph one (1), Code 1979,  
30 is amended to read as follows:

31 6. Makes, utters, draws, delivers, or gives any check,  
32 share draft, draft, or written order on any bank, credit  
33 union, person or corporation, and obtains property or service  
34 in exchange therefor, if the person knows that such check,  
35 share draft, draft or written order will not be paid when

1 presented.

2 Sec. 8.

3 1. Notwithstanding other provisions of this Act, a credit  
4 union which has an operating share-draft program on the  
5 effective date of this Act may continue to offer share-draft  
6 services prior to submitting a request and receiving authority  
7 as required by this Act, but the credit union must submit  
8 a request as required by this Act not later than sixty days  
9 after the effective date of this Act. The administrator shall  
10 act upon the request within thirty days after receiving it.  
11 The temporary authority granted by this section expires ninety  
12 days after the effective date of this Act, or on the date  
13 the administrator acts upon the request for share-draft  
14 authority, whichever date is earlier.

15 2. Notwithstanding section one (1), subsection three (3),  
16 and section one (1), subsection five (5), paragraph d, of  
17 this Act, a credit union which has an operating share-draft  
18 program on the effective date of this Act may continue to  
19 offer share-draft services prior to obtaining insurance for  
20 share accounts and deposit accounts from the national credit  
21 union administrator, but the credit union shall obtain the  
22 required insurance within ninety days after the effective  
23 date of this Act, and shall not open any additional share-  
24 draft accounts or offer any additional share-draft services  
25 until its accounts are so insured. The administrator shall  
26 order the termination of the share-draft program of a credit  
27 union which is subject to this subsection and which fails  
28 to comply with this subsection.

29 3. Notwithstanding section one (1), subsection four (4),  
30 paragraph e, subparagraph one (1), of this Act, a credit union  
31 which has an operating share-draft program on the effective  
32 date of this Act and which has a contractual arrangement with  
33 a payable-through bank that does not meet the requirements  
34 of this Act may continue to use the same bank for a period  
35 of not more than two years after the effective date of this

1 Act. At the end of the two-year period, or if at any prior  
2 time the credit union terminates the arrangement with its  
3 payable-through bank, the credit union shall select a payable-  
4 through bank which meets the requirements of this Act.

5 Sec. 9. Share drafts which were issued by members of Iowa  
6 credit unions prior to the effective date of this Act are  
7 hereby declared to be valid and binding instruments for any  
8 lawful purposes for which issued, and customary or necessary  
9 acts in the course of business by credit unions upon which  
10 these share drafts were written and banks by which these share  
11 drafts were received, transferred, negotiated or otherwise  
12 processed are hereby declared to be legal.

13 Sec. 10. Notwithstanding section one (1), subsection one  
14 (1), paragraph a, of this Act, a credit union which has an  
15 operating share-draft program on the effective date of this  
16 Act may continue to supply its members with blank share-draft  
17 forms which were printed prior to the effective date of this  
18 Act, and these members may continue to use existing supplies  
19 of these share-draft forms until the supplies are exhausted  
20 or until the expiration of one hundred twenty days after the  
21 effective date of this Act, whichever occurs sooner. The  
22 administrator shall enforce compliance with this paragraph.

23 Share drafts which are non-negotiable in printed form and  
24 which are issued by members of credit unions after the effec-  
25 tive date of this Act under the authority of this section  
26 are hereby declared to be valid and binding instruments for  
27 any lawful purposes for which issued, and customary and  
28 necessary acts in the course of business by credit unions  
29 upon which these drafts were written and banks by which these  
30 drafts were received, transferred, negotiated or otherwise  
31 processed are hereby declared to be legal.

32 Sec. 11. Section five hundred thirty-five point two  
33 (535.2), Code 1977, as amended by Acts of the Sixty-seventh  
34 General Assembly, 1978 Session, chapter one thousand one  
35 hundred ninety (1190), section eleven (11), is reenacted and

1 is the law of this state on and after the effective date of  
2 this Act, notwithstanding any contrary provision of Acts of  
3 the Sixty-seventh General Assembly, 1978 Session, chapter  
4 one thousand one hundred ninety (1190).

5 Sec. 12. Acts of the Sixty-seventh General Assembly, 1978  
6 Session, chapter one thousand one hundred ninety (1190),  
7 section eleven (11), subsection three (3), paragraph a, is  
8 amended effective July 1, 1979, to read as follows:

9 a. The maximum lawful rate of interest which may be  
10 provided for in any written agreement for the payment of  
11 interest entered into during any calendar ~~quarter~~ month  
12 commencing on or after July 1, ~~1978~~ 1979, shall be two  
13 percentage points above the monthly average ten-year con-  
14 stant maturity interest rate of United States government notes  
15 and bonds as published by the board of governors of the federal  
16 reserve system for the calendar month second preceeding the  
17 ~~first month of the calendar quarter~~ during which the maximum  
18 rate based thereon will be effective, rounded to the nearest  
19 one-fourth of one percent per year.

20 On or before the twentieth day of ~~March, June, September~~  
21 ~~and December of each year~~ each month the superintendent of  
22 banking shall determine the maximum lawful rate of interest  
23 for the following calendar ~~quarter~~ month as prescribed herein,  
24 and shall cause ~~such~~ this rate to be published, as a notice  
25 in the Iowa administrative bulletin or as a legal notice in  
26 a newspaper of general circulation published in Polk county,  
27 prior to the first day of the following calendar month. ~~Such~~  
28 This maximum lawful rate of interest shall be effective on  
29 the first day of the calendar month following publication.  
30 ~~As soon as practicable after the effective date of this Act,~~  
31 ~~the superintendent of banking shall determine and publish~~  
32 ~~the maximum lawful rate pursuant to this paragraph for the~~  
33 ~~third quarter of 1978, which maximum rate shall be effective~~  
34 ~~upon publication thereof.~~ The determination of the maximum  
35 lawful rate of interest by the superintendent of banking shall

1 be exempt from the provisions of chapter seventeen A (17A)  
2 of the Code.

3 Sec. 13. Acts of the Sixty-seventh General Assembly, 1978  
4 Session, chapter one thousand one hundred ninety (1190),  
5 section twelve (12), is reenacted except as provided in section  
6 fourteen (14) of this Act and is the law of this state on  
7 and after the effective date of this Act, notwithstanding  
8 any contrary provision of Acts of the Sixty-seventh General  
9 Assembly, 1978 Session, chapter one thousand one hundred  
10 ninety (1190).

11 Sec. 14. Acts of the Sixty-seventh General Assembly, 1978  
12 Session, chapter one thousand one hundred ninety (1190),  
13 section twelve (12), subsection six (6), is amended on the  
14 effective date of this Act by striking the subsection.

15 Sec. 15. Acts of the Sixty-seventh General Assembly, 1978  
16 Session, chapter one thousand one hundred ninety (1190),  
17 section twelve (12), subsections one (1), two (2) and five  
18 (5), are amended effective July 1, 1979, to read as follows:

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

25 2. a. A lender may collect in connection with a loan  
26 an origination fee which does not exceed one percent of the  
27 loan principle. The ~~assessment-and~~ collection in connection  
28 with a loan of a loan origination fee, closing fee, commitment  
29 fee or similar charge other than as expressly authorized by  
30 this paragraph is prohibited. ~~if-any-lender-receives-any~~  
31 ~~amount-as-a-loan-origination-fee,-closing-fee,-commitment~~  
32 ~~fee-or-similar-charge,-or-any-combination-thereof,-which~~  
33 ~~exceeds-the-amount-permitted-by-this-section,-the-borrower~~  
34 ~~shall-have-the-right-to-recover-that-charge,-plus-attorney~~  
35 ~~fees-and-court-costs-incurred-in-any-action-necessary-to~~

1 effect-such-recovery:

2 ~~Any costs charged to a borrower, associated with a loan,~~  
3 ~~shall not exceed actual costs which shall be disclosed to~~  
4 ~~the borrower. -- Such costs may only include one or more of~~  
5 ~~the following:~~

6 b. A lender may collect in connection with a loan any  
7 of the following costs which are incurred by the lender in  
8 connection with the loan and which are disclosed to the  
9 borrower:

- 10 a- (1) Credit reports.
- 11 b- (2) Appraisal fees.
- 12 e- (3) Attorney's opinions.
- 13 d- (4) Abstracting.
- 14 e- (5) County recorder's fees.
- 15 f- (6) Inspection fees.
- 16 g- (7) Mortgage guarantee insurance charge.
- 17 h- (8) Surveying of property.
- 18 i- (9) Termite inspection.

19 The lender shall not charge the borrower for the cost of  
20 revenue stamps or real estate commissions which are paid by  
21 the seller. Costs which are recoverable from the borrower  
22 under this paragraph are limited to actual amounts paid by  
23 the lender to third parties. Collection of any cost other  
24 than as expressly permitted by this paragraph is prohibited.

25 c. If a lender collects a fee or charge which is prohibited  
26 by paragraphs a or b of this subsection or which exceeds the  
27 amount permitted by paragraphs a or b of this subsection,  
28 the borrower has the right to recover the unlawful fee or  
29 charge or the unlawful portion of the fee or charge, plus  
30 attorney fees and costs incurred in any action necessary to  
31 effect recovery.

32 5. The provisions of this section shall not apply to any  
33 loan which is subject to the provisions of section six hundred  
34 eighty-two point forty-six (682.46) of the Code, nor shall  
35 it apply to origination fees, administrative fees, commitment

1 fees or similar charges paid by one lender to another lender  
 2 if these fees are not ultimately paid either directly or  
 3 indirectly by the borrower who occupies or will occupy the  
 4 dwelling or by the seller of the dwelling.

5 A lender shall not collect any fee from a real estate agent  
 6 for the purpose of reserving or committing funds held or to  
 7 be held by the lender for loans which are subject to this  
 8 section. If a lender collects a fee which is prohibited by  
 9 this paragraph the borrower has the right to recover the  
 10 unlawful fee, plus attorney fees and costs incurred in an  
 11 action necessary to effect recovery.

12 Sec. 16. Section five hundred thirty-four point twenty-  
 13 one (534.21), subsection ten (10), Code 1977, as amended by  
 14 Acts of the Sixty-seventh General Assembly, 1978 Session,  
 15 chapter one thousand one hundred ninety (1190), section sixteen  
 16 (16), is reenacted and shall be the law of this state on and  
 17 after the effective date of this Act, notwithstanding any  
 18 contrary provision of Acts of the Sixty-seventh General  
 19 Assembly, 1978 Session, chapter one thousand one hundred  
 20 ninety (1190).

21 Sec. 17. Section five hundred thirty-four point twenty-  
 22 one (534.21), subsection ten (10), Code 1977, as amended by  
 23 Acts of the Sixty-seventh General Assembly, 1978 Session,  
 24 chapter one thousand one hundred ninety (1190), section sixteen  
 25 (16), is amended effective July 1, 1979, to read as follows:

26 10. ADVANCE INTEREST ON PREPAYMENTS. ~~Real-estate-loans~~  
 27 ~~on-a-single-family-or-a-two-family-dwelling-or-agricultural~~  
 28 ~~land-may-be-repaid-in-part-or-in-full-at-any-time-subject~~  
 29 ~~to-the-provisions-of-section-535-9-~~ Real estate loans on  
 30 ~~three-and-four-family~~ one-family to four-family dwellings  
 31 may be repaid in part or in full at any time, ~~excepting that~~  
 32 ~~the.~~ Except where prohibited by section five hundred thirty-  
 33 five point nine (535.9) of the Code, the association may  
 34 charge not to exceed six months advance interest on that part  
 35 of the aggregate amount of all prepayments made on ~~such loan~~

1 a real estate loan on a one-family to four-family dwelling  
2 in any twelve-month period which exceeds twenty percent of  
3 the original principal amount of the loan; and may charge  
4 any negotiated rate on other loans, except ~~the real-estate~~  
5 ~~loans-on-single-family-and-two-family-dwellings-or-agricultural~~  
6 ~~land-previously-referred-to-in-this-subsection~~ where prohibited  
7 by section five hundred thirty-five point nine (535.9) of  
8 the Code.

9 Sec. 18. Acts of the Sixty-seventh General Assembly, 1978  
10 Session, chapter one thousand one hundred ninety (1190),  
11 sections thirteen (13), fourteen (14), fifteen (15), seventeen  
12 (17), nineteen (19), and twenty-two (22), are reenacted, and  
13 are the law of this state on and after the effective date  
14 of this Act, notwithstanding any contrary provision of Acts  
15 of the Sixty-seventh General Assembly, 1978 Session, chapter  
16 one thousand one hundred ninety (1190).

17 Sec. 19. The maximum lawful rate of interest determined  
18 and published by the superintendent of banking on or before  
19 June 20, 1979, as required by Acts of the Sixty-seventh General  
20 Assembly, 1978 Session, chapter one thousand one hundred  
21 ninety (1190), section twelve (12) shall, notwithstanding  
22 contrary provisions of that section or that Act, be the maximum  
23 lawful rate for the month of July, 1979, and until the maximum  
24 lawful rate for the month of August, 1979, is determined and  
25 published and becomes effective as provided in section twelve  
26 (12) of this Act.

27 Sec. 20. Acts of the Sixty-seventh General Assembly, 1978  
28 Session, chapter one thousand one hundred ninety (1190),  
29 sections twenty-three (23) and twenty-six (26), are repealed  
30 on the effective date of this Act. Acts of the Sixty-seventh  
31 General Assembly, 1978 Session, chapter one thousand one  
32 hundred ninety (1190), section twenty (20), is repealed on  
33 July 1, 1979.

34 Sec. 21. It is the intent of this Act that Acts of the  
35 Sixty-seventh General Assembly, one thousand one hundred

1 ninety (1190), sections eleven (11) through seventeen (17),  
2 and sections nineteen (19) and twenty-two (22), which were  
3 enacted as temporary provisions to expire on July 1, 1979,  
4 shall be deemed permanent Iowa law as enacted, notwithstanding  
5 the temporary nature of those provisions when enacted, and  
6 that the laws of this state as contained in those provisions  
7 shall continue to be the laws of this state on and after the  
8 effective date of this Act, except as specifically amended  
9 by a provision of this Act, as if those provisions had been  
10 enacted as permanent Iowa law.

11 Sec. 22. The code editor is directed to codify those  
12 sections of Acts of the Sixty-seventh General Assembly, 1978  
13 Session, chapter one thousand one hundred ninety (1190), which  
14 are reenacted by this Act or which are reenacted and amended  
15 by this Act, as permanent Code provisions, and to delete all  
16 references to 1977 Code law and to temporary law other than  
17 customary historical notations as appropriate.

18 Sec. 23. This Act, being of immediate importance, shall  
19 take effect, except as otherwise specifically provided in  
20 this Act, from and after its publication in the Quad-City  
21 Times, a newspaper published in Davenport, Iowa and in The  
22 Waterloo Courier, a newspaper published in Waterloo, Iowa.

23 EXPLANATION

24 This bill deals with credit union share drafts, and with  
25 usury and related matters, which were the subjects of legis-  
26 lation contained in sections 11 through 22 of Acts of the  
27 Sixty-seventh General Assembly, 1978 Session, chapter 1190  
28 (House File 2467, 1978 Session).

29 Sections 1 through 10 of this bill provide permanent  
30 authority for share-draft accounts in credit unions, which  
31 replaces the temporary authority contained in section 23 of  
32 House File 2467.

33 Section 1 of the bill requires that a credit union desiring  
34 to offer share-draft services must apply to the credit union  
35 administrator for approval of the proposed program. Contents

1 of the application are specified, along with conditions which  
2 must be satisfied before approval may be given. Among other  
3 things, the provisions of section 1 require the identification  
4 of the bank through which the share drafts are payable, the  
5 operating procedures for share-draft accounts, preprinted  
6 share-draft forms, periodic statements of account to members,  
7 procedures for stop-payment orders, and disclosure of share-  
8 draft service fees.

9 Section 2 provides that if a credit union is dissolved,  
10 outstanding third-party share drafts must be paid prior to  
11 distribution of assets or payment of obligations of the credit  
12 union.

13 Section 3 authorizes the credit union administrator to  
14 order a credit union to terminate its share-draft program  
15 if there is a failure to pay drafts promptly when presented,  
16 or a failure to comply with other requirements.

17 Section 4 requires the maintenance of a share-draft  
18 liquidity reserve. The reserve amount is equal to the sum  
19 of 3 percent of deposit-account and share-account balances  
20 plus 7 percent of demand-account balances. At least one-fifth  
21 of the reserve must be held in cash or demand deposit accounts  
22 in state or national banks, and the balance may be held in  
23 the types of investments designated in section 4. The reserve  
24 must be maintained on a daily basis, and the credit union  
25 is subject to a termination of its share-draft program and  
26 a \$100 per day penalty if the five-day average of the actual  
27 reserve is below the nominal amount, or if the five-day average  
28 of the actual cash and demand account balances is less than  
29 20 percent of the reserve amount.

30 Section 5 is a correlating amendment.

31 Section 6 amends Code section 533.19 to prohibit notice  
32 of withdrawal for a credit union member's funds which are  
33 subject to withdrawal by share draft.

34 Section 7 amends the criminal code to make the fraudulent  
35 issuance of a share draft subject to the same penalties as

1 those which apply to the issuance of "bad" checks.

2 Sections 8 and 10 contain temporary provisions applicable  
3 to credit unions which have operating share-draft programs  
4 on the effective date of the Act. The temporary provisions  
5 enable these credit unions to continue to provide share-draft  
6 services while attempting to comply with the new requirements.

7 Section 9 is a legalizing provision for share drafts issued  
8 prior to the effective date of the Act.

9 Sections 11 through 19 of the bill deal with usury and  
10 related matters.

11 House File 2467 provides that most of the usury and related  
12 sections have temporary effect only, and expire on July 1,  
13 1979. On and after July 1, 1979, the law will be the same  
14 as it was prior to enactment of House File 2467.

15 This bill reenacts each of sections 11 through 17 and  
16 sections 19 and 22 of House File 2467, in effect making those  
17 temporary sections permanent Iowa law. This reenactment would  
18 be effective upon publication of this bill. Sections 11,  
19 12 and 16 of House File 2467 are also amended by this bill,  
20 but the amendments would not take effect until July 1, 1979.

21 The subjects contained in the sections of House File 2467  
22 which are effected by this bill are as follows:

23 Section 11 established a floating usury rate under section  
24 535.2 of the Code, to be determined by the superintendent  
25 of banking on a quarterly basis, and added other conditions  
26 relating to the usury rate under 535.2. This bill reenacts  
27 section 11, but as of July 1, 1979, the usury rate would be  
28 redetermined by the superintendent of banking on a monthly  
29 basis, rather than a quarterly basis. (See sections 11, 12  
30 and 19 of this bill.)

31 Section 12 of House File 2467 prohibited or regulated  
32 charges made by lenders on certain types of loans. This bill  
33 reenacts section 12, but effective July 1, 1979, lenders would  
34 be entitled to collect an additional charge for originating  
35 a loan, the definition of loan is clarified, and the shifting

1 of prohibited charges to the seller is expressly prohibited.  
2 A lender also would be prohibited from collecting a fee from  
3 a realtor for the purpose of reserving blocks of funds for  
4 loans to future customers of the realtor. (See sections 13  
5 and 15 of this bill.) Section 14 of this bill strikes from  
6 section 12 of the 1978 Act a provision which repealed the  
7 section as of July 1, 1979.

8 Section 13 of House File 2467, in conjunction with sections  
9 14 through 17 of that Act, prohibited prepayment penalties  
10 in certain types of real estate loan transactions. This bill  
11 reenacts those provisions (see sections 16 and 18 of this  
12 bill), but amends section 16 of the 1978 Act as is described  
13 in the following paragraph.

14 Section 16 of House File 2467 amended Code section 534.21  
15 to correlate the prepayment penalties authorized by that Code  
16 section with the prohibition contained in section 13 of House  
17 File 2467. However, the manner in which the correlating  
18 amendment was drafted had the effect of prohibiting prepayment  
19 penalties on all loans secured by one-family or two-family  
20 dwellings, not just those in which prepayment accompanies  
21 a transfer of ownership as provided in section 13 of House  
22 File 2467. Section 17 of this bill amends Code section 534.21,  
23 subsection 10, of the Code, effective July 1, 1979, to restrict  
24 prepayment penalties only to the extent provided in section  
25 13 of House File 2467.

26 Sections 18, 21 and 22 of House File 2467 amended sections  
27 of the savings and loan association law and the consumer  
28 credit code to eliminate an inconsistency in these laws with  
29 respect to the maximum permissible interest rate which may  
30 be imposed in real estate transactions. Sections 18 and 21  
31 were permanent sections. Section 22 is reenacted. (See  
32 section 18 of this bill.)

33 Section 19 of House File 2467 amended section 536A.23 of  
34 the Code, relating to industrial loan companies, to correlate  
35 that section with the other provisions contained in House

1 File 2467. Section 19 is reenacted (see section 18 of this  
2 bill).

3 Section 20 of House File 2467 created a temporary maximum  
4 interest rate on mobile home loans. This bill repeals that  
5 section effective July 1, 1979. (See section 20 of this  
6 bill.)

7 Sections 20, 21 and 22 of this bill express the intent  
8 of the bill in making the previously enacted temporary law  
9 permanent.

10 This bill would take effect upon publication, except as  
11 otherwise provided with respect to particular provisions or  
12 sections.

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SENATE FILE 158

S-3038

1 Amend Senate File 158 as follows:  
2 1. Page 15, line 23, by inserting after the word  
3 "parties" the words ", except that a lender also may  
4 collect from the borrower the reasonable value of  
5 any appraisals and inspections referred to in  
6 subparagraphs two (2) and six (6) of this paragraph  
7 when performed by employees of the lender".

S-3038 FILED *Limit 2/6 (p 366)*  
FEBRUARY 6, 1979

BY STEPHEN W. BISENIUS

SENATE FILE 158

S-3039

1 Amend Senate File 158 as follows:  
2 1. Page 13, line 8, by striking the words  
3 "effective July 1, 1979," and inserting in lieu thereof  
4 the words "on the effective date of this Act".  
5 2. Page 13, line 12, by striking the words "July  
6 1, 1978 1979," and inserting in lieu thereof the words  
7 "~~July-1, -1978,~~ the effective date of this Act".  
8 3. Page 17, by striking lines 17 through 26 and  
9 inserting in lieu thereof the following:  
10 "Sec. 19. The maximum lawful rate of interest  
11 as established under Acts of the Sixty-seventh General  
12 Assembly, 1978 Session, chapter one thousand one  
13 hundred ninety (1190), section twelve (12), and in  
14 effect on the effective date of this Act as provided  
15 in that section, shall, notwithstanding contrary  
16 provisions of that section or that Act, be the maximum  
17 lawful rate until the maximum lawful rate for the  
18 first full calendar month which commences on or after  
19 the effective date of this Act is determined and  
20 published and takes effect as provided in section  
21 twelve (12) of this Act."

S-3039 FILED *Adopted 2/7 (p 365)*  
FEBRUARY 6, 1979

BY STEPHEN W. BISENIUS

SENATE FILE 158

S-3030

1 Amend Senate File 158 as follows:

2 1. Page 13, line 16, by striking the word "preceeding"  
3 and inserting in lieu thereof the word "preceding".

4 2. Page 14, line 27, by striking the word "principle"  
5 and inserting in lieu thereof the word "principal".

S-3030 FILED *Adopted 2/7 (p. 365)*  
FEBRUARY 5, 1979

BY EDGAR H. HOLDEN

SENATE FILE 158

S-3031

1 Amend Senate File 158 as follows:

2 1. Page 16, by striking lines 32 and 33, and  
3 inserting in lieu thereof the following: "the  
4 Except where prohibited by Acts of the Sixty-seventh  
5 General Assembly, 1978 Session, chapter one thousand  
6 one hundred ninety (1190), section thirteen (13),  
7 the association may".

8 2. Page 17, by striking lines 7 and 8 and inserting  
9 in lieu thereof the following: "by Acts of the Sixty-  
10 seventh General Assembly, 1978 Session, chapter one  
11 thousand one hundred ninety (1190), section thirteen  
12 (13)."

S-3031 FILED *Adopted as amended 2/7*  
FEBRUARY 5, 1979 *By 3046 (p. 371)*

BY EDGAR H. HOLDEN

SENATE FILE 158

S-3032

1 Amend Senate File 158 as follows:

2 1. Page 14, line 24, by inserting after the period  
3 the following sentence: "Loan includes the  
4 refinancing of a contract of sale, and the refinancing  
5 of a prior loan, whether or not the borrower also  
6 was the borrower under the prior loan, and the  
7 assumption of a prior loan."

8 2. Page 16, by inserting after line 11 the  
9 following:

10 "Sec. \_\_\_\_ Acts of the Sixty-seventh General  
11 Assembly, 1978 Session, chapter one thousand one  
12 hundred ninety (1190), section thirteen (13), is  
13 reenacted and is the law of this state on and after  
14 the effective date of this Act, notwithstanding any  
15 contrary provision of Acts of the Sixty-seventh General  
16 Assembly, 1978 Session, chapter one thousand one  
17 hundred ninety (1190).

18 Sec. \_\_\_\_ Acts of the Sixty-seventh General  
19 Assembly, 1978 Session, chapter one thousand one  
20 hundred ninety (1190), section thirteen (13),  
21 subsection one (1), is amended effective July 1, 1979,  
22 to read as follows:

23 1. ~~As used in this section:~~

24 ~~or--"loan" means money loaned to a borrower who~~  
25 ~~furnishes, as security for all or any part of the~~  
26 ~~loan, a mortgage on real property which is a single-~~  
27 ~~family or a two-family dwelling to be occupied by~~  
28 ~~the borrower or money loaned to a borrower for the~~  
29 ~~purpose of purchasing agricultural land where the~~  
30 ~~borrower furnishes a mortgage on the real property~~  
31 ~~to be purchased as security for the loan.~~

32 ~~or--"lender" means any state or federally chartered~~  
33 ~~bank, savings and loan association or credit union,~~  
34 ~~any industrial loan company, any insurance company,~~  
35 ~~or any other person or entity which makes a loan,~~  
36 ~~as defined in this section.~~

37 As used in this section, "loan" means a loan of  
38 money which is wholly or in part to be used for the  
39 purpose of purchasing real property which is a single-  
40 family or a two-family dwelling occupied or to be  
41 occupied by the borrower, or for the purpose of  
42 purchasing agricultural land. "Loan" includes the  
43 refinancing of a contract of sale, and the refinancing  
44 of a prior loan, whether or not the borrower also  
45 was the borrower under the prior loan, and the  
46 assumption of a prior loan."

47 3. Page 17, line 11, by striking the word and  
48 number "thirteen (13),".

49 4. By renumbering sections of the bill.

