

CHAPTER 88

REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

S.F. 502

AN ACT relating to the regulation of savings and loan associations by the division of banking of the department of commerce.

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

Section 1. Section 20.4, subsection 12, Code 2007, is amended by striking the subsection.

Sec. 2. Section 524.103, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 37A. “State association” or “state savings and loan association” means a corporation holding a certificate of authority to operate under chapter 534 as either a mutual association or a stock association, as those terms are defined in chapter 534.

Sec. 3. Section 524.211, subsection 1, Code 2007, is amended to read as follows:

1. The superintendent, general counsel, examiners, and other employees assigned to the bank bureau of the banking division are prohibited from obtaining a loan of money or property from a state-chartered bank, a state savings and loan association, or any person or entity affiliated with a state-chartered bank or a state savings and loan association.

Sec. 4. Section 524.214, subsection 1, Code 2007, is amended to read as follows:

1. The superintendent and, upon the approval of the superintendent, any examiner or other employees of the banking division shall have the power to subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to require the production of any relevant books or papers. Such examination may be conducted on any subject relating to the duties imposed upon, or powers vested in, the superintendent under the provisions of this chapter or any other chapter administered by the superintendent.

Sec. 5. Section 524.215, subsection 4, Code 2007, is amended to read as follows:

4. In any action brought as a shareholders derivative suit against a state bank or other entity regulated by the superintendent.

Sec. 6. Section 524.215, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6. In an action brought to recover moneys for a loss in connection with an indemnity bond which was a result of embezzlement, misappropriation, or misuse of funds, belonging to an entity regulated by the superintendent, by a director, officer, or employee of the entity.

Sec. 7. Section 524.216, subsection 2, Code 2007, is amended to read as follows:

2. A summary of the assets, liabilities, and capital structure of all state banks and state savings and loan associations as of June 30 of the year for which the report is made.

Sec. 8. Section 524.1409, Code 2007, is amended to read as follows:

524.1409 CONVERSION OF NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION OR STATE SAVINGS AND LOAN ASSOCIATION INTO STATE BANK.

A national bank, ~~or~~ federal savings association, or state savings and loan association, subject to the provisions of this chapter, may convert into a state bank upon authorization by and compliance with the laws of the United States, adoption of a plan of conversion by the affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders, and upon approval of the superintendent.

Sec. 9. Section 524.1410, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A national bank, ~~or federal savings association, or state savings and loan association~~ shall make an application to the superintendent for approval of the conversion in a manner prescribed by the superintendent and shall deliver to the superintendent, when available:

Sec. 10. Section 524.1411, Code 2007, is amended to read as follows:

524.1411 ARTICLES OF CONVERSION.

The articles of conversion shall be signed by two duly authorized officers of the national bank, ~~or federal savings association, or state savings and loan association~~ and shall contain all of the following:

1. The name of the national bank, ~~or federal savings association, or state savings and loan association~~ and the name of the resulting state bank.
2. The location and post office address of its principal place of business and of each additional office, and the location and post office address of the principal place of business of the resulting state bank and of each additional office to be maintained by the resulting state bank.
3. The votes by which the plan of conversion was adopted and the date and place of each meeting in connection with the adoption.
4. The number of directors constituting the board of directors, and the names and addresses of the persons who are to serve as directors until the next annual meeting of shareholders or until successors be elected and qualify.
5. The provisions required in the articles of incorporation by section 524.302, subsection 1, paragraphs "c" and "d", and subsection 2, paragraph "b".

Sec. 11. Section 524.1412, Code 2007, is amended to read as follows:

524.1412 PUBLICATION OF NOTICE.

Within thirty days after the application for conversion has been accepted for processing, the national bank, ~~or federal savings association, or state savings and loan association~~ shall publish a notice of the delivery of the articles of conversion to the superintendent in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the national bank, ~~or federal savings association, or state savings and loan association~~ has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the national bank, ~~or federal savings association, or state savings and loan association~~ has its principal place of business. Proof of publication of the notice shall be delivered to the superintendent within fourteen days. The notice shall set forth all of the following:

1. The name of the national bank, ~~or federal savings association, or state savings and loan association~~ and the name of the resulting state bank.
2. The location and post office address of its principal place of business.
3. A statement that articles of conversion have been delivered to the superintendent.
4. The purpose or purposes of the resulting state bank.
5. The date of delivery of the articles of conversion to the superintendent.

