

as an assistant to a professional engineer or land surveyor registered under this chapter if such assistant is not placed in responsible charge of any professional work involving the practice of engineering or land surveying work, nor to the operation and/or or maintenance of power and mechanical plants or systems.

Approved April 24, 1995

CHAPTER 66
ELECTRONIC TRANSFER OF FUNDS
H.F. 520

AN ACT relating to electronic transfer of funds and establishing certain requirements for full-function point-of-sale terminals and electronic funds transfer facilities maintained or operated by a national card association, establishing a civil penalty, and providing an effective date.

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

Section 1. Section 527.2, subsection 10, Code 1995, is amended to read as follows:

10. "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.

Sec. 2. Section 527.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. An administrator may issue any order necessary to secure compliance with or prevent a violation of this chapter or the rules adopted pursuant to this chapter, regarding the establishment and operation of a satellite terminal, limited-function terminal, upgraded, altered, modified, or replaced limited-function terminal, and any other device or facility with which such terminal is interconnected. A person who violates a provision of this chapter or any rule or any order issued pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars for each day the violation continues. A person aggrieved by an order of an administrator may appeal the order by filing a written notice of appeal with the administrator within thirty days of the issuance of the order. The administrator shall schedule a hearing for the purpose of hearing the arguments of the aggrieved person within thirty days of the filing of the notice of appeal. The provisions of chapter 17A shall apply to all matters related to the appeal. The attorney general, on request of the administrator, shall institute any legal proceedings necessary to obtain compliance with an order of the administrator or to prosecute a person for a violation of the provisions of this chapter or rules adopted pursuant to this chapter.

Sec. 3. Section 527.5, subsection 12, Code 1995, is amended to read as follows:

12. a. If at any time, a limited-function terminal at a location as defined in section 527.4, subsection 3, paragraph "d", is replaced by a device constituting either an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier, or is

upgraded, altered, or modified to be operated in a manner to accept which allows the use of an electronic personal identifier or to distinguish between to initiate transactions which affect customer asset accounts and transactions which do not affect customer asset accounts, or an on-line or an off-line point-of-sale terminal which may be utilized to initiate transactions which affect customer asset accounts through the use of an electronic personal identifier is newly established at a location defined in section 527.4, subsection 3, paragraph "d", then such upgraded, altered, or modified limited-function terminal or replacement point-of-sale terminal or such newly established point-of-sale terminal is deemed to be a full-function point-of-sale terminal for purposes of this subsection and all requirements of a satellite terminal in this chapter apply to the full-function point-of-sale terminal with regard to all transactions affecting customer asset accounts which are initiated through the use of an electronic personal identifier, except for section 527.4, subsections 1, 2, and 4, section 527.4, subsection 3, paragraphs "a", "b", and "c", and section 527.5, subsections 1, 3, and 7. 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.

b. A full-function point-of-sale terminal, as identified in paragraph "a", which is operated in a manner which permits all access devices to be utilized to initiate transactions which affect customer asset accounts, and where all such transactions can be directly routed for authorization purposes as established in this subsection, is also exempt from the provisions of section 527.5, subsection 9. However, if a data processing center directly connected to such full-function point-of-sale terminal does not authorize or reject a transaction affecting a customer asset account initiated at the terminal through the use of an electronic personal identifier, the transaction shall be immediately transmitted by the data processing center to either of the following:

(1) A central routing unit approved pursuant to this chapter.

(2) An electronic funds transfer processing facility maintained or operated by a national card association and utilized for the processing of transactions initiated through the use of electronic funds transfer transaction cards or access devices depicting a service mark, logo, or trademark associated with the national card association. However, if the national card association's processing facility is unable to immediately authorize or reject a transaction affecting a customer asset account initiated at that terminal through the use of an access device which bears a service mark, logo, or trademark associated with a central routing unit approved pursuant to this chapter but does not bear a service mark, logo, or trademark associated with a national card association, or which bears a service mark, logo, or trademark other than that associated with either a central routing unit approved pursuant to this chapter or a national card association, the transaction shall be immediately transmitted to a central routing unit approved pursuant to this chapter, whether the transaction initiated through the use of such access device was transmitted to the national card association's processing facility by a data processing center directly connected to the full-function point-of-sale terminal, or the national card association's processing facility received the transmission of transaction data directly from the full-function point-of-sale terminal.

c. If the national card association's electronic funds transfer processing facility directly or indirectly receives a transaction affecting a customer asset account initiated at a full-function point-of-sale terminal through the use of an electronic personal identifier and an access device bearing a service mark, logo, or trademark associated with a national card association, whether or not the access device also bears the service mark, logo, or trademark of an approved central routing unit, and the national card association's processing facility cannot immediately authorize or reject the transaction, such transaction shall be immediately transmitted to a central routing unit approved pursuant to this chapter, or to

a financial institution, or its data processing center, which is capable of immediately authorizing or rejecting the transaction.

d. For purposes of this subsection, a national card association must be a membership corporation or organization, wherever incorporated and maintaining a principal place of business, which is engaged in the business of administering for the benefit of the association's members a program involving electronic funds transfer transaction cards or access devices depicting a service mark, logo, or trademark associated with the national card association and which may be utilized to perform transactions at point-of-sale terminals. A national card association must have a membership solely comprised of insured depository financial institutions, organizations directly or indirectly owned or controlled solely by insured depository financial institutions, entities wholly owned by one or more insured depository financial institutions, holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions, organizations wholly owned by one or more holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions and which are solely engaged in activities related to the programs sponsored by the national card association, or such other entities or organizations which are authorized by the national card association's bylaws to participate in the electronic funds transfer transaction card or access device programs or other services and programs sponsored by the national card association. For purposes of this subsection, a national card association shall not include a financial institution, bank holding company as defined in section 524.1801, or in the federal Bank Holding Company Act of 1956, 12 U.S.C. 1842(d), as amended to July 1, 1994, association holding company as defined in section 534.102, or a supervised organization as defined in section 534.102, any other financial institution holding company organized under federal or state law, or a subsidiary or affiliate corporation owned or controlled by a financial institution or financial institution holding company, which has authorized a customer or member to engage in satellite terminal transactions. For purposes of this subsection, a national card association shall also not include a membership corporation or organization which is conducting business as a regional or nationwide network of shared electronic funds transfer terminals which do not constitute point-of-sale terminals, and is engaged in satellite terminal transaction services utilizing a common service mark, logo, or trademark to identify such terminal services.

e. This subsection does not apply to satellite terminals located in this state, other than on-line and off-line full-function point-of-sale terminals as identified in this subsection, or multiple use terminals located in this state which are capable of being operated in a manner to initiate transactions affecting customer asset accounts through the use of an electronic personal identifier.

Sec. 4. Section 527.5, subsection 13, Code 1995, is amended to read as follows:

13. Effective July 1, 1994, any transaction engaged in with a retailer through a satellite terminal ~~located in this state at a location described in section 527.4, subsection 3, paragraph "d",~~ 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 Notwithstanding the terms of any contractual agreement between a retailer or financial institution and a national card association as described in subsection 12, an electronic funds transfer processing facility of a national card association, a central routing unit approved pursuant to this chapter, or a data processing center, the processing fees and charges for such transactions to the retailer shall not be based on a percentage of the amount of the transaction be as contractually agreed upon between the retailer and the financial institution which establishes, owns, operates, controls, or processes transactions initiated at the satellite terminal. All accounting documents reflecting such fees and charges imposed on the retailer 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, full-function point-of-sale terminals as identified in subsection 12, paragraph "a", and multiple use terminals.

Sec. 5. Sections 527.6 and 527.8, Code 1995, are repealed.

Sec. 6. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 1995

CHAPTER 67

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 87

AN ACT relating to nonsubstantive Code corrections, and providing effective and applicability date provisions.

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

Section 1. Section 2B.13, subsection 4, Code 1995, is amended to read as follows:

4. The Iowa Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary ~~and law enforcement~~ when making Iowa Code or Code Supplement changes, and the administrative code editor shall seek direction from the administrative rules review committee and the administrative rules coordinator when making Iowa administrative code changes, which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the authority granted in this section.

Sec. 2. Section 10A.104, subsection 8, Code 1995, is amended to read as follows:

8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement set-aside program ~~and that small businesses are eligible to participate in the construction procurement set-aside program~~ established in sections 73.15 through 73.21. The procedure for determination of eligibility shall not include self-certification by a business. Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management. The director shall maintain a current directory of targeted small businesses which have been certified pursuant to this subsection.

Sec. 3. Section 13B.8, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Before establishing or abolishing a local public defender office, the state public defender shall provide a written report detailing the reasons for the action to be taken to the regulation appropriations subcommittee, the chairperson, vice chairperson, and ranking member of the senate committee on judiciary and committee on appropriations, and the chairperson, vice chairperson, and ranking member of the house of representatives committee on judiciary ~~and law enforcement~~ and committee on appropriations. The report shall contain a statement of the estimated fiscal impact of the action taken. Any action taken in establishing or abolishing a local public defender office shall only take effect upon the approval of the general assembly. If the state public defender proposes to abolish a local public defender office prior to the beginning of any regular session of the general assembly