S-3032 FILED *Adopted 2/8 (p 370)*  
FEBRUARY 5, 1979

BY EDGAR H. HOLDEN

S-3037

1 Amend Senate File 158 as follows:

2 1. Page 1, line 23, by striking the word "chapter"  
3 and inserting in lieu thereof the words "chapter,  
4 provided that a credit union shall not pay interest  
5 or dividends on a share-draft account at a rate which  
6 exceeds the maximum interest rate which Iowa state  
7 banks insured by the federal deposit insurance  
8 corporation are permitted by federal law to pay on  
9 insured passbook savings accounts".

10 2. Page 3, line 24, by striking the words "five  
11 years" and inserting in lieu thereof the words "seven  
12 years after the first day of January of the year  
13 following the year in which the draft was paid".

14 3. Page 8, by inserting after line 29 the follow-  
15 ing:

16 "5. Whenever it shall appear necessary to do so  
17 in the interest of the members of a credit union,  
18 the administrator may require that the credit union  
19 maintain reserves exceeding the amount required by  
20 subsection two (2) of this section, consisting of  
21 such obligations of the United States as the  
22 administrator shall prescribe. Any additional amount  
23 required under this subsection to be maintained in  
24 reserve shall be verified and replenished as required  
25 by the administrator. Failure to comply with  
26 requirements imposed by the administrator under this  
27 subsection is a violation of this section."

28 4. By renumbering subsections of section four  
29 (4) of the bill in conformity with item 3 of this  
30 amendment.

31 5. Page 9, by inserting after line 11 the  
32 following:

33 "Sec. \_\_\_\_ Chapter five hundred thirty-three  
34 (533), Code 1979, is amended by adding the following  
35 new section:

36 NEW SECTION. ACCEPTANCE OF DEPOSITS AND INVESTMENTS  
37 WHILE INSOLVENT. A credit union shall not accept  
38 any deposits or investments in its shares, or renew  
39 or extend the term of any time deposits or time  
40 investments, when the credit union is insolvent."

41 6. Page 9, by inserting after line 11 the  
42 following:

43 "Sec. \_\_\_\_ Section five hundred thirty-three point  
44 six (533.6), subsection one (1), Code 1979, is amended  
45 by striking the subsection and inserting in lieu  
46 thereof the following:

47 1. Credit unions organized under this chapter  
48 shall, on or before the first day of February of each  
49 year, render a full, clear and accurate report of  
50 their condition as of the preceding December thirty-

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1 first to the administrator on blanks supplied by the  
2 administrator for that purpose. The administrator  
3 shall also call for additional reports of condition  
4 from every credit union at least twice each year.  
5 The additional reports of condition shall be  
6 transmitted to the administrator within thirty days  
7 after the receipt of a request for the report from  
8 the administrator. Each of these reports shall be  
9 subject to the following requirements:

10 a. Every report of condition shall be verified  
11 by the oath of an officer of the credit union and  
12 attested by the signatures of at least five of its  
13 directors, or verified by the oath of two of the  
14 officers of the credit union and attested by three  
15 of the directors.

16 b. If any report of condition remains in arrears  
17 for more than five days, a fine of twenty-five dollars  
18 for each day the report remains in arrears shall be  
19 levied against the offending credit union in addition  
20 to any fine for failure to pay the annual fee. If  
21 the report is not returned within thirty days of the  
22 due date, the administrator may, after written notice  
23 to the president of the credit union, suspend or  
24 revoke the certificate of approval, take possession  
25 of the business and property of such credit union,  
26 and order its dissolution.

27 c. Within forty days after December thirty-first  
28 or the date of the receipt of each request for a  
29 report of condition, as the case may be, the credit  
30 union shall cause the report to be published once  
31 in a newspaper of general circulation in the municipal  
32 corporation or unincorporated area in which the credit  
33 union has its main office, or if there is none, in  
34 a newspaper of general circulation published in the  
35 county, or in a county adjoining the county, in which  
36 the credit union has its main office. Proof of  
37 publication, by affidavit of the publisher of the  
38 newspaper in which it was made, shall be delivered  
39 to the administrator and shall be conclusive evidence  
40 of the fact.

41 d. The administrator shall also have power to  
42 call for special reports from a credit union whenever  
43 in the administrator's judgment the same are necessary  
44 in order to obtain a full and complete knowledge of  
45 its condition. Such reports shall be verified and  
46 attested in the same manner as required in paragraph  
47 a of this subsection."

48 7. Page 10, by inserting after line 2 the follow-  
49 ing:

50 "Sec. \_\_\_\_ . Section five hundred thirty-three point

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Page 3

1 fourteen (533.14), Code 1979, is amended to read as  
2 follows:

3 533.14 INTEREST RATES.

4 1. Interest rates on loans made by a credit union,  
5 other than loans secured by a mortgage or deed of  
6 trust which is a first lien upon real property shall  
7 not exceed one percent a month on unpaid balances,  
8 except that with respect to consumer loans, a credit  
9 union may charge the finance charge permitted in  
10 sections 537.2401 and 537.2402.

11 2. With respect to a loan secured by a mortgage  
12 or deed of trust which is a first lien upon real  
13 property, a credit union shall not charge a rate of  
14 interest which exceeds the maximum rate permitted  
15 by section five hundred thirty-five point two (535.2)  
16 of the Code.

17 3. The provisions of this section do not apply  
18 to a loan which is subject to section six hundred  
19 eighty-two point forty-six (682.46) of the Code."

20 8. Page 12, by inserting after line 31 the  
21 following:

22 "Sec. \_\_\_\_ Section five hundred twenty-four point  
23 eight hundred sixteen (524.816), Code 1979, is amended  
24 to read as follows:

25 524.816 CASH RESERVE REQUIREMENTS.

26 1. A state bank which is a member of the federal  
27 reserve system shall maintain cash reserves in  
28 accordance with the requirements applicable to a  
29 member bank under the laws of the United States.

30 2. A state bank which is not a member of the  
31 federal reserve system shall maintain cash reserves  
32 against its deposits in amounts:

33 a. In the case of a state bank with its principal  
34 place of business in a municipal corporation defined  
35 as a reserve city by the laws of the United States,  
36 not less than ten percent of its demand deposits  
37 except that the superintendent may on such basis as  
38 he may deem appropriate in view of the character of  
39 the business transacted by such state bank, make  
40 applicable the reserve requirement prescribed for  
41 banks not having their principal place of business  
42 in such a reserve city.

43 b. In the case of a state bank not having its  
44 principal place of business in a municipal corporation  
45 defined as a reserve city by the laws of the United  
46 States, not less than seven percent of its demand  
47 deposits.

48 c. In the case of any deposit other than a demand  
49 deposit, not less than three percent.

50 3. A state bank, except a state bank which is

1 a member of the federal reserve system, shall determine  
2 the amount of its cash reserves required by this  
3 section in accordance with a formula prescribed by  
4 the superintendent by general regulation applicable  
5 to all such state banks.

6 4. The cash reserves required by this section  
7 of a state bank which is not a member of the federal  
8 reserve system shall ~~consist of United States coin~~  
9 ~~and currency on hand and funds on deposit in other~~  
10 ~~banks, the deposits of which are insured by the federal~~  
11 ~~deposit insurance corporation.~~ be maintained as  
12 follows:

13 a. Not less than one-fifth of the reserve shall  
14 consist of United States coin and currency on hand  
15 and funds on deposit in other banks, the deposits  
16 of which are insured by the federal deposit insurance  
17 corporation.

18 b. The balance of the reserve may be invested  
19 in United States treasury debt instruments which are  
20 owned by the state bank and which will mature in one  
21 year or less.

22 5. Whenever it shall appear necessary to do so  
23 in the interest of the depositors of a state bank,  
24 the superintendent may require that the state bank  
25 maintain reserves exceeding the amount required by  
26 this section consisting of such obligations of the  
27 United States as the superintendent shall prescribe."

28 9. Page 12, by inserting after line 31 the  
29 following:

30 "Sec. \_\_\_\_ . Section five hundred twenty-four point  
31 nine hundred five (524.905), subsection five (5),  
32 paragraph d, Code 1979, is amended to read as follows:

33 d. The value of real property shall be determined  
34 by averaging the appraisals appraisal of two a  
35 qualified persons person, selected in a manner  
36 authorized by the board of directors, who are is  
37 familiar with real property values in the vicinity  
38 where the real property is located, and who inspect  
39 inspects the real property and state states its value  
40 to the best of their his or her judgment in a written  
41 report to be retained by the state bank during the  
42 term of the loan."

43 10. Page 12, by inserting after line 31 the follow-  
44 ing:

45 "Sec. \_\_\_\_ . Chapter five hundred twenty-four (524),  
46 division nine (IX), Code 1979, is amended by adding  
47 the following new section:

48 NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS.  
49 Real estate loans on one-family to four-family  
50 dwellings may be repaid in part or in full at any

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Page 5

1 time. Except where prohibited by Acts of the Sixty-  
2 seventh General Assembly, 1978 Session, chapter one  
3 thousand one hundred ninety (1190), section thirteen  
4 (13), a state bank may charge not to exceed six months  
5 advance interest on that part of the aggregate amount  
6 of all prepayments made on a real estate loan on a  
7 one-family to four-family dwelling in any twelve-month  
8 period which exceeds twenty percent of the original  
9 principal amount of the loan; and may charge any  
10 negotiated advance interest rate on prepayment of  
11 other loans, except where prohibited by Acts of the  
12 Sixty-seventh General Assembly, 1978 Session, chapter  
13 one thousand one hundred ninety (1190), section  
14 thirteen (13).

15 Sec. \_\_\_\_\_. Chapter five hundred thirty-three (533),  
16 Code 1979, is amended by adding the following new  
17 section:

18 NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS.  
19 Real estate loans on one-family to four-family  
20 dwellings may be repaid in part or in full at any  
21 time. Except where prohibited by Acts of the Sixty-  
22 seventh General Assembly, 1978 Session, chapter one  
23 thousand one hundred ninety (1190), section thir-  
24 teen (13), a credit union may charge not to exceed  
25 six months advance interest on that part of the  
26 aggregate amount of all prepayments made on a real  
27 estate loan on a one-family to four-family dwelling  
28 in any twelve-month period which exceeds twenty percent  
29 of the original principal amount of the loan; and  
30 may charge any negotiated advance interest rate on  
31 prepayment of other loans, except where prohibited  
32 by Acts of the Sixty-seventh General Assembly, 1978  
33 Session, chapter one thousand one hundred ninety  
34 (1190), section thirteen (13)."

35 11. Page 13, by inserting after line 4 the follow-  
36 ing:

37 "Sec. \_\_\_\_\_. Acts of the Sixty-seventh General  
38 Assembly, 1978 Session, chapter one thousand one  
39 hundred ninety (1190), section eleven (11), subsection  
40 two (2), is amended effective July 1, 1979, to read  
41 as follows:

42 2. Any domestic or foreign corporation, and any  
43 real estate investment trust as defined in section  
44 856 of the Internal Revenue Code, and any person  
45 purchasing securities as defined in chapter 502 on  
46 credit from a broker or dealer registered or licensed  
47 under chapter 502 or under the Security Securities  
48 Exchange Act of 1934, 48 Stat. 881, 15 United States  
49 Code 78A, as amended, and any person borrowing money  
50 ~~in-the-principal-amount-of-two-hundred-thousand-dollars~~

1 ~~or more~~ or obtaining credit for business purposes,  
 2 and any person borrowing money or obtaining credit  
 3 in the principal amount of five-hundred more than  
 4 thirty-five thousand dollars ~~or more~~ exclusive of  
 5 interest for agricultural purposes, may agree in  
 6 writing to pay any rate of interest in excess of the  
 7 rate permitted by this section, and no such corporation  
 8 or real estate investment trust or person so agreeing  
 9 in writing shall plead or interpose the claim or  
 10 defense of usury in any action or proceeding."  
 11 12. By renumbering sections of the bill and  
 12 correcting internal references as necessary.

S-3037 FILED  
FEBRUARY 6, 1979

BY EDGAR H. HOLDEN  
MERLIN D. HULSE  
IRVIN BERGMAN  
CLOYD E. ROBINSON  
RICHARD R. RAMSEY

*A, B, C, D. Adopted 2/7 (p. 363)*  
*E. Lost " "*  
*F. Adopted " (364)*  
*G. Out of order " "*  
*H. Adopted " "*  
*I. Adopted as amended by 3045*  
*J. Adopted " " 3044*  
*K. Adopted (p. 365)*

SENATE FILE 158

S-3040

1 Amend Senate File 158 as follows:  
 2 1. By striking everything after page 12, line  
 3 31 and through page 18, line 17.  
 4 2. Page 18, by inserting after line 17 the  
 5 following:  
 6 "Sec. \_\_\_\_ . Acts of the Sixty-seventh General As-  
 7 sembly, 1978 Session, chapter one thousand one hundred  
 8 ninety (1190), section twenty-three (23), is repealed."  
 9 3. Page 18, lines 19 and 20, by striking the words  
 10 ", except as otherwise specifically provided in this  
 11 Act,".  
 12 4. By renumbering sections of the bill in  
 13 conformity with this amendment.  
 14 5. Amend the title by striking lines 1 through  
 15 6 and inserting in lieu thereof the following: "An  
 16 Act relating to the withdrawal of funds in credit  
 17 unions by means of drafts, and providing penalties."

S-3040 FILED *Lost 2/7 (p. 362)*  
FEBRUARY 6, 1979

BY BOB RUSH

SENATE FILE 158

S-3045

1 Amend the Senate amendment S-3037 to Senate File  
2 158 as follows:

3 1. Page 4, by striking lines 48 through 50, and  
4 page 5, by striking lines 1 through 14 and inserting  
5 in lieu thereof the following:

6 "NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS.

7 Real estate loans on one-family to four-family  
8 dwellings may be repaid in part or in full at any  
9 time, excepting that a state bank may charge not to  
10 exceed six months advance interest on that part of  
11 the aggregate amount of all prepayments made on such  
12 loan in any twelve-month period which exceeds twenty  
13 percent of the original principal amount of the loan;  
14 and may charge any negotiated rate on other loans.  
15 Nothing contained in this section, however, authorizes  
16 a state bank to charge any advance interest or  
17 prepayment penalty where prohibited by Acts of the  
18 Sixty-seventh General Assembly, 1978 Session, chapter  
19 one thousand one hundred ninety (1190), section  
20 thirteen (13)."

21 2. Page 5, by striking lines 18 through 34 and  
22 inserting in lieu thereof the following:

23 "NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS.

24 Real estate loans on one-family to four-family  
25 dwellings may be repaid in part or in full at any  
26 time, excepting that a credit union may charge not  
27 to exceed six months advance interest on that part  
28 of the aggregate amount of all prepayments made on  
29 such loan in any twelve-month period which exceeds  
30 twenty percent of the original principal amount of  
31 the loan; and may charge any negotiated rate on other  
32 loans. Nothing contained in this section, however,  
33 authorizes a credit union to charge any advance  
34 interest or prepayment penalty where prohibited by  
35 Acts of the Sixty-seventh General Assembly, 1978  
36 Session, chapter one thousand one hundred ninety  
37 (1190), section thirteen (13)."

S-3045 FILED & ADOPTED (p. 364)  
FEBRUARY 7, 1979

BY BERL E. PRIEBE  
DALE L. TIEDEN  
NORMAN G. RODGERS  
JOHN W. JENSEN  
ARNE WALDSTEIN  
MERLIN D. HULSE  
CLOYD ROBINSON

SENATE FILE 158

S-3046

1 Amend the Senate amendment S-3031 to Senate File  
2 158 as follows:

3 1. By striking lines 2 through 12 and inserting  
4 in lieu thereof the following:

5 "1. Page 16, line 17, by striking the word "Act,"  
6 and inserting in lieu thereof the words "Act as amended  
7 by section seventeen (17) of this Act,".

8 2. Page 16, by striking lines 25 through 35 and  
9 inserting in lieu thereof the following: "(16) is  
10 amended on the effective date of this Act by striking  
11 the subsection and inserting in lieu thereof the  
12 following:

13 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate  
14 loans on one-family to four-family dwellings may be  
15 repaid in part or in full at any time, excepting that  
16 the association may charge not to exceed six months  
17 advance interest on that part of the aggregate amount  
18 of all prepayments made on such loan in any twelve-  
19 month period which exceeds twenty percent of the  
20 original principal amount of the loan; and may charge  
21 any negotiated rate on other loans. Nothing contained  
22 in this subsection, however, authorizes an association  
23 to charge any advance interest or prepayment penalty  
24 where prohibited by Acts of the Sixty-seventh General  
25 Assembly, 1978 Session, chapter one thousand one  
26 hundred ninety (1190), section thirteen (13)."

27 3. Page 17, by striking lines 1 through 8."  
28

S-3046 FILED *Adopted 2/8 (p. 381)*

FEBRUARY 7, 1979

BY BERL E. PRIEBE  
DALE L. TIEDEN  
JOHN W. JENSEN  
ARNE WALDSTEIN  
MERLIN D. HULSE  
CLOYD ROBINSON  
NORMAN RODGERS

SENATE FILE 158

S-3044

1 Amend the amendment S-3037 to Senate File 158 as  
2 follows:

3 1. Page 5, by striking lines 35 through 50.

4 2. Page 6, by striking lines 1 through 10.

S-3044 FILED & ADOPTED *(p. 365)*  
FEBRUARY 7, 1979

BY BERL F. PRIEBE  
DALE L. TIEDEN  
JOHN W. JENSEN  
ARNE WALDSTEIN  
MERLIN D. HULSE  
CLOYD ROBINSON  
NORMAN RODGERS

SENATE CLIP SHEET

FEBRUARY 8, 1979

SENATE FILE 158

S-3042

1 Amend the Senate amendment S-3037 to Senate File  
2 158 as follows:

3 1. Page 3, by inserting after line 21 the  
4 following:

5 "Sec. \_\_\_\_\_. Chapter five hundred twenty-four (524),  
6 division five (V), Code 1979, is amended by adding  
7 the following new section:

8 NEW SECTION. ANNUAL CUSTOMERS' MEETING--DISCLOSURE  
9 OF REPORTS.

10 1. Annually on a date set by the chief executive  
11 officer of the bank, but prior to the date of the  
12 annual meeting of the shareholders of the bank, a  
13 meeting of customers of the bank shall be held in  
14 the city in which the principal place of business  
15 of the bank is located, provided that if the principal  
16 place of business of the bank is located in an  
17 unincorporated area, the meeting shall be held in  
18 the city nearest the principal place of business of  
19 the bank. Notice of the customers' meeting shall  
20 be sent at least ten days prior to the meeting date  
21 to all depositors of the bank and to all persons who  
22 are indebted to the bank, whether directly or by  
23 assignment, at the current address of these persons  
24 as shown in records maintained by the bank.

25 The purpose of the customers' meeting shall be  
26 to allow customers to submit to the board of directors  
27 suggestions respecting operational changes, more and  
28 better customer services and ideas of how the bank  
29 may better serve the community. The board of directors  
30 shall adopt as soon as possible after the annual  
31 customers' meeting those items which the customers  
32 by majority vote at the customers' meeting request  
33 the directors to adopt.

34 2. If any report stating the financial condition  
35 of the bank is given to the board of directors, a  
36 copy of the report shall be sent to all customers  
37 of the bank who are required to be notified of the  
38 annual customers' meeting under subsection one (1)  
39 of this section. A copy of each report referred to  
40 in this subsection and each call report as required  
41 by the superintendent shall be posted in a conspicuous  
42 place in the lobby of the bank.

43 Sec. \_\_\_\_\_. Section five hundred twenty-four point  
44 one hundred three (524.103), Code 1979, is amended  
45 by adding the following new subsection:

46 NEW SUBSECTION. "Correspondent bank" means a bank  
47 with which a state bank has any working relationship.  
48 A correspondent bank must be located in the state  
49 of Iowa or in a state adjoining Iowa."

50 2. Page 4, by inserting after line 17 the follow-

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1 ing:  
2 "b. In addition to the amount required by paragraph  
3 a of this subsection, not less than one-fifth of the  
4 cash reserves required by this section shall be kept  
5 in a demand account in a credit union which is located  
6 in the county in which the principal place of business  
7 of the bank is located or in an adjacent county, or  
8 in a central credit union organized under chapter  
9 five hundred thirty-three (533) of the Code."  
10 3. Page 4, line 18, by striking the letter "b."  
11 and inserting in lieu thereof the letter "c."

S-3042 FILED, WITHDRAWN (*p. 364*)  
FEBRUARY 7, 1979

BY CLOYD ROBINSON

SENATE FILE 158

S-3041

1 Amend Senate File 158 as follows:  
2 1. Page 16, line 13, by inserting after the word  
3 "by" the words "Acts of the Sixty-seventh General  
4 Assembly, 1977 Session, chapter one hundred thirty-  
5 three (133), section seven (7), and as further amended  
6 by".  
7 2. Page 16, line 22, by inserting after the word  
8 "by" the words "Acts of the Sixty-seventh General  
9 Assembly, 1977 Session, chapter one hundred thirty-  
10 three (133), section seven (7), and as further amended  
11 by".

S-3041 FILED *Adopted 2/8 (p. 381)*  
FEBRUARY 7, 1979

BY EDGAR H. HOLDEN

SENATE FILE 158

S-3043

1 Amend the Holden amendment, S-3037, to Senate File  
2 158 as follows:  
3 1. Page 6, line 1 by striking the words "or ob-  
4 taining credit".  
5 2. Page 6, by striking lines 2 through 5 and in-  
6 sserting in lieu thereof the words "~~and any person bor-~~  
7 ~~rowing money in the principal amount of five hundred~~  
8 ~~thousand dollars or more~~ or for agricultural purposes,  
9 may agree in".

S-3043 FILED RULED OUT OF ORDER (*p. 365*)  
FEBRUARY 7, 1979

BY LUCAS J. DeKOSTER

SENATE FILE 158

S-3049

1 Amend Senate File 158 as follows:

2 1. Page 16, by inserting after line 11 the  
3 following:

4 "Sec. 16. Acts of the Sixty-seventh General  
5 Assembly, 1978 Session, chapter one thousand one  
6 hundred ninety (1190), section thirteen (13), is  
7 reenacted and is the law of this state on and after  
8 the effective date of this Act, notwithstanding any  
9 contrary provision of Acts of the Sixty-seventh General  
10 Assembly, 1978 Session, chapter one thousand one  
11 hundred ninety (1190).

12 Sec. 17. Acts of the Sixty-seventh General  
13 Assembly, 1978 Session, chapter one thousand one  
14 hundred ninety (1190), section thirteen (13),  
15 subsections one (1) and two (2), are amended effective  
16 July 1, 1979, to read as follows:

17 1. As used in this section:

18 a.---"Loan"-means-money-loaned-to-a-borrower-who  
19 furnishes-as-security-for-all-or-any-part-of-the  
20 loan-a-mortgage-on-real-property-which-is-a-single-  
21 family-or-a-two-family-dwelling-to-be-occupied-by  
22 the-borrower-or-money-loaned-to-a-borrower-for-the  
23 purpose-of-purchasing-agricultural-land-where-the  
24 borrower-furnishes-a-mortgage-on-the-real-property  
25 to-be-purchased-as-security-for-the-loan-

26 b.---"Lender"-means-any-state-or-federally-chartered  
27 bank-savings-and-loan-association-or-credit-union,  
28 any-industrial-loan-company-any-insurance-company,  
29 or-any-other-person-or-entity-which-makes-a-loan,  
30 as-defined-in-this-section-, "lender" means any state  
31 or federally chartered bank, savings and loan  
32 association or credit union, any industrial loan  
33 company, any insurance company, or any other person  
34 or entity which makes a loan.

35 2.a. As used in this paragraph, "loan" means a  
36 loan of money which is wholly or in part to be used  
37 for the purpose of purchasing real property which  
38 is a single-family or a two-family dwelling occupied  
39 or to be occupied by the borrower. Whenever a borrower  
40 under a loan repays the full amount of the loan in  
41 connection-with-a-transfer-of-ownership-of-the-real  
42 property-given-as-security-for-that-loan, the lender  
43 shall not receive an amount in payment of interest  
44 which is greater than the amount determined by applying  
45 the rate of interest agreed upon by the lender and  
46 the borrower to the unpaid balance of the loan for  
47 a period of time during which the borrower had the  
48 use of the money loaned; and the lender shall not  
49 impose any penalty or other charge in addition to  
50 the amount of interest due as a result of the repayment

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

7 b. As used in this paragraph, "loan" means a loan  
8 of money which is wholly or in part to be used for  
9 the purpose of purchasing agricultural land. Whenever  
10 a borrower under a loan repays the full amount of  
11 the loan in connection with a transfer of ownership  
12 of the land given as security for that loan, the  
13 lender shall not receive an amount in payment of  
14 interest which is greater than the amount determined  
15 by applying the rate of interest agreed upon by the  
16 lender and the borrower to the unpaid balance of the  
17 loan for a period of time during which the borrower  
18 had the use of the money loaned; and the lender shall  
19 not impose any penalty or other charge in addition  
20 to the amount of interest due as a result of the  
21 repayment of that loan at a date earlier than is  
22 required by the terms of the loan agreement. A lender  
23 may, however, require advance notice of not more than  
24 thirty days of a borrower's intent to repay the full  
25 amount of a loan at a date earlier than is required  
26 by the terms of the loan agreement."

27 2. Page 17, line 11, by striking the word and  
28 figure "thirteen (13)".

29 3. By renumbering sections and correcting internal  
30 references as necessary.

S-3049 FILED *Withdrawn 2/8 (p. 581)*  
FEBRUARY 7, 1979

BY PATRICK J. DELUHERY

SENATE FILE 158

S-3048

Amend Senate File 158 as follows:

- 1 Amend Senate File 158 as follows:
- 2 1. Page 15, by inserting after line 24 the
- 3 following:
- 4 "c. If the purpose of the loan is to enable the
- 5 borrower to purchase a single-family or two-family
- 6 dwelling from a previous owner, and pursuant to the
- 7 loan agreement the borrower assumes outstanding
- 8 indebtedness of the previous owner on a loan secured
- 9 by the dwelling being purchased, the lender shall
- 10 not collect a rate of interest which exceeds the rate
- 11 provided for in the loan agreement of the previous
- 12 owner which is being assumed by the borrower."
- 13 2. Page 15, line 25, by striking the letter "c."
- 14 and inserting in lieu thereof the letter "d.".
- 15 3. Page 15, line 26, by striking the words
- 16 "paragraphs a or b" and inserting in lieu thereof
- 17 the words "paragraphs a, b or c".
- 18 4. Page 15, line 27, by striking the words
- 19 "paragraphs a or b" and inserting in lieu thereof
- 20 the words "paragraphs a, b or c".

