

FILED MAR 11 1991

SENATE FILE 311
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 152)
Substituted for H.F. 680 4/1/91

Passed Senate, Date 3/18/91 (S.F. 186) Passed House, Date 4/24/91 (H.F. 156)
Vote: Ayes 47 Nays 0 Vote: Ayes 74 Nays 1

Approved May 29, 1991
Repassed Senate as further amended 4/30/91 (S.F. 156) Ayes 47, Nays 0 *Repassed House as Senate amendment 5/3/91 (H.F. 2074) 72-0*

A BILL FOR

1 An Act requiring registration of persons located outside of this
2 state who issue credit cards, providing for an examination
3 fee, and providing a penalty.

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

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3791
1 Section 1. NEW SECTION. 536C.1 TITLE.

2 This chapter shall be known and may be cited as the "Lender
3 Credit Card Act".

4 Sec. 2. NEW SECTION. 536C.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

4-35-17 1. "Administrator" means the superintendent of banking or
8 the superintendent of credit unions. However, the powers of
9 administration and enforcement of this chapter are to be
10 exercised pursuant to section 536C.14.

11 2. "Agreement" means agreement as defined in section
12 537.1301, subsection 3.

13 3. "Cardholder" means cardholder as defined in section
14 537.1301, subsection 7.

15 4. "Consumer credit transaction" means consumer credit
16 transaction as defined in section 537.1301, subsection 11.

17-917 5. "Credit card" means a card or device issued under an
18 arrangement pursuant to which a card issuer gives a cardholder
19 the privilege of purchasing or leasing property, or purchasing
20 services, obtaining loans, or otherwise obtaining credit from
21 at least one hundred persons not related to the card issuer.

3109 22 6. "Person" means any individual, firm, corporation,
23 partnership, joint venture, or association, and any other
24 organization or group, however organized.

25 Sec. 3. NEW SECTION. 536C.3 EXEMPTIONS.

26 This chapter does not apply to a bank chartered under
27 chapter 524 or a bank chartered under federal law which has
28 its principal place of business located in this state, a
29 savings and loan association chartered under chapter 534 or a
30 savings and loan association chartered under federal law which
31 has its principal place of business located in this state, a
32 credit union chartered under chapter 533 or a credit union
33 chartered under federal law which has its principal place of
34 business located in this state, regulated loan companies
35 licensed under chapter 536, or industrial loan companies

1 licensed under chapter 536A.

2 Sec. 4. NEW SECTION. 536C.4 NOTIFICATION.

3 1. A person shall file a registration statement annually
4 with the administrator before conducting the business of
5 issuing credit cards in this state, and annually thereafter on
6 or before January 31 of each year. The registration statement
7 shall be in writing on a form prescribed by the administrator,
8 and contain the name and address of the registrant, the name
9 and address of a designated agent upon whom service of process
10 may be made in this state, and any other information the
11 administrator deems relevant.

12 2. At the time of filing a registration statement the
13 person shall provide the administrator with a copy of the
14 credit agreement and billing statement being used by the card
15 issuer.

16 3. If information in a filing statement becomes inaccurate
17 after filing, the person shall notify the administrator in
18 writing of the changes within sixty days of such change.

19 Sec. 5. NEW SECTION. 536C.5 FEES.

20 A person required to file a registration statement pursuant
21 to this chapter shall pay to the administrator an annual fee
22 of fifty dollars. The fee shall be paid at the time the
23 person files the registration statement.

24 Sec. 6. NEW SECTION. 536C.6 APPLICABILITY OF IOWA
25 CONSUMER CREDIT CODE.

26 1. The terms and conditions of a credit card agreement
27 shall conform to the provisions of chapter 537, the Iowa
28 consumer credit code.

29 2. A provision of the Iowa consumer credit code applicable
30 to credit cards regulated by this chapter supersedes a
31 conflicting provision of this chapter.

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32 Sec. 7. NEW SECTION. 536C.7 BOOKS AND RECORDS.

33 A person who issues credit cards shall keep such books,
34 accounts, and records as will enable the administrator to
35 determine whether or not the person is complying with the

1 provisions of this chapter and chapter 537. The person shall
2 not be required to preserve or keep their records or files for
3 a longer period than three years following the date of the
4 final payment.

5 Sec. 8. NEW SECTION. 536C.8 INVESTIGATIONS.

6 1. The administrator may investigate at any time the
7 business of a credit card issuer subject to the provisions of
8 this chapter. The administrator may examine the books,
9 records, accounts, and files pertaining to the business of
10 issuing credit cards subject to the provisions of this
11 chapter.

12 2. The administrator may accept a copy of an examination
13 conducted by a state or federal regulator in lieu of an
14 investigation or examination by the administrator.

15 3. If an investigation or examination is performed by the
16 administrator under this section, the credit card issuer shall
17 pay to the administrator a fee based on the actual cost of
18 such investigation or examination as determined by the
19 administrator.

20 4. Upon completion of an investigation or examination by
21 the administrator, the examiner shall render a billing in
22 triplicate, with one copy to be delivered to the credit card
23 issuer and two copies to be delivered to the administrator.
24 Failure to pay the fee to the administrator within thirty days
25 after the billing for the investigation of examination is
26 delivered shall subject the credit card issuer to an
27 additional fee of five percent of the amount of the original
28 fee for each day the payment is delinquent.

29 Sec. 9. NEW SECTION. 536C.9 CEASE AND DESIST ORDERS.

30 1. If the administrator has reasonable cause to believe a
31 person who issues credit cards is violating any provision of
32 this chapter, or rules adopted pursuant to this chapter, the
33 administrator may enter a written order requiring the person
34 to cease, desist, and refrain from an act constituting a
35 violation. A copy of the order shall be sent to the person by

1 certified mail. The person may file with the administrator a
2 written notice of appeal within fifteen days of receipt of the
3 order. The person may also request that the order be stayed
4 pending resolution of the appeal. The appellant shall be
5 entitled to prompt consideration of the request to stay the
6 order.

7 2. Within thirty days after receipt of a notice of appeal
8 the administrator shall hold a hearing to consider the appeal.
9 The appellant shall be informed regarding the time and place
10 of the hearing not later than ten days prior to the hearing.
11 The administrator's decision shall be provided, in writing, to
12 the appellant within thirty days of the completion of the
13 hearing.

14 Sec. 10. NEW SECTION. 536C.10 INJUNCTIONS.

15 The administrator may commence an action in the district
16 court to restrain and enjoin any person from violating this
17 chapter, or to restrain and enjoin any person from engaging in
18 the business of issuing credit cards without filing a
19 registration statement as required by this chapter.

20 Sec. 11. NEW SECTION. 536C.11 WAIVER UNENFORCEABLE.

21 A waiver of the provisions of this chapter or chapter 537
22 is not valid.

23 Sec. 12. NEW SECTION. 536C.12 PENALTY.

24 If an officer, director, or agent of a corporation engaged
25 in the business of issuing credit cards violates any of the
26 provisions of this chapter which are not also violations of
27 the Iowa consumer credit code; or if a person individually or
28 as a partner, or officer, director, or agent of a corporation
29 engages in the business of issuing credit cards without filing
30 the registration statement required by section 536C.4, the
31 person is guilty of a serious misdemeanor. Violations of this
32 chapter which are also violations of the Iowa consumer credit
33 code shall be subject to the penalties provided in the Iowa
34 consumer credit code.

35 Sec. 13. NEW SECTION. 536C.13 RULES.

1 The administrator may adopt such rules pursuant to chapter
2 17A, as may be necessary for the enforcement and
3 administration of this chapter.

4 Sec. 14. NEW SECTION. 536C.14 ENFORCEMENT.

5 1. The superintendent of banking shall enforce the
6 provisions of this chapter with respect to banks not exempt
7 from the provisions of this chapter under section 536C.3.

8 2. The superintendent of credit unions shall enforce the
9 provisions of this chapter with respect to credit unions not
10 exempt from the provisions of this chapter under section
11 536C.3.

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12 EXPLANATION

13 This bill requires all nonresident issuers of credit cards
14 who issue credit cards to Iowa residents to register with
15 either the superintendent of banking or the superintendent of
16 credit unions, defined as the administrator, prior to
17 conducting business in this state and annually thereafter. A
18 copy of the credit agreement and billing statement used by the
19 card issuer is to be attached to this filing.

20 The administrator is granted the authority to examine a
21 card issuer concerning an alleged violation of this chapter,
22 and may issue a cease and desist order against a card issuer
23 if there is reasonable cause to believe a violation is
24 occurring.

25 A card issuer who violates this chapter is guilty of a
26 serious misdemeanor unless the violation also violates a
27 provision of the consumer credit code, in which case the
28 penalty under that code is to apply.

