

2/12 4/14/85 (p. 1410)

H. F. 556 substituted 4/9/85

SENATE FILE 544

BY COMMITTEE ON COMMERCE

Approved 3/22 (p. 989)

FILED MAR 22 1985

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to chattel loans by providing a short title
 2 to chapter 536, increasing the maximum amount of a
 3 regulated loan from two thousand to twenty-five thousand
 4 dollars, permitting a licensee to sell property insurance
 5 to borrowers on property owned by the borrowers, providing
 6 for a penalty if a licensee charges excessive interest
 7 or other charges, and repealing a requirement that an
 8 applicant for a loan shall report other installment loans
 9 that the applicant may have.

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

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SF 544

1 Section 1. Section 533A.2, subsection 1, paragraph b, Code
2 1985, is amended to read as follows:

3 b. Banks, savings and loan associations, insurance
4 companies and similar fiduciaries, ~~chattel~~ regulated loan
5 companies licensed under chapter 536 and industrial loan
6 companies licensed under chapter 536A, ~~as-duty-licensed-in~~
7 ~~Iowa-by-law~~, authorized and admitted to transact business in
8 this state and performing credit and financial adjusting in
9 the regular course of their principal business, or while
10 performing an escrow function.

11 Sec. 2. Section 536.1, Code 1985, is amended to read as
12 follows:

13 536.1 TITLE -- LICENSE AND RIGHTS THEREUNDER---- ~~PAGE-TO-~~
14 ~~PAGE-SOLICITATION~~ REQUIRED.

15 1. This chapter may be referred to as the "Iowa Regulated
16 Loan Act".

17 2. With respect to a loan other than a consumer loan, no a
18 person, copartnership, association, or corporation shall not
19 engage in the business of making loans of money, credit,
20 goods, or things in action in the amount or of the value of
21 two twenty-five thousand dollars or less and charge, contract
22 for, or receive on any-such the loan a greater rate of
23 interest or consideration therefor for the loan than the
24 lender would be permitted by law to charge if the lender were
25 not a licensee hereunder under this chapter except as
26 authorized by this chapter and without first obtaining a
27 license from the superintendent of banking, ~~hereinafter-called~~
28 ~~the-superintendent.~~

29 3. With respect to a consumer loan, a person required by
30 section 537.2301 to have a license shall not engage in the
31 business of making loans of money, credit, goods or things in
32 action in the amount or value of two twenty-five thousand
33 dollars or less and charge, contract for, or receive on any
34 such the loan a greater rate of interest or consideration
35 therefor for the loan than the lender would be permitted by

1 law to charge if the lender were not a licensee hereunder
2 under this chapter, except as authorized by this chapter and
3 without first obtaining a license from the superintendent.

4 4. A person who enters into less than ten supervised loans
5 per year in this state and who neither has an office
6 physically located in this state nor engages in face-to-face
7 solicitation in this state may contract for and receive the
8 rate of interest permitted in this chapter for licensees
9 hereunder under this chapter. A "consumer loan" ~~shall be~~
10 means the same as defined in section 537.1301.

11 Sec. 3. Section 536.10, unnumbered paragraph 3, Code 1985,
12 is amended to read as follows:

13 Every A licensee subject to examination, supervision and
14 regulation by the superintendent, shall pay to the
15 superintendent an examination fee, based on the actual cost of
16 the operation of the ~~small~~ regulated loan division of the
17 department of banking, and the proportionate share of
18 administrative expenses in the operation of the department of
19 banking attributable to the ~~small~~ regulated loan division as
20 determined by the superintendent of banking. ~~Such~~ The fee
21 shall apply equally to all licenses and shall not be changed
22 more frequently than annually and when changed, shall be
23 effective on January 1 of the year following the year in which
24 the change is approved.

25 Sec. 4. Section 536.13, Code 1985, is amended to read as
26 follows:

27 536.13 BANKING BOARD -- REPORT -- ADDITIONAL RESTRICTIONS.

28 1. ~~It shall be the duty of the~~ The state banking board,
29 ~~hereinafter called the board, and it shall have power,~~
30 ~~jurisdiction, and authority, from time to time to~~ may
31 investigate the conditions and find the facts with reference
32 to the business of making ~~small~~ regulated loans, as described
33 in section 536.17 ~~hereinafter referred to as small loans,~~ and
34 after making ~~such~~ the investigation, report in writing ~~their~~
35 its findings to the next regular session of the general

1 assembly, and upon the basis of such the facts:

2 a. To classify ~~small~~ regulated loans by a regulation
3 according to such a system of differentiation as which will
4 reasonably distinguish such the classes of loans for the
5 purposes of this chapter, ~~and~~.