S-3048 FILED *Withdrawn 2/8 (p. 380)*  
FEBRUARY 7, 1979

BY GEORGE R. KINLEY  
WILLIAM D. PALMER

SENATE FILE 158

S-3050

Amend Senate File 158 as follows:

- 1 Amend Senate File 158 as follows:
- 2 1. Page 14, by striking lines 26 and 27 and
- 3 inserting in lieu thereof the following: "a fee not
- 4 exceeding one percent of the loan principal, which
- 5 is deemed a reimbursement of expenses to be incurred
- 6 by the lender in the event the obligation or an
- 7 interest in the obligation is subsequently sold by
- 8 the lender to another lender. A fee which does not
- 9 exceed the maximum amount permitted by this paragraph
- 10 is conclusively presumed to be the amount of the
- 11 lender's expenses in the event of sale. However,
- 12 if the obligation or an interest in the obligation
- 13 has not been sold upon the expiration of eighteen
- 14 months after the date of closing of the loan, the
- 15 lender shall repay the entire amount of the fee without
- 16 interest to the borrower within thirty days. The
- 17 assessment-and collection in connection".
- 18 2. Page 15, line 27, by inserting after the word
- 19 "subsection," the following: "or if a lender fails
- 20 to repay the fee to the borrower when required to
- 21 do so by paragraph a of this subsection,".
- 22

S-3050 FILED & LOST (365)  
FEBRUARY 7, 1979

BY PATRICK J. DELUHERY

SENATE FILE 158

S-3051

Amend the Holden amendment, S-3032, as follows:

1. Page 1, by striking lines 10 through 48 and inserting in lieu thereof the following:

"Sec. 16. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 17. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), subsections one (1) and two (2), are amended effective July 1, 1979, to read as follows:

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.~~

"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.

2.a. As used in this paragraph, "loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan. 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

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Page 2

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

11 b. As used in this paragraph, "loan" means a loan  
12 of money which is wholly or in part to be used for  
13 the purpose of purchasing agricultural land. "Loan"  
14 includes the refinancing of a contract of sale, and  
15 the refinancing of a prior loan, whether or not the  
16 borrower also was the borrower under the prior loan,  
17 and the assumption of a prior loan. Whenever a  
18 borrower under a loan repays the full amount of the  
19 loan in connection with a transfer of ownership of  
20 the land given as security for that loan, the lender  
21 shall not receive an amount in payment of interest  
22 which is greater than the amount determined by applying  
23 the rate of interest agreed upon by the lender and  
24 the borrower to the unpaid balance of the loan for  
25 a period of time during which the borrower had the  
26 use of the money loaned; and the lender shall not  
27 impose any penalty or other charge in addition to  
28 the amount of interest due as a result of the repayment  
29 of that loan at a date earlier than is required by  
30 the terms of the loan agreement. A lender may,  
31 nowever, require advance notice of not more than  
32 thirty days of intent to repay the full amount of  
33 a loan at a date earlier than is required by the terms  
34 of the loan agreement."

35 2. Page 17, line 11, by striking the word and  
36 figure "thirteen (13)".

S-3051 FILED *Withdrawn 2/8 (p. 380)*  
FEBRUARY 7, 1979

BY PATRICK J. DELIBERY

3056

Amend Senate File 158 as follows:

1. Page 9, by inserting after line 11 the following:
  - "Sec. . . . Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:
    - NEW SECTION. SHARE DRAFT PROGRAM CREDIT UNIONS - REPORT OF CONDITION - PENALTY. A credit union which offers share-draft accounts to its members shall, on or before the first day of February of each year, render a full, clear and accurate report of its condition as of the preceding December 31st to the administrator on blanks supplied by the administrator for that purpose. The administrator shall also call for additional reports of condition from every credit union which offers share draft accounts to its members at least once each year. The additional reports of condition shall be transmitted to the administrator within thirty days after the receipt of a request for the report from the administrator.
      1. Every report of condition shall be verified by the oath of an officer of the reporting credit union and attested by the signatures of at least five of its directors, or verified by the oath of two of the officers of the credit union and attested by three of the directors.
      2. If any report of condition remains in arrears for more than five days, a fine of twenty-five dollars for each day such report remains in arrears shall be levied against the offending credit union. If such report is not returned within thirty days of the due date, the administrator may, after written notice to the president of the credit union, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution.
      3. Within forty days after December 31st or the date of the receipt of each request for a report of condition, as the case may be, the reporting credit union shall cause the report to be published once in a newspaper of general circulation in the municipal corporation or unincorporated area in which the credit union has its main office, or if there is none, in a newspaper of general circulation published in the county in which the credit union has its main office. Proof of such publication, by affidavit of the publisher of the newspaper in which it was made, shall be delivered to the administrator and shall be conclusive evidence of the fact.
      4. The administrator shall also have power to call for special reports from a credit union whenever in the administrator's judgment the same are necessary in order to obtain a full and complete knowledge of its condition. Such reports shall be verified and attested in the same manner as required in subsection 1 of this section."

S-3056 FILED & LOST (p. 377)

FEBRUARY 8, 1979

BY RICHARD F. DRAKE  
RICHARD COMITO  
MERLIN D. HULSE  
C. JOSEPH COLEMAN

SENATE FILE 158

S-3053

Amend Senate File 158 as follows:

1. Page 15, by inserting after line 24 the following:

"c. If the purpose of the loan is to enable the borrower to purchase a single-family or two-family dwelling from a previous owner, and pursuant to the loan agreement the borrower assumes outstanding indebtedness of the previous owner on a loan secured by the dwelling being purchased, the lender shall not collect a rate of interest which exceeds the rate provided for in the loan agreement of the previous owner which is being assumed by the borrower."

2. Page 15, line 25, by striking the letter "c." and inserting in lieu thereof the letter "d."

3. Page 15, line 26, by striking the words "paragraphs a or b" and inserting in lieu thereof the words "paragraphs a, b or c".

4. Page 15, line 27, by striking the words "paragraphs a or b" and inserting in lieu thereof the words "paragraphs a, b or c".

5. Page 15, by inserting after line 31 the following:

"e. A lender shall not refuse to allow a prospective borrower to assume a prior loan on a single-family or two-family dwelling unless the prospective borrower poses a substantially greater credit risk to the lender than the borrower under the loan to be assumed. The burden of proving substantially greater risk is on the lender. If a lender violates this paragraph, the borrower is entitled to recover as a lump sum, any additional amount which the prospective borrower becomes obligated to pay as a result of having to obtain a loan from another lender to purchase the dwelling, plus attorney fees and costs incurred in any action necessary to effect recovery."

S-3058 FILED  
FEBRUARY 8, 1979  
DIV A - ADOPTED } p. 321  
DIV B - ADOPTED }

BY GEORGE R. KINLEY  
WILLIAM D. PALMER

*Motion to Reconsider (4, 332) 420*  
*preceded 2/14 (p. 444)*

*B - withdrawn " p. 418*  
*Other motion ruled out of order (409)*  
SENATE FILE 158  
S-3057

Amend Senate File 158, page 14, line 27, by inserting after the word "principal" the words ", except in the event of the assumption of a prior loan, in which case the lender may collect a fee which is a reasonable estimate of the expense of processing the loan assumption, but not to exceed one percent of the loan principal".

S-3057 FILED & ADOPTED (p. 380)  
FEBRUARY 8, 1979

BY JOHN S. MURRAY

SENATE FILE 158

S-3059

1 Amend Senate File 158 as follows:  
2 1. Amend the title by striking lines 1 through  
3 6 and inserting in lieu thereof the following: "An  
4 Act relating to financial transactions which involve  
5 loans and deposits of money and extensions of credit,  
6 and providing for the revision and supplementation  
7 of laws of this state which restrict or regulate the  
8 privileges, procedures and practices of persons who  
9 engage in these financial transactions, including  
10 but not limited to Acts of the Sixty-seventh General  
11 Assembly, 1978 Session, chapter one thousand one  
12 hundred ninety (1190), and other laws which relate  
13 to credit union deposits and withdrawals, and to  
14 credit unions and credit union members and their  
15 creditors, and to interest rates, fees and charges  
16 for loans and extensions of credit by credit unions,  
17 banks, savings and loan associations, industrial loan  
18 companies and other persons, and providing penalties."

S-3059 FILED & ADOPTED (p. 381)  
FEBRUARY 8, 1979

BY EDGAR H. HOLDEN

*Referred to committee (p. 383)  
S. " procedure 2/14 (p. 444)  
Amended by 3078, Adopted 2/14 (p. 444)*

SENATE FILE 158

S-3053

1 Amend Senate File 158, page 14, line 27, by  
2 inserting after the word "principal" the words "except  
3 in the event of the refinancing of a contract of sale,  
4 and the refinancing of a prior loan, whether or not the  
5 borrower also was the borrower under the prior loan,  
6 and the assumption of a prior loan, in which case the  
7 lender may collect a fee which does not exceed one-half  
8 of one percent of the loan principal".

S-3053 FILED & WITHDRAWN (p. 386)  
FEBRUARY 8, 1979

BY JOHN S. MURRAY

SENATE FILE 158

S-3079

1 Amend Senate File 158 as follows:

2 1. Page 16, by inserting after line 11 the  
3 following:

4 "Sec. \_\_\_\_ . Acts of the Sixty-seventh General  
5 Assembly, 1978 Session, chapter one thousand one  
6 hundred ninety (1190), section thirteen (13), subsec-  
7 tion two (2), is amended effective July 1, 1979, to  
8 read as follows:

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

27 2. By renumbering sections of the bill as necessary.

S-3079 FILED

FEBRUARY 14, 1979

ADOPTED AS AMENDED *(p. 445)*

BY ARTHUR A. SMALL, JR.

SENATE FILE 158

S-3081

1 Amend the Small amendment S-3079 to Senate File 158  
2 as follows:

3 1. Page 1 by striking lines 22 through 26 and in-  
4 serting in lieu thereof the following:  
5 "required by the terms of the loan agreement. A lender  
6 may, however, require advance notice of not more than  
7 thirty days of a borrower's intent to repay the full  
8 amount of a loan at a date earlier than is required by  
9 the terms of the loan agreement."

S-3081 FILED & ADOPTED *(p. 445)*  
FEBRUARY 14, 1979

BY EARL M. WILLITS

SENATE FILE 158

S-3078

1 Amend amendment S-3059 to Senate File 158 as  
2 follows:

3 1. By striking lines 2 through 18 and inserting  
4 in lieu thereof the following:

5 "1. Amend the title by striking lines 1 through  
6 6 and inserting in lieu thereof the following: "An  
7 Act relating to financial transactions involving loans  
8 or deposits of money or extensions of credit which  
9 were affected by the provisions of Acts of the Sixty-  
10 seventh General Assembly, 1978 Session, chapter one  
11 thousand one hundred ninety (1190), sections eleven  
12 (11) through twenty-four (24), and providing for the  
13 restriction or regulation of interest rates, charges  
14 and prepayment penalties in transactions which are  
15 subject to section five hundred thirty-five point  
16 two (535.2) of the Code, and providing for the  
17 restriction or regulation of the use of share drafts  
18 drawn on credit unions, and providing penalties."

S-3078 FILED & ADOPTED (p. 444)  
FEBRUARY 14, 1979

BY CALVIN O. HULTMAN

SENATE FILE 158

S-3083

1 Amend Senate File 158 as follows:

2 1. Page 15, by inserting after line 31 the  
3 following:

4 "e. A lender shall not refuse to allow a  
5 prospective borrower to assume a prior loan on a  
6 single-family or two-family dwelling unless the  
7 prospective borrower is a substantially greater credit  
8 risk than the original borrower under the loan to be  
9 assumed. The burden of proving substantially greater  
10 risk is on the lender. The lender may require the  
11 original borrower and the prospective borrower to  
12 submit jointly an application which discloses the  
13 financial condition of each. Both the original borrower  
14 and the prospective borrower shall sign the  
15 application and shall be provided a copy of the  
16 application. The lender shall disclose to each in  
17 writing the basis for any refusal to allow the  
18 assumption. If a lender violates this paragraph,  
19 the borrower is entitled to recover actual damages,  
20 plus attorney fees and costs incurred in any action  
21 necessary to effect recovery."

S-3083 FILED & LOST (p. 448)  
FEBRUARY 14, 1979

BY GEORGE R. KINLEY  
WILLIAM D. PALMER  
DAVID READINGER

*Page per 3358 3/4 (p. 868)  
House amendment concerned  
Sponsored Major Motion 3/20  
By Page 4/20 (p. 864)*

SENATE FILE 158

BY COMMITTEE ON COMMERCE

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 14, 1979)

Passed Senate, Date 3-20-79 (p. 865) Passed House, Date 3-15-77 (p. 972)

Vote: Ayes 44 Nays 0 Vote: Ayes 91 Nays 8

Approved March 27, 1979

## A BILL FOR

1 An Act relating to financial transactions involving loans,  
 2 or deposits of money or extensions of credit which were  
 3 affected by the provisions of Acts of the Sixty-seventh  
 4 General Assembly, 1978 Session, chapter one thousand  
 5 one hundred ninety (1190), sections eleven (11) through  
 6 twenty-four (24), and providing for the restriction or  
 7 regulation of interest rates, charges and prepayment  
 8 penalties in transactions which are subject to section  
 9 five hundred thirty-five point two (535.2) of the Code,  
 10 and providing for the restriction or regulation of the  
 11 use of share drafts drawn on credit unions, and providing  
 12 penalties.

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

### COMMUNICATION FROM THE SECRETARY OF STATE

April 16, 1979

Frank J. Stork  
Secretary of Senate  
State Capitol Building  
Des Moines, Iowa

I certify that the foregoing Act, Senate File 158, was published in The Waterloo Courier, Waterloo, Iowa, on April 6, 1979, and in the Quad City Times, Davenport, Iowa, on April 12, 1979.

Respectfully submitted  
MELVIN D. SYNHORST  
Secretary of State

3291

1 Section 1. Chapter five hundred thirty-three (533), Code  
2 1979, is amended by adding the following new section:

3 NEW SECTION. SHARE DRAFTS.

4 1. As used in this section or chapter, unless the context  
5 otherwise requires:

6 a. "Share draft" means a negotiable draft which is payable  
7 upon demand and which is used to withdraw funds from a share-  
8 draft account. A share draft is an item for purposes of  
9 chapter five hundred fifty-four (554), article four (4), of  
10 the Code. The term does not include a draft issued by a  
11 credit union for the transfer of funds between the issuing  
12 credit union and another credit union or a bank, savings and  
13 loan association, or other depository financial institution.

14 b. "Payable-through bank" means the bank which is  
15 designated to make presentment of a share draft to the credit  
16 union for payment.

17 c. "Truncation" means the original share draft is not  
18 returned to the member.

19 d. "Share-draft account" means the demand account from  
20 which a credit union has agreed that funds may be withdrawn  
21 by means of a share draft. A share-draft account may bear  
22 interest or dividends as determined by the board of directors  
23 pursuant to this chapter, provided that a credit union shall  
24 not pay interest or dividends on a share-draft account at  
25 a rate which exceeds the maximum interest rate which Iowa  
26 state banks insured by the federal deposit insurance  
27 corporation are permitted by federal law to pay on insured  
28 passbook savings accounts.

3292

29 2. Subject to the provisions of this chapter, a credit  
30 union may provide its members with share-draft accounts.  
31 The board of directors shall determine, prior to requesting  
32 authority to implement a share-draft program, that the members'  
33 use of share drafts is economically and operationally feasible  
34 for the credit union.

35 3. The share accounts and deposit accounts of a credit

1 union operating a share-draft program must be insured by the  
2 national credit union administrator. The administrator of  
3 the credit union department shall order the termination of  
4 the share-draft program of a credit union which does not  
5 comply with this subsection. The provisions of this subsection  
6 supersede the provisions of section five hundred thirty-three  
7 point sixty-four (533.64) of the Code with respect to credit  
8 unions which have share-draft programs.

9 4. A credit union seeking share-draft authority shall  
10 submit to the administrator a written application. The  
11 application shall include all of the following:

12 a. A certified copy of the minutes of the board of  
13 directors authorizing a request to the administrator for  
14 authority to implement the share-draft program.

15 b. All background documentation which supports the decision  
16 of the board of directors that use of share drafts by members  
17 of the credit union is economically and operationally feasible  
18 for the credit union.

19 c. A statement verified by the chairperson of the board  
20 of directors that the forms and procedures which are proposed  
21 to be used by the credit union comply with any applicable  
22 rules.

23 d. A statement verified by the chairperson of the board  
24 of directors that the board of directors has determined  
25 appropriate surety bond coverage is in force. The board of  
26 directors shall purchase a fidelity bond to cover officers  
27 and employees having custody of or handling funds, with good  
28 and sufficient surety in an amount and character to be  
29 determined by the board, to protect the credit union against  
30 losses caused by occurrences such as fraud, dishonesty,  
31 forgery, embezzlement, misappropriation, misapplication, or  
32 unfaithful performance of duty by these officers and employees.

33 e. A statement of operational specifications and procedures  
34 which expressly provides for all of the following:

35 (1) Identification of the payable-through bank. The

1 payable-through bank must be a bank which is located in this  
2 state or in an adjacent state.

3 (2) Truncation.

4 (3) A share-draft account agreement with each participating  
5 member which outlines the responsibilities of the credit union  
6 and the member.

7 (4) The recording of overdrafts and notification to an  
8 overdrawn member.

9 (5) The encoding of each share draft with the routing  
10 and transit number of the payable-through bank, the share-  
11 draft account number, and the serial number of the share draft  
12 in accordance with standards required for use in a clearing  
13 system utilizing magnetic ink character recognition devices.

14 (6) The preprinting on the share draft of the names of  
15 the payable-through bank and the credit union.

16 (7) A method by which each member using share drafts may  
17 maintain a record of share drafts drawn.

18 (8) The submission of a periodic statement of account  
19 at least quarterly to each member who has a share-draft  
20 account. This statement shall include the serial number,  
21 the date of payment and the amount of payment of each share  
22 draft processed.

23 (9) Establishing responsibility for detection of  
24 unauthorized or forged drafts.

25 (10) Procedures for processing stop payment orders.

26 (11) Procedures for providing members with copies of paid  
27 drafts, should copies be requested.

28 (12) Procedures for retaining paid drafts or copies of  
29 paid drafts on file for a period of seven years after the  
30 first day of January of the year following the year in which  
31 the draft was paid. The paid drafts or copies need not be  
32 retained in the custody of the credit union.

33 (13) The fees, if any, to be charged for share-draft  
34 account services. The fees shall not exceed the direct and  
35 indirect costs of providing the services.

1 (14) Procedures for establishing, maintaining, verifying  
2 and replenishing as necessary the share-draft liquidity reserve  
3 required by section four (4) of this Act.

4 5. A credit union shall not commence the operation of  
5 a share-draft program until it has received written authority  
6 from the administrator. The administrator shall not issue  
7 authority if any of the following conditions exist:

8 a. The requirements of subsection four (4) of this section  
9 have not been met.

10 b. The auditing committee of the credit union has not  
11 fulfilled its statutory duties as specified in this chapter.

12 c. The management of the credit union has demonstrated  
13 through prior performance its inability to handle the  
14 additional activity the share-draft program will generate.

15 d. The credit union is not insured by the national credit  
16 union administrator.

17 e. The forms and procedures which are proposed to be used  
18 by the credit union do not comply with rules promulgated by  
19 the administrator.

20 6. a. The credit union shall notify the administrator  
21 in writing of the proposed implementation of a modification  
22 relating to any of the following:

23 (1) The payable-through bank.

24 (2) Truncation procedures.

25 (3) The share-draft agreement.

26 (4) Procedures for establishing and maintaining the share-  
27 draft liquidity reserve.

28 (5) Any material modification of the share-draft program  
29 not previously reviewed and approved by the administrator.

30 b. The written notice under paragraph a of this subsection  
31 shall be submitted to the administrator at least sixty days  
32 prior to the date the credit union intends to implement the  
33 modification, provided that if good cause is shown the adminis-  
34 trator may approve a modification on less than sixty days'  
35 notice. A modification referred to in paragraph a of this

1 subsection shall not be made except upon written approval  
2 of the administrator.

3 c. The credit union shall immediately notify the  
4 administrator of any matter affecting the information provided  
5 pursuant to subsection four (4), paragraphs a through d, of  
6 this section.

7 7. If a share-draft program is not authorized or a request  
8 for modification is not approved the administrator shall  
9 submit to the credit union a written statement of the reasons  
10 for the action.

11 8. A credit union may guarantee payment of a share draft  
12 if both of the following conditions are met:

13 a. A specific guarantee authorization is obtained for  
14 the share draft from the credit union.

15 b. The guarantee authorization is immediately noted on  
16 the share-draft account to prevent the withdrawal of funds  
17 needed to pay the guaranteed share draft.

18 9. The administrator may promulgate rules as necessary  
19 to administer the provisions of this chapter which relate  
20 to share-draft programs. In order to simplify the application  
21 for share-draft authority and the operation of share-draft  
22 programs, the administrator may cause to be prepared copies  
23 of approved forms and procedures which may be used by credit  
24 unions for guidance.

25 Sec. 2. Chapter five hundred thirty-three (533), Code  
26 1979, is amended by adding the following new section:

27 NEW SECTION. PAYMENT OF SHARE DRAFTS DURING DISSOLUTION.

28 Other provisions of section five hundred thirty-three point  
29 twenty-two (533.22) of the Code notwithstanding, when a credit  
30 union is dissolved, first priority of payment shall be given  
31 to unpaid share drafts. However, a share draft shall not  
32 be paid if any of the following conditions exist:

33 1. The share draft was issued on or after the date of  
34 appointment of a receiver in the event of an involuntary  
35 dissolution, or on or after the date the credit union is

1 required by section five hundred thirty-three point twenty  
2 (533.20), subsection two (2) of the Code to cease doing  
3 business in the event of a voluntary dissolution.

4 2. The obligation of the member which is evidenced by  
5 the share draft has been satisfied.

6 3. The share draft is written against an account which  
7 does not contain sufficient funds with which to pay the share  
8 draft.

9 4. The share draft is payable to a member of the credit  
10 union, or to a member of the family of the issuer of the share  
11 draft, or to a business in which the issuer of the share draft  
12 has an interest.

13 Sec. 3. Chapter five hundred thirty-three (533), Code  
14 1979, is amended by adding the following new section:

15 NEW SECTION. SHARE DRAFT VIOLATIONS--REVOCATION OF  
16 AUTHORITY. A credit union which offers a share-draft program  
17 to its members shall promptly honor share drafts which are  
18 written on accounts containing sufficient funds at the time  
19 the share drafts are presented for payment, and shall comply  
20 with the requirements of section one (1) of this Act respecting  
21 the operation of the share-draft program. If after notice  
22 and opportunity for hearing the administrator finds that a  
23 credit union has violated this section the administrator shall  
24 order the credit union to correct the condition. Failure  
25 of the credit union to comply with the order within a  
26 reasonable period of time as specified in the order shall  
27 be grounds for revocation of the authority to operate the  
28 share-draft program. The administrator shall revoke the  
29 authority to operate a share-draft program of a credit union  
30 demonstrating a continuing pattern of violations of this  
31 section.

32 A credit union whose share-draft authority has been revoked  
33 under this section is ineligible to receive authority to  
34 operate a share-draft program for two years after the date  
35 of revocation.

1 Sec. 4. Chapter five hundred thirty-three (533), Code  
2 1979, is amended by adding the following new section:

3 NEW SECTION. SHARE-DRAFT LIQUIDITY RESERVE--VIOLATIONS-  
4 -PENALTY.

5 1. A credit union which operates a share-draft program  
6 shall maintain a share-draft liquidity reserve to be used  
7 to ensure that share drafts are honored promptly.

8 2. The share-draft liquidity reserve shall be an amount  
9 which is equal to the sum of three percent of the amounts  
10 held by the credit union in deposit accounts and share accounts  
11 other than share-draft accounts, plus seven percent of the  
12 amounts held by the credit union in share-draft accounts.

13 3. The share-draft liquidity reserve of a credit union  
14 shall be maintained as follows:

15 a. At least one-fifth of the reserve shall be held in  
16 the form of cash, or demand deposits in the name of the credit  
17 union in state or national banks, or both. All cash in the  
18 credit union and all demand deposits held in banks in the  
19 name of the credit union shall be credited against the reserve  
20 requirements of this section.

21 b. The balance of the reserve may be invested in one or  
22 more of the following:

23 (1) United States treasury instruments owned by the credit  
24 union.

25 (2) In an account held in the corporate central credit  
26 union referred to in section five hundred thirty-three point  
27 thirty-eight (533.38) of the Code under an agreement which  
28 provides that the funds shall be invested in a qualified  
29 common trust fund as defined in subparagraph three (3) of  
30 this paragraph, and that the funds may be withdrawn by the  
31 credit union on not more than one business day's notice.

32 (3) In a qualified common trust fund. A qualified common  
33 trust fund is one which has the approval of the administrator.  
34 The administrator shall not approve a trust fund for purposes  
35 of this subsection unless the trust arrangement satisfies

1 all of the following:

2 (a) All beneficiaries of the trust are credit unions  
3 organized under the laws of this state or another state or  
4 the United States, or affiliates of these credit unions.

5 (b) Funds of the credit union which are invested in the  
6 common trust fund must be subject to withdrawal by the credit  
7 union on not more than one business day's notice.

8 (c) The trustee of the trust fund is a commercial bank  
9 which is subject to examination and audit under the laws of  
10 this state or of another state or of the United States.

11 (d) Investment of funds held in trust is limited to  
12 securities issued by the United States government or its  
13 agents or instrumentalities.

14 The administrator shall be given a copy of the trust agreement  
15 and all amendments to the trust agreement. The administrator  
16 shall revoke the approval of an approved common trust fund  
17 which subsequently fails to meet the requirements of this  
18 subsection.

19 4. The share-draft liquidity reserve shall be verified  
20 and shall be replenished by the credit union as necessary  
21 at the end of each business day. The share-draft liquidity  
22 reserve of the credit union is deficient and in violation  
23 of this section if after the end of any business day, and  
24 after any deposits as required by this subsection, either  
25 of the following conditions exists:

26 a. The average of the amounts actually held by the credit  
27 union in the forms authorized by subsection three (3) of this  
28 section on that business day and each of the preceding four  
29 business days is less than the nominal amount specified in  
30 subsection two (2) of this section.

31 b. The average of the amounts actually held by the credit  
32 union in cash and demand deposits on that business day and  
33 each of the preceding four business days is less than the  
34 minimum amount specified in subsection three (3), paragraph  
35 a, of this section.