Sec. 12. Section 524.1413, subsection 2, Code 2007, is amended to read as follows:

2. Within ninety days after the application has been accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation. As a condition of receiving the decision of the superintendent with respect to the application, the national bank, ~~or federal savings association, or state savings and loan association~~ shall reimburse the superintendent for all expenses incurred in connection with the application. The superintendent shall give the national bank, ~~or federal savings association, or state savings and loan association~~ written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. If the superintendent approves the application, the superintendent shall deliver the articles of conversion, with the superintendent's approval indicated on the articles of conversion, to the secretary of state. The decision of the superintendent shall

be subject to judicial review pursuant to chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, a petition for judicial review must be filed within thirty days after the superintendent notifies the national bank, ~~or federal savings association,~~ or state savings and loan association of the superintendent's decision.

Sec. 13. Section 524.1415, Code 2007, is amended to read as follows:

524.1415 EFFECT OF FILING OF ARTICLES OF CONVERSION WITH SECRETARY OF STATE.

1. The conversion is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time as specified in the articles of conversion. The acknowledgment of filing is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank, ~~or federal savings association,~~ or state savings and loan association into a state bank, except as against the state.

2. When a conversion becomes effective, the existence of the national bank, ~~or federal savings association,~~ or state savings and loan association shall continue in the resulting state bank which shall have all the property, rights, powers, and duties of the national bank, ~~or federal savings association,~~ or state savings and loan association, except that the resulting state bank shall have only the authority to engage in such business and exercise such powers as it would have, and shall be subject to the same prohibitions and limitations to which it would be subject, upon original incorporation under this chapter. The articles of incorporation of the resulting state bank shall be the provisions stated in the articles of conversion.

3. ~~No~~ A liability of the national bank, ~~or federal savings association,~~ or state savings and loan association, or of the national bank's, ~~or federal savings association's,~~ or state savings and loan association's shareholders, directors, or officers, is not affected by the conversion. A lien on any property of the national bank, ~~or federal savings association,~~ or state savings and loan association is not impaired by the conversion. A claim existing or action pending by or against the national bank, ~~or federal savings association,~~ or state savings and loan association may be prosecuted to judgment as if the conversion had not taken place, or the resulting state bank may be substituted in its place.

4. The title to all real estate and other property owned by the converting national bank, ~~or federal savings association,~~ or state savings and loan association is vested in the resulting state bank without reversion or impairment.

Sec. 14. Section 524.1416, Code 2007, is amended to read as follows:

524.1416 AUTHORITY FOR CONVERSION OF STATE BANK INTO NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION OR STATE SAVINGS AND LOAN ASSOCIATION.

1. A state bank may convert into a national bank, ~~or federal savings association,~~ or state savings and loan association upon authorization by and compliance with the laws of the United States, and adoption of a plan of conversion by the affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders. The authority of a state bank to convert into a national bank or federal savings association shall be subject to the condition that at the time of the transaction, the laws of the United States shall authorize a national bank or federal savings association located in this state, without approval by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, to convert into a state bank under limitations and conditions no more restrictive than those contained in this section and section 524.1417 with respect to conversion of a state bank into a national bank or federal savings association.

2. A state bank which converts into a national bank or federal savings association shall notify the superintendent of the proposed conversion, provide such evidence of the adoption of the plan as the superintendent may request, notify the superintendent of any abandonment or disapproval of the plan, and file with the superintendent and with the secretary of state a certificate of the approval of the conversion by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, and the date upon which such con-

version is to become effective. A state bank that converts into a national bank or federal savings association shall comply with the provisions of section 524.310, subsection 1.

3. A state bank that converts into a state savings and loan association shall file with the secretary of state a certificate of the approval of the conversion by the superintendent and the date upon which such conversion is to be effective.

Sec. 15. Section 524.1417, Code 2007, is amended to read as follows:

524.1417 APPRAISAL RIGHTS OF SHAREHOLDER OF CONVERTING STATE OR NATIONAL BANK OR FEDERAL OR STATE SAVINGS ASSOCIATION.

1. A shareholder of a state bank that converts into a national bank, ~~or~~ federal savings association, or a state savings and loan association who objects to the plan of conversion is entitled to appraisal rights as provided in chapter 490, division XIII.