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SENATE FILE 311

H-3619

1 Amend Senate File 311, as passed by the Senate, as
2 follows:

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

5 "Section 1. Section 527.2, Code 1991, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 18. "Electronic personal
8 identifier" means a personal and confidential code or
9 other security mechanism which has been designated by
10 a financial institution issuing an access device to a
11 customer to serve as a supplemental means of access to
12 a customer's account that may be used by the customer
13 in conjunction with an access device for the purpose
14 of initiating a transaction by means of a satellite
15 terminal.

16 NEW SUBSECTION. 19. "Limited-function terminal"
17 means an on-line point-of-sale terminal or off-line
18 point-of-sale terminal which is not operated in a
19 manner to accept an electronic personal identifier
20 and is not capable of distinguishing between
21 transactions which affect a customer asset account and
22 transactions which do not affect a customer asset
23 account. Except as otherwise provided, a limited-
24 function terminal shall not be subject to the
25 requirements imposed upon other satellite terminals
26 pursuant to sections 527.4 and 527.5.

27 NEW SUBSECTION. 20. "Customer asset account"
28 means a demand deposit, share, checking, savings, or
29 other customer account, other than an occasional or
30 incidental credit balance in a credit plan, which
31 represents a liability of the financial institution
32 maintaining such account either directly or indirectly
33 for the benefit of a customer.

34 Sec. 2. Section 527.2, subsections 5, 10, and 14,
35 Code 1991, are amended to read as follows:

36 5. "Financial institution" means and includes any
37 bank incorporated under the provisions of ~~chapter-524~~
38 any state or federal law, any savings and loan
39 association incorporated under the provisions of
40 ~~chapter-534~~ any state or federal law, any credit union
41 organized under the provisions of ~~chapter-533~~ any
42 state or federal law, any corporation licensed as an
43 industrial loan company under chapter 536A~~7~~ and any
44 ~~bank, savings and loan association, or credit union~~
45 ~~incorporated under federal law or the laws of a state~~
46 ~~other than Iowa which has an office located within~~
47 ~~this state.~~

48 10. "Satellite terminal" means and includes any
49 machine or device located off the premises of a
50 financial institution, whether attended or unattended,

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1 by means of which the financial institution and its
2 customers utilizing an access device may engage
3 through either the immediate transmission of
4 electronic impulses to or from the financial
5 institution or the recording of electronic impulses or
6 other indicia of a transaction for delayed
7 transmission to the financial institution, in
8 transactions which are incidental to the conduct of
9 the business of the financial institution and which
10 otherwise are specifically permitted by applicable
11 law. "Satellite terminal" also includes any machine
12 or device located on the premises of a financial
13 institution only if the machine or device is available
14 for use by customers of other financial institutions.
15 However, the term "satellite terminal" does not
16 include any such machine or device, wherever located,
17 if that machine or device is not generally accessible
18 to persons other than employees of a financial
19 institution or an affiliate of a financial
20 institution.

21 14. "Access device" means a card, code, or other
22 means-of-access-to-a-customer's-account mechanism, or
23 any combination thereof, that may be used by ~~the~~ a
24 customer for the purpose of initiating a transaction
25 by means of a satellite terminal which will affect a
26 customer asset account which is maintained by a
27 financial institution at a business location or office
28 located in this state.

29 Sec. 3. Section 527.2, subsection 6, paragraph a,
30 Code 1991, is amended to read as follows:

31 a. The machine or device is established and owned
32 or operated by a person who primarily engages in a
33 service, business or enterprise, including but not
34 limited to the retail sale of goods or services, but
35 who is not organized under the laws of this state or
36 under federal law as a bank, savings and loan
37 association, or credit union;

38 Sec. 4. Section 527.3, Code 1991, is amended by
39 adding the following new subsection:

40 NEW SUBSECTION. 6. The authority of an
41 administrator pursuant to section 527.5, subsection 2,
42 paragraph "a", to approve access cards issued by a
43 financial institution for use as an access device
44 includes the requirement that a registration statement
45 shall be filed with the administrator and be
46 maintained on a current basis by each financial
47 institution issuing access cards within the state.
48 The registration statement shall be in writing on a
49 form prescribed by the administrator, and contain the
50 name and address of the registrant, a depiction of

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1 both sides of the access card, and any other
2 information the administrator deems relevant.

3 Sec. 5. Section 527.4, subsection 3, paragraph d,
4 subparagraph (2), Code 1991, is amended to read as
5 follows:

6 (2) The satellite terminal is not designed,
7 configured, or operated to dispense cash except when
8 operated by the retailer ~~as part of a retail sales~~
9 ~~transaction.~~

10 Sec. 6. Section 527.5, subsection 8, Code 1991, is
11 amended to read as follows:

12 8. a. A satellite terminal in this state shall
13 not be operated in a manner to permit a person to
14 credit a ~~demand-deposit-account, savings-account,~~
15 ~~share-account, or any other account representing a~~
16 ~~liability of a financial institution~~ customer asset
17 account, if that the business location of the
18 financial institution where the original records
19 pertaining to the customer asset account are
20 maintained is located outside of this state.

21 b. Paragraph "a" of this subsection does not apply
22 to a corporation licensed under chapter 536A. A
23 satellite terminal shall not be operated in any manner
24 to permit a person to credit ~~an account representing a~~
25 ~~liability~~ a customer asset account of a corporation
26 licensed under chapter 536A, if the business location
27 of the corporation where the original records
28 pertaining to the ~~person's~~ customer asset account are
29 maintained is located outside of this state.

30 Sec. 7. Section 527.5, subsection 9, paragraph b,
31 subparagraph (2), Code 1991, is amended to read as
32 follows:

33 (2) The transaction does not affect a deposit
34 customer asset account held by a financial
35 institution.

36 Sec. 8. Section 527.5, Code 1991, is amended by
37 adding the following new subsections:

38 NEW SUBSECTION. 11. A financial institution
39 establishing a limited-function terminal within this
40 state shall file with the administrator and shall
41 maintain on a current basis a registration statement
42 on a form prescribed by the administrator containing
43 the name and address of the registrant, the location
44 of the limited-function terminal, and any other
45 information the administrator deems relevant.

46 NEW SUBSECTION. 12. If at any time, a limited-
47 function terminal is upgraded, altered, or modified in
48 such a manner as to permit the use of an electronic
49 personal identifier or to be capable of distinguishing
50 between transactions which affect customer asset

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1 accounts and transactions which do not affect customer
 2 asset accounts, all requirements of a satellite
 3 terminal in this section apply.

4 Sec. 9. Section 527.9, subsection 2, paragraphs e
 5 and f, Code 1991, are amended to read as follows:

6 e. An agreement by the applicant that the proposed
 7 central routing unit will be capable of accepting and
 8 routing, and will be operated to accept and route,
 9 transmissions of data originating at any satellite
 10 terminal located in this state, except limited-
 11 function terminals, whether receiving from that
 12 terminal or from a data processing center or other
 13 central routing unit.

14 f. A representation and undertaking that the
 15 proposed central routing unit is directly connected to
 16 every data processing center that is directly
 17 connected to a satellite terminal located in this
 18 state, and that the proposed central routing unit will
 19 provide for direct connection in the future with any
 20 data processing center that becomes directly connected
 21 to a satellite terminal located in this state. This
 22 representation and undertaking is not required of a
 23 central routing unit with respect to limited-function
 24 terminals."

25 2. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-3619 FILED APRIL 12, 1991

w/ff 4/24/91

SENATE FILE 311

H-3709

1 Amend Senate File 311, as passed by the Senate, as
 2 follows:

3 1. Page 1, line 17, by inserting after the word
 4 "issued" the following: "by a financial institution".

5 2. Page 1, by striking line 22, and inserting the
 6 following:

7 "6. "Financial institution" means a bank
 8 incorporated under the provisions of any state or
 9 federal law, a savings and loan association
 10 incorporated under the provisions of any state or
 11 federal law, a credit union organized under the
 12 provisions of any state or federal law, and any
 13 affiliate of such bank, savings and loan association,
 14 or credit union.

15 7. "Person" means any individual, firm,
 16 corporation,".

By HALVORSON of Webster
 KREMER of Buchanan

H-3709 FILED APRIL 18, 1991

Adopted 4/24/91 (p. 1500)

SENATE FILE 311

H-3791

1 Amend Senate File 311, as passed by the Senate, as
2 follows:

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

5 "Section 1. Section 527.2, Code 1991, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 18. "Electronic personal
8 identifier" means a personal and confidential code or
9 other security mechanism which has been designated by
10 a financial institution issuing an access device to a
11 customer to serve as a supplemental means of access to
12 a customer's account that may be used by the customer
13 in conjunction with an access device for the purpose
14 of initiating a transaction by means of a satellite
15 terminal.