1 5. Whenever it shall appear necessary to do so in the  
2 interest of the members of a credit union, the administrator  
3 may require that the credit union maintain reserves exceeding  
4 the amount required by subsection two (2) of this section,  
5 consisting of such obligations of the United States as the  
6 administrator shall prescribe. Any additional amount required  
7 under this subsection to be maintained in reserve shall be  
8 verified and replenished as required by the administrator.  
9 Failure to comply with requirements imposed by the  
10 administrator under this subsection is a violation of this  
11 section.

12 6. If after notice and opportunity for hearing the  
13 administrator finds that a credit union has violated this  
14 section, the administrator shall order the credit union to  
15 correct the condition within two business days, and the  
16 administrator may, in his or her discretion, order payment  
17 by the credit union to the state of a monetary penalty of  
18 not more than one hundred dollars per day for each day during  
19 which a deficiency existed. Failure of the credit union to  
20 correct the condition within the prescribed time shall be  
21 grounds for revocation of the authority to operate the share-  
22 draft program. The administrator shall revoke the authority  
23 for a credit union demonstrating a continuing pattern of  
24 violations of this subsection.

25 7. A credit union whose share-draft authority has been  
26 revoked under this section is ineligible to receive authority  
27 to operate a share-draft program for two years after the date  
28 of revocation.

29 Sec. 5. Chapter five hundred thirty-three (533), Code  
30 1979, is amended by adding the following new section:

31 NEW SECTION. ACCEPTANCE OF DEPOSITS AND INVESTMENTS WHILE  
32 INSOLVENT. A credit union shall not accept any deposits or  
33 investments in its shares, or renew or extend the term of  
34 any time deposits or time investments, when the credit union  
35 is insolvent.

1 Sec. 6. Section five hundred thirty-three point six  
2 (533.6), subsection four (4), Code 1979, is amended to read  
3 as follows:

4 4. ~~If it shall appear~~ after notice and opportunity for  
5 hearing the administrator determines that any a credit union  
6 is insolvent or that it has violated any of the provisions  
7 of this chapter, the administrator ~~may, after a hearing or~~  
8 ~~after an opportunity for a hearing is given,~~ shall order that  
9 the credit union to correct the condition. The administrator  
10 shall grant the credit union not less than sixty days within  
11 which to comply with the order. Failure to comply shall  
12 afford the administrator grounds to revoke the certificate  
13 of approval and shall afford the administrator the authority  
14 to apply to the district court of the district in which this  
15 credit union is located for the appointment of a receiver  
16 for the credit union. The district court shall appoint the  
17 administrator of the credit union department as receiver  
18 unless the administrator of the credit union department has  
19 tendered the appointment to the administrator of the plan  
20 by which the accounts of the credit union are insured. Either  
21 administrator as receiver shall possess the rights, powers,  
22 and privileges granted by state law to a receiver of a state  
23 credit union. Neither administrator shall be required to  
24 furnish bond as receiver of a state credit union. This  
25 subsection does not apply to violations of section three (3)  
26 or four (4) of this Act.

27 Sec. 7. Section five hundred thirty-three point fourteen  
28 (533.14), Code 1979, is amended to read as follows:

29 533.14 INTEREST RATES.

30 1. Interest rates on loans made by a credit union, other  
31 than loans secured by a mortgage or deed of trust which is  
32 a first lien upon real property shall not exceed one percent  
33 a month on unpaid balances, except that with respect to  
34 consumer loans, a credit union may charge the finance charge  
35 permitted in sections 537.2401 and 537.2402.

1 2. With respect to a loan secured by a mortgage or deed  
2 of trust which is a first lien upon real property, a credit  
3 union shall not charge a rate of interest which exceeds the  
4 maximum rate permitted by section five hundred thirty-five  
5 point two (535.2) of the Code.

6 3. The provisions of this section do not apply to a loan  
7 which is subject to section six hundred eighty-two point  
8 forty-six (682.46) of the Code.

9 Sec. 8. Section five hundred thirty-three point nineteen  
10 (533.19), Code 1979, is amended to read as follows:

11 533.19 EXPULSION--WITHDRAWAL. A member may be expelled  
12 by a majority vote of the board of directors at a regular  
13 or special meeting of the board. The expelled member may  
14 request a hearing before the membership of the credit union.  
15 A meeting of the membership shall be held within sixty days  
16 of the member's request. The membership may, by majority  
17 vote at the membership meeting, reinstate the expelled member  
18 upon terms and conditions prescribed by it. Any member may  
19 withdraw from the credit union at any time but notice of  
20 withdrawal may be required. All amounts paid on shares or  
21 as deposits of an expelled or withdrawing member, with any  
22 dividends or interest accredited thereto, to the date thereof,  
23 shall, as funds become available and after deducting all  
24 amounts due from the member to the credit union and an amount  
25 as necessary to honor outstanding share drafts, be paid to  
26 him the member. The credit union may require sixty days'  
27 notice of intention to withdraw shares and thirty days' notice  
28 of intention to withdraw deposits, except that a credit union  
29 shall not require notice with respect to funds which are  
30 subject to withdrawal by share drafts. Withdrawing or expelled  
31 members shall have no further rights in the credit union but  
32 are not, by such expulsion or withdrawal, released from any  
33 remaining liability to the credit union.

34 Sec. 9. Section seven hundred fourteen point one (714.1),  
35 subsection six (6), unnumbered paragraph one (1), Code 1979,

1 is amended to read as follows:

2 6. Makes, utters, draws, delivers, or gives any check,  
3 share draft, draft, or written order on any bank, credit  
4 union, person or corporation, and obtains property or service  
5 in exchange therefor, if the person knows that such check,  
6 share draft, draft or written order will not be paid when  
7 presented.

8 Sec. 10.

9 1. Notwithstanding other provisions of this Act, a credit  
10 union which has an operating share-draft program on the  
11 effective date of this Act may continue to offer share-draft  
12 services prior to submitting a request and receiving authority  
13 as required by this Act, but the credit union must submit  
14 a request as required by this Act not later than sixty days  
15 after the effective date of this Act. The administrator shall  
16 act upon the request within thirty days after receiving it.  
17 The temporary authority granted by this section expires ninety  
18 days after the effective date of this Act, or on the date  
19 the administrator acts upon the request for share-draft  
20 authority, whichever date is earlier.

21 2. Notwithstanding section one (1), subsection three (3),  
22 and section one (1), subsection five (5), paragraph d, of  
23 this Act, a credit union which has an operating share-draft  
24 program on the effective date of this Act may continue to  
25 offer share-draft services prior to obtaining insurance for  
26 share accounts and deposit accounts from the national credit  
27 union administrator, but the credit union shall obtain the  
28 required insurance within ninety days after the effective  
29 date of this Act, and shall not open any additional share-  
30 draft accounts or offer any additional share-draft services  
31 until its accounts are so insured. The administrator shall  
32 order the termination of the share-draft program of a credit  
33 union which is subject to this subsection and which fails  
34 to comply with this subsection.

35 3. Notwithstanding section one (1), subsection four (4),

1 paragraph e, subparagraph one (1), of this Act, a credit union  
2 which has an operating share-draft program on the effective  
3 date of this Act and which has a contractual arrangement with  
4 a payable-through bank that does not meet the requirements  
5 of this Act may continue to use the same bank for a period  
6 of not more than two years after the effective date of this  
7 Act. At the end of the two-year period, or if at any prior  
8 time the credit union terminates the arrangement with its  
9 payable-through bank, the credit union shall select a payable-  
10 through bank which meets the requirements of this Act.

11 Sec. 11. Share drafts which were issued by members of  
12 Iowa credit unions prior to the effective date of this Act  
13 are hereby declared to be valid and binding instruments for  
14 any lawful purposes for which issued, and customary or  
15 necessary acts in the course of business by credit unions  
16 upon which these share drafts were written and banks by which  
17 these share drafts were received, transferred, negotiated  
18 or otherwise processed are hereby declared to be legal.

19 Sec. 12. Notwithstanding section one (1), subsection one  
20 (1), paragraph a, of this Act, a credit union which has an  
21 operating share-draft program on the effective date of this  
22 Act may continue to supply its members with blank share-draft  
23 forms which were printed prior to the effective date of this  
24 Act, and these members may continue to use existing supplies  
25 of these share-draft forms until the supplies are exhausted  
26 or until the expiration of one hundred twenty days after the  
27 effective date of this Act, whichever occurs sooner. The  
28 administrator shall enforce compliance with this paragraph.

29 Share drafts which are non-negotiable in printed form and  
30 which are issued by members of credit unions after the effec-  
31 tive date of this Act under the authority of this section  
32 are hereby declared to be valid and binding instruments for  
33 any lawful purposes for which issued, and customary and  
34 necessary acts in the course of business by credit unions  
35 upon which these drafts were written and banks by which these

1 drafts were received, transferred, negotiated or otherwise  
2 processed are hereby declared to be legal.

3 Sec. 13. Section five hundred twenty-four point nine  
4 hundred five (524.905), subsection five (5), paragraph d,  
5 Code 1979, is amended to read as follows:

6 d. The value of real property shall be determined by  
7 averaging the appraisals appraisal of two a qualified persons  
8 person, selected in a manner authorized by the board of  
9 directors, who are is familiar with real property values in  
10 the vicinity where the real property is located, and who  
11 inspect inspects the real property and state states its value  
12 to the best of their his or her judgment in a written report  
13 to be retained by the state bank during the term of the loan.

14 Sec. 14. Chapter five hundred twenty-four (524), division  
15 nine (IX), Code 1979, is amended by adding the following new  
16 section:

17 NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS. Real estate  
18 loans on one-family to four-family dwellings may be repaid  
19 in part or in full at any time, excepting that a state bank  
20 may charge not to exceed six months advance interest on that  
21 part of the aggregate amount of all prepayments made on such  
22 loan in any twelve-month period which exceeds twenty percent  
23 of the original principal amount of the loan; and may charge  
24 any negotiated rate on other loans. Nothing contained in  
25 this section, however, authorizes a state bank to charge any  
26 advance interest or prepayment penalty where prohibited by  
27 Acts of the Sixty-seventh General Assembly, 1978 Session,  
28 chapter one thousand one hundred ninety (1190), section  
29 thirteen (13).

30 Sec. 15. Chapter five hundred thirty-three (533), Code  
31 1979, is amended by adding the following new section:

32 NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS. Real estate  
33 loans on one-family to four-family dwellings may be repaid  
34 in part or in full at any time, excepting that a credit union  
35 may charge not to exceed six months advance interest on that

1 part of the aggregate amount of all prepayments made on such  
2 loan in any twelve-month period which exceeds twenty percent  
3 of the original principal amount of the loan; and may charge  
4 any negotiated rate on other loans. Nothing contained in  
5 this section, however, authorizes a credit union to charge  
6 any advance interest or prepayment penalty where prohibited  
7 by Acts of the Sixty-seventh General Assembly, 1978 Session,  
8 chapter one thousand one hundred ninety (1190), section  
9 thirteen (13).

10 Sec. 16. Section five hundred thirty-five point two  
11 (535.2), Code 1977, as amended by Acts of the Sixty-seventh  
12 General Assembly, 1978 Session, chapter one thousand one  
13 hundred ninety (1190), section eleven (11), is reenacted and  
14 is the law of this state on and after the effective date of  
15 this Act, notwithstanding any contrary provision of Acts of  
16 the Sixty-seventh General Assembly, 1978 Session, chapter  
17 one thousand one hundred ninety (1190).

18 Sec. 17. Acts of the Sixty-seventh General Assembly, 1978  
19 Session, chapter one thousand one hundred ninety (1190),  
20 section eleven (11), subsection three (3), paragraph a, is  
21 amended on the effective date of this Act to read as follows:

22 a. The maximum lawful rate of interest which may be  
23 provided for in any written agreement for the payment of  
24 interest entered into during any calendar ~~quarter~~ month  
25 commencing on or after July-17-1978, the effective date of  
26 this Act shall be two percentage points above the monthly  
27 average ten-year constant maturity interest rate of United  
28 States government notes and bonds as published by the board  
29 of governors of the federal reserve system for the calendar  
30 month second preceding the ~~first~~ ~~month of the calendar quarter~~  
31 during which the maximum rate based thereon will be effective,  
32 rounded to the nearest one-fourth of one percent per year.

33 On or before the twentieth day of ~~March, June, September~~  
34 ~~and December of each year~~ each month the superintendent of  
35 banking shall determine the maximum lawful rate of interest

1 for the following calendar ~~quarter~~ month as prescribed herein,  
2 and shall cause ~~such~~ this rate to be published, as a notice  
3 in the Iowa administrative bulletin or as a legal notice in  
4 a newspaper of general circulation published in Polk county,  
5 prior to the first day of the following calendar month. ~~Such~~  
6 This maximum lawful rate of interest shall be effective on  
7 the first day of the calendar month following publication.  
8 ~~As-seen-as-practicable-after-the-effective-date-of-this-Act,~~  
9 ~~the-superintendent-of-banking-shall-determine-and-publish~~  
10 ~~the-maximum-lawful-rate-pursuant-to-this-paragraph-for-the~~  
11 ~~third-quarter-of-1978,-which-maximum-rate-shall-be-effective~~  
12 ~~upon-publication-thereof.~~ The determination of the maximum  
13 lawful rate of interest by the superintendent of banking shall  
14 be exempt from the provisions of chapter seventeen A (17A)  
15 of the Code.

16 Sec. 18. Acts of the Sixty-seventh General Assembly, 1978  
17 Session, chapter one thousand one hundred ninety (1190),  
18 section twelve (12), is reenacted except as provided in section  
19 nineteen (19) of this Act and is the law of this state on  
20 and after the effective date of this Act, notwithstanding  
21 any contrary provision of Acts of the Sixty-seventh General  
22 Assembly, 1978 Session, chapter one thousand one hundred  
23 ninety (1190).

24 Sec. 19. Acts of the Sixty-seventh General Assembly, 1978  
25 Session, chapter one thousand one hundred ninety (1190),  
26 section twelve (12), subsection six (6), is amended on the  
27 effective date of this Act by striking the subsection.

28 Sec. 20. Acts of the Sixty-seventh General Assembly, 1978  
29 Session, chapter one thousand one hundred ninety (1190),  
30 section twelve (12), subsections one (1), two (2) and five  
31 (5), are amended effective July 1, 1979, to read as follows:

32 1. As used in this section, the term "loan" means any  
33 ~~money-loaned-to-a-borrower-who-furnishes,-as-security-for~~  
34 ~~all-or-part-of-the-loan,-a-mortgage-on~~ a loan of money which  
35 is wholly or in part to be used for the purpose of purchasing

1 real property which is a single-family or a two-family dwelling  
2 occupied or to be occupied by the borrower. "Loan" includes  
3 the refinancing of a contract of sale, and the refinancing  
4 of a prior loan, whether or not the borrower also was the  
5 borrower under the prior loan, and the assumption of a prior  
6 loan.

7 2. a. A lender may collect in connection with a loan  
8 an origination fee which does not exceed one percent of the  
9 loan principal, except in the event of the assumption of a  
10 prior loan, in which case the lender may collect a fee which  
11 is a reasonable estimate of the expense of processing the loan  
12 assumption, but not to exceed one percent of the loan

13 principal. The assessment-and collection in connection with  
14 a loan of a loan origination fee, closing fee, commitment  
15 fee or similar charge other than as expressly authorized by  
16 this paragraph is prohibited. if-any-lender-receives-any  
17 amount-as-a-loan-origination-fee,-closing-fee,-commitment  
18 fee-or-similar-charge,-or-any-combination-thereof,-which  
19 exceeds-the-amount-permitted-by-this-section,-the-borrower  
20 shall-have-the-right-to-recover-that-charge,-plus-attorney  
21 fees-and-court-costs-incurred-in-any-action-necessary-to  
22 effect-such-recovery.

23 Any-costs-charged-to-a-borrower,-associated-with-a-loan,  
24 shall-not-exceed-actual-costs-which-shall-be-disclosed-to  
25 the-borrower.--Such-costs-may-only-include-one-or-more-of  
26 the-following:

27 b. A lender may collect in connection with a loan any  
28 of the following costs which are incurred by the lender in  
29 connection with the loan and which are disclosed to the  
30 borrower:

- 31 a- (1) Credit reports.
- 32 b- (2) Appraisal fees.
- 33 e- (3) Attorney's opinions.
- 34 d- (4) Abstracting.
- 35 e- (5) County recorder's fees.

- 1 f- (6) Inspection fees.  
2 g- (7) Mortgage guarantee insurance charge.  
3 n- (8) Surveying of property.  
4 z- (9) Termite inspection.

5 The lender shall not charge the borrower for the cost of  
6 revenue stamps or real estate commissions which are paid by  
7 the seller. Costs which are recoverable from the borrower  
8 under this paragraph are limited to actual amounts paid by  
9 the lender to third parties. Collection of any cost other  
10 than as expressly permitted by this paragraph is prohibited.

11 c. If the purpose of the loan is to enable the borrower  
12 to purchase a single-family or two-family dwelling from a  
13 previous owner, and pursuant to the loan agreement the borrower  
14 assumes outstanding indebtedness of the previous owner on  
15 a loan secured by the dwelling being purchased, the lender  
16 shall not collect a rate of interest which exceeds the rate  
17 provided for in the loan agreement of the previous owner which  
18 is being assumed by the borrower.

19 d. If a lender collects a fee or charge which is prohibited  
20 by paragraphs a, b or c of this subsection or which exceeds  
21 the amount permitted by paragraphs a, b or c of this  
22 subsection, the borrower has the right to recover the unlawful  
23 fee or charge or the unlawful portion of the fee or charge,  
24 plus attorney fees and costs incurred in any action necessary  
25 to effect recovery.

26 5. The provisions of this section shall not apply to any  
27 loan which is subject to the provisions of section six hundred  
28 eighty-two point forty-six (682.46) of the Code, nor shall  
29 it apply to origination fees, administrative fees, commitment  
30 fees or similar charges paid by one lender to another lender  
31 if these fees are not ultimately paid either directly or  
32 indirectly by the borrower who occupies or will occupy the  
33 dwelling or by the seller of the dwelling.

34 A lender shall not collect any fee from a real estate agent  
35 for the purpose of reserving or committing funds held or to

1 be held by the lender for loans which are subject to this  
2 section. If a lender collects a fee which is prohibited by  
3 this paragraph the borrower has the right to recover the  
4 unlawful fee, plus attorney fees and costs incurred in an  
5 action necessary to effect recovery.

6 Sec. 21. Acts of the Sixty-seventh General Assembly, 1978  
7 Session, chapter one thousand one hundred ninety (1190),  
8 section thirteen (13), is reenacted and is the law of this  
9 state on and after the effective date of this Act,  
10 notwithstanding any contrary provision of Acts of the Sixty-  
11 seventh General Assembly, 1978 Session, chapter one thousand  
12 one hundred ninety (1190).

13 Sec. 22. Acts of the Sixty-seventh General Assembly, 1978  
14 Session, chapter one thousand one hundred ninety (1190),  
15 section thirteen (13), subsection one (1), is amended effective  
16 July 1, 1979, to read as follows:

- 17 1. As-used-in-this-section:
- 18 a:--"loan"-means-money-loaned-to-a-borrower-who-furnishes,
- 19 as-security-for-all-or-any-part-of-the-loan, a mortgage on
- 20 real-property-which-is-a-single-family-or-a-two-family-dwelling
- 21 to-be-occupied-by-the-borrower-or-money-loaned-to-a-borrower
- 22 for-the-purpose-of-purchasing-agricultural-land-where-the
- 23 borrower-furnishes-a-mortgage-on-the-real-property-to-be
- 24 purchased-as-security-for-the-loan;
- 25 b:--"lender"-means-any-state-or-federally-chartered-bank,
- 26 savings-and-loan-association-or-credit-union, any industrial
- 27 loan-company, any insurance-company, or any other person or
- 28 entity-which-makes-a-loan, as-defined-in-this-section.

29 As used in this section, "loan" means a loan of money which  
30 is wholly or in part to be used for the purpose of purchasing  
31 real property which is a single-family or a two-family dwelling  
32 occupied or to be occupied by the borrower, or for the purpose  
33 of purchasing agricultural land. "Loan" includes the  
34 refinancing of a contract of sale, and the refinancing of  
35 a prior loan, whether or not the borrower also was the borrower

1 under the prior loan, and the assumption of a prior loan.

2 Sec. 23. Acts of the Sixty-seventh General Assembly, 1978  
3 Session, chapter one thousand one hundred ninety (1190),  
4 section thirteen (13), subsection two (2), is amended effective  
5 July 1, 1979, to read as follows:

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

22 Sec. 24. Section five hundred thirty-four point twenty-  
23 one (534.21), subsection ten (10), Code 1977, as amended by  
24 Acts of the Sixty-seventh General Assembly, 1977 Session,  
25 chapter one hundred thirty-three (133), section seven (7),  
26 and as further amended by Acts of the Sixty-seventh General  
27 Assembly, 1978 Session, chapter one thousand one hundred  
28 ninety (1190), section sixteen (16), is reenacted and shall  
29 be the law of this state on and after the effective date of  
30 this Act as amended by section twenty-five (25) of this Act,  
31 notwithstanding any contrary provision of Acts of the Sixty-  
32 seventh General Assembly, 1978 Session, chapter one thousand  
33 one hundred ninety (1190).

34 Sec. 25. Section five hundred thirty-four point twenty-  
35 one (534.21), subsection ten (10), Code 1977, as amended by

1 Acts of the Sixty-seventh General Assembly, 1977 Session,  
2 chapter one hundred thirty-three (133), section seven (7),  
3 and as further amended by Acts of the Sixty-seventh General  
4 Assembly, 1978 Session, chapter one thousand one hundred  
5 ninety (1190), section sixteen (16) is amended on the effective  
6 date of this Act by striking the subsection and inserting  
7 in lieu thereof the following:

8 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans  
9 on one-family to four-family dwellings may be repaid in part  
10 or in full at any time, excepting that the association may  
11 charge not to exceed six months advance interest on that part  
12 of the aggregate amount of all prepayments made on such loan  
13 in any twelve-month period which exceeds twenty percent of  
14 the original principal amount of the loan; and may charge  
15 any negotiated rate on other loans. Nothing contained in,  
16 this subsection, however, authorizes an association to charge  
17 any advance interest or prepayment penalty where prohibited  
18 by Acts of the Sixty-seventh General Assembly, 1978 Session,  
19 chapter one thousand one hundred ninety (1190), section  
20 thirteen (13).

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\* 21 Sec. 26. Acts of the Sixty-seventh General Assembly, 1978  
22 Session, chapter one thousand one hundred ninety (1190),  
\* 23 sections fourteen (14), fifteen (15), seventeen (17), nineteen  
24 (19), and twenty-two (22), are reenacted, and are the law  
25 of this state on and after the effective date of this Act,  
26 notwithstanding any contrary provision of Acts of the Sixty-  
27 seventh General Assembly, 1978 Session, chapter one thousand  
28 one hundred ninety (1190).

29 Sec. 27. The maximum lawful rate of interest as established  
30 under Acts of the Sixty-seventh General Assembly, 1978 Session,  
31 chapter one thousand one hundred ninety (1190), section twelve  
32 (12), and in effect on the effective date of this Act as  
33 provided in that section, shall, notwithstanding contrary  
34 provisions of that section or that Act, be the maximum lawful  
35 rate until the maximum lawful rate for the first full calendar

1 month which commences on or after the effective date of this  
2 Act is determined and published and takes effect as provided  
3 in section seventeen (17) of this Act.

4 Sec. 28. Acts of the Sixty-seventh General Assembly, 1978  
5 Session, chapter one thousand one hundred ninety (1190),  
6 sections twenty-three (23) and twenty-six (26), are repealed  
7 on the effective date of this Act. Acts of the Sixty-seventh  
8 General Assembly, 1978 Session, chapter one thousand one  
9 hundred ninety (1190), section twenty (20), is repealed on  
10 July 1, 1979.

11 Sec. 29. It is the intent of this Act that Acts of the  
12 Sixty-seventh General Assembly, one thousand one hundred  
13 ninety (1190), sections eleven (11) through seventeen (17),  
14 and sections nineteen (19) and twenty-two (22), which were  
15 enacted as temporary provisions to expire on July 1, 1979,  
16 shall be deemed permanent Iowa law as enacted, notwithstanding  
17 the temporary nature of those provisions when enacted, and  
18 that the laws of this state as contained in those provisions  
19 shall continue to be the laws of this state on and after the  
20 effective date of this Act, except as specifically amended  
21 by a provision of this Act, as if those provisions had been  
22 enacted as permanent Iowa law.

23 Sec. 30. The code editor is directed to codify those  
24 sections of Acts of the Sixty-seventh General Assembly, 1978  
25 Session, chapter one thousand one hundred ninety (1190), which  
26 are reenacted by this Act or which are reenacted and amended  
27 by this Act, as permanent Code provisions, and to delete all  
28 references to 1977 Code law and to temporary law other than  
29 customary historical notations as appropriate.

30 Sec. 31. This Act, being of immediate importance, shall  
31 take effect, except as otherwise specifically provided, in  
32 this Act, from and after its publication in the Quad-City  
33 Times, a newspaper published in Davenport, Iowa and in The  
34 Waterloo <sup>1/2</sup> Courier, a newspaper published in Waterloo, Iowa.

35 EXPLANATION

1 This bill deals with credit union share drafts, and with  
2 usury and related matters, which were the subjects of legis-  
3 lation contained in sections 11 through 22 of Acts of the  
4 Sixty-seventh General Assembly, 1978 Session, chapter 1190  
5 (House File 2467, 1978 Session).

6 Sections 1 through 10 of this bill provide permanent  
7 authority for share-draft accounts in credit unions, which  
8 replaces the temporary authority contained in section 23 of  
9 House File 2467.

10 Section 1 of the bill requires that a credit union desiring  
11 to offer share-draft services must apply to the credit union  
12 administrator for approval of the proposed program. Contents  
13 of the application are specified, along with conditions which  
14 must be satisfied before approval may be given. Among other  
15 things, the provisions of section 1 require the identification  
16 of the bank through which the share drafts are payable, the  
17 operating procedures for share-draft accounts, preprinted  
18 share-draft forms, periodic statements of account to members,  
19 procedures for stop-payment orders, and disclosure of share-  
20 draft service fees.

21 Section 2 provides that if a credit union is dissolved,  
22 outstanding third-party share drafts must be paid prior to  
23 distribution of assets or payment of obligations of the credit  
24 union.

25 Section 3 authorizes the credit union administrator to  
26 order a credit union to terminate its share-draft program  
27 if there is a failure to pay drafts promptly when presented,  
28 or a failure to comply with other requirements.