6 b. To determine and fix by a ~~regulation-such~~ rule the
7 maximum rate of interest or charges upon each such class of
8 ~~small~~ regulated loans as which will induce efficiently managed
9 commercial capital to enter such the business in sufficient
10 amounts to make available adequate credit facilities to
11 individuals ~~without-the-security-or-financial-responsibility~~
12 ~~usually-required-by-banks~~. Such The maximum rate of interest
13 or charge shall be stated by the board as an annual percentage
14 rate calculated according to the actuarial method and applied
15 to the unpaid balances of the amount financed.

16 2. The board may ~~from-time-to-time, commencing-March-1,~~
17 ~~1935,~~ redetermine and refix by a ~~regulation~~ rule, in
18 accordance with subsection 1 above, any maximum rate of
19 interest or charges previously fixed by it, but such the
20 changed maximum rates shall not affect pre-existing loan
21 contracts lawfully entered into between any a licensee and any
22 a borrower, all-regulations. All rules which the board may
23 make respecting rates of interest or charges shall ~~fix-and~~
24 contain state the effective date thereof of the rules, which
25 shall not be earlier than thirty days after notice to each
26 licensee by mailing such the notice to each licensed place of
27 business.

28 3. Before fixing any classification of ~~small~~ regulated
29 loans or any maximum rate of interest or charges, or changing
30 ~~any-such a~~ classification or rate under authority of this
31 section, the board shall give reasonable notice of its
32 intention to consider doing so to all licensees and a
33 reasonable opportunity to be heard thereon and to introduce
34 evidence with respect thereto to the change or classification.

35 4. Beginning July 4, 1965, and until such time as a

1 different rate is fixed by the board, the maximum rate of
2 interest or charges upon such the class or classes of ~~small~~
3 regulated loans ~~shall-be~~ is three percent per month on any
4 part of the unpaid principal balance of the loan not exceeding
5 one hundred fifty dollars and two percent per month on any
6 part of the loan in excess of one hundred fifty dollars, but
7 not exceeding three hundred dollars, and one and one-half
8 percent per month on any part of the unpaid principal balance
9 of the loan in excess of three hundred dollars, but not
10 exceeding seven hundred dollars, and one percent per month on
11 any part of the unpaid principal balance of the loan in excess
12 of seven hundred dollars.

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

20 6. ~~The-following-provision-shall-apply-to-all-loans~~
21 ~~including-consumer-loans-made-by-a-licensee-hereunder:~~ If any
22 interest or charge on a loan regulated by this chapter in
23 excess of those permitted by this chapter are is charged,
24 contracted for, or received, the contract of loan ~~shall-be~~ is
25 void as to interest and charges and the licensee ~~shall-have~~
26 has no right to collect or receive any principal, interest or
27 charges whatsoever. In addition, the licensee shall forfeit
28 the right to collect the lesser of two thousand dollars of
29 principal of the loan or the total amount of the principal of
30 the loan.

31 ~~The provisions-of-the~~ Iowa consumer credit code ~~shall~~
32 apply, chapter 537, applies to a consumer loan in which the
33 licensee participates or engages, and any a violation of the
34 Iowa consumer credit code ~~shall-be~~ is a violation of this
35 chapter.

1 Article 2, parts 3, 5 and 6 of chapter 537, and article 3
2 of chapter 537, sections 537.3203, 537.3206, 537.3209,
3 537.3304, 537.3305 and 537.3306 shall apply to any credit
4 transaction, as defined in section 537.1301 in which a
5 licensee participates or engages, and any violation of those
6 parts or sections shall ~~be~~ is a violation of this chapter.
7 For the purpose of applying ~~the provisions of~~ the Iowa
8 consumer credit code to those credit transactions, "consumer
9 loan" shall ~~include~~ includes a loan for a business purpose.
10 A provision of the Iowa consumer credit code applicable to
11 loans regulated by this chapter shall ~~supersede~~ supersedes a
12 conflicting provision of this chapter. However, section
13 536.30 is not superseded by the Iowa consumer credit code.

14 Sec. 5. Section 536.15, Code 1985, is amended to read as
15 follows:

16 536.15 USURY -- LIMITATION ON PRINCIPAL LOAN.