16 NEW SUBSECTION. 19. "Limited-function terminal"
17 means an on-line point-of-sale terminal or an off-line
18 point-of-sale terminal which satisfies the
19 requirements of section 527.4, subsection 3, paragraph
20 "d", or a multiple use terminal, which is not operated
21 in a manner to accept an electronic personal
22 indentifier, and which is not operated to distinguish
23 between transactions which affect a customer asset
24 account and transactions which do not affect a
25 customer asset account. Except as otherwise provided,
26 a limited-function terminal shall not be subject to
27 the requirements imposed upon other satellite
28 terminals pursuant to sections 527.4 and 527.5,
29 subsections 1, 2, 3, 7, and 9.

30 NEW SUBSECTION. 20. "Customer asset account" or
31 "account" means a demand deposit, share, checking,
32 savings, or other customer account, other than an
33 occasional or incidental credit balance in a credit
34 plan, which represents a liability of the financial
35 institution which maintains such account at a business
36 location or office located in this state, either
37 directly or indirectly for the benefit of a customer.

38 Sec. 2. Section 527.2, subsections 5, 10, and 14,
39 Code 1991, are amended to read as follows:

40 5. "Financial institution" means and includes any
41 bank incorporated under the provisions of ~~chapter-524~~
42 any state or federal law, any savings and loan
43 association incorporated under the provisions of
44 ~~chapter-534~~ any state or federal law, any credit union
45 organized under the provisions of ~~chapter-533~~ any
46 state or federal law, any corporation licensed as an
47 industrial loan company under chapter 536A, and any
48 affiliate of a bank, savings and loan association, or
49 credit union incorporated under federal law or the
50 laws of a state other than Iowa which has an office

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1 ~~located within this state, or industrial loan company.~~
2 10. "Satellite terminal" means and includes any
3 machine or device located off the premises of a
4 financial institution, and any machine or device
5 located on the premises of a financial institution
6 only if the machine or device is available for use by
7 customers of other financial institutions, whether
8 attended or unattended, by means of which the
9 financial institution and its customers utilizing an
10 access device may engage through either the immediate
11 transmission of electronic impulses to or from the
12 financial institution or the recording of electronic
13 impulses or other indicia of a transaction for delayed
14 transmission to the financial institution, in
15 transactions which are incidental to the conduct of
16 the business of the financial institution affect a
17 customer asset account and which otherwise are
18 specifically permitted by applicable law. "Satellite
19 terminal" also includes any machine or device located
20 on the premises of a financial institution only if the
21 machine or device is available for use by customers of
22 other financial institutions. However, the term
23 "satellite terminal" does not include any such machine
24 or device, wherever located, if that machine or device
25 is not generally accessible to persons other than
26 employees of a financial institution or an affiliate
27 of a financial institution.

28 14. "Access device" means a card, code, or other
29 ~~means of access to a customer's account~~ mechanism, or
30 any combination thereof, that may be used by the a
31 customer for the purpose of initiating a transaction
32 by means of a satellite terminal which will affect a
33 customer asset account.

34 Sec. 3. Section 527.2, subsection 6, paragraph a,
35 Code 1991, is amended to read as follows:

36 a. The machine or device is established and owned
37 or operated by a person who primarily engages in a
38 service, business or enterprise, including but not
39 limited to the retail sale of goods or services, but
40 who is not organized under the laws of this state or
41 under federal law as a bank, savings and loan
42 association, or credit union;

43 Sec. 4. Section 527.3, subsection 2, Code 1991, is
44 amended to read as follows:

45 2. The administrator shall have the authority to
46 examine any person who operates a multiple use
47 terminal, limited-function terminal, or other
48 satellite terminal, and any other device or facility
49 with which such terminal is interconnected, as to any
50 transaction by, with, or involving a financial

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1 institution which affects a customer asset account.
2 Information obtained in the course of such an
3 examination shall not be disclosed, except as provided
4 by law.

5 Sec. 5. Section 527.3, Code 1991, is amended by
6 adding the following new subsections:

7 NEW SUBSECTION. 6. The authority of an
8 administrator pursuant to section 527.5, subsection 2,
9 paragraph "a", to approve access cards issued by a
10 financial institution for use as an access device
11 includes the requirement that a registration statement
12 shall be filed with the administrator and be
13 maintained on a current basis by each financial
14 institution issuing access cards within the state.
15 The registration statement shall be in writing on a
16 form prescribed by the administrator, and contain the
17 name and address of the registrant, a depiction of
18 both sides of the access card, and any other
19 information the administrator deems relevant relating
20 to the access card and transactions utilizing the
21 access card which affect a customer asset account.

22 NEW SUBSECTION. 7. A financial institution shall
23 not be required to join, be a member or shareholder
24 of, or otherwise participate in, any corporation,
25 association, partnership, cooperative, or other
26 enterprise as a condition of the financial
27 institution's utilization of any satellite terminal
28 located within this state.

29 Sec. 6. Section 527.4, subsection 3, paragraph d,
30 Code 1991, is amended to read as follows:

31 d. At any ~~retail-sales~~ location in this state off
32 the premises of the financial institution if all of
33 the following apply:

34 (1) The satellite terminal is not ~~designed~~
35 ~~configured~~, or operated to accept deposits or to
36 dispense scrip or other negotiable instruments.

37 (2) The satellite terminal is not ~~designed~~
38 ~~configured~~, or operated to dispense cash except when
39 operated by ~~the-retailer-as-part-of-a-retail-sales~~ a
40 person other than the customer initiating the
41 transaction.

42 (3) The satellite terminal is utilized for the
43 purpose of making payment to the ~~retailer-for~~ provider
44 of goods or services purchased or provided at the
45 location of the satellite terminal.

46 Sec. 7. Section 527.5, subsection 2, paragraph b,
47 Code 1991, is amended by striking the paragraph.

48 Sec. 8. Section 527.5, subsection 6, Code 1991, is
49 amended to read as follows:

50 6. The charges required to be paid by any

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1 financial institution which utilizes the satellite
2 terminal for transactions involving an access device
3 shall not exceed a pro rata portion of the costs,
4 determined in accordance with generally accepted
5 accounting principles, of establishing, operating and
6 maintaining the satellite terminal, plus a reasonable
7 return on these costs to the owner of the satellite
8 terminal.

9 Sec. 9. Section 527.5, subsection 8, Code 1991, is
10 amended to read as follows:

11 8. a. A satellite terminal in this state shall
12 not be operated in a manner to permit a person to
13 credit deposit funds into a demand deposit account,
14 savings account, share account, or any other account
15 representing a liability of a financial institution,
16 if ~~that~~ the business location of the financial
17 institution where the original records pertaining to
18 the person's account are maintained is located outside
19 of this state.

20 b. Paragraph "a" of this subsection does not apply
21 to a corporation licensed under chapter 536A. A
22 satellite terminal shall not be operated in any manner
23 to permit a person to credit deposit funds into an
24 account representing a liability of a corporation
25 licensed under chapter 536A, if the business location
26 of the corporation where the original records
27 pertaining to the person's account are maintained is
28 located outside of this state.

29 Sec. 10. Section 527.5, subsection 9, paragraph b,
30 subparagraph (2), Code 1991, is amended to read as
31 follows:

32 (2) The transaction does not affect a deposit
33 customer asset account held by a financial
34 institution.

35 Sec. 11. Section 527.5, Code 1991, is amended by
36 adding the following new subsections:

37 NEW SUBSECTION. 11. Any person, as defined in
38 section 4.1, subsection 13, establishing a limited-
39 function terminal within this state, except for a
40 multiple use terminal, which is utilized to initiate
41 transactions affecting a customer asset account shall
42 file with the administrator and shall maintain on a
43 current basis a registration statement on a form
44 prescribed by the administrator containing the name
45 and address of the registrant, the location of the
46 limited-function terminal, and any other information
47 the administrator deems relevant. All limited-
48 function terminals established in this state prior to
49 July 1, 1991, shall be registered in a similar manner
50 by the establishing person no later than July 1, 1992.

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1 NEW SUBSECTION. 12. If at any time, a limited-
2 function terminal is upgraded, altered, or modified to
3 be operated in a manner to accept the use of an
4 electronic personal identifier or to distinguish
5 between transactions which affect customer asset
6 accounts and transactions which do not affect customer
7 asset accounts, all requirements of a satellite
8 terminal in this chapter apply. A financial
9 institution not eligible to establish satellite
10 terminals within this state, which has established a
11 limited-function terminal which is subsequently
12 upgraded, altered, or modified as contemplated in this
13 subsection, shall enter into an agreement with a
14 financial institution which is authorized to establish
15 a satellite terminal within this state to comply with
16 the requirements of section 527.4 and this subsection.