29 Section 4 requires the maintenance of a share-draft  
30 liquidity reserve. The reserve amount is equal to the sum  
31 of 3 percent of deposit-account and share-account balances  
32 plus 7 percent of demand-account balances. At least one-fifth  
33 of the reserve must be held in cash or demand deposit accounts  
34 in state or national banks, and the balance may be held in  
35 the types of investments designated in section 4. The reserve

1 must be maintained on a daily basis, and the credit union  
2 is subject to a termination of its share-draft program and  
3 a \$100 per day penalty if the five-day average of the actual  
4 reserve is below the nominal amount, or if the five-day average  
5 of the actual cash and demand account balances is less than  
6 20 percent of the reserve amount.

7 Section 5 is a correlating amendment.

8 Section 6 amends Code section 533.19 to prohibit notice  
9 of withdrawal for a credit union member's funds which are  
10 subject to withdrawal by share draft.

11 Section 7 amends the criminal code to make the fraudulent  
12 issuance of a share draft subject to the same penalties as  
13 those which apply to the issuance of "bad" checks.

14 Sections 8 and 10 contain temporary provisions applicable  
15 to credit unions which have operating share-draft programs  
16 on the effective date of the Act. The temporary provisions  
17 enable these credit unions to continue to provide share-draft  
18 services while attempting to comply with the new requirements.

19 Section 9 is a legalizing provision for share drafts issued  
20 prior to the effective date of the Act.

21 Sections 11 through 19 of the bill deal with usury and  
22 related matters.

23 House File 2467 provides that most of the usury and related  
24 sections have temporary effect only, and expire on July 1,  
25 1979. On and after July 1, 1979, the law will be the same  
26 as it was prior to enactment of House File 2467.

27 This bill reenacts each of sections 11 through 17 and  
28 sections 19 and 22 of House File 2467, in effect making those  
29 temporary sections permanent Iowa law. This reenactment would  
30 be effective upon publication of this bill. Sections 11,  
31 12 and 16 of House File 2467 are also amended by this bill,  
32 but the amendments would not take effect until July 1, 1979.

33 The subjects contained in the sections of House File 2467  
34 which are effected by this bill are as follows:

35 Section 11 established a floating usury rate under section

1 535.2 of the Code, to be determined by the superintendent  
2 of banking on a quarterly basis, and added other conditions  
3 relating to the usury rate under 535.2. This bill reenacts  
4 section 11, but as of July 1, 1979, the usury rate would be  
5 redetermined by the superintendent of banking on a monthly  
6 basis, rather than a quarterly basis. (See sections 11, 12  
7 and 19 of this bill.)

8 Section 12 of House File 2467 prohibited or regulated  
9 charges made by lenders on certain types of loans. This bill  
10 reenacts section 12, but effective July 1, 1979, lenders would  
11 be entitled to collect an additional charge for originating  
12 a loan, the definition of loan is clarified, and the shifting  
13 of prohibited charges to the seller is expressly prohibited.  
14 A lender also would be prohibited from collecting a fee from  
15 a realtor for the purpose of reserving blocks of funds for  
16 loans to future customers of the realtor. (See sections 13  
17 and 15 of this bill.) Section 14 of this bill strikes from  
18 section 12 of the 1978 Act a provision which repealed the  
19 section as of July 1, 1979.

20 Section 13 of House File 2467, in conjunction with sections  
21 14 through 17 of that Act, prohibited prepayment penalties  
22 in certain types of real estate loan transactions. This bill  
23 reenacts those provisions (see sections 16 and 18 of this  
24 bill), but amends section 16 of the 1978 Act as is described  
25 in the following paragraph.

26 Section 16 of House File 2467 amended Code section 534.21  
27 to correlate the prepayment penalties authorized by that Code  
28 section with the prohibition contained in section 13 of House  
29 File 2467. However, the manner in which the correlating  
30 amendment was drafted had the effect of prohibiting prepayment  
31 penalties on all loans secured by one-family or two-family  
32 dwellings, not just those in which prepayment accompanies  
33 a transfer of ownership as provided in section 13 of House  
34 File 2467. Section 17 of this bill amends Code section 534.21,  
35 subsection 10, of the Code, effective July 1, 1979, to restrict

1 prepayment penalties only to the extent provided in section  
2 13 of House File 2467.

3 Sections 18, 21 and 22 of House File 2467 amended sections  
4 of the savings and loan association law and the consumer  
5 credit code to eliminate an inconsistency in these laws with  
6 respect to the maximum permissible interest rate which may  
7 be imposed in real estate transactions. Sections 18 and 21  
8 were permanent sections. Section 22 is reenacted. (See  
9 section 18 of this bill.)

10 Section 19 of House File 2467 amended section 536A.23 of  
11 the Code, relating to industrial loan companies, to correlate  
12 that section with the other provisions contained in House  
13 File 2467. Section 19 is reenacted (see section 18 of this  
14 bill).

15 Section 20 of House File 2467 created a temporary maximum  
16 interest rate on mobile home loans. This bill repeals that  
17 section effective July 1, 1979. (See section 20 of this  
18 bill.)

19 Sections 20, 21 and 22 of this bill express the intent  
20 of the bill in making the previously enacted temporary law  
21 permanent.

22 This bill would take effect upon publication, except as  
23 otherwise provided with respect to particular provisions or  
24 sections.

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1 Amend Senate File 158 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 21, by inserting after line 20 the  
4 following:

5 "Sec. \_\_\_\_ . Acts of the Sixty-seventh General  
6 Assembly, 1978 Session, chapter one thousand one  
7 hundred ninety (1190), section twenty (20), is  
8 reenacted, and is the law of this state on and after  
9 the effective date of this Act, notwithstanding any  
10 contrary provision of Acts of the Sixty-seventh General  
11 Assembly, 1978 Session, chapter one thousand one  
12 hundred ninety (1190).

13 Sec. \_\_\_\_ . Acts of the Sixty-seventh General  
14 Assembly, 1978 Session, chapter one thousand one  
15 hundred ninety (1190), section twenty (20), is amended  
16 effective July 1, 1979, to read as follows:

17 NEW SECTION. MOBILE HOME LOANS CREDIT TRANSACTIONS.  
18 Notwithstanding the maximum finance charges specified  
19 in this chapter of the Code, the maximum finance  
20 charge which may be charged for money loaned to a  
21 borrower who in a consumer credit transaction in which  
22 the debtor furnishes as security for all or part of  
23 the loan amount financed, a mobile home occupied or  
24 to be occupied by the borrower debtor as a dwelling  
25 shall be as follows:

26 1.--For a new mobile home, three percentage points  
27 per year above the usury rate in effect under section  
28 five hundred thirty-five point two (535.2) of the  
29 Code on the day the loan is made, calculated according  
30 to the actuarial method, on the unpaid balance of  
31 the amount financed;

32 2.--For a used mobile home, five percentage points  
33 per year above the usury rate in effect under section  
34 five hundred thirty-five point two (535.2) of the  
35 Code on the day the loan is made, calculated according  
36 to the actuarial method, on the unpaid balance of  
37 the amount financed; four percentage points above the  
38 usury rate which is in effect under section five  
39 hundred thirty-five point two (535.2), subsection  
40 three (3), paragraph a of the Code on the day the  
41 transaction is executed, calculated according to the  
42 actuarial method, on the unpaid balance of the amount  
43 financed. For purposes of this section, the amount  
44 financed shall not be considered in determining whether  
45 a sale or loan is a consumer credit transaction,  
46 notwithstanding section five hundred thirty-seven  
47 point one thousand three hundred one (537.1301),  
48 subsection thirteen (13), paragraph a, subparagraph  
49 five (5), of the Code, or section five hundred thirty-  
50 seven point one thousand three hundred one (537.1301),

- 1 subsection fifteen (15), paragraph a, subparagraph
- 2 five (5), of the Code."
- 3 2. Page 22, by striking lines 7 through 10 and
- 4 inserting in lieu thereof the following: "on the
- 5 effective date of this Act."
- 6 3. Page 22, line 14, by striking the word and
- 7 figure "nineteen (19)" and inserting in lieu thereof
- 8 the words and figures "nineteen (19), twenty (20)".
- 9 4. By renumbering sections of the bill and
- 10 correcting internal references as necessary.

H-3241 FILED *Law 3/15* BY MILLER of Buchanan  
 FEBRUARY 20, 1979 *(p. 970)* PAVICH of Pottawattamie

SENATE FILE 158

H-3240

- 1 Amend Senate File 158 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 18, by inserting after line 25 the
- 4 following:
- 5 "e. A lender shall not refuse to allow a
- 6 prospective borrower to assume a prior loan on a
- 7 single-family or two-family dwelling if the original
- 8 borrower has repaid at least forty percent of the
- 9 principal amount of the prior loan, unless the
- 10 prospective borrower is a substantially greater credit
- 11 risk than the original borrower under the loan to
- 12 be assumed. The burden of proving substantially
- 13 greater risk is on the lender. The lender may require
- 14 the original borrower and the prospective borrower
- 15 to submit jointly an application which discloses the
- 16 financial condition of each. Both the original
- 17 borrower and the prospective borrower shall sign the
- 18 application and shall be provided a copy of the
- 19 application. The lender shall disclose to each in
- 20 writing the basis for any refusal to allow the
- 21 assumption. If a lender violates this paragraph,
- 22 the borrower is entitled to recover actual damages,
- 23 plus attorney fees and costs incurred in any action
- 24 necessary to effect recovery."

H-3240 FILED *Law 3/15 (p. 967)* BY MILLER of Buchanan  
 FEBRUARY 20, 1979 *Fulton of Clinton 7/20 (p. 88)*

SENATE FILE 158

H-3238

- 1 Amend Senate File 158 as follows:
- 2 1. Page 17, line 7, by inserting after the word
- 3 "loan" the words "exceeding seventy-five thousand
- 4 dollars in principal".
- 5 2. Page 17, line 10, by inserting after the word
- 6 "loan" the words "exceeding seventy-five thousand
- 7 dollars in principal".

H-3238 FILED *Law 3/15 (p. 967)* BY JOHNSON of Linn  
 FEBRUARY 20, 1979

SENATE FILE 158

H-3358

1 Amend Senate File 158 as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 3, by striking line 3 and inserting in  
4 lieu thereof the following:  
5 "(2) Either a statement that the credit union  
6 has adopted truncation, or, if the credit union has  
7 not adopted truncation, a statement of the procedures  
8 to be followed in returning the original share drafts  
9 to issuing members."  
10 2. Page 4, by striking lines 28 and 29 and  
11 inserting in lieu thereof the following:  
12 "(5) Any other material modification of the share-  
13 draft program."  
14 3. Page 6, by striking lines 4 and 5.  
15 4. Page 6, line 12, by inserting after the period  
16 the following: "However, the exception contained  
17 in this subsection does not apply to any person  
18 referred to in this subsection if the person is a  
19 holder in due course, as provided in chapter five  
20 hundred fifty-four (554), article three (3) of the  
21 Code; and with respect to a share draft which is  
22 issued prior to the expiration of one hundred twenty  
23 days after the effective date of this Act, the person  
24 shall not be denied the rights of a holder in due  
25 course of the share draft solely on the grounds that  
26 the share draft fails to meet the requirements of  
27 section five hundred fifty-four point three thousand  
28 one hundred four (554.3104), subsection one (1),  
29 paragraph d of the Code."  
30 5. Page 6, lines 20 and 21, by striking the words  
31 "Act respecting the operation of the share-draft  
32 program" and inserting in lieu thereof the words "Act,  
33 including all operational specifications and procedures  
34 established or modified in accordance with that  
35 section".  
36 6. Page 7, by striking lines 8 through 12 and  
37 inserting in lieu thereof the following:  
38 "2. The share-draft liquidity reserve shall be  
39 equal to the sum of the following two amounts:  
40 a. Seven percent of the total amount of funds  
41 held by the credit union in share-draft accounts.  
42 b. Three percent of the total amount of funds  
43 held by the credit union in deposit accounts. As  
44 used in this paragraph the term "deposit accounts"  
45 excludes share-draft accounts and share accounts."  
46 7. Page 7, by striking lines 13 through 35 and  
47 inserting in lieu thereof the following:  
48 "3. The share-draft liquidity reserve shall be  
49 held as cash, or as demand deposits in the name of  
50 the credit union in state or national banks. All

1 cash in the credit union and all demand deposits held  
2 in banks in the name of the credit union shall be  
3 credited against the reserve requirements of this  
4 section."

5 8. Page 8, by striking lines 1 through 18.

6 9. Page 8, by striking lines 24 through 35 and  
7 inserting in lieu thereof the following: "after any  
8 deposits as required by this subsection, the average  
9 of the amounts actually held by the credit union in  
10 cash and demand deposits on that business day and  
11 each of the preceding four business days is less than  
12 the minimum amount specified in subsection two (2)  
13 of this section."

14 10. Page 9, by striking lines 22 through 24 and  
15 inserting in lieu thereof the following: "draft  
16 program. However, if after notice and opportunity  
17 for hearing the administrator finds that a credit  
18 union has violated this section more than twice during  
19 any twelve-month period or has demonstrated a  
20 continuing pattern of violations of this section,  
21 the administrator shall revoke the authority of the  
22 credit union to operate a share-draft program."

23 11. Page 10, line 6, by striking the words "is  
24 insolvent or that it" and inserting in lieu thereof  
25 the words "~~is-insolvent-or-that-it~~".

26 12. Page 10, line 8, by striking the word "shall"  
27 and inserting in lieu thereof the words "shall, except  
28 when the credit union is insolvent,".

29 13. Page 10, line 10, by striking the word "shall"  
30 and inserting in lieu thereof the words "~~shall~~ may".

31 14. Page 10, line 10, by striking the word "less"  
32 and inserting in lieu thereof the words "~~less~~ more".

33 15. Page 10, line 14, by striking the words "dis-  
34 trict in which" and inserting in lieu thereof the  
35 words "~~district~~ county in which".

36 16. Page 10, line 16, by inserting after the  
37 period the following: "Notwithstanding any other  
38 provision of this chapter, upon a determination by  
39 the administrator that a credit union's assets, if  
40 made immediately available, would not be sufficient  
41 to discharge the credit union's liabilities, the  
42 administrator shall take control of the credit union,  
43 and if the administrator determines that the condition  
44 cannot be corrected, the administrator shall revoke  
45 the certificate of approval and shall apply to the  
46 district court in the county in which the main office  
47 of the credit union is located for the appointment  
48 of a receiver for the credit union."

49 17. Page 10, line 26, by striking the word "Act"  
50 and inserting in lieu thereof the words "Act, except

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A 1 in the event of insolvency of the credit union".  
2 18. Page 10, by inserting after line 26 the fol-  
3 lowing:  
4 "The administrator may adopt rules which define  
5 insolvency or which establish factors to be considered  
6 in determining insolvency. The administrator may  
7 adopt separate solvency standards for credit unions  
8 which are within their first year of operation."  
9 19. Page 11, by striking lines 18 through 33 and  
10 inserting in lieu thereof the following: "upon terms  
11 and conditions prescribed by it. Any member may  
12 withdraw from the credit union at any time, but notice  
13 of withdrawal may be required as provided in this  
14 section. All amounts paid on shares or as deposits  
15 of an expelled or withdrawing member, with any  
16 dividends or interest accredited thereto, to the date  
17 thereof, shall, ~~as funds become available and~~ after  
18 deducting all amounts due from the member to the  
19 credit union and an amount as necessary to honor  
20 outstanding share drafts drawn against accounts of  
21 the member, be paid to him--The member. Upon  
22 expulsion or withdrawal of a member from a credit  
23 union, or at any other time, the credit union may  
24 require sixty days' notice of intention to withdraw  
25 shares and thirty days' notice of intention to withdraw  
26 deposits, except that a credit union shall not at  
27 any time require notice of withdrawal with respect  
28 to funds which are subject to withdrawal by share  
29 drafts. Withdrawing or expelled members shall have  
30 no further rights in the credit union but are not,  
31 by such expulsion or withdrawal, released from any  
32 remaining liability to the credit union."  
33 20. Page 11, by inserting after line 33 the  
34 following:  
35 "Sec. \_\_\_\_ . Section five hundred thirty-three point  
36 twenty-four (533.24), unnumbered paragraph two (2),  
37 Code 1979, is amended to read as follows:  
38 The moneys and credits tax on credit unions is  
39 hereby imposed at a rate of five mills on each dollar  
40 of the legal and special reserves ~~of every~~ which are  
41 required to be maintained by the credit union under  
42 section five hundred thirty-three point seventeen  
43 (533.17) of the Code, and shall be levied by the board  
44 of supervisors, and placed upon the tax list and  
45 collected by the county treasurer, except that an  
46 exemption shall be given to each credit union in the  
47 amount of ~~four~~ forty thousand dollars and, ~~in addition,~~  
48 any amount of the legal and special reserves which  
49 are invested in United States government securities.  
50 The amount collected in each taxing district within

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1 a city shall be apportioned twenty percent to the  
2 county general fund, thirty percent to the city general  
3 fund, and fifty percent to the general fund of the  
4 state, and the amount collected in each taxing district  
5 outside of cities shall be apportioned fifty percent  
6 to the county general fund and fifty percent to the  
7 general fund of the state. The moneys and credits  
8 tax shall be collected at the location of the credit  
9 union as shown in its articles of incorporation."

10 21. Page 13, by striking lines 5 through 7 and  
11 inserting in lieu thereof the words "of this Act may  
12 continue to use the same bank until December 31, 1980.  
13 Effective January 1, 1981, or at any prior".

14 22. Page 13, line 26, by striking the words "one  
15 hundred twenty days" and inserting in lieu thereof  
16 the words "one year".

17 23. Page 15, by inserting after line 17 the  
18 following:

19 "Sec. \_\_\_\_\_. Section five hundred thirty-five point  
20 two (535.2), subsection two (2), Code 1977, as amended  
21 by Acts of the Sixty-seventh General Assembly, 1978  
22 Session, chapter one thousand one hundred ninety  
23 (1190), section eleven (11), is amended effective  
24 July 1, 1979, to read as follows:

25 2. Any domestic or foreign corporation, and any  
26 real estate investment trust as defined in section  
27 856 of the Internal Revenue Code, and any person  
28 purchasing securities as defined in chapter 502 on  
29 credit from a broker or dealer registered or licensed  
30 under chapter 502 or under the ~~Security~~ Securities  
31 Exchange Act of 1934, 48 Stat. 881, 15 United States  
32 Code 78A, as amended, and any person borrowing money  
33 or obtaining credit in the principal amount of two  
34 one hundred thousand dollars or more, exclusive of  
35 interest, for business purposes, and any person  
36 borrowing money or obtaining credit in the principal  
37 amount of five hundred thousand dollars or more,  
38 exclusive of interest, for agricultural purposes,  
39 may agree in writing to pay any rate of interest in  
40 excess of the rate permitted by this section, and  
41 no such corporation or real estate investment trust  
42 or person so agreeing in writing shall plead or  
43 interpose the claim or defense of usury in any action  
44 or proceeding.

45 24. Page 17, by striking lines 8 through 12 and  
46 inserting in lieu thereof the following: "a loan  
47 processing fee which does not exceed one percent of  
48 an amount which is equal to the loan principal less  
49 twelve thousand five hundred dollars, except that  
50 in the event of an assumption of a prior loan the

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1 lender may collect a loan processing fee which does  
2 not exceed an amount which is a reasonable estimate  
3 of the expense of processing the loan assumption but  
4 which does not exceed one percent of the amount  
5 assumed".

6 25. Page 17, line 13, by striking the word  
7 "principal".

8 26. Page 17, line 13, by inserting after the  
9 period the following: "A loan processing fee collected  
10 under the authority of this paragraph is compensation  
11 to the lender solely for the use of money,  
12 notwithstanding any provision of the agreement to  
13 the contrary. However, a loan processing fee collected  
14 under the authority of this paragraph shall be  
15 disregarded for purposes of determining the maximum  
16 charge permitted by section five hundred thirty-five  
17 point two (535.2) of the Code, or Acts of the Sixty-  
18 seventh General Assembly, 1978 Session, chapter one  
19 thousand one hundred ninety (1190), section thirteen  
20 (13), subsection two (2)."

21 27. Page 17, line 32, by inserting after the word  
22 "fees" the following: "paid to a third party, or  
23 when the appraisal is performed by the lender, a fee  
24 which is a reasonable estimate of the expense incurred  
25 by the lender in performing the appraisal".

26 28. Page 17, line 34, by inserting after the word  
27 "Abstracting" the following: "fees paid to a third  
28 party, or when the abstracting is performed by the  
29 lender, a fee which is a reasonable estimate of the  
30 expense incurred by the lender in performing the  
31 abstracting".

32 29. Page 18, by striking lines 7 through 9 and  
33 inserting in lieu thereof the following: "the seller.  
34 Collection of any cost other".

35 30. Page 18, by striking lines 11 through 18 and  
36 inserting in lieu thereof the following:

37 "c. If the purpose of the loan is to enable the  
38 borrower to purchase a single-family or two-family  
39 dwelling, for his or her residence, the loan agreement  
40 shall not contain any provision which prohibits the  
41 borrower from transferring his or her interest in  
42 the property to a third party for use by the third  
43 party as his or her residence, and shall not contain  
44 any provision which requires or permits the lender  
45 to make a change in the interest rate, the repayment  
46 schedule or the term of the loan as a result of a  
47 transfer by the borrower of his or her interest in  
48 the property to a third party for use by the third  
49 party as his or her residence. A provision of a loan  
50 agreement which violates this paragraph is void."

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- 1 31. Page 18, line 20, by striking the words  
2 "paragraphs a, b or c" and inserting in lieu thereof  
3 the words "paragraph a or b".  
4 32. Page 18, line 21, by striking the words  
5 "paragraphs a, b or c" and inserting in lieu thereof  
6 the words "paragraph a or b".  
7 33. Page 20, by striking lines 6 and 7 and  
8 inserting in lieu thereof the following:  
9 "2. Whenever a borrower under a loan ~~repays-the~~  
10 ~~full-amount~~ prepays part or all of the outstanding  
11 balance of the loan in-connection-with".  
12 34. Page 20, by striking lines 18 through 21,  
13 and inserting in lieu thereof the following: "may,  
14 however, require advance notice of not more than  
15 thirty days of a borrower's intent to repay the ~~full~~  
16 ~~amount-of-a-loan~~ entire outstanding balance of a loan  
17 if the payment of that balance, together with any  
18 partial prepayments made previously by the borrower,  
19 will result in the repayment of the loan at a date  
20 earlier than is required by the terms of the loan  
21 agreement."  
22 35. By renumbering sections and subsections of  
23 the bill and correcting internal references as  
24 necessary.

H-3358 FILED  
MARCH 9, 1979

BY COMMITTEE ON COMMERCE  
Schroeder, Chairperson

A. Adopted as amended by S401 E/14 (7.927)  
B. Adopted 3/15 (7.951)

FISCAL NOTE  
SENATE FILE 158  
Requested by Representative Evans  
March 14, 1979

In compliance with a written request, there is hereby submitted a Fiscal Note for S.F. 158, amendment H-3358, pursuant to Joint Rule 16.

Using December, 1978 data, the present formula on moneys and credits tax on credit unions is producing \$26,848 from 176 credit unions. Using the formula as proposed in Amendment H-3358, the tax would produce \$99,873 from 121 credit unions.

FILED  
MARCH 14, 1979

GERRY D. RANKIN  
Legislative Fiscal Bureau

## SENATE FILE 158

H-3380

- 1 Amend the Commerce Committee amendment, H-3358,
- 2 to Senate File 158 as follows:
- 3 1. Page 4, line 49, by striking the words "twelve
- 4 thousand five hundred" and inserting in lieu thereof
- 5 the words "twenty-five thousand".

H-3380 FILED *Law 3/4 (p. 935)*  
 MARCH 12, 1979

BY JOHNSON of Linn  
 JOCHUM of Dubuque  
 EGENES of Story  
 BRUNER of Story  
 PELTON of Clinton  
 RAPP of Black Hawk  
 JESSE of Polk  
 RITSEMA of Sioux  
 WALTER of Pottawattamie

## SENATE FILE 158

H-3385

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 5, line 5, by inserting after the word
- 4 "assumed" the following: " ; provided, however, that
- 5 if the loan transaction is either the refinancing
- 6 of a prior loan or an assumption of an existing loan
- 7 and if the interest rate payable on the new loan or
- 8 the assumed balance is more than three-fourths of
- 9 one percent higher than the rate payable on the loan
- 10 balance being refinanced or assumed, then the lender
- 11 shall not collect a loan processing fee".

H-3385 FILED *Law 3/14 (p. 937)*  
 MARCH 13, 1979

BY MILLER of Buchanan

## SENATE FILE 158

H-3386

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 5, line 33, by inserting after the period
- 4 the following: "Any costs which are collected by
- 5 the lender from the borrower under the authority of
- 6 this paragraph shall be itemized and disclosed to
- 7 the borrower. These costs, whether or not payable
- 8 from the proceeds of the loan, shall not be considered
- 9 part of the consideration for purposes of chapter
- 10 four hundred twenty-eight A (428A) of the Code."

H-3386 FILED *Law 3/14 (p. 951)*  
 MARCH 13, 1979

BY MILLER of Buchanan

## SENATE FILE 158

H-3389

- 1 Amend Senate File 158 as follows:
- 2 1. Page 17, by striking lines 2 through 6 and
- 3 inserting in lieu thereof the following: "occupied or
- 4 to be occupied by the borrower."

H-3389 FILED *H/D 3/15 (p. 915)*  
 MARCH 13, 1979

BY BRUNER of Story

## SENATE FILE 158

H-3375

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 5, by striking lines 35 through 50.
- 4 2. Page 6, by striking lines 1 through 6.

H-3375 FILED *4/15 3/15 (p. 951)* BY SCHNEKLOTH of Scott  
MARCH 12, 1979

## SENATE FILE 158

H-3376

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 4, by striking lines 45 through 50.
- 4 2. Page 5, by striking lines 1 through 7.

H-3376 FILED *Lost 3/14 (932)* BY SCHNEKLOTH of Scott  
MARCH 12, 1979

## SENATE FILE 158

H-3377

- 1 Amend Senate File 158 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 19, by inserting after line 5 the
- 4 following:
- 5 "A lender shall not use an appraisal for any purpose
- 6 in connection with making a loan under this section
- 7 if the appraisal is performed by a person who is
- 8 employed by or affiliated with any person receiving
- 9 a commission or fee from the seller of the property.
- 10 If a lender violates this paragraph the borrower is
- 11 entitled to recover any actual damages plus the costs
- 12 paid by the borrower, plus attorney fees incurred
- 13 in an action necessary to effect recovery."

H-3377 FILED *Adopted 3/15 (p. 968)* BY MILLER of Buchanan  
MARCH 12, 1979

## SENATE FILE 158

H-3379

- 1 Amend the Commerce Committee amendment, H-3358,
- 2 to Senate File 158 as follows:
- 3 1. Page 5, line 5, by striking the word "assumed"
- 4 and inserting in lieu thereof the following: "assumed.
- 5 A loan processing fee which is collected on any loan
- 6 other than an assumption of a prior loan shall be
- 7 apportioned between and collected with loan payments
- 8 made by the borrower during the twelve-month period
- 9 which follows the date of closing of the loan
- 10 transaction".