17 No A licensee shall not directly or indirectly charge,
18 contract for, or receive any interest or consideration greater
19 than the lender would be permitted by law to charge if the
20 lender were not a licensee hereunder upon the loan, use, or
21 forbearance of money, goods, or things in action, or upon the
22 loan, use, or sale of credit, of the amount or value of more
23 than two twenty-five thousand dollars. ~~The foregoing~~
24 prohibition shall This section also apply applies to any a
25 licensee who permits any a person, as borrower or as endorser,
26 guarantor, or surety for any a borrower, or otherwise, to owe
27 directly or contingently or both to the licensee at any time
28 the sum of more than two twenty-five thousand dollars for
29 principal.

30 Sec. 6. Section 536.26, unnumbered paragraph 1, Code 1985,
31 is amended to read as follows:

32 No A licensee shall not, directly or indirectly, sell or
33 offer for sale any life, or accident and health insurance in
34 connection with any a loan made under this chapter except as
35 and to the extent authorized by this section. Life, accident

1 and health insurance, or any of them, may be written by a
2 licensed insurance agent upon or in connection with any loan
3 for a term not extending beyond the final maturity date of the
4 loan contract but only upon one obligor on any one loan
5 contract.

6 Sec. 7. Section 536.28, Code 1985, is amended by adding
7 the following new subsections:

8 NEW SUBSECTION. 3. "Board" means the state banking board.

9 NEW SUBSECTION. 4. "Consumer loan" means a loan as de-
10 fined in section 537.1301.

11 NEW SUBSECTION. 5. "Superintendent" means the state su-
12 perintendent of banking.

13 Sec. 8. NEW SECTION. 536.30 INSURANCE RELATED TO PROP-
14 ERTY OF BORROWER.

15 A licensee may sell the borrower insurance against loss of
16 or damage to property owned by the borrower or loss from
17 liability arising out of the ownership or use of property
18 owned by the borrower. The insurance shall be sold at premium
19 rates approved by the insurance department. In selling the
20 insurance, the licensee shall furnish to the borrower a clear,
21 conspicuous, and specific statement in writing setting forth
22 the cost of the insurance and stating that the borrower may
23 choose the person through whom the insurance is to be
24 obtained.

25 Sec. 9. Section 536A.5, Code 1985, is amended by striking
26 the section and inserting in lieu thereof the following:

27 536A.5 EXEMPTIONS.

28 This chapter does not apply to any of the following:

29 1. Businesses organized or operating as permitted under
30 the authority of a law of this state or the United States re-
31 lating to banks, trust companies, building and loan associa-
32 tions, savings and loan associations, insurance companies,
33 regulated loan companies organized under chapter 536, or
34 credit unions.

35 2. Persons that make loans only on notes secured by first

1 mortgages on real estate.

2 3. Licensed real estate brokers or salespersons.

3 4. A person engaged exclusively in the business of
4 purchasing commodity financing or commercial paper.

5 5. A pawnbroker.

6 6. A person engaged in the mercantile business.

7 7. Loans made to a domestic or foreign corporation.

8 Sec. 10. Section 536.25, Code 1985, is repealed.

9 EXPLANATION

10 This bill makes several changes to chapter 536 relating to
11 chattel loans. A short title of the "Iowa Regulated Loan Act"
12 is given to the chapter. References to "small loans" have
13 been changed to "regulated loans". The maximum amount of a
14 loan under the chapter would be increased from two thousand
15 dollars to twenty-five thousand dollars. The bill also
16 permits a licensee to sell certain types of property insurance
17 to borrowers on property owned by the borrower, permits a
18 licensee to collect that part of the principal of a loan in
19 excess of two thousand dollars even if the interest rate or
20 other charges are in excess of that permitted, and repeals a
21 section requiring an applicant for a loan to report all other
22 installment loans the applicant might have.

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1 Amend Senate File 544 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 533A.2, subsection 1,
5 paragraph b, Code 1985, is amended to read as follows:

6 b. Banks, savings and loan associations, insurance
7 companies and similar fiduciaries, ~~chartered~~ regulated
8 loan companies licensed under chapter 536 and
9 industrial loan companies licensed under chapter 536A,
10 ~~as duly licensed in Iowa by law~~, authorized and
11 admitted to transact business in this state and
12 performing credit and financial adjusting in the
13 regular course of their principal business, or while
14 performing an escrow function.

15 Sec. 2. Section 536.1, Code 1985, is amended to
16 read as follows:

17 536.1 ~~TITLE -- LICENSE AND RIGHTS THEREUNDER --~~
18 ~~PAGE-TO-PAGE SOLICITATION REQUIRED.~~

19 1. This chapter may be referred to as the "Iowa
20 Regulated Loan Act".