17 NEW SUBSECTION. 13. Effective July 1, 1993, any
18 transaction engaged in with a retailer through a
19 satellite terminal located in this state by means of
20 an access device which results in a debit to a
21 customer asset account shall be cleared and paid at
22 par to the retailer during the settlement of such
23 transaction to the retailer. Processing fees and
24 charges for such transactions to the retailer shall
25 not be based on a percentage of the amount of the
26 transaction. All accounting documents reflecting such
27 fees and charges shall separately identify
28 transactions which have resulted in a debit to a
29 customer asset account and the charges imposed. The
30 provisions of this subsection shall apply to all
31 satellite terminals, including limited-function
32 terminals and multiple use terminals.

33 Sec. 12. Section 527.7, subsection 2, Code 1991,
34 is amended to read as follows:

35 2. In any transaction where the total account
36 amount involved is deducted from funds in a customer's
37 account and is simultaneously paid either directly or
38 indirectly by the financial institution to the account
39 of a third party, any portion of the transaction
40 amount which represents a sales or other tax imposed
41 upon or included within the transaction and collected
42 by that third party from the customer, or any portion
43 of the transaction amount which represents interest
44 paid to the third party by the customer.

45 Sec. 13. NEW SECTION. 527.8A EXEMPTIONS.

46 Transactions initiated at a satellite terminal
47 which do not involve the use of an access device to
48 directly or indirectly affect a customer asset account
49 are not governed by this chapter.

50 Sec. 14. Section 527.9, subsection 2, paragraphs e

1 and f, Code 1991, are amended to read as follows:

2 e. An agreement by the applicant that the proposed
3 central routing unit will be capable of accepting and
4 routing, and will be operated to accept and route,
5 transmissions of data originating at any satellite
6 terminal located in this state, except limited-
7 function terminals, whether receiving from that
8 terminal or from a data processing center or other
9 central routing unit.

10 f. A representation and undertaking that the
11 proposed central routing unit is directly connected to
12 every data processing center that is directly
13 connected to a satellite terminal located in this
14 state, and that the proposed central routing unit will
15 provide for direct connection in the future with any
16 data processing center that becomes directly connected
17 to a satellite terminal located in this state. This
18 representation and undertaking is not required of a
19 central routing unit with respect to limited-function
20 terminals."

21 2. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-3791 FILED APRIL 23, 1991

Adopted 4/24/91 (p. 1505)

SENATE FILE 311

H-3561

1 Amend Senate File 311, as passed by the Senate, as
2 follows:

3 1. Page 1, line 7, by inserting after the word
4 "banking" the following: ", the superintendent of
5 savings and loan associations or the superintendent's
6 successor,".

7 2. Page 2, by inserting after line 31, the
8 following:

9 "3. A person who is in full compliance with the
10 provisions of this chapter is considered a supervised
11 financial organization under the Iowa consumer credit
12 code for purposes of contracting for finance charges
13 authorized for credit card issuers under section
14 537.2402."

15 3. Page 5, by inserting after line 11, the
16 following:

17 "3. The superintendent of savings and loan
18 associations or the superintendent's successor shall
19 enforce the provisions of this chapter with respect to
20 savings and loan associations not exempt from the
21 provisions of this chapter under section 536C.3."

By HALVORSON of Webster
KREMER of Buchanan

H-3561 FILED APRIL 10, 1991

Adopted 4/24/91 (p. 1499)

HOUSE AMENDMENT TO
SENATE FILE 311

S-3626

1 Amend Senate File 311, as passed by the Senate, as
2 follows:

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

5 "Section 1. Section 527.2, Code 1991, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 18. "Electronic personal
8 identifier" means a personal and confidential code or
9 other security mechanism which has been designated by
10 a financial institution issuing an access device to a
11 customer to serve as a supplemental means of access to
12 a customer's account that may be used by the customer
13 in conjunction with an access device for the purpose
14 of initiating a transaction by means of a satellite
15 terminal.

16 NEW SUBSECTION. 19. "Limited-function terminal"
17 means an on-line point-of-sale terminal or an off-line
18 point-of-sale terminal which satisfies the
19 requirements of section 527.4, subsection 3, paragraph
20 "d", or a multiple use terminal, which is not operated
21 in a manner to accept an electronic personal
22 indentifier, and which is not operated to distinguish
23 between transactions which affect a customer asset
24 account and transactions which do not affect a
25 customer asset account. Except as otherwise provided,
26 a limited-function terminal shall not be subject to
27 the requirements imposed upon other satellite
28 terminals pursuant to sections 527.4 and 527.5,
29 subsections 1, 2, 3, 7, and 9.

30 NEW SUBSECTION. 20. "Customer asset account" or
31 "account" means a demand deposit, share, checking,
32 savings, or other customer account, other than an
33 occasional or incidental credit balance in a credit
34 plan, which represents a liability of the financial
35 institution which maintains such account at a business
36 location or office located in this state, either
37 directly or indirectly for the benefit of a customer.

38 Sec. 2. Section 527.2, subsections 5, 10, and 14,
39 Code 1991, are amended to read as follows:

40 5. "Financial institution" means and includes any
41 bank incorporated under the provisions of ~~chapter-524~~
42 any state or federal law, any savings and loan
43 association incorporated under the provisions of
44 chapter-534 any state or federal law, any credit union
45 organized under the provisions of chapter-533 any
46 state or federal law, any corporation licensed as an
47 industrial loan company under chapter 536A, and any
48 affiliate of a bank, savings and loan association, or
49 credit union incorporated under federal law or the
50 laws of a state other than Iowa which has an office

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Page 2

1 ~~located within this state, or industrial loan company.~~
2 10. "Satellite terminal" means and includes any
3 machine or device located off the premises of a
4 financial institution, and any machine or device
5 located on the premises of a financial institution
6 only if the machine or device is available for use by
7 customers of other financial institutions, whether
8 attended or unattended, by means of which the
9 financial institution and its customers utilizing an
10 access device may engage through either the immediate
11 transmission of electronic impulses to or from the
12 financial institution or the recording of electronic
13 impulses or other indicia of a transaction for delayed
14 transmission to the financial institution, in
15 transactions which ~~are incidental to the conduct of~~
16 ~~the business of the financial institution~~ affect a
17 customer asset account and which otherwise are
18 specifically permitted by applicable law. "Satellite
19 terminal" ~~also includes any machine or device located~~
20 ~~on the premises of a financial institution only if the~~
21 ~~machine or device is available for use by customers of~~
22 ~~other financial institutions.~~ However, the term
23 "satellite terminal" does not include any such machine
24 or device, wherever located, if that machine or device
25 is not generally accessible to persons other than
26 employees of a financial institution or an affiliate
27 of a financial institution.

28 14. "Access device" means a card, code, or other
29 means of access to a customer's account mechanism, or
30 any combination thereof, that may be used by the a
31 customer for the purpose of initiating a transaction
32 by means of a satellite terminal which will affect a
33 customer asset account.

34 Sec. 3. Section 527.2, subsection 6, paragraph a,
35 Code 1991, is amended to read as follows:

36 a. The machine or device is established and owned
37 or operated by a person who primarily engages in a
38 service, business or enterprise, including but not
39 limited to the retail sale of goods or services, but
40 who is not organized under the laws of this state or
41 under federal law as a bank, savings and loan
42 association, or credit union;

43 Sec. 4. Section 527.3, subsection 2, Code 1991, is
44 amended to read as follows:

45 2. The administrator shall have the authority to
46 examine any person who operates a multiple use
47 terminal, limited-function terminal, or other
48 satellite terminal, and any other device or facility
49 with which such terminal is interconnected, as to any
50 transaction by, with, or involving a financial

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Page 3

1 institution which affects a customer asset account.
2 information obtained in the course of such an
3 examination shall not be disclosed, except as provided
4 by law.

5 Sec. 5. Section 527.3, Code 1991, is amended by
6 adding the following new subsections:

7 NEW SUBSECTION. 6. The authority of an
8 administrator pursuant to section 527.5, subsection 2,
9 paragraph "a", to approve access cards issued by a
10 financial institution for use as an access device
11 includes the requirement that a registration statement
12 shall be filed with the administrator and be
13 maintained on a current basis by each financial
14 institution issuing access cards within the state.
15 The registration statement shall be in writing on a
16 form prescribed by the administrator, and contain the
17 name and address of the registrant, a depiction of
18 both sides of the access card, and any other
19 information the administrator deems relevant relating
20 to the access card and transactions utilizing the
21 access card which affect a customer asset account.