H-3379 FILED *Lost 3/14 (p. 926)* BY JOHNSON of Linn  
MARCH 12, 1979

SENATE FILE 158

H-3391

1 Amend Senate File 158, as passed and reprinted  
2 by the Senate, as follows:

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

5 "Section 1. Section ninety-seven point fifty-one  
6 (97.51), subsection one (1), paragraph b, Code 1979,  
7 is amended to read as follows:

8 b. Under the direction of the department and as  
9 designated by the department, invest such portion  
10 of said trust funds as are not needed for current  
11 payment of benefits, in interest-bearing securities  
12 issued by the United States, or interest-bearing bonds  
13 issued by the state of Iowa, or bonds issued by  
14 counties, school districts or general obligations  
15 or limited levy bonds issued by municipal corporations  
16 in this state as authorized by law, or in savings  
17 accounts or time deposits in a bank or private bank  
18 as defined in section five hundred twenty-four point  
19 one hundred three (524.103) of the Code, association  
20 as defined in section five hundred thirty-four point  
21 two (534.2) of the Code, or credit union as defined  
22 in section five hundred thirty-three point fifty-one  
23 (533.51) of the Code; also to sell and dispose of  
24 same when needed for the payment of benefits.

25 Sec. \_\_\_\_\_. Section ninety-seven A point seven  
26 (97A.7), subsection two (2), paragraph b, Code 1979,  
27 is amended to read as follows:

28 b. In a ~~savings accounts account~~ or time deposits  
29 ~~deposit in Iowa-banks-approved-as-depositories-by~~  
30 ~~the-executive-council~~ a bank or private bank as defined  
31 in section five hundred twenty-four point one hundred  
32 three (524.103) of the Code, association as defined  
33 in section five hundred thirty-four point two (534.2)  
34 of the Code, or credit union as defined in section  
35 five hundred thirty-three point fifty-one (533.51)  
36 of the Code.

37 Sec. \_\_\_\_\_. Section ninety-seven B point seven  
38 (97B.7), subsection two (2), paragraph b, Code 1979,  
39 is amended to read as follows:

40 b. Invest such portion of said trust funds as  
41 in the judgment of the department are not needed for  
42 current payment of benefits under this chapter in  
43 interest-bearing securities issued by the United  
44 States, or interest-bearing bonds issued by the state  
45 of Iowa, or bonds issued by counties, school districts  
46 or general obligations or limited levy bonds issued  
47 by municipal corporations in this state as authorized  
48 by law; or in a savings account or time deposit  
49 in a bank or private bank as defined in section five  
50 hundred twenty-four point one hundred three (524.103)

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1 of the Code, association as defined in section five  
2 hundred thirty-four point two (534.2) of the Code,  
3 or credit union as defined in section five hundred  
4 thirty-three point fifty-one (533.51) of the Code;  
5 or other investments authorized for life insurance  
6 companies in this state including common stocks issued  
7 or guaranteed by a corporation created or existing  
8 under the laws of the United States or any state,  
9 district, or territory thereof subject to the following  
10 restrictions:

11 Sec. \_\_\_\_\_. Section two hundred sixty-two point  
12 fourteen (262.14), subsection three (3), Code 1979,  
13 is amended to read as follows:

14 3. Any portion of said funds may be invested in  
15 bonds or other evidences of indebtedness issued,  
16 assumed or guaranteed by the United States of America  
17 or by any agency or instrumentality of the United  
18 States; also in bonds of this state, and of counties,  
19 cities, and school districts in Iowa; and in a savings  
20 account or time deposit in a bank or private bank  
21 as defined in section five hundred twenty-four point  
22 one hundred three (524.103) of the Code, association  
23 as defined in section five hundred thirty-four point  
24 two (534.2) of the Code, or credit union as defined  
25 in section five hundred thirty-three point fifty-one  
26 (533.51) of the Code.

27 Sec. \_\_\_\_\_. Section three hundred two point twenty  
28 (302.20), subsection three (3), Code 1979, is amended  
29 by striking the subsection and inserting in lieu  
30 thereof the following:

31 3. In a savings account or time deposit in a bank  
32 or private bank as defined in section five hundred  
33 twenty-four point one hundred three (524.103) of the  
34 Code, association as defined in section five hundred  
35 thirty-four point two (534.2) of the Code, or credit  
36 union as defined in section five hundred thirty-three  
37 point fifty-one (533.51) of the Code.

38 Sec. \_\_\_\_\_. Section four hundred ten point three  
39 (410.3), Code 1979, is amended to read as follows:

40 410.3 INVESTMENT OF SURPLUS. The boards shall  
41 have power to invest any surplus left in such funds,  
42 respectively, at the end of the fiscal year, but no  
43 part of the funds realized from any tax levy shall  
44 be used for any purpose other than the payment of  
45 pensions. Investments shall be in interest-bearing  
46 bonds, notes, certificates, or other evidences of  
47 indebtedness which are obligations of or guaranteed  
48 by the United States, or in interest-bearing bonds  
49 of the state of Iowa, of any county, township, or  
50 municipal corporation of the state of Iowa; or in

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1 a savings account or time deposit in a bank or private  
2 bank as defined in section five hundred twenty-four  
3 point one hundred three (524.103) of the Code,  
4 association as defined in section five hundred thirty-  
5 four point two (534.2) of the Code, or credit union  
6 as defined in section five hundred thirty-three point  
7 fifty-one (533.51) of the Code. All such securities  
8 shall be deposited with the treasurer of the boards  
9 of trustees for safekeeping.

10 Sec. \_\_\_\_ . Section four hundred eleven point seven  
11 (411.7), subsection two (2), Code 1979, is amended  
12 to read as follows:

13 2. The city treasurer may invest at the direction  
14 of the respective boards of trustees such portion  
15 of the several funds created by this chapter as in  
16 the judgment of the respective boards are not needed  
17 for current payment of benefits under this chapter  
18 in interest-bearing securities, notes, certificates,  
19 bonds, or other evidences of indebtedness issued or  
20 guaranteed by the United States, or interest-bearing  
21 bonds issued by the state of Iowa, or ~~make-deposits~~  
22 ~~of-such deposit funds in banks-as-provided-in-chapter~~  
23 453 a savings account or time deposit in a bank or  
24 private bank as defined in section five hundred twenty-  
25 four point one hundred three (524.103) of the Code,  
26 association as defined in section five hundred thirty-  
27 four point two (534.2) of the Code, or credit union  
28 as defined in section five hundred thirty-three point  
29 fifty-one (533.51) of the Code, or in bonds issued  
30 by counties, school districts, or general obligation  
31 or limited levy bonds issued by municipal corporations  
32 in this state as authorized for investment by insurance  
33 companies under section 511.8 and subject to all  
34 limitations contained in said section. In the event  
35 of loss on the redemption or sale of securities, where  
36 invested as prescribed by law, neither the treasurer  
37 nor the trustees shall be personally liable, but such  
38 loss shall be charged against the retirement funds.  
39 The city treasurer may sell any securities in such  
40 funds and reinvest the proceeds in accordance with  
41 the direction of the respective boards of trustees  
42 when such action may be deemed advisable by the  
43 trustees for the protection of said funds or the  
44 preservation of the value of the investment.

45 Sec. \_\_\_\_ . Section four hundred fifty-two point  
46 ten (452.10), Code 1979, is amended to read as follows:

47 452.10 CUSTODY OF PUBLIC FUNDS--INVESTMENT OR  
48 DEPOSIT. The treasurer of state and the treasurer  
49 of each political subdivision shall at all times keep  
50 all funds coming into their possession as public

1 money, in a vault or safe, to be provided for that  
2 purpose, or in some bank legally designated as a  
3 depository for such funds. However, the treasurer  
4 of state and the treasurer of each political  
5 subdivision shall invest, unless otherwise provided,  
6 any of the public funds not currently needed for  
7 operating expenses in notes, certificates, bonds,  
8 or other evidences of indebtedness which are  
9 obligations of or guaranteed by the United States  
10 of America or any of its agencies; or ~~make-time~~  
11 ~~deposits-of-such-funds-in-banks-as-provided-in-chapter~~  
12 ~~453-and-receive-time-certificates-of-deposit-therefor~~  
13 ~~or-in-savings-accounts-in-banks~~ may deposit funds  
14 in a savings account or time deposit in a bank or  
15 private bank as defined in section five hundred twenty-  
16 four point one hundred three (524.103) of the Code,  
17 association as defined in section five hundred thirty-  
18 four point two (534.2) of the Code, or credit union  
19 as defined in section five hundred thirty-three point  
20 fifty-one (533.51) of the Code. The treasurer of  
21 state may invest any of the funds in his the  
22 treasurer's custody in any of the investments  
23 authorized for the Iowa public employees' retirement  
24 system in section 97B.7, subsection 2, paragraph "b"  
25 except that investment in common stocks shall not  
26 be permitted.

27 Sec.     . Section four hundred fifty-three point  
28 one (453.1), Code 1979, is amended to read as follows:  
29 453.1 DEPOSITS IN GENERAL. All funds held in  
30 the hands of the following officers or institutions  
31 shall be deposited in banks as, associations as defined  
32 in section five hundred thirty-four point two (534.2)  
33 of the Code, or credit unions as defined in section  
34 five hundred thirty-three point five (533.5) of the  
35 Code, which are first approved by the appropriate  
36 governing body as indicated: For the treasurer of  
37 state, by the executive council; for the county  
38 treasurer, recorder, auditor, sheriff, township clerk,  
39 clerk of the district court, and judicial magistrate,  
40 by the board of supervisors; for the city treasurer,  
41 by the city council; for the county public hospital  
42 or merged area hospital, by the board of hospital  
43 trustees; for a memorial hospital, by the memorial  
44 hospital commission; for a school corporation, by  
45 the board of school directors; provided, however,  
46 that the treasurer of state and the treasurer of each  
47 political subdivision shall invest all funds not  
48 needed for current operating expenses in time  
49 ~~certificates-of-deposit-in-banks-listed-as~~ approved  
50 depositories pursuant to this chapter or in investments

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1 permitted by section 452.10. The list of public  
2 depositories and the amounts severally deposited  
3 therein shall be a matter of public record. The term  
4 "bank" means a bank or a private bank, as defined  
5 in section 524.103.

6 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
7 two (453.2), Code 1979, is amended to read as follows:  
8 453.2 APPROVAL--REQUIREMENTS. The approval of  
9 a bank, private bank, association, or credit union  
10 as a depository shall be by written resolution or  
11 order which shall be entered of record in the minutes  
12 of the approving board, and which shall distinctly  
13 name each bank depository approved, and specify the  
14 maximum amount which may be kept on deposit in each  
15 such bank, private bank, association, and credit  
16 union.

17 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
18 three (453.3), Code 1979, is amended to read as  
19 follows:

20 453.3 INCREASE CONDITIONALLY PROHIBITED. The  
21 maximum amount so permitted to be deposited in a named  
22 bank, private bank, association, or credit union shall  
23 not be increased except with the approval of the  
24 treasurer of state.

25 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
26 five (453.5), unnumbered paragraph two (2), Code 1979,  
27 is amended by striking the unnumbered paragraph.

28 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
29 six (453.6), Code 1979, is amended to read as follows:

30 453.6 INTEREST RATE. Henceforth public deposits  
31 shall be deposited with reasonable promptness and  
32 shall except for time certificates of deposit be  
33 evidenced by passbook entry by the depository legally  
34 designated as depository for such funds. A committee  
35 composed of the superintendent of banking, the  
36 commissioner of insurance, and the treasurer of state  
37 shall meet on or about the first of each month and  
38 by majority action shall establish the rate to be  
39 earned on state funds placed in time deposits during  
40 the period until the next meeting of the committee.  
41 State funds invested by the treasurer of state in  
42 bank time certificates of deposit shall draw interest  
43 at the rate so determined, effective on the date of  
44 investment.

45 Public funds invested in bank time certificates  
46 of deposit by a  
47 public body or officer other than the treasurer of  
48 state shall draw interest at rates to be determined  
49 by the public body or officer and the bank, which  
50 rates shall not be greater than the rate set under

~~1 this section for state funds not more than one percent  
2 of interest below that rate.~~

3 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
4 seven (453.7), Code 1979, is amended to read as  
5 follows:

6 453.7 INTEREST--WHERE CREDITED.

7 ~~1--No bank or trust company shall, directly or  
8 indirectly, by any device whatsoever, pay any interest  
9 to any public officer on any demand deposit of public  
10 funds, and no public officer shall take or receive  
11 any interest whatsoever on demand deposits of public  
12 funds.---This provision shall not apply to interest  
13 on time certificates of deposit for public funds.~~

14 2- Interest or earnings on investments and time  
15 deposits made in accordance with the provisions of  
16 sections 12.8, 452.10, 453.1 and 453.6 shall be  
17 credited to the general fund of the governmental body  
18 making the investment or deposit, with the exception  
19 of specific funds for which investments are otherwise  
20 provided by law, constitutional funds, or when legally  
21 diverted to the state sinking fund for public deposits.  
22 Funds so excepted shall receive credit for interest  
23 or earnings derived from such investments or time  
24 deposits made from such funds. Such interest or  
25 earnings on any fund created by direct vote of the  
26 people shall be credited to the fund to retire any  
27 such indebtedness after which the fund itself shall  
28 be credited.

29 Sec. \_\_\_\_\_. Section four hundred fifty-three point  
30 nine (453.9), unnumbered paragraph one (1), Code 1979,  
31 is amended to read as follows:

32 453.9 INVESTMENT OF SINKING FUNDS. The governing  
33 council or board who by law are authorized to direct  
34 the depositing of funds shall be authorized to direct  
35 the treasurer or other designated financial officer  
36 to invest any fund not an active fund needed for  
37 current use and which is being accumulated as a sinking  
38 fund for a definite purpose, the interest on which  
39 is used for the same purpose, in savings accounts  
40 or time deposits in banks or private banks as defined  
41 in section five hundred twenty-four point one hundred  
42 three (524.103) of the Code, associations as defined  
43 in section five hundred thirty-four point two (534.2)  
44 of the Code, or credit unions as defined in section  
45 five hundred thirty-three point fifty-one (533.51)  
46 of the Code, in the certificates or warrants provided  
47 by section 454.19, or make time deposits of such funds  
48 as provided in this chapter and receive time  
49 certificates of deposit therefor, or in bonds or other  
50 evidences of indebtedness issued, assumed, or

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1 guaranteed by the United States of America, or by  
2 any agency or instrumentality thereof, or in local  
3 certificates or warrants issued by any municipality  
4 or school district within the county, or in municipal  
5 or school district bonds which constitute a general  
6 liability, and the treasurer or other officer when  
7 so directed shall so invest such fund.

8 Sec. \_\_\_\_ . Section four hundred fifty-three point  
9 ten (453.10), Code 1979, is amended to read as follows:

10 453.10 INVESTMENT OF FUNDS CREATED BY ELECTION.  
11 The governing council or board, who by law have control  
12 of any fund created by direct vote of the people,  
13 may invest any portion thereof not currently needed,  
14 in bonds or other evidences of indebtedness issued,  
15 assumed, or guaranteed by the United States of America,  
16 or by any agency or instrumentality thereof, or make  
17 time deposits of such funds and ~~receive time~~  
18 ~~certificates of deposit therefor, or in savings~~  
19 ~~accounts~~ in a savings or time deposit in a bank or  
20 private bank as defined in section five hundred twenty-  
21 four point one hundred three (524.103) of the Code,  
22 an association as defined in section five hundred  
23 thirty-four point two (534.2) of the Code, or credit  
24 union as defined in section five hundred thirty-three  
25 point fifty-one (533.51) of the Code. The treasurer  
26 of state may invest in any of the investments  
27 authorized for the Iowa public employees' retirement  
28 system in section 97B.7, subsection 2, paragraph "b"  
29 except that investment in common stocks shall not  
30 be permitted. Interest or earnings on such funds  
31 shall be credited as provided in section 453.7,  
32 subsection 2.

33 Sec. \_\_\_\_ . Section four hundred fifty-three point  
34 twelve (453.12), Code 1979, is amended to read as  
35 follows:

36 453.12 SERVICE CHARGE BY BANK. A bank, private  
37 bank, association, or credit union may make reasonable  
38 service charges with respect to the handling of any  
39 public funds, but such service charges shall not be  
40 greater than said bank customarily ~~requires~~ required  
41 from other patrons for similar services.

42 Sec. \_\_\_\_ . Section four hundred fifty-three point  
43 fourteen (453.14), unnumbered paragraph one (1), Code  
44 1979, is amended to read as follows:

45 The board of directors of a school corporation  
46 may invest any portion of the proceeds of bonds issued  
47 and not currently needed in United States government  
48 bonds or make time deposits or deposits in savings  
49 accounts in banks or private banks as defined in  
50 section five hundred twenty-four point one hundred

1 three (524.103) of the Code, associations as defined  
2 in section five hundred thirty-four point two (534.2)  
3 of the Code, or credit unions as defined in section  
4 five hundred thirty-three point fifty-one (533.51)  
5 of the Code, as provided in this chapter.

6 Sec. \_\_\_\_ . Section four hundred fifty-four point  
7 two (454.2), Code 1979, is amended to read as follows:

8 454.2 PURPOSE OF FUND. The purpose of said fund  
9 shall be to secure the payment of their deposits to  
10 state, county, township, municipal, and school  
11 corporations having public funds deposited in demand,  
12 savings, or time deposits in any bank or private bank  
13 as defined in section five hundred twenty-four point  
14 one hundred three (524.103) of the Code, association  
15 as defined in section five hundred thirty-four point  
16 two (534.2) of the Code, or credit union as defined  
17 in section five hundred thirty-three point fifty-one  
18 (533.51) of the Code in this state, when such deposits  
19 have been made by authority of and in conformity with  
20 the direction of the local governing council or board  
21 which is by law charged with the duty of selecting  
22 the depository banks for said the funds.

23 Sec. \_\_\_\_ . Section four hundred fifty-four point  
24 five (454.5), Code 1979, is amended to read as follows:

25 454.5 INVESTMENT OF FUNDS. All above a necessary  
26 working balance shall be invested by the treasurer  
27 of state in savings accounts or time deposits in a  
28 bank or private bank as defined in section five hundred  
29 twenty-four point one hundred three (524.103) of the  
30 Code, association as defined in section five hundred  
31 thirty-four point two (534.2) of the Code, or credit  
32 union as defined in section five hundred thirty-three  
33 point fifty-one (533.51) of the Code, in bonds or  
34 other evidences of indebtedness issued, assumed, or  
35 guaranteed by the United States of America or by any  
36 agency or instrumentality thereof, or in any of the  
37 investments authorized for the Iowa public employees'  
38 retirement system in section 97B.7, subsection 2,  
39 paragraph "b" except that investment in common stocks  
40 shall not be permitted.

41 Sec. \_\_\_\_ . Section four hundred fifty-four point  
42 seven (454.7), Code 1979, is amended to read as  
43 follows:

44 454.7 CERTIFICATION OF DEPOSITS. Whenever any  
45 such depository bank, private bank, association, or  
46 credit union is hereafter closed and placed in the  
47 hands of a receiver or a trustee in bankruptcy or  
48 has been heretofore or is hereafter reorganized,  
49 either by reopening, sale to another bank, private  
50 bank, association, or credit union of all or part

1 of its assets with assumption of all or part of deposit  
2 liability, consolidation with another bank, private  
3 bank, association, or credit union, purchase of part  
4 or all of assets of another bank, private bank,  
5 association, or credit union, or merger with another  
6 bank or banks, private bank, association, or credit  
7 union, or in any manner authorized by the National  
8 Bank Conservation Act, and especially section 207  
9 of Title II thereof, or whenever any bank, private  
10 bank, association, or credit union that has assumed  
11 all or part of the deposit liability of a depository  
12 bank, has heretofore or is hereafter reorganized in  
13 any manner authorized by the National Bank Conservation  
14 Act, and especially section 207 of Title II thereof,  
15 and the amount of the several deposits of public  
16 funds deposited therein by authority of and in  
17 conformity with the direction of the legal governing  
18 council or board which is by law charged with the  
19 duty of selecting depository banks, private banks,  
20 associations, and credit unions for said funds and  
21 fixing the amount thereof has been ascertained and  
22 fixed by an order of court or by the treasurer of  
23 state if the matter is not pending in court, the  
24 superintendent-of-banking state official having  
25 supervision over the depository shall then certify  
26 such list of public deposits so approved by the court  
27 to the treasurer of state and the state comptroller.  
28 Sec. \_\_\_\_ . Section four hundred fifty-four point  
29 eleven (454.11), Code 1979, is amended to read as  
30 follows:

31 454.11 ACCEPTANCE BY DEPOSITORIES. Any bank,  
32 private bank, association, credit union, or trust  
33 company which does not desire to serve as a depository  
34 under this Act for public funds of any public body  
35 may decline to do so by giving written notice to such  
36 public body prior to June 15, 1937. Failure to give  
37 such written notice shall constitute an acceptance  
38 of the obligations imposed by this Act with regard  
39 to all public funds on deposit July 1, 1937. The  
40 acceptance by any bank, private bank, association,  
41 credit union, or trust company of any public funds  
42 for deposit on or after July 1, 1937, shall constitute  
43 an acceptance of the obligations imposed by this Act  
44 with regard to all such funds so accepted.

45 Sec. \_\_\_\_ . Section four hundred fifty-four point  
46 twelve (454.12), Code 1979, is amended to read as  
47 follows:

48 .454.12 LIABILITY OF DEPOSITORY. The failure on  
49 the part of any depository bank to pay to the county  
50 treasurer or the state treasurer of state any such

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1 assessments on or before the tenth day of the month  
2 same becomes due, shall render ~~such~~ any bank, private  
3 bank, association, or credit union liable for a ten  
4 percent penalty on the amount of assessments due and  
5 the same may be recovered by the ~~state~~ state treasurer of  
6 state or the county treasurer.

7 Sec. \_\_\_\_ . Section four hundred fifty-four point  
8 fourteen (454.14), Code 1979, is amended to read as  
9 follows:

10 454.14 AMOUNT OF DEPOSIT--DETERMINATION--EFFECT--  
11 -OBJECTIONS. Whenever or wherever any depository  
12 bank or any bank, private bank, association, or credit  
13 union which has assumed the whole or any part of the  
14 deposit liability of a depository ~~bank~~, has been  
15 heretofore or is hereafter closed and placed in the  
16 hands of a receiver or trustee in bankruptcy, or has  
17 been heretofore or is hereafter reorganized, either  
18 by reopening, sale to another bank, private bank,  
19 association, or credit union of a part or all of its  
20 assets with the assumption of all or part of deposit  
21 liability, consolidation with another bank, private  
22 bank, association, or credit union, purchase of part  
23 or all of the assets of another bank, private bank,  
24 association, or credit union, or merger with another  
25 ~~bank or banks~~, private bank, association, or credit  
26 union, or in any manner authorized by the National  
27 Bank Conservation Act and especially section 207 of  
28 Title II thereof, the state of Iowa or any county,  
29 city, school district or township, having public funds  
30 on deposit therein, may by its governing board at  
31 such board's discretion, by written resolution or  
32 order, entered of record in the minutes of such board,  
33 or executive council, as the case may be, order and  
34 direct its treasurer or other officer to file with  
35 and furnish to the treasurer of state a statement  
36 of the amount of the deposit, a certified copy of  
37 the resolution under which the deposit was made, and  
38 any other information demanded by ~~him~~ the treasurer  
39 of state. Unless either the bank, private bank,  
40 association, or credit union liable therefor, or  
41 claimant has paid all assessments due the state sinking  
42 fund for public deposits to the date of its  
43 reorganization, on that part of claimant's deposit  
44 left in the bank, private bank, association, or credit  
45 union the treasurer of state may refuse to file the  
46 claim of such claimant.

47 But where deposits of state funds in national banks  
48 only for which claims are on file, the payment of  
49 interest or assessments on said deposits, as provided  
50 in this chapter, from the time of the closing of said

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1 bank to the date of its reorganization, shall not  
2 be required, and the claim may be paid without interest  
3 or assessment for that period; and all claims  
4 heretofore filed, payment of which has been denied  
5 because of failure to pay the interest or assessments  
6 for the time between the date of the closing of said  
7 bank and its reopening, as in this chapter provided,  
8 shall be reconsidered and, if approved, shall be paid  
9 without the payment of such interest or assessments.

10 With the advice of the attorney general, the  
11 treasurer of state shall determine the amount thereof  
12 deposited by authority of and in conformity with the  
13 direction of the legal governing council or board  
14 and send a copy of his or her decision by certified  
15 mail to the claimant and to the bank, private bank,  
16 association, or credit union and deliver a copy to  
17 the superintendent-of-banking state official having  
18 supervision over the depository, which decision shall  
19 be final except as to such depositors as within ten  
20 days after the mailing of such decision make objections  
21 to such decision in writing to the treasurer of state,  
22 and shall have the same force and effect as the court  
23 order and certificate of the superintendent-of-banking  
24 state official having supervision over the depository,  
25 as provided in this chapter.

26 If objections are made within the time and as above  
27 provided, the same shall be forwarded to the receiver,  
28 and shall be presented and heard and determined by  
29 the court as otherwise provided. In the event a  
30 receiver or trustee in bankruptcy has not been  
31 appointed, the claimant may present the objections,  
32 if made within the manner and time provided, to any  
33 court of competent jurisdiction by any appropriate  
34 action. If objections are not made as above provided,  
35 the decision of the treasurer of state shall be final.

36 Sec. \_\_\_\_ . Section four hundred fifty-four point  
37 fifteen (454.15), Code 1979, is amended to read as  
38 follows:

39 454.15 ORDER OF PAYMENT. It shall be the duty  
40 of the superintendent-of-banking state official having  
41 supervision over the depository to direct the order  
42 in which such deposits shall be paid.