2. If a shareholder of a national bank or federal savings association that converts into a state bank objects to the plan of conversion and complies with the requirements of applicable laws of the United States, the resulting state bank is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.

3. If a shareholder of a state savings and loan association that converts to a state bank objects to the plan of conversion and complies with the requirements of applicable laws of this state, the resulting bank is liable for the value of the shareholder's shares as determined in accordance with such laws of this state.

Sec. 16. Section 524.1418, Code 2007, is amended to read as follows:

524.1418 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS — APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

The provisions of section 524.1009 apply to a resulting state or national bank, ~~or~~ federal savings association, or state savings and loan association after a conversion with the same effect as though the state or national bank, ~~or~~ federal savings association, or state savings and loan association were a party to a plan of merger, and the conversion were a merger, within the provisions of that section.

Sec. 17. Section 524.1805, subsection 5, Code 2007, is amended to read as follows:

5. For purposes of subsection 1, a bank that resulted from the conversion of a state savings and loan association or federal savings association, as defined in 12 U.S.C. § 1813, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the association from which it was converted.

Sec. 18. Section 534.102, subsection 7, Code 2007, is amended to read as follows:

7. "Federal association" means a corporation operating under the federal Home Owners' Loan Act, ~~of 1933~~ 12 U.S.C. § 1461 et seq., as amended, as either a mutual association or a stock association.

Sec. 19. Section 534.102, subsection 13, Code 2007, is amended to read as follows:

13. "Insured mortgage" is a mortgage covered in part by insurance, ~~which insurance has been formally submitted to and approved by the superintendent or by the federal home loan bank of the area in which the association is located.~~

Sec. 20. Section 534.103, subsection 1, Code 2007, is amended to read as follows:

1. GENERAL CORPORATE POWER. To sue and be sued, complain and defend in any court of law or equity; to purchase, acquire, hold, and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate owned by the association and to authorize a pledgee to repledge the property; to take property by gift, devise, or bequest; to have a corporate seal, which may be affixed by imprint, facsimile, or otherwise; to appoint officers, agents, and employees as its business requires and allow them suit-

able compensation; to provide for life, health, and casualty insurance for its officers and employees and to adopt and operate reasonable bonus plans and retirement benefits for the officers and employees to enter into payroll savings plans; to adopt and amend bylaws; to insure its accounts with the savings association insurance fund of the federal deposit insurance corporation and qualify as a member of a federal home loan bank; to become a member of, deal with, or make contributions to any organization to the extent that the organization assists in furthering or facilitating the association's purposes or powers and to comply with conditions of membership; to accept savings as provided in this chapter together with other powers otherwise expressly provided for in this chapter, together with implied powers as reasonably necessary for the purpose of carrying out the express powers granted in this chapter.

Sec. 21. Section 534.103, subsection 4, Code 2007, is amended to read as follows:

4. **POWER TO BORROW.** Except as provided by its articles of incorporation, an association may borrow not more than an aggregate amount equal to its savings liability on the date of borrowing. A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money. All loans and advances may be secured by property of the association. In addition to the above unsecured or secured borrowing, an association may issue notes, bonds, debentures and other obligations or securities approved by the superintendent, and if authorized by the regulations of the federal ~~home loan bank office of thrift supervision~~. However, the obligations and securities are subject to the priority of the rights of the owners of the savings and deposits of the association.

Sec. 22. Section 534.103, subsection 8, Code 2007, is amended to read as follows:

8. **LEASING OF PERSONAL PROPERTY.** To acquire, upon the specific request of and for the use of a customer, and lease, personal property pursuant to a binding arrangement for the leasing of the property to the customer upon terms requiring payment to the association, during the minimum period of the lease, of rentals which in the aggregate, when added to the estimated tax benefits to the association resulting from the ownership of the leased property plus the estimated residual market value of the leased property at the expiration of the initial term of the lease, will be at least equal to the total expenditures by the association for, and in connection with, the acquisition, ownership, maintenance, and protection of the property. A lease made under authority of this section shall ~~have the prior approval of the superintendent or be made pursuant to personal property lease guidelines approved by the superintendent for use by the lessor association or pursuant to a personal property lease guideline rule of general applicability for use by all associations.~~

Sec. 23. Section 534.105, Code 2007, is amended to read as follows:

534.105 **DEFAMATION OF INSTITUTIONS — PENALTY.**

Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any ~~building and loan or savings and loan association~~ which imputes or tends to impute, insolvency or unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of funds from such association, or which may otherwise injure or tend to injure the business or goodwill of such ~~building and loan or savings and loan association~~, shall be guilty of a serious misdemeanor.