22 NEW SUBSECTION. 7. A financial institution shall
23 not be required to join, be a member or shareholder
24 of, or otherwise participate in, any corporation,
25 association, partnership, cooperative, or other
26 enterprise as a condition of the financial
27 institution's utilization of any satellite terminal
28 located within this state.

29 Sec. 6. Section 527.4, subsection 3, paragraph d,
30 Code 1991, is amended to read as follows:

31 d. At any ~~retail-sales~~ location in this state ~~off~~
32 the premises of the financial institution if all of
33 the following apply:

34 (1) The satellite terminal is not ~~designed,~~
35 ~~configured,~~ or operated to accept deposits or to
36 dispense scrip or other negotiable instruments.

37 (2) The satellite terminal is not ~~designed,~~
38 ~~configured,~~ or operated to dispense cash except when
39 operated by ~~the retailer as part of a retail-sales~~ a
40 person other than the customer initiating the
41 transaction.

42 (3) The satellite terminal is utilized for the
43 purpose of making payment to the ~~retailer for~~ provider
44 of goods or services purchased or provided at the
45 location of the satellite terminal.

46 Sec. 7. Section 527.5, subsection 2, paragraph b,
47 Code 1991, is amended by striking the paragraph.

48 Sec. 8. Section 527.5, subsection 6, Code 1991, is
49 amended to read as follows:

50 6. The charges required to be paid by any

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1 financial institution which utilizes the satellite
2 terminal for transactions involving an access device
3 shall not exceed a pro rata portion of the costs,
4 determined in accordance with generally accepted
5 accounting principles, of establishing, operating and
6 maintaining the satellite terminal, plus a reasonable
7 return on these costs to the owner of the satellite
8 terminal.

9 Sec. 9. Section 527.5, subsection 8, Code 1991, is
10 amended to read as follows:

11 8. a. A satellite terminal in this state shall
12 not be operated in a manner to permit a person to
13 credit deposit funds into a demand deposit account,
14 savings account, share account, or any other account
15 representing a liability of a financial institution,
16 if that the business location of the financial
17 institution where the original records pertaining to
18 the person's account are maintained is located outside
19 of this state.

20 b. Paragraph "a" of this subsection does not apply
21 to a corporation licensed under chapter 536A. A
22 satellite terminal shall not be operated in any manner
23 to permit a person to credit deposit funds into an
24 account representing a liability of a corporation
25 licensed under chapter 536A, if the business location
26 of the corporation where the original records
27 pertaining to the person's account are maintained is
28 located outside of this state.

29 Sec. 10. Section 527.5, subsection 9, paragraph b,
30 subparagraph (2), Code 1991, is amended to read as
31 follows:

32 (2) The transaction does not affect a deposit
33 customer asset account held by a financial
34 institution.

35 Sec. 11. Section 527.5, Code 1991, is amended by
36 adding the following new subsections:

37 NEW SUBSECTION. 11. Any person, as defined in
38 section 4.1, subsection 13, establishing a limited-
39 function terminal within this state, except for a
40 multiple use terminal, which is utilized to initiate
41 transactions affecting a customer asset account shall
42 file with the administrator and shall maintain on a
43 current basis a registration statement on a form
44 prescribed by the administrator containing the name
45 and address of the registrant, the location of the
46 limited-function terminal, and any other information
47 the administrator deems relevant. All limited-
48 function terminals established in this state prior to
49 July 1, 1991, shall be registered in a similar manner
50 by the establishing person no later than July 1, 1992.

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1 NEW SUBSECTION. 12. If at any time, a limited-
2 function terminal is upgraded, altered, or modified to
3 be operated in a manner to accept the use of an
4 electronic personal identifier or to distinguish
5 between transactions which affect customer asset
6 accounts and transactions which do not affect customer
7 asset accounts, all requirements of a satellite
8 terminal in this chapter apply. A financial
9 institution not eligible to establish satellite
10 terminals within this state, which has established a
11 limited-function terminal which is subsequently
12 upgraded, altered, or modified as contemplated in this
13 subsection, shall enter into an agreement with a
14 financial institution which is authorized to establish
15 a satellite terminal within this state to comply with
16 the requirements of section 527.4 and this subsection.

17 NEW SUBSECTION. 13. Effective July 1, 1993, any
18 transaction engaged in with a retailer through a
19 satellite terminal located in this state by means of
20 an access device which results in a debit to a
21 customer asset account shall be cleared and paid at
22 par to the retailer during the settlement of such
23 transaction to the retailer. Processing fees and
24 charges for such transactions to the retailer shall
25 not be based on a percentage of the amount of the
26 transaction. All accounting documents reflecting such
27 fees and charges shall separately identify
28 transactions which have resulted in a debit to a
29 customer asset account and the charges imposed. The
30 provisions of this subsection shall apply to all
31 satellite terminals, including limited-function
32 terminals and multiple use terminals.

33 Sec. 12. Section 527.7, subsection 2, Code 1991,
34 is amended to read as follows:

35 2. In any transaction where the total ~~account~~
36 amount involved is deducted from funds in a customer's
37 account and is simultaneously paid either directly or
38 indirectly by the financial institution to the account
39 of a third party, any portion of the transaction
40 amount which represents a sales or other tax imposed
41 upon or included within the transaction and collected
42 by that third party from the customer, or any portion
43 of the transaction amount which represents interest
44 paid to the third party by the customer.

45 Sec. 13. NEW SECTION. 527.8A EXEMPTIONS.
46 Transactions initiated at a satellite terminal
47 which do not involve the use of an access device to
48 directly or indirectly affect a customer asset account
49 are not governed by this chapter.

50 Sec. 14. Section 527.9, subsection 2, paragraphs e

1 and f, Code 1991, are amended to read as follows:

2 e. An agreement by the applicant that the proposed
3 central routing unit will be capable of accepting and
4 routing, and will be operated to accept and route,
5 transmissions of data originating at any satellite
6 terminal located in this state, except limited-
7 function terminals, whether receiving from that
8 terminal or from a data processing center or other
9 central routing unit.

10 f. A representation and undertaking that the
11 proposed central routing unit is directly connected to
12 every data processing center that is directly
13 connected to a satellite terminal located in this
14 state, and that the proposed central routing unit will
15 provide for direct connection in the future with any
16 data processing center that becomes directly connected
17 to a satellite terminal located in this state. This
18 representation and undertaking is not required of a
19 central routing unit with respect to limited-function
20 terminals."

21 2. Page 1, line 7, by inserting after the word
22 "banking" the following: ", the superintendent of
23 savings and loan associations or the superintendent's
24 successor,".

25 3. Page 1, line 17, by inserting after the word
26 "issued" the following: "by a financial institution".

27 4. Page 1, by striking line 22, and inserting the
28 following:

29 "6. "Financial institution" means a bank
30 incorporated under the provisions of any state or
31 federal law, a savings and loan association
32 incorporated under the provisions of any state or
33 federal law, a credit union organized under the
34 provisions of any state or federal law, and any
35 affiliate of such bank, savings and loan association,
36 or credit union.

37 7. "Person" means any individual, firm,
38 corporation,".

39 5. Page 2, by inserting after line 31, the
40 following:

41 "3. A person who is in full compliance with the
42 provisions of this chapter is considered a supervised
43 financial organization under the Iowa consumer credit
44 code for purposes of contracting for finance charges
45 authorized for credit card issuers under section
46 537.2402."

47 6. Page 5, by inserting after line 11, the
48 following:

49 "3. The superintendent of savings and loan
50 associations or the superintendent's successor shall

1 enforce the provisions of this chapter with respect to
2 savings and loan associations not exempt from the
3 provisions of this chapter under section 536C.3."

4 7. By renumbering, relettering, or redesignating
5 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

SENATE FILE 311

S-3652

1 Amend the House amendment, S-3626, to Senate File
2 311, as passed by the Senate, as follows:
3 1. Page 7, by inserting after line 3, the
4 following:
5 " _____. Title page, line 1, by inserting after the
6 word "Act" the following: "relating to the machines
7 and access devices utilized to perform electronic
8 transfer of funds, "."
9 2. Renumber as necessary.

By PAT DELUHERY
H. KAY HEDGE

DON E. GETTINGS
DALE TIEDEN

S-3652 FILED APRIL 30, 1991
ADOPTED (g.1559)

SENATE FILE 311

S-3653

1 Amend the House amendment, S-3626, to Senate File
2 311, as passed by the Senate, as follows:
3 1. Page 1, by striking lines 3 and 4 and
4 inserting the following:
5 " _____. By striking everything after the enacting
6 clause and inserting the following:"
7 2. Page 6, by striking line 21 through page 7,
8 line 3.