21 2. With respect to a loan other than a consumer
22 loan, ~~no a person, copartnership, association, or~~
23 ~~corporation shall not engage in the business of making~~
24 ~~loans of money, credit, goods, or things in action in~~
25 ~~the amount or of the value of two twenty-five thousand~~
26 ~~dollars or less and charge, contract, for, or receive~~
27 ~~on any such the loan a greater rate of interest or~~
28 ~~consideration therefor for the loan than the lender~~
29 ~~would be permitted by law to charge if the lender were~~
30 ~~not a licensee hereunder under this chapter except as~~
31 ~~authorized by this chapter and without first obtaining~~
32 ~~a license from the superintendent of banking,~~
33 ~~hereinafter-called-the-superintendent.~~

34 3. With respect to a consumer loan, a person
35 required by section 537.2301 to have a license shall
36 not engage in the business of making loans of money,
37 credit, goods or things in action in the amount or
38 value of two twenty-five thousand dollars or less and
39 charge, contract for, or receive on any such the loan
40 a greater rate of interest or consideration therefor
41 for the loan than the lender would be permitted by law
42 to charge if the lender were not a licensee hereunder
43 under this chapter, except as authorized by this
44 chapter and without first obtaining a license from the
45 superintendent.

46 4. A person who enters into less than ten
47 supervised loans per year in this state and who
48 neither has an office physically located in this state
49 nor engages in face-to-face solicitation in this state
50 may contract for and receive the rate of interest

1 permitted in this chapter for licensees hereunder
2 under this chapter. A "consumer loan" ~~shall be~~ means
3 the same as defined in section 537.1301.

4 Sec. 3. Section 536.10, unnumbered paragraph 3,
5 Code 1985, is amended to read as follows:

6 Every A licensee subject to examination,
7 supervision and regulation by the superintendent,
8 shall pay to the superintendent an examination fee,
9 based on the actual cost of the operation of the ~~small~~
10 regulated loan division of the department of banking,
11 and the proportionate share of administrative expenses
12 in the operation of the department of banking
13 attributable to the ~~small~~ regulated loan division as
14 determined by the superintendent of banking. ~~Such~~ The
15 fee shall apply equally to all licenses and shall not
16 be changed more frequently than annually and when
17 changed, shall be effective on January 1 of the year
18 following the year in which the change is approved.

19 Sec. 4. Section 536.13, Code 1985, is amended to
20 read as follows:

21 536.13 BANKING BOARD -- REPORT -- ADDITIONAL
22 RESTRICTIONS.

23 1. ~~It shall be the duty of the~~ The state banking
24 ~~board, hereinafter called the board, and it shall have~~
25 ~~power, jurisdiction, and authority, from time to time~~
26 to may investigate the conditions and find the facts
27 with reference to the business of making ~~small~~
28 regulated loans, as described in section 536.1,
29 ~~hereinafter referred to as small loans,~~ and after
30 making such the investigation, report in writing ~~their~~
31 its findings to the next regular session of the
32 general assembly, and upon the basis of such the
33 facts:

34 a. ~~To classify small~~ Classify regulated loans by a
35 regulation according to such a system of
36 differentiation as which will reasonably distinguish
37 such the classes of loans for the purposes of this
38 chapter, ~~and.~~

39 b. ~~To determine~~ Determine and fix by a regulation
40 such rule the maximum rate of interest or charges upon
41 each such class of ~~small~~ regulated loans as which will
42 induce efficiently managed commercial capital to enter
43 such the business in sufficient amounts to make
44 available adequate credit facilities to individuals
45 ~~without the security or financial responsibility~~
46 ~~usually required by banks.~~ Such The maximum rate of
47 interest or charge shall be stated by the board as an
48 annual percentage rate calculated according to the
49 actuarial method and applied to the unpaid balances of
50 the amount financed.

1 2. ~~The~~ Except as provided in subsection 7, the
2 board may ~~from-time-to-time, commencing March 17, 1935,~~
3 redetermine and refix by a regulation rule, in
4 accordance with subsection 1 above, any maximum rate
5 of interest or charges previously fixed by it, but
6 such the changed maximum rates shall not affect pre-
7 existing loan contracts lawfully entered into between
8 any a licensee and any a borrower; all regulations.
9 All rules which the board may make respecting rates of
10 interest or charges shall fix and contain state the
11 effective date thereof of the rules, which shall not
12 be earlier than thirty days after notice to each
13 licensee by mailing such the notice to each licensed
14 place of business.