Sec. 24. Section 534.108, Code 2007, is amended to read as follows:

534.108 **FINANCIAL STATEMENT — REPORTS.**

~~Every association shall prepare and publish annually in the month of January in a newspaper of general circulation in the county in which the home office of such association is located, and shall deliver to each member upon application therefor, a statement of its financial condition in the form prescribed or approved by the superintendent.~~

Every association shall file with the superintendent all monthly, quarterly, and annual reports required by and filed with the its federal home loan bank board regulator.

Sec. 25. Section 534.111, Code 2007, is amended to read as follows:

534.111 RIGHTS OF FEDERAL ASSOCIATIONS — RECIPROCITY.

Every federal savings and loan association incorporated under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1461–1468 ~~1461 et seq.~~, as amended, and the holders of share accounts issued by any such association have all the rights, powers, and privileges and are entitled to the same exemptions and immunities, as savings and loan associations organized under the laws of this state and members thereof are entitled.

Every association organized under this chapter has all the rights, powers, and privileges not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, and conferred by regulations adopted by the federal ~~home loan bank~~ housing finance board and the federal office of thrift supervision.

Sec. 26. Section 534.205, subsection 6, Code 2007, is amended to read as follows:

6. BALLOON PAYMENTS. An association shall mail to the borrower an offer to refinance a balloon payment under a loan at least twenty days before the balloon payment date if at that time no payments under the loan are delinquent. The offer shall be at an interest rate no greater than one percent per annum above the index rate and with monthly payments no greater than those necessary to fully amortize the amount of the balloon payment plus interest over a term which, when added together with the term representing the number of monthly payments made before the most recent notice to refinance, is not less than the original loan term. The association must offer to the borrower a term of at least one year before the next balloon payment. If the balloon payment is due one month after the preceding monthly payment date, the association may require the borrower to make a payment equal to the preceding monthly payment on the balloon payment date if the first payment under the note to refinance the balloon note is one month after the balloon payment date. The association may offer repayment plans to refinance a balloon payment in addition to the plan required by this subsection. For purposes of this subsection, "loan" means the same as defined in section 535.8, subsection 1; "balloon payment" means a payment which is more than three times as big as the mean average of the payments which precede it; and "index rate" means the national average mortgage contract rate for major lenders on the purchase of previously occupied homes which is most recently published in final form by the federal ~~home loan bank~~ housing finance board not more than four months before the date on which the balloon payment is due, or, alternatively, a rate based upon any other independently verifiable index approved by the superintendent.

Sec. 27. Section 534.213, subsection 1, paragraph m, Code 2007, is amended to read as follows:

m. In addition to other investments authorized in this section, an association may invest and may continue previous investments in capital stock, obligations, or other securities of finance subsidiaries and may exercise powers with respect to finance subsidiaries to the same extent as a federal association is permitted under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464 ~~1461 et seq.~~ as amended, and regulations adopted thereunder by the federal ~~home loan bank board up to and including January 1, 1985~~ office of thrift supervision. Investments authorized by this paragraph shall not be counted in applying the limitations on investments in service corporations in paragraph "i".

Sec. 28. Section 534.301, subsection 6, Code 2007, is amended to read as follows:

6. OPERATING UNDER FEDERAL RULES AS TO DEPOSITS AND INTEREST. A savings and loan association operating under this chapter may operate in a manner similar to federally chartered savings and loan associations regarding the use of the terms "deposit" and "interest" and with such other powers as have been authorized to federally chartered associations under the Homeowners' Loan Act of 1933, 12 U.S.C. § 1464 ~~1461 et seq.~~ as amended, and as permitted under the rules and regulations of the federal ~~home loan bank system~~ housing finance board and the federal office of thrift supervision, to the extent that similar rules and regula-

tions have been adopted by the superintendent and have been filed with the secretary of state. This subsection does not diminish or restrict the powers otherwise granted to such association by the laws of Iowa.

The adoption and filing of such rules or regulations by the superintendent shall not diminish or restrict the rights of associations which do not make the above determination.

Sec. 29. Section 534.302, subsections 2 and 3, Code 2007, are amended by striking the subsections.