By JAMES B. KERSTEN

S-3653 FILED APRIL 30, 1991
WITHDRAWN (g.1554)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 311
H-4005

1 Amend the House amendment, S-3626, to Senate File
2 311, as passed by the Senate, as follows:

3 1. Page 7, by inserting after line 3, the
4 following:

5 "_____. Title page, line 1, by inserting after the
6 word "Act" the following: "relating to the machines
7 and access devices utilized to perform electronic
8 transfer of funds, "."

9 2. Renumber as necessary.

RECEIVED FROM THE SENATE

H-4005 FILED MAY 1, 1991

House concurred 5/3/91 (p 2076)

DELUHERY, CH.
PALMER
JENSEN

SSB 152
COMMERCE

SENATE/HOUSE FILE 152311
BY (PROPOSED DEPARTMENT OF
COMMERCE/BANKING DIVISION
BILL)

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

A BILL FOR

1 An Act requiring registration of persons located outside of this
2 state who issue credit cards, providing for an examination
3 fee, and providing a penalty.

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

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1 Section 1. NEW SECTION. 536C.1 TITLE.

2 This chapter shall be known and may be cited as the "Lender
3 Credit Card Act".

4 Sec. 2. NEW SECTION. 536C.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Administrator" means the superintendent of banking or
8 the superintendent of credit unions. However, the powers of
9 administration and enforcement of this chapter are to be
10 exercised pursuant to section 536C.14.

11 2. "Agreement" means agreement as defined in section
12 537.1301, subsection 3.

13 3. "Cardholder" means cardholder as defined in section
14 537.1301, subsection 7.

15 4. "Consumer credit transaction" means consumer credit
16 transaction as defined in section 537.1301, subsection 11.

17 5. "Credit card" means a card or device issued under an
18 arrangement pursuant to which a card issuer gives a cardholder
19 the privilege of purchasing or leasing property, or purchasing
20 services, obtaining loans, or otherwise obtaining credit from
21 at least one hundred persons not related to the card issuer.

22 6. "Person" means any individual, firm, corporation,
23 partnership, joint venture, or association, and any other
24 organization or group, however organized.

25 Sec. 3. NEW SECTION. 536C.3 EXEMPTIONS.

26 This chapter does not apply to a bank chartered under
27 chapter 524 or a bank chartered under federal law which has
28 its principal place of business located in this state, a
29 savings and loan association chartered under chapter 534 or a
30 savings and loan association chartered under federal law which
31 has its principal place of business located in this state, a
32 credit union chartered under chapter 533 or a credit union
33 chartered under federal law which has its principal place of
34 business located in this state, regulated loan companies
35 licensed under chapter 536, or industrial loan companies

1 licensed under chapter 536A.

2 Sec. 4. NEW SECTION. 536C.4 NOTIFICATON.

3 1. A person shall file a registration statement annually
4 with the administrator before conducting the business of
5 issuing credit cards in this state, and annually thereafter on
6 or before January 31 of each year. The registration statement
7 shall be in writing on a form prescribed by the administrator,
8 and contain the name and address of the registrant, the name
9 and address of a designated agent upon whom service of process
10 may be made in this state, and any other information the
11 administrator deems relevant.

12 2. At the time of filing a registration statement the
13 person shall provide the administrator with a copy of the
14 credit agreement and billing statement being used by the card
15 issuer.

16 3. If information in a filing statement becomes inaccurate
17 after filing, the person shall notify the administrator in
18 writing of the changes within sixty days of such change.

19 Sec. 5. NEW SECTION. 536C.5 FEES.

20 A person required to file a registration statement pursuant
21 to this chapter shall pay to the administrator an annual fee
22 of fifty dollars. The fee shall be paid at the time the
23 person files the registration statement.

24 Sec. 6. NEW SECTION. 536C.6 APPLICABILITY OF IOWA
25 CONSUMER CREDIT CODE.

26 1. The terms and conditions of a credit card agreement
27 shall conform to the provisions of chapter 537, the Iowa
28 consumer credit code.

29 2. A provision of the Iowa consumer credit code applicable
30 to credit cards regulated by this chapter supersedes a
31 conflicting provision of this chapter.

32 Sec. 7. NEW SECTION. 536C.7 BOOKS AND RECORDS.

33 A person who issues credit cards shall keep such books,
34 accounts, and records as will enable the administrator to
35 determine whether or not the person is complying with the

1 provisions of this chapter and chapter 537. The person shall
2 not be required to preserve or keep their records or files for
3 a longer period than three years following the date of the
4 final payment.

5 Sec. 8. NEW SECTION. 536C.8 INVESTIGATIONS.

6 1. The administrator may investigate at any time the
7 business of a credit card issuer subject to the provisions of
8 this chapter. The administrator may examine the books,
9 records, accounts, and files pertaining to the business of
10 issuing credit cards subject to the provisions of this
11 chapter.

12 2. The administrator may accept a copy of an examination
13 conducted by a state or federal regulator in lieu of an
14 investigation or examination by the administrator.

15 3. If an investigation or examination is performed by the
16 administrator under this section, the credit card issuer shall
17 pay to the administrator a fee based on the actual cost of
18 such investigation or examination as determined by the
19 administrator.

20 4. Upon completion of an investigation or examination by
21 the administrator, the examiner shall render a billing in
22 triplicate, with one copy to be delivered to the credit card
23 issuer and two copies to be delivered to the administrator.
24 Failure to pay the fee to the administrator within thirty days
25 after the billing for the investigation of examination is
26 delivered shall subject the credit card issuer to an
27 additional fee of five percent of the amount of the original
28 fee for each day the payment is delinquent.

29 Sec. 9. NEW SECTION. 536C.9 CEASE AND DESIST ORDERS.

30 1. If the administrator has reasonable cause to believe a
31 person who issues credit cards is violating any provision of
32 this chapter, or rules adopted pursuant to this chapter, the
33 administrator may enter a written order requiring the person
34 to cease, desist, and refrain from an act constituting a
35 violation. A copy of the order shall be sent to the person by

1 certified mail. The person may file with the administrator a
2 written notice of appeal within fifteen days of receipt of the
3 order. The person may also request that the order be stayed
4 pending resolution of the appeal. The appellant shall be
5 entitled to prompt consideration of the request to stay the
6 order.

7 2. Within thirty days after receipt of a notice of appeal
8 the administrator shall hold a hearing to consider the appeal.
9 The appellant shall be informed regarding the time and place
10 of the hearing not later than ten days prior to the hearing.
11 The administrator's decision shall be provided, in writing, to
12 the appellant within thirty days of the completion of the
13 hearing.

14 Sec. 10. NEW SECTION. 536C.10 INJUNCTIONS.

15 The administrator may commence an action in the district
16 court to restrain and enjoin any person from violating this
17 chapter, or to restrain and enjoin any person from engaging in
18 the business of issuing credit cards without filing a
19 registration statement as required by this chapter.

20 Sec. 11. NEW SECTION. 536C.11 WAIVER UNENFORCEABLE.

21 A waiver of the provisions of this chapter or chapter 537
22 is not valid.

23 Sec. 12. NEW SECTION. 536C.12 PENALTY.

24 If an officer, director, or agent of a corporation engaged
25 in the business of issuing credit cards violates any of the
26 provisions of this chapter which are not also violations of
27 the Iowa consumer credit code; or if a person individually or
28 as a partner, or officer, director, or agent of a corporation
29 engages in the business of issuing credit cards without filing
30 the registration statement required by section 536C.4, the
31 person is guilty of a serious misdemeanor. Violations of this
32 chapter which are also violations of the Iowa consumer credit
33 code shall be subject to the penalties provided in the Iowa
34 consumer credit code.

35 Sec. 13. NEW SECTION. 536C.13 RULES.

1 The administrator may adopt such rules pursuant to chapter
2 17A, as may be necessary for the enforcement and
3 administration of this chapter.

4 Sec. 14. NEW SECTION. 536C.14 ENFORCEMENT.

5 1. The superintendent of banking shall enforce the
6 provisions of this chapter with respect to banks not exempt
7 from the provisions of this chapter under section 536C.3.

8 2. The superintendent of credit unions shall enforce the
9 provisions of this chapter with respect to credit unions not
10 exempt from the provisions of this chapter under section
11 536C.3.

12 EXPLANATION

13 This bill requires all nonresident issuers of credit cards
14 who issue credit cards to Iowa residents to register with
15 either the superintendent of banking or the superintendent of
16 credit unions, defined as the administrator, prior to
17 conducting business in this state and annually thereafter. A
18 copy of the credit agreement and billing statement used by the
19 card issuer is to be attached to this filing.

20 The administrator is granted the authority to examine a
21 card issuer concerning an alleged violation of this chapter,
22 and may issue a cease and desist order against a card issuer
23 if there is reasonable cause to believe a violation is
24 occurring.