43 Sec. \_\_\_\_ . Section four hundred fifty-four point  
44 sixteen (454.16), Code 1979, is amended to read as  
45 follows:

46 454.16 CERTIFICATION OF CLAIMS. As soon as the  
47 money is available in such sinking fund the  
48 superintendent-of-banking state official having  
49 supervision over the depository shall certify to the  
50 state comptroller the amount due the several depositors

1 of public funds as shown by such certified list and  
2 showing the order in which they shall be paid.  
3 Sec. \_\_\_\_ . Section four hundred fifty-four point  
4 seventeen (454.17), Code 1979, is amended to read  
5 as follows:  
6 454.17 WARRANT--PAYMENT--SUBROGATION. Upon such  
7 certification the state comptroller shall issue his  
8 a warrant upon such sinking fund in the hands of the  
9 treasurer of state payable to such depositor of public  
10 funds in the order certified by the superintendent  
11 of-banking state official having supervision over  
12 the depository, and the same shall be paid to such  
13 depositor of public funds, and the treasurer of state  
14 shall thereupon be subrogated to all of the title,  
15 interest, and rights of the depositor in such deposit  
16 of public funds or segregated trust fund and shall  
17 share in the distribution of the assets of such bank,  
18 private bank, association, credit union, or trust  
19 fund ratably with the other depositors and the sum  
20 received from such distribution shall be paid by the  
21 receiver or trustees to the treasurer of state and  
22 deposited in said sinking fund. Until the depositor  
23 has been paid in full from the sinking fund, it may  
24 share in the distribution of the assets of the bank,  
25 private bank, association, credit union, or trust  
26 fund."  
27 2. By numbering and renumbering sections as  
28 necessary.

H-3391 FILED *Revised and germane* RAPP of Black Hawk  
MARCH 13, 1979 *3/15 (p. 403)*

SENATE FILE 158

H-3388

1 Amend Senate File 158, as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. Page 17, by striking line 31 and inserting  
4 in lieu thereof the following: "a---Credit-reports-".  
5 2. Page 17, line 32, by striking the numeral "(2)"  
6 and inserting in lieu thereof the numeral "(1)".  
7 3. Page 17, line 33, by striking the numeral "(3)"  
8 and inserting in lieu thereof the numeral "(2)".  
9 4. Page 17, line 34, by striking the numeral "(4)"  
10 and inserting in lieu thereof the numeral "(3)".  
11 5. Page 17, line 35, by striking the numeral "(5)"  
12 and inserting in lieu thereof the numeral "(4)".  
13 6. Page 18, line 1, by striking the numeral "(6)"  
14 and inserting in lieu thereof the numeral "(5)".  
15 7. Page 18, line 2, by striking the numeral "(7)"  
16 and inserting in lieu thereof the numeral "(6)".  
17 8. Page 18, line 3, by striking the numeral "(8)"  
18 and inserting in lieu thereof the numeral "(7)".  
19 9. Page 18, line 4, by striking the numeral "(9)"  
20 and inserting in lieu thereof the numeral "(8)".

H-3388 FILED *Final copy of 760* BY MILLER of Buchanan  
MARCH 13, 1979

SENATE FILE 158

H-3395

1 Amend Senate File 158 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 21, by inserting after line 20 the  
4 following:

5 "Sec. \_\_\_\_ . NEW SECTION. RESTRAINTS OF TRADE--  
6 MOBILE HOMES.

7 1. A lender shall not collect a fee or charge  
8 directly or indirectly from a person who is engaged  
9 in the business of selling mobile homes as defined  
10 in section one hundred thirty-five D point one (135D.1)  
11 of the Code for the purpose of reserving or committing  
12 funds of the lender for use as purchase money loans  
13 to purchasers of mobile homes or for use in the  
14 purchase from the seller of commercial paper arising  
15 from sales of mobile homes. If a lender collects  
16 a fee which is prohibited by this subsection, the  
17 borrower or buyer of the mobile home has an action  
18 to recover the prohibited fee or charge, plus attorney  
19 fees and costs incurred in an action necessary to  
20 effect recovery.

21 2. A person who is engaged in the business of  
22 selling mobile homes, as defined in section one hundred  
23 thirty-five D point one (135D.1) of the Code, shall  
24 not enter into a contract with any person directly  
25 or indirectly for the purpose of leasing or reserving  
26 real property located in a mobile home park as defined  
27 in section one hundred thirty-five D point one (135D.1)  
28 of the Code for the use of purchasers of mobile homes.  
29 This subsection does not apply to a lease or purchase  
30 agreement between a person licensed under chapter  
31 one hundred thirty-five D (135D) of the Code as  
32 operator of a mobile home park and a tenant of the  
33 mobile home park for which the license is issued.  
34 A contract which violates this subsection is voidable  
35 in an action under subsection four (4) of this section.

36 3. A person who is required to be licensed under  
37 section one hundred thirty-five D point two (135D.2)  
38 of the Code shall not enter into a contract with a  
39 person directly or indirectly for the purpose of  
40 leasing or reserving real property located in the  
41 mobile home park for which the license is issued for  
42 the use of existing or future customers of a person  
43 who is engaged in the business of selling mobile  
44 homes, as defined in section one hundred thirty-five  
45 D point one (135D.1) of the Code. This subsection  
46 does not apply to a lease or purchase agreement between  
47 the licensee and a tenant of the mobile home park.  
48 A contract which violates this subsection is voidable  
49 in an action under subsection four (4) of this section.

50 4. A purchaser of a mobile home which is to be

1 used as the dwelling of the purchaser who is aggrieved  
2 by a violation of subsections two (2) or three (3)  
3 of this section, or a person who is engaged in the  
4 business of selling mobile homes as defined in section  
5 one hundred thirty-five D point one (135D.1) of the  
6 Code and who is aggrieved by a violation of subsections  
7 two (2) or three (3) of this section, may bring an  
8 equitable action in the district court of the county  
9 in which the mobile home park is located to have the  
10 contract declared void, and to obtain such other  
11 equitable relief as may be necessary to prevent or  
12 remedy violations of subsections two (2) or three  
13 (3) of this section. The plaintiff is entitled to  
14 recover a reasonable attorney's fee if a violation  
15 is shown.

16 5. A purchaser of a mobile home which is to be  
17 used as the dwelling of the purchaser who is aggrieved  
18 by a violation of subsections two (2) or three (3)  
19 of this section, or a person who is engaged in the  
20 business of selling mobile homes as defined in section  
21 one hundred thirty-five D point one (135D.1) of the  
22 Code and who is aggrieved by a violation of subsections  
23 two (2) or three (3) of this section, has an action  
24 to recover damages incurred as a result of the  
25 violation, and is entitled to recover a reasonable  
26 attorney's fee if a violation is shown."

H-3395 FILED *Revised and renumbered 3/15 (p. 972)* BY MILLER of Buchanan  
MARCH 13, 1979 PAVICH of Pottawattamie

SENATE FILE 158

H-3392

1 Amend Senate File 158 as follows:  
2 1. Page 1, by striking lines 23 through 28,  
3 and inserting in lieu thereof the words "pursuant  
4 to this chapter".  
5 2. By renumbering as necessary.

H-3392 FILED *Letter 3/15 (p. 965)* BY EGENES of Story  
MARCH 13, 1979 RAPP of Black Hawk

SENATE FILE 158

H-3396

1 Amend amendment H-3358, to Senate File 158, as  
2 passed by the Senate and reprinted, as follows:  
3 1. Page 4, line 33, by striking the word "~~two~~"  
4 and inserting in lieu thereof the word "two".  
5 2. Page 4, line 34, by striking the word "one".  
6 3. Page 4, line 35, by inserting after the  
7 word "purposes," the words "unless signing a waiver  
8 of protection by the usury law".

H-3396 FILED *4/15 3/14 (p. 931)* BY EGENES of Story  
MARCH 13, 1979

MARCH 15, 1979  
PAGE TEN

SENATE FILE 158

H-3399

1 Amend the Committee amendment, H-3358, to Senate  
2 File 158, as amended, passed and reprinted by the  
3 Senate as follows:

- A 4 1. Page 4, line 32, by striking the word "two"  
5 and inserting in lieu thereof the word "two".
- 6 2. Page 4, line 34, by striking the word "one".
- B 7 3. Page 4, line 35, by inserting after the word  
8 "purposes," the following: "or any person borrowing  
9 money or obtaining credit in an amount less than two  
10 hundred thousand dollars, exclusive of interest, for  
11 business purposes, who expressly waives in a signed  
12 writing the protection afforded by the usury law."

H-3399 FILED  
MARCH 14, 1979

A - LOST (p 931)  
B - WITHDRAWN (p 930)

BY EGENES of Story  
RAPP of Black Hawk

SENATE FILE 158

H-3401

- 1 Amend the Committee amendment, H-3358, to Senate  
2 File 158 as follows:  
3 1. Page 1, lines 22 and 23, by striking the words  
4 "one hundred twenty days" and inserting in lieu thereof  
5 the words "one year".

H-3401 FILED - ADOPTED (p 937)  
MARCH 14, 1979

BY EVANS of Grundy  
SCHROEDER of Pottawattamie  
CHIDO of Polk

MARCH 15, 1979  
PAGE NINE

SENATE FILE 158

H-3398

1 Amend the Committee amendment, H-3358, to Senate  
2 File 158 as follows:  
3 1. By striking page 4, line 45 through page 5,  
4 line 20, and inserting in lieu thereof the following:  
5 "\_\_\_\_. Page 17, by striking lines 7 through 16  
6 and inserting in lieu thereof the following:  
7 "2. a. The assessment and collection in connection  
8 with a loan of a loan origination fee, closing fee,  
9 commitment fee, loan processing fee or similar charge  
10 is prohibited. ~~if any lender receives any~~."  
11 2. Page 6, line 6, by striking the words "paragraph  
12 a or b" and inserting in lieu thereof the words  
13 "paragraph b".

H-3398 FILED - LOST (p. 924)  
MARCH 14, 1979

BY JOCHUM of Dubuque

SENATE FILE 158

H-3403

1 Amend the Committee amendment, H-3358 to Senate  
2 File 158 as amended, passed and reprinted by the  
3 Senate as follows:  
4 1. Page 4, by inserting after line 44 the  
5 following:  
6 "\_\_\_\_. Page 17, line 1, by striking the words  
7 "which is" and inserting in lieu thereof the words  
8 "which-is of ten acres or less upon which is located"."

H-3403 FILED - NOT GERMANE (p. 731)  
MARCH 14, 1979

BY ANDERSON of Audubon  
BENNETT of Ida  
BRANSTAD of Winnebago  
PERKINS of Greene  
EVANS of Grundy  
PELLETT of Cass  
OXLEY of Linn

SENATE FILE 158

H-3402

1 Amend the Committee amendment, H-3358, to Senate  
2 File 158 as follows:  
3 1. By striking page 3, line 33, through page 4,  
4 line 9.

H-3402 FILED - LOST (p. 926)  
MARCH 14, 1979

BY GETTINGS of Wapello

1 Amend Senate File 158 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 16, line 32, by inserting after the word  
4 "section," the words "except as otherwise provided  
5 in subsection two (2), paragraph a, unnumbered  
6 subparagraph two (2) of this section,".

7 2. Page 17, by inserting after line 26 the  
8 following:

9 "With respect to a loan of money which is wholly  
10 or in part to be used for the purpose of purchasing  
11 agricultural land, of more than ten acres, a lender  
12 may collect a closing fee which does not exceed an  
13 amount which is a reasonable estimate of the expenses  
14 incurred by the lender in closing the loan. As used  
15 in this subparagraph, the term "loan" includes the  
16 refinancing of a contract of sale, and the refinancing  
17 of a prior loan, whether or not the borrower also was  
18 the borrower under the prior loan, and the assumption  
19 of a prior loan. The collection by a lender with  
20 respect to a loan referred to in this subparagraph of  
21 a loan origination fee, closing fee, commitment fee,  
22 processing fee, or similar charge, other than the  
23 closing fee permitted by this subparagraph is pro-  
24 hibited."

H-3418 FILED *4/15 2/15 (p. 925)*  
MARCH 14, 1979

BY ANDERSON of Audubon

SENATE FILE 158

H-3423

1 Amend the Committee amendment, H-3358, to Senate  
2 File 158 as follows:

3 1. Page 5, line 20, by inserting after the word  
4 and figure "two (2)." the following:

5 "A loan processing fee collected under the  
6 authority of this paragraph is deemed a reimburse-  
7 ment of expenses to be incurred by the lender in the  
8 event the obligation or an interest in the obliga-  
9 tion is subsequently sold by the lender. A fee  
10 which does not exceed the maximum amount permitted  
11 by this paragraph is conclusively presumed to be  
12 the amount of the lender's expenses in the event of  
13 sale. However, if the obligation or an interest in  
14 the obligation has not been sold upon the expiration  
15 of thirty-six months after the date of closing the  
16 loan, the lender shall repay the entire amount of  
17 the fee without interest to the borrower within  
18 thirty days."

H-3423 FILED  
MARCH 15, 1979  
LOST - RECONSIDERED (p. 949)  
MOTION TO RECONSIDER LOST (p. 951)

BY JOCHUM of Dubuque  
JOHNSON of Linn  
POFFENBERGER of Dallas  
O'KANE of Woodbury  
GROTH of Buena Vista  
EGENES of Story  
BRUNER of Story  
MCKEAN of Jones  
MULLINS of Kossuth

MARCH 15, 1979  
PAGE EIGHT

SENATE FILE 158

H-3400

- 1 Amend amendment H-3358, to Senate File 158, as
- 2 passed by the Senate and reprinted, as follows:
- 3 1. Page 5, line 2, by striking the words "reason-
- 4 able estimate" and inserting in lieu thereof the words
- 5 "actual cost".
- 6 2. Page 5, line 24, by striking the words "reason-
- 7 able estimate" and inserting in lieu thereof the words
- 8 "actual cost".
- 9 3. Page 5, line 29, by striking the words "reason-
- 10 able estimate" and inserting in lieu thereof the words
- 11 "actual cost".

H-3400 FILED - LOST (p. 936)  
MARCH 14, 1979

BY POFFENBERGER of Dallas

SENATE FILE 158

H-3404

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 5, line 9, by striking the word "A" and
- 4 inserting in lieu thereof the following: "If the
- 5 loan is a refinancing of a prior loan to the same
- 6 borrower, a loan processing fee shall not be collected
- 7 by the lender with respect to that amount of the loan
- 8 principal which is used to repay the outstanding
- 9 balance of the prior loan. A".

H-3404 FILED - LOST (p. 936)  
MARCH 14, 1979

BY BRUNER of Story  
KREWSON of Polk

SENATE FILE 158

H-3405

- 1 Amend the Committee amendment, H-3358, to Senate
- 2 File 158 as follows:
- 3 1. Page 4, line 47, by inserting after the word
- 4 "exceed" the words "the smaller of either".
- 5 2. Page 4, line 49, by inserting after the word
- 6 "dollars," the words "or two hundred fifty dollars,".

H-3405 FILED - LOST (p. 937)  
MARCH 14, 1979

BY HOWELL of Floyd

HOUSE AMENDMENT TO SENATE FILE 158

S-3241

1 Amend Senate File 158 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 3, by striking line 3 and inserting in  
4 lieu thereof the following:

5 "(2) Either a statement that the credit union  
6 has adopted truncation, or, if the credit union has  
7 not adopted truncation, a statement of the procedures  
8 to be followed in returning the original share drafts  
9 to issuing members."

10 2. Page 4, by striking lines 28 and 29 and  
11 inserting in lieu thereof the following:

12 "(5) Any other material modification of the share-  
13 draft program."

14 3. Page 6, by striking lines 4 and 5.

15 4. Page 6, line 12, by inserting after the period  
16 the following: "However, the exception contained

17 in this subsection does not apply to any person

18 referred to in this subsection if the person is a

19 holder in due course, as provided in chapter five

20 hundred fifty-four (554), article three (3) of the

21 Code; and with respect to a share draft which is

22 issued prior to the expiration of one year after the

23 effective date of this Act, the person shall not be

24 denied the rights of a holder in due course of the

25 share draft solely on the grounds that the share draft

26 fails to meet the requirements of section five hundred

27 fifty-four point three thousand one hundred four

28 (554.3104), subsection one (1), paragraph d of the

29 Code."

30 5. Page 6, lines 20 and 21, by striking the words

31 "Act respecting the operation of the share-draft

32 program" and inserting in lieu thereof the words "Act,

33 including all operational specifications and procedures

34 established or modified in accordance with that

35 section".

36 6. Page 7, by striking lines 8 through 12 and  
37 inserting in lieu thereof the following:

38 "2. The share-draft liquidity reserve shall be  
39 equal to the sum of the following two amounts:

40 a. Seven percent of the total amount of funds  
41 held by the credit union in share-draft accounts.

42 b. Three percent of the total amount of funds  
43 held by the credit union in deposit accounts. As  
44 used in this paragraph the term "deposit accounts"  
45 excludes share-draft accounts and share accounts."

46 7. Page 7, by striking lines 13 through 35 and  
47 inserting in lieu thereof the following:

48 "3. The share-draft liquidity reserve shall be  
49 held as cash, or as demand deposits in the name of  
50 the credit union in state or national banks. All

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Page 2

1 cash in the credit union and all demand deposits held  
2 in banks in the name of the credit union shall be  
3 credited against the reserve requirements of this  
4 section."

5 8. Page 8, by striking lines 1 through 18.

6 9. Page 8, by striking lines 24 through 35 and  
7 inserting in lieu thereof the following: "after any  
8 deposits as required by this subsection, the average  
9 of the amounts actually held by the credit union in  
10 cash and demand deposits on that business day and  
11 each of the preceding four business days is less than  
12 the minimum amount specified in subsection two (2)  
13 of this section."

14 10. Page 9, by striking lines 22 through 24 and  
15 inserting in lieu thereof the following: "draft  
16 program. However, if after notice and opportunity  
17 for hearing the administrator finds that a credit  
18 union has violated this section more than twice during  
19 any twelve-month period or has demonstrated a  
20 continuing pattern of violations of this section,  
21 the administrator shall revoke the authority of the  
22 credit union to operate a share-draft program."

23 11. Page 10, line 6, by striking the words "is  
24 insolvent or that it" and inserting in lieu thereof  
25 the words "~~is-insolvent-or-that-it~~".

26 12. Page 10, line 8, by striking the word "shall"  
27 and inserting in lieu thereof the words "shall, except  
28 when the credit union is insolvent,".

29 13. Page 10, line 10, by striking the word "shall"  
30 and inserting in lieu thereof the words "~~shall~~ may".

31 14. Page 10, line 10, by striking the word "less"  
32 and inserting in lieu thereof the words "~~less~~ more".

33 15. Page 10, line 14, by striking the words "dis-  
34 trict in which" and inserting in lieu thereof the  
35 words "~~district~~ county in which".

36 16. Page 10, line 16, by inserting after the  
37 period the following: "Notwithstanding any other  
38 provision of this chapter, upon a determination by  
39 the administrator that a credit union's assets, if  
40 made immediately available, would not be sufficient  
41 to discharge the credit union's liabilities, the  
42 administrator shall take control of the credit union,  
43 and if the administrator determines that the condition  
44 cannot be corrected, the administrator shall revoke  
45 the certificate of approval and shall apply to the  
46 district court in the county in which the main office  
47 of the credit union is located for the appointment  
48 of a receiver for the credit union."

49 17. Page 10, line 26, by striking the word "Act"  
50 and inserting in lieu thereof the words "Act, except

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Page 3

1 in the event of insolvency of the credit union".

2 18. Page 10, by inserting after line 26 the fol-  
3 lowing:

4 "The administrator may adopt rules which define  
5 insolvency or which establish factors to be considered  
6 in determining insolvency. The administrator may  
7 adopt separate solvency standards for credit unions  
8 which are within their first year of operation."

9 19. Page 11, by striking lines 18 through 33 and  
10 inserting in lieu thereof the following: "upon terms  
11 and conditions prescribed by it. Any member may  
12 withdraw from the credit union at any time, but notice  
13 of withdrawal may be required as provided in this  
14 section. All amounts paid on shares or as deposits  
15 of an expelled or withdrawing member, with any  
16 dividends or interest accredited thereto, to the date  
17 thereof, shall, ~~as funds become available and~~ after  
18 deducting all amounts due from the member to the  
19 credit union and an amount as necessary to honor  
20 outstanding share drafts drawn against accounts of  
21 the member, be paid to him. The the member. Upon  
22 expulsion or withdrawal of a member from a credit  
23 union, or at any other time, the credit union may  
24 require sixty days' notice of intention to withdraw  
25 shares and thirty days' notice of intention to withdraw  
26 deposits, except that a credit union shall not at  
27 any time require notice of withdrawal with respect  
28 to funds which are subject to withdrawal by share  
29 drafts. Withdrawing or expelled members shall have  
30 no further rights in the credit union but are not,  
31 by such expulsion or withdrawal, released from any  
32 remaining liability to the credit union."

33 20. Page 11, by inserting after line 33 the  
34 following:

35 "Sec. \_\_\_\_ . Section five hundred thirty-three point  
36 twenty-four (533.24), unnumbered paragraph two (2),  
37 Code 1979, is amended to read as follows:

38 The moneys and credits tax on credit unions is  
39 hereby imposed at a rate of five mills on each dollar  
40 of the legal and special reserves ~~of every~~ which are  
41 required to be maintained by the credit union under  
42 section five hundred thirty-three point seventeen  
43 (533.17) of the Code, and shall be levied by the board  
44 of supervisors, and placed upon the tax list and  
45 collected by the county treasurer, except that an  
46 exemption shall be given to each credit union in the  
47 amount of ~~four~~ forty thousand dollars and, ~~in addition,~~  
48 any amount of the legal and special reserves which  
49 are invested in United States government securities.  
50 The amount collected in each taxing district within

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1 a city shall be apportioned twenty percent to the  
2 county general fund, thirty percent to the city general  
3 fund, and fifty percent to the general fund of the  
4 state, and the amount collected in each taxing district  
5 outside of cities shall be apportioned fifty percent  
6 to the county general fund and fifty percent to the  
7 general fund of the state. The moneys and credits  
8 tax shall be collected at the location of the credit  
9 union as shown in its articles of incorporation."

10 21. Page 13, by striking lines 5 through 7 and  
11 inserting in lieu thereof the words "of this Act may  
12 continue to use the same bank until December 31, 1980.  
13 Effective January 1, 1981, or at any prior".

14 22. Page 13, line 26, by striking the words "one  
15 hundred twenty days" and inserting in lieu thereof  
16 the words "one year".

17 23. Page 15, by inserting after line 17 the  
18 following:

19 "Sec. \_\_\_\_\_. Section five hundred thirty-five point  
20 two (535.2), subsection two (2), Code 1977, as amended  
21 by Acts of the Sixty-seventh General Assembly, 1978  
22 Session, chapter one thousand one hundred ninety  
23 (1190), section eleven (11), is amended effective  
24 July 1, 1979, to read as follows:

25 2. Any domestic or foreign corporation, and any  
26 real estate investment trust as defined in section  
27 856 of the Internal Revenue Code, and any person  
28 purchasing securities as defined in chapter 502 on  
29 credit from a broker or dealer registered or licensed  
30 under chapter 502 or under the Security Securities  
31 Exchange Act of 1934, 48 Stat. 881, 15 United States  
32 Code 78A, as amended, and any person borrowing money  
33 or obtaining credit in the principal amount of two  
34 one hundred thousand dollars or more, exclusive of  
35 interest, for business purposes, and any person  
36 borrowing money or obtaining credit in the principal  
37 amount of five hundred thousand dollars or more,  
38 exclusive of interest, for agricultural purposes,  
39 may agree in writing to pay any rate of interest in  
40 excess of the rate permitted by this section, and  
41 no such corporation or real estate investment trust  
42 or person so agreeing in writing shall plead or  
43 interpose the claim or defense of usury in any action  
44 or proceeding.

45 24. Page 17, by striking lines 8 through 12 and  
46 inserting in lieu thereof the following: "a loan  
47 processing fee which does not exceed one percent of  
48 an amount which is equal to the loan principal less  
49 twelve thousand five hundred dollars, except that  
50 in the event of an assumption of a prior loan the

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1 lender may collect a loan processing fee which does  
2 not exceed an amount which is a reasonable estimate  
3 of the expense of processing the loan assumption but  
4 which does not exceed one percent of the amount  
5 assumed".

6 25. Page 17, line 13, by striking the word  
7 "principal".

8 26. Page 17, line 13, by inserting after the  
9 period the following: "A loan processing fee collected  
10 under the authority of this paragraph is compensation  
11 to the lender solely for the use of money,  
12 notwithstanding any provision of the agreement to  
13 the contrary. However, a loan processing fee collected  
14 under the authority of this paragraph shall be  
15 disregarded for purposes of determining the maximum  
16 charge permitted by section five hundred thirty-five  
17 point two (535.2) of the Code, or Acts of the Sixty-  
18 seventh General Assembly, 1978 Session, chapter one  
19 thousand one hundred ninety (1190), section thirteen  
20 (13), subsection two (2)."

21 27. Page 17, line 32, by inserting after the word  
22 "fees" the following: "paid to a third party, or  
23 when the appraisal is performed by the lender, a fee  
24 which is a reasonable estimate of the expense incurred  
25 by the lender in performing the appraisal".

26 28. Page 17, line 34, by inserting after the word  
27 "Abstracting" the following: "fees paid to a third  
28 party, or when the abstracting is performed by the  
29 lender, a fee which is a reasonable estimate of the  
30 expense incurred by the lender in performing the  
31 abstracting".

32 29. Page 18, by striking lines 7 through 9 and  
33 inserting in lieu thereof the following: "the seller.  
34 Collection of any cost other".

35 30. Page 18, by striking lines 11 through 18 and  
36 inserting in lieu thereof the following:

37 "c. If the purpose of the loan is to enable the  
38 borrower to purchase a single-family or two-family  
39 dwelling, for his or her residence, the loan agreement  
40 shall not contain any provision which prohibits the  
41 borrower from transferring his or her interest in  
42 the property to a third party for use by the third  
43 party as his or her residence, and shall not contain  
44 any provision which requires or permits the lender  
45 to make a change in the interest rate, the repayment  
46 schedule or the term of the loan as a result of a  
47 transfer by the borrower of his or her interest in  
48 the property to a third party for use by the third  
49 party as his or her residence. A provision of a loan  
50 agreement which violates this paragraph is void."

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PAGE 6

1 31. Page 18, line 20, by striking the words  
2 "paragraphs a, b or c" and inserting in lieu thereof  
3 the words "paragraph a or b".

4 32. Page 18, line 21, by striking the words  
5 "paragraphs a, b or c" and inserting in lieu thereof  
6 the words "paragraph a or b".

7 33. Page 19, by inserting after line 5 the  
8 following:

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

18 34. Page 20, by striking lines 6 and 7 and  
19 inserting in lieu thereof the following:

20 "2. Whenever a borrower under a loan repays the  
21 full amount prepays part or all of the outstanding  
22 balance of the loan in connection with".

23 35. Page 20, by striking lines 18 through 21,  
24 and inserting in lieu thereof the following: "may,  
25 however, require advance notice of not more than  
26 thirty days of a borrower's intent to repay the ~~full~~  
27 ~~amount of a loan~~ entire outstanding balance of a loan  
28 if the payment of that balance, together with any  
29 partial prepayments made previously by the borrower,  
30 will result in the repayment of the loan at a date  
31 earlier than is required by the terms of the loan  
32 agreement."

33 36. By renumbering sections and subsections of  
34 the bill and correcting internal references as  
35 necessary.

S-3241 FILED  
MARCH 15, 1979

RECEIVED FROM THE HOUSE  
*Senate concurred 3/20 (p. 863)*

## SENATE FILE 158

## AN ACT

RELATING TO FINANCIAL TRANSACTIONS INVOLVING LOANS OR DEPOSITS OF MONEY OR EXTENSIONS OF CREDIT WHICH WERE AFFECTED BY THE PROVISIONS OF ACTS OF THE SIXTY-SEVENTH GENERAL ASSEMBLY, 1978 SESSION, CHAPTER ONE THOUSAND ONE HUNDRED NINETY (1190), SECTIONS ELEVEN (11) THROUGH TWENTY-FOUR (24), AND PROVIDING FOR THE RESTRICTION OR REGULATION OF INTEREST RATES, CHARGES AND PREPAYMENT PENALTIES IN TRANSACTIONS WHICH ARE SUBJECT TO SECTION FIVE HUNDRED THIRTY-FIVE POINT TWO (535.2) OF THE CODE, AND PROVIDING FOR THE RESTRICTION OR REGULATION OF THE USE OF SHARE DRAFTS DRAWN ON CREDIT UNIONS, AND PROVIDING PENALTIES.

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

Section 1. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. SHARE DRAFTS.

1. As used in this section or chapter, unless the context otherwise requires:

a. "Share draft" means a negotiable draft which is payable upon demand and which is used to withdraw funds from a share-draft account. A share draft is an item for purposes of chapter five hundred fifty-four (554), article four (4), of the Code. The term does not include a draft issued by a credit union for the transfer of funds between the issuing credit union and another credit union or a bank, savings and loan association, or other depository financial institution.

b. "Payable-through bank" means the bank which is designated to make presentment of a share draft to the credit union for payment.

c. "Truncation" means the original share draft is not returned to the member.

d. "Share-draft account" means the demand account from which a credit union has agreed that funds may be withdrawn by means of a share draft. A share-draft account may bear interest or dividends as determined by the board of directors pursuant to this chapter, provided that a credit union shall not pay interest or dividends on a share-draft account at a rate which exceeds the maximum interest rate which Iowa state banks insured by the federal deposit insurance corporation are permitted by federal law to pay on insured passbook savings accounts.

2. Subject to the provisions of this chapter, a credit union may provide its members with share-draft accounts. The board of directors shall determine, prior to requesting authority to implement a share-draft program, that the members' use of share drafts is economically and operationally feasible for the credit union.

3. The share accounts and deposit accounts of a credit union operating a share-draft program must be insured by the national credit union administrator. The administrator of the credit union department shall order the termination of the share-draft program of a credit union which does not comply with this subsection. The provisions of this subsection supersede the provisions of section five hundred thirty-three point sixty-four (533.64) of the Code with respect to credit unions which have share-draft programs.

4. A credit union seeking share-draft authority shall submit to the administrator a written application. The application shall include all of the following:

a. A certified copy of the minutes of the board of directors authorizing a request to the administrator for authority to implement the share-draft program.

b. All background documentation which supports the decision of the board of directors that use of share drafts by members of the credit union is economically and operationally feasible for the credit union.

c. A statement verified by the chairperson of the board of directors that the forms and procedures which are proposed to be used by the credit union comply with any applicable rules.

d. A statement verified by the chairperson of the board of directors that the board of directors has determined appropriate surety bond coverage is in force. The board of directors shall purchase a fidelity bond to cover officers and employees having custody of or handling funds, with good and sufficient surety in an amount and character to be determined by the board, to protect the credit union against losses caused by occurrences such as fraud, dishonesty, forgery, embezzlement, misappropriation, misapplication, or unfaithful performance of duty by these officers and employees.

e. A statement of operational specifications and procedures which expressly provides for all of the following:

(1) Identification of the payable-through bank. The payable-through bank must be a bank which is located in this state or in an adjacent state.

(2) Either a statement that the credit union has adopted truncation, or, if the credit union has not adopted truncation, a statement of the procedures to be followed in returning the original share drafts to issuing members.

(3) A share-draft account agreement with each participating member which outlines the responsibilities of the credit union and the member.

(4) The recording of overdrafts and notification to an overdrawn member.

(5) The encoding of each share draft with the routing and transit number of the payable-through bank, the share-

draft account number, and the serial number of the share draft in accordance with standards required for use in a clearing system utilizing magnetic ink character recognition devices.

(6) The preprinting on the share draft of the names of the payable-through bank and the credit union.

(7) A method by which each member using share drafts may maintain a record of share drafts drawn.

(8) The submission of a periodic statement of account at least quarterly to each member who has a share-draft account. This statement shall include the serial number, the date of payment and the amount of payment of each share draft processed.

(9) Establishing responsibility for detection of unauthorized or forged drafts.

(10) Procedures for processing stop payment orders.

(11) Procedures for providing members with copies of paid drafts, should copies be requested.

(12) Procedures for retaining paid drafts or copies of paid drafts on file for a period of seven years after the first day of January of the year following the year in which the draft was paid. The paid drafts or copies need not be retained in the custody of the credit union.

(13) The fees, if any, to be charged for share-draft account services. The fees shall not exceed the direct and indirect costs of providing the services.

(14) Procedures for establishing, maintaining, verifying and replenishing as necessary the share-draft liquidity reserve required by section four (4) of this Act.

5. A credit union shall not commence the operation of a share-draft program until it has received written authority from the administrator. The administrator shall not issue authority if any of the following conditions exist:

a. The requirements of subsection four (4) of this section have not been met.

b. The auditing committee of the credit union has not fulfilled its statutory duties as specified in this chapter.

c. The management of the credit union has demonstrated through prior performance its inability to handle the additional activity the share-draft program will generate.

d. The credit union is not insured by the national credit union administrator.

e. The forms and procedures which are proposed to be used by the credit union do not comply with rules promulgated by the administrator.

6. a. The credit union shall notify the administrator in writing of the proposed implementation of a modification relating to any of the following:

- (1) The payable-through bank.
- (2) Truncation procedures.
- (3) The share-draft agreement.

(4) Procedures for establishing and maintaining the share-draft liquidity reserve.

(5) Any other material modification of the share-draft program.

b. The written notice under paragraph a of this subsection shall be submitted to the administrator at least sixty days prior to the date the credit union intends to implement the modification, provided that if good cause is shown the administrator may approve a modification on less than sixty days' notice. A modification referred to in paragraph a of this subsection shall not be made except upon written approval of the administrator.

c. The credit union shall immediately notify the administrator of any matter affecting the information provided pursuant to subsection four (4), paragraphs a through d, of this section.

7. If a share-draft program is not authorized or a request for modification is not approved the administrator shall

submit to the credit union a written statement of the reasons for the action.

8. A credit union may guarantee payment of a share draft if both of the following conditions are met:

a. A specific guarantee authorization is obtained for the share draft from the credit union.

b. The guarantee authorization is immediately noted on the share-draft account to prevent the withdrawal of funds needed to pay the guaranteed share draft.

9. The administrator may promulgate rules as necessary to administer the provisions of this chapter which relate to share-draft programs. In order to simplify the application for share-draft authority and the operation of share-draft programs, the administrator may cause to be prepared copies of approved forms and procedures which may be used by credit unions for guidance.

Sec. 2. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. PAYMENT OF SHARE DRAFTS DURING DISSOLUTION. Other provisions of section five hundred thirty-three point twenty-two (533.22) of the Code notwithstanding, when a credit union is dissolved, first priority of payment shall be given to unpaid share drafts. However, a share draft shall not be paid if any of the following conditions exist:

1. The share draft was issued on or after the date of appointment of a receiver in the event of an involuntary dissolution, or on or after the date the credit union is required by section five hundred thirty-three point twenty (533.20), subsection two (2) of the Code to cease doing business in the event of a voluntary dissolution.

2. The share draft is written against an account which does not contain sufficient funds with which to pay the share draft.

3. The share draft is payable to a member of the credit union, or to a member of the family of the issuer of the share draft, or to a business in which the issuer of the share draft has an interest. However, the exception contained in this subsection does not apply to any person referred to in this subsection if the person is a holder in due course, as provided in chapter five hundred fifty-four (554), article three (3) of the Code; and with respect to a share draft which is issued prior to the expiration of one year after the effective date of this Act, the person shall not be denied the rights of a holder in due course of the share draft solely on the grounds that the share draft fails to meet the requirements of section five hundred fifty-four point three thousand one hundred four (554.3104), subsection one (1), paragraph 3 of the Code.

Sec. 3. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. SHARE-DRAFT VIOLATIONS--REVOCATION OF AUTHORITY. A credit union which offers a share-draft program to its members shall promptly honor share drafts which are written on accounts containing sufficient funds at the time the share drafts are presented for payment, and shall comply with the requirements of section one (1) of this Act, including all operational specifications and procedures established or modified in accordance with that section. If after notice and opportunity for hearing the administrator finds that a credit union has violated this section the administrator shall order the credit union to correct the condition. Failure of the credit union to comply with the order within a reasonable period of time as specified in the order shall be grounds for revocation of the authority to operate the share-draft program. The administrator shall revoke the authority to operate a share-draft program of a credit union demonstrating a continuing pattern of violations of this section.

A credit union whose share-draft authority has been revoked under this section is ineligible to receive authority to operate a share-draft program for two years after the date of revocation.

Sec. 4. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. SHARE-DRAFT LIQUIDITY RESERVE--VIOLATIONS--PENALTY.

1. A credit union which operates a share-draft program shall maintain a share-draft liquidity reserve to be used to ensure that share drafts are honored promptly.

2. The share-draft liquidity reserve shall be equal to the sum of the following two amounts:

a. Seven percent of the total amount of funds held by the credit union in share-draft accounts.

b. Three percent of the total amount of funds held by the credit union in deposit accounts. As used in this paragraph the term "deposit accounts" excludes share-draft accounts and share accounts.

3. The share-draft liquidity reserve shall be held as cash, or as demand deposits in the name of the credit union in state or national banks. All cash in the credit union and all demand deposits held in banks in the name of the credit union shall be credited against the reserve requirements of this section.

4. The share-draft liquidity reserve shall be verified and shall be replenished by the credit union as necessary at the end of each business day. The share-draft liquidity reserve of the credit union is deficient and in violation of this section if after the end of any business day, and after any deposits as required by this subsection, the average of the amounts actually held by the credit union in cash and demand deposits on that business day and each of the preceding four business days is less than the minimum amount specified in subsection two (2) of this section.

5. Whenever it shall appear necessary to do so in the interest of the members of a credit union, the administrator may require that the credit union maintain reserves exceeding the amount required by subsection Two (2) of this section, consisting of such obligations of the United States as the administrator shall prescribe. Any additional amount required under this subsection to be maintained in reserve shall be verified and replenished as required by the administrator. Failure to comply with requirements imposed by the administrator under this subsection is a violation of this section.

6. If after notice and opportunity for hearing the administrator finds that a credit union has violated this section, the administrator shall order the credit union to correct the condition within two business days, and the administrator may, in his or her discretion, order payment by the credit union to the state of a monetary penalty of not more than one hundred dollars per day for each day during which a deficiency existed. Failure of the credit union to correct the condition within the prescribed time shall be grounds for revocation of the authority to operate the share-draft program. However, if after notice and opportunity for hearing the administrator finds that a credit union has violated this section more than twice during any twelve-month period or has demonstrated a continuing pattern of violations of this section, the administrator shall revoke the authority of the credit union to operate a share-draft program.

7. A credit union whose share-draft authority has been revoked under this section is ineligible to receive authority to operate a share-draft program for two years after the date of revocation.

Sec. 5. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. ACCEPTANCE OF DEPOSITS AND INVESTMENTS WHILE INSOLVENT. A credit union shall not accept any deposits or investments in its shares, or renew or extend the term of any time deposits or time investments, when the credit union is insolvent.

Sec. 6. Section five hundred thirty-three point six (533.6), subsection four (4), Code 1979, is amended to read as follows:

4. If it shall appear after notice and opportunity for hearing the administrator determines that any a credit union is insolvent or that it has violated any of the provisions of this chapter, the administrator may, after a hearing or after an opportunity for a hearing is given, shall, except when the credit union is insolvent, order that the credit union to correct the condition. The administrator shall may grant the credit union not less more than sixty days within which to comply with the order. Failure to comply shall afford the administrator grounds to revoke the certificate of approval and shall afford the administrator the authority to apply to the district court of the district county in which this credit union is located for the appointment of a receiver for the credit union. Notwithstanding any other provision of this chapter, upon a determination by the administrator that a credit union's assets, if made immediately available, would not be sufficient to discharge the credit union's liabilities, the administrator shall take control of the credit union, and if the administrator determines that the condition cannot be corrected, the administrator shall revoke the certificate of approval and shall apply to the district court in the county in which the main office of the credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the administrator of the credit union department as receiver unless the administrator of the credit union department has

tendered the appointment to the administrator of the plan by which the accounts of the credit union are insured. Either administrator as receiver shall possess the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither administrator shall be required to furnish bond as receiver of a state credit union. This subsection does not apply to violations of section three (3) or four (4) of this Act, except in the event of insolvency of the credit union.

The administrator may adopt rules which define insolvency or which establish factors to be considered in determining insolvency. The administrator may adopt separate solvency standards for credit unions which are within their first year of operation.

Sec. 7. Section five hundred thirty-three point fourteen (533.14), Code 1979, is amended to read as follows:

533.14 INTEREST RATES.

1. Interest rates on loans made by a credit union, other than loans secured by a mortgage or deed of trust which is a first lien upon real property shall not exceed one percent a month on unpaid balances, except that with respect to consumer loans, a credit union may charge the finance charge permitted in sections 537.2401 and 537.2402.

2. With respect to a loan secured by a mortgage or deed of trust which is a first lien upon real property, a credit union shall not charge a rate of interest which exceeds the maximum rate permitted by section five hundred thirty-five point two (535.2) of the Code.

3. The provisions of this section do not apply to a loan which is subject to section six hundred eighty-two point forty-six (682.46) of the Code.

Sec. 8. Section five hundred thirty-three point nineteen (533.19), Code 1979, is amended to read as follows:

533.19 EXPULSION--WITHDRAWAL. A member may be expelled by a majority vote of the board of directors at a regular or special meeting of the board. The expelled member may request a hearing before the membership of the credit union. A meeting of the membership shall be held within sixty days of the member's request. The membership may, by majority vote at the membership meeting, reinstate the expelled member upon terms and conditions prescribed by it. Any member may withdraw from the credit union at any time, but notice of withdrawal may be required as provided in this section. All amounts paid on shares or as deposits of an expelled or withdrawing member, with any dividends or interest accrued thereto, to the date thereof, shall, ~~as funds become available~~ and after deducting all amounts due from the member to the credit union and an amount as necessary to honor outstanding share drafts drawn against accounts of the member, be paid to him--The the member. Upon expulsion or withdrawal of a member from a credit union, or at any other time, the credit union may require sixty days' notice of intention to withdraw shares and thirty days' notice of intention to withdraw deposits, except that a credit union shall not at any time require notice of withdrawal with respect to funds which are subject to withdrawal by share drafts. Withdrawing or expelled members shall have no further rights in the credit union but are not, by such expulsion or withdrawal, released from any remaining liability to the credit union.

Sec. 9. Section five hundred thirty-three point twenty-four (533.24), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

The moneys and credits tax on credit unions is hereby imposed at a rate of five mills on each dollar of the legal and special reserves ~~of every~~ which are required to be maintained by the credit union under section five hundred thirty-three point seventeen (533.17) of the Code, and shall

be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer, except that an exemption shall be given to each credit union in the amount of ~~four forty~~ thousand dollars ~~and in addition any amount of the legal and special reserves when are invested in United States government securities~~. The amount collected in each taxing district within a city shall be apportioned twenty percent to the county general fund, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county general fund and fifty percent to the general fund of the state. The moneys and credits tax shall be collected at the location of the credit union as shown in its articles of incorporation.

Sec. 10. Section seven hundred fourteen point one (714.1), subsection six (6), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property or service in exchange therefor, if the person knows that such check, share draft, draft or written order will not be paid when presented.

Sec. 11.

1. Notwithstanding other provisions of this Act, a credit union which has an operating share-draft program on the effective date of this Act may continue to offer share-draft services prior to submitting a request and receiving authority as required by this Act, but the credit union must submit a request as required by this Act not later than sixty days after the effective date of this Act. The administrator shall act upon the request within thirty days after receiving it. The temporary authority granted by this section expires ninety

days after the effective date of this Act, or on the date the administrator acts upon the request for share-draft authority, whichever date is earlier.

2. Notwithstanding section one (1), subsection three (3), and section one (1), subsection five (5), paragraph d, of this Act, a credit union which has an operating share-draft program on the effective date of this Act may continue to offer share-draft services prior to obtaining insurance for share accounts and deposit accounts from the national credit union administrator, but the credit union shall obtain the required insurance within ninety days after the effective date of this Act, and shall not open any additional share-draft accounts or offer any additional share-draft services until its accounts are so insured. The administrator shall order the termination of the share-draft program of a credit union which is subject to this subsection and which fails to comply with this subsection.

3. Notwithstanding section one (1), subsection four (4), paragraph c, subparagraph one (1), of this Act, a credit union which has an operating share-draft program on the effective date of this Act and which has a contractual arrangement with a payable-through bank that does not meet the requirements of this Act may continue to use the same bank until December 31, 1980. Effective January 1, 1981, or at any prior time the credit union terminates the arrangement with its payable-through bank, the credit union shall select a payable-through bank which meets the requirements of this Act.

Sec. 12. Share drafts which were issued by members of Iowa credit unions prior to the effective date of this Act are hereby declared to be valid and binding instruments for any lawful purposes for which issued, and customary or necessary acts in the course of business by credit unions upon which these share drafts were written and banks by which these share drafts were received, transferred, negotiated or otherwise processed are hereby declared to be legal.

Sec. 13. Notwithstanding section one (1), subsection one (1), paragraph a. of this Act, a credit union which has an operating share-draft program on the effective date of this Act may continue to supply its members with blank share-draft forms which were printed prior to the effective date of this Act, and these members may continue to use existing supplies of these share-draft forms until the supplies are exhausted or until the expiration of one year after the effective date of this Act, whichever occurs sooner. The administrator shall enforce compliance with this paragraph.

Share drafts which are nonnegotiable in printed form and which are issued by members of credit unions after the effective date of this Act under the authority of this section are hereby declared to be valid and binding instruments for any lawful purposes for which issued, and customary and necessary acts in the course of business by credit unions upon which these drafts were written and banks by which these drafts were received, transferred, negotiated or otherwise processed are hereby declared to be legal.

Sec. 14. Section five hundred twenty-four point nine hundred five (524.905), subsection five (5), paragraph d, Code 1979, is amended to read as follows:

d. The value of real property shall be determined by ~~averaging the appraisals appraisal~~ of ~~two a~~ qualified persons ~~person~~, selected in a manner authorized by the board of directors, who ~~are is~~ familiar with real property values in the vicinity where the real property is located, and who ~~inspect inspects~~ the real property and ~~state states~~ its value to the best of ~~their his or her~~ judgment in a written report to be retained by the state bank during the term of the loan.

Sec. 15. Chapter five hundred twenty-four (524), division nine (IX), Code 1979, is amended by adding the following new section:

NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on one-family to four-family dwellings may be repaid in part or in full at any time, excepting that a state bank 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. Nothing contained in this section, however, authorizes a state bank to charge any advance interest or prepayment penalty where prohibited by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13).

Sec. 16. Chapter five hundred thirty-three (533), Code 1979, is amended by adding the following new section:

NEW SECTION. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on one-family to four-family dwellings may be repaid in part or in full at any time, excepting that a credit union 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. Nothing contained in this section, however, authorizes a credit union to charge any advance interest or prepayment penalty where prohibited by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13).

Sec. 17. Section five hundred thirty-five point two (535.2), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section eleven (11), is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of

the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 18. Section five hundred thirty-five point two (535.2), subsection two (2), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section eleven (11), is amended effective July 1, 1979, to read as follows:

2. Any domestic or foreign corporation, 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~~ Securities Exchange Act of 1934, 48 Stat. 881, 15 United States Code 78A, as amended, and any person borrowing money or obtaining credit in the ~~principal~~ amount of two one hundred thousand dollars or more, exclusive of interest, for business purposes, and any person borrowing money or obtaining credit in the ~~principal~~ amount of five hundred thousand dollars or more, exclusive of interest, for agricultural purposes, may agree in writing to pay any rate of interest in excess of the rate 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.

Sec. 19. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section eleven (11), subsection three (3), paragraph a, is amended on the effective date of this Act to read as follows:

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 month commencing on or after ~~July 1, 1978~~, the effective date of this Act 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~~ each month the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar ~~quarter~~ month as prescribed herein, and shall cause ~~such~~ this 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~~ This 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.

Sec. 20. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section twelve (12), is reenacted except as provided in section twenty-one (21) of this Act and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 21. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section twelve (12), subsection six (6), is amended on the effective date of this Act by striking the subsection.

Sec. 22. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section twelve (12), subsections one (1), two (2) and five (5), are amended effective July 1, 1979, to read as follows:

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 a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.~~ any money loaned to a borrower who furnishes, as security for all or part of the loan, a mortgage on a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

2. a. A lender may collect in connection with a loan a loan processing fee which does not exceed one percent of an amount which is equal to the loan principal less twelve thousand five hundred dollars, except that in the event of an assumption of a prior loan the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expense of processing the loan assumption but which does not exceed one percent of the amount assumed. A loan processing fee collected under the authority of this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan processing fee collected under the authority of this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section five hundred thirty-five point two (535.2) of the Code, or Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), subsection two (2). The assessment and collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge other than

as expressly authorized by this paragraph 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:

b. A lender may collect in connection with a loan any of the following costs which are incurred by the lender in connection with the loan and which are disclosed to the borrower:

a+ (1) Credit reports.

b+ (2) Appraisal fees paid to a third party, or when the appraisal is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the appraisal.

c+ (3) Attorney's opinions.

d+ (4) Abstracting fees paid to a third party, or when the abstracting is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the abstracting.

e+ (5) County recorder's fees.

f+ (6) Inspection fees.

g+ (7) Mortgage guarantee insurance charge.

h+ (8) Surveying of property.

i+ (9) 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. Collection of any cost other than as expressly permitted by this paragraph is prohibited.

c. If the purpose of the loan is to enable the borrower to purchase a single-family or two-family dwelling, for his or her residence, the loan agreement shall not contain any provision which prohibits the borrower from transferring his or her interest in the property to a third party for use by the third party as his or her residence, and shall not contain any provision which requires or permits the lender to make a change in the interest rate, the repayment schedule or the term of the loan as a result of a transfer by the borrower of his or her interest in the property to a third party for use by the third party as his or her residence. A provision of a loan agreement which violates this paragraph is void.

d. If a lender collects a fee or charge which is prohibited by paragraph a or b of this subsection or which exceeds the amount permitted by paragraph a or b of this subsection, the borrower has the right to recover the unlawful fee or charge or the unlawful portion of the fee or charge, plus attorney fees and costs incurred in any action necessary to effect 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 or by the seller of the dwelling.

A lender shall not collect any fee from a real estate agent for the purpose of reserving or committing funds held or to be held by the lender for loans which are subject to this section. If a lender collects a fee which is prohibited by this paragraph the borrower has the right to recover the unlawful fee, plus attorney fees and costs incurred in an action necessary to effect recovery.

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

Sec. 23. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 24. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), subsection one (1), is amended effective July 1, 1979, to read as follows:

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.

As used in this section, "loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling

occupied or to be occupied by the borrower, or for the purpose of purchasing agricultural land. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

Sec. 25. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13), subsection two (2), is amended effective July 1, 1979, to read as follows:

2. Whenever a borrower under a loan ~~repays the full amount repays part or all of the outstanding balance 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 entire outstanding balance of a loan if the payment of that balance, together with any partial prepayments made previously by the borrower, will result in the repayment of the loan at a date earlier than is required by the terms of the loan agreement.

Sec. 26. 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), and as further amended by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred

ninety (1190), section sixteen (16), is reenacted and shall be the law of this state on and after the effective date of this Act as amended by section twenty-seven (27) of this Act, notwithstanding any contrary provision of Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 27. 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), and as further amended by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section sixteen (16) is amended on the effective date of this Act by striking the subsection and inserting in lieu thereof the following:

10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on one-family to 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. Nothing contained in this subsection, however, authorizes an association to charge any advance interest or prepayment penalty where prohibited by Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section thirteen (13).

Sec. 28. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), sections fourteen (14), fifteen (15), seventeen (17), nineteen (19), and twenty-two (22), are reenacted, and are the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-

seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190).

Sec. 29. The maximum lawful rate of interest as established under Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section twelve (12), and in effect on the effective date of this Act as provided in that section, shall, notwithstanding contrary provisions of that section or that Act, be the maximum lawful rate until the maximum lawful rate for the first full calendar month which commences on or after the effective date of this Act is determined and published and takes effect as provided in section nineteen (19) of this Act.

Sec. 30. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), sections twenty-three (23) and twenty-six (26), are repealed on the effective date of this Act. Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), section twenty (20), is repealed on July 1, 1979.

Sec. 31. It is the intent of this Act that Acts of the Sixty-seventh General Assembly, one thousand one hundred ninety (1190), sections eleven (11) through seventeen (17), and sections nineteen (19) and twenty-two (22), which were enacted as temporary provisions to expire on July 1, 1979, shall be deemed permanent Iowa law as enacted, notwithstanding the temporary nature of those provisions when enacted, and that the laws of this state as contained in those provisions shall continue to be the laws of this state on and after the effective date of this Act, except as specifically amended by a provision of this Act, as if those provisions had been enacted as permanent Iowa law.

Sec. 32. The Code editor is directed to codify those sections of Acts of the Sixty-seventh General Assembly, 1978 Session, chapter one thousand one hundred ninety (1190), which

are reenacted by this Act or which are reenacted and amended by this Act, as permanent Code provisions, and to delete all references to 1977 Code law and to temporary law other than customary historical notations as appropriate.

Sec. 33. This Act, being of immediate importance, shall take effect, except as otherwise specifically provided in this Act, from and after its publication in the Quad-City Times, a newspaper published in Davenport, Iowa, and in The Waterloo Courier, a newspaper published in Waterloo, Iowa.

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TERRY R. BRANSTAD  
President of the Senate

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FLOYD H. MILLEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 158, Sixty-eighth General Assembly.

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FRANK J. STORK  
Secretary of the Senate

Approved 3/27/ 1979

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ROBERT D. RAY  
Governor