Sec. 30. Section 534.401, Code 2007, is amended to read as follows:

534.401 DIVISION SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS.

1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The superintendent of savings and loan associations is the superintendent of banking.

2. GENERAL SUPERVISORY POWER. The superintendent has general supervision over all supervised organizations.

The superintendent may appoint examiners and assistants necessary to properly execute the duties of the office.

~~Before entering upon their duties, the superintendent and each examiner appointed by the superintendent shall take an oath of office and shall each give bond to the state, signed by a responsible surety company, in the penal sum of two thousand dollars, conditioned upon faithful and impartial discharge of the person's duty and on proper accounting for all funds and other valuables which may come into the person's hands. The bonds shall be approved by and filed with the auditor of state, together with oaths of office of the officers.~~

The superintendent may adopt further rules deemed necessary to enable savings and loan associations to properly carry on the activities authorized under this chapter.

3. DUTIES. The superintendent shall, at least once ~~each year~~ every two years, cause examination and audit to be made of the affairs of every association subject to this chapter. If an association is insured under Title IV of the National Housing Act, 12 U.S.C. ch. 13 the federal deposit insurance corporation's deposit insurance fund, the superintendent may, in lieu of examination and audit, accept an examination or audit made by the federal office of thrift supervision. ~~An association may, in lieu of examination and audit by the superintendent, at the option of the superintendent be audited by a certified public accountant, or by a public accountant qualified and licensed to practice accountancy under the Code of Iowa. At least two copies of each examination or audit report, signed and verified by the accountant making it, shall promptly be filed with the superintendent.~~ When, in the judgment of the superintendent, the condition of an association renders it necessary or expedient to make an extra examination or audit or to devote extraordinary attention to its affairs, the superintendent shall cause such work to be done. A copy of every examination or audit report shall be furnished to the association examined, exclusive of confidential comments made by the examiner, and a copy of every report and comments and any other information pertaining to an association may be furnished to the federal home loan bank housing finance board, federal home loan bank, and federal office of thrift supervision. A copy of an examination or audit report shall be presented to the board of directors at its next regular or special meeting, their action on it shall be recorded in the minutes, and two certified copies of the minutes shall be transmitted to the superintendent.

4. SUPERINTENDENT'S ANNUAL REPORT. ~~The superintendent, as of December 31 of each year, shall prepare and publish a report showing in general terms the condition of all savings and loan associations doing business in this state, and containing other general information as in the superintendent's judgment seems desirable. The reports shall also list the names of all examiners and other assistants appointed by the superintendent, together with their respective salaries and expenses, shall list all receipts from savings and loan associations, and shall show all expenditures made on account of the supervision and examination of the associations.~~

Sec. 31. Section 534.403, Code 2007, is amended to read as follows:

534.403 EXAMINATIONS.

1. SUPERINTENDENT'S AUTHORITY — EXAMINATIONS. The superintendent and examiners shall have full access to all books and papers of an association which relate to its business, and to books, records, and papers kept by an officer, director, agent, or employee relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, agents, or employees of an association, or any other person, in relation to its affairs, transactions, and condition, and may require and compel the production of records, books, papers, contracts, or other documents by court order, if not voluntarily produced.

~~2. EXPENSES, PER DIEM, VACATION, AND SICK LEAVE. If the examination is made under section 534.401, subsection 3, each examiner shall file with the superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time the examiner is actually engaged in an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the superintendent a certified statement of the actual days engaged in examinations. The salaries shall be included in a two-week payroll period. Upon approval of the superintendent, the director of the department of administrative services is authorized to issue warrants for payment of the vouchers and salaries, including a prorated amount for vacation and sick leave. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate and in the same manner as, that which is received by federal examiners operating under the federal home loan bank board.~~

~~3.~~ 2. RECORD REQUIRED. A record of all examinations, reports, and related information shall be kept in the superintendent's office in accordance with the superintendent's record retention policies, showing in detail as to each association all matters connected with the conduct of its business, its financial standing, and everything touching its solvency, plan of business, and integrity.