25 A card issuer who violates this chapter is guilty of a
26 serious misdemeanor unless the violation also violates a
27 provision of the consumer credit code, in which case the
28 penalty under that code is to apply.

29 BACKGROUND STATEMENT

30 SUBMITTED BY THE AGENCY

31 Currently, only nonresident state chartered card issuers
32 are required to obtain a lender's license pursuant to chapter
33 536A. Requiring these card issuers to obtain a license under
34 chapter 536A is not appropriate as there are many provisions
35 contained within this chapter that are not applicable to a

1 card issuer. At the present time, financial institutions that
2 hold a federal charter are not required to obtain a license
3 under chapter 536A because of a supreme court ruling (1978 -
4 Marquette National Bank v. First Bank of Omaha). This bill
5 will require all nonresident card issuers to register with the
6 administrator thereby providing a level playing field for
7 state and federal chartered institutions.

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SENATE FILE 311

AN ACT

RELATING TO THE MACHINES AND ACCESS DEVICES UTILIZED TO PERFORM ELECTRONIC TRANSFER OF FUNDS, REQUIRING REGISTRATION OF PERSONS LOCATED OUTSIDE OF THIS STATE WHO ISSUE CREDIT CARDS, PROVIDING AN EXAMINATION FEE, AND PROVIDING A PENALTY.

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

Section 1. Section 527.2, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 18. "Electronic personal identifier" means a personal and confidential code or other security mechanism which has been designated by a financial institution issuing an access device to a customer to serve as a supplemental means of access to a customer's account that may be used by the customer in conjunction with an access device for the purpose of initiating a transaction by means of a satellite terminal.

NEW SUBSECTION. 19. "Limited-function terminal" means an on-line point-of-sale terminal or an off-line point-of-sale terminal which satisfies the requirements of section 527.4, subsection 3, paragraph "d", or a multiple use terminal, which is not operated in a manner to accept an electronic personal identifier, and which is not operated to distinguish between transactions which affect a customer asset account and transactions which do not affect a customer asset account. Except as otherwise provided, a limited-function terminal shall not be subject to the requirements imposed upon other satellite terminals pursuant to sections 527.4 and 527.5, subsections 1, 2, 3, 7, and 9.

NEW SUBSECTION. 20. "Customer asset account" or "account" means a demand deposit, share, checking, savings, or other

customer account, other than an occasional or incidental credit balance in a credit plan, which represents a liability of the financial institution which maintains such account at a business location or office located in this state, either directly or indirectly for the benefit of a customer.

Sec. 2. Section 527.2, subsections 5, 10, and 14, Code 1991, are amended to read as follows:

5. "Financial institution" means and includes any bank incorporated under the provisions of chapter-524 any state or federal law, any savings and loan association incorporated under the provisions of chapter-534 any state or federal law, any credit union organized under the provisions of chapter-533 any state or federal law, any corporation licensed as an industrial loan company under chapter 536A, and any affiliate of a bank, savings and loan association, or credit union incorporated under federal law or the laws of a state other than Iowa which has an office located within this state, or industrial loan company.

10. "Satellite terminal" means and includes any machine or device located off the premises of a financial institution, and any machine or device located on the premises of a financial institution only if the machine or device is available for use by customers of other financial institutions, whether attended or unattended, by means of which the financial institution and its customers utilizing an access device may engage through either the immediate transmission of electronic impulses to or from the financial institution or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the financial institution, in transactions which are incidental to the conduct of the business of the financial institution affect a customer asset account and which otherwise are specifically permitted by applicable law. "Satellite terminal" also includes any machine or device located on the premises of a financial institution only if the machine or device is available for use by customers of other financial institutions. However, the term "satellite terminal" does not

include any such machine or device, wherever located, if that machine or device is not generally accessible to persons other than employees of a financial institution or an affiliate of a financial institution.

14. "Access device" means a card, code, or other means of access to a customer's account mechanism, or any combination thereof, that may be used by the a customer for the purpose of initiating a transaction by means of a satellite terminal which will affect a customer asset account.

Sec. 3. Section 527.2, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. The machine or device is established and owned or operated by a person who primarily engages in a service, business or enterprise, including but not limited to the retail sale of goods or services, but who is not organized under the laws of this state or under federal law as a bank, savings and loan association, or credit union;

Sec. 4. Section 527.3, subsection 2, Code 1991, is amended to read as follows:

2. The administrator shall have the authority to examine any person who operates a multiple use terminal, limited-function terminal, or other satellite terminal, and any other device or facility with which such terminal is interconnected, as to any transaction by, with, or involving a financial institution which affects a customer asset account. Information obtained in the course of such an examination shall not be disclosed, except as provided by law.

Sec. 5. Section 527.3, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The authority of an administrator pursuant to section 527.5, subsection 2, paragraph "a", to approve access cards issued by a financial institution for use as an access device includes the requirement that a registration statement shall be filed with the administrator and be maintained on a current basis by each financial institution issuing access cards within the state. The registration statement shall be in writing on a form

prescribed by the administrator, and contain the name and address of the registrant, a depiction of both sides of the access card, and any other information the administrator deems relevant relating to the access card and transactions utilizing the access card which affect a customer asset account.

NEW SUBSECTION. 7. A financial institution shall not be required to join, be a member or shareholder of, or otherwise participate in, any corporation, association, partnership, cooperative, or other enterprise as a condition of the financial institution's utilization of any satellite terminal located within this state.

Sec. 6. Section 527.4, subsection 3, paragraph d, Code 1991, is amended to read as follows:

d. At any retail-sales location in this state off the premises of the financial institution if all of the following apply:

(1) The satellite terminal is not designed, configured, or operated to accept deposits or to dispense scrip or other negotiable instruments.

(2) The satellite terminal is not designed, configured, or operated to dispense cash except when operated by the retailer as part of a retail-sales a person other than the customer initiating the transaction.

(3) The satellite terminal is utilized for the purpose of making payment to the retailer for provider of goods or services purchased or provided at the location of the satellite terminal.

Sec. 7. Section 527.5, subsection 2, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 8. Section 527.5, subsection 6, Code 1991, is amended to read as follows:

6. The charges required to be paid by any financial institution which utilizes the satellite terminal for transactions involving an access device shall not exceed a pro rata portion of the costs, determined in accordance with generally accepted accounting principles, of establishing,

operating and maintaining the satellite terminal, plus a reasonable return on these costs to the owner of the satellite terminal.

Sec. 9. Section 527.5, subsection 8, Code 1991, is amended to read as follows:

8. a. A satellite terminal in this state shall not be operated in a manner to permit a person to credit deposit funds into a demand deposit account, savings account, share account, or any other account representing a liability of a financial institution, if that the business location of the financial institution where the original records pertaining to the person's account are maintained is located outside of this state.

b. Paragraph "a" of this subsection does not apply to a corporation licensed under chapter 536A. A satellite terminal shall not be operated in any manner to permit a person to credit deposit funds into an account representing a liability of a corporation licensed under chapter 536A, if the business location of the corporation where the original records pertaining to the person's account are maintained is located outside of this state.

Sec. 10. Section 527.5, subsection 9, paragraph b, subparagraph (2), Code 1991, is amended to read as follows:

(2) The transaction does not affect a deposit customer asset account held by a financial institution.

Sec. 11. Section 527.5, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Any person, as defined in section 4.1, subsection 13, establishing a limited-function terminal within this state, except for a multiple use terminal, which is utilized to initiate transactions affecting a customer asset account shall file with the administrator and shall maintain on a current basis a registration statement on a form prescribed by the administrator containing the name and address of the registrant, the location of the limited-function terminal, and any other information the administrator deems relevant. All limited-function terminals established in

this state prior to July 1, 1991, shall be registered in a similar manner by the establishing person no later than July 1, 1992.

NEW SUBSECTION. 12. If at any time, a limited-function terminal is upgraded, altered, or modified to be operated in a manner to accept the use of an electronic personal identifier or to distinguish between transactions which affect customer asset accounts and transactions which do not affect customer asset accounts, all requirements of a satellite terminal in this chapter apply. A financial institution not eligible to establish satellite terminals within this state, which has established a limited-function terminal which is subsequently upgraded, altered, or modified as contemplated in this subsection, shall enter into an agreement with a financial institution which is authorized to establish a satellite terminal within this state to comply with the requirements of section 527.4 and this subsection.

NEW SUBSECTION. 13. Effective July 1, 1993, any transaction engaged in with a retailer through a satellite terminal located in this state by means of an access device which results in a debit to a customer asset account shall be cleared and paid at par to the retailer during the settlement of such transaction to the retailer. Processing fees and charges for such transactions to the retailer shall not be based on a percentage of the amount of the transaction. All accounting documents reflecting such fees and charges shall separately identify transactions which have resulted in a debit to a customer asset account and the charges imposed. The provisions of this subsection shall apply to all satellite terminals, including limited-function terminals and multiple use terminals.

Sec. 12. Section 527.7, subsection 2, Code 1991, is amended to read as follows:

2. In any transaction where the total account amount involved is deducted from funds in a customer's account and is simultaneously paid either directly or indirectly by the financial institution to the account of a third party, any

portion of the transaction amount which represents a sales or other tax imposed upon or included within the transaction and collected by that third party from the customer, or any portion of the transaction amount which represents interest paid to the third party by the customer.

Sec. 13. NEW SECTION. 527.8A EXEMPTIONS.

Transactions initiated at a satellite terminal which do not involve the use of an access device to directly or indirectly affect a customer asset account are not governed by this chapter.

Sec. 14. Section 527.9, subsection 2, paragraphs e and f, Code 1991, are amended to read as follows:

e. An agreement by the applicant that the proposed central routing unit will be capable of accepting and routing, and will be operated to accept and route, transmissions of data originating at any satellite terminal located in this state, except limited-function terminals, whether receiving from that terminal or from a data processing center or other central routing unit.

f. A representation and undertaking that the proposed central routing unit is directly connected to every data processing center that is directly connected to a satellite terminal located in this state, and that the proposed central routing unit will provide for direct connection in the future with any data processing center that becomes directly connected to a satellite terminal located in this state. This representation and undertaking is not required of a central routing unit with respect to limited-function terminals.

Sec. 15. NEW SECTION. 536C.1 TITLE.

This chapter shall be known and may be cited as the "Lender Credit Card Act".

Sec. 16. NEW SECTION. 536C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the superintendent of banking, the superintendent of savings and loan associations or the superintendent's successor, or the superintendent of credit

unions. However, the powers of administration and enforcement of this chapter are to be exercised pursuant to section 536C.14.

2. "Agreement" means agreement as defined in section 537.1301, subsection 3.

3. "Cardholder" means cardholder as defined in section 537.1301, subsection 7.

4. "Consumer credit transaction" means consumer credit transaction as defined in section 537.1301, subsection 11.

5. "Credit card" means a card or device issued by a financial institution under an arrangement pursuant to which a card issuer gives a cardholder the privilege of purchasing or leasing property, or purchasing services, obtaining loans, or otherwise obtaining credit from at least one hundred persons not related to the card issuer.

6. "Financial institution" means a bank incorporated under the provisions of any state or federal law, a savings and loan association incorporated under the provisions of any state or federal law, a credit union organized under the provisions of any state or federal law, and any affiliate of such bank, savings and loan association, or credit union.

7. "Person" means any individual, firm, corporation, partnership, joint venture, or association, and any other organization or group, however organized.

Sec. 17. NEW SECTION. 536C.3 EXEMPTIONS.

This chapter does not apply to a bank chartered under chapter 524 or a bank chartered under federal law which has its principal place of business located in this state, a savings and loan association chartered under chapter 534 or a savings and loan association chartered under federal law which has its principal place of business located in this state, a credit union chartered under chapter 533 or a credit union chartered under federal law which has its principal place of business located in this state, regulated loan companies licensed under chapter 536, or industrial loan companies licensed under chapter 536A.

Sec. 18. NEW SECTION. 536C.4 NOTIFICATION.

1. A person shall file a registration statement annually with the administrator before conducting the business of issuing credit cards in this state, and annually thereafter on or before January 31 of each year. The registration statement shall be in writing on a form prescribed by the administrator, and contain the name and address of the registrant, the name and address of a designated agent upon whom service of process may be made in this state, and any other information the administrator deems relevant.

2. At the time of filing a registration statement the person shall provide the administrator with a copy of the credit agreement and billing statement being used by the card issuer.

3. If information in a filing statement becomes inaccurate after filing, the person shall notify the administrator in writing of the changes within sixty days of such change.

Sec. 19. NEW SECTION. 536C.5 FEES.

A person required to file a registration statement pursuant to this chapter shall pay to the administrator an annual fee of fifty dollars. The fee shall be paid at the time the person files the registration statement.

Sec. 20. NEW SECTION. 536C.6 APPLICABILITY OF IOWA CONSUMER CREDIT CODE.

1. The terms and conditions of a credit card agreement shall conform to the provisions of chapter 537, the Iowa consumer credit code.

2. A provision of the Iowa consumer credit code applicable to credit cards regulated by this chapter supersedes a conflicting provision of this chapter.

3. A person who is in full compliance with the provisions of this chapter is considered a supervised financial organization under the Iowa consumer credit code for purposes of contracting for finance charges authorized for credit card issuers under section 537.2402.

Sec. 21. NEW SECTION. 536C.7 BOOKS AND RECORDS.

A person who issues credit cards shall keep such books, accounts, and records as will enable the administrator to

determine whether or not the person is complying with the provisions of this chapter and chapter 537. The person shall not be required to preserve or keep their records or files for a longer period than three years following the date of the final payment.

Sec. 22. NEW SECTION. 536C.8 INVESTIGATIONS.

1. The administrator may investigate at any time the business of a credit card issuer subject to the provisions of this chapter. The administrator may examine the books, records, accounts, and files pertaining to the business of issuing credit cards subject to the provisions of this chapter.

2. The administrator may accept a copy of an examination conducted by a state or federal regulator in lieu of an investigation or examination by the administrator.

3. If an investigation or examination is performed by the administrator under this section, the credit card issuer shall pay to the administrator a fee based on the actual cost of such investigation or examination as determined by the administrator.

4. Upon completion of an investigation or examination by the administrator, the examiner shall render a billing in triplicate, with one copy to be delivered to the credit card issuer and two copies to be delivered to the administrator. Failure to pay the fee to the administrator within thirty days after the billing for the investigation or examination is delivered shall subject the credit card issuer to an additional fee of five percent of the amount of the original fee for each day the payment is delinquent.

Sec. 23. NEW SECTION. 536C.9 CEASE AND DESIST ORDERS.

1. If the administrator has reasonable cause to believe a person who issues credit cards is violating any provision of this chapter, or rules adopted pursuant to this chapter, the administrator may enter a written order requiring the person to cease, desist, and refrain from an act constituting a violation. A copy of the order shall be sent to the person by certified mail. The person may file with the administrator a

written notice of appeal within fifteen days of receipt of the order. The person may also request that the order be stayed pending resolution of the appeal. The appellant shall be entitled to prompt consideration of the request to stay the order.

2. Within thirty days after receipt of a notice of appeal the administrator shall hold a hearing to consider the appeal. The appellant shall be informed regarding the time and place of the hearing not later than ten days prior to the hearing. The administrator's decision shall be provided, in writing, to the appellant within thirty days of the completion of the hearing.

Sec. 24. NEW SECTION. 536C.10 INJUNCTIONS.

The administrator may commence an action in the district court to restrain and enjoin any person from violating this chapter, or to restrain and enjoin any person from engaging in the business of issuing credit cards without filing a registration statement as required by this chapter.

Sec. 25. NEW SECTION. 536C.11 WAIVER UNENFORCEABLE.

A waiver of the provisions of this chapter or chapter 537 is not valid.

Sec. 26. NEW SECTION. 536C.12 PENALTY.

If an officer, director, or agent of a corporation engaged in the business of issuing credit cards violates any of the provisions of this chapter which are not also violations of the Iowa consumer credit code; or if a person individually or as a partner, or officer, director, or agent of a corporation engages in the business of issuing credit cards without filing the registration statement required by section 536C.4, the person is guilty of a serious misdemeanor. Violations of this chapter which are also violations of the Iowa consumer credit code shall be subject to the penalties provided in the Iowa consumer credit code.

Sec. 27. NEW SECTION. 536C.13 RULES.

The administrator may adopt such rules pursuant to chapter 17A, as may be necessary for the enforcement and administration of this chapter.

Sec. 28. NEW SECTION. 536C.14 ENFORCEMENT.

1. The superintendent of banking shall enforce the provisions of this chapter with respect to banks not exempt from the provisions of this chapter under section 536C.3.

2. The superintendent of credit unions shall enforce the provisions of this chapter with respect to credit unions not exempt from the provisions of this chapter under section 536C.3.

3. The superintendent of savings and loan associations or the superintendent's successor shall enforce the provisions of this chapter with respect to savings and loan associations not exempt from the provisions of this chapter under section 536C.3.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 311, Seventy-fourth General Assembly.

JOHN P. DWYER
Secretary of the Senate

Approved May 29, 1991

TERRY E. BRANSTAD
Governor