

Sec. 13. Section 261B.11, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 9. Postsecondary educational institutions licensed by the state of Iowa to conduct business in the state.

NEW SUBSECTION. 10. Accredited higher education institutions that meet the criteria established under section 261.92, subsection 1.

Approved April 24, 1996

CHAPTER 1159

REGULATION OF INDUSTRIAL LOAN COMPANIES

H.F. 2453

AN ACT relating to the regulation of industrial loan companies by establishing certain requirements applicable to a change of control, providing for the appointment of the superintendent or the federal deposit insurance corporation as receiver, and requiring an industrial loan company to obtain federal deposit insurance for certain debt instruments, and making a penalty applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 536A.12, Code 1995, is amended to read as follows:

536A.12 CONTINUING LICENSE – ANNUAL FEE – CHANGE OF LOCATION – CHANGE OF CONTROL.

1. Each such license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control on or after January 1, 1996. A licensee shall, on or before the second day of January, shall pay to the superintendent the sum of fifty dollars as an annual license fee for the succeeding calendar year. When a licensee changes its place of business from one location to another in the same city, it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date of the change, which is authority for the operation of the business under that license at the new place of business.

2. A person who proposes to purchase or otherwise acquire, directly or indirectly, any of the outstanding shares of an industrial loan company which would result in a change of control of the industrial loan company, shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control. The superintendent shall grant the certificate if the superintendent is satisfied that the person who proposes to obtain control of the industrial loan company is qualified by character, experience, and financial responsibility to control and operate the industrial loan company in a sound and legal manner, and that the interests of the thrift certificate holders, creditors, and shareholders of the industrial loan company, and of the public generally, shall not be jeopardized by the proposed change of control. If a board member of the industrial loan company has reason to believe any of the requirements of this subsection have not been complied with, the board member shall promptly report in writing such facts to the superintendent. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control of the industrial loan company, or to effect a change in the control of the industrial loan company, such doubt shall be resolved in favor of reporting the facts to the superintendent.

3. a. For purposes of this section, "control" means control as defined in section 524.103. However, a change of control does not occur when a majority shareholder of an industrial

loan company transfers the shareholder's shares of the industrial loan company to a revocable trust, so long as the transferor retains the power to revoke the trust and take possession of such shares.

b. Notwithstanding the provisions of paragraph "a", a change of control is deemed to occur two years after the death of the majority shareholder, whether the shareholder's shares of the industrial loan company are held in a revocable trust or otherwise.

Sec. 2. Section 536A.19, Code 1995, is amended to read as follows:
536A.19 RECEIVERSHIP - LIQUIDATION.

1. If the superintendent shall revoke revokes the license of any industrial loan company the superintendent shall promptly report the revocation to the attorney general of Iowa who may apply to the district court of the county in which the licensee had conducted its business for the appointment of a receiver to take possession of the assets of the corporation for the purpose of liquidating its affairs. The court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation, in which case the court shall appoint the federal deposit insurance corporation as receiver. The affairs of the industrial loan company, after such appointment, shall be under the direction of the court. The attorney general shall represent the superintendent in all proceedings connected with the receivership.

2. When an insured industrial loan company has ceased to carry on its business, the superintendent may tender the appointment as receiver of the insured industrial loan company to the federal deposit insurance corporation. If the federal deposit insurance corporation accepts the appointment as receiver, the rights of depositors and other creditors of the insured industrial loan company shall be determined in accordance with the laws of this state.

3. The federal deposit insurance corporation as receiver shall possess all of the powers, rights, and privileges of the superintendent in connection with the liquidation.

4. If the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of an insured industrial loan company, the federal deposit insurance corporation, whether or not it has become receiver, shall be subrogated to all rights of the owners of such deposits against the insured industrial loan company in the same manner and to the same extent as subrogation of the federal deposit insurance corporation is provided for in applicable federal law with respect to a national bank.

Sec. 3. Section 536A.22, Code 1995, is amended to read as follows:
536A.22 THRIFT CERTIFICATES.

Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness if such debt instruments are insured by a federal deposit insurance agency. Licensees selling debt instruments on January 1, 1996, may continue to do so without obtaining federal deposit insurance until there is a change of control of the licensee which occurs on or after January 1, 1996. If there is a change of control of a licensee on or after January 1, 1996, and the licensee has sold senior debt instruments that are not insured by a federal deposit insurance agency, such outstanding senior debt instruments that do not have a stated maturity date shall be redeemed within six months of the date of the change of control. Such outstanding senior debt instruments with stated maturity dates shall be redeemed on their stated maturity dates.

PARAGRAPH DIVIDED. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits, and subordinated debt that gives priority to such securities of the issuing industrial loan company. The sale of such securities is subject to the provisions of chapter 502 and rules adopted by the superintendent of banking pursuant to chapter 17A, and shall not be construed to be exempt by

reason of the provisions of section 502.202, subsection 10, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder either upon demand or within a period not in excess of five years are exempt from sections 502.201 and 502.602.

For purposes of this section, "control" means control as defined in section 524.103.

Approved April 24, 1996

CHAPTER 1160

MISCELLANEOUS INSURANCE DIVISION REGULATORY PROVISIONS

H.F. 2498

AN ACT relating to entities and subject matter under the regulatory authority of the division of insurance, including prearranged funeral contracts, cemeteries, residential service contracts, and business opportunities, and establishing fees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 523A.2, subsection 1, paragraph c, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner, by rule, may waive receipt of any or all of the information listed in this lettered paragraph and adopt a shorter form of annual report. The shorter form may be used for all establishments or for establishments meeting specified criteria. If the commissioner does adopt a shorter form of annual report, the commissioner shall retain the authority to require all of the information listed above for audit purposes or otherwise. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 2. Section 523A.2, subsection 1, paragraph d, Code Supplement 1995, is amended to read as follows:

d. A financial institution referred to in paragraph "a" shall file notice with the commissioner of all funds deposited under the trust agreement. The notice shall be on forms prescribed by the commissioner and shall be filed not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. Forms may be obtained from the commissioner. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 3. Section 523A.10, subsections 4 and 5, Code 1995, are amended to read as follows:

4. The permit shall be deemed effective upon filing the application with the commissioner. The permit shall disclose on its face the permit holder's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, the permit number, and the expiration date. A **An initial** permit under this section shall expire one year from the date the application is filed. **The permit may be renewed for a period of four years.**

5. The **initial** application fee shall be five dollars. **The renewal fee shall be twenty dollars.**

Sec. 4. Section 523A.11, Code 1995, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public,