The examinations, reports, and information shall be kept confidential in the office of the superintendent, and are not subject to publication or disclosure to others except as provided in this chapter. However, the superintendent may furnish any examination, report, or information to the ~~federal office of thrift supervision~~ United States department of the treasury, federal deposit insurance corporation, ~~or a successor deposit insurance instrumentality~~, federal home loan bank housing finance board, federal home loan bank, national credit union administration, or financial institution regulatory authorities of any state. Any evidence of felonious acts on the part of the officers, directors, or employees of an association may be referred by the superintendent to proper authorities. Members of associations, other than their officers and directors, are not entitled to inspection of any such records or information, and are not entitled to any information relative to the names of the members of an association, or the amounts invested by them, as disclosed in the superintendent's office, or in the records of an association.

~~4.~~ 3. REVOCATION OF AUTHORITY. If an association refuses to submit to examination, the superintendent shall revoke its certificate of authority.

Sec. 32. Section 534.404, subsection 1, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:

(3) A federal instrumentality or agency authorized to inspect or examine the books and records of an insured association ~~or of an uninsured member by the federal home loan bank.~~

Sec. 33. Section 534.404, subsection 3, Code 2007, is amended to read as follows:

3. APPLICABILITY OF SECTION TO FEDERAL ASSOCIATIONS. Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal savings and loan associations whose home offices are located in this state, and to the members thereof except that the communication provided for in subsection 2 shall be submitted to the

federal home loan bank board, Washington, D.C., office of thrift supervision in the case of a federal savings and loan association and forwarded only upon ~~that board's~~ the federal office of thrift supervision's certificate and direction.

Sec. 34. Section 534.405, unnumbered paragraph 6, Code 2007, is amended to read as follows:

If the association has the insurance protection provided by Title IV of the National Housing Act, 12 U.S.C. ch. 13 the federal deposit insurance corporation's deposit insurance fund, a signed and sealed copy of each order and certificate mentioned in this section shall be promptly sent by the superintendent by registered mail to the federal office of thrift supervision, Washington, D.C. and to the federal deposit insurance corporation. ~~If the association is insured by the savings association insurance fund of the federal deposit insurance corporation, the resolution trust corporation shall be named receiver if the superintendent has determined the need for a receivership. The superintendent may name the federal deposit insurance corporation as receiver if the superintendent has determined the need for a receivership in accordance with the provisions of this section.~~

Sec. 35. Section 534.406, Code 2007, is amended to read as follows:

534.406 RECEIVERSHIP.

If a ~~building and loan or state~~ savings and loan association is conducting its business illegally, or in violation of its articles of incorporation or bylaws, or is practicing deception upon its members or the public, or is pursuing a plan of business that is injurious to the interest of its members, or if its affairs are in an unsafe condition, the superintendent shall notify the directors of the association, and, if they fail to put its affairs upon a safe basis, the superintendent shall ~~advise the attorney general, who shall take the necessary steps to wind up its affairs in the manner provided by law~~ apply to the district court for the county in which the savings and loan association is located to be appointed as receiver for the savings and loan association. The district court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation, in which case the district court shall appoint the federal deposit insurance corporation as receiver. ~~In the proceedings a receiver may be appointed by the court and the~~ The proceedings shall be the exclusive liquidation or insolvency proceeding and a receiver shall not be appointed in any other proceedings.

Sec. 36. Section 534.408, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

534.408 SUPERVISORY FEES.

1. A state association subject to examination, supervision, and regulation by the superintendent shall pay to the superintendent fees, established by the superintendent, based on the costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter. The fees shall include, but are not limited to, costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment.

2. Failure to pay the amount of the fees to the superintendent within ten days after the date of billing shall subject the state association or any affiliate of a state association to an additional charge equal to five percent of the amount of the fees for each day the payment is delinquent.

Sec. 37. Section 534.507, Code 2007, is amended to read as follows:

534.507 NAME.

The name of an association shall contain the words "savings bank" or the words "savings and loan association". An association shall not advertise or hold itself out to the public as a commercial bank; ~~however, a corporate name, logo, or signage existing on January 1, 1989, depicting the name of the association may be used for as long as the association chooses to continue to use the name, logo, or signage existing on that date.~~ A federal savings association shall not use the word "state" in its name, trademark, or logo.

Sec. 38. Section 534.509, subsection 8, paragraph a, Code 2007, is amended to read as follows:

a. The superintendent has received a copy of the charter issued to a converting association by the federal home loan bank board office of thrift supervision or a certificate showing the organization of such association as a federal savings and loan association, certified by the ~~secretary or assistant secretary of the federal home loan bank board~~ federal office of thrift supervision.