15 3. Before fixing any classification of ~~small~~
16 regulated loans or any maximum rate of interest or
17 charges, or changing ~~any such~~ a classification or rate
18 under authority of this section, the board shall give
19 reasonable notice of its intention to consider doing
20 so to all licensees and a reasonable opportunity to be
21 heard ~~thereon~~ and to introduce evidence with respect
22 thereto to the change or classification.

23 4. Beginning July 4, 1965, and until such time as
24 a different rate is fixed by the board, the maximum
25 rate of interest or charges upon ~~such the~~ class or
26 classes of ~~small regulated~~ loans ~~shall be~~ is three
27 percent per month on any part of the unpaid principal
28 balance of the loan not exceeding one hundred fifty
29 dollars and two percent per month on any part of the
30 loan in excess of one hundred fifty dollars, but not
31 exceeding three hundred dollars, and one and one-half
32 percent per month on any part of the unpaid principal
33 balance of the loan in excess of three hundred
34 dollars, but not exceeding seven hundred dollars, and
35 one percent per month on any part of the unpaid
36 principal balance of the loan in excess of seven
37 hundred dollars.

38 5. Every A licensee hereunder under this chapter
39 may lend any sum of money not exceeding two twenty-
40 five thousand dollars in amount and may charge,
41 contract for, and receive thereon on the loan interest
42 or charges at a rate not exceeding the maximum rate of
43 interest or charges determined and fixed by the board
44 under authority of this section or-by-the-provisions
45 of-the-preceding-subsection-4 or pursuant to
46 subsection 7 for those amounts in excess of ten
47 thousand dollars.

48 6. ~~The following provision shall apply to all~~
49 ~~loans including consumer loans made by a licensee~~
50 ~~hereunder: If any interest or charge on a loan~~

1 regulated by this chapter in excess of those permitted
2 by this chapter are is charged, contracted for, or
3 received, the contract of loan shall-be is void as to
4 interest and charges and the licensee shall-have has
5 no right to collect or receive any principal, interest
6 or charges whatsoever. In addition, the licensee
7 shall forfeit the right to collect the lesser of two
8 thousand dollars of principal of the loan or the total
9 amount of the principal of the loan.

10 7. The board may establish the maximum rate of
11 interest or charges as permitted under this chapter
12 for those loans whose unpaid principal balance is ten
13 thousand dollars or less. For those loans whose
14 unpaid principal balance is over ten thousand dollars,
15 the maximum rate of interest or charges which a
16 licensee may charge shall be the greater of the rate
17 permitted by chapter 535 or the rate authorized for
18 supervised financial organizations by chapter 537.

19 The provisions-of-the Iowa consumer credit code
20 shall-apply, chapter 537, applies to a consumer loan
21 in which the licensee participates or engages, and any
22 a violation of the Iowa consumer credit code shall-be
23 is a violation of this chapter.

24 Article 2, parts 3, 5 and 6 of chapter 537, and
25 article 3 of chapter 537, sections 537.3203, 537.3206,
26 537.3209, 537.3304, 537.3305 and 537.3306 shall apply
27 to any credit transaction, as defined in section
28 537.1301 in which a licensee participates or engages,
29 and any violation of those parts or sections shall-be
30 is a violation of this chapter. For the purpose of
31 applying the-provisions-of the Iowa consumer credit
32 code to those credit transactions, "consumer loan"
33 shall-include includes a loan for a business purpose.

34 A provision of the Iowa consumer credit code
35 applicable to loans regulated by this chapter shall
36 supersede supersedes a conflicting provision of this
37 chapter.

38 Sec. 5. Section 536.15, Code 1985, is amended to
39 read as follows:

40 536.15 USURY -- LIMITATION ON PRINCIPAL LOAN.

41 No A licensee shall not directly or indirectly
42 charge, contract for, or receive any interest or
43 consideration greater than the lender would be
44 permitted by law to charge if the lender were not a
45 licensee hereunder upon the loan, use, or forbearance
46 of money, goods, or things in action, or upon the
47 loan, use, or sale of credit, of the amount or value
48 of more than two twenty-five thousand dollars. The
49 foregoing-prohibition-shall This section also apply
50 applies to any a licensee who permits any a person, as

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1 borrower or as endorser, guarantor, or surety for any
2 a borrower, or otherwise, to owe directly or
3 contingently or both to the licensee at any time the
4 sum of more than two twenty-five thousand dollars for
5 principal.

6 Sec. 6. Section 536.25, Code 1985, is amended to
7 read as follows:

8 536.25 STATEMENT OF OTHER LOANS BY BORROWER.

9 Every A licensee when making a loan hereunder under
10 this chapter shall require a statement in writing from
11 each applicant setting forth a description of all
12 installment indebtedness of such the applicant by
13 giving the amount of each such loan and the name of
14 the lender. The applicant may orally disclose the
15 information and the licensee shall write down the
16 information, and the applicant shall subsequently sign
17 the statement.

18 Sec. 7. Section 536.26, unnumbered paragraph 1,
19 Code 1985, is amended to read as follows:

20 No A licensee shall not, directly or indirectly,
21 sell or offer for sale any life, or accident and
22 health insurance in connection with any a loan made
23 under this chapter except as and to the extent
24 authorized by this section. Life, accident and health
25 insurance, or any of them, may be written by a
26 licensed insurance agent upon or in connection with
27 any loan for a term not extending beyond the final
28 maturity date of the loan contract but only upon one
29 obligor on any one loan contract.

30 Sec. 8. Section 536.28, Code 1985, is amended by
31 adding the following new subsections:

32 NEW SUBSECTION. 3. "Board" means the state
33 banking board.

34 NEW SUBSECTION. 4. "Consumer loan" means a loan
35 as defined in section 537.1301.

36 NEW SUBSECTION. 5. "Superintendent" means the
37 state superintendent of banking.

38 Sec. 9. NEW SECTION. 536.30 INSURANCE RELATED TO
39 PROPERTY OF BORROWER.

40 A licensee may sell the borrower insurance against
41 loss of or damage to property owned by the borrower or
42 loss from liability arising out of the ownership or
43 use of property owned by the borrower. When the
44 transaction is a consumer credit transaction as
45 defined in section 537.1301 the sale of property
46 insurance is subject to the requirements of sections
47 537.2501 and 537.2510 and the rules adopted under
48 those sections by the administrator of the Iowa
49 consumer credit code.

50 Sec. 10. Section 536A.5, Code 1985, is amended by

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- 1 striking the section and inserting in lieu thereof the
2 following:
3 536A.5 EXEMPTIONS.
4 This chapter does not apply to any of the
5 following:
6 1. Businesses organized or operating as permitted
7 under the authority of a law of this state or the
8 United States relating to banks, trust companies,
9 building and loan associations, savings and loan
10 associations, insurance companies, regulated loan
11 companies organized under chapter 536, or credit
12 unions.
13 2. Persons that make loans only on notes secured
14 by first mortgages on real estate.
15 3. Licensed real estate brokers or salespersons.
16 4. A person engaged exclusively in the business of
17 purchasing commodity financing or commercial paper.
18 5. A pawnbroker.
19 6. A person engaged in the mercantile business.
20 7. Loans made to a domestic or foreign
21 corporation."
22 2. Title page, line 3, by striking the word
23 "twenty-five" and inserting the following: "ten".
24 3. Title page, line 7, by striking the word
25 "repealing" and inserting the following: "modifying".

S-3663 Filed April 9, 1985
Adopted 4/9/85 (p. 1267)

By GRONSTAL

SSB 242
Commerce

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
COMMERCE BILL)

*New
SF 544*

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

A BILL FOR

1 An Act relating to chattel loans by providing a short title
2 to chapter 536, increasing the maximum amount of a
3 regulated loan from two thousand to twenty-five thousand
4 dollars, permitting a licensee to sell property insurance
5 to borrowers on property owned by the borrowers, modi-
6 fying the penalty if a licensee charges excessive interest
7 or other charges, and repealing a requirement that an
8 applicant for a loan shall report other installment loans
9 that the applicant may have.

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2 1985, is amended to read as follows:

3 b. Banks, savings and loan associations, insurance
4 companies and similar fiduciaries, ~~chattel~~ regulated loan
5 companies licensed under chapter 536 and industrial loan
6 companies licensed under chapter 536A, ~~as duly licensed in~~
7 ~~Iowa-by-law~~, authorized and admitted to transact business in
8 this state and performing credit and financial adjusting in
9 the regular course of their principal business, or while
10 performing an escrow function.

11 Sec. 2. Section 536.1, Code 1985, is amended to read as
12 follows:

13 536.1 TITLE -- LICENSE AND RIGHTS THEREUNDER----FACE-TO-
14 FACE-SOLICITATION REQUIRED.

15 1. This chapter may be referred to as the "Iowa Regulated
16 Loan Act".

17 2. With respect to a loan other than a consumer loan, no a
18 person, copartnership, association, or corporation shall not
19 engage in the business of making loans of money, credit,
20 goods, or things in action in the amount or of the value of
21 two twenty-five thousand dollars or less and charge, contract
22 for, or receive on any such the loan a greater rate of
23 interest or consideration therefor for the loan than the
24 lender would be permitted by law to charge if the lender were
25 not a licensee hereunder under this chapter except as
26 authorized by this chapter and without first obtaining a
27 license from the superintendent of banking, hereinafter-called
28 the-superintendent.

29 3. With respect to a consumer loan, a person required by
30 section 537.2301 to have a license shall not engage in the
31 business of making loans of money, credit, goods or things in
32 action in the amount or value of two twenty-five thousand
33 dollars or less and charge, contract for, or receive on any
34 such the loan a greater rate of interest or consideration
35 therefor for the loan than the lender would be permitted by

1 law to charge if the lender were not a licensee hereunder
2 under this chapter, except as authorized by this chapter and
3 without first obtaining a license from the superintendent.

4 4. A person who enters into less than ten supervised loans
5 per year in this state and who neither has an office
6 physically located in this state nor engages in face-to-face
7 solicitation in this state may contract for and receive the
8 rate of interest permitted in this chapter for licensees
9 hereunder under this chapter. A "consumer loan" ~~shall be~~
10 means the same as defined in section 537.1301.

11 Sec. 3. Section 536.10, unnumbered paragraph 3, Code 1985,
12 is amended to read as follows:

13 ~~Every~~ A licensee subject to examination, supervision and
14 regulation by the superintendent, shall pay to the
15 superintendent an examination fee, based on the actual cost of
16 the operation of the ~~small~~ regulated loan division of the
17 department of banking, and the proportionate share of
18 administrative expenses in the operation of the department of
19 banking attributable to the ~~small~~ regulated loan division as
20 determined by the superintendent of banking. ~~Such~~ The fee
21 shall apply equally to all licenses and shall not be changed
22 more frequently than annually and when changed, shall be
23 effective on January 1 of the year following the year in which
24 the change is approved.

25 Sec. 4. Section 536.13, Code 1985, is amended to read as
26 follows:

27 536.13 BANKING BOARD -- REPORT -- ADDITIONAL RESTRICTIONS.

28 1. ~~It shall be the duty of the~~ The state banking board,
29 ~~hereinafter called the board, and it shall have power,~~
30 ~~jurisdiction, and authority, from time to time to~~ may
31 investigate the conditions and find the facts with reference
32 to the business of making ~~small~~ regulated loans, as described
33 in section 536.17 ~~hereinafter referred to as small loans,~~ and
34 after making ~~such~~ the investigation, report in writing ~~their~~
35 its findings to the next regular session of the general

1 assembly, and upon the basis of such the facts:

2 a. To classify ~~small~~ regulated loans by a regulation
3 according to such a system of differentiation as which will
4 reasonably distinguish such the classes of loans for the
5 purposes of this chapter, ~~and~~.

6 b. To determine and fix by a ~~regulation~~-such rule the
7 maximum rate of interest or charges upon each such class of
8 ~~small~~ regulated loans as which will induce efficiently managed
9 commercial capital to enter such the business in sufficient
10 amounts to make available adequate credit facilities to
11 individuals ~~without-the-security-or-financial-responsibility~~
12 ~~usually-required-by-banks~~. The maximum rate of interest
13 or charge shall be stated by the board as an annual percentage
14 rate calculated according to the actuarial method and applied
15 to the unpaid balances of the amount financed.

16 2. The board may ~~from-time-to-time, commencing-March-17~~
17 ~~1935~~, redetermine and refix by a ~~regulation~~ rule, in
18 accordance with subsection 1 above, any maximum rate of
19 interest or charges previously fixed by it, but such the
20 changed maximum rates shall not affect pre-existing loan
21 contracts lawfully entered into between any a licensee and any
22 a borrower, ~~all regulations~~. All rules which the board may
23 make respecting rates of interest or charges shall ~~fix-and~~
24 contain state the effective date thereof of the rules, which
25 shall not be earlier than thirty days after notice to each
26 licensee by mailing such the notice to each licensed place of
27 business.

28 3. Before fixing any classification of ~~small~~ regulated
29 loans or any maximum rate of interest or charges, or changing
30 ~~any-such a~~ classification or rate under authority of this
31 section, the board shall give reasonable notice of its
32 intention to consider doing so to all licensees and a
33 reasonable opportunity to be heard thereon and to introduce
34 evidence with respect thereto to the change or classification.

35 4. Beginning July 4, 1965, and until such time as a

1 different rate is fixed by the board, the maximum rate of
 2 interest or charges upon ~~such~~ the class or classes of ~~small~~
 3 regulated loans ~~shall-be~~ is three percent per month on any
 4 part of the unpaid principal balance of the loan not exceeding
 5 one hundred fifty dollars and two percent per month on any
 6 part of the loan in excess of one hundred fifty dollars, but
 7 not exceeding three hundred dollars, and one and one-half
 8 percent per month on any part of the unpaid principal balance
 9 of the loan in excess of three hundred dollars, but not
 10 exceeding seven hundred dollars, and one percent per month on
 11 any part of the unpaid principal balance of the loan in excess
 12 of seven hundred dollars.

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

20 6. ~~The-following-provision-shall-apply-to-all-loans~~
 21 ~~including-consumer-loans-made-by-a-licensee-hereunder:~~ If any
 22 interest or charge on a loan regulated by this chapter in
 23 excess of those permitted by this chapter ~~are~~ is charged,
 24 contracted for, or received, the contract of loan ~~shall-be~~ is
 25 void as to interest and charges and the licensee ~~shall-have~~
 26 has no right to collect or receive any ~~principal,~~ interest or
 27 charges whatsoever.

28 ~~The provisions-of-the~~ Iowa consumer credit code ~~shall~~
 29 apply, chapter 537, applies to a consumer loan in which the
 30 licensee participates or engages, and any a violation of the
 31 Iowa consumer credit code ~~shall-be~~ is a violation of this
 32 chapter.

33 Article 2, parts 3, 5 and 6 of chapter 537, and article 3
 34 of chapter 537, sections 537.3203, 537.3206, 537.3209,
 35 537.3304, 537.3305 and 537.3306 ~~shall~~ apply to any credit

1 loan contract but only upon one obligor on any one loan
2 contract.

3 Sec. 7. Section 536.28, Code 1985, is amended by adding
4 the following new subsections:

5 NEW SUBSECTION. 3. "Board" means the state banking board.

6 NEW SUBSECTION. 4. "Consumer loan" means a loan as de-
7 fined in section 537.1301.

8 NEW SUBSECTION. 5. "Superintendent" means the state su-
9 perintendent of banking.

10 Sec. 8. NEW SECTION. 536.30 INSURANCE RELATED TO PROP-
11 ERTY OF BORROWER.

12 A licensee may sell the borrower insurance against loss of
13 or damage to property owned by the borrower or loss from lia-
14 bility arising out of the ownership or use of property owned
15 by the borrower.

16 Sec. 9. Section 536A.5, Code 1985, is amended by striking
17 the section and inserting in lieu thereof the following:

18 536A.5 EXEMPTIONS.

19 This chapter does not apply to any of the following:

20 1. Businesses organized or operating as permitted under
21 the authority of a law of this state or the United States re-
22 lating to banks, trust companies, building and loan associa-
23 tions, savings and loan associations, insurance companies,
24 regulated loan companies organized under chapter 536, or
25 credit unions.

26 2. Persons that make loans only on notes secured by first
27 mortgages on real estate.

28 3. Licensed real estate brokers or salespersons.

29 4. A person engaged exclusively in the business of
30 purchasing commodity financing or commercial paper.

31 5. A pawnbroker.

32 6. A person engaged in the mercantile business.

33 7. Loans made to a domestic or foreign corporation.

34 Sec. 10. Section 536.25, Code 1985, is repealed.

35

EXPLANATION

1 This bill makes several changes to chapter 536 relating to
2 chattel loans. A short title of the "Iowa Regulated Loan Act"
3 is given to the chapter. References to "small loans" have
4 been changed to "regulated loans". The maximum amount of a
5 loan under the chapter would be increased from two thousand
6 dollars to twenty-five thousand dollars. The bill also
7 permits a licensee to sell certain types of property insurance
8 to borrowers on property owned by the borrower, permits a
9 licensee to collect the principal of a loan even if the
10 interest rate or other charges are in excess of that
11 permitted, and repeals a section requiring an applicant for a
12 loan to report all other installment loans the applicant might
13 have.

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