Sec. 39. Section 534.511, subsection 5, paragraph d, Code 2007, is amended by striking the paragraph.

Sec. 40. Section 534.511, subsection 8, Code 2007, is amended to read as follows:

8. CERTIFICATION. The superintendent shall prepare a certificate of merger upon the occurrence of all of the events stated in subsections 3, 4, 5, 6, and 7. This certificate shall include the name of the surviving association, federal association, or bank and the effective date of the merger. The original certificate shall be filed with the secretary of state. The superintendent shall provide a certified copy of the certificate to any person upon payment of a ~~five dollar fee established by the superintendent~~. A certified copy of this certificate is sufficient proof of the merger for purposes of establishing liability for debts or the ownership of assets as provided in section 534.512, subsections 1 and 2. An association involved in a merger may transfer assets or receive assets under the plan of merger only after the certificate of merger has been issued by the superintendent.

Sec. 41. Section 534.513, subsection 1, Code 2007, is amended to read as follows:

1. VOLUNTARY LIQUIDATION. ~~Building and loan or savings and loan State~~ associations, by a vote of three-fourths of the members of such association represented in person or by proxy, may go into voluntary liquidation upon such plan as shall be determined upon by the members at their meeting.

Sec. 42. Section 534.513, subsection 4, Code 2007, is amended to read as follows:

4. TRANSFER OF MORTGAGES — MATURITY. In case any such association resolves to go into voluntary liquidation, it shall have power after crediting the mortgages given by the borrowing member with the full book value of the stock, to sell and assign such mortgages to a similar ~~building and loan~~ association, or to any other parties who will hold the same upon the terms under which such mortgage was given to the association. In that event the said mortgage shall be held to become due, if no other time can be agreed upon between the mortgagor and the association, within three years after the assignment thereof.

Sec. 43. Section 534.606, Code 2007, is amended to read as follows:

534.606 CRIMINAL OFFENSES.

If any officer, director, or agent of any ~~building and loan or savings and loan~~ association shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, the person shall be guilty of perjury. If any director of any such association shall vote to declare a dividend greater than has been earned; or if any officer or director or any agent or employee of any such association shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized to do so by the board of directors in pursuance of its lawful power, the person shall be guilty of a fraudulent practice; or if any such officer, director, agent, or employee shall embezzle or convert to the person's own use, or shall use or pledge for the person's own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, the person shall be guilty of theft; or if the person shall knowingly do or attempt to do business for such association that has not

procured and does not hold the certificate of authority therefor as in this chapter provided, the person shall be guilty of a serious misdemeanor; or if the person shall knowingly make or cause to be made any false entries in the books of the association, or shall, with the intent to deceive any person making an examination in this chapter required to be made, exhibit to the person making the examination any false entry, paper, or statement, the person shall be guilty of a fraudulent practice; or if the person shall knowingly do or solicit business for any ~~building and loan~~ or savings and loan association which has not procured the required certificate therefor, the person shall be guilty of a serious misdemeanor.

Sec. 44. Section 546.2, subsection 3, paragraph c, Code 2007, is amended by striking the paragraph.

Sec. 45. Section 546.3, subsection 1, Code 2007, is amended to read as follows:

1. The banking division shall regulate and supervise banks under chapter 524, debt management licensees under chapter 533A, money services under chapter 533C, delayed deposit services under chapter 533D, savings and loan associations under chapter 534, mortgage bankers and brokers under chapter 535B, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who is appointed pursuant to section 524.201. The state banking council shall render advice within the division when requested by the superintendent.

Sec. 46. Section 534.109, Code 2007, is repealed.

Sec. 47. Section 534.113, Code 2007, is repealed.

Sec. 48. Section 534.515, Code 2007, is repealed.

Sec. 49. Section 534.519, Code 2007, is repealed.

Sec. 50. Section 546.5, Code 2007, is repealed.

Approved April 20, 2007

CHAPTER 89

SECURE CRIMINAL OR JUVENILE FACILITIES — POSSESSION OF CONTRABAND

S.F. 529

AN ACT expanding the criminal offense of possessing contraband in correctional institutions to include possessing contraband in a secure facility for the detention or custody of juveniles, a detention facility, or a jail, and providing a penalty.

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

Section 1. Section 719.7, Code 2007, is amended to read as follows:
719.7 POSSESSING CONTRABAND.

1. "Contraband" includes but is not limited to any